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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 second 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.

This issue showcases an impressive collection of undergraduate research that addresses some of the most complex and timely issues in political science. Volume I, Issue 2 features a diverse array of articles that engage with critical themes such as justice, environmental policy, human rights, and the resilience of communities and movements in the face of systemic challenges. Furthermore, this issue delves into the paradoxes of universalism and integration through a study of French immigration policies and their effects on North African communities. It also brings fresh perspectives to environmental governance, with works examining the Reagan administration's industrial environmentalism and the role of phylogenetics in shaping endangered species protections. Contributions on military reform and accountability analyze the structural changes in the U.S. military justice system and the evolving civilian oversight of Japan's Self-Defense Forces. Articles on human rights and resistance highlight the 6B4T movement's fight against authoritarianism and the nuanced legal landscape of transgender rights in India.

Other submissions confront pressing societal concerns, such as the prevalence of sexual assault in the military, the innovative use of integrated housing to support homeless populations in recovery, and the enduring geopolitical consequences of the Iran-Iraq War. From the local to the global, each piece reflects the authors' dedication to tackling pressing political questions with depth and nuance. We are honored to feature these outstanding contributions and grateful to the authors for their exceptional work. Their research exemplifies the intellectual vitality and critical engagement that the journal strives to promote.

I would also like to thank our amazing, passionate, and hard-working team. This team has worked continuously to build this publication from the ground up and provide an outlet for young scholars and their meaningful research and contributions. While there have certainly been challenges along the way, the team has remained dedicated and devoted to this project and its mission. The UWJPS team would like to again thank Professor Rachel Cichowski, Professor and Chair of the Political Science Department for her 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.

On that note, we are thrilled to present Volume I, Issue 2 with you. We hope you will engage and enjoy the material our authors and editors worked very hard on.

Sincerely,

Zoe Stylianides
Founder and Editor-in-Chief

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Long Form Student Research

The Paradox of Universalism: French Immigration Policies and the Marginalization of North African Communities

By Noelani Matsuko Yonahara Stewart
UW, Political Science Department

Abstract

This essay undertakes a critical analysis of France's immigration, migration, and detention policies, and the entangled issues of racism and rightward political shifts within its society. Despite France's professed commitment to republican values and universalism, its immigration policies reveal a stark disparity between ideological ideals and the lived realities of immigrant communities. This investigation highlights France's challenges in immigration—a task complicated by systemic barriers, a rigid secular ethos, and rising xenophobia influenced by right-wing political rhetoric. The analysis critically examines the detrimental effects of these policies and societal attitudes on marginalized groups, particularly Muslim immigrants often from North African countries. Reflective in nature, this work calls for a reformation of French immigration policies that transcend mere rhetoric, advocating for substantial, evidence-based policy changes. Through this research, the essay aims to contribute to the global conversation on migration, integration, and the universal pursuit of social justice and equality within the complex dynamics of contemporary national identities.

Introduction

In recent decades, France's approach to immigration has become increasingly contentious, shaped by its colonial legacy, secularism, and polarized politics (Hargraves 1995). While France claims to value universalism, asserting equality for all, the reality often diverges, especially with immigrants from African and Muslim backgrounds, who often face systemic discrimination and social exclusion (Thomas 2006). This tension exposes a paradox: universalism, intended to foster equality, instead frequently enforces cultural conformity, disproportionately impacting minorities who seek to retain their identities (Schain 2008).

Recent restrictive immigration laws and expanded detention centers, known as Centres de Rétention Administrative (CRAs), have drawn criticism for inhumane conditions, overcrowding, and inadequate healthcare, amplifying accusations of human rights violations (La Cimade 2024). Exacerbated by right-wing rhetoric, these policies often frame immigrants as threats, justifying exclusionary measures that marginalize communities further (Pascual 2024). The COVID-19 pandemic has intensified scrutiny, as detainees have faced insufficient health protections, highlighting the disconnect between France's values and the treatment of immigrants (Global Detention Project 2018).

France's universalism — emphasizing secularism, assimilation, and color-blind policies — presents a fundamental contradiction when applied to immigration. Though intended to support equality, these policies frequently marginalize immigrant communities, especially those of North African and Arab descent (Tchumkam 2020). The focus on strict secularism through the 1905 law of laïcité has led to contentious policies, such as the ban on conspicuous religious symbols, which disproportionately impact Muslim immigrants (Davidson 2012). Furthermore, the "prisonification" of CRAs, where detainees experience punitive treatment, underscores how intertwined criminal justice and immigration enforcement have become, reflecting France's broader struggle with immigration amid systemic

barriers, rigid secularism, and rising xenophobia (Bilan et al. 2018).

Methodology

This research utilizes a mixed-method approach combining both primary research and secondary sources to examine France's immigration, migration, and detention policies. The study aims to critically analyze the evolution of these policies, particularly in the context of France's colonial past and the current right-wing political shift. Primary data collection included conducting interviews and field visits, while secondary data consisted of consulting scholarly articles, government reports, and relevant literature.

Primary sources were gathered through fieldwork, including visits to the Palais de la Porte Dorée, where historical exhibitions provided a rich background on France's immigration history and its colonial legacy. Observations and informal conversations at this site offered insights into the lived experiences of immigrant communities, particularly those from former French colonies, and the persistent challenges they face in contemporary French society. Additionally, I conducted interviews with members of local NGO "Serve the City" and academic contacts specializing in immigration and Muslim studies. These conversations allowed for qualitative insights into the on-the-ground realities of France's immigration system, particularly the frustrations and barriers faced by marginalized groups attempting to integrate into French society. The insights gained from field visits, interviews, and extensive literature review provided a substantial basis for analyzing the intersections of policy, public perception, and the ongoing impacts of France's colonial legacy on its approach to immigration.

Several factors limited the depth and breadth of this study. Firstly, the six-week timeframe imposed constraints on the number of interviews I could conduct and the extent of field research I could perform. This restricted time frame meant that only a limited number of perspectives could be gathered, potentially affecting the diversity of insights included in the analysis. Additionally, language barriers further complicated data collection and interpretation. My proficiency in French was limited, which affected my ability to fully engage with French-language sources and hampered communication with some local experts and institutions. I was introduced to my first interviewee through my project supervisor and we had a Zoom call together where she gave me the contact of two other people I was able to interview. One of those interviewees introduced me to another person who in turn introduced me to another. I also spoke to a professor of Muslim Studies at Université Sorbonne Paris Nord. All of these interviews occurred over the phone where I usually had about four to five questions prepared, however for the most part I let the conversation flow as I wanted to have a genuine conversation about my interviewee's experience in France and with French immigration.

Access was another significant limitation. Attempts to gain access to certain spaces, such as the Centre de Rétention Administrative (CRA) in Vincennes, were unsuccessful, as my inquiries went unanswered. Similarly, I reached out to staff at the Global Detention Project, Utopia 56, and La Cimade but received limited responses, which constrained my ability to include perspectives from key stakeholders involved in detention and immigration advocacy in France.

Historical Context of Immigration Policies in France

Background on France's Immigration Policies

France's immigration policies and practices, as well as the sociopolitical context surrounding them, reflect a deep-rooted complexity influenced by colonial history, national identity, and shifting political landscapes. France's approach to immigration is shaped by a paradox within its political philosophy: while the nation upholds universalist values that reject ethnic distinctions in law, these policies often marginalize immigrant communities, especially those of African and Arab descent, who face persistent sociopolitical challenges (Schain 2008).

The history of immigration in France is marked by distinct waves, each driven by economic needs, political decisions, and colonial relationships. France's approach to immigration has fluctuated between openness, primarily for labor, and

restrictions, often tied to national security and identity concerns (Palais de la Porte Doree 2024). The first major wave of immigration began in the late 19th and early 20th centuries, largely composed of European labor migrants from Italy, Belgium, and Poland. At this time, France's rapid industrialization and population decline necessitated a larger workforce. The country actively encouraged immigration, setting a precedent of demand-driven migration policies (Kane, A., & Leedy, T.H. 2013).

Following World War I, a new wave of migrants arrived, often from colonial territories in North Africa. This shift was influenced by France's colonial relationships, as workers from Algeria, Tunisia, and Morocco were recruited to fill labor shortages caused by the war (Rosenberg 2006). This period also saw the establishment of legal mechanisms for controlling immigration, including the introduction of documentation requirements and surveillance for non-European workers. However, France's approach remained relatively open, as the economy demanded workers and colonial ties facilitated movement from these regions (Hargreaves 1995).

The post-World War II era brought another significant influx of migrants, driven by reconstruction needs and the booming economy of the "Trente Glorieuses" (the thirty glorious years from 1945 to 1975) (Thomas 2013). During this time, large numbers of North African laborers, particularly from Algeria, came to France under guest worker programs and other state-supported recruitment initiatives. Algerians, for example, were seen as natural labor migrants due to Algeria's status as a French département until 1962. Even after Algerian independence, migration from Algeria continued, with many migrants remaining in France, creating strong diasporic communities that would later become focal points of social and political debate (Davidson 2012).

In the 1970s, the global oil crisis and economic downturn led to a shift in policy, with France moving toward restrictive immigration controls. The government implemented a halt on labor immigration in 1974, a policy shift that marked the beginning of a more controlled approach to immigration, emphasizing family reunification over labor-based migration (Macrotrends 2024). This decision reflected not only economic concerns but also a growing unease about the social integration of migrant communities. Family reunification policies allowed for migrants' family members to join them, leading to an increase in the long-term immigrant population, even as new labor immigration was restricted (Global Detention Project 2018).

The 1980s and 1990s witnessed further legislative changes as right-wing political movements, such as the National Front, gained popularity by framing immigration as a threat to national identity. In response, the French government enacted several laws aimed at controlling and restricting immigration (Thomas 2011).

The European refugee crisis in 2015 marked another pivotal point in French immigration policy, as France, alongside other European nations, faced increasing numbers of asylum seekers from conflict zones in the Middle East and Africa (Tchumkam 2020). The influx of refugees led to new legal measures, such as the 2018 Asylum and Immigration Law, which aimed to streamline the asylum process and facilitate deportations. This law extended the maximum detention period from 45 to 90 days and restricted asylum seekers' ability to appeal rejections, signaling a shift toward a more security-focused approach to immigration management (Bilan et al. 2018).

Impact of Colonial History on Current Perceptions of Immigration

France's colonial history established deeply rooted patterns of migration, as well as enduring perceptions of cultural hierarchy and racial distinctions that continue to impact the lives of postcolonial immigrants. This colonial legacy created expectations of assimilation into a singular French identity, often overlooking or outright rejecting the cultural backgrounds of immigrants from former colonies (Thomas 2006). The migration patterns from these colonies to France were not only shaped by economic needs but were also justified through a paternalistic narrative of the "civilizing mission." France saw itself as culturally superior, believing it was its duty to educate and "uplift" its colonial subjects, a belief that has informed contemporary expectations for immigrants to assimilate and

conform to French values and identity (Thomas 2013).

Algerian Migration

Algerian immigration to France has been profoundly shaped by colonial history, economic demands, and political tensions (INSEE 2023). In the early 20th century, France recruited Algerian workers to address labor shortages, establishing migration patterns that intensified post-World War II as France's need for reconstruction surged (Bendandi et al. 2018). Due to Algeria's unique status as a French territory until 1962, Algerians held French citizenship, a legal position that created a paradox. While legally citizens, they were socially marginalized and faced widespread discrimination, especially during and after the Algerian War of Independence (1954-1962), which left a lasting impact on Franco-Algerian relations and reinforced French perceptions of Algerians as terrorists, and as outsiders within the nation (Kane, A., & Leedy, T.H. 2013).

After Algeria gained independence in 1962, migration patterns shifted significantly. Roughly one million European settlers, known as "pieds-noirs," returned to France, many Algerians opted to move as well, creating a complex socio-political environment marked by suspicion and surveillance toward Algerian communities (Rosenberg 2006). This "paradox of citizenship" is significant; despite their legal status, Algerians were often regarded as a dissident group due to the residual tensions of the independence struggle, which "reinforced the view of Algerians as inherently foreign" (Palais de la Porte Doree 2024). Labor agreements with other countries in the 1960s diversified the immigrant workforce, but Algerians remained distinct because of colonial legacies that continued to influence French policy and public perception, confining many Algerians to low-paying jobs and substandard housing contributed to the establishment of marginalized immigrant neighborhoods (Hargreaves 1995).

In response to economic and social pressures, France introduced more restrictive immigration policies, such as the 1974 suspension of labor immigration to combat unemployment, which disproportionately affected Algerians (Schain 2008). This policy shift further entrenched their socio-economic exclusion (Thomas 2011). Despite political movements in the 1980s that called for voting rights and citizenship reforms, Algerians continued to face barriers to full integration. French national identity, still shaped by colonial legacies, struggled to accommodate descendants of former colonial subjects, perpetuating systematic marginalization (Begag 2007).

Key Legislative Changes

In the post-colonial era, French immigration policies underwent significant shifts, often influenced by social anxieties about national identity and the economic needs of the country. Early post-independence policies were relatively open, especially for former colonial subjects, as France sought to maintain economic and cultural ties. However, the 1970s marked a turning point, the 1974 suspension of labor immigration was one of the first major steps in this shift, as France aimed to curb the influx of foreign workers while still allowing family reunification, a policy that became a primary avenue for migration thereafter (Pascual 2024).

The 1980s and 1990s saw further tightening of immigration laws, with policies increasingly focused on limiting new arrivals and managing the integration of existing immigrant populations. For example, the Pasqua Laws of 1986 and 1993, named after the Minister of the Interior Charles Pasqua, were particularly restrictive, increasing deportations of undocumented migrants and making it harder for immigrants to obtain residency and citizenship (Bilan, Y, et al. 2018).

In contrast, the 1998 Chevènement Law introduced some liberalizing measures, reducing restrictions on family reunification and granting greater protection against deportation for long-term residents. However, this shift was short-lived as subsequent governments continued to adopt policies with a strong emphasis on control and integration. The Sarkozy administration, for example, created the Ministry of Immigration, Integration, National Identity, and Co-Development in 2007, which underscored the connection between immigration control and national identity—a concept that sparked significant public debate and was perceived by critics

as an attempt to exclude rather than integrate immigrant communities (Tchumkam 2020).

The legacy of colonialism also informs France's treatment of its Muslim population, which predominantly originates from North Africa. The debate surrounding the laïcité (secularism) principle has become a focal point of tension, particularly with policies such as the 2004 ban on conspicuous religious symbols in public schools, which disproportionately affected Muslim girls wearing headscarves. This law, while officially framed as a measure to uphold secularism, has been criticized for stigmatizing Muslim communities and reinforcing the view of Islam as incompatible with French values (Global Detention Project 2024).

Continued Influence on Public Perceptions and Integration Challenges

France's colonial experience continues to shape public perceptions of immigrants, particularly those from former colonies, as culturally and racially distinct from the "native" French population. Scholars argue that these perceptions contribute to the systematic marginalization of immigrant communities, particularly those of African and Arab descent, who often face discrimination in housing, employment, and interactions with law enforcement (La Cimade 2024). This phenomenon is evident in the stigmatization of the banlieues—suburban areas with high immigrant populations—which are frequently depicted in media and political discourse as zones of criminality and social disorder (Thomas 2013).

Public debates on immigration in France are often marked by what Tchumkam describes as "demographic anxiety," where the presence of ethnic minorities is viewed as a threat to national identity. Events such as the 2005 riots in the banlieues highlighted these tensions, as youth from immigrant backgrounds protested against systemic inequality and police violence, drawing attention to the failures of the French model of integration (Tchumkam 2020). This demographic anxiety is further exacerbated by high-profile incidents and rhetoric from far-right politicians who argue that immigrants, particularly from Muslim-majority countries, are challenging the secular and cultural values of the French Republic (Bourgery-Gonse 2024).

National Identity and the "Curse of Origins"

Dominic Thomas refers to the "curse of origins" as a defining feature of French identity debates, where the origins of immigrants and their descendants often overshadow their status as French citizens (Thomas 2013). This concept encapsulates the experience of many postcolonial immigrants who, despite holding French citizenship, are frequently perceived as "other" due to their ethnic or religious background. The persistence of this colonial mindset, which views African and Arab immigrants as inherently foreign, undermines France's universalist ideals and highlights the contradictions within its model of republican integration (Thomas 2006).

This legacy of exclusion is institutionalized through practices that disproportionately target immigrant communities, particularly in policing and surveillance. Modern immigration control practices in France have their roots in colonial policies, where surveillance and policing were used to monitor colonial subjects in metropolitan France, as well as the colonies themselves (Rosenberg 2006). These practices laid the groundwork for contemporary policies that often treat immigrant populations with suspicion, further entrenching the view that they are potential threats to public order and national cohesion (Thomas 2011).

For Muslim immigrants who are able to "integrate" into French society, police violence and discrimination still follow. While many people in France believe that increased immigration correlates with heightened crime rates, studies demonstrate that this is not the case (OECD 2017). French crime rates overall have been on the steady decline, down 5.68% from 2017-2018, while immigration rates are on the incline, with a 10.74% increase of migrants granted asylum from those same years (Macrotrends 2024). Despite this lack of correlation between immigration and crime rates, Muslims, a majority from North African origin, disproportionately make up a significant portion of the prison population in France. While the Muslim population in France is about 10%, the Muslim population in French prisons is about 50-60%, a prime example of how France's measures, though ostensibly neutral, reveal an underlying tension between France's universalist aspirations and

the realities of its diverse population, manifesting a form of institutionalized discrimination that contravenes the very republican values it seeks to uphold (Schain 2008).

To fully comprehend the complexities of contemporary French immigration policy, one must consider France's colonial past, which continues to shape its approach to governance, culture, and identity. The migration patterns from former colonies to the metropole are not merely a byproduct of economic factors but are deeply intertwined with France's historic engagements and consequent responsibilities. 48.2% of all immigrants living in France come from former French colonies in Africa. Algeria, Morocco, and Tunisia were the main countries of origin for immigrants into France in 2022 (INSEE 2023).

Immigration Detention Practices in France

Importance of Studying Immigration Detention Policies

The examination of immigration detention policies is critical for understanding France's broader immigration framework, as detention practices illustrate the stark disconnect between professed values and actual treatment of migrants. French immigration detention centers have increasingly become sites of concern due to reports of human rights violations and harsh living conditions. Investigations by independent organizations indicate that detainees often face prolonged periods of confinement, overcrowded facilities, limited access to healthcare, and inadequate COVID-19 protections, all of which contravene basic human rights (Carrey-Conte 2023).

Regarding COVID-19 protective measures, the Contrôleur Général des Lieux de Privation de Liberté (CGLPL), France's independent oversight body for detention facilities, reported that in December 2021, as the fifth wave of the pandemic hit France, detainees were still held in collective rooms, had meals in common rooms, and were not systematically offered COVID-19 vaccination, even though they were exposed to significant risks of contamination (Global Detention Project 2024). The report came after several months during which France struggled to contain the spread of COVID-19 in its CRAs, which were struck by a major wave of cases starting in December 2021. While many detainees presented COVID-19 symptoms, in some cases, they remained detained together, reportedly without any provision of soap, hydroalcoholic gel, or masks (Global Detention Project 2024). A severe shortage of medical staff reportedly led to delays in testing detainees in some CRAs. Detainees who tested positive were transferred to the Plaisir CRA, which was already running at maximum capacity. As a result, authorities were forced to place some positive detainees in solitary confinement. Additionally, migrants placed in quarantine have restricted access to lawyers, and hearings before the Court of Appeals are only available online (Xuedan 2022). Aid groups have repeatedly pointed to the ongoing disregard of detainees' fundamental rights by French authorities. A member of the Migreurop collective said that there was a "prisonization of detention centers," as everything in these centers "reminds us of prison facilities" (Migreurop 2020). Additionally, the extension of the maximum length of detention from 45 to 90 days in 2018 through the Asylum and Immigration Law has "trivialized these modes of confinement" (Global Detention Project 2024).

France has seen a significant shift in its immigration policies following the onset of the European refugee crisis in 2015. The French government's reliance on restrictive policies rather than a human rights-centered approach has exacerbated existing social inequalities and systemic racism, denying refugees and immigrants their fundamental right to health (Human Rights Watch 2021). Studying these detention policies is particularly relevant during crises, as such periods bring the tensions within immigration frameworks to the forefront, revealing how systemic discrimination and social exclusion manifest in times of heightened vulnerability. By examining these policies, this essay seeks to underscore the urgent need for reform and highlight the human rights implications that arise from France's approach to immigration and detention (Global Detention Project 2018).

Structure and Purpose of Immigration Detention Centers

In France, immigration detention centers, known as Centres de Rétention Administrative (CRAs), serve as temporary holding facilities for foreign nationals awaiting deportation. Their primary purpose is to detain individuals who have violated French immigration laws, such as overstaying visas or lacking residency status, while they await expulsion orders. Initially designed for short-term detention, these centers have increasingly become sites of prolonged confinement, with detentions frequently extending for weeks or even months (La Cimade 2024).

CRAs are distributed across metropolitan France and its overseas territories, with large facilities such as the Mesnil-Amelot center near Charles de Gaulle Airport among the most prominent. These centers vary significantly in size and capacity, ranging from large urban centers to smaller, more isolated locations. The growing network of CRAs underscores the reliance on detention as a fundamental part of France's immigration policy. However, critics argue that this system prioritizes containment over humane treatment, with overcrowding and insufficient facilities contributing to worsening conditions (Global Detention Project 2024). In 2024, a person being detained at the Mesnil-Amelot detention center died; while specific details have not been released, the incident highlights the reality of administrative confinement and its risks (La Cimade 2024).

Legal Framework Governing Detention Policies

The legal framework for immigration detention in France is shaped by both national laws and European Union directives. The Code on Entry and Residence of Foreigners and Right of Asylum (CESEDA) establishes the legal grounds for detaining foreign nationals, stipulating the conditions under which detention is permitted and outlining procedural safeguards for detainees (La Cimade 2024). This along with other European Union regulations, such as the EU Return Directive, which mandates member states to adopt standardized procedures for handling undocumented migrants and overseeing detention (Bourgery-Gonse 2024). These EU policies provide the legal basis for detaining foreign nationals in France, stipulating conditions under which detention is permitted and outlining procedural safeguards for detainees (La Cimade 2024).

A major shift in France's detention policy came with the 2018 Asylum and Immigration Law, which doubled the maximum detention period from 45 to 90 days, with possibilities for further extensions. This policy change has faced widespread criticism from NGOs and human rights advocates, who argue that it subjects detainees to prolonged confinement in facilities that often lack adequate health and sanitation services (La Cimade 2024). Additionally, the adoption of the EU Pact on Migration and Asylum in 2024 has influenced French policies, promoting stricter border control and expanding detention capacities, a direction that many human rights organizations argue compromises fundamental human rights protections (Statewatch 2023). The Pact aims to establish a more unified and stringent framework for border management, screening, and asylum processing across EU member states. France's alignment with the EU's framework is often visible, particularly in its adoption of the hotspot approach and its reliance on externalizing migration control through partnerships with non-EU countries (Migreurop 2020).

The hotspot approach, a cornerstone of the EU's immigration management, aims to intercept, identify, and process migrants at designated points before they enter the EU's interior. This method effectively extends the border screening and asylum application processes to frontline states like Greece and Italy but also impacts French policy. France has supported the establishment of similar processing facilities, known as CRAs, where detained migrants undergo preliminary screenings and, if necessary, deportation procedures. The implementation of these hotspots has led to criticism, as NGOs like La Cimade argue that they facilitate "institutionalized containment" of migrants, often resulting in prolonged detention and restricted access to asylum procedures (La Cimade 2024).

France's relationship with EU migration regulations is complex. While the country cooperates in the broader EU agenda, including the asylum procedures dictated by the Dublin Regulation, it also navigates tensions arising from EU-mandated policies, such as the obligation to process

applications at the border. For example, under the EU Asylum Procedures Regulation, asylum claims deemed to lack merit are swiftly denied without applicants gaining formal entry to the EU—a practice France incorporates through its border screening but which frequently raises human rights concerns (Carry-Conte 2023).

France participates in EU return policies coordinated by the European Border and Coast Guard Agency (Frontex), which organizes deportations of migrants with rejected asylum claims. France's reliance on these coordinated returns is augmented by bilateral readmission agreements with countries of origin. In some cases, these agreements remain informal, evading public scrutiny and parliamentary oversight, as noted by watchdog groups like Statewatch and Migreurop (Migreurop 2020). These partnerships often involve third countries like Turkey and Libya, where human rights abuses are well-documented, raising ethical questions about France's role in EU-funded deportations and detentions outside European territory (La Cimade 2024).

In addition, EU externalization policies incentivize cooperation from third countries in managing migration flows through development funds and visa liberalization measures. For instance, France has aligned its visa policy with EU objectives, sometimes reducing visa quotas for non-cooperative countries, like those in North Africa, thereby pressuring governments to collaborate on readmission agreements. This approach has received criticism for prioritizing political goals over the well-being of migrants, as highlighted by NGOs such as La Cimade and Migreurop. They argue that these policies increase migrants' vulnerability, forcing them into unsafe, irregular migration routes (Carrey-Cone 2023).

The EU Pact on Migration and Asylum, while presenting a unified legislative framework, has been critiqued for reinforcing a security-focused approach that emphasizes border controls over humanitarian considerations. This criticism is especially relevant to France, where domestic policies often mirror the EU's restrictive stance. Recent measures introduced by France's Interior Ministry reflect this prioritization of border security, with new protocols for rapid screening and limited procedural rights for asylum seekers under the asylum border procedure (La Cimade 2024).

While France operates within the EU's regulatory framework, its alignment with EU policies often means adopting stringent detention and deportation practices. The French government faces ongoing criticism from civil society groups, who argue that these policies compromise migrants' fundamental rights and undermine the EU's professed commitment to human rights and solidarity among member states (Human Rights Watch 2020).

Critique of Detention Conditions and Human Rights Concerns

Numerous reports from organizations such as Human Rights Watch and La Cimade document concerning conditions in French CRAs. Persistent issues include overcrowding, inadequate healthcare, and restricted access to legal resources. Detainees often lack privacy, sanitary facilities are insufficient, and mental health support is minimal—problems exacerbated by the extended detention periods allowed under the current legal framework. La Cimade has frequently condemned these centers, asserting that they resemble prisons more than temporary holding facilities and emphasize control over humane treatment (La Cimade 2024).

The CGLPL has highlighted these harsh conditions, particularly regarding the lack of appropriate COVID-19 precautions. During the pandemic, detainees in CRAs were confined in close quarters without adequate sanitation, increasing the risk of infection. Although the CGLPL and other oversight bodies have recommended improvements, many CRAs remain unchanged, revealing a disconnect between France's legal commitments to uphold human rights and the realities of its detention practices (Carrey-Conte 2023; La Cimade 2024; Human Rights Watch 2020).

This examination of France's immigration detention practices exposes a system heavily weighted toward control and containment, often at the expense of detainees' human dignity and rights. The structural and policy issues within CRAs underscore broader challenges in French immigration

policy, reflecting a complex interplay of national security concerns, European Union regulations, and human rights obligations (Pascual 2024).

Systemic Racism and Xenophobia in Immigration Policies

Analysis of Structural Racism in French Immigration Policy

French immigration policy demonstrates systemic racism rooted in colonial history and reinforced by modern practices. This legacy, inherited from the colonial era, establishes a racial hierarchy that persists in perceptions and policies directed at immigrants, especially those from former colonies in Africa and the Middle East. This structure manifests in the portrayal of African and Muslim migrants as "outsiders" and potential social threats, a view that shapes both public attitudes and political discourse around immigration (Thomas 2013). Contemporary policies, which prioritize detaining and deporting immigrants from these groups, reinforce exclusionary citizenship models and align with right-wing rhetoric on preserving "national identity" (La Cimade 2024).

Effects of Policies on Marginalized Communities

The impact of French immigration policies on Muslim and African communities has been especially severe, leading to economic and social marginalization. Data indicates a disproportionate presence of African and Muslim individuals in detention centers and among deportees, reflecting structural biases within the immigration system. Interviews with community members reveal additional qualitative insights: many immigrants are isolated in segregated housing or detention, which not only limits their social integration but reinforces stigma within French society (Global Detention Project 2024). Professor Rim Latrache, who specializes on Muslim communities, noted that Muslim immigrants often experience compounded discrimination, facing both bureaucratic delays and cultural prejudice, which isolates them from broader society and perpetuates alienation (Latrache 2024). Testimonies from NGOs like La Cimade highlight the restrictive legal environment that prevents undocumented migrants from accessing basic rights, leaving them vulnerable to exploitation and insecurity (La Cimade 2024).

Case Studies Highlighting Discrimination

Cases from France's immigration system illustrate the discriminatory practices embedded in policy. For instance, the conditions at CRA Mesnil-Amelot are harsh and dehumanizing, with detainees often deprived of adequate healthcare. La Cimade reports instances where detainees suffered from physical and mental health issues without receiving necessary treatment. These cases reflect a broader trend of neglect within the detention system, where individuals' basic needs are frequently overlooked (Carrey-Conte 2023). Moreover, accounts of racial profiling by police in urban banlieues reveal the ways in which race and ethnicity are used to justify surveillance and detainment, especially against African youth who feel targeted solely based on appearance and neighborhood associations (Begag 2007). Personal stories shared by affected individuals expose the emotional toll of these experiences, as many grapple with a profound sense of exclusion and injustice within the country they hoped to embrace as their new home (La Cimade 2024).

The Paradox of Universalism vs. Reality of Exclusion

France's ideological commitment to universalism, which emphasizes secularism and equality, stands in stark contrast to the exclusion faced by immigrant communities. While universalism is intended to promote equal treatment regardless of background, it has paradoxically justified policies that suppress the unique cultural and religious identities of immigrant groups, particularly within Muslim communities. Interviewees highlight how this paradox affects their everyday lives.

For example, Zuzanna from Serve the City observed that the universalist principle of laïcité (secularism) disproportionately affects Muslims, especially women who wear religious attire like the hijab. Zuzanna recounted numerous cases of Muslim women struggling to find employment due to the perception that their attire clashes with "French values," effectively shutting them out of opportunities (Zuzanna 2024). Professor Rim Latrache emphasized that France's model of

secularism, rather than ensuring equal treatment, often serves as a tool for enforcing cultural assimilation, silencing expressions of religious identity in ways that predominantly affect Muslims (Latrache 2024).

Ahmed J, a Tunisian-French IT worker, shared how the universalist approach has led to policies that strip immigrants of their cultural connections in an effort to enforce a monolithic French identity. He cited examples of friends and family who feel pressured to abandon their languages and traditions to avoid scrutiny (Ahmed 2024). He expressed frustration that the state demands complete assimilation without supporting the social integration of immigrant communities. This pressure is heightened by media and political rhetoric that stigmatizes cultural differences, framing them as threats to national cohesion (Bourgery-Gonse 2024).

Another Tunisian-French man, Ahmed R., shared his perspective on the ideological contradictions within French policy. He explained that while French universalism purports to be color-blind, in practice, it overlooks the unique challenges faced by African immigrants. He noted that policies in housing and employment often exclude Africans and Muslims from opportunities, reflecting an unspoken racial hierarchy that persists under the guise of neutrality (Ahmed 2024). He cited how he and many other immigrants he knows change their names to get jobs and housing (Ahmed 2024).

Nathanael, the leader of a youth soccer program, noted that many of his team members are often sent to other cities in France with no warning, often where they have no connections, under the guise of the state "taking care of them." He told me it seemed like they were just trying to reduce migrant numbers in Paris, with no regard for the actual effect this forced move has on a person's life (Nathanael 2024). Kevin told me that he noticed even second- and third-generation kids born and raised in France are less accepted as French than he is, despite his American origins (Kevin 2024).

Ahmed R. expressed hope in the power of community-led initiatives, noting that grassroots organizations and mutual aid groups have become vital resources for immigrants facing adversity. He explained that these networks not only provide material support but also foster a sense of solidarity, enabling individuals to resist the stigmatization they experience in wider society (Ahmed 2024). This sentiment is echoed by Zuzanna, who observed that many immigrants retain a sense of optimism despite systemic challenges, viewing France as a place of relative security compared to their countries of origin, but recognizing that meaningful integration requires collective effort and reform at multiple levels (Zuzanna 2024).

While limited in scope, this analysis highlights the tension between France's professed values of universalism and the exclusionary practices within its immigration policies. The interviews underscore the need for reform that truly reflects France's ideals of liberty, equality, and fraternity, allowing diverse communities to integrate without sacrificing their identities. NGOs, community leaders, and immigrant advocates remain central to this mission, tirelessly working toward a more inclusive society (La Cimade 2024).

Policy Recommendations and Future Directions

Based on the analysis of systemic issues in France's immigration and detention policies, and the examination of the EU's broader migration framework, here are my policy recommendations:

1. Prioritize Dignity and Human Rights: Shift focus from punitive, security-focused measures to a rights-centered approach, ensuring all policies align with international human rights standards. This includes humane treatment of detainees in CRAs (Centres de Rétention Administrative) and protection against inhumane conditions, as highlighted in the critiques of La Cimade's "Decoding the EU Pact on Migration and Asylum" and the OECD's report on "Interrelations between Public Policies, Migration, and Development."

2. Limit Detention and Improve Conditions: Establish maximum detention periods significantly shorter than the current 90-day or extended durations, with independent oversight to ensure humane conditions and proper access to

healthcare. Follow La Cimade's recommendations to end arbitrary detention practices.

3. Strengthen Legal Aid and Appeals: Increase funding for legal representation within CRAs, ensuring detainees have accessible means to appeal decisions effectively. Procedural safeguards must be reinforced to guarantee detainees' rights to challenge unjust detentions and deportations.

4. Regulate and Monitor Partnerships with Non-EU Countries: Cease the use of informal, coercive agreements with third countries that externalize border control responsibilities, leading to unsafe conditions for migrants outside EU borders. Agreements with non-EU countries must be transparent, respecting migrants' rights at all stages of their journeys.

5. Replace the Dublin Agreement, Specifically its Solidarity Mechanisms: Advocate for an EU framework that genuinely distributes the responsibility of immigration management across member states, moving beyond superficial "solidarity" measures that reinforce control and containment rather than humane migration support. A new framework is required that distributes immigration responsibilities instead of The Dublin system, which places primary responsibility for asylum applications on the first EU country an asylum seeker enters, has long been criticized for overburdening frontline states like Greece and Italy, and for creating imbalances in the distribution of asylum seekers across the EU (La Cimade 2024).

By implementing these recommendations, France and the EU can create an immigration framework that respects human rights, acknowledges historical legacies, and promotes a model of genuine inclusion and support.

Conclusion

The examination of France's immigration policies through the prism of structural racism necessitates a critical understanding of how these policies, in practice, perpetuate inequalities and exacerbate social exclusion. The rhetoric of assimilation often masks a grim reality of systemic barriers faced by immigrants and their descendants, including discrimination in housing, employment, and law enforcement practices. The French model, while asserting a veneer of color-blindness, often fails to address the racial and ethnic disparities ingrained within its society, thereby implicitly sanctioning a status quo marked by segregation and inequality, particularly against African and Muslim populations (Thomas 2013). The principle of universalism, while central to French identity, has paradoxically justified exclusionary practices that enforce assimilation rather than true integration (Latrache 2024).

The findings underscore an urgent need for reform that prioritizes human rights, transparency, and support for diverse identities within France. Policies must shift from security-centered frameworks to those that genuinely reflect France's commitment to liberty, equality, and fraternity—values that are central to its national identity yet remain aspirational for many immigrant communities (Carrey-Conte 2023). As France contends with its colonial legacy and current migration challenges, this analysis offers critical insights for reimagining immigration policy in ways that honor universalist values without compromising cultural diversity. These findings also contribute to a broader global conversation on migration, integration, and the pursuit of equitable societies in an increasingly interconnected world (Pascual 2024). However, the limitations in this project underscore the need for future research with extended timelines, improved language proficiency, and established institutional contacts to gain more comprehensive insights into the experiences of immigrants within France's detention and immigration systems.

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Evolutionary Friends? How Phylogenetics Changes Perspectives on Human Bias in the Endangered Species Act

By Luke Jouflas
UW, Political Science Department

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Abstract
It is well established in socio-ecological and political science literature that numerous factors such as visibility, charismatic nature, and lobbying affect preferences for the conservation of species (Borgi, 2014; Gunnthorsdottir, 2015; Castillo-Huitron et al., 2020; Troudet, 2017). Indeed, even in one of the world's premier pieces of conservation legislation – the Endangered Species Act (ESA) – this bias reigns true as well (Puckett et al., 2016; Kellert, 1985; Plater, 1990; Colleony, 2016; Lepcyzk, 2022). Literature suggests that not only do more traditionally charismatic species receive more funding and have more political power, but they also spend less time awaiting listing under the Endangered Species Act (ESA). This research aims to test whether species' evolutionary divergence times are valid predictors of preference on the ESA as measured by listing, year listed, and time until delisted (when applicable). After combining data from the Fish and Wildlife Service and TimeTree and performing statistical tests, data were inconsistent with this hypothesis. This suggests that while external (lobbying) and internal biases may lead to preferential listing times, the ESA is at least partially insulated from bias as an institution. Future research should establish the external validity of this phenomenon in similar institutions, such as the Environmental Protection Act, as well as examine the data artifacts within this paper that suggest the ESA as an institution has changed significantly over time.

Introduction: A Review of the Endangered Species Act

The ESA was enacted in 1973 under President Nixon to protect species from extinction by protecting both the species themselves and their habitat. The US Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) are charged with implementing the ESA by evaluating and listing species (terrestrial and oceanic species, respectively). There are two ways in which a species may be listed. First, either of these agencies can initiate a status review of a species; in this case, the species is expedited to immediate evaluation. Second (in the vast majority of cases), any citizen or organization may petition the agency. In this case, the agency must decide within 90 days if there is enough evidence to warrant an entire investigation of the species (similar to a 12(b)(6) motion in civil procedure). If the petition passes this stage, the agency must then decide within 12 months if listing the species is appropriate.

A species may be listed with several different designations. First, a species can be listed as either "endangered" or "threatened." An endangered species face imminent extinction, while a threatened species may face extinction at some

point in the foreseeable future. A threatened species typically receives substantially fewer protections than an endangered one. Second, a species' listing may be limited geographically – for example, only in one region of the US. Third, only certain subspecies may be listed while others are not.

Overall, NOAA and the USFWS exercise significant autonomy in this process. While the agencies must use the "best available scientific and commercial data" (NOAA, n.d.), they must only consider ecological factors (not political or socio-economic ones). The only real limitation to these listing decisions is the Supreme Court case Chevron v. Natural Resources Defense Council, which establishes that decisions must not be arbitrary.

Socio-ecological and Political Biases in Conservation

Humans are notoriously biased arbiters in conservation. A long history of literature suggests that so-called "charismatic flora and fauna" – species generally perceived as beautiful, symbolic, and rare and that evoke positive emotion – have long been favored. Starting in 1943, famed ethologist Konrad Lorenz published "The Innate Forms of Possible Experience" and established a new concept: the "Baby Schema." Essentially, this is the universal attraction and compulsion to care for infants due to their innate infantile features, such as large foreheads and eyes. Interestingly, this preference has similarly been noted in humans (Borgi, 2014; Archer & Monton, 2011). So, not only do humans have preferences for animals with infantile features, but these preferences are also innate.

Unfortunately, for less aesthetically gifted animals, this phenomenon has manifested itself significantly. In 2015, Gunnthorsdottir conducted a study showing undergraduate students pictures of unattractive and attractive animals and asking for their support for their conservation. Unsurprisingly, more attractive animals and animals with more shared human characteristics received more support for conservation. This finding was further supported in a large-scale meta-analysis (Castillo-Huitron et al., 2020). The authors concluded that attractive species (due to numerous factors such as visibility) are substantially more likely to receive conservation support. More specifically, this "charismatic flora and fauna" effect can even be seen in the division among taxonomic groups with a preference for mammals above others. Indeed, public interest in certain charismatic species has been found to bias funding in scientific research (Troudet, 2017).

The question, then, is whether this same phenomenon plays out in the ESA. The application of the ESA is more complicated than just the aesthetics and shared characteristics of animals; however, current literature suggests numerous factors other than academic rigor are involved in listing on the ESA. Indeed, in 1985, Stephen Kellert argued that political and social obstacles – such as societal values of species and economic conflicts with the species in question – are much larger barriers than conflict among ecologists. This argument is still relevant today. Take, for example, the controversy over the Spotted Owl. Not only did its protection generate tremendous pushback from blue-collar logging communities, but it also generated a sort of tribalism (Plater, 1990).

Bias in both funding and observability fueled by the "charismatic flora and fauna" effect also appears to play a role. Charismatic species are substantially more likely to receive funding, regardless of their endangered status (Colleony, 2016). This is particularly consequential due to the findings that larger listing budgets have sizable effects on both the probability of listing and the time until listing. The paper further establishes that vertebrates (as opposed to plants and other invertebrates) were similarly likely to spend less time until listing (Puckett et al., 2016). Moreover, a temporal analysis illustrated that the geographic observability of a species by the public also significantly changes the likelihood of ESA listing over time (Lepcyzk, 2022). The culmination of these effects is best characterized by Kelly's argument (2010): more charismatic taxa have significantly more social construction and political power within the ESA than their counterparts.

Thus, human biases are present in not only conservation efforts but also in applying the ESA. Within the literature, three hypotheses attempt to

grapple with how this bias manifests itself. First, there is the academically unpopular technocratic argument that ESA listing is determined by ecological importance – that is, the ESA is an apolitical, unbiased organization. Second, special interests (both corporate and conservationist) preferentially sue for certain species, causing their preferential listing (Plater, 1990; Puckett et al., 2016; Langpap, 2022). Third, the charismatic nature of a species spurs public demand, thus causing their preferential listing (Castillo-Huitron et al., 2020; Lepcyzk, 2022).

Evolutionary Friends or Foes?

This paper builds on previous work by hypothesizing that, regardless of mechanism, species that are more closely related to humans and, therefore, more charismatic would be more likely to receive preferential treatment on the ESA.

Why are grizzly bears so "sticky" (i.e., slow to change) in their listing on the ESA? Grizzly bears are currently listed as threatened, yet this is a vast oversimplification of populations across the US. Populations in Alaska have been steady for several decades, populations in Montana have increased dramatically to a stable level, and populations in Washington are extinct or near extinction. This hypothesis argues that the reason this listing has stood for so long is not due to the "technocratic" hypothesis but instead due to grizzly bears' charismatic nature that causes their preferential protection.

Conversely, the greater short-horned lizard (an arguably uncharismatic species) has received no ESA protection despite being in a much more delicate position. Due to habitat loss and the ubiquity of pesticides, these lizards are going extinct in both the US and Canada. Curiously, in Canada, they have received protection federally – but in the US, no such protection has been offered. Again, this hypothesis argues that the unfortunate, uncharismatic nature has caused the delay in its listing.

Of course, this relationship is not deterministic. This hypothesis does not deny the validity of the other hypotheses but rather adds to it as an unconsidered dimension. For example, in the case of the snail darter in California, it is clear that uncharismatic species can be protected despite adverse social conditions. Protection of this ostensibly "unimportant" fish has caused outrage among blue-collar communities, but protection has continued due to real ecological threats. So, numerous factors besides a species's charisma are at play, suggesting that at least this relationship cannot be deterministic.

Moreover, there are several confounding effects, such as overlaps in jurisdiction. A prime example is the harbor seal in the Salish Sea. Many ecologists have questioned whether these seals' populations should be culled to reduce impacts on native chinook salmon populations; however, this has not been a politically salient opinion. Harbor Seals are currently protected by the Marine Mammal Protection Act and are universally cherished by local inhabitants. The Washington Department of Natural Resources has begun to allow extremely limited culling by natives inhabiting the Columbia River, but this is far from what many ecologists would argue for. So, even if this case study fits the overall hypothesis, overlap in jurisdiction would disguise this result, presenting a potential confounding effect.

However, despite these overlapping variables, there remains strong evidence that human bias in the form of charismatic flora and fauna will still be a strong predictor of listing in the Endangered Species Act.

Study Design:

This paper aims to determine the validity of this hypothesis by using evolutionary distance to predict the listing of a species on the ESA.

Concepts, Definitions, and Measurements:

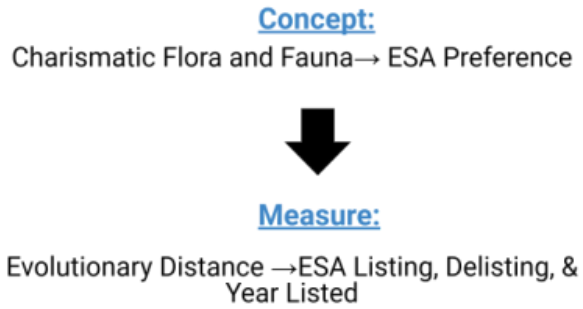
Charismatic flora and fauna: Animals and plants that are likely to elicit feelings of empathy and sympathy

a. While measuring this is slippery, Miralles et al. (2019) effectively captured this concept in their paper. Their research asked more than 2,500 respondents to choose between two species for how empathetic and sympathetic they felt towards them and controlled for numerous socioeconomic

factors. The results demonstrated an extremely robust relationship between sympathy and empathy and evolutionary distance; therefore, evolutionary distance is a valid measure of the charismatic flora and fauna effect. This measurement has the advantages of expediency, accuracy, as well as academic rigor (Abdurakhmonov, 2017). Moreover, using phylogenetics to predict social preferences is well-established in ecology (Nakajima et al., 2002; Eddy, Gallup, & Povinelli, 1993; Callahan, Satterfield, & Zhao,2021). TimeTree will be utilized to quantify this; it is a public resource from Temple University that combines 4,185 studies and 148,876 species to give accurate evolutionary divergence times (TimeTree).

Endangered Species Act Preference: listing by the ESA

Data from the US Fish and Wildlife Service is easily accessible here. Data includes every current listing on the ESA, the year it was listed, and the year it was delisted (if applicable) – all of which were used in the analysis. While it is true that this measurement does not measure morphological differences and cannot capture structural issues within the ESA, such as the flattening of complex biological phenomena or poor phylogenetic nomenclature (Leslie, 2015; Mace, 2004; Zink et al.; Luke, 2022), it does capture the majority of the concept and has the strength of a large and complete dataset.



Methods

This research had three phases: data collection, data cleaning, and data processing. First, data from the US Fish and Wildlife Service's website on the Endangered Species Act was compiled into one large database. Then, using UTaxonStand (an R package), it was cleaned to match the TimeTree database properly. Finally, it was run against a web scraping program on TimeTree's website to generate evolutionary divergence times used in the analysis.

Three datasets were collected from the US Fish and Wildlife Service's website. First, a database with every species currently listed on the ESA was compiled, including supplementary data on their taxonomic group, status (endangered, threatened, etc.), and geographic status. Second, a database was compiled with the date that every listed species was initially listed. Third, a database with every species delisted from the ESA was compiled; this included data on the time it took until the species was delisted and the reason they were delisted.

After this data was compiled and consolidated, it was cleaned in two ways. First, every subspecies and variety tag from the dataset was removed so that it could match with TimeTree's database. While this resulted in some nominal data flattening, this did not change the output significantly in the scale used (~1,500 MYA) (Haig, 2006). Second, to standardize the species' naming, R package UTaxonStand was used to match this database against known databases. Twelve databases with tens of thousands of species were used, and fuzzy matching was further utilized to ensure accuracy. After cleaning, valid data increased from 55% to 82% (n=2,673).

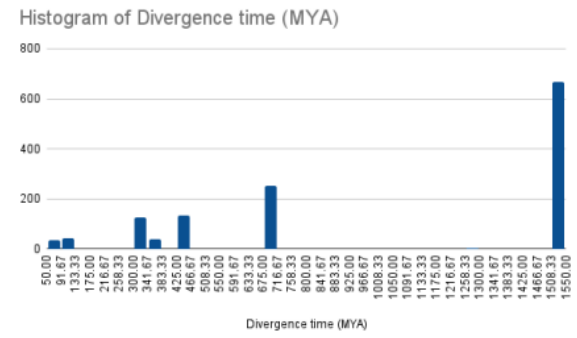
Finally, this data was run through TimeTree's divergence time tool. TimeTree's website only allows a user to run divergence times between two species at a time, so to get around this, a web scraping program was created to access TimeTree's API and run this program thousands of times. The result was that each of the aforementioned datasets had evolutionary divergence times from humans as an additional variable.

To analyze this data necessitated several methods. To analyze the first dataset (all species on

the ESA), the species' evolutionary distance to humans (continuous, MYA) and taxonomic group were compared to listing status (endangered/threatened) using a chi-squared test. Then, data from the chi-squared test was further analyzed using Intraclass Correlation Coefficients (ICCs) and odds ratios to check for robustness and direction. For the second dataset (species on the ESA by year), evolutionary distance to humans was compared to the year listed. An Ordinary Least Squares regression was used to determine the extent of the relationship. Finally, for the third dataset (delisted species on the ESA), the evolutionary distance of the species was compared to the time it took for the species to become delisted. To analyze this, another Ordinary Least Squares regression was utilized.

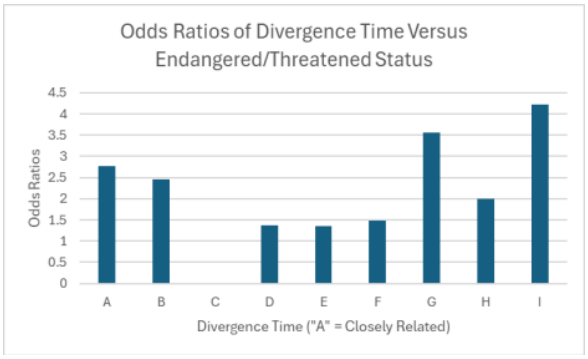
Results:

Dataset 1: All currently listed species



Distribution pattern of species listed is not consistent with the hypothesis. Species that are more distantly related to humans are listed more frequently.

Divergence vs. Listing:

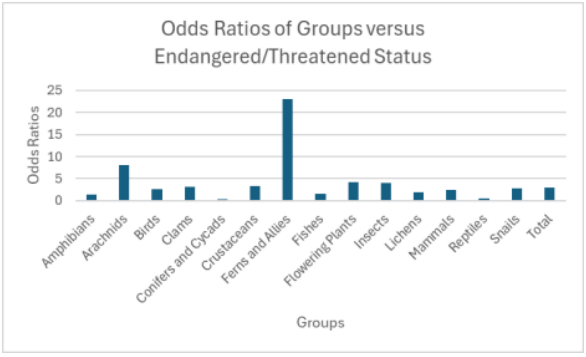


X^2 = 181.18, df = 32, p-value < 2.2e-16, n=1,301

ICC: 1.37, 95% CI -.204<ICC<0.623

X^2 and ICC analysis of divergence time versus Endangered/Threatened status demonstrate statistically significant results, but with no discernable pattern in odds ratios as evolutionary divergence time changes. Data is inconsistent with the hypothesis.

Taxonomic Group vs. Listing:

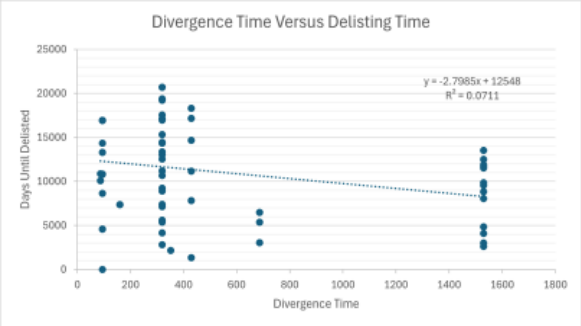


ICC: 1.37, 95%CI -.132<ICC<0.537, n=1,301

x^2=103.8, df = 26, p = 2.9e-11

X^2 and ICC analysis of phylogenetic group versus Endangered/Threatened status demonstrate statistically significant results, but again with no discernable pattern in odds ratios. Data is inconsistent with the hypothesis. Exceptionally high odds ratios in Ferns and Allies is likely due to high species richness in the group (Zink & Klicka 2022).

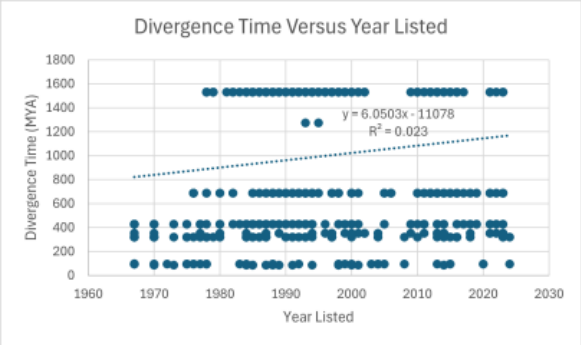
Dataset 2: Delisted Species



P= 1.93e-24; R^2 = .0711, n=71

While the second dataset does demonstrate a statistically significant relationship between divergence time and time until delisting, only 7% of the variability can be attributed to divergence time. Therefore, divergence time does not appear to play a substantial role in time until delisting; data is inconsistent with the hypothesis.

Dataset 3: Year Listed



P = 6.07e-8; R^2 = .023, n=1,301

While the third dataset also demonstrates a statistically significant relationship between divergence time and time until delisting, only 2% of the variability can be attributed to divergence time. Therefore, divergence time does not appear to play a substantial role in the year listed; the data is inconsistent with the hypothesis. Two notable data artifacts, the break before 1976 and the gap in the mid-2000s, are discussed below.

Discussion and Implications

After analysis, the data do not support the hypothesis that the charismatic flora and fauna effect (as measured by evolutionary distance) is a strong predictor of preference in the Endangered Species Act. Visual analysis of the histogram of the frequency of evolutionary distance appears to indicate that, if anything, the opposite may be true with species that are more distantly related having preferential treatment. Using Chi-squared, odds ratio, and ICCs, the data affirm this statement. Strong Chi-Squared values paired with weak odds ratios and ICCs suggest that, while there are statistical differences between evolutionary distance groups and taxa, these are not strong predictors of ESA listing. Moreover, while the second and third datasets demonstrated statistically significant p-values for their variables, their very low r-values demonstrate low predictive power for both time until delisting and the year they were listed.

Undoubtedly, there are some limitations to this data. First, there is some degree of uncertainty with the accuracy of data provided by the US Fish and Wildlife Service. While there was only one noted error (gray whales being listed and delisted on the same day), there is no other dataset to compare with and help validate USFWS' data. While the data is likely generally correct, the noted error and lack of a complementary dataset for validation make this difficult to verify. Second, as there is not currently a dataset with every species in the US, the data provided can only be applied to the species listed (rather than all species). Third, while TimeTree combines hundreds of datasets to accurately determine evolutionary divergence, it lacks perfect granularity; the data is not as specific as it could be. Finally, overlapping jurisdictions (e.g., state vs federal, Marine Mammal Protection Act, etc.) may present a confounding effect. However, given the immense size of the dataset in addition to its originality, there is much that can be learned herein.

These findings do not necessarily contradict established literature and complicate current understandings of the ESA as an institution. Current literature on the ESA suggests that the law and decision-making process 1. gives temporal preference to charismatic species during the petitioning phase and 2. is responsive to funding within these petitions, which influences listing

(Puckett et al., 2016). However, this does not refute the entirety of the technocratic hypothesis. When combined with new data from this study, a more holistic picture is painted. It is entirely possible that charismatic species and species with ample funding are far more likely to be listed sooner, but the ESA makes an ecologically rational decision on listings once they do make a decision. Then, once the species is listed, the ESA continues to make unbiased decisions in the delisting process. So, the charismatic nature of a species can expedite its petition process. However, the elf appears socially insulated and can make ecologically sound decisions.

However, this hypothesis contradicts many established socio-ecological processes on the aggregate, suggesting that the ESA as an institution is fundamentally different in some way. It is possible that the ESA, as a federal institution, has far more insulation from politics (e.g., interest groups, public pressure) than institutions. Perhaps, also, the ESA's structure, with its isolation from the policies it makes and its ability to make its own petitions as necessary aid in its success. These are all points for future research.

These findings do, however, point out a crucial question: If evolutionary distance is not a useful predictor of listing status, what is? The null findings in this paper suggest that social effects may be the better predictor of listing probability. If people do not use the charismatic nature of a species in their decision-making process, they may instead think in terms of what personally affects them. For example, an endangered fern may receive little resistance to listing because it does not result in a significant barrier to the public; however, a species like the spotted owl that would significantly disrupt the public would receive significant resistance.

Moreover, several interesting data artifacts are a starting point for future research. In dataset 2 (data listed by year), there is a substantial break in the data before 1976. Before this point, no species were listed with more than 420 MYA of divergence time; afterward, a sudden diversification of species listed increased to 1600 MYA. Coincidentally, this is also the same time when several amendments to the ESA were passed, which prohibited the removal of endangered species from federal land, allowed for experimental populations, and allowed federal agencies to take actions that may threaten endangered species if approved by a federal committee. So, these may be related. Similarly, there is a substantial gap in listings between 2002 and 2008. It is possible that this is within the realm of random variation; however, it is also possible that the national focus on anti-terrorism and national security in the US markedly affected the ESA's ability to perform its duties. Further research must be conducted to determine the validity of these claims.

Overall, the findings of this paper have immense implications for current understandings of political institutions in the US as well as future research. The data within this paper indicate a new hypothesis within political maladaptation research: that interest groups and the public may have much more ability to influence temporal aspects of policy than the policies themselves within institutions such as the ESA. So, future political science research should establish the extent to which this is true throughout similar institutions in the US, such as the Environmental Protection Act. Moreover, these findings suggest that the ESA is much more competent in its listing decisions than previously thought, giving hope for the future of political institutions in the US. Finally, the questions this paper has raised about why there is a gap in species listing between 2003 and 2008 and a delayed effect until 1976 opens many opportunities for future research.

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Proximity to Porcine, Closeness to Canine: US Federal Animal Welfare Laws Examined

By Emily Huynh
UW, Political Science Department

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Abstract

Aiming to dive into the inconsistencies in federal animal welfare laws in the United States, this paper focuses on distinctions between legal protections for domesticated animals and industrialized animals, specifically those between domesticated dogs and commercialized pigs. The research seeks to examine how legal differences are partially a function of animals' proximity to humans. These categories are examples of whether the animal is considered a companion to humans or utility to humans. Through case studies, this research explores how dogs and pigs are protected under federal law, particularly through the lenses of daily living standards.. For dogs, comprehensive protections address housing, handling, care, transportation, and healthcare needs. In contrast, pigs, especially those not used in research, are primarily protected under agricultural standards, with scarce federal regulations addressing their living conditions, transportation, and healthcare. In researching the varying levels of protections, this study highlights ethical and legal implications of such protections while addressing the gaps in equitably safeguarding animal welfare in current legislation. Methodologically, thorough analysis of federal legislation and relevant case law is conducted to clarify patterns and disparities in animal welfare protections. Additionally, the project makes clearer the complexities of these legal frameworks through interviews with leading scholars and lawyers specializing in animal law. I will take part in proposing policy reform that challenges the existing anthropocentric biases and promotes a shift towards recognizing all animals' intrinsic rights, regardless of their role in or proximity to human spaces. The findings of this study are significant for dogs and pigs, but they also have the potential to be expanded to other categories or species. Further studies could assist in more comprehensive reform of laws regarding the welfare of animals in other spaces such as scientific labs and zoos.

Introduction

Federal animal welfare law varies in the United States, especially when thinking about the different categories of animals that humans have created based on our relationship with more-than-human-life. This paper will consider and analyze the disparities that are evident when comparing protections given to a domesticated species, dogs, versus an industrialized species, pigs. The conversation will begin by examining the historical context of domestic and industrial welfare law and how human perception during the

industrialization era has played a large part in the creation of such laws. Following this, I will discuss why this research is specifically done on dogs and pigs, and not other species. After this discussion, the paper will dive into the legal differences through a comprehensive review of exact federal law, court cases and legal complaints that touch on animal welfare topics such as daily living standards, healthcare, and transportation standards. Included in this comprehensive review are insights from qualitative interviews that are relevant to the experiences of those practicing or studying animal law. Then, the findings of the study will lead into a discussion of greater implications and possible reformations. Finally, I will conclude the paper by addressing the limitations of this research and the possible policy reform I propose.

Historical Context of Domestic vs. Industrial Animal Welfare Law

In the early 1860s, animal welfare laws in the US primarily focused on preventing acts of cruelty against animals. The main organization advocating for such laws in these earlier years was The American Society for the Prevention for the Cruelty to Animals (ASPCA). Legislation supported by this organization was centered around the notion that animals were sentient creatures who could suffer. This included animals that were domesticated and animals that were part of commercial processing or farming industries. However, animal welfare laws have shifted away from this idea. As industrial agriculture boomed in the 20th century, mass production of meat coming from the animals that were previously deemed as sentient creatures began. Animals, such as pigs began to be considered as commodities, while animals that were kept in households, like dogs, were considered companions to humans. This shift in perception and relative closeness led to agricultural legal standards that prioritized human consumption, thus prioritizing efficiency and productivity of producing animal products over animal welfare (Wise 2009). Contrastingly, domesticated animals, like dogs, were continuously protected under law, which reflected their status as companion animals.

Furthermore, during the industrial era, people began to move to the city, where animals were being kept for slaughter or were being slaughtered. This meant that a condensed number of people started to live in urban areas where they would experience the sensory consequences of living near or being near slaughterhouses. Hearing, smelling, and seeing the conditions the animals would have to live in and eventually get slaughtered in caused slaughterhouses to move away (Brown & Sutter 2017). Partially because of the human complaints, but additionally because it was more profitable to move away, and it was easier to get away with poor animal living conditions and treatment. Moreover, poor treatment did not just exist in these slaughterhouses but also in the animal's healthcare. According to animal lawyer and legal scholar Steven Wise, pigs were repeatedly used for breeding and housed in gestation crates, which would be too small to turn around in, until they were no longer able to reproduce (2009). Then, they would be sent to slaughterhouses.

The lack of regard for industrial and commercial animal welfare would continue to modern day, with limited legal protections enacted. One of the most relevant protections that is still used today for industrial animals is the Animal Welfare Act (AWA), which was enacted in 1966. The Animal Welfare Act applies to most animals, including industrial animals, but was initially focused on creating legal standards and protocols for animals used in research (Animal Welfare Act). The AWA has expanded to include animals outside of that category, creating some legal protections for animals in transport, exhibition and by dealers. However, although relevant to animal welfare legal protection, the AWA's protections are uneven, as more comprehensive protections are given to animals like dogs, while there are limited protections for livestock, like pigs.

Why Dogs vs. Pigs?

In this study, dogs and pigs were selected for multiple reasons that emphasize their similarities and differences. Beginning with a discussion of their differences, widely regarded as companion animals, often near humans, dogs have a relationship with humans that have led them to become an animal under US Federal law that is extensively protected and regulated. However, industrial, or commercial pigs are predominantly viewed as livestock, kept and

raised primarily for meat production. The utilitarian perspective on animals like pigs has led to minimal federal regulations directly targeting their welfare. For example, more regulations have been placed for food safety and production practices (for meat), rather than animal welfare.

Regarding their similarities, pigs and dogs share remarkable likeness in their social and intellectual abilities. Previous studies have shown that both dogs and pigs show complex social behaviors and have advanced cognitive abilities. For instance, research by Gerencser et al. and Perez Fraga et al. have depicted that dogs and pigs exhibit similar socio-communicative skills and proximity-seeking behaviors (getting closer with or socializing) with humans (2019). Even though these similarities are proven, there is inconsistency in the way they are legally treated because pigs are not given the same relationship status that dogs are given. Differences in status, historically, and currently, prove to have significant impacts on differences in legal protections and legal precedent for both types of animals (domestic and commercial). Furthermore, the legal protections that pigs currently have do not reflect their intellectual and social capacities, which should be addressed.

Legal Differences

Daily Living Standards

For dogs, under the AWA they benefit from very specific standards that address handling, housing, sanitation, clean water, nutrition, and protection from extreme weather. In regulations set forth by 9 CFR § 3.6, there is mandated minimum space requirements, temperature control, ventilation, lighting, and sanitary conditions for dogs in primary enclosures; for example, the 9 CFR § 3.6 standardizes primary enclosures, like housing units or kennels, must give sufficient room to allow each individual dog to adjust their posture (United States Government Publishing Office). This includes being able to sit, turn, stand, and lie down comfortably. Enclosures must also be built to a standard that prevents injury and ensures the dog's well-being. These types of requirements inherently recognize the physical and psychological health of dogs, where their space, cleanliness and proper shelter are prioritized.

There have been multiple court cases surrounding the subject of daily living standards for dogs, often surrounding the notions in how they have been kept. An example of a case would be Animal Legal Defense Fund v. Conyers (2012). The plaintiffs in this case successfully sued a commercial breeder for not meeting the AWA's standards for sanitation, housing, and care (ALDF v. Conyers No. 12-5678). Ruling in favor of the plaintiffs, the court ordered the breeder to comply with federal standards and upkeep the dog's living conditions. Specifically, the court ruled mandated compliance, emphasizing that there is a breeder's responsibility to ensure the physical and mental wellness of their dogs. The implication of such ruling extends past the immediate outcome. Affirming the AWA's regulations, the court reinforced a view that impacts the legal and societal perception of dogs, further underlining the notion that they are inherently sentient beings, integral to human lives. The precedent that Animal Legal Defense Fund v. Conyers (2012) acknowledges that dogs as sentient beings are deserving of humane treatment, an acknowledgement deeply tied to their roles as companions. Such a protective framework underscores the anthropocentric, or human-centric, lens in which federal laws operate which is relevant when considering how legal protections operate (Deckha 2020). While cases like Animal Legal Defense Fund v. Conyers (2012) reinforced the legal requirement for adequate daily living standards for dogs, the enforced requirements raise concerns for animals in commercial settings as well.

Contrastingly, pigs raised within and for industrial settings and purposes are excluded from standards under the AWA. Pigs raised for food are primarily given protections over living conditions based on agricultural practices, centering industry guidelines and state laws regulations, which heavily varies by state. Therefore, daily living standards for pigs often stray away from their welfare and prioritizes the efficiency and productivity of cultivating them as a product.

Court cases that are relevant to this topic of mistreatment include Center for Food Safety v. Sanderson Farms (2017) where the plaintiffs challenged the company's use of antibiotics and its impact on the welfare of pigs (Center for Food Safety v. Sanderson Farms No. 17-1616). The plaintiffs

argued that there was an unnecessary use of antibiotics on pigs to produce more pork product efficiently. Resultantly, the court recognized that there were ethical concerns surrounding the treatment of industrial animals. Such recognition led to the court deciding these practices were unjust and underscored that in industrial settings for pigs there is a need for responsible practices that prioritize animal welfare. Although the court had ruled in favor of the plaintiffs advocating for responsible practice, the significance of this case is nuanced. The importance of the case decision resides in the recognition that such commercial animals like pigs, have been and are being treated unethically and this type of treatment should not be accepted legally (Eberly 2018).

Additionally, in the case of National Pork Producers Council v. Ross, the standards of living for pigs were challenged once again. Challengers claimed that laws like Proposition 12, which regulated the pigs' living environments, violated the Commerce Clause. Proposition 12 prohibited the sale of pork from pigs that were confined in an environment that would fail to meet state standards. As the pigs within this context were considered "product" or part of a product making process, the trade association representing farmers had claimed that this was violating the commerce clause "imposing undue burdens on interstate commerce"National Pork Producers Council v. Ross, 598 U.S. 356). Ultimately, the court established that Proposition 12 did not violate the Commerce Clause. However, although the court ruling had a focus on the Commerce Clause, the ruling itself affirms that laws that regulate the living environment of industrial animals like pigs can and should continue to be enforced when aligning with other legal standards.

There is a clear lack of comprehensive federal standards for the daily living standards of pigs which highlights the discrepancy in welfare considerations between dogs and pigs, even though they share many social, mental, behavioral, and communicative characteristics. While some states have set forth their own regulations to improve the living conditions of pigs, there are no federal mandates which creates inconsistencies in the living conditions of the pigs as they are being transported. For example, as mentioned earlier in the case of National Pork Producers Council v. Ross, proposition 12 might set specific state standards for the living standards of pigs, but these regulations are not commonly adopted across the country. In sitting down with legal scholar and lawyer Adam Karp, questions were raised about legal differences between commercial and domestic animals, specifically asking questions such as "Where in the law do dogs and pigs differ?" and "What possibly emphasizes these differences in the legal cases you've seen?" Karp states, "Animal cruelty deem, societally, dogs and pigs are different. For pigs there are exemptions based on industry standards which excuse cruel treatment (like mutilation and intensive confinement). If dogs were treated that way it would be a felony, as these exemptions only apply to livestock" (Karp and Huynh, 2024).

Transportation

Transportation is a key portion of these animals' lives that also differ in respects to how they are protected. Covering transportation standards for dogs, the AWA details in 9 CFR §§ 3.13-3.19 that there are requirements for things such as construction of transportation mode, enclosure size, temperature regulations, provisions for food and water and ventilation during transit (Department of Agriculture). Moreover, the Safe Air Transport of Animals regulations federally ensure the safety and comfort of dogs transported by air, with specific kennel requirements, temperature control, and handling protocols (Government Publishing Office "Safe Air Transport"). Safe Air Transport of Animals regulations require that airlines follow strict guidelines to ensure the safety and well-being of dogs during flights and aims to minimize stress and prevent injuries while in air transport recognizing the dog's categorization as companions.

Subject of numerous court cases, dogs in transport have raised multiple legal complexities surrounding their welfare. A notable case is American Society for the Prevention of Cruelty to Animals (ASPCA) v. United Airlines, Inc. (2010). In this case, the ASPCA sued United Airlines for the death of a dog during transit. Details of this case highlighted that the airline failed to follow the Safe Air Transport of Animals regulations, resulting in the dog being exposed to inadequate ventilation and extreme temperatures (ASPCA v. United Airlines,

Inc. No. 10-CV-1234). In favor of the ASPCA, the court ruling emphasized the need for strict compliance with federal transportation standards to secure the safety and well-being of animals during transit.

However, the emphasis placed on safe transport for dogs is not the same emphasis placed for pigs. For instance, there is the Twenty-Eight Hour law, codified in 49 U.S.C. § 80502, which mandates that pigs traveling across state lines must be unloaded for rest, food, and water every 28 hours(Government Publishing Office "28 Hour Law"). However, the law only regulates the time and the treatment after the amount of time. It does not specify the conditions during transportation, leading to potential welfare concerns during transit. The lack of detail in federal standards for transportation means that pigs often go through stressful and potentially harmful conditions during transit. To depict what travel has looked like for pigs, please view Figure 1 below (Vachon 1941).

Figure 1: Pigs in Transport from Louisiana

Legal cases that discuss the topic of pig welfare during travel include a recent case. In the case of Animal Legal Defense Fund v. USDA (2015), where the plaintiffs argued that the USDA's regulations for the transportation of pigs were insufficient and failed to prevent cruelty. The decision included the court siding with the plaintiffs, mandating the USDA to review and update its regulations to better protect pigs during transit. The court recognized the treatment as a legal issue and furthermore the case itself highlighted the discrimination that pigs face legally and how the government might balance industry practices with welfare issues. However, although this balancing act might be beneficial for those in the industry, it may not be for pigs. Sitting down with legal scholar Mei Brunson she asks, "When does balancing work when one side inherently is more valued than the other? In performing such a balancing act, when do animal welfare laws pertaining transportation help animal life altruistically or how long does it sustain these abusive practices but just with a different front?" (Brunson & Huynh 2024).

Healthcare

One other legal protection topic that vastly differs between dogs and pigs is how they are afforded healthcare. For dogs, the AWA mandates that dogs covered by the act must be provided with veterinary care, including vaccinations, disease prevention and control (Department of Agriculture). Veterinary visits are regularly required and illnesses, if identified, must be treated accordingly. Moreover, service dogs are protected under 42 U.S.C. §§ 12101-12213 by the Americans with Disabilities Act (ADA), which requires that they must receive extensive healthcare if necessary to perform their duties and must not be neglected regarding their physical health (Department of Justice 2010).

A focal point of several legal cases, the healthcare of dogs has been a topic of discussion and concern for the American public. In the case of Kuehl v. Sellner (2016), the plaintiffs sued an exotic animal farm for failing to provide adequate veterinary care for dogs and other animals (Kuehl v. Sellner No. 16-3239). The court ruled in favor of the plaintiffs, emphasizing that all facilities covered by the AWA must ensure proper veterinary care by their regulations. This decision and case reinforced the legal obligation to provide adequate healthcare to dogs, ensuring their well-being in various settings.

Notably, pigs used in research are covered under the AWA, which mandates adequate veterinary care, including disease control and prevention programs. However, pigs raised for product lack specific federal healthcare standards, with guidelines typically governed by industry practices and state

laws. Most industry practices and state laws give exemption on the basis. Of prioritizing human consumption and production efficiency. This type of regulation or lack of regulation often leads to inadequate healthcare for pigs in industrial settings. Moreover, these have been recognizing the lack of legal protections through different, limited, court cases.

In the case of Animal Legal Defense Fund v. Hormel Foods Corporation (2018), the plaintiffs argued that Hormel's production practices failed to provide adequate healthcare for pigs, resulting in suffering and inhumane treatment (Animal Legal Defense Fund v. Hormel Foods Corp. No. 18-2264). Mandating that Hormel improve its veterinary care practices, the court set a precedent for the industry. The case itself underscores the challenges in expecting adequate healthcare when legally, there are minimal requirements surrounding the welfare of the animal.

Furthermore, healthcare does not only refer to the way that the animal lives and dies, but also how it was brought into the world. At the University of Washington Summer Institute of the Arts and Humanities, I explored work from multiple scholars that helped us frame more-than-human-life and human relations. One of those individuals was animals' scholar Sunara Taylor, she says that "Just as disability is socially constructed in humans, so too is it in animals. The ways we breed, confine, and utilize animals often create disabilities, which we then use to justify their treatment" (Sunaura 2017, 38).

Sunara's point echoes throughout animal welfare law or the lack of animal welfare laws there are for pigs. As we enable ourselves to be detached from the way they are being treated, we are inherently deeming them as unable and thus, easy to exploit. The lack of oversight in the legal system for industrial animals like pigs allows for systemic abuse, while animals like dogs are afforded protections.

Limitations of Research and Policy Proposal

While I have studied the disparities in federal animal welfare laws and hope to provide a comprehensive analysis of the disparities in federal animal welfare laws, I think it is very necessary for myself and others to recognize the limitations in participating in such research. Firstly, I would like to touch on the point that research on laws, and especially animal law can be limited because of the restricted available data. As stated by legal scholar and lawyer Adam Karp, "There is a lack of transparency when relying on government exclusive inspection as there are many loopholes in which certain acts would not be legally categorized as animal cruelty or an infringement on animal welfare which then impacts data collection" (Karp & Huynh 2024). Secondly, I want to continue this research as I recognize that I have not accessed every court case that might be relevant or central to this comparative project. Thirdly, there is the issue of transparency, as I touch on legal differences, it is vital that we understand even the legal protections that are there are not always abided by or enforced on a wider scale.

Legal Differences: Greater Implications and Possible Reformations

The inequalities in legal rights and protections between the welfare of dogs and pigs touch on the essential ethical and societal implications. When we look at how laws address companion animals, like dogs, it's clear that human perception plays a significant role. Companion animals are often seen through the lens of being 'cared for' and 'loved,' leading to laws that are inherently human-centered. There are custody cases across the US that prove this notion that "quote on quote" dogs are family (Britton 2006). This perception fosters a sense of familial connection, where these animals are considered close to us in terms of relationship and even identity. The clear prioritization of dogs' welfare reflects a societal value that recognizes human affect for them, and this anthropocentric perspective has led to comprehensive legal standards aimed at ensuring the well-being of dogs.

On the other hand, the treatment of pigs under federal law underscores an industrial approach that prioritizes economic efficiency over animal welfare. In examining the legal context surrounding pigs, it's crucial to understand that they are often classified as 'products' rather than sentient beings. This categorization stems from human-centered laws

that prioritize efficiency and productivity over welfare. As a result, pigs are subject to practices that would be deemed unacceptable for companion animals like dogs,

So how can reformation of laws happen? I suggest that the government aims to implement federal standards that center the animal for topics such as housing, transportation, and healthcare of all animals, regardless of their classification as domestic or industrial. The law should recognize that animals such as dogs and pigs exhibit similar social, behavioral, and communicative behaviors and both have the capacities to feel pain and suffering through cruel practices. Not just one animal can, but all animals can feel pain inflicted by humans. Just because one may be identified as companion through effect does not mean that the other that might be identified as commercial or industrial should be neglected. If anything, because of our distance, we should be aiming to understand how we as humans can prevent animal welfare abuse and prioritize the well-being of animals like pigs through every stage of their life.

One potential way of beginning to take steps to fulfill such action is to expand AWA to include all animals, not just those used in research, exhibition, and by dealers. Such expansion would provide a legal framework for establishing minimum welfare standards for all animals, ensuring that pigs and other livestock receive the similar protections as dogs. However, reform like this must begin by recognizing that agricultural practices and standard will not be immediately changed but rather, over time through other incentives or forms of support by the government to decenter the human in animal welfare laws.

A possibility could be encouraging ethical farming practices through subsidies and incentives to help shift the industry towards more humane treatment of animals. The government already provides financial support to farmers on small and large scales, thus, including standards that protect animal welfare like improved housing and healthcare for pigs will not be a drastic change (Sumner 2008). Furthermore, this approach can help farmers that do engage with ethical practices that experience higher costs and even out the playing field for those who are trying to concern themselves with animal welfare efforts.

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Short Form Student Research

From Crisis to Community: Evaluating the Impact of Integrated Housing and Recovery Models on Substance Abuse Among the Homeless Population in Clark County, Washington

By Kaitlin Medina
UW, Political Science Department

Background

Substance abuse among people who are experiencing homelessness is highly prevalent across the United States, even in the relatively low-researched area of Clark County, Washington. People who are homeless and use drugs face barriers to accessing both housing and treatment, and this multifaceted social problem requires multifaceted solutions.

Homelessness is hard to define simply because of how individual the experience is. However, it can be grouped into four general categories, including rooflessness, homelessness, insecure housing, and inadequate housing (Miler et al. 2021). Additionally, chronic homelessness is a term used for people who have experienced homelessness for a long duration of time usually combined with a disabling condition such as mental illness or a substance use disorder, and this population is the main focus when evaluating the effects of substance abuse on homelessness. However, 'homelessness' as a term implies the count of all people who identify as homeless within all of the facets of the definition. Estimates suggest that about 567,715 people were experiencing homelessness in the United States in 2018, with more recent data suggesting over 653,100 people experiencing homelessness in 2023, equating to over a 15% increase in just five years (Miler et al. 2021; Beaugard et al. 2024). In Clark County, there are 672 people experiencing homelessness as of 2023 ("Point in Time Count 2023 | Council for the Homeless" 2023).

Substance use disorders are at least twice as prevalent among adults experiencing homelessness compared to the general population (Beaugard et al. 2024). Furthermore, about 75% of people who are chronically homeless suffer from mental illness or drug addiction (Rufo 2021). Within Clark County's chronic homeless population, this statistic is corroborated by Jamie Spinelli and Sheila Andrews: "you can't live on the streets without using [illicit substances]" (Spinelli and Andrews 2024).

There is no sole reason for homelessness. In an interview with Jamie Spinelli and Sheila Andrews, representatives from the City of Vancouver for homelessness response, they said that "the reasons for homelessness are as numbered and diverse as the people themselves," (Spinelli and Andrews 2024). Some general pathways into homelessness include unemployment, domestic violence, family crises, and health emergencies (Rufo 2021). Furthermore, according to researchers at DuPaul University analyzing the social communities of chronically homeless individuals, "although participants' reasons for entry into homelessness were multifactorial, social isolation and loss of social support were primary contributors" (Cummings et al. 2022). Above all, "homelessness is the result of the loss of human relationships, including those with family and community," (Rufo 2021).

Solutions & Policy

Considering this, the solutions for this social crisis and pathways into finding permanent housing must include substance abuse treatment, especially for those who are chronically homeless. Moreover, support must continue to be administered throughout an individual's journey back into the greater society; "individuals with substance use disorders likely require additional and ongoing support regardless of housing placement," (Cummings et al. 2022). Continued support for recovery and a person's

individual success is vital to their path out of homelessness and addiction.

Further, the dominant policy addressing substance abuse among homeless populations nationwide is the harm reduction model. Harm reduction strategies include "pragmatic interventions, policies, and programmes, but do not require a person to stop using drugs as a condition of support" (Miler et al. 2021). This approach's main goal is to prevent overdose deaths and other negative consequences of addiction for those who experience homelessness. Harm reduction is highly relevant in Clark County due to the rise in overdose deaths in the homeless population. In 2022, there were 5 overdose deaths in the homeless population in Clark County; just two years later, this number has doubled with 10 deaths occurring prior to June 2024 (Spinelli and Andrews 2024). Harm reduction approaches have led to "decreases in drug-related risk behavior, and to decreased fatal overdoses, as well as to reductions in all-cause mortality, morbidity, and substance use," (Miler et al. 2021).

Human connection is especially important for addressing homelessness and substance abuse considering that "a consistent pattern emerging across studies was that individuals experiencing chronic homelessness had limited social support and small, fragmented social support networks," (Cummings et al. 2022). Research has also found that a loss of social support is a main factor precipitating homelessness, and limited support is a barrier to gaining employment and housing (Cummings et al. 2022). However, research suggested that housing provided the security for individuals to rebuild social relationships and therefore regain a sense of community that was lost due to being unsheltered (Cummings et al. 2022).

The dominant policy addressing homelessness across the country is the housing first model. This approach focuses on providing "immediate, permanent, low- barrier, non-abstinence-based supportive housing for individuals with lived experience of homelessness," (Miler et al. 2021). This approach assumes that people who experience chronic homelessness will only be able to overcome their addictions or mental health disorders once they are off the streets, which has been corroborated by research stating that this model, "has been found to promote social and community integration as well as engender a sense of hope for recovery and building community ties," (Cummings et al. 2022).

No single approach alone can completely end substance abuse within the homeless population, or completely eradicate homelessness as a social problem. According to Miler et al. in 2021, the housing first model showed mixed results toward its impact on substance use, but instead provided more housing stability and led to participants having permanent housing 18-24 months after their original stay. The only minor improvement observed in regards to substance abuse in a housing first model is when the living quarters are communally arranged rather than purely individual housing, showing the impact that community involvement has on recovery and success (Miler et al. 2021).

Research shows that the most effective approaches utilize more than one method. An example of this is a communal housing first and harm reduction approach through a women's low-threshold shelter in Boston, Massachusetts. The low-threshold approaches are "promising short-term intervention for people experiencing unsheltered homelessness who avoid traditional shelters due to drug use, fear of losing their encampment, or other reasons" (Beaugard et al. 2024). Further, this shelter provided secure storage for personal belongings of its guests and hosted long-term sleeping arrangements. Combined with being a gender-exclusive shelter, it provided a space that the guests felt safe and comfortable in. In total, the shelter hosted 23 guests at a time, and 73 women stayed at the shelter within a nine month period between December 2021 and August 2022 (Beaugard et al. 2024).

The guests interviewed in this study identified three highly impactful practices and policies that the shelter adopted as "having their basic needs met, unrestricted 24-h access to the facility, and the ability to check in with staff by phone to retain their bed" (Beaugard et al. 2024). Further, some guests shared that their substance abuse subsided while residing in the shelter: "Cynthia explained her drug use decreased naturally because she was not constantly exposed to others' use on Mass and Cass

[a prevalent encampment in Boston]: 'It's not right there in front of you all the time.' Even when guests were not in treatment, living in the shelter facilitated reduced use." (Beaugard et al. 2024). The shelter wasn't designed with addiction treatment or sobriety requirements, but the increased support and access to shelter 24/7 naturally led guests to decrease their drug use.

This shelter's approach combines the effects of housing first models with harm reduction as it provides housing regardless of substance use and has guest access to safe drug practices. It is seen as a step off the streets towards further treatment and more permanent housing, which both could be found through different pathways after time in this shelter.

Clark County, Washington

In order to connect the more broad national issue to Clark County, Washington, I found it necessary to conduct interviews with those who work first hand with solving homelessness in Vancouver, Washington, as there is no prior academic research available that connects homelessness with substance abuse. I met with Jamie Spinelli and Sheila Andrews to connect the national trends of homelessness to how the crisis presents itself in Clark County, Washington, and their perspectives were imperative in my research. Jamie Spinelli is the homeless response coordinator for the City of Vancouver, and Sheila Andrews is the encampment response coordinator for the City of Vancouver, and both of them were once homeless and suffered from substance abuse. Their perspectives both as people who were homeless and who work to end homelessness everyday presented the input that academic research lacked. Set in the Recovery Cafe of Clark County, the conversation both corroborated what prior research reported and provided the connection to Clark County where academic research was absent.

The Recovery Cafe of Clark County is the one stop for chronically homeless individuals to regain community ties, connect with non-profit organizations to provide housing, recovery programs, and get a free meal and coffee. The Recovery Cafe is also home to the Clark County Community Court, a therapeutic court system that allows individuals with low barrier crimes to go through the legal system without further barriers to housing or treatment. With Sheila and Jamie at the Recovery Cafe in Clark County, there is community bonding, laughter, healing, and dignity for homeless individuals.

The Recovery Cafe Network is a non-profit organization with cafes across the country committed to "serving people who have experienced trauma and the results of trauma like homelessness, substance use disorder, addiction, and other mental health challenges" ("About - Recovery Café Network" 2024). Founded in Seattle, the Recovery Cafe Network currently has 67 cafes across the United States and 14 within Washington State ("About - Recovery Café Network" 2024).

The Recovery Cafe model utilizes a Recovery Oriented System of Care method to recovery, which "meets people where they are on the recovery continuum, engages them in a lifetime of managing their health, focuses holistically on a person's needs, and empowers them to build a life that realizes their full potential," ("About - Recovery Café Network" 2024). This method provides continued support for individuals after their initial crisis that provides them with prolonged support and security in their recovery.

The Recovery Cafe of Clark County has a vast impact on the community, with 248 members who have participated in the recovery process, 60 total staff, and 16 partners and sponsors to support the organization ("Recovery Cafe Clark County | Recovery Café Clark County | Vancouver" 2024). The cafe has access to many non-profit organizations that provide outreach and support to members of the community, including housing services, further recovery programs, employment and financial education, food and clothing assistance, and connections with organizations assisting the BIPOC community ("Recovery Cafe Clark County | Recovery Café Clark County | Vancouver" 2024). There is also free narcan available, a drug that helps to reverse the effects of opioid overdoses (Spinelli and Andrews 2024).

The Recovery Cafe provides individual help and recognition, and shows people experiencing homelessness are people first, not just a social burden. The staff were friendly and inviting, knew

people by name, and seemed eager to help. These techniques emphasize that human connection is vital for recovery while also providing the starting point for access to housing first and harm reduction organizations.

The Recovery Cafe is also home to the Clark County Community Court. This court system is an alternative to the district court and aims to "reduce and properly address quality of life offenses by utilizing a collaborative, problem-solving approach to crime" ("Community Court" 2024). This system helps reduce crime-related barriers to future employment or housing by allowing successful participants to avoid criminal convictions for crimes often related to homelessness. Examples of eligible offenses for community court include trespassing, disorderly conduct, park curfew violation, unlawful storage of personal property in public, and more ("Community Court" 2024).

Participants in the community court program are often referred to this system first by the police officer who cited the eligible offense to the community court docket ("Community Court" 2024). Participants will then meet with their court appointed attorney to go through their options based on their individual case, and will be provided with a needs assessment that will identify areas of need that could be addressed through the Recovery Cafe partners, such as housing, food, mental health treatment, valid identification, Supplemental Security Income, and more ("Community Court" 2024). The defense attorney, prosecutor, and court coordinator will then develop a case plan that will be reviewed by the client. The client can opt out of the program at any time, but if they decide to continue, the entire case must be completed within 90 days of their decision to opt in ("Community Court" 2024).

The community court program provides legal support for people with crimes related to homelessness and gives the opportunity for charges to be resolved through legitimately helpful legal support. The court provides assistance for participants' housing, food, healthcare, and more to support people through their transition off of the streets. With the court located within the Recovery Cafe, it is more approachable than a traditional court system and utilizes a collaborative effort approach to truly help people turn their life around. From what I witnessed as an observer in community court, it is personable, friendly, and an approachable way through the highly intimidating legal system.

The Recovery Cafe and its related areas of support is one of the most action-based organizations providing support for the effects of substance abuse on homelessness in Clark County. It provides a community for support out of addiction and towards stable housing and sobriety. The multitude of resources available within the cafe allow for easy access and approachable staff make the environment welcoming and inviting.

Analysis & Connection

The effects of substance abuse on homelessness is a varied social problem, with pathways into homelessness as unique as the people experiencing this trauma themselves. Though research can attempt to understand and evaluate this social problem, lived experiences are more impactful to truly understand and empathize with the people affected by homelessness and substance abuse. Research points to varied approaches for solutions, from regaining community ties, providing housing first, harm reduction strategies for substance abuse, and more. There simply isn't an easy answer to this multifactorial social problem.

Corroborated by Sheila Andrews and Jamie Spinelli, there is a critical need for holistic solutions available, meaning that solutions must include housing, drug treatment, community repair, healthcare, and more to be completely effective. Further, a push for more options available on the spectrum between harm reduction and abstinence drug treatments would make recovery and treatment more accessible for more people who need it.

The Recovery Cafe model for substance abuse treatment is holistic in the sense that it allows people to come as they are and receive treatment. It goes a step further than simply harm reduction as it guides people towards recovery and sobriety in the long run, but acts as a middle ground between harm reduction and abstinence recovery methods. Further, it connects people with pathways into housing and employment which will get people off the streets and

back into the community. The community court system further allows people to engage with the legal system in an approachable and collaborative manner, rather than simply a route towards further boundaries for housing and employment.

These models are beneficial to helping solve this social problem, but more can be done. A beginning model of housing first is the City of Vancouver's Safe Stay communities. These communities provide transitional housing for people living on the streets of Vancouver, and have served the homeless population since 2021 ("Safe Stay Communities - City of Vancouver WA" 2024). According to Jamie Spinelli, these communities are the middle ground between a "free for all" and a sober community, making it more appealing to act as the transition between the streets and permanent housing especially for people with substance abuse problems (Spinelli and Andrews 2024). Further, these communities are known for recovery among people who are homeless, so it is an opportunity for recovery and housing in one package (Spinelli and Andrews 2024).

The obvious answer would be to expand these programs in conjunction with the Recovery Cafe model, even providing housing first facilities paired with a communal approach and harm reduction strategies towards recovery. In order to curb the effects of substance abuse with homelessness, the solution must take both factors into consideration and provide options across the spectrum for both issues.

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Reagan and the Ozone: The Construction of 'Industrial Environmentalism'

By Elizabeth Tolbert
UW, Political Science Department

It is difficult to imagine a time that political and scientific discord did not revolve around environmental threats facing the human species. Today's climate accords, international conventions, UN task forces, and mass movements fall short in adequately addressing concerns in an age of constantly progressing industry. Leaders struggle to create cohesive and collaborative policies to prevent inevitable ecological disaster. But has it always been this way? The depletion of the stratospheric ozone layer, coined as the 'ozone hole,' could be considered one of the first modern-day ecological threats that required a global regulatory policy response. Chlorofluorocarbons (CFCs) were compounds that reacted with cloud layers to produce microscopic chlorine molecules; this byproduct attacked and destroyed the vital layer of the earth's atmosphere that shielded our world from ultraviolet waves. If left unaddressed, CFCs would have destroyed the ozone layer and result in millions of deaths, mass agricultural failure, and increase of disease (Lockhead 2018). After growing alarm from the scientific community, the world saw what was to be the first (and last) effective global industry-regulating treaty to prevent environmental disaster: The Montreal Protocol. The 197-country-strong agreement prevented CFC use in *all* forms in *all* scenarios in *all* nations (Environmental Protection Agency 2024). One champion of this accord, however, was an unlikely supporter: Ronald Reagan. The pro-deregulation and anti-environmentalist icon's support of this treaty, which Reagan himself called a "monumental achievement," provides an intricate puzzle for rhetoricians in political and scientific fields alike (Reagan 1988). This essay will analyze the April 5th, 1988 "Statement on Signing the Montreal Protocol on Ozone Depleting Substances" from the Republican president. In no more than a few paragraphs, the President addressed Congress and the nation with calculated reasoning for his commitment to the protocol. This statement is an exceptionally significant document for scholars interested in dissecting the rhetorical choices of Reagan's presidency. Through it, the former president utilized a pseudo-environmentalism that primarily benefits conservative economic policies; this paper will elaborate further on this policy of 'industrial environmentalism.' Furthermore, this paper will analyze the statement's rhetorical design and draw attention to the Reagan administration's restructuring of relations between scientific and political communities looking to address environmental threats.

Further Establishing the Puzzle of Reagan's Signing Statement

By 1985, the ozone hole crisis was becoming a serious public concern. Reagan could no longer tiptoe around environmental threats in his policy objectives. However, the former president approached this ecological issue with an economic interpretation. In Bonn, he announced that the economy would always be his primary concern. "Conscious of the responsibility which we bear…for the future of the world economy and the preservation of natural resources…industrial nations…have discussed the economic outlook, problems, and prospects for our countries and the world" (Reagan 1985). The environment, framed here as a repository for "natural resources," comes second to his interest in the economy. Reagan's main concern while in office was to establish policy that grew economies, not trees. By tying the "future of the world economy" to the "preservation of natural resources," he could appease conservative audiences by referencing traditional republican agenda matters. The former president then cited a beneficial and symbiotic relation between economic growth and ecological preservation: "Economic progress and the preservation of the natural environment are…mutually supportive goals" (Reagan 1985). Reagan also asserted in Bonn that global environmental concerns were simply market

variables: "We shall harness the mechanisms of governmental vigilance and the disciplines of the market to solve environmental problems" (Reagan 1985). Reagan demonstrated here a faith in the market to resolve the subsequent sins of a pro-industry religion.

To identify the rhetorical puzzle presented by Reagan's Montreal Protocol signing, it is important to further establish what was typical of his political rhetoric. In addition to prioritizing the economy, a primary focus of the president was to renew the American spirit – a so-called spirit of excellence. To do that, he sought deregulation of industry. "Outmoded rules, regulations, excessive paperwork, and self-imposed disincentives can place us at a major disadvantage in an increasingly competitive world marketplace," Reagan asserted (Reagan 1987). Throughout his presidency, he correlated deregulation with American success on an international economic model. "The litmus test of whether we will be truly competitive in the 21st century will be our ability to…win in the international marketplace" (Reagan 1987). Reagan's main concern while in office was market success, not passing environmentalist policy. Any international treaty would be framed as an opportunity for economic competition. When Reagan established goals for achieving 'American Excellency,' he did so using verbiage tied closely with economic jargon. "Increasing investment in human and intellectual capital; promoting the development of science and technology…enacting essential legal and regulatory reforms; shaping the international economic environment…" were all listed policy goals within the administration (Reagan 1987). While it is important to note that the former president was unable to completely ignore the looming ozone crisis in political speeches, it is also important to recognize his concentrated effort to never centralize environmental policy as a platform pillar. Rather, he utilized the environmental crisis as a tool to further his pro-industry position. "This year we will continue to study the issue of stratospheric ozone depletion…using private industry…to find solutions… [and make] proposals that make use of market incentives" (Reagan 1987). Even when acknowledging ecological issues, Reagan's political rhetoric was sure to revolve around and revert to one thing: the economy.

As studies of the depleting ozone layer became more pressing in global scientific communities, they all pointed to a clear enemy found in each nation's market. According to scientists, the culprit of the ozone crisis were CFCs, and the solution was a complete and total ban of its use in industries (Lochhead 2018). The Reagan administration met this demand with hostility due to economic concerns; appointed department heads furthered the president's deregulation and pro-industry rhetoric in environmental policy meetings. American chemical and manufacturing companies complained that the Montreal Protocol would take things "too far," an argument that was supported by various officials representing the Reagan administration (Crawford 1987). According to one reporter writing about the Montreal Protocol at the time, "The Commerce Department and the Office of the US Trade Representative have been particularly concerned about the implications of an international agreement on the US economy and trade competitiveness" (Crawford 1987). Additionally, the contingency in the treaty that would allow developing countries a longer time frame to achieve CFC phase-out goals also raised economic competition concerns (Crawford 1987). Lee Thomas, the newly appointed head of the EPA in 1985, made a valiant effort to recenter arguments regarding CFC bans and human health. "If degradation of the ozone layer…continues unabated, the effects will be far reaching…new skin cancers and millions of related deaths for humans [will occur]" (Crawford 1987). This looming health crisis was not enough, however, to convince the economy-prioritizing cabinet Reagan orchestrated. To ultimately achieve CFC regulatory action, The EPA had to shift their rhetorical approach to one of economic reasoning. "Administration economic analyses…show that the costs of shifting away from CFCs is minor compared to potential economic loss…the deaths of 993,000 Americans, whose lives are valued at 1.3 trillion dollars, can be avoided with a 20% cut back in CFC use" (Crawford 1987). Soon after, there were rumblings to move towards signing the Montreal Protocol. Observe that in the previous quote, human death is cited as a negative *solely* because it would prove to be an inhibitor of market growth. There is a notable lack of ethical and humanitarian concerns over the nearly 1 million potential lives lost; CFC regulation was only admissible if there were proven economic

repercussions if regulations were not placed. Out of precaution for the economy, not humanity or the environment, the Montreal Protocol was a valid agenda to agree with.

This alludes to an additional puzzle about Reagan's rhetoric. Earlier memoranda surrounding the topic of ozone layer depletion reveal a line of precautionary principle reasoning as Reagan's motivator for regulatory action. According to the International Institute for Sustainable Development, the precautionary principle is defined as follows: "Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."

In "Message to the Senate Transmitting the Vienna Convention," Reagan outwardly voiced support of initial CFCs regulation as it provided "....a foundation for global multilateral undertakings to protect the environment and public health from potential adverse effects [of ozone depletion]" (Reagan 1985). Compare this to his final remarks on the benefits of ratifying the Montreal Protocol. He emphasized the protection of "the environment and public health" as a main line of reasoning for ratifying the Vienna Convention, not economic benefits. He did not try to finagle market terms or connotative jargon in his description; the environment is not denoted as a 'global' resource. Additionally, his use of the word potential alludes further to precautionary principle reasoning. Reagan could not assert definitive negative environmental impacts in fear of losing industry support. But by highlighting a potential worst-case-scenario, he established credibility in supporting cautionary regulation. Reagan reaffirms the protection and enhancement of "public health and…the global environment" as his main concerns within this memorandum: "Expeditious ratification by the US will demonstrate our continued commitment to progress on this significant environmental issue." The message to the Senate is foundational in demonstrating the evolution of Reagan's rationale regarding ozone regulation; early support lacked any economic reasoning for international CFCs regulatory treaties. We can assert Reagan's preliminary concerns were potential disastrous environmental and humanitarian consequences, not American economic health. 1987's "Message to the Senate Transmitting the Montreal Protocol on Ozone Depleting Substances" also saw Reagan utilizing the precautionary principle: "…[There could be] potential adverse effects if depletion of stratospheric ozone [is tolerated]…" (Reagan 1987). Two pivotal cabinet members to the former president even accredited the precautionary principle as the motivator for Reagan's initial support of the Montreal Protocol! Former Secretary of State George Schultz stated that "There were scientists who thought the ozone layer was depleting, there were perfectly respectable people who doubted it. [Reagan] said to them, 'Well, you have your opinion, and I respect that. But you do agree that if it happens, it's a catastrophe, one way street. So why don't we take out an insurance policy.'" (Lochhead 2018). Lee Thomas, former chair of the EPA, put it more bluntly. "What we're talking about here is the precautionary principle, and that is, at what point do you take action as a caution against what might happen?" (Lochhead 2018). Reagan was cautious of outwardly condoning what environmentalists and ecological scientists have warned as he needed to maintain a cohesive anti-environmentalist political standing. However, he gave some merit to their warnings if CFC usage was not regulated.

Given his written and oral history of adamant conservatism in economics and ecology, this statement leaves scholars of rhetoric to wonder: why did Reagan publicly join, commend, and celebrate an international treaty that directly contradicts his administration's fundamental pillars? Furthermore, why did Reagan's statement lack elements of the precautionary principle, a logical reasoning tool that could have reasonably justified the signing of the Montreal Protocol? While this paper cannot argue his internal dialogue and beliefs regarding the environment, it can evaluate Reagan's outward rhetorical history in relation to his administration's public policy pillars. Reagan utilized his signing statement as an opportunity to further entrench his political identity as a conservative hero for business and the market whilst creating a new kind of policy approach that I have identified as 'industrial environmentalism.'

Reagan's Statement: A Pitch for the Economic Benefits of CFC Regulation

Looking to secure political power, Reagan crafted a signing statement that condoned ratification of the Montreal Protocol in line with conservative agendas. This statement utilized economic reasoning to justify a massive climate regulatory bill otherwise contradicting Reagan's positioning as pro-business and anti-environmentalism. First, I will present a closer examination of the statement to illuminate the careful rhetorical craftsmanship that provided an economic justification for the Montreal Protocol. Then, I will address why a precautionary principle line of reasoning was excluded from this statement. Lastly, I will elaborate upon the concept of 'industrial environmentalism' introduced by Reagan, and its effects on current American politics.

Support of the ratification of the Montreal Protocol had to be communicated carefully to not threaten Reagan's conservative political support. The former president used economic language, audience manipulation, and redirection in his statement to quiet any critiques of an alleged newfound environmentalist mindset. At the beginning of the piece, Reagan claimed that the Montreal Protocol "marks an important milestone for the future quality of the global environment." This affirmation sounds clunky; very few environmentalists or lay-people would describe environmental health as a quality one achieves after a journey that passes milestones. While quality can be used in the context of an ecological scale, health and safety are far more typical descriptors when describing conditions that present a threat to humanity (UN Environmental Program 2022). The word quality is typically used in economic spheres for the assessment of a manufactured product; in other words, quality was a loaded diction choice meant to frame the stratosphere as a commercial good. He then refers to the ozone layer as the 'global environment.' This is rhetorically odd. The former president used 'global environment' to liken the ozone layer to a frequent subject within his political rhetoric: the global economy. Since he often referred to US involvement in a global economy, US involvement with a 'global environment' sounded more economical than ecological (Reagan 1987). Therefore, regulation meant to prevent stratospheric depletion was likened to economic 'quality control' of a 'global environment.' In the second paragraph of the statement, Reagan wrote that the Montreal Protocol "provides for internationally coordinated control of ozone-depleting substances in order to protect a global resource." The former president referring to the stratosphere as a resource affirms his regulation of CFCs as a smart economic move, as the resource is being consumed at an unsustainable pace for the global market to enjoy.

The statement also utilized the ignorance of the audience to entrench economic justifications for support of the Montreal Protocol. While economists, environmentalists, and political junkies perhaps were the ultimate constituent body for the statement, Reagan's *intended* audience was the American public. It would have been an overly optimistic assumption that a vast swath of average citizens adequately understood the dire extent of the ozone crisis, or the necessity of immediate action. Reagan wrote that at least 11 additional nations who represent "…two-thirds of worldwide consumption of chlorofluorocarbons and halons" still needed to ratify the protocol. But he doesn't further explain why! There are no mentions of the drastic consequences, such as massive agriculture failure, increased cancer, and nearly 1 million deaths that would result if no environmental regulations of CFCs were put in place (Crawford 1987). This is particularly unusual. Increasing safety and ensuring future security are qualifiers that politicians *want* to include in their policy stances. However, validating impending threats from an unaddressed ozone crisis would be acknowledging a broader concept: environmental protectionism is necessary. The former president could not cite these consequences as it would ultimately challenge the anti-environmentalist conservative party platform. Reagan's avoidance of any specific language that communicated the environmental impacts of chlorofluorocarbons resulted in a statement advancing the narrative that the ozone crisis was merely an economic hurdle. The statement's listed benefits are centered solely around industrial gain! In his second paragraph Reagan writes that the protocol "creates incentives for new technologies- chemical producers are already working to develop and market safer substitutes- and establish an ongoing process for review of new scientific data and of technical and economic developments." Regulation wouldn't kill industry; rather, it would birth a new and better one. He rebutted the claim that chemical companies faced

major loss with regulation by citing all they stood to gain with the signing of the treaty – kickbacks in the form of incentives. Once again, his closing remarks do not once mention the humanitarian consequences of failing to take regulatory action in the face of stratospheric depletion; the mass amounts of death, reduction and pestilence in crop yields, or the increase in cancers all are strategically avoided. Instead, the protocol is praised by the former president as being a lucrative economic opportunity and vehicle to develop new markets that further benefit industry. He redirected negative discourse to a positive outcome: the monetization of regulation.

Reagan's final words in the statement consisted entirely of economic concerns, not environmental or humanitarian ones. He closes by saying, "…the protocol is the result of an extraordinary process of…negotiations among representatives of the business and environmental communities." He once again redirected ecological conservation discussions by reminding the public that a key negotiator in the protocol was private industry. Reagan feared voter retaliation from constituents who viewed any environmental regulation as an attack on big business. The former president therefore needed to assert in his statement that the interests of business, sound economic reasoning, and American industry were forerunners in his support of the ratification of the Montreal Protocol. This solves the first puzzle presented by this essay: support of the Montreal Protocol from the former president was sourced from the ability to frame it as an additional (beneficial) economic policy for the US. But why did Reagan not utilize the precautionary principle, even though it could have been explained as a cautionary market protection plan?

Reagan ultimately recognized that precautionary-based reasoning in the face of massive environmental regulatory doctrine was not enough to ensure support from business, industry, constituents against regulation, and the republican party. As Schultz said, "[Reagan's caution] didn't get people on our side, but it got people off our backs…" Reagan needed voters on his side to affirm his political power. To do so, sound economic justification was more convincing to his conservative audience than scientific alarm. He intentionally excluded *negative* precautionary principle reasoning as it was more productive to address the *positive* economic benefits of CFC regulation. The necessary ratification of drastic environmental regulatory policy was only politically viable through an economic lens. Political actors are motivated by power and security. Reagan constantly had to centralize conservative stances to ensure support from voters. He had to marry private personal caution with positive economic justification that appealed to big business and private industry, and quelled fears of conservatives who were wary of regulatory policy that could negatively impact profit. In other words, Reagan as a political actor needed not just "people off his back," but voters on his side.

Industrial Environmentalism: A Pseudo Solution

So far, this essay has solved the rhetorical puzzles created from Reagan's statement. Now, I will provide a brief analysis on the new political strategy Reagan subsequently introduced.

Industrial environmentalism is a policy structure that marries the appeal of promoting a healthy economy while simultaneously addressing pressing ecological concerns. American politicians are increasingly faced with mounting evidence of a looming environmental crisis; a lack of adequate action now to invest in clean energy and reduction of admissions will result in an uninhabitable earth (United Nations Environment Program 2022). But due to the nature of politics, actors are sensitive to ostracizing potential voters not convinced of the certainty of disastrous climate change. Industrial environmentalism is when a politician, in response to a growing ecological concern, enacts legislation that is pitched largely as a benefit to economic health that ultimately is addressing environmental threats. This emphasis on the economy detracts away from the underlying 'contentious' environmental motivators of the legislative piece. When the politician has a constituency who fears economic harm more than environmental harm, this redirection tactic reduces the political actor's risk of voter loss. This strategy of adhering to an industrial environmentalist position is often seen today. Observe the 'Investing in America' policy presented by the Biden-Harris administration. The 'Investing in America' agenda is "growing the American economy…by rebuilding the nation's infrastructure, driving over $500 billion in private sector manufacturing and clean energy investments in the United States" (US Department of Energy 2023). It further cites the creation of "good-paying jobs" that

support “collective bargaining” that simultaneously builds a “clean-energy economy that will combat the climate crisis” (US Department of Energy 2023). The Biden-Harris administration is battling a polarized constituent base when it comes to belief in the extent of the climate crisis (Funk et al. 2023). However, Biden’s Democratic Party platform was strategically crafted in an attempt to secure middle-ground American voters. This demographic may not be as green-minded, but research has shown that a vast majority of Americans regardless of political affiliations support government action to subsidize and implement green industry (Funk et al. 2023). Biden, just like Reagan, is utilizing economic reasoning to divert attention away from fundamentally environmentalist policy to ensure voter support. The immediate implications that industrial environmentalism presents are relatively simple: green policy is only implemented when constituents are convinced that they’ll still have green in their pockets. But does this policy strategy present a potential adverse reality for the future of ecological regulation? What happens when necessary environmental policy is unable to be marketed as a benefactor to industry? It is not pessimistic to say that the allure of power and prestige ultimately motivates politicians (Browning 1964). Industrial environmentalism, while perhaps a neutral political tool now, will ultimately lead to the displacement of dire regulatory action from policy. Saving the planet requires a complete modification in current global economic habits, a reality unpopular in the polls. Reagan’s introduction of industrial environmentalism in his statement inspired an American policy ‘solution’ that solves political and economic concerns, not ecological ones.

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Educational Policy That Actually Understands Children

By Nicole Strella
UW, Political Science Department

While crafting public policy is not an easy task, it seems counterproductive to not consider how people's biology, environment, and free will shape and impact the way they behave. If public officials are not considering these three aspects, then public policy will never address the root cause of societal issues or stimulate social and economic development in lasting ways. Specifically, public policy about education including, but not limited to; how schools should be operated, curriculum requirements, degree requirements, teacher training guidelines, and student conduct policies, should be heavily based on the biological development, impacts and influences of students' childhood environments, and their capacity to make decisions and act. Simply, educational policy needs to consider students' nature, nurture, and free will. Prioritizing the principles of justice and equality, civil engagement, and social order balanced with freedom, builds the foundation necessary for educational public policy that nurtures students' potential equally, encourages children's innate biological abilities, and is open to ideas and identities.

When justice and equality are heavily considered, every individual is treated with the same level of respect and dignity, and those who come from disadvantaged communities are supported with equal opportunity regardless of their background. In educational policy specifically, justice and equality are essential components, as every child should have the right to education and the level of education available should not vary depending on situational factors such as location, socioeconomic status, race, or gender. When looking beyond availability and access to education, it is also important to have equality and justice within schools and classrooms. Malcolm Gladwell (2008) and Stephen Cave (2016) provide detailed understandings of how nature and nurture influence children and emphasize how no student inevitably has more potential than another.

Firstly, Gladwell (2008) in his book Outliers, discusses how in Canadian competitive hockey, professional teams largely consist of players with birthdays from January to April because youth travel teams have age cut-offs in January. This creates an unfair advantage for those born in the first half of the year, who are biologically older than their counterparts despite being the same numerical age. A similar pattern exists in schools. Schools have cut-offs for kindergarten, and younger children can face a disadvantage when compared to and competing with older kids in their class (Gladwell 2008). A difference of just a few months can still have a lasting impact, as Gladwell describes, "the small initial advantage that the child born in the early part of the year has over the child born at the end of the year persists. It locks children into patterns of achievement and underachievement…" (2008). Educational systems need to consider how students are biologically in different places due to age differences. Instituting gifted programs or separating students in early education based on ability, is an injustice to kids who have not had the same amount of time to develop as their peers. These programs disregard the potential available for each child to succeed. Rather than forgetting about those who are slightly behind, there can be structural changes that consider those students' potential equally. For example, as Gladwell describes, "Elementary and middle schools could put the January through April-born students in one class, the May through August in another class, and those born in September through December in the third class," (2008). Public schools often already have multiple classes per grade level, and organizing those classes based on month born rather than randomness would create a new system where every student is approached with a belief that they have potential. An educational policy that incorporates rigorous understandings of nature would account for the variations in performance that result due to children developing at different times and equalize those. There are biological factors at

work during a child's educational journey and educational public policy that accounts for those brings more equality and justice to schools and students.

Additionally, Stephen Cave (2016) outlines many different perspectives on the competing ideas of free will and nature. He describes philosopher Bruce Waller's position, "no one has caused himself: no one chose his genes or the environment into which he was born" (2016). At the end of the day, none of the children in a classroom chose where they were born, when they were born, or who their parents are. Even if it may appear certain children are making decisions that make them perform worse in comparison to other students or are acting against conduct expectations, they did not choose their biology and genes. Maintaining this principle within education supports treating every student equally. According to Cave, Waller further advocates, "that we must accept that life outcomes are determined by disparities in nature and nurture." This further connects back to Gladwell's point on how differences in age amongst classmates or teammates have a lasting impact on who is deemed smart, gifted, and shown extra attention (2016; 2008).
Public policy must understand this and incorporate an understanding of biological impact when considering consequences for misbehavior and academic requirements. As Cave argues, rather than determining early on which children are "gifted" and prioritizing them, help needs to be geared towards fostering an ability in all children to see positive options, make good decisions, and be committed to those choices (2016). Education can 'cultivate' the will in children to make these active choices, and educational policy should prioritize fostering these abilities in every student. Building from Waller and Cave (2016), policymakers should approach educational policy from a position assuming children lack free will and their actions are largely in part due to their nature and nurture; however, educators should approach children and teaching with the idea that every child has the willpower or free will to succeed and learn. Education needs to work within the circumstances that make children who they are for students to have an equal opportunity to reach their potential.

Furthermore, civil engagement is a primary principle of democratic society emphasizing citizens' active participation in government whether it be voting, talking with peers about policies, running for government, or simply being knowledgeable about political issues. Civil engagement can be mirrored, encouraged, and stimulated through education with the correct policies and knowledge. As Alison Gopnik (2016) discusses in her talk, The Gardener and the Carpenter, children have innate biological mechanisms for learning, giving them abilities to find effective solutions and solve problems. If schools can play into this natural ability and stimulate its growth, children will naturally develop into complex critical thinkers and political participants. Gopnik's research showed that children will execute intelligent imitation when shown exactly how a toy works, but when prompted to discover how a toy works with a facilitator or on their own, the child experiments and finds how to operate the toy. Most impressively, the research showed that when children are encouraged to figure out the toy on their own to produce a specific result, they play with it and find multiple ways to get the result. On the flip side, when they are shown one way to get the result, they do not look for additional ways to get the same result.

To coincide with Gopnik's research demonstrating how children can use the biological abilities they already have to learn and grow, public policy should work to frame teaching as encouraging and constructive instead of being purely instructional. Curriculum standards should incorporate expectations for critical thinking, creativity, and curiosity because educational systems should not suppress children's natural tendencies to learn. It is more socially efficient to support natural tendencies for experimentation and problem-solving than it is to give children clear instructions during early education and then have to rebuild those problem-solving abilities in secondary education. Robert Sapolsky (2018), in "The Biology of Humans at Our Best and Worst," explains how every moment, from the seconds before a person's action, to millions of years before,has impacted that action. He talks specifically about how adolescence and childhood experiences shape different biological components that impact decisions and ways of being later in life. Policy should follow this model that experiences during childhood have impacts later on in individuals' lives,

especially when thinking about education because childhood is largely spent in school. How schools educate children and the environment children grow up in will contribute to how children continue to develop and ultimately live their adult lives (Gopnik 2016; Sapolsky 2018). However, as Gopnik (2016) describes, though it contributes, it is not the sole factor in determining who people are. Home and school environments can create a protective and nurturing place that supports learning and growth, but they cannot be a center to mold children because children already have innate biological mechanisms. Policy prioritizing civil engagement should in turn produce educational environments that nurture, protect, and allow for child growth and development that is consistent with their innate abilities to learn and problem-solve.

Lastly, ensuring students are free to express their ideas and identities is extremely important in education. Having a balance between freedom and social order in educational policy contributes to students' ability to express themselves in a safe and supportive environment. Schools as a whole need to be open to new ideas in the sense that they are constantly learning, adapting, and considering new methods and practices. Additionally, within schools, educators, students, and all actors need to be open to all identities. A key idea behind nature, nurture, and free will is that they all impact individuals, and as a result, individuals begin as, develop into, and become unique and characteristically different. Michele Gelfand (2019) in "Understanding the Cultural Codes that Drive Behavior," describes the differences and similarities between tight and loose cultures and organizations. Her work can apply to education systems, and a system falling within what she defines as the "Goldilocks Principle" would be the most effective at cultivating openness to identities and ideas in a safe environment. A culture or organization that is too tight lacks openness, has high levels of order, and has strong norms and punishments. In contrast, one too loose lacks order, there's low self control and uniformity, but high levels of openness and creativity. A "Goldilocks" school or education policy would fall somewhere in the middle of this spectrum. It would have order and uniformity to foster unity and connection, but not so much that students' individuality is suppressed. There should be general order throughout schools as order is necessary for any system to run and ideas to be executed effectively. Class sizes, which children are in which grades, how long school is, and guidelines for grade levels or knowledge expectations need tighter controls. However, flexibility should be treated as an asset and a policy priority to make schools more adaptable and open. Policies around what students can wear, where educators can conduct class, and how students find solutions to problems could be looser. When in conversation with ongoing research about childhood development and education, guidelines about when students should meet certain learning expectations can also have leniency because as discussed previously, Gladwell's work shows some children will have developmental advantages over others.

Goldilocks Principle inspired educational policy should also approach expectations about self control and student conduct with intelligence and understanding. School standards that encourage students to practice self control do not need to contradict the notion that children should be using their biological mechanisms or be fully themselves in personality and character. As Roy Baumeister writes in "Do You Really Have Free Will," "Free will, whether you identify it as free will or not, are the processes of rational choice and self control," (2013). The ability to choose between actions, control oneself, and consciously make choices is free will. Baumeister further describes how human agency and free will enable humans to "build and operate social systems" (2013). Given that without free will and self control, complex societies would be inoperable, there must be instruction and encouragement of self control in educational contexts. Nonetheless, self control and other aspects conducive to tight environments must be balanced with aspects encouraging openness and conducive to loose environments. To achieve a "Goldilocks" standard, education policy should be flexible, but provide clear guidelines in areas where order is necessary.

In conclusion, balance is essential when public policy desires to understand and use knowledge surrounding the influences of nature, nurture, and free will. Public policy cannot too heavily focus on any one of the three aspects that influence who an individual is and how she behaves. Specifically, educational public policy must focus on

justice and equality, civil engagement, and social order balanced with freedom to ensure an educational structure that understands child biological development, environmental impacts on children, and how children have individual agency. Educational policy should aim to nurture students' potential equally, support children's development and usage of their innate biological abilities, and be open to ideas and identities. Educators and policymakers need to be flexible and adaptive but also instill order where necessary.

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Shifting Sands of Power: The Iran-Iraq War in the Wake of the 1979 Iranian Revolution

By Adriana Amanti
UW, Political Science Department

Reverberations of Iranian revolutionary turmoil had hardly dissipated when Iraqi armed forces invaded Iran's western border on September 22, 1980, signaling the onset of an enduring and destructive interstate war that spanned nearly a decade and culminated in external intervention. After Saddam Hussein formally took control of the Iraqi presidency in 1979 following the resignation of then-Iraqi President Ahmed Hassan al-Bakr, Saddam sought to establish Iraq as the preeminent power in the Middle East. Saddam perceived Iran's theocracy as a destabilizing force that posed a threat to the existing status quo; the Khomeini regime's overt revolutionary support for Shi'a communities risked inciting rebellion and separatism among Iraq's significant Shi'ite population. Iran's weakened internal state following sociopolitical upheaval presented an opportunity for Saddam Hussein to prevent Ayatollah Khomeini from consolidating power and to exploit the nascent regime's vulnerabilities through a full-scale invasion that would reassert Iraq's dominance in the Persian Gulf. This paper posits that the power transition framework explains the events leading to the 1980-1988 Iran-Iraq War. The 1979 Iranian Revolution's establishment of an Islamic Shi'a republic under Ayatollah Ruhollah Khomeini partially induced Saddam Hussein's coercive centralization of authority to address the expanding Iranian threat and to prepare Iraq to challenge the emerging Islamic Republic's primacy as a regional hegemon. This paper presents findings that support the conclusion that the Iranian Revolution and its transition of power from the pro-Western and secular Shah Mohammed Reza Pahlavi to the anti-Western Shi'ite Ayatollah Ruhollah Khomeini was the principal catalyst for the Iran-Iraq War.

The Iranian Revolution was a direct consequence of Mohammed Peza Pahlavi's reforms to modernize the social and economic conditions of the Iranian regime (Seeberg 2014). Shah Mohammed Reza solicited legitimacy for his leadership through benevolent modernization and foreign ally support, however, religious fundamentalists, whose beliefs permeated the succeeding Khomeini regime, resisted these policies and perceived the Shah's alignment towards Westernization as a severe threat to the traditional values and economic security of Iran (Homan 1980). Some literature argues that the Iranian Revolution was a result of the exploitation of Iran by foreign powers who intended to de-Islamise Iran through covert and indirect measures (Shuja 1980). The ideological clash between Muslim fundamentalism and democratic secularist conceptions triggered the forced departure of the Shah and the seizure of power by anti-establishment Iranian revolutionary forces in 1979 (Ramazani 1980). The resultant ideological shift from a secular government to an Islamic fundamentalist regime threatened the internal stability of Iraq and jeopardized its survival by serving as a model for fervent Islamist revolutionaries who sought to overthrow existing regimes (Nelson 2018). While there are varying explanations for the Iran-Iraq war, Saddam's decision to invade Iran was primarily driven by spillover from the Iranian Revolution that destabilized Iraq and correlated with the consolidation of the new radical Iranian regime, which posed an existential threat to Iraq (Nelson 2018). The Iranian Revolution's repercussions were not contained within the formative Islamic Republic. Iran's sudden transition of power made the possibility of revolutionary zeal and the implications of its rapid dissemination throughout the region salient to Iraqi decision-makers (Nelson 2018). Saddam and the Revolutionary Command Council, who prioritized the preservation of the Iraqi regime amidst explicit Iranian interference, realized Iran must be neutralized either through coercion or regime change (Nelson

2018). Iraq launched a preemptive strike against Iran in 1980, catching its political leaders by surprise by taking advantage of the vulnerability of disorganized and demoralized Iranian forces in the aftermath of the revolution (Sterner 1984). Iraq's proactive retaliation to the evolving yet fragile Islamic Republic's belligerence is an indicator of how the power transition theory can explain Saddam Hussein's offensive response against Iranian challenges to Iraqi regional supremacy.

The power transition theory assumes that the likelihood of war escalates when a dominant hegemon discerns a threat from the rapid rise of a rival's capabilities, which may reduce its relative power. The power transition theory suggests an inevitable and cyclical pattern where certain phases exacerbate the probability of war. These conditions begin with a relatively stable international system characterized by an unequal distribution of power which the dominant state strategically organizes to serve its interests. A contender will then expand to match the dominant state in the global hierarchy, inducing a disparity of power and the risk of decline for the power that seeks to change the international system to match its interests. The natural phenomena of power transition cycles coalesce into the Thucydides Trap, or when a rising power causes fear in an established power, drastically increasing the escalatory potential of war. Under the context of war between Greek city-states Athens and Sparta, Thucydides states that not only are hegemonic wars over the dominance of the global system inevitable but also that power shifts prompt fear or alarm, raising suspicions and hardening positions that can initiate war (DiCicco 2017). While Thucydides's explanations for war serve as the foundation for modern power transition theory, this paper will effectively leverage the hypotheses outlined by Susan G. Sample in "Power, Wealth, and Satisfaction: When Do Power Transitions Lead to Conflict?" to illustrate how a nuanced form of the power transition theory can explain the determinants behind the Iran-Iraq War. Through the lens of the power transition theory and Sample's hypotheses, this study will investigate the areas of contention that emerged from the ideological schism between Iraq's Ba'athist pan-Arab socialist doctrine and Iran's endorsement of Islamic fundamentalism during the Iranian Revolution.

The empirical implications of Sample's two hypotheses could influence the applicability of the power transition theory's explanation of the Iran-Iraq war. Sample's hypotheses were selected as the primary observation lens because they allow for the examination of the underlying forces driving the Iran-Iraq war at a regional level rather than an international level. This specialized approach enhances the relevance of this paper's findings by providing a deeper understanding of the power transition theory and its influence on the regional dynamics within the Persian Gulf. As this paper examines localized factors and their interaction with the existing hierarchical political structure, using hypotheses that accommodate geographical aspects enhances the applicability of the power transition theory explanation. Existing literature supports this conclusion. The traditional power transition model faces the most substantial criticism in its narrow scope, explaining only wars fought between major hegemonic powers at the top of the power pyramid with control of the international system as the prize (Sobek and Wells 2013). Sobek and Wells maintain that the applicability of the overarching power transition theory limits itself to major wars fought only between the strongest states and that implications of power transition for minor powers should be done by looking at parity within a dyad (Sobek and Wells 2013). Sample's hypotheses examine states' struggle over dominance of a global system and a dominant power versus rising challengers through a dyadic lens. Dyads are pairs of directly or indirectly contiguous states (Lemke and Reed 2001). In the events leading to the Iran-Iraq War, the two states' dyadic relationship was characterized by an intensifying conflict cycle in the post-revolution period over decisive issues of contention that evolved to the point of interstate war (Donovan 2011). To be clear, this is not to suggest that Iran and Iraq are not major powers, but rather imply that the stakeholders in the Iran-Iraq war post-revolution more closely resemble the power transition cycles of minor powers, which ordinarily do not determine the course of the broader international system. Having established the reasoning of a transition-focused dyadic relationship between Iran and Iraq, the focus shifts to delving into Sample's rationale of the power transition theory and its empirical implications, both in confirming and disconfirming evidence.

Sample proposes that states dissatisfied with the dyadic status quo may choose to prosecute outstanding conflicts against a dyad partner when a power transition allows them to do so, although instead of fighting over the rules of the system, conflict occurs over concrete stakes deemed of critical national interest (Sample 2018). Sample presents two hypotheses to estimate the likelihood of interstate warfare for states experiencing a power transition. Firstly, if two states are experiencing a power transition, their probability of engaging in a dyadic conflict increases during the transition period and destabilization is likely because the structure of opportunity between two states is changing rapidly (Sample 2018). Secondly, as the difference in the two states' perspectives on the legitimacy of the global system becomes greater, the probability of warfare increases (Sample 2018). Sample maintains that applicable cases are theoretically relevant if a transition has an impact on states' willingness to engage in conflict (Sample 2018). The Iran-Iraq War and the resulting power transition in the Gulf after the 1979 Iranian Revolution meet Sample's criteria of contender willingness for dyadic conflict. If Sample's hypotheses and the power transition model can correctly explain the causes of the Iran-Iraq war, the conclusions drawn from these findings will validate the following causal arguments. The preemptive strike to preserve the Iraqi regime against Iranian transnational terrorism from the Iranian Revolution proves that the probability of war increases during the period transition and that the invasion of Iraq to make it a pan-Arab power in contrast with Islamic fundamentalism signals a difference in the legitimacy of global systems. If this explanation holds, the outcome of the Iran-Iraq war should manifest in an unambiguous dominance by one state yet the absence of such a definitive outcome in the Iran-Iraq War challenges the anticipated results of the power transition theory, suggesting a discrepancy. Moreover, should these hypotheses and the power transition framework accurately interpret the causes of the Iran-Iraq War, we would not anticipate observing a significant extent of influence by international organizations in the war. The power transition theory emphasizes the central role of states and the importance of relative power, which does not align with the binding intervention of international entities.

With the empirical implications of the power transition explanation outlined, it becomes imperative to evaluate the theory by comparing supporting sources on the topic of the Iran-Iraq war as a byproduct of the Iranian Revolution. Given the abundance of research that corroborates the power transition explanation, this section of the paper will begin with an evidence examination that supports the power transition hypotheses for the Iran-Iraq war. To start, the power transition of the Islamic Republic destabilized the Persian Gulf and provided a window of opportunity for the Hussein regime to wage war, affirming the first hypothesis regarding the incentive for conflict during transitional phases. Iran's weakness post-revolution was a necessary condition for invasion and Iraq could not have pressured Iran vis-a-vis military force in 1979; Iraqi decision-makers understood that striking Iran while it was weak would reap critical geopolitical concessions in an opportunistic war (Nelson 2018). The Iranian Revolution and the subsequent transitional period of power partially explained Hussein's decision to engage in dyadic conflict by fundamentally challenging the established order. It was only after 1979 when Iran's revolutionary regime pushed for an Islamic order that Iraq could no longer tolerate the Iranian status quo, changing a "mixed-motive" game into a "zero-sum" game from the revolution (Karsh 1990). The Iranian Revolution's transitional period also altered the regional system of military power. The emergence of the Islamist republic disrupted the previous balance of power that was informally underscored in the 1975 Algiers agreement – where Iraq conceded to Iran's military superiority over the Shatt al-Arab – by weakening the Iranian armed forces and determining the Iraqi military as the dominant power in the Persian Gulf region (Farhang 1985). The Iranian regime was particularly susceptible to invasion; power-based theories argue that changes in relative military power precipitate an opportunistic invasion following a revolution (Nelson 2018). Despite its vulnerable state, the contending Islamic Republic and Ayatollah Khomeini posed a significant threat to the hegemony of Saddam Hussein's Ba'ath regime and increased the probability of war during the period of transition. There are grounds for the claim that Iran, specifically after Khomeini's ascendancy, instigated the war by breaking interstate peace to export his revolution to Iraq (Renfrew 1987). When he came to

power, Khomeini repeatedly called for the overthrow of Saddam Hussein. Their animosity for each other manifested in state policy as Iraq postured to become the leader of Arab countries and a regional superpower (Swearingen 1988). It is generally accepted that the Iran-Iraq war was an upshot of the changes in the strategic environment following the 1979 Iranian Revolution (Irfani 1987). Sample's interpretation of the power transition theory places a strong significance on the willingness of rising challengers to overturn the prevalent system. In the absence of this transition of power, the system is likely to remain stable (Sample 2018). Considering that there was a momentary period of peace before the 1979 Iranian Revolution between Iraq and Iran pursuant to the 1975 Algiers agreement, it is reasonable to apply the power transition theory as an explanation for both the brief lack of dyadic interstate conflict between Iraq and Iran and their successive escalation into war during a period of transition.

Sample's iteration of the power transition model, its emphasis on variations in state legitimacy within global systems, and the propensity for conflict underscores the ideological struggle between Sunni Ba'athist socialism and militant Shi'ite Islamic fundamentalism in the regimes of Saddam Hussein and Ayatollah Khomeini. The clash between the two Arab schools of thought peaked and precipitated war following the Iranian power transition in the Persian Gulf. Ayatollah Khomeini's appeal to non-Iranian Shi'ites seriously undermined Iraq as the Islamic Republic called upon religious Iraqis to overturn the infidel Ba'athist regime (Cottam 1981). The power transition theory's explanation of the dyadic nature of Iran and Iraq becomes especially relevant given the contiguity between the states, which compounds the likelihood of a war fueled by antagonistic sectarian and political forces. Khomeini's speech on April 6th, 1979 condemned Ba'athist Iraq as an 'unIslamic' regime, which Saddam perceived as a call for the export of the Iranian Revolution that would foster a general uprising in Iraq (Irfani 1987). Saddam Hussein feared that Iraq would disintegrate into separate Sunni and Shia communities as a result of Ayatollah Khomeini's divisive rhetoric as the Islamic Republic rejected secular Arab nationalism in favor of an Islamic government, furthering a sectarian rivalry between the two states (Irfani 1987). The Iranian Revolution and its transition of power served to deepen the rivalry between Iran and Iraq and to test the legitimacy of Ba'athism in the Gulf region. These events propelled Saddam Hussein to forcefully consolidate government power in Iraq and attack Iran to establish himself as the leader of the Arab world and counteract the Iranian Islamic Revolution's potential impact on the Ba'athist regime (Razoux 2015). Ayatollah Khomeini's diction aimed to advance the post-revolution goal of a militant fundamentalist movement in Iraq and the achievement of Iranian dominance in the region, ending the pre-revolution rapprochement between Iran and Iraq and presenting Iraqi Ba'athists with a new and aggressive ideological challenge (Farhang 1985). The discord between two mutually exclusive types of state legitimacy was tangible; Shi'ite Muslims in Iraq and Iran regarded Khomeini as the foremost political and religious leader (Swearingen 1988). The incompatibility of Iraq and Iran's dogmatic perspectives on the legitimacy of the system reinforces the power transition theory and Sample's hypotheses as an explanation for the Iran-Iraq war in the wake of the Iranian Revolution.

Disconfirming evidence has emerged that contrasts the expectations of the power transition explanation presented in this paper. The Iran-Iraq war was a brutal war of attrition that saw minor territorial gains, trench warfare, and the use of poison gas similar to World War I but did not lead to a definitive and lasting hegemon power (Swearingen 1988). The war concluded as a result of international intervention when the Islamic Republic of Iran accepted U.N. Security Council Resolution 598 and agreed to a cease-fire (Wilbur 1990). The influence of external governance rather than the state as a central actor proved decisive in ending the war. Iran repeatedly refused to accept a ceasefire because it would have been Iranian recognition of Iraq as the dominant power (Farhang 1985). These outcomes raise doubts about the applicability of the power transition theory to the Iran-Iraq war.

Iraq's preemptive strike against Iranian imperialistic contentions in 1980 was an attempt to accomplish two objectives: toppling the fragile Khomeini regime and containing the Iranian exportation of the revolution (Wilbur 1990). Sample's hypotheses of period transition and system differences in state legitimacy substantiate this

paper's thesis that the power transition theory and its propensity for conflict best explains the motivators of the 1980-1988 Iran-Iraq war after the 1979 Iranian Revolution. Alternative findings challenge the power transition theory's explanation of the causal arguments for the Iran-Iraq war and its expected outcomes. One argument is that the decades-long dispute over the territorial sovereignty of the Shatt al-Arab waterway was the prime motive for hostility rather than contemporary challenges to the hierarchical system (Shuja 1980). Another explanation is that individual misperceptions and miscalculations between Saddam Hussein and Ayatollah Khomeini, not power transitions, accounted for the catalyst and extension of the Iran-Iraq conflict (Farhang 1985). A third finding points towards the lack of institutionalization as a key characteristic of the Iraqi political system that led to frequent changes in power (Baghat 2005). All of these explanations are equally valid and merit consideration. No single explanation can account for the entirety of the Iran-Iraq war and its connection to the Iranian Revolution without disregarding other contributing factors. In any case, the power transition theory offers an eclectic explanation for the quandary behind the Persian Gulf's twentieth-century Thucydides Trap.

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Sexual Assault Prevalence in the Military: Retaliation for Reporting

By Anna Young
UW, Political Science Department

Content Warning: Rape, Sexual Assault, Violence

Each year, the Department of Defense spends billions of dollars on programs and resources attempting to deal with the issue of sexual assault in the military. For the 2025 defense budget, the President and Secretary of Defense Lloyd J. Austin III plan on spending "$1.2 billion to prevent sexual assault and other harmful behaviors, including $651 million for the continued implementation of the recommendations by the Independent Review Commission on Sexual Assault in the Military and funding for the Sexual Assault Prevention and Response Education and Training Center of Excellence" ("Department of Defense Releases the President's Fiscal Year 2025 Defense Budget"). From his first day in office, Secretary of Defense Lloyd Austin has highlighted sexual assault prevention as one of his key focuses. At the direction of President Biden, he ordered a 90-Day Independent Review Commission (IRC) on Sexual Assault in the Military, which has done extensive evaluations and made recommendations for the forces to implement.

Evidently, leaders and politicians are aware of this pressing issue - so why does it continue to be so prevalent? In this paper, I will discuss evidence suggesting the staggeringly low reporting rate as a possible reason for the persistence of sexual assault in the military. In 2022, it's estimated that only 1 in 4 service-members who experienced a sexual assault reported it ("Military Sexual Assault Fact Sheet"). Three general categories that contribute to the low reporting rate have emerged through my research: formal retaliation, social retaliation, and lack of institutional support after a discharge. I have also found a plethora of evidence suggesting general military culture as a reason for these forms of experienced retaliation. It seems that the negative experiences of those who have reported their assaults are deterring other victims from reporting theirs. If the offenses are not reported, they will continue to persist, despite any programs instituted to make reporting easier or otherwise solve the problem.

Professional retaliation is retaliation experienced by the victim from their chain of command or administrative higher-ups. Human Rights Watch defines professional retaliation as taking many forms, including "poor performance evaluations, lost promotions or opportunities to train, loss of awards, lost privileges, demotions, a change in job duties, disciplinary actions, punitive mental health referrals, and administrative discharge" (Rhoad 2015). For many survivors, reporting their sexual assault can be career ending. Approximately one third of servicewomen who reported their assault were discharged within one year of reporting, typically only seven months ("Military Sexual Assault Fact Sheet"). Out of those who reported experiencing retaliation, 56 percent said that the person from whom they'd experienced retaliation was in their chain of command and/or outranked them (Farris et al. 2021). Many survivors feel as though "they face a choice between reporting their sexual assault and continuing their careers in the military" (Rhoad 2015). Even if not not discharged immediately, retaliatory actions experienced by the victim can often lead to a later discharge or even a voluntary resignation.

One of the most common courses of action taken to discharge survivors is through a diagnosis of a "personality disorder". According to Human Rights Watch, "'Personality Disorder' discharges—a term used to describe a mental health condition that can disqualify someone from military service—were once 'the fastest and easiest way to get rid of someone' in the military" (Darehshori 2016). Personality disorders are highly complex, and thus require extensive

meetings with a doctor to diagnose. The American Psychiatric Association suggests several interviews with the patient, spread out over time, in order to accurately assess the victim and rule out other possible conditions. However, "between FY 2001 and FY 2010, over 31,000 service members (a disproportionate number of them female) were discharged on grounds of personality disorder, often after only a single cursory interaction with a doctor" (Darehshori 2016). Subsequently, "A 2008 Government Accountability Office (GAO) report found that proper procedures were not followed in many of these cases and that potentially thousands of people were misdiagnosed and wrongfully administratively discharged" (Darehshori 2016). Despite this, nothing has been done to remedy the injustice faced by those who were incorrectly discharged and labeled with personality disorders.

Many women, as described above, were discharged for personality disorders after minimal interaction with a doctor. Layla Kennedy is a servicewoman who reported being raped by her senior officer in 1999. She told Human Rights Watch that "after a five-minute consultation she was diagnosed with Personality Disorder and her out-processing began" (Darehshori 2016). Cathleen Perkins, an Army soldier, was discharged in 1991 after reporting multiple assaults to her command. She was given discharge papers indicating she was being separated for a personality disorder. The diagnosis "was made after a 10-minute discussion with a psychiatrist" (Darehshori 2016). Eva Washington, also a service woman in the Army, had a personality disorder diagnosis slapped on her after reporting her assault, and she was shipped out within a week. Since her discharge, "both civilian and VA doctors have confirmed she had PTSD and never had PD" (Darehshori 2016). In the cases of all of these women and many others, "the type of in-depth exam required for proper diagnosis often did not occur…before PD discharges were made" (Darehshori 2016). Instead, minimal interactions with a doctor resulted in their unfair discharge for an unfounded diagnosis. In 2010, the military enacted reforms on the overuse of personality disorder diagnoses as a reason for discharges, and the number of PD discharges per year have dropped. However, it continues to happen, and no recourse has been taken to bring justice or reparations to sexual assault victims who were wrongfully discharged.

Service-members have also frequently been separated from the military after reporting an assault due to discharges for misconduct. A study done on barriers preventing the reporting of sexual assault found that "within the military, service-members who report may face their own penalties for collateral misconduct violations such as using alcohol, which may deter service reporting" (Mengeling et al. 2014). According to Human Rights Watch, "before June 2014, a standard Department of Defense form was provided to all service-members reporting sexual assault that said, 'My Commanding Officer may take appropriate punishment action if there is evidence I committed misconduct around the time of the sexual assault.' Army, Air Force, and Coast Guard investigators all read a victim their rights if they believe their statement regarding a sexual assault might incriminate them in some collateral misconduct" (Rhoad 2015). It is recognized that "one of the most significant barriers to reporting sexual assault is the victim's concern about facing punishment for collateral misconduct—that is, prohibited conduct that the victim engaged in around the same time, place, or circumstance as the sexual assault" (Rhoad 2015). A number of things are classed by the UCMJ as criminal that are not in the civilian world, including adultery, fraternization, conduct unbecoming of an officer, and in the past, homosexuality. Any of these can potentially lead to a discharge for misconduct.

One soldier, Leah Wells, was raped while on duty in the Navy, and was discharged three weeks later. Higher ups told her that the discharge was due to misconduct, since any sexual activity is prohibited - even if it is non consensual (Darehshori 2016). Underage drinking is also often involved in sexual assaults, and keeps victims from reporting. One victim reported that "her perpetrator, a superior who got her drunk and then assaulted her while she was passed out, told her not to tell or she would be in trouble for underage drinking" (Rhoad 2015). Similarly, before "Don't Ask, Don't Tell" reforms in 2011, male sexual assault victims were discharged for homosexuality, even though the intercourse was rape and therefore non-consensual. In 1966, Army service-member Jack Williams was discharged for

misconduct in the form of homosexuality after being raped repeatedly by his drill sergeant (Darehshori 2016). For all of these victims, reporting their assaults resulted in more trouble for them than it did for their assaulter - often for things that they could not control.

Another way that service-members also frequently report their careers being in jeopardy is due to bad work assignments and evaluations received after reporting their sexual assault. Both of these forms of retaliation put career advancement on the line. Bad work assignments can include tasks seen as demeaning due to one's rank, or tasks outside of one's specialty and expertise (Rhoad 2015). In one case, a Master Sergeant in the Air Force was assigned to tasks involving "base beautification" and had to report to a soldier of significantly lower rank than him. In another, a Lance Corporal was assigned to work that she was not trained in. She was specialized in IT and computer maintenance, and was transferred to an armory unit without adequate training, where she was frequently reprimanded (Rhoad 2015). In addition to bad work assignments, poor evaluations may be given that do not match the quality of one's work. Annie Moore was a captain in the Army when she reported one of her superiors making inappropriate comments and sexual advances towards her. She told Human Rights Watch that "Suddenly I was the worst commander ever…I got two mediocre [evaluations] that didn't reflect what I had done" (Rhoad 2015). These poor evaluations and bad work assignments can bar service-members from advancing their careers by making them ineligible for promotions and opportunities, or even having them lose rank or be reassigned.

In addition to professional retaliation, another important factor lowering reporting rates is social retaliation. Human Rights Watch says that "In a 2012 study, nearly half of female service members who did not report a sexual assault indicated one reason they did not do so is because they were afraid the perpetrator or his supporters would retaliate against them" (Rhoad 2015). Social retaliation can include ostracism, bullying, or threats and actions of physical violence by one's coworkers and peers. Human Rights Watch notes that "at the very moment that they needed support, survivors described peers turning on them due to loyalty to the perpetrator or fear that they would be shunned by association" (Rhoad 2015). After a traumatic event, a support system of trusted people is incredibly important for victims in order to heal and deal with the trauma they experienced. Instead, many soldiers who report their assaults are turned on by their peers, either out of support for the perpetrator or fear of being admonished. One woman "sought safety in a hospital because colleagues told her she 'better sleep light,' and disabled her car after she reported her assailant" (Rhoad 2015). Another, after reporting her drill sergeant for sexual misconduct, "experienced such intense abuse in retaliation that she later discovered his other victims made a pact never to reveal what he had done to them" (Rhoad 2015). Survivors told Human Rights Watch about the damage that retaliation like this causes, detailing "the acute trauma caused by having the people who were supposed to defend their lives in battle turn on them at the very moment they most needed support" (Rhoad 2015). According to Protect Our Defenders, 47% of women cited negative responses from coworkers as a reason for not reporting ("Military Sexual Assault Fact Sheet"). Perceived and actual social retaliation are actively deterring service-members from reporting their assaults, out of fear of what their peers will do to them.

In addition, most social retaliation goes unpunished. Human Rights Watch was reportedly "unable to uncover more than two examples of even minor disciplinary action being taken against persons who retaliated against a survivor" (Rhoad 2015). One of the most shocking instances of retaliators not being punished was experienced by Amy Quinn, who was a member of the Navy. Quinn initially did not report her assault while on deployment out of a fear of retaliation, but eventually did so. When she fell asleep in a chair due to medications she was taking, "her shipmates sprayed her body with aircraft cleaner and set her on fire with a lighter" (Darehshori 2016). Luckily, because of the fire retardant nature of her uniform, she was not injured - but when she reported this heinous offense, she was not taken seriously. Upon reporting, her perpetrators were "only given an oral reprimand and, when she complained to a supervisor, she was told she was overreacting" (Darehshori 2016).

Not only do survivors experience the harm of social retaliation, they also are pushed aside upon

reporting it, possibly worsening the effects. Failure to punish retaliators will only embolden them, instilling a sense that retaliation and harassment of those who report their assault is tolerated, if not encouraged. In some cases, social retaliation can even be instructed by the commanders or higher ups of the victims. Human Rights Watch says that survivors reported "situations in which the command appeared to encourage the peer alienation of the survivor. Several service-members reported that their isolation was a result of instructions by commanders to their peers not to talk to them" (Rhoad 2015). One lance corporal said that "her friends were told they would get "NJP'd" (non-judicial punishment) if they hung out with her" (Rhoad 2015). Not only is retaliation unpunished, it is often actively encouraged by those who have the responsibility to protect the soldiers under their command. Instead of receiving support, victims experience ostracism and retaliation from both their peers and their officers, leading them to feel incredibly unsafe and distressed.

Both social and professional retaliation are incredibly damaging to victims during their time in the military, and their effects often have far-reaching consequences that extend into civilian life. Most victims who are administratively discharged after reporting their assaults receive either an "other than honorable" or "dishonorable" discharge, both known as "bad papers." These discharges can severely limit access to benefits, and even jobs. Bad paper discharges can prevent veterans from accessing numerous services, such as the G.I. Bill, V.A. benefits and compensation, and access to jobs. Many veterans favor going on to work in job equivalents in the civilian government after their military careers, and "bad papers" make this impossible. According to Human Rights Watch, an Other Than Honorable discharge results in veterans being "ineligible for payment for accrued leave, unemployment benefits after separation, federal veteran hiring preference, wearing a military uniform, burial rights, commissary access, relocation assistance, military family housing, and educational assistance, and will generally be unable to get jobs requiring a security clearance" (Darehshori 2016). All of these important military benefits are crucial for veterans to integrate back into civilian life, and they are being withheld from sexual assault survivors as a consequence of reporting their assault. Bad discharges can even affect victims as far as after death. One woman, a Marine, received an Other Than Honorable Discharge after reporting her sexual assault. Less than a week after her traumatic discharge, she died from alcohol poisoning - and "because of her discharge, her father has been unable to secure a military burial for her remains" (Darehshori 2016).

Especially after a traumatic event, healthcare is incredibly important both during and after one's military career. Legally, "since 2010, the V.A. has been required by law to provide health care services to any veteran who has experienced a military sexual assault, regardless of discharge or disability status" (Moyer 2021). In theory, this would remedy the issue of veterans given unfair bad discharges being unable to access healthcare - but in reality, this law is not often followed. Instead of sexual assault survivors being granted healthcare despite their discharge status, "many are turned away and told they're ineligible. The 2020 Veterans Legal Clinic report found that the V.A. has denied services to as many as 400,000 potentially eligible veterans" (Moyer 2021). This barrier to healthcare has real, painful consequences for the physical and mental health of discharged veterans who are survivors of sexual assault. One servicewoman, Cathleen Perkins, "had trouble getting her Krohn's disease diagnosed because doctors did not believe her complaints after seeing PD on her record. She suffered in great pain for years before her complaints were taken seriously" (Darehshori 2016). Another woman, a Marine who was falsely discharged for a personality disorder, had a bad reaction to a dye used in a medical test. When she reported her negative symptoms, the doctor "insinuated she was lying, which her mother believes stemmed from the PD diagnosis. The dye caused kidney failure. She was later diagnosed with PTSD and a Traumatic Brain Injury resulting from her assault" (Darehshori 2016). Many were also denied therapy and other mental health support after discharge, which is crucial to recovering from a traumatic event like a sexual assault.

Professional retaliation, social retaliation, and lack of institutional support after discharges all contribute to the extremely low reporting rate of sexual assault in the military - but why do these retaliations and injustices happen? One possible reason is that they are the result of the general culture

of the military. Historically, the military has been a masculine organization, and only very recently (in 2014) was opened to the full participation of women in any role. In the past, the military "has been one of America's most progressive institutions, as with racial integration in the years after World War II. But it also embodies a traditional, conservative, and in some ways "macho" culture" (Robinson 2020). Unequivocally, there is a "deep-rooted hyper-masculinity that underlies the military profession" (Ferrell 2014). The integration of women "into the highly masculinized military culture fundamentally challenges the constructed identity of the warrior as male and the military as masculine" (Ferrell 2014), which caused large amounts of tension and backlash from men. Many conservative thinkers feel that the military is "a male domain that has been invaded by women" (Ferrell 2014). Because of this and the deeply masculine culture, the military is also very gendered, meaning that it employs a strong sense of traditional gender roles. The military is considered "an extremely gendered organization where the gender regime is so deeply ingrained that it constitutes an extreme case" (Bonnes and Tosto 2013). Typically masculine traits are celebrated, while feminine ones are shamed. The identity of the military as a gendered and masculine organization is deep seated, and likely affects how the military responds to survivors of sexual assault. Issues typically regarded as "feminine", like sexual assault and harassment, are dealt with in harmful ways.

Despite the military stating its core values as including honor, integrity, and respect, these values are noticeably absent in the treatment of victims of sexual assault. Colleen Bushnell, a former Air Force Staff Sergeant who was sexually assaulted during her time in service, said that "this is a predator problem, not a female problem… That's an abuse of authority, that's a fundamental breakdown in the culture—it's about translating the core values of the military into the actions of leadership" (Ferrell 2014). She further argues that this toxic culture "is a serious problem that cannot be fixed with one solution. There will be many solutions, and it may take many years for the culture to transform to where we would like it to be" (Ferrell 2014). If the retaliation causing the low reporting rate is indeed stemming from this general military culture, efforts to curtail sexual assault will be more difficult. Any reforms that do not address the underlying issue of a hyper-masculine culture will fail if the culture keeps motivating retaliatory behaviors towards victims. Professional retaliation, social retaliation, and lack of institutional support post discharge stemming from a toxic masculine military culture explain "why, even in egregious cases of sexual assault or harassment, victims often elect to remain silent rather than report the perpetrators with whom they continue to serve" (Ferrell 2014). Negative experiences with retaliation actively deter service-members from using these resources due to a fear of reprisal. The military can continue to spend millions of dollars on things like SAPR (the DoD Sexual Assault Prevention and Response Office) and SHARP (the Army's Sexual Assault/Harassment Response and Prevention), but these services will not be adequately utilized if victims fear reporting their assaults. For reporting to happen, service-members need to feel assured that it will not come at the cost of their career and mental wellbeing. Until then, reporting rates will remain low, and sexual assault will continue to be a rampant issue. The military and upper brass need to work to reform the hyper-masculine "macho" culture, and accept that women are capable soldiers who can defend our country with equal valor to men. Even issues that are regarded by society as "feminine" still must be taken seriously, and the victims supported adequately.

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The Fall of Command: Analyzing the 2022 Reforms to the Command-Centric Structure of the U.S. Military Justice System

By Martell Naranjo
UW, Political Science Department

Many people would feel uncomfortable if the law were decided by a potentially biased individual with little to no legal training. Yet, this is the reality for the U.S. military justice system. Under the command-centric structure of the U.S. military justice system, commanders are given significant authority to decide legal issues despite lacking legal expertise. President Biden attempted to address this issue in the 2022 National Defense Authorization Act, making various changes to the Uniform Code of Military Justice (Shear 2023). These changes include reforms to partially abolish the command-centric structure and replace it with a new system that strips commanders of their authority over cases of sexual assault, rape, and murder to ensure prosecutions that are independent of the chain of command (Shear 2023). These reforms were long overdue as there have been calls to reform the command-centric structure for decades following pressure from lawmakers and victims of sexual assault. However, many continue to ask if these reforms are enough.

Command-Centric Structure

The command-centric structure allows commanding officers to play a significant role in the U.S. military justice system proceedings. Specifically, they have the unique decision-making power to pursue charges for criminal allegations. The Uniform Code of Military Justice (UCMJ) and the Manual for Courts-Martial (MCM) grant certain commanding officers what is known as "convening authority" (Joint Service Committee on Military Justice 2019). According to the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces, convening authority refers to a commander's ability " to refer charges to trial, detail members to hear case, and take action after sentencing" (Duties of a Convening Authority 2017, p. 1) This authority gives commanders significant influence over judicial processes, going as far as saying, "Military justice demands that each commander exercise his/her independent discretion at each stage of military justice proceedings" (Duties of a Convening Authority 2017, p. 1).

Convening authority grants commanders several powers. First, they are responsible for hearing accusations and deciding whether or not to pursue charges. If there is a preponderance of evidence supporting the accusation but not enough to prove it beyond a reasonable doubt, commanders are to take administrative measures, including minor punishments like reprimanding or being assigned to alternative duties. If there is evidence beyond a reasonable doubt, punishments are subdivided into non-judicial punishments for minor offenses and, more importantly, judicial punishments for major offenses (Duties of a Convening Authority 2017). These serious offenses require court-martials of which there are three options depending on the severity of the crime (Snider 2019).

1) Summary Courts-Martial: Typically reserved for minor offenses and do not require a judge or jury as the convening authority fulfills the roles. Punishments can range from up to 30-day confinement to forfeiture of up to two-thirds of one month's pay (Adam n.d.).
2) Special Courts-Martial: Handle intermediate-level offenses. They consist of a military judge and an optional panel (jury) of at least three servicemembers. This option is equivalent to a civilian misdemeanor court. The potential consequences are up to 1-year confinement, forfeiture of two-thirds pay for up to a year, and a bad-conduct discharge (Adam n.d.).

3) General Courts-Martial: Typically reserved for the worst/most severe offenses, these courts consist of a military judge and an optional five-person panel (jury) available at the request of the accused. Akin to a civilian felony charge, the punishments are more serious, ranging from dismissal from service, confinement, loss of all pay, and even the death penalty when deemed appropriate by the UCMJ (Adam n.d.). According to Joseph L. Jordan Esq., a General Court-Martial can try any offense, but it is often reserved for serious crimes like rape, murder, manslaughter, and high-value theft (Jordan 2023).

Other unique powers granted to convening authorities include personally selecting the members that will serve on the court-martial panel (jury) if requested by the accused (Duties of a Convening Authority 2017). A convening authority has the power to "grant pre-referral delays" and to "Appoint an Article 32 hearing officer" (Duties of a Convening Authority 2017, p. 1).[1] They hold significant discretionary powers, including the ability to refer charges to court-martials or take no action (Duties of a Convening Authority 2017, p. 1). They also have exclusive authority to approve or deny pre-trial agreements, grant witness immunity, discharge individuals instead of trial, withhold jurisdiction, and allow court-martial actions for offenses previously tried in civilian courts (USACIMT 2011).

The powers and responsibilities of a convening authority after a trial include several key actions. They also have the authority to act on requests to defer confinement or to defer and waive forfeitures, and they can order excess leave. Most importantly, they can grant clemency if deemed appropriate (Duties of a Convening Authority 2017). Clemency is defined as "leniency or mercy," a power given to public officials, such as a governor or the president, to reduce or mitigate the severity of a punishment imposed on a prisoner.

[1] An Article 32 hearing is a step done before trial where a preliminary hearing officer, that is typically a certified judge advocate gives a recommendation to the convening authority whether or not to pursue a case if there is probable cause for the crime (Military Justice Attorneys 2017; DoD Victim and Witness Assistance n.d.).

In summary, individuals with convening authority wield significant influence throughout the entire legal process within the U.S. Military Justice System.

In Defense of the Command-Centric Structure

The issue of the command-centric structure is highly debated. Some defend it by following the theory of Objective Civilian Control proposed by Samuel Huntington in his book, *The Soldier and the State: The Theory of Politics of Civil-Military Relations* (1957). Huntington argues that the best military has autonomy from the civilian sphere. This means that the most efficient and effective military is one where they have the freedom to organize their own affairs, in this case, their own legal system. The 'Huntingtonian' argument would say that no one knows what is better for the military than the military establishment. Therefore, if the military justice system has not been reformed, then it must be what is best.

The second point in defense claims that stripping commanders of their authority would reduce order, discipline, and military readiness. In a 2021 interview, Major General John Richardson argued that "…the chain of command is central to good order and discipline in a military organization…once you take that away from a commander and put it into the hands of a[n] outside agency you've already are demonstrating a lack of trust from the American people to the military" (Toboni 2021). Several other high-ranking officers also criticized calls to strip the chain of command from prosecutorial authority. For example, in a letter, Chairman of the Joint Chiefs of Staff Gen. Mark Milley said, "It is my professional opinion that removing commanders from prosecution decisions, process, and accountability may have an adverse effect on readiness, mission accomplishment, good order and discipline, justice, unit cohesion, trust, and loyalty between commanders and those they lead" (Maucione 2021). Furthermore, Chief of Naval Operations Adm. Michael Gilday wrote, "[this bill] erodes the ability of commanders to create and maintain the environment necessary to effectively exercise mission command" (Maucione 2021). Finally, in response to a bill reforming the command-centric system, Marine Corps

Commandant Gen. David Berger said, "A new military justice structure and process without a corresponding increase in resources, I would be forced to reduce funding and structure elsewhere in our military legal system…I consider this bill a significant risk to readiness and mission accomplishment if not appropriately resourced. This bill would lengthen the process, limit flexibility, and potentially reduce confidence among victims" (Maucione 2021).

Theoretical Critique

When examining the former command-centric structure, it is not difficult to identify potential problems. I have identified three issues with monopolizing so much power in the chain of command: 1) the lack of comprehensive legal training potentially leads to uninformed decision-making, 2) personal bias on behalf of the commanding officer in favor/against the accuser/accused could lead to unfair outcomes, and 3) commanders could purposefully cover up potential crimes.

The first point is self-explanatory: a commanding officer's expertise is in leading, training, and organizing soldiers, not law. Many supporters of the command-centric system point to the fact that a military court of appeals exists and that commanders receive legal advice from legal advisors like the JAG Corps (military attorneys). Supporters say that this is enough to counter the influence or lack of legal expertise, but it is not when you consider that commanders have the final say in many decisions, and they get to choose their own advisors.

The second problem is the potential for bias. There is a potential conflict of interest, considering the commander and the accused/accuser have a close professional relationship. Consider a scenario where a commander is asked to decide whether to prosecute a soldier they favor. Their personal bias may make them less inclined to pursue charges. Conversely, if the accused soldier were someone the commander disliked, they might be more likely to initiate prosecution. Similarly, if the commander harbored negative feelings toward the accuser, they might be less inclined to take the accusation seriously. This structure, by concentrating significant prosecutorial discretion in the hands of commanders, opens the door to potential misuse of authority and the undermining of justice.

The final problem is that it can be exploited to cover up controversial scandals. As a commanding officer, you have a vested interest in your unit, so you may want to do anything to avoid controversy, even if it means covering up crimes. The fear of being ignored when you are the victim of a crime or being thought of as a liar is enough to drive many people away from reporting crimes, especially in a tight-knit community like the military.

The Case of Vanessa Guillen and its Impact on Civil-Military Relations

Nothing highlights the systemic failures of the command-centric structure more than the tragic case of Vanessa Guillen. On April 22, 2020, in the notoriously dangerous Fort Hood, Texas, 20-year-old Army soldier Vanessa Guillen was murdered by a fellow soldier. She was reported missing a day later by her commander, but her disappearance was not investigated as she was just declared AWOL. It was discovered that SPC Guillen was sexually harassed multiple times, but nothing was done about it. This, in combination with the #MeToo movements against sexual harassment, led to massive protests across the nation calling for justice for SPC Guillen. More than 10 weeks later, her body was found, and she was found to be murdered by a fellow soldier who was previously accused but not convicted of sexually harassing another female soldier the previous year. (Aguilera 2021; Martinez 2021). The tragic case of SPC Guillen serves as a prime example of the problems with the military justice system and the command-centric structure. This event led many people, including civilians and servicemembers, to become disillusioned with the Military Justice System.

The Solution: The Special Trial Counsel

The command-centric structure of the U.S. Military Justice System had been in place in the United States since the first United States Armed Force was authorized to fight in 1775 (Hildebrand 2022), but "Mr. Biden ushered in the most significant changes to the modern military legal system since it was created in 1950…The order follows two decades

of pressure from lawmakers and advocates of sexual assault victims who argued that victims in the military were too often denied justice" (Shear 2023). Spokesman for the National Security Council, John Kirby, stated that these reforms were a "monumental step…any change to the Uniform Code of Military Justice is a big deal" (Shear 2023). The most significant of these reforms was establishing Special Trial Counsels (STCs). An STC intends to partially replace the command-centric structure for more serious crimes known as 'covered offenses.' These crimes include but are not limited to murder, manslaughter, rape, sexual assault, rape of a child, kidnapping, domestic violence, stalking, retaliation, child pornography, solicitation, conspiracy, or attempt "to commit one of the foregoing offenses" (Schleuter 2022, pp. 2-3).

The STC is composed of commissioned officers and trained legal professionals. They must have several qualifications: 1) they must be a commissioned officer, 2) the officer must be "a member of the bar of a Federal Court or a member of the bar of the highest court of a state," 3) the individual, "is certified to be a qualified, by reason of education, training, experience, and temperament, for duty as a special trial counsel by….the Judge Advocate General of the Armed Forces of which the officer is a member: or in the case of the Marine Corps, the Staff Judge Advocate to the Commandant of the Marine Corps", and 4), the individual ranks no lower than O-7 if they are the lead special trial counsel (U.S. Code 2024).

As to an STC's authority, they share many of the powers and responsibilities that convening authorities once held. First, they have "Determination of Covered Offense," which affirms the STC's "exclusive authority to determine if a reported offense is a covered offense and shall exercise authority over any such offence" (NDAA 2022, p. 157). Additionally, STCs are given the authority to dismiss, refer, or institute plea bargains. Another significant power that STCs have is supremacy over typical convening authorities as they have the power of "Binding Determination," where convening authorities are bound to judgments made by STCs, and "Deferral to Commander or Convening Authority," where the STC can choose to grant it is power to a convening authority (NDAA 2022, pp. 157-158). The most important of all of these to remember is that STCs are given the "exclusive authority" to handle serious criminal cases.

Two more things set apart an STC, 1) their expertise and 2) their neutrality. To the first point, policies concerning special trial counsel require that they "shall be well-trained, experienced, highly skilled, and competent in handling cases involving covered offenses" (NDAA 2022, p. 159). This indicates that the people in these positions are well-versed in the law. To the second point about neutrality, STCs are required to remain "independent of the military chains of command of both the victims and those accused of covered offense and any other offenses over which a special trial council at any time exercises authority" and that they, "conduct assigned activities free from unlawful or unauthorized influence or coercion" (NDAA 2022, p. 159).

STCs' Impact

Examining the three fundamental issues with the command-centric structure reveals that establishing a Special Trial Counsel effectively addresses these challenges. First was the problem of commanders needing to be more professionals in law, which could lead to uninformed decision-making; this problem is solved as STCs are composed of highly educated and experienced legal professionals. The second problem is the issue of potential bias. An STC solves this issue because it comprises a neutral, independent third party with no vested interest in the accused or the accuser. The final issue was the issue of cover-up scandals. A key detail about STCs is that they report to the civilian Secretaries of their respective branches, which in turn report to Congress (NDAA 2022). This means that launching investigations does not reflect poorly on the investigators since they are independent of the subject they are investigating.

However, there are limitations to STCs. First, they only have exclusive authority over serious criminal cases, which do not include sexual harassment. The second limitation is that some areas remained unreformed, like the process of "pretrial investigations, pretrial confinement decisions, [and] selection of members for a Court-Martial," (Schleuter 2022, p. 7) which remain in the control of the chain

of command. However, since these reforms are so new, there is little research on their long-term impacts. The reforms were created in 2021, implemented in 2022, and went into effect on December 27th, 2023. They will be expanded in 2025 to include sexual harassment cases. Given the timeline and how new these reforms are, it is still too early to decide if they have made an improvement.

Conclusion

Despite significant public scrutiny over the military's handling of sexual assault for many decades, the military's outdated justice system failed to protect its own soldiers. Finally, after much advocacy, reforms were made to minimize the power the chain of command had on the military justice system by establishing the Special Trial Counsel. Implementing much-needed reforms has greatly improved civil-military relations, and with continued calls for reform, many question whether having a separate military and civilian court system is even necessary.

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The Creation of Civilian Control within the Japanese Self-Defense Force

By Bryan Matthew Hales

World War II was the deadliest conflict in history, and the Japanese played a major role due to the intense militarization of their society. The Japanese were fueled by the mantra "Strong nation, Strong army," transforming a rural feudalistic society into an industrial power backed by a strong economy in less than a century (Shin'ichi 2021, 36). Yet after the war, Japan became a country that would continue to advocate for pacifism into the 21st century. The Japanese have enshrined Article 9 in their constitution, which renounces war as a sovereign right of the nation (Constitution of Japan Art. 9). In practice this has meant the Japanese cannot have an offensive military. Article 9 has in the decades after its creation in 1945 been reinterpreted numerous times as Japanese pacifism has evolved. As a response to the start of the Cold War, Japan developed a military in the form of the Japanese Self-Defense Force (JSDF), which has since taken the form of an institution subject predominantly to direct civilian control. Despite foreign pressure to militarize, Japan for decades has kept a small military establishment. How have the Japanese developed a military receptive to civilian control even though Japan was a heavily militaristic society decades before the establishment of the JSDF? The JSDF developed effective civilian control by placing direct civilian control on the Japanese bureaucracy as well as limiting the role of the JSDF in Japanese society.

Civil-Military Relations in Japan During and Before WWII

Many histories of modern Japan start with the Meiji Restoration, which nearly overnight tore down and rebuilt Japanese society within a few decades. The United States, practicing what would later become known as gunboat diplomacy, came to an isolationist Japan in 1868 demanding that it open up to the United States for trade. The Japanese in response decided to cast aside their feudal way of life, and instead sent research teams to study European society and mimic certain aspects of it in Japan. Japan adopted a Prussian-style military, leading to Japan defeating the Russian military in 1905 and conquering Korea in 1910 (Berger 2012). Important to this period is that Japan attained its imperative to colonize other countries from Europe. Japan saw that European colonization was the best way to stay competitive on the international stage, for there was a high correlation between rich countries and colonial establishments.

Japanese society saw themselves as victims after World War II (Park 2014). First, they saw themselves as victims of the United States, for the two nuclear bombs and extensive firebombing had leveled the Japanese homeland. More notably, the Japanese saw themselves as victims of the Japanese military officials who, in their eyes, seized the government from the Japanese people. Japan was a transforming democracy during the pre-war era; for example, it developed universal male suffrage and a vibrant civil and pluralistic social society (Rosenbluth & Thies 2021). Young military officers within Japan became inspired by the belief that World War I was a precursor to the final war between the Western powers led by the United States and the Eastern powers led by Japan. The military sphere continued to politicize its response to a diminishing Japanese economy due to the Great Depression and a 7.3 magnitude earthquake that hit Japan in 1930. Many Japanese people, especially rural farmers, had turned to right-wing militarism which consequently bent the government towards militarism (Shin'ichi 2021). Japan's defeat after World War II gave the Japanese two major takeaways moving into the postwar era. The first takeaway was that militarism had failed Japan. Military leaders were able to build support under the idea that Japanese colonialism would enrich Japan. To many Japanese citizens after the war, militarism had given them only destroyed cities and widespread famine. Instead, Japan after World War II sought to make itself the merchant of Asia (Berger 1998) or the Switzerland of Asia (Oros 2010), using its growing economy rather than military might to exert international pressure.

The second idea the Japanese took away from World War II was the failure of objective civilian control—a term coined by Huntington which eventually became foundational to our understanding

of modern civil-military relations (1957). Objective civilian control refers to the civilian sphere controlling the military sphere by professionalizing the military. This includes decreasing the number of levers the civilian sphere can control the military and instead focusing on making the military cede political power, with the military advising the civilian sphere on military matters and the civilians staying out of military affairs. In Huntington's view, direct civilian control is what would lead to a politicized military which could more easily develop a military sphere that dominates the civilian sphere (1957). Ideas like objective civilian control made their way into Japanese society through the study of the Prussian military and, in the Japanese people's view, led to the creation of an insubordinate and intellectually isolated Japanese military (Weinstein 1971). The Japanese military during World War II continued to see every decision as a military decision, and thus increasingly saw their role in directing civilian politics leading to a military takeover of the civilian government. Moving into post-war reconstruction, no longer would the Japanese civilian sphere let the military act independently. The Japanese sought to develop a military with numerous mechanisms of direct civilian control that would be under constant civilian scrutiny.

The United States Occupation and the Formation of the Japan Self-Defense Force

After World War II, the United States put General MacArthur in charge of reconstructing Japan under the title of Supreme Commander for the Allied Powers (SCAP or GHQ), and it created a new Japanese constitution dubbed the MacArthur Constitution. This constitution included Article 9, which renounced an offensive military, and it would not be amended since. Through various means, Japan was reconstructed to minimize factors that were seen to contribute to Japan's rise in militarism under the sole direction of the United States. For example, the United States pushed for various educational reforms that purged teachers who were believed to be promoting militarism, going so far as to suspend courses in morals and Japanese history and geography. Another facet seen as contributing to the rise of militarism was a common practice for a farmer's second-born to be sent into the military, meaning the military had been disproportionately connected to the issues of rural Japan. In response, SCAP underwent extensive land redistribution which was largely successful in increasing the economic prospects of Japanese farmers (Oros 2010). Most importantly, the Japanese military was demobilized, which included 2,576,000 soldiers in Japan alone, while an additional 6,290,000 were repatriated from abroad—half of which were military personnel (Masuda 2015).

With the start of the Korean War, the United States called for Japan to aid the United States in its effort. Ironically, the United States' push for the demilitarization of Japan was too successful, for Japan largely did not wish to develop any military capabilities. Instead, the country preferred to focus on rebuilding its economy. At this point, Japan had no domestic military organizations—only a police force created in the new Constitution. This proved problematic as the Korean War led United States forces to leave Japan to assist in the war. The vacuum left behind could lead to a direct or indirect invasion, which worried the Japanese but worried the United States significantly more, prompting MacArthur to send a letter to Prime Minister Yoshida Shigeru to establish the National Police Reserve (NPR). Yoshida agreed, establishing a 75,000-person reserve force with oversight from SCAP in 1950 (Akihiro & Noda 2017).

The NPR is seen as a precursor to the creation of the JSDF, and there are notable characteristics in the JSDF that were established in the NPR. Important to Japanese reconstruction, when SCAP decided how it would reconstruct Japan, the United States did not have sufficient translators to run the administrative state of Japan, leaving Japanese bureaucrats to run the country. Japan has very well-respected and intelligent bureaucrats, as instead of going to the private sector, graduates from Japan's most prestigious university, Tokyo University, take the civil service exam and go into the Japanese bureaucracy. Because of Japan's electoral system, politicians often relied on legislative advice from the bureaucracy. So even though technically the Japanese bureaucracy was in the executive branch, it had sizable pressure in the legislative branch (Campbell 1991). In the creation of the NPR, the Japanese government and the public trusted these bureaucrats to control the NPR with little military background.

This would set the precedent of the Japanese military being run and managed by non-military officials, with the NPR being filled with former Home Ministry bureaucrats rather than ex-military officials. Essential to the Japanese government's thought process in creating this mechanism of civilian control was Harold Lasswell's treatise "The Garrison State," which argues that "soldiers in uniform have a stronger predilection for fighting a war than civilians did" (Akihiro & Noda 2017, p. 25). Despite this being a major influence in political thought, the NPR fell short of recruitment and therefore reversed its previous policy of barring ex-military personnel—including officers. This decision would spark major concern throughout Japan, testifying to the feelings of the Japanese public towards the military.

Central to the development of Japan after World War II was the Yoshida Doctrine—a strategy characterized by a focus on economic development with defense provided externally. Yoshida Shigeru, the Prime Minister of Japan, was on a tightrope in this era. While the United States was seen as vitally important to national security, Japanese citizens were becoming increasingly vocal about their distaste for United States military bases in Japan and the continued occupation. This prompted Japan to sign the Treaty of San Francisco in 1952 and the U.S.-Japan Security Treaty in 1951, which together effectively ended the occupation, but it allowed the United States to station troops in Japan in exchange for promises of defense in case of invasion. Important within this agreement was a clause that allowed politicians previously purged by the SCAP to return to politics. These politicians created growing pressure inside Prime Minister Yoshida's government to re-arm Japan to rely less on the United States. In response to both the United States and conservative politicians pushing Japan for increased militarization, Yoshida announced in 1952 the disbanding of the NPR and the introduction of the JSDF (Akihiro & Noda 2017).

The Structure of the JSDF and the Defense Plans

In numerous ways, the JSDF is securely under the control of civilian officials. The Japanese military is made up of three branches, ground, maritime, and air, which all have an associated chief of staff. There also exists a Joint Staff Council with full-time chairman. That chairman, with the chiefs of staff, serves under the director general who, in turn, answers to the prime minister. The JSDF is different from other militaries due to Article 10 of the National Safety Agency Act, which superordinated the internal bureau over the uniformed team. This means that the bureaucracy is given control over the military, even on issues of troop operations and promotions. Two civilian bureaus, the Secretariat of the Minister of State for Defense, and the Bureau of Defense Policy were major players in the formation of military policy and the creation of long-term plans, which were characteristically non-military. Throughout the years, three other main ministries exercised a lot of control over the ministry: the Ministry of Finance (MOF), the Ministry of Foreign Affairs (MOFA), and the Ministry of International Trade and Industry (MITI). All of these bureaus felt they were pushed around under Imperial Japan, and therefore would be sure to avoid being pushed around again (Akihiro & Noda 2017; Katzenstein 1957).

Adding to the previous discussion of Japanese bureaucracy, the Japanese bureaucracy does not have the same number of political appointees as the United States' system. Instead the bureaucracy promotes its ministers based on merit, which precludes any uniformed or retired officers from being appointed into these civilian positions. This means that across the board, the bureaus are not made up of military officers. Additionally, the Japanese bureaucratic system is characterized by a rotating set of bureaucrats, where for 2 years a bureaucrat might serve in the MOF and then move on to MOFA (Campbell 1991). This creates a system in which individual bureaus can reduce ideological capture by the Japanese military. This structure of the Japanese bureaucracy makes it difficult for the military to exert pressure on the civilian sphere, for military officers have never been appointed to the internal bureau.

The First Defense Build-up Plan, which passed in 1953, encapsulated this concept of direct civilian control. The United States was throughout this time still asking Japan to develop a larger military, and the Japanese military, which at this time was made up of more ex-imperial officers, was also pushing for a military buildup. Many Japanese politicians understood that they would not be able to

stand against the Soviet military if they decided to invade. Instead of advocating for military buildup, they saw the importance of the United States relationship and advocated for military cooperation with the United States (Berger 2012). Therefore, the Nobusuku Plan was advanced around the idea of Japan's military being structured to hinder a potential invasion until the United States arrived. Despite many protests from the conservative military, the civilian sphere understood Japan's political and economic reality better and thus developed and implemented military policy. This event represents civilian supremacy, as although military realities might have spurred Japan into creating a threat-based military doctrine, civilian political issues were at the heart of Japanese military planning.

The United States-Japan Security Treaty

The Japan Socialist Party (JSP) won majority seats in the National Diet—the Japanese legislature—between 1951 and 1955. Although the JSP supported elements of socialism, they were mostly elected on a platform of pacifism, promoting the idea of Japan being the Switzerland of Asia. The JSP continued to advocate for pacifism after losing majority control in 1955. This came to its peak in 1960 when Eisenhower was slated to come and visit Japan. Prime Minister Nobosuku Kishi wanted to sign the revision of the United States-Japan Security Treaty that would officially put Japan under the United States nuclear umbrella before Eisenhower came, which sparked major protests across Japan. These protests climaxed when protesters broke into the National Diet and tried to prevent Kishi from opening the session. Although the treaty was eventually signed, the protests meant Eisenhower would cancel his trip, causing Kishi to resign the next day (Lasn 1980). Within Japanese society, this would create a precedent for the next decades for politicians not to speak publicly about expanding the military.

Although the goal behind the protests is relevant, the military response reveals the military's idea of where it has authority. Specifically, the JSDF was given the authority to stop invasions. The protests that occurred contained various communist groups, sparking many politicians, including Prime Minister Kishi, to advocate for the deployment of the JSDF as a form of crowd control, which is supposed to be the responsibility of the National Police Agency. In initial conceptions of the JSDF, Yoshida had proposed making the JSDF vague within the public eye but making its main goal to stop indirect invasions. The fact that various soviet sponsored communist groups helped to organize them evoked ideas that these protests were a foreign hostile takeover, for the Japanese that the Soviets captured were seen as converted to communism. It was actually the Defense Agency, an advisory committee to the prime minister, and the internal bureau that were the main actors resisting the deployment of the JSDF (Berger 1998). This developed the precedent that the JSDF would not be used for indirect invasion or crowd control.

Both resisting the calls for mobilization and the content of the security treaty represent another way in which the political power of the military was constricted. In one way, the JSDF had given up control of operating crowd control, which was a responsibility of the NPR. It instead gave the responsibility of staving off indirect invasion to the NPA. On the other hand, the passing of the treaty reaffirmed that Japan was going to be the United States' aircraft carrier in the Pacific, which further decreased the scope of the military since it would not be given the tools to deflect a sustained invasion. This echoes Huntington's forms of indirect influence a military can exert upon society (1957). One of these forms is the military's understanding of where they have authority. The JSDF was only given a small, purely military responsibility: the slowing of a direct invasion until the United States could arrive. In reality, the JSDF during the decades after its formation mostly operated to support disaster relief efforts, for Japan is directly on the edge of a tectonic plate. This means that the JSDF cannot apply excessive pressure on the civilian government. Additionally, the Japanese military officers' loss of prestige after World War II translated into a loss of influence in both society and government. Thus, the military had little control over its policy, which the civilian government took control over.

Conceptualizing Civil Control in the JSDF

Another prominent theory for civil-military relations comes from Morris Janowitz, who describes the ideal modern military as being a constabulary

force (2017). In short, Janowitz conceives of a military that is intimately connected with the civilian sphere. This military force would seek to use international relations rather than violence through a protective military posture. Although the military has expertise, the military by no means has the sole expertise regarding many decisions including readiness, effectiveness, and inventory. Military actions are viewed through a political lens, and officers should have a developed sense of the political impacts of the military establishment (Janowitz 2017).

In many ways, Japan after World War II embodied many features of a constabulary force. Article 9 represents a Japanese military that is defensive, as it would rather influence other countries through other methods, especially economics. This can be seen in conflicts such as the Korean War and later the Vietnam War, in which Japan vehemently avoided getting involved. The officers within the JSDF are constantly working with the internal bureau; all while the internal bureau consistently forces military changes despite military backlash. In Japan, the military adapts to politics, not the other way around. The JSDF is a politically responsive force, whose composition is in direct response to what the international community necessitates. Close ties to the civilian sphere are maintained through both an integral role in disaster relief and various projects throughout Japanese society.

Japan before the militarist takeover preceding World War II was a rapidly developing democracy, attempting to assert itself on the global stage. In response to the victimization by the Imperial Japanese military, Japan reformed its military establishment to have strong direct civilian control. Enshrined in Article 9, Japan limited the political power of the military by reducing the responsibilities it has. The Japanese bureaucracy played a crucial role in the development and maintenance of the JSDF, as they continued to be responsive and mold the military to Japan's goals. These factors created a Japanese military that excelled as an example of civil-military relations, as the military establishment was structurally constrained to cooperate with the civilian sphere while limiting the influence military officials could have on civilian society.

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The 6B4T Movement's Resilient Resistance Against Authoritarianism: Taking a Look Into the 6B4T Movement

By Kayla Pyo
UW, Political Science Department

Defying Erasure: 6B4T's Persistence

In the face of intensifying patriarchal backlash and authoritarian crackdowns, the 6B4T movement in China and its predecessor, the 4B movement in South Korea, have emerged as powerful emblems of feminist resistance. Originating around 2015 as the "4B" concept renouncing marriage, motherhood, dating, and sex with men in resistance to Korea's infamously patriarchal norms, the movement evolved into "6B4T" while spreading virally across China's digitally connected feminists. Recent authoritarian platform bans and account deletions targeting 6B4T groups that had enabled decentralized feminist coordination epitomized acute speech crackdowns facing movements embracing online solidarity against patriarchal backlash regionally (Tang 2021). In April 2021, the abrupt deletion of over 10 core 6B4T discussion forums on platforms like Douban, each containing records of more than 15,000 posts, exemplified the acute censorship pressures facing feminist movements embracing online solidarity against patriarchal backlash in China (Tang 2021). This feminist movement advocates for women's empowerment by rejecting heterosexual relationships, marriage, childbirth, and the consumption of sexist products while supporting fellow single women (Cheng 2023). As the movement spread to China, it faced increasing resistance from authorities, who viewed its ideas as a threat to social stability and traditional gender norms.

Despite severe crackdowns, including arrests of prominent activists and blanket platform bans, the 6B4T movement has demonstrated remarkable resilience in China, with adherents constantly adapting their tactics and frames to sustain mobilization under authoritarianism (Tang 2021). This raises the question: What forms of activist resilience emerge in social movements that persist within authoritarian contexts like China, as contrasted with the conditions facing such movements' predecessors in more open settings? Comparing 6B4T's experience in China with that of its 4B progenitor in South Korea promises vital lessons on the survival mechanisms available to feminist activism under the crushing weight of patriarchal authoritarianism in the digital age.

The primary observation of this analysis is that authoritarian obstruction of coordinated activism both constrains external understanding and illuminates defiant reactions. The 6B4T movement's tenacious advancement and creative reinvention in the face of multiplying obstacles in China - from the initial viral spread by combining radical critiques with resonant cultural resources, to persistent forum posting, symbolic solidarity under duress, and internal debates on balancing visibility and viability - exemplifies the power of activist ingenuity in sustaining hope against a fearsome foe fighting an existential battle. This contrasts with 4B's relatively more transparent and stable mobilization in South Korea's civil society.

Exploring the resilience of the 6B4T movement within China's authoritarian regime, in contrast to the 4B movement's experience in the comparatively open society of South Korea, offers a unique window into the dynamics of feminist activism under severe constraints. This comparison not only sheds light on the innovative strategies employed by movements to survive and thrive against oppression but also enriches our understanding of the broader implications of social movement theory, especially in contexts where free expression is heavily controlled. By examining these two cases side by side, this study aims to contribute valuable insights into the adaptability and creativity of feminist movements, informing both scholars and practitioners about effective strategies for sustaining activism in hostile environments. This research will not only discuss the

6B4T movement in China, but also observe the rise of anti-feminist counter-mobilization in South Korea, where the preceding 4B movement originated. Here, the reactionary "Gender Harmony" groups and the "Hannam-chung" (men's solidarity) movement, which gained over 1 million supporters, claimed victimhood and argued that #MeToo unfairly vilified men (Braine 2021). As reported #MeToo cases surged amid backlash, and politicians vowed to abolish the Ministry of Gender Equality (Ahn 2022). This adversarial interplay highlights the patriarchal retrenchment risks confronting the transnational organization of women.

This study breaks new ground by delving into the underexplored terrain of feministactivism within the stringent confines of China's authoritarian regime, juxtaposed with the experiences of its preceding movement in South Korea. By focusing on the 6B4T movement's survival and adaptation strategies, this research takes a dive into social movements in restrictive political contexts. The findings promise to extend our theoretical and practical understanding of how marginalized groups, such as females in a patriarchal society, can sustain mobilization and effect social change despite formidable obstacles. Moreover, the innovative resilience of the 6B4T movement underlines the potential for digital spaces to serve as arenas for contestation and solidarity, even in the most repressive environments, offering fresh perspectives on the interplay between technology, activism, and authoritarian control. Our goal is to uncover the nuanced dynamics of feminist activism under authoritarianism. Finally, putting the 6B4T and 4B cases next to each other shows the different kinds of feminist strength and creativity that can come out of different political situations. For example, Chinese activists have to deal with a smaller range of options. By tracing 6B4T's adaptive flow between the cracks of censorship and counter-movement backlash, as compared to 4B's relatively more open development, this study aims to illuminate the indomitable spirit of emancipatory struggle - and the inseparability of its advancement from the very forces that seek to extinguish it. In an era of resurgent authoritarianism worldwide, these lessons could not be more urgent. Therefore, a close study of 6B4T's persistent endurance should reveal the enduring hope of change in the face of overwhelming pressures. This analysis aims to contribute to our understanding of the innovative resilience of feminist activist communities in the face of severe repression in the digital age.

Illuminating Struggles: Feminist Mobilization Under Repression

The 6B4T movement in China offers a striking case of how social movements can sustain themselves despite censorship and repression under authoritarian regimes. This study aims to bridge the gap in existing literature by examining the unique challenges faced by feminist activism in China's authoritarian context and the survival strategies employed by the 6B4T movement. Past scholarship has highlighted how fluid, under-resourced movements innovate by harnessing passion and strategic ingenuity to navigate shifting political opportunities and threats (Tilly & Wood 2019; McAdam 1982). The 6B4T movement's trajectory aligns with Tilly & Wood's conceptual definition of social movements, exemplifying the symbolic power of collective action even without a centralized structure (Tilly & Wood 2019). Its core features –everything from disruptive hashtag campaigns to provocative public rituals like head-shaving exemplify the symbolic power of collective action even absent a centralized structure. 6B4T's resilience in the face of multi-platform bans and activist arrests thus offers a striking case of how movements sustain themselves despite censorship. Additionally, McAdam's political process model emphasizes the interplay of expanding opportunities, indigenous organizational strength, and oppositional consciousness, providing a valuable framework for examining 6B4T's surprising endurance (McAdam 1982). Its sustained longevity reflects adept capitalization on initial openings in digital space, decentralized network flexibility, and adaptable solidarity in the face of state retaliation and social backlash. Scheingold's "politics of rights" concept further illuminates how activists can mobilize formal rights claims as an insurgent resource even when institutions prove unresponsive (Scheingold 2004). Furthermore, Cichowski's work on political backlash and anti-feminist counter-mobilization provide valuable frameworks for understanding the multi-level challenges confronting women's activism under 21st-century authoritarianism (Cichowski 2013). 6B4T's persevering demands for bodily

autonomy and cultural freedom in defiance of a patriarchal order epitomize this pattern.

Authoritarian regimes produce a facade of unanimous support by stifling dissent, projecting an illusion of harmonious order that sacrifices truth for the appearance of stability. Yet, even under such suffocating conditions, traces of defiant mobilization persist in the shadows, as activists find alternative methods of activism. Past scholarship has illuminated how fluid, under-resourced movements innovate by harnessing passion and strategic ingenuity to navigate shifting political opportunities and threats. However, much analysis still privileges formalized organizations over more diffuse formations. The movement's experience also underscores the multi-level challenges confronting women's activism under 21st-century authoritarianism. As Cichowski documents in the European context, political backlash and anti-feminist counter-mobilization frequently impede the substantive advancements made by formal legal advancements (Cichowski 2013). In China, as in South Korea, rising misogynistic vitriol and official retrenchment have accompanied women's growing assertiveness (Braine 2021; Cheng 2023). Contextualizing 6B4T within this broader trajectory of contested gender relations is thus essential.

While existing literature extensively explores feminist activism in semi-authoritarian and democratic contexts, less is known about how such movements navigate the unique challenges ofChina's authoritarian regime. This study bridges this gap by examining the 6B4T movement's survival strategies. Comparing 6B4T's changing path through censorship and counter-movement suppression to its 4B ancestor's more clear formation should help social movement theory better understand how powerful mobilization can be, even when it is hard to control. As authoritarian and patriarchal dominance jointly suffocate emancipatory struggles worldwide, the hidden histories of resistance they generate have never been more vital to recovery. Learning from 6B4T's improbable survival can nurture more strategic solutions for the survival of activism that is being oppressed.

Refusal: Reconstructing 6B4T's Insurgent Archive

To find out what changes the 6B4T movement has made to its tactics in response to rising threats since 2015, this study combines pieces from various types of sources: Official government statements and censorship decisions that show how the regime sees threats changing over time (Tang 2021), rare but enlightening testimonies from activists about their terrifying experiences (Zhou 2021), coded archives of suddenly banned discussion boards on major platforms that show internal debates (Li 2021), anonymous interviews with followers that show their reasons for doing what they are doing and what they are thinking (Cheng 2023), and brave journalism and academic investigations.

This approach, fusing activist narratives with refracted public traces, builds on Milkman, Luce, and Lewis's (2013) bottom-up analysis of Occupy Wall Street. They leveraged protester surveys, ethnographic observation, and interviews with key organizers to capture the movement's heterogeneous origins, participatory character, and enduring influence on participants' trajectories. Here too, the aim is to provisionally reconstruct 6B4T's adapting strategies and visions from dispersed yet revealing fragments, even if a full picture remains elusive. Tarrow's emphasis on examining mobilization as an interactive process between challengers, opponents, and bystanders affirms the value of analyzing 6B4T's emergence from regional feminist currents, its interplay with state repression and anti-feminist counter-mobilization, and its reverberating impact on public consciousness (Tarrow 2011). This relational approach captures how the movement's ingenious reinventions to preserve solidarity against multilayered threats exemplify the metamorphic resilience that Tarrow identifies as crucial for sustaining contentious politics against shifting political alignments. Khmelko and Pereguda's comparative framework for investigating the influence of institutional openings, elite alignments, and activist agency on protest trajectories offers a complementary lens (Khmelko & Pereguda 2014). Emulating their contextualized process tracing, the 6B4T case study situates the movement's origins and orientations within the broader landscape of patriarchal retrenchment and civil society constriction across China and South Korea.

This analytical embedding illuminates how 6B4T's survival innovations embody the creative adaptation that McAdam's classic political process model identified as vital for movements facing hostile political conditions and waning organizational resources (McAdam 1982). Specifically, juxtaposing 6B4T's covert tactical mutations to sustain mobilization against authoritarian erasure in China with its 4B predecessor's relatively transparent formation in South Korea's more permissive environment promises to refine our understanding of the boundary conditions shaping feminist insurgency across contexts. At the same time, the fierce anti-feminist counter-mobilizations 6B4T provoked in both China and South Korea, from state-aligned online harassment networks to the abolition of gender equality institutions, underscore the heightening stakes and perils confronting women's organizing transnationally.

Yet, in a context where authoritarian information control perpetually masks evidence of dissent, unobtrusive measures may nonetheless reveal more than meets the eye. Interpreting the hidden transcripts of insubordination encrypted between the lines of demobilization narratives can denaturalize the depiction of activist defeat (Cheng 2023). This patchwork inquiry confronts daunting limitations in accessing the interior processes of a secrecy-shrouded insurgency. The decentralized, shapeshifting nature of grassroots resistance and the monolithic portrayals popularized by state-aligned media pose inherent representational challenges. Consequently, the study's content cannot aspire to provide a seamless chronicle of 6B4T's journey, but intends to explore more deeply the effects of authoritarianism on social activism.

In sum, this improved methodology's embrace of multivocality and indirection may nonetheless begin to render audible the tenacious voices that authoritarian silencing aims to expunge from the historical record. Therefore, tracing 6B4T's trajectory in relation to the interactive escalation of censorship, strategic adaptation, and backlash reprisals thus spotlights the vicious yet productive cycles through which oppositional forces shape one another's potentials. Triangulating these dispersed glimpses of 6B4T's journey beneath the threshold of mainstream visibility ultimately suggests that authoritarian obstructions of emancipatory mobilization paradoxically validate and fuel the inextinguishable spirit of resistance. Even without a clear path to dominance, feminist communities forging sanctuaries for transformation. In struggles for liberation, it is this obscured persistence, not public ascendance, that matters most. Learning to recognize and nurture these submerged currents of insurgent worldmaking is thus the vital task for engaged scholarship amid resurgent patriarchal authoritarianism. The 6B4T case offers an indispensable lodestar for this collective endeavor. By honoring their muffled resilience, it joins a broader stream of feminist social activism. So, this presented study identifies with 6B4T's own counter-curation philosophy, embracing community in the cracks of a suffocating order that wants to rob them of hope.

Resilience Case Study: 6B4T's Ever-Adapting Survival Tactics

Introducing 6B4T

The 6B4T movement emerged in South Korea and spread to China, advocating for women's empowerment through rejecting heterosexual relationships, marriage, childbirth, and the consumption of sexist products while supporting fellow single women (Cheng 2023). This sweeping critique of patriarchal dominance across social institutions, and the correspondent vision of female emancipation through separatism, encapsulates the audacity of the movement's challenge to the status quo.

Key Goals of 6B4T

It is essential to understand the broader goals and aspirations that drive 6B4T’s adherents. The movement's overarching aim is to empower women by encouraging them to reject the patriarchal institutions and cultural practices that have long oppressed and exploited them. By advocating for a radical form of separatism, 6B4T seeks to create a world where women can live free from male domination and control. This vision encompasses not only the rejection of marriage, childbirth, and heterosexual relationships, but also the creation of alternative spaces and communities where women can thrive on their own terms. Ultimately, the movement strives to dismantle the deeply entrenched

systems of gender inequality that pervade every aspect of society, from the family to the workplace to the realm of politics. By empowering women to take control of their own lives and bodies, 6B4T aims to lay the groundwork for a more just and equitable future, one in which women's autonomy and self-determination are fully realized.

Overview of 6B4T

As 6B4T gained traction, it faced increasing resistance from Chinese authorities, who viewed its ideas as a threat to social stability and traditional gender norms. Influential online gathering sites saw abrupt blanket bans, while vocal organizers faced arrests (Tang 2021). Nationalist commentators stoked moral panic, portraying feminist separatism as an existential threat to Chinese civilization (Zhang). Such fervent backlash perversely validated 6B4T's diagnosis of deep-seated misogyny and fragile male entitlement underlying daily constraints on women's autonomy. Yet, fragmentary traces of the network's subsequent evolution reveal overlooked mechanisms of determined innovation through periods of repressive contraction. Reactionary "Gender Harmony" groups, which were counter-feminist groups, claimed victimization by militant man-hating feminists, arguing that #MeToo unfairly vilified men (Ahn 2022). Some even claimed men should take credit for feminist movements gaining traction, as patriarchal overreaction proved their relevance. Between 2015-2022, reported #MeToo cases in South Korea jumped from a handful to over 140 across sectors, and backlash politicians vowed to abolish the Ministry of Gender Equality (Delhaye 2022). The current South Korean president Yoon Suk-yeol represents this anti-feminist current, denying structural gender discrimination and pledging to abolish the Ministry of Gender Equality as a key campaign promise. He argued the Ministry treats men as potential sex offenders and aggravates gender tensions (Delhaye 2022). His rhetoric has galvanized masculinist groups like Hannam-chung and Idaenam ("angry young men") who claim victimization by misandrist feminists. Tensions have erupted in public confrontations, with some threatening to "kill" feminists as "misandrists" (Delhaye 2022). The president's stance has further polarized a society already deeply divided over gender justice.

In China, 6B4T's separatist, misandrist rhetoric fueled similar anti-feminist counter-mobilization, which was exploited by the state to justify repressive interventions in the name of harmonious gender relations and population stability (Zhang). Here, the 6B4T movement has faced significant challenges due to the government's crackdown on extremism and radical politics. In April 2021, the shuttering of feminist Douban groups, which had been essential platforms for adherents of the 6B4T philosophy to engage in critical social discussions, elicited a mass backlash from women online (Rudolph 2021). The censorship prompted an outpouring of support for the movement, with the hashtag "women stick together" garnering almost 50 million views on Weibo, similar to “X”/previous Twitter. (Rudolph 2021). One user commented, "We should stick together. Otherwise, 'The Handmaid's Tale' will be our tomorrow," highlighting the growing concern among Chinese women about the erosion of their rights and freedoms (Rudolph 2021). Nationalist commentators further fueled moral panic, portraying feminist separatism as an existential threat to Chinese civilization (Zhang). The abolition of the Chinese agencies tasked with gender equality and the institutional equation of feminism with extremism institutionally enshrined the revanchist currents 6B4T diagnosed, perversely validating core grievances while constraining public recourse (Cheng 2023). This adversarial movement-countermovement contest spotlights the contextual patriarchal retrenchment risks facing women's organizing transnationally.

In both China and South Korea, rising misogynistic ideals and official retrenchment accompanied women's growing assertiveness. The ferocious backlash from state and civic institutions exemplifies how women's insistence on autonomy outside male control threatens the foundational logic on which dominant hierarchies depend for coherence. Thus, the movement's campaigns exemplify its resilient adaptability in the face of censorship. Its initial viral success in attracting over 50 million hashtag views demonstrates adept visibility-security balancing to access unprecedented audiences for emancipatory critiques (Milkman et al. 2013; Braine 2021). Creative use of humor, pop culture memes, and cross-border translation facilitated 6B4T's regional propagation (Cheng 2023). Striking solidarity displays like publicly shaved heads

persisted despite prohibitions, signaling the depth of politicized disaffection (Zhou 2021).

Despite the government's efforts to suppress the movement, the online backlash demonstrated the resilience and solidarity of Chinese feminists in the face of authoritarianism. The 6B4T movement's trajectory in China can be better understood when contrasted with the experiences of its predecessor, the 4B movement in South Korea. In South Korea, the 4B movement emerged in response to particularly misogynistic conditions, such as the infamous "Gangnam murder" in 2016 and the widespread problem of "molka" (secret filming of women) (Izaakson & Kim 2020). The movement capitalized on opportunities for political organizing, such as women-only universities and spaces, which provided fertile ground for feminism to flourish (Izaakson & Kim 2020). The 4B movement's success in South Korea is additionally exemplified by the formation of the Women's Party and the overturning of restrictive abortion laws, demonstrating the potential for feminist activism to effect change even in challenging contexts (Izaakson & Kim 2020). As the crackdown intensified, 6B4T adapted through tactical mutations like migration to privacy-protecting platforms, use of veiled language, and coordinators' frequent pseudonym changes (Li 2021; Koetse 2021; Braine 2021). Transitions from open to closed channels and real-name to anonymized identities sustain connectivity against multifaceted threats (Zhou 2021). Periodic purges and rebranding of central forums preempted surveillance, while recreating deleted content across dispersed devices ensured vital knowledge remained accessible (Tang 2021; Li 2021). These improvised maneuvers carved out autonomous feminist counter-spaces between suffocating silence and unnavigable exposure.

Applying 6B4T to Social Movement Theory

The evidence of 6B4T's adaptive survival spotlights its innovative resilience mechanisms. Consistent with McAdam's political process model, the movement capitalized on initial openings in digital space, leveraged decentralized network flexibility, and maintained adaptable solidarity in the face of state retaliation and social backlash (McAdam 1982). Its participatory learning methods came up with new ways to organize people faster than the establishment could shut them down. This supports the idea that social movements can continue in authoritarian societies by switching from obvious disruption to convert persistence as needed. However, ferocious multi-domain backlash still constrained 6B4T's ascent. Officials condemned feminist critiques, tabloids exposed vilified adherents, bureaucratic obstacles blocked advocacy organizations, and escalating threats instilled fear into activists (Zhang 2021; Koetse 2021; Gluck 2021; Braine 2021). This movement-countermovement contest spotlights the unending cycles of repression confronting women's organizing under patriarchal authoritarianism worldwide (Tarrow 2011). Therefore, tracing 6B4T's trajectory thus enriches social movement theory's grasp of mobilization's elusive potency.

Conclusion: 6B4T's Implications for Feminist Futures

Authoritarian obstruction of feminist mobilization simultaneously obscures and illuminates the resilient ingenuity of the oppressed in sustaining visions of equality against obliterating pressures. Tracing 6B4T's path through evolving cycles of surveillance, interdiction, and counter-movement backlash reveals the determined creativity of women seeking sanctuary for transformation in the crevices of a suffocating order. Whereas a surface view shows only the apparent stillness of restored control, deeper engagement uncovers the hidden agendas and itinerant survival practices through which the movement's dream endures the party-state's efforts at extinction.

Comparing 6B4T's recombinant mutations across visibility and viability against its 4B progenitor's relatively transparent arc clarifies how contextual differences in political space, resource access, and cultural entrenchment shape repertoire possibilities for feminist activism across contexts (Tarrow 2011). In spanning this continuum, the cases refine social movement theory's purchase on mobilization potentials at varied junctures between voice and the void. At the same time, their shared experience of ferocious patriarchal backlash from both popular and official spheres points to the common stakes perceived by patriarchal power, whether in the democratic or autocratic guise (Braine

2021; Cheng 2023). In each setting, women's insistence on existential autonomy outside male control threatened the foundational logics and economies on which dominant hierarchies depend for coherence. In response to these threatened hierarchies' repressive frenzy, which took the form of vicious stereotyping, bureaucratic stalling, physical harassment, and the rollback of laws, these societies see even small feminist cracks in the fabric of everyday subjection as too dangerous to tolerate (Koetse 2021; Zhang 2021).

Despite daunting barriers to research access, this study has illuminated the innovative resilience strategies employed by 6B4T adherents to sustain their vision of gender equality against the suffocating pressures of patriarchal authoritarianism. The case study underscores how contextual differences in political space, resource access, and cultural entrenchment shape the repertoire possibilities for feminist activism across contexts. However, even with these findings, the research has definitely encountered limitations in accessing all the nuances of the picture. Given unlimited resources, future inquiry should prioritize engaging directly with 6B4T participants through ethnographic immersion and interviews to capture their lived experiences, motivations, and evolving strategies, while comparative analyses across authoritarian contexts would further enrich our understanding of the boundary conditions shaping movements facing suppression.

Nonetheless, we can surely contribute to the collective endeavor of building a more just and equitable future for all. It is paramount that we continue to peel back the layers that enshroud social movements within authoritarian regimes to preserve and echo the messages of those who are being suppressed. The 6B4T movement's unyielding spirit in the face of patriarchal authoritarianism serves as a beacon of hope, highlighting the enduring power of solidarity and adaptability in an ongoing struggle for justice.

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Transgender Rights Jurisprudence in The Supreme Court of India: Legal Efficacy Without Social Control

By Erick Jacobsen
UW, Political Science Department

Around the world, national constitutional courts have played integral roles in protecting fundamental rights. In these countries, strong judicial independence leads to expansive judicial discretion, overlapping legal and political questions to put policy in the hands of jurists. Over the course of this paper, I will examine the Indian Supreme Court's political efficacy in protecting the rights of transgender persons under Indian law, before examining the strength of its policy in affecting Indian society. I assert that the Supreme Court is effective in expanding the legal rights of transgender persons, but ultimately lacks the social control required to make a significant social difference in the lives of the transgender community. This will be determined through the lens of *National Legal Services Authority v. Union of India*, a landmark judgment recognizing 'third gender' status for transgender people.

Judicial independence in the Supreme Court of India is stronger than in many other countries. For an explicit example within the constitution, the involvement of two other branches of government in removing Judges for misbehavior is a higher bar than the United States. However, the Supreme Court has further reinforced its independence through its judgments, such as in *Kesavananda v. State of Kerala*, in which the Supreme Court outlined the basic structure doctrine. According to this doctrine, the power of Parliament to amend the Constitution is not absolute, and certain aspects, such as the independence of the judiciary and rule of law, cannot be altered or removed (Zwart 2003). Later, in a 2015 case, the court struck down a constitutional amendment which attempted to limit the judiciary's power over their own appointments. The justification given was that civil society was not developed enough to share wisdom in appointment procedures and the absolute independence of the judiciary was integral to the protection of rights (Rajagopal 2015). The lack of involvement of the elected legislature in the appointment process further strengthens judicial power, at the expense of checks and balances. The structure of the Supreme Court of India therefore creates a fiercely independent branch with a large degree of political power. It has used this power to pursue judicial activism in the past, especially when securing civil and political rights.

One such arena of jurisprudence is the rights of transgender persons. In the background of Indian transgender rights, the pre-colonial cultural attitude remained accepting, with particular ethnic and regional transgender communities coming to prominence, such as the kothis and hijras. However, during and after British colonial rule, there has been discrimination and oppression against the LGBTQIA+ community in employment, housing, healthcare, education, and more. In the legal field, Section 377 of the Indian Penal Code, a remnant of colonial law, explicitly bans "carnal intercourse against the order of nature" – which was used until 2018 to criminalize transgender and homosexual citizens – while legislation on LGBT freedoms "reeks of colonial bias and fails to take into account specific cultural and socioeconomic differences" (Waggy and Bashir 2024).

This is where the Indian Supreme Court comes into play, as well as the National Legal Services Authority (NALSA), which operates within the judicial structure of India to advance public interest litigation for the underprivileged, especially the transgender community. In 2012, NALSA filed a petition on the basis of Articles 14, 15, 16, and 21 of the Indian Constitution, which relate to equality, life, and liberty, requesting the recognition of transsexuals as a third gender. The Supreme Court ruled in favor of the petitioners' request and directed states to protect their rights, confirming gender identity is one of the most fundamental parts of self-determination and "biological sex is subservient to psychological sex" (Waggy and Bashir 2024). While third gender

classification is not quite the same as conferring full freedoms and liberties for transgender people, such as self-identification or access to gender-affirming healthcare, it was an important stepping stone – if transsexuals are recognized as a third gender, then they can be protected as such in future court rulings. Moreover, it affirms that the law does not treat them as their assigned gender at birth, a step in the right direction. The *NALSA v. Union of India* case is not the ultimate victory for transgender people, but it's significant all the same.

For the ruling of the *NALSA* case, the apex court takes a wide perspective by considering international human rights law and the institutions of other nations. Various international agreements, from the Universal Declaration of Human Rights to the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, are cited or referenced directly to support their decision. On top of that, the courts looked at court decisions and legislation from a large number of countries, from Australia and various parts of Europe to Pakistan, Nepal, and parts of the global south. This included cases where countries rejected the idea of gender being chromosomally fixed at birth as well as the matter of transgender rights and anti-discrimination (Jones 2017). By bringing outside precedent into the narrative, the Supreme Court is framing the issue from the lens of transnational human rights, rather than a mere matter of constitutional provisions, which is a powerful tool for shaping policy and elevating the issue to a greater level of importance on the national stage. Precedent furthermore legitimizes the court's decision in the greater context of the changing world. Finally, the fact that India is a signatory to many cited international agreements adds a legal obligation to the government to prevent such human rights abuses.

That said, the Supreme Court does not need to rely solely on the external context to make its ruling – within domestic constitutional interpretations, the case is already well-founded. For one, the bench interprets Article 14's guarantees of equality for all 'persons' to not be restricted by gender/sex labels to 'men and women,' but rather all people, even those who do not identify as either; therefore those individuals are subject to equal protection under the law. When considering previous assumptions that sex-based protections refer to chromosomal or gonadal sex, the constitutional bench asserts that, instead, sex is based on biological considerations as well as gender expression. Therefore, sex discrimination includes discrimination on the basis of a lack of "conformity with stereotypical generalizations of binary genders," discrimination which is so prevalent as to make the transgender community "socially backwards" or disadvantaged, and thus worthy of affirmative action measures from the government to protect their dignity and equality (Jones 2017). This works within the boundaries of existing constitutional law, legal statuses, and political scholarship to protect the transgender community. By reading new protections into old frameworks, the Supreme Court is demonstrating its power to shape legal and political questions. Not only is the court permitted to make policy, but it is powerful enough to decide that it's the way it always should have been – the mark of an effective constitutional court.

The aforementioned matter of reading transgender rights into sex anti-discrimination was more complicated than the rest of the ruling. It did not require much explanation to determine that freedom of expression included the freedom of gender expression or that the rights of Article 21 extended to transgender privacy, autonomy, and dignity. With regards to the latter, sufficient precedent existed in Indian jurisprudence to support the protection of the transgender community – *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* concluded that the right to dignity included the right to exist in diverse forms of expression and *Anuj Garg v. Hotel Association of India* determined that Article 21's right to a dignified life is a positive right, the exercise of which must be secured, rather than a negative right, the exercise of which must not be infringed. These components of the ruling were based on an assumption that was already the foundation of many court decisions – that "the full realization of civil and political rights is both impossible and immaterial without the full enjoyment of social, economic, and cultural rights" (Jones 2017). Yet again, the court is not merely exercising policy-making power but is recontextualizing and reinterpreting old knowledge and law into something which services human rights for the transgender

community. It reflects a deft expansion of rights which is only possible with the strong independent power the judiciary wields in India.

Yet as expansive as the court's power proves in the legal and political arena, the success of transgender rights in these spheres is marred by the lack of strong social implications for the decision in *NALSA*. After all, it does not matter what rights transgender Indians have on paper if those rights and more that are necessary to living cannot be meaningfully applied and enforced in Indian society. In addition to dispute resolution, a function of the courts is social control (Shapiro 1981, p. 26), and it's difficult to find that element of social control in the impact of the *NALSA* case. Even before the case, when some state governments implemented third gender classifications, there was criticism that it still enforced a gender binary, or trinary, wherein boxes and labels were still forced upon transgender citizens – which sends the wrong message (Narrain 2009). Meanwhile, for all the court talks of the importance of healthcare and employment rights, a stunning lack of gender-affirming healthcare and quality mental health services remains a constant of life for the transgender community (Datta 2020), as does employment discrimination, an issue which has reached the Supreme Court as recent as 2024 in spite of the court's directions to states ("SC Issues Notice on Plea by Transwoman Teacher Fired by Two Schools Over Gender Identity" 2024). *NALSA*'s third gender classification has done little to tangibly improve the lives of the transgender community. As the apex court acknowledged the right was a positive one, further government action must be taken. Despite the immense political power of the court, it has been either unable or unwilling to take that action. *NALSA* is not the only court case to influence transgender rights, but all others are tangential at best, such as the 2018 *Navtej Johar v. Union of India* ruling, which decriminalizes same-sex relations but changes little about the status of the transgender community beyond the recognition of gender identity alongside sexual orientation as a derivative of the right to privacy (Waggy and Bashir 2024), which itself is not so different from the findings of the *NALSA* case. Social control is a crucial part of a court's political power, and the lack of social power here indicates a limit of the court's political influence.

There can be no doubt that the ruling in *National Legal Services Authority v. Union of India* is a victory for transgender rights. The legal and political power of the Supreme Court, defined by the expansive independence of the court from other branches of government, is exemplified in the way the court frames the issue, elevates it to the forefront of the national consciousness, expands legal protections for the transgender community, and guides future political action from legislators. However, it is important to remember that a court's political power is limited without significant social control. Looking at the effects of this judgment, it is difficult to claim that the court's decision has solved the woes of the transgender community and difficult to explain why it did not go further in its protections. There is more that they could have done and still can do for the transgender community, in the right circumstances. The Supreme Court of India has certainly expanded transgender rights, but its lack of social control has resulted in limited political salience for the decision overall.

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University of Washington

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