



# 21<sup>st</sup> Edition

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# Foreword

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Dear Reader:

You hold in your hand a copy of the UBC Journal of Political Science (JPS)! This journal is a showcase for student scholarship and advocacy in the realm of politics. The articles in this journal are written by undergraduate students, and the journal itself is edited and published by the Political Science Students Association (PSSA). Each article published in this Journal has been reviewed by UBC faculty to ensure a high standard of academic achievement and to satisfy the requirements of a formal UBC publication.

The JPS plays a vital role in our program. It is a crucial expression of the relationship between learning and research, and the value of student research opportunities in a university setting. The journal provides an opportunity for students to publish their own arguments, findings, analyses, and recommendations about the issues in the political world that move them and their generation. The journal provides students with a voice, and represents part of the vital transition from being a consumer of knowledge and understanding to being producer of knowledge and understanding. This is all the more important in an increasingly turbulent political world.

I hope you enjoy your copy of the Journal of Political Studies, and join us in celebrating the accomplishments of our students.

Sincerely,

Allen Sens  
Director of Undergraduate Programs  
Department of Political Science

## Letter from the Editor-in-Chief

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It is an honor to welcome you to the twenty-first edition of the Journal of Political Studies. As one of the oldest publications at the University of British Columbia, the JPS is dedicated to an interdisciplinary approach, which strives to publish undergraduate work from a collection of different departments. With this approach, our goal is to invite our readers to view political topics from a wide range of perspectives, creating an exciting new space for debates and discussions about the world and the current political landscape.

Nowadays, publishing in academia can often be a challenging and nearly impossible task, especially for writers early on in their career. We are proud to provide an opportunity for students to go through a real publication process. Our papers are blind and meticulously peer- and faculty-reviewed in order to ensure we share with you the best undergraduate articles the University has to offer. Our greatest objective is to continue this process and give future writers the capacity to share their thoughts and ideas in the academic realm.

Enclosed, you will find eight papers from four different departments. Each paper speaks to a vastly different topic, ranging from sexual assault cases in the Supreme court to retribution methods in post-conflict regimes. Nevertheless, what the articles have in common is the tireless work each author has done to ensure its excellence. I am incredibly proud and humbled by our team. This publication would not have been possible without Kathryn Leach's endless support, Yueming Xing's beautiful designs, and each and every one of our editors, whose hard work, collaboration, and dedication have made it so that every paper in the twenty-first edition is the best it can be. I would also like to thank our faculty reviewers for their insightful feedback as well as our Department Head, Professor Barbara Arneil, for believing in the JPS and continuing to support us.

It has been a privilege to lead the publication of the twenty-first edition. I hope you find within its pages words that inspire you, challenge you, and finally, lead you to question the way you view the world.

Carolina Ortiz  
**Editor-in-Chief**

# Editorial Staff

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## EDITOR-IN-CHIEF

**Carolina Ortiz** is in her fifth year at UBC where she double majors in Political Science and Creative Writing. Her main interests include: Latin American politics, women's rights, Indigenous rights, as well as ocean and marine conservation. As a Creative Writing major, Carolina is partial to writing for children and comics where she hopes to use these platforms to introduce children to political issues in a way that they can understand and relate to them. In her spare time, she enjoys being by the sea while she reads or crochets. Carolina is super excited to contribute to the 2019 edition of the JPS and is looking forward to a year filled with engaging topics and lovely people.

## MANAGING EDITOR

**Kathryn Leach** is in her fifth and final year at UBC, majoring in International Relations and minoring in History. Having traveled throughout her university years, Kathryn's research interests include post-conflict regions, gender and Middle Eastern studies. Hoping to continue these studies abroad in a post-grad setting, Kathryn's passion for activism continues to draw her towards foreign policy issues and humanitarian aid. She can be found arguing in classes across campus, cuddling with stray animals or pursuing her commitment to befriending America's sweetheart, Tom Hanks. She is thrilled to be a part of the journal for a second year and is hoping to bring an international perspective to the Journal of Political Studies.

## DESIGNER

**Yueming Xing** is a fourth year major in visual arts at UBC. She will graduate in May 2019 with a Bachelor of Fine Arts . Being at this university has provided her with many opportunities to work with professional artists and has also encouraged her to think critically about art. Yueming has a keen interest in Asian art history as well as digital illustration. She believes that drawing, painting, and designing patterns is really significant and powerful because it allows people to make artwork that represents their own design style and opinion towards the contemporary world. In the future, Yueming would like to pursue further study to combine art theory with literature and ultimately explore the truth about life and applying this understanding to her work.

# Editorial Board

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## SENIOR EDITORS

**Chrisanne Kouzas** is in her fourth year at UBC, majoring in Political Science. This is her second year with the Journal. Her academic interests include international security, peace and conflict studies, feminist political thought, and environmental politics. She is particularly interested in topics relating to outer space, and political issues in sub-saharan Africa. Chrisanne is thrilled to be a Senior Editor at the Journal this year, and is excited to have the opportunity to help publish some of the best undergraduate work in political studies at UBC.

**Amelie Tolvin** is enjoying her second year with the Journal of Political Studies, and her fourth year as an undergraduate student at UBC. She is currently pursuing a major in Political Science and a minor in Russian. Her political interests include American foreign and domestic policy, security studies and conflict resolution, and the politics of Eastern European countries. After completing her undergraduate degree, Amelie intends to continue on to law school. She is very excited to return to the editorial board and is excited to see what this year brings!

## JUNIOR EDITORS

**Fardous Ahmed** is in her 4th year of International Relations at UBC. Fardous is most interested in security studies, counterterrorism and intelligence, forensic psychology, medicine in all forms, and astropolitics. She is also Support Team Lead for the UBC Mars Colony team. When she's not busy with school or work, Fardous loves to read, watch "Rupaul's Drag Race", play video games and cook different kinds of cuisine. An experienced traveler, Fardous has her mother's curiosity but her father's neuroticism, which, so far, has served her very well. After graduation, she wants to take time off of studying to work and explore other interests before returning for her Masters.

**Seana Bruff** is in her fourth year at UBC studying Political Science and minoring in Creative Writing. Seana believes in the power of people's voices to enact change and is very interested in political organizing, she also hopes to move into writing for film and television with a focus on political commentary. Academically, Seana focuses on gender politics, American politics, critical theory, development in relation to economic forces, international relations and political theory. She also works with the project and events committee at the sexual assault support centre on campus. Seana is excited about the year to



follow at the JPS and thrilled to be a part of the team!

**Michael Engler** is in his third and final year at UBC after transferring from the University of Alberta. He majors in Political Science, with a particular focus on political economy, comparative politics, and public policy. Following graduation, he hopes to pursue a Master of Public Policy program after gaining several years of experience working in government. He is interested in how policymaking connects the abstract realms of politics and economics to people's lives. In his free time Michael enjoys keeping up with quality journalism, and then getting outdoors to remind him that the world isn't all bad news. He looks forward to serving on the JPS Editorial Board this year and reading some great articles.

**Kyra Graham** is a fourth-year student in the Dual Degree Program, majoring in honours Political Science at UBC and in Law at Sciences Po. She loves learning about comparative politics, policy-making, and legislation, and hopes to pursue either law or a master's degree after graduation. When she has free time, Kyra is really into making espresso, watching (and playing!) sevens rugby, and reading long fantasy series.

**Saleh Ismail** is a fourth-year student majoring in Political Science and minoring in African studies. He is most interested in African and Middle Eastern politics as well as international development. His passion lies with comparative politics, however, he has also taken a great interest in security studies recently. In his spare time he enjoys talking about politics as well as discussing why everyone should be a Raptors fan. He is excited to be a member of the JPS editorial board and hopes to curate an engaging and excellent journal.

**Elif Kayali** is a third year international student double majoring in Political Science and Economics. She is especially interested in security studies, international political and economic development, Middle Eastern studies and international law. In her free time, she likes to watch movies, learn more about film production, and read. After graduating Elif hopes to either explore international reporting or take part in global development programs. This is her first year with JPS and she is very excited to be a part of an amazing journal.

**Sydney Kroes** is a third year Political Science and Urban Studies student interested in urban public policy, economics, neighborhood change, and community engagement in policy and activism. While at UBC, Sydney has trained in mixed research methodologies, which include quantitative methods as well as methods less common to the discipline of Political Science, such as ethnography. Sydney is excited to bring her diverse knowledge of research methodologies to her editor position as she does with her personal research. Outside of her courses and research, Sydney can be found volunteering with

community programming, at her work at the UBC Centre for Community Engaged Learning, and drinking copious amounts of coffee while searching for new music to add to her Spotify playlists.

**Joseph Moster** is a fifth year student doing a double major in Political Science and Philosophy. His main research interests are social and political philosophy, international relations, and public policy. He also has ongoing interests in political economy, ethics, power and coercion. Outside school, he enjoys working out, watching the NFL and talking politics. He is a former UBC varsity football player, an avid connoisseur of hip hop, and businessman. Joseph is excited to contribute to the JPS editorial board and looks forward to reading many thought provoking articles.

**Tanya Mozafari** is a third year pursuing a major in Political Science and minor in Commerce. She is particularly fascinated by the overlap between the political and corporate world; social entrepreneurship, public policy, sustainability, and human rights are a few of her interests. She is also in a sorority on campus, Vice President of Academic Affairs for UBC PSSA, and owner of her lifestyle brand, Allbaloo. After completing her undergraduate degree, she plans to take a year off to work abroad, before coming back to Canada to earn either a law degree or an MBA. In her free time she is usually outdoors on a hike, immersed in a book, or binge watching documentaries on netflix.

**Zack Pang** is in his fifth year at UBC, majoring in Political Science and minoring in History. His main areas of interest are security studies and political economy/development. Zack hopes to be accepted into a Master's programme in security studies next year either in Singapore or London, but his fingers are crossed. He is currently binging Designated Survivor on Netflix and recommends it to everyone.

**Sara Sanabria** is in the dual BA programme with SciencesPo Paris and UBC. At SciencesPo she pursued the Euro-American programme with a concentration in International Law. At UBC she double majors in Political Science and International Relations. Sara's main interests include Latin American Politics, International Law, space Law, and Indigenous rights. Sara hopes to pursue a career in International Arbitration after law school. In her spare time she likes to work out at the gym, go for long walks in the park and watch Spanish language Netflix Originals.

**Veronica Stolba** is a fourth year student at UBC majoring in Political Science with a minor in Law and Society. Her particular interests within these fields include global security studies, space politics, international relations, and environmental politics and law. She enjoys spending her free time with her friends exploring the outdoors or discovering new, cozy coffee shops. She also aspires to see more of the world and is quite the foodie, as long as she doesn't have to do the cooking. She hopes to incorporate her passion for travelling with

her political interests by continuing her studies or pursuing a relevant career abroad post-graduation. Veronica is thrilled to be a part of the JPS editorial board this year and is looking forward to the experience!

# Author Biographies

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**Anna Alger** is a fifth year Interdisciplinary Studies BA student at UBC. Her academic interests include the intersection between art and politics, particularly in relation to gender expression, increased youth engagement, and environmental activism. She is a freelance music journalist and is pursuing a career in the music and media industries.

**Sadie Cameron** is a third year BA student pursuing a combined major in Political Science and Economics, with a minor in Environment and Society. After spending her first year at Dalhousie University in Halifax, Sadie is thrilled to be back on the west coast where she grew up. Her academic interests include environmental and natural resource regulation, and climate change governance, particularly with respect to global justice. After graduation, Sadie hopes to pursue a law degree, focussing on environmental and natural resource law.

**Jasmine Chauhan** is in her final year at UBC completing an Interdisciplinary Studies degree in Political Science, Human Geography and Biology. From Vancouver and of Indian descent, she is committed to amplifying the voices of women, immigrants and refugees through human rights advocacy work. Academically, her interests involve intersectional feminist perspectives in law and global health, as well as the politics of the environment and Indigenous affairs. Jasmine also plays soccer, enjoys photography and reads.

**Sana Fatima** is in her final year at UBC, majoring in Sociology and minoring in Law & Society. Her academic interests include multiculturalism policy, structures of poverty, global labour relations and development. She aims to pursue these interests through the field of law. Outside of academia, Sana is passionate about the arts and enjoys painting and writing. She is involved with Arts for Awareness and UofMosaic, organizations dedicated to spreading awareness about social justice issues.

**Soraya Ahmad Parwani** is in her final year at UBC, and is majoring in Political Science and minoring in Economics. She is currently working at Vancouver Coastal Health as a Business Analyst for the Management Talent Acquisition team. Her research interest includes post-conflict state building and democratic peacekeeping missions in the Middle East and Central Asia.

**Omri Rozen** is in his fourth year at UBC, majoring in the Political Science Honours program. His research interests include comparative democratization, electoral competition, and ancient Greek political theory. Next year, after graduating, Omri will begin his legal studies at UB's Allard School of Law. In

his free time, he enjoys learning languages, watching movies, cycling, and snowboarding.

**Will Trefiak** is an undergraduate political science student in his final year at UBC. With a particular interest in international peace and security, international legal norms, and cybersecurity, Will has applied to graduate programs across North America and Europe as a means of further pursuing these interests. During his graduate career, Will wishes to pursue answers to pressing cybersecurity issues in an international legal scope. Ultimately, Will would like to work as a researcher within the field of politics and cyberspace, hopefully making meaningful contributions to the discipline in the process.

**Meghanne Uptigrove** is a fourth year Political Science major at UBC. She is from a small town in southern Alberta, and her academic interests include peace studies and human rights, as well as creative writing. After graduation, Meghanne hopes to pursue a career in journalism where she might apply her interest in all three to affect positive change.

# **“You don’t have to take this crap / You don’t have to sit back and relax”<sup>1</sup>: Red Wedge and the Rallying of UK Youth Against Thatcherism**

Anna Alger

*This paper evaluates Red Wedge, an organization formed by prominent British musicians in the mid-1980s in order to bolster support for the Labour Party and engage youth in the democratic process. Red Wedge sought to combine pop music and politics in order to bridge the gap between disillusioned young people and the increasing austerity and hardline governing which Prime Minister Margaret Thatcher's government exhibited. Although the movement was not successful in preventing the second re-election of Thatcher, the group's organizing tactics have proven successful as seen in recent events in UK politics, such as the 2017 general election, which featured the highest voter turnout level in twenty-five years.*

The year was 1985, and a collective of independent British artists – Red Wedge – had formed, with the explicit goal of ousting Prime Minister Margaret Thatcher in the upcoming 1987 general election. Thatcher was famously known for “[decimating] the manufacturing base [in the UK], causing unprecedented mass unemployment,”<sup>2</sup> explains political activist, Peter Tatchell, in an interview with *Al Jazeera*. This left working class youth with a feeling of hopelessness as they considered their futures. Red Wedge's membership pledged support to the weakened Labour Party, under the leadership of Neil Kinnock, embarking on tours of the United Kingdom along with an “attempt to connect with marginalized youth and encourage first-time voters to register.” Despite its ultimate failure to prevent

the second re-election of Margaret Thatcher, Red Wedge brought working class music lovers together and engaged youth with union representatives, the Labour Party, and the musicians themselves. Red Wedge led the political and working classes into an arena where they were able to begin a dialogue by way of popular music. The following analysis will explore the skepticism of media outlets during the Red Wedge campaign, such as *The Daily Mail*, *The Telegraph*, and *Marxism Today*, in order to provide a range of viewpoints along the political spectrum. This will be juxtaposed by the reflections of key players within the campaign itself, including Billy Bragg and Paul Weller.

## **Origins**

The creation of Red Wedge can be viewed in the context of an increase in political movements fuelled by artist

<sup>1</sup> Paul Weller, “Walls Come Thumbling Down!” from *Our Favourite Shop*, The Style Council, © 1985 by Polydor. TSCLP 2.MP3.

<sup>2</sup> Tatchell, “Margaret Thatcher,” 9.

engagement, which began in the mid-1970s in the UK with the creation of Rock Against Racism (RAR).<sup>3</sup> The movement stemmed from an inebriated comment made by blues musician, Eric Clapton, in support of Enoch Powell's infamous Rivers of Blood speech. *The Guardian* points out the irony of Clapton referring to the UK as being in danger of turning into a 'black colony,' as the musician's work appropriated that of black artists.<sup>4</sup> The concurrent rise of support for right-wing party, the National Front, spurred on the organization of a series of concerts billed under the RAR title, which featured multi-racial lineups. Concerts where both punk and reggae bands performed encouraged both political and musical dialogue, forming a grassroots network of artists and activists. In 1978, a massive performance was headlined by The Clash, held in London's Victoria Park, where thousands of people had marched to in a rally organized by RAR and the Anti-Nazi League.<sup>5</sup> The following year, forty bands performed at twenty-three concerts in areas where the National Front had candidates running for election, which was followed by a significant defeat.<sup>6</sup> It was this ability to engage music fans with a political cause which inspired the creation of Red Wedge, its founders having seen that youth were ready and willing to participate.

### Media Perspectives

Much of the media in general took a critical stance towards Red Wedge from its inception, questioning the abilities of the musicians to harness the youth vote, as the former were seen as being so strongly tied to the Labour Party.

Amit Roy of *The Daily Mail* wrote as Red Wedge's campaign kicked off in November 1985, "Red Wedge is a 'broad Left alliance' of pop singers who will travel the country urging the young people who buy their records to become more political, reflect on what the political parties have to offer, and then...er...vote Labour."<sup>7</sup> In contrast, Red Wedge's press officer, Neil Spencer, describes an "ambivalence" towards the collective's touring being a "gong-banging exercise for the Labour [Party]."<sup>8</sup> At the press conferences and meetings that the musicians held with fans, local members of parliament, and union heads in the daytime before concerts, "[you] had these very stolid, long-term party members suddenly finding themselves confronted by young people who wanted to talk about the environment, gay rights, minorities, and to get all these things on the Labour [Party] agenda." Arguably, the fact that these discussions were happening was a triumph in itself for Red Wedge, whose power was in their ability to remain, "just one step removed from Labour Party control," according to Billy Bragg. "The party could make suggestions to us, but in the end, we had what they wanted – an ability to reach young people."<sup>9</sup>

In comparison with *The Daily Mail's* portrayal of Red Wedge, *Marxism Today* evaluates the movement in their June 1986 article, "Party Music," from a distinctly leftist perspective: "In comparison [to 1974's failed Musicians Union], Red Wedge is a remarkable success."<sup>10</sup> Journalists Simon Frith and John Street attribute this to the fact that musician Billy Bragg brought the artists and politicians together, so that the movement originated from a place of unity.

<sup>3</sup>Tranmer, "Political Commitment," 4.

<sup>4</sup>Manzoor, "1978," 3.

<sup>5</sup>Ibid.

<sup>6</sup>Tranmer, "Political Commitment," 4.

<sup>7</sup>Roy, "Kinnock's Pop Stars," 5.

<sup>8</sup>Spencer, "Red Wedge," 10.

<sup>9</sup>West, "Billy Bragg," 4.

<sup>10</sup>Frith and Street, "Party Music," 28.

Highlighting the campaign's success via publicity and their sold out concert tour, a critical stance is taken in regards to the ability of Red Wedge to connect youth with the Labour Party itself: "It is easier to trace Red Wedge's impact on the Labour [Party] than the Labour [Party's] influence on youth."<sup>11</sup> That being said, Red Wedge's campaign may very well have contributed to the 6 % increase in eighteen to twenty-four year old Labour voters between the 1983 and 1987 general elections: from 33 percent to 39 percent.<sup>12</sup> An increase in youth votes was paramount to the Labour Party, as during the 1983 general election, at which time Margaret Thatcher was re-elected, "fewer young people, counted as a proportion of their total vote, supported them than ever before."<sup>13</sup>

The successes of Red Wedge, notably the aforementioned increase in young Labour voters during the 1987 general election, as well as a sold out tour where musicians, young people, and Labour MPs engaged over issues of importance to them, were due largely in part to the leader of the movement, Billy Bragg. In a February 1987 interview, entitled "Red Wedge's enchanter of the young disenchanted," *The Independent* declared that "the young people of Swansea or Cardiff or some other once-industrial city blighted by decline come to see him play because they know he is on their side."<sup>14</sup> *Guardian* columnist and Thatcher biographer, Hugo Young, describes her harsh governing which sought to dismantle the welfare state as having "brought unnecessary calamity to the lives of several million people who lost their jobs. It led to riots that nobody needed. [...] Materialistic individual was blessed as a virtue

the driver of national success. Everything was justified as long as it made money – and this, too, is still with us."<sup>15</sup> Her rule pitted people against each other: those from different classes, backgrounds, and parties who now had to compete in order to preserve themselves as individuals, for "there is no such thing as society."<sup>16</sup> The youth – the working class in particular – needed artists who came from similar backgrounds to look up to, such as Bragg and The Smiths (who gave a surprise performance at the campaign's Newcastle concert, after playing in support of the 1984 miners' strike alongside other Red Wedge artists).<sup>17</sup> *The Independent* maintains an air of skepticism within their interview with Bragg, citing his recent arrest, yet pointing out that "his role is symbolic. Disaffected youth trusts him because he is hope." They consider his performance of the overtly political, "Between The Wars," on the widely viewed television program, *Top of The Pops*, and the Red Wedge campaign in general, it is implied, to be "an achievement, but quite what it will achieve is another question."<sup>18</sup>

### The Decline of Wedge

Despite the successes of Red Wedge's tours, Martin Cloonan points out that the key issue regarding the campaign was that "the Labour Party appeared [to have a] chance to change its *image*, whereas the musicians active within Red Wedge wanted *policy* changes."<sup>19</sup> Arguably, this is true as well of the youth that supported the campaign by voicing specific concerns to local members of parliament during community meetings, as referenced

<sup>11</sup> Frith and Street, 32.

<sup>12</sup> Ipsos MORI, "How Britain Voted," 1.

<sup>13</sup> Lott and O'zanne, "Chic, yes...radical, no," 9.

<sup>14</sup> McLoughlin, "Red Wedge's Enchanter," 15.

<sup>15</sup> Young, "Margaret Thatcher," 12.

<sup>16</sup> Thatcher, Interview for *Woman's Own*, 1.

<sup>17</sup> Black, "Red Wedge," 1.

<sup>18</sup> McLoughlin, 15.

<sup>19</sup> Cloonan, *Popular Music*, 19.



earlier. In the wake of the Labour Party's electoral defeat, numerous musicians left Red Wedge.<sup>20</sup> Paul Weller became disenchanted with politics following the 1987 general election and Red Wedge's subsequent collapse<sup>21</sup>, while Bragg remains politically active, referencing the Thatcher years as recently as 2016, in the wake of the "Brexit" referendum: "The first time I could vote in 1979 I was a snotty nosed punk rocker and I didn't bother. What happened? Margaret Thatcher got elected." He remains committed to values exemplified by Red Wedge, such as working to "[overcome cynicism] and engage in building a different consensus."<sup>22</sup>

Cloonan attributes Red Wedge's "failure to have a major impact" in part to the fragile Labour Party itself – after suffering major defeats in 1979 and 1983. Red Wedge's endorsement of an expansion of commercial radio stations and the decriminalization (as opposed to their desired legalization) of cannabis were later implemented, showing that the movement had impacts on future policy.<sup>23</sup> As *Marxism Today* explains, "Red Wedge's own ambitions were less tied to Labour's electoral performance. It wanted to make young people 'realise that politics is a part of everyday life'.<sup>24</sup> In the immediate period following the electoral defeat, Red Wedge shifted the focus of their campaign to more localized politics, "trying to build a network of cultural projects and working to set up venues and concerts." *Marxism Today* argued the need for the collective to move from "electoral politics to cultural politics," to empower the fans themselves to create change

via avenues such as popular music.<sup>25</sup> This was a tall order, yet remains a pursuit of working class artists in the United Kingdom today, seen in developments such as Glasgow's Workers' Theatre.<sup>26</sup> Red Wedge's localization strategy ultimately floundered, along with efforts to support the trade union movement and an attempt to create a benefit album in its final three years of existence. Jeremy Tranmer describes the movement as experiencing a "growing financial crisis,"<sup>27</sup> which by 1990 led to Red Wedge referring to the publication of their magazine, *Well Red*, as "the only part of the organization still functioning."<sup>28</sup>

## Present Day Youth Engagement

Although the current political climate in the United Kingdom is unstable, recent years have shown the ability of musicians and politicians engaging with youth to change the political tides. In the wake of 2016's vote to leave the European Union, the Labour Party campaigned heavily in the following year's general election in order to harness the youth vote, receiving endorsement from popular British musicians, such as Wolf Alice, Stormzy, and M.I.A.<sup>29</sup> During the 2017 Glastonbury Festival, Labour leader Jeremy Corbyn delivered a political speech to tens of thousands of primarily young festival goers before introducing American rap duo, Run The Jewels.<sup>30</sup> Journalist Michael Savage describes Labour's campaigning technique as "a curious mix of old-style rallies and online activism,"<sup>31</sup>

<sup>20</sup> Ibid, 19.

<sup>21</sup> Moreton, "Billy Bragg," 9.

<sup>22</sup> Homewood, "A New Britain?" 11.

<sup>23</sup> Cloonan, *Popular Music*, 19.

<sup>24</sup> *Marxism Today*, "End Of Wedge," 55.

<sup>25</sup> Ibid, 55.

<sup>26</sup> The Workers Theatre, "The Workers Theatre," 1.

<sup>27</sup> Tranmer, "Political Commitment," 3.

<sup>28</sup> RED REC, "We're Back."

<sup>29</sup> Abiade, "13 Artists," 1.

<sup>30</sup> Helman, "Watch Jeremy Corbyn," 1.

<sup>31</sup> Savage, "How Jeremy Corbyn," 3.

yet it is undoubtable that engagement with youth and first-time voters through communities such as the British popular music scene contributed to the highest voter turnout level in 25 years (68.7 %).<sup>32</sup> Conservative party leader and Prime Minister, Theresa May, narrowly retained her position following the 2017 general election, requiring the support of Northern Ireland's Democratic Unionist Party in order to remain in power.<sup>33</sup> The increased support which the Labour Party received in 2017 by using grassroots campaigning strategies and engaging with young voters via musicians who supported the movement has led to a similar result as captured in Billy Bragg's assessment of Red Wedge.

Bragg reflects in a 1996 interview with *Q Magazine*, "There was a feeling immediately afterward that we hadn't actually achieved very much, but now, in retrospect, I think we did. We hadn't set out to change the world, just to create some common ground between young people and the Labour [Party]. I think that's what we did."<sup>34</sup>

## Conclusion

As idealistic as the early days of Red Wedge may have been, its underlying values and goals remain pertinent. The turnout during the collective's tours and their community meetings reflected that working class youth were engaged by this junction of pop and politics, even though it did not result in the desired electoral victory. Harnessing political interest via popular music was – and still is – an innovative method of engaging with youth and first-time voters, although

there are certainly lessons to be learned from both the Labour Party and Red Wedge's roles in their opposition campaign. Creating a space for the direct interaction of working class youth with their parliamentary representatives was a definitive achievement for Red Wedge.

<sup>32</sup> Bell, "2017 Labour General," 1.

<sup>33</sup> Hunt, "Theresa May," 1.

<sup>34</sup> Black, "Red Wedge," 29.

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## Oil Spills and Spirit Bears: Framing Fossil Fuel Projects in BC's Northwest

Sadie Cameron

*Between November 2016 and November 2018, two fossil fuel projects, proposed for Kitimat, BC, were met with opposite fates. Despite their similarities, the Northern Gateway Pipeline faced far more public opposition than LNG Canada. This paper uses the concept of framing to explore why these two projects were received differently by the public. I propose that the oil spill frame used to oppose the NGP was more effective than the climate change frame used to oppose LNG Canada, because it evoked the immediate threat of an oil spill, compared to the seemingly distant nature of climate change.*

In November of 2016, the Trudeau government announced its decision to terminate the Northern Gateway Pipeline (NGP), a project proposed to carry diluted bitumen from Alberta's oil sands to Kitimat, British Columbia, where it would be shipped overseas. Two years after this rejection, a proposed liquid natural gas (LNG) plant in Kitimat received the approval of various governmental agencies — notably including the National Energy Board and the Department of Fisheries and Oceans — and was endorsed by the Trudeau and Horgan governments. These projects are similar in many ways: both would contribute to global emissions and increase tanker traffic in Douglas Channel. Why then, despite these similarities, was the former project met with much public and ENGO backlash, whereas the latter project was accepted with minimal public opposition? Through an analysis of ENGO and BC Government issue frames, I argue that ENGO framing of the NGP was more effective in rallying public opposition than framing of the

LNG project, leading to the former project's cancellation. This is because the framing of the NGP focused on the ecological impact of an oil spill, rather than climate change impacts. This issue frame is far less relevant for LNG transport than for oil transport, as LNG is less environmentally destructive if spilled than oil-based products. Where concern about climate change around the LNG project did exist, it was quelled by the BC government's framing of LNG as a "bridge" or "transition" fuel, and emphasis of its "clean" physical properties. This allowed LNG to be considered a relatively clean, temporary, and transitional fuel source until other, more sustainable energy sources could be made available.

### Framing and Political Space

The concept of framing is a useful tool for understanding why social movements occur, and why some succeed while others fail. McAdam, McCarthy, and Zayer define framing as

"the conscious strategic efforts by groups of people to fashion shared understandings of the world...that legitimate and motivate collective action."<sup>35</sup> In this paper, I apply their concept of framing to the political realm, and use it to understand why policy decisions are made as a result of collective action or inaction. Framing itself is an inherently political act; who does the framing and how effective frames are in impacting policy outputs depends on the resources and power of the framers. Furthermore, the use of potent frames can close or open political space, which I define as the opportunities for policy influence by non-state actors, and the restrictions on which policy options are politically feasible for state and sub-state governments to pursue. This makes the framing concept an especially useful tool for understanding why certain policies are adopted and others rejected.

### **The Spill Risk Frame and the Great Bear Rainforest**

From its inception, the Northern Gateway Pipeline (NGP) was a target of ENGOs. Its proposed location of Kitimat, in the Great Bear Rainforest (GBR), was especially contentious. The GBR is a region of northern British Columbia with significant biodiversity, and in February 2016, the Great Bear Rainforest Agreement (GBRA) was signed to ensure the protection of its old growth stands. Thus, in the context of this conservation effort, when ENGOs and environmentalists framed the risks of the NGP, they focussed on its location in the GBR, and the ruinous potential of an oil spill on this valuable and fragile ecosystem. A review of several prominent ENGOs' statements

and protests on the NGP supports this hypothesis. In a public demonstration against the NGP, Greenpeace protestors staged a mock oil spill. Said BC director for Greenpeace Canada Stephanie Goodwin, "If Enbridge's Northern Gateway Pipeline project goes ahead, it's not a question of if a spill will happen but when, where and how large."<sup>36</sup> Also on the theme of an oil spill's inevitability, the Sierra Club of BC asserts that "Enbridge's proposal to build [the] Northern Gateway pipeline...exposes wild rivers, landscapes and a pristine BC coast to inevitable oil spills."<sup>37</sup> After the Trudeau government terminated the pipeline plans, the Sierra Club celebrated that "supertankers filled with diluted bitumen won't sail through the Douglas Channel and threaten the jewel that is the Great Bear Rainforest."<sup>38</sup> In its statement on the NGP, World Wildlife Fund (WWF) Canada also mentions the GBR, announcing that "the Great Bear region is a unique interconnected ecosystem...and the project would have put the region at risk of a major oil spill."<sup>39</sup> Because the GBR is a region of great ecological value, its mention by environmental groups made for a powerful risk frame. As potential losses and their likelihood increase, individuals naturally become more risk averse, and by raising the potential losses and likelihood from an oil spill to an *inevitable* oil spill in *such a valuable region*, ENGOs made the risks of the NGP seem too great.

The term "Great Bear Rainforest" itself is also a powerful framing device; it evokes sympathetic images of the Kermode, or "Spirit" bear. The Spirit Bear, a white-coated subspecies of the American black bear, can be considered "charismatic megafauna"; these are "popular,

<sup>35</sup>McAdam, McCarthy, and Zald, ed., *Comparative Perspectives*, 6.

<sup>36</sup> CBC, "Greenpeace mock oil spill targets Enbridge."

<sup>37</sup> Wild Blog, "Northern Gateway: Pipeline to Problems."

<sup>38</sup> Vernon, "Victory: We Stopped Enbridge for Good!"

<sup>39</sup> WWF, "Northern Gateway Pipeline."

charismatic species that serve as symbols...to stimulate conservation awareness and action."<sup>40</sup> The term "Great Bear Rainforest" was coined by ENGOs initially in the fight for the GBRA<sup>41</sup>, and "the emotive significance of such a name cannot be underestimated."<sup>42</sup> The emotional symbolism of the Spirit Bear, coupled with the vivid mental imagery of environmental destruction in this region, therefore made for a potent issue frame when ENGOs were fighting for the GBRA, and again when they were fighting the NGP. If a spill were to happen in this region, it would surely devastate local salmon populations, and thereby the Spirit Bear, which relies on salmon for much of its food source. The GBR-based risk frame proved to be an especially moving frame, and as a result, politically influential; when he terminated the project, Prime Minister Justin Trudeau stated "The Great Bear Rainforest is no place for a pipeline and the Douglas Channel is no place for oil tanker traffic."

### LNG and the Spill Risk Frame

Because "the [NGP] project was strongly opposed by environmental organizations in British Columbia *out of concern for the impacts of an oil spill*,"<sup>43</sup> (emphasis added) the LNG project did not inspire as much opposition as the NGP. This is because "the LNG shipping industry has an exemplary safety record," at over 80,000 safe deliveries with no loss of containment.<sup>44</sup> If a spill did occur, "the spilled fluid [would spread] on the water surface, eventually evaporating

entirely..."<sup>45</sup> Therefore, when defining the problem of the LNG terminal, the potent "environmental impacts of a spill" risk frame was not available, and the political will that frame had generated against the NGP was lacking. Most large multi-issue ENGOs that had opposed the NGP—including Greenpeace, the Sierra Club of BC, and the World Wildlife Fund—did not even make public statements on the project. This may have been partly because of their engagement in the ongoing campaign against Kinder Morgan's Trans Mountain Pipeline (TMP). ENGOs operate with limited time and finances, and there is limited political space and activism energy for this type of opposition campaign; it's likely that opposing the TMP seemed like a more practical use of these resources than opposing LNG Canada, due to the availability of the influential spill risk frame. Furthermore, ENGOs likely knew that the most readily available issue frame for the LNG project, the climate change frame, often falls short of capturing the public's attention. Doug McAdam posits that this is because there is no clear identity ownership of the climate change issue, an extended time horizon of impacts, and low activation of mobilizing emotions (fear and anger).<sup>46</sup> Furthermore, the climate change problem cannot be solved by preventing the LNG project, as it is only one small contributor to the global emissions problem. In fact, the climate change problem is often characterized as unsolvable entirely, or a "wicked" problem. In contrast, the 'oil spill in the GBR region' problem seems easily solvable by stopping NGP. Preventing oil tanker traffic in the region has the direct and discernible result of no oil tanker spills there. This cause-and-visible-effect relationship between action and solution is far more

<sup>40</sup> VH Heywood (ed.), "Global Biodiversity Assessment," quoted in Ducarme et al., "Charismatic Species," 1.

<sup>41</sup> Beed, *Taking Stands*, 33.

<sup>42</sup> *Ibid.*

<sup>43</sup> Dusyk, Axsen, and Dullemond, "Who Cares about Climate Change?" 13.

<sup>44</sup> R. M. Pibladó et al., "Consequences of Liquefied," 110.

<sup>45</sup> Yuanhua Qiao et al., "Assessment of the effects," 161.

<sup>46</sup> McAdam, "Social Movement Theory," 199-201.

encouraging for collective action. Participants are rewarded by seeing the effects of their activism. ENGOs, therefore, focused the majority of their efforts on issues other than the LNG Canada project, which opened the political space for the BC government to push for the project.

### The “Bridge Fuel” Frame

Despite the low salience of the climate change frame, the emissions and climate change dimension of the LNG project did spark some ENGO backlash. A few ENGOs issued statements on the project's emissions and its negative implications for BC's climate goals.<sup>47</sup> Public opposition to the project, however, never congealed, both because of the climate change frame's weakness, and because LNG is often considered to be a cleaner alternative to other fossil fuels, and an important transitional step on the way to a low carbon economy. It is important to note that although the greenhouse gas emissions from oil at the moment of combustion are generally higher than those from LNG, estimates on the relative emissions of LNG and oil do not include emissions from methane leakage. Methane is a far more potent greenhouse gas than carbon dioxide in terms of its capacity for trapping heat, and it is often leaked as a byproduct of LNG's extraction and transport processes.<sup>48</sup> Framing LNG as “cleaner” than oil based on their comparative carbon dioxide emissions at the moment of their combustion is therefore flawed, because it understates the emissions of LNG. Nevertheless, since this method of accounting is the convention, the project could be framed as a positive development for global emissions. The BC government

saw the potential of this “transition” or “bridge” fuel frame to ameliorate any lingering climate change concerns, and used it to this effect. The BC government's official branding site for the project, “LNG in BC,” uses the bridge fuel frame as a way of legitimizing the project.<sup>49</sup> The website states that “B.C.'s LNG industry will contribute to our leadership in the transition to a low carbon global economy.”<sup>50</sup> Other communications from the BC government also refer to LNG's potential as a bridge fuel:

...the new BC Natural Gas Strategy (BC MEM, 2012a)...opens with statements by the Premier and Minister of Energy and Mines appealing to environmental benefits of shale gas and Liquefied Natural Gas (LNG). The Strategy characterizes BC natural gas as a ‘transition fuel’ and a ‘climate solution’ as a legitimating frame for shale gas development.<sup>51</sup>

This quotation demonstrates how “the provincial government has attempted to square its aspirational climate policy and energy development by framing BC as a ‘clean energy powerhouse.’”<sup>52</sup> If LNG can be framed as a ‘climate solution,’ rather than a setback, then the BC government is far more likely to have the political space to pursue its development, as the climate change frame for opposition loses its

<sup>47</sup> Lupick, “Environmentalists Vexed.”

<sup>48</sup> Union of Concerned Scientists USA, “Environmental Impacts of Natural Gas.”

<sup>49</sup>Chen and Gunster, “Ethereal Carbon,” 315.

<sup>50</sup>B. C. Ministry of Energy and Mines, “Natural Gas Strategy,” quoted in Chen, Shibo, and Gunster, “Ethereal Carbon,” 311.

<sup>51</sup>Stephenson, Doukas, and Shaw, “Greenwashing Gas,” 453.

<sup>52</sup>*Ibid.*



development, as the climate change frame for opposition loses its credibility and thus the opponents to the project lose their main reason for opposition. The bridge fuel frame is the BC government's strategy for this challenge.

As "a poster-child for climate change policy, BC is deeply invested in characterizing its natural gas as a clean transition fuel."<sup>53</sup> To do this characterizing, the BC government emphasized the physical qualities of LNG. The odourless and colourless nature of LNG was used to signify cleanliness, and low environmental impact, and "the implicit invocation [is] of an environmental discourse which defines fossil fuels...as 'dirty': they become the binary "other" against which LNG is defined."<sup>54</sup> This creates a false dilemma: the choices for BC's energy production become either "dirty" oil, or the lesser evil of the bridge fuel LNG. This frame eliminates political space for moving directly from fossil fuels to alternatives such as wind, hydro, solar, and nuclear power. It removes them from the discourse as anything but the end product of a transition which must be completed via LNG. Faced with a decision in which oil and LNG are the only options, LNG thus appears to be the environmentally conscious choice for a transition to a low carbon economy, instead of an environmentally unsound perpetuation of the fossil fuel economy.

### Other Considerations

While framing contributed significantly to the respective rejection and acceptance of the NGP and LNG Canada, it is important to acknowledge other factors which may have influenced

these decisions. The Trans Mountain pipeline was a viable alternative to the Northern Gateway Pipeline that did not travel through Kitimat and therefore did not increase tanker traffic in the Douglas Channel. Rejecting the NGP did not mean a rejection of the only oil pipeline under consideration in British Columbia, and so, there may have been more political space for this decision. The change in federal government from Stephen Harper's Conservatives to Justin Trudeau's Liberals in 2015 may have also contributed to the rejection of the NGP. In 2011, Canada was the first signatory to rescind its commitment to the Kyoto Protocol under Stephen Harper's Conservative government.<sup>55</sup> As a comparatively progressive party, the Liberals may have wanted to present a more environmentally conscious image than that of the former government, especially so soon after its 2015 election. Similarly, the change in BC's government may have contributed to LNG Canada's approval. The newly elected New Democratic Party may have felt pressure to prove their economic might, and therefore been more driven to push large industrial projects such as LNG Canada into being, compared to the former Liberal government, for whom economic prowess is an already widely held conception of the party's strength. The flawed emissions accounting system for LNG also may have influenced public and policymaker opinion, as it minimizes the emissions impact of LNG, giving the impression that LNG is a good energy source for the climate. Finally, LNG from the project is largely intended for a Chinese market, where it could potentially usurp coal as an energy source and thereby lower global emissions, so long as methane leakage is minimal. This angle gives further basis for LNG Canada's approval, as it

<sup>53</sup>Ibid.

<sup>54</sup> Chen and Gunster, "Ethereal Carbon," 311.

<sup>55</sup> Curry, "Canada Abandons Kyoto Protocol."

appears to aid BC's progress towards its climate goals by reducing global emissions. While none of these factors discredit the theory that framing was a contributor to the fates of the NGP and LNG Canada, it is important to note their existence, and therefore that framing was likely not the sole cause of the fates of the two projects.

### Conclusion

The implication of the climate change frame's relative unimportance in the NGP's framing by ENGOS, those who are typically most concerned about environmental problems such as climate change, is a dire one. It shows that many ENGOS recognize that, though climate change may be the most important problem humanity is facing today, it proves to be an amorphous, difficult cause around which to rally a widespread social movement. An important question then arises: How could the climate change frame be

altered to increase the likelihood of collective action on climate change? One possible strategy could be to frame climate change as a question of justice. The countries that contribute the vast majority of emissions will likely be affected less than those who contribute little, and climate change is likely to lead to civil unrest, war, climate refugeeism, and food shortages, especially for the least culpable and most vulnerable. By reframing climate change in this way, the mainstream climate change discourse will involve and mobilize a broader sect of activists: not just environmentalists, but social justice advocates, and those who care about hunger and world poverty. Although in the case of the NGP and LNG Canada projects the climate change frame lacked salience, the latent potential for framing as a device for social mobilization on climate change is clearly great. It's time to fully realize this potential, and frame for a climate change social movement.

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## Do You Believe Anita Hill Now? The Intersectionality of Believability for Sexual Harassment and Assault Survivors

Jasmine Chauhan

*Lying at the crux of the intersectional feminist debate, Anita Hill and Christine Blasey Ford's congressional testimonies exemplify the difference in treatment racialized survivors of sexual harassment and assault experience. Central to such intersectional analysis is believability, which is reserved for survivors who fit the 'good victim' narrative. Yet, due to constructs emerging at the intersection of race and gender, women of colour fall short of 'good victim' qualities. Consequently, racialized women are often perceived as 'bad victims' and, therefore, are less believed. Through this case study, I argue examining the intersectionality of believability is critical for righteous judicial action to occur for racialized survivors.*

Twenty-eight years ago, Professor Anita Hill testified in front of the United States Senate Judiciary Committee against Supreme Court nominee, Judge Clarence Thomas, for workplace sexual harassment in the 1980s. Following Hill's hearing, some progress has been made in the United States to address sexual harassment and assault cases. This includes increased awareness of sexual misconduct amongst the general public, legislation being put in place to protect survivors, and more women gaining political positions of power. Hill's hearing in 1991 was unprecedented. In today's sexual harassment discourse, Hill is very much seen as a pioneer for this issue in the United States; she paved the way for Professor Christine Blasey Ford's eerily similar hearing in 2018. In the post #MeToo era and in front of the same committee Hill faced, Ford testified sexual assault allegations against Supreme Court nominee, Judge Brett Kavanaugh.

Accounting for differences in the political climate of the Senate, the

era and the committees, I will compare the two hearings using the dichotomy of the 'good' and 'bad victim'.<sup>56</sup> Believability of survivors as victims of sexual harassment or assault is reserved for women whom fit the 'good victim' narrative whereas 'bad victims' are too often denied their believability.<sup>57</sup> Women of colour, such as Hill, are more likely to be deemed 'bad victims' as a consequence of hypersexualization, character assassination, and victim blaming rooted in stereotypes formed at the intersection of race and gender. In contrast, the intersection of Ford's privileged identities, upper-class, white, and educated, aids in her perception as the 'good victim'. When comparing the two hearings, of critical importance is the analysis of the institutions and narratives that allow for some accounts of sexual harassment and assault to prevail over others. The intersectionality of believability

<sup>56</sup> Randall, "Sexual Assault Law," 408-9.

<sup>57</sup> Randall, 408-9.

becomes important here: it lies at the crossroads of racism and sexism, and enables narratives around believability to also consider the experiences of coloured women as survivors of sexual harassment and assault.<sup>58</sup> The framework of the intersectionality of believability analyzed within this paper is necessitated by its further application to systematic issues around race, gender, and sexual harassment and assault. In contrasting the believability of Hill and Ford during their hearings, I will claim that the intersectionality of believability is critical in order to create a judicial system and public discourse that provides more inclusive reactions and supports for every survivor, including women of colour, who stand against their assailants.

### Setting the Stage: Hill's Race and Gender at Play

Although both Hill's and Ford's testimonies did not prevent the confirmation of the nominees, the key difference is in how the two hearings unfolded. When Hill testified sexual harassment allegations against Thomas, the Committee and the general public discursively "disempowered" and disadvantaged Hill as a woman of African descent. This is because her experiences with sexual harassment lay in uncharted territory, at the intersection of racism and sexism.<sup>59</sup> Throughout the hearings, the feminist movement turned a blind eye to the role race played in Hill's encounters with the Committee. The majority of the Black community in the United States also rejected Hill's allegations, claiming that she was acting against all African Americans as her harasser was black as

well.<sup>60</sup> The most clear example of this is when Thomas used the male-dominated racial discourse to his advantage by stating that the hearings were "a circus", "a high-tech lynching of uppity blacks" taking place for no other reason than to "destroy[ly]" his career.<sup>61</sup> In his statement, Thomas manipulated and misrepresented the history of lynching all African American people experienced in order to protect himself from Hill's allegations.<sup>62</sup> In response to Thomas, the Committee backed off and did not question his statement given the imagery: an all-white male Senate could not be seen denying a black man his nomination. In the context of a black woman accusing a black man of sexual harassment, the Committee, the feminist movement, and the Black community only prioritized Thomas' race and did not think to validate the role race played in Hill's harassment or hearing. The hearings, by playing into a system lacking intersectionality, prioritized the racialization of Thomas over the sexual harassment of Hill.

The Committee's and general public's inability to adequately address the racial dynamics at play during Hill's hearing is very much representative of how the discourse of feminism historically has prioritized the experiences of middle and upper-class white women, dating back to the suffrage movement. In addition to this, the discourse of race is grounded in the experiences of coloured men.<sup>63</sup> These silos simply do not address the "intersectional identity [of women of colour] as both women *and* of colour."<sup>64</sup> For this reason, both the feminist and anti-racist movements in 1991 did a great disservice in not giving voice to Hill's experiences. Due to the

<sup>58</sup> Crenshaw, "Mapping the Margins," 1298.

<sup>59</sup> Crenshaw, 1298.

<sup>60</sup> Crenshaw, "We Still Haven't Learned," para. 12.

<sup>61</sup> *The New York Times Archives*, "The Thomas Nomination."

<sup>62</sup> Crenshaw, para. 5.

<sup>63</sup> Crenshaw, "Mapping the Margins," 1243.

<sup>64</sup> Crenshaw, 1282.

Committee's and general public's inability to see the intersectionality of her race and gender, Hill's testimony unfortunately became a missed opportunity to gain a more "nuanced understanding of sexual harassment" against women of colour and the experiences of racialized and marginalized women remain underrepresented and not believed.<sup>65</sup> Through an intersectional lens, the following sections will analyze how Hill's race and gender played a role in her hypersexualization, character assassination, and victim blaming at the hands of the Committee.

### Hypersexualization of the Black Female Body

Black and brown female bodies are stigmatized as promiscuous, sexually available, and therefore, "unrapeable."<sup>66</sup> The idea of unrapeable black women, for example, stems from the historical context in which black women were routinely subjected to sexual harassment and assault during slavery in the United States.<sup>67</sup> Black women were often stripped naked and physically examined before being purchased; once purchased, slave owners violently raped and sexually abused these women.<sup>68</sup> From this historical context, the gendered and racialized stereotypes of black women as hypersexual beings were formed, meaning that black women are sexually available for whomever and whenever.<sup>69</sup> Hypersexualization of the black female body then denotes that the body exists for and belongs to those who want to violate it, thus rationalizing sexual harassment and assault against black women as they cannot truly be victims

if they are the initiators or active participants of such sexual behaviour.<sup>70</sup> Slave era conceptions of the black female body continue to hold true in the United States to this day, and the impacts of these conceptualizations are present in gender-based violence statistics.<sup>71</sup> Gendered and racialized stereotypes, along with a host of other cultural scripts, contribute to black women experiencing higher rates of sexual harassment and assault than their white female counterparts.<sup>72</sup> Approximately one black woman in every three is sexually harassed or assaulted during her lifetime, a rate that is thirty-five percent higher than that of white women.<sup>73</sup> As well, forty percent of black women experience sexual assault before the age of eighteen.<sup>74</sup> The historical context and prevailing stereotypes that are evidently linked to the concept that black women are unrapeable and hypersexualized are vital to understanding Hill's harassment, trauma, and testimony as both a person of colour *and* a woman.

Hill's race set the foundation for which thinly-veiled discriminatory attacks could come to the forefront of the dialogue between the witness and the Committee. In Hill's statement, she explained one of many incidents in which Thomas managed to bring about sexual topics in the workplace. She stated that Thomas, while at his desk, asked her, "who put a pubic hair on my Coke?"<sup>75</sup> Senator Hatch, whom was present at both Hill's and Ford's hearings, accused Hill of contriving this incident from *The Exorcist*.<sup>76</sup> He claimed that Hill was "delusional" and recounting a "fantasy" and that it was unfathomable that an "intelligent male

<sup>65</sup> Crenshaw, "We Still Haven't Learned," para. 17.

<sup>66</sup> Gotell, "Rethinking Affirmative Consent," 893.

<sup>67</sup> Crenshaw, para. 14; West, "Mammy, Sapphire, Jezebel," 151.

<sup>68</sup> Crenshaw, para. 14; West, 151.

<sup>69</sup> Crenshaw, para. 14; West, 151.

<sup>70</sup> West, 151.

<sup>71</sup> Childers, et al., "The Status of Black Women," 121.

<sup>72</sup> Childers, et al., "The Status of Black Women," 121.

<sup>73</sup> Norwood, "Mapping the Intersections," 100.

<sup>74</sup> Childers, et al., 121.

<sup>75</sup> CNN, *Flashback*.

<sup>76</sup> PBS NewsHour, *Supreme Court Moments in History*.

[like Thomas]" would want to date her.<sup>77</sup> Republicans went so far as to say that Hill was suffering from "erotomania", a psychiatric disorder involving romantic delusion.<sup>78</sup> Hatch's disbelief of Hill's allegations serves as yet another example of how women of colour are silenced, as well as "less valued and less credible" as victims of sexual harassment and assault.<sup>79</sup> When Hatch claimed Hill to be an opportunist and suggested Hill was suffering from sexual delusions, he removed the burden of sexual harassment from her assailant and onto Hill while simultaneously painting her as the more sexual being. This was hypersexualization in action. Hypersexuality remained discursively bonded to Hill's black female body, leading Hatch and the rest of the Committee to place Hill within the unrapeable paradigm and deem her to not be believed as a victim. Ultimately, the Committee suggested that, by virtue of culturally pervasive conceptions grounded in the intersection of her race and gender, Hill could not have been sexually harassed.

### The 'Bad Victim' of Sexual Harassment

Tied to the disbelief of Hill's allegations is the idea that she did not fit the narrative of the good, "ideal, and valorized victim" of sexual harassment.<sup>80</sup> 'Bad victims' of sexual harassment and assault are women who experience "the most scrutiny", are the most attacked for their credibility, and are believed to be the most unworthy of justice.<sup>81</sup> In the following section, I will unpack two ways in which

Hill was regarded as a 'bad victim' of sexual harassment: her composure, as well as her failure to report harassment or resign from her job. Hill presented her testimony with grace and dignity, and she remained in control, which is a far cry from the way in which victims are "assumed to behave", as "terrified" and "shaken."<sup>82</sup> In fact, the more poised and calm Hill remained, the more the Committee came after her in the hopes of finding gaps in her story or making the incidents sound absurd through repeated questioning. Hill's strength and composure, the characteristics for which the Committee considered her to be a 'bad victim', can be explained by Lorde's idea of how women of colour utilize their anger.<sup>83</sup> Lorde explains that women of colour have a "well-stocked arsenal of anger" from learning to navigate the moments in which they were oppressed, unwanted and silenced.<sup>84</sup> This anger "can become a powerful source of energy" that leads to "progress and change" when put to use appropriately;<sup>85</sup> Hill used this anger to project grace, dignity and poise. For black women, fitting the 'good victim' narrative is even more difficult because the 'angry black woman' stereotype causes further scrutinization of black female anger. Deeply rooted in slavery, racist representations of the 'angry black woman' emerged more prominently in the 1930s as a method of silencing, shaming, and punishing black women who "challenged social inequalities" or "violat[e]d societal norms" during racial segregation in the United States.<sup>86</sup> While Hill's uses of anger did not sit well with the Committee, she refused to remain silent and emphasized the importance of being heard. It is evident that when

<sup>77</sup> *The New York Times Archives*, "The Thomas Nomination."

<sup>78</sup> *The New York Times Archives*. "The Thomas Nomination."

<sup>79</sup> Randall, "Sexual Assault Law," 410.

<sup>80</sup> Gotell, "Rethinking Affirmative Consent," 879.

<sup>81</sup> Randall, 409.

<sup>82</sup> Randall, "Sexual Assault Law," 427.

<sup>83</sup> Randall, 409; Lorde, *Sister Outsider*, 124.

<sup>84</sup> Lorde, 127-9.

<sup>85</sup> Lorde, 127.

<sup>86</sup> West, "Mammy, Sapphire, Jezebel," 149.



Hill used her anger in this way to survive the racist, sexist questions she faced from the Committee, she was taking control of her situation. Hill existed outside of both the 'good victim' narrative and the 'angry black woman' stereotype by embodying great strength and composure, which resulted in the Committee perceiving her as a 'bad victim' of sexual harassment that should not be believed.

The second way in which Hill rebuffed the narrative of the 'good victim' was based on her failure to report harassment or resign from her job.<sup>87</sup> In the eyes of the Committee, the "ideal and valorized victim" of sexual harassment is one who is "responsible" and acts to "minimize her own sexual risk."<sup>88</sup> The Committee did not view Hill as a 'good' or ideal victim because she continued to work with Thomas for the better part of the 1980s - leaving her vulnerable to character assassination at the hands of the Committee. Arguably, the Committee's limited understanding of sexual harassment and the victim's trauma were vital here. It is not uncommon for "women who fail to follow the rules of safekeeping [to] be denied recognition" as victims of sexual harassment.<sup>89</sup> Remaining silent and not reporting their assailants is all too familiar for survivors. Hill provided an explanation to the Committee for her silence. She stated she was afraid of "retaliation" from Thomas, that he would "degrade [her] or not give [her] important assignments", and she worried of "the damage" her coming forward would have on her professional career.<sup>90</sup> Hill's explanation for her silence, although common among survivors, was not enough for the Committee. Senator Simpson claimed that it was "appalling" and "puzzling" to him as to

why Hill continued to work for Thomas after several sexual harassment incidents.<sup>91</sup> By making such statements, Simpson participated in victim blaming. Victim blaming insinuates that "women are responsible for protecting themselves" from sexual harassment or assault.<sup>92</sup> Senator Specter then chimed in to "minimize" the substance of Hill's allegations.<sup>93</sup> He did so by stating that the incident which Hill described to be the most embarrassing moment "[was] not too bad", claiming "women's [large] breasts" are a reference "[men] use all the time."<sup>94</sup> Hill corrected him to state the most embarrassing aspect was not the reference to large breasts, but Thomas' "description of the acts [performed by] these individuals."<sup>95</sup> In this example, Specter not only refused to empathize with Hill's experience as a victim, but he blamed her for minute details that were missing in her FBI statement. Thus, this hearing became more about picking apart Hill's character, blaming her for the harassment she endured, and diminishing her believability rather than considering the behaviour and character of the nominee at hand.

If we then take the hypersexualization, character assassination, and victim blaming that Hill experienced by the Committee, it becomes clear that she was caught in a double bind.<sup>96</sup> Either Hill was a hypersexualized opportunist who was not worthy of justice or she was a victim that lead to her own oppression by staying on the job. Similarly, had Hill instead been abrupt and loud in her uses of anger, rather than a 'bad victim' of sexual harassment, she would have been labelled as an 'angry black

<sup>87</sup> Gotell, "Rethinking Affirmative Consent," 879.

<sup>88</sup> Gotell, 879.

<sup>89</sup> Randall, 414.

<sup>90</sup> CNN, *Flashback*.

<sup>91</sup> VICE News, *Watch the most outrageous questions*.

<sup>92</sup> Randall, "Sexual Assault Law," 430.

<sup>93</sup> Randall, 408.

<sup>94</sup> VICE News, *Watch the most outrageous questions*.

<sup>95</sup> VICE News.

<sup>96</sup> Gagnon, "Race, privilege and anger."

woman.”<sup>97</sup> This meant she would be seen as irrational and hysterical. Hill simply could not say anything to be believed, and being believed would have required her to convince the Committee that had very little to do with the truth of her allegations. The hearings, by playing into a system lacking intersectionality, prioritized the racialization of Thomas over the sexual harassment of Hill. The Committee’s inability to acknowledge the intersectionality of racism and sexism was critical to Hill’s believability and became a missed opportunity for righteous judicial action against sexual harassment to take place, specifically in favour of racialized and marginalized survivors.

### The ‘Ideal Victim’ of Sexual Assault

Professor Christine Blasey Ford showed both incredible strength and painful vulnerability in her testimony. Her strength shows as she provides raw and truthful responses, and even makes reference to psychological terms to explain the effect of trauma on her brain. Ford notes that “basic memory functions” allowed her to be “100%” certain that Kavanaugh was the one who tried to rape her, while also explaining the way neurotransmitters in the hippocampus encoded information in the brain so that she “indelibly” remembered the night.<sup>98</sup> The strength of Ford’s testimony can be attributed to her educational background, having earned a PhD in educational psychology and being a teaching professor in the subject.<sup>99</sup> Although Hill too was highly educated, having obtained her Juris Doctor degree from the Yale Law School, her

education did not aid in her believability as a victim in the same way Ford’s did.<sup>100</sup> The constructs emerging at the intersection of Hill’s race and gender: hypersexualization, character assassination, and victim blaming, held more weight during Hill’s hearing than her privileged perspective as a highly educated woman. The intersection of Ford’s privileged identities, upper-class, white, and educated, aids in her view as the ‘good victim’, in ways Hill’s identities did not. Ford is highly comprehensive, intelligent, and believable, however, throughout her hearing, she provides a glimpse into her privileged lifestyle and education that allowed the Committee to automatically trust her. This immediate trust is absent from Hill’s hearing. Gaps in Ford’s memory are not ridiculed in the same way senators grilled Hill.<sup>101</sup> Ford’s privileged identities interplay with the ‘good victim’ narrative, allowing the Committee to empathize with her experience, deem her testimony to be credible with some exceptions, and believe her as a victim of sexual assault.

As well, Ford pauses and stutters when recounting troubling moments, apologizes several times for gaps in her memory, and is overall “congenial.”<sup>102</sup> By way of this vulnerability, she appeals more to the Committee’s assumption of the ‘good victim.’<sup>103</sup> Most notably, Senator Hatch who did not deem Hill to be believable, states that Ford is a “pleasing, good witness” and he, at the very least, does not find her “un-credible” although she may be “mixed up” or “mistaken” about who assaulted her.<sup>104</sup> This statement represents the Republican senators’ affirmation of Ford fitting the narrative

<sup>97</sup> Randall, 409.

<sup>98</sup> Scott, “The 7 most important moments.”

<sup>99</sup> Ford, “Full Transcript.”

<sup>100</sup> CNN, *Flashback*.

<sup>101</sup> *The New York Times Archives*, “The Thomas Nomination; Scott, “The 7 most important moments.”

<sup>102</sup> Scott.

<sup>103</sup> Gotell, “Rethinking Affirmative Consent,” 879.

<sup>104</sup> Landers, “Republican senator on Kavanaugh accuser.”

of the ideal victim.<sup>105</sup> Essentially, Hill is considered to be recounting a fantasy, while Ford is believed to have been assaulted, just not by Kavanaugh. When contrasting the Committee's reception of Hill's and Ford's testimonies, it is very apparent, as the majority of the Committee came to the conclusion that Hill was not worthy of justice, yet supported Ford's credibility as a victim, that when women of colour speak about their experiences with sexual harassment they are likely to not be believed. In this analysis of Hill's uses of anger and Ford's ability to fit the 'good victim' narrative, it is critical to note the demands of victims to resist anger and to perform such vulnerability in order to appear pleasing and rational to judicial and political actors.<sup>106</sup> This is a reminder of how the unjust, patriarchal ways of thinking remain in the judicial system.

### The Democratic Senators, Then and Now

As both Hill's and Ford's testimonies were against Republican nominees, it was in the best interest of the Democrats to support and side with the survivors. However, further analysis of Hill's and Ford's hearings through an intersectional lens provides a stark contrast between the role Democratic senators played in 1991 and 2018 to boost witness credibility. To counter Republican skepticism of Ford's testimony, the Democratic senators make many efforts to boost Ford's believability when the Republicans questioned her motives. Senator Harris thanks Ford for her bravery and states she believes her; Senator Booker notes as well that Ford's actions are "heroic."<sup>107</sup> When Ford encounters

similar accusations as Hill did for not coming forward sooner, Senator Feinstein comes to her defense.<sup>108</sup> None of the senators downplay the severity of the behaviour and trauma Ford describes. In comparison, Republican senators disembowelled Hill and the most influential Democrats on the Committee did very little about it. While Senator Heflin and Senator Leahy asked Hill questions about her motives, such as if she had a "martyr complex," or if she hoped to gain status as a "hero in the civil rights movement", in order to clear her name as an opportunist, no effort was made to directly defend Hill from the Republicans' unfair inquiry into her moral character.<sup>109</sup> The Republican senators focused on the minute details of each harassment incident and the Democrats did not make great advances to defend Hill. When Senator Specter stated that Hill was "not drawing a conclusion that Thomas sexually harassed [her]", it would have been expected of Senator Biden, as the Chairperson, to have warned the Committee that the witness testimony should be taken as a whole and to not waste moments on rigorous details.<sup>110</sup> Although the prejudice of the Republican senators in 1991 is attributable to the all-white male senate Hill faced, the different era can provide more of an explanation for the Democratic senators' inability to defend and boost Hill's credibility.

It is important to look at the differences in the Committee's rhetoric when questioning both the witnesses and nominees during the two hearings. While Republican senators did not shy from telling Kavanaugh that they believed this was all an "unethical sham,"<sup>111</sup> the Democratic senators

<sup>105</sup> Cotell, 879.

<sup>106</sup> Cotell, "Rethinking Affirmative Consent," 879.

<sup>107</sup> Scott, "The 7 most important moments."

<sup>108</sup> Scott, "The 7 most important moments."

<sup>109</sup> VICE News, *Watch the most outrageous questions.*

<sup>110</sup> *The New York Times Archives*, "The Thomas Nomination."

<sup>111</sup> Kirby, "Lindsey Graham Rages."

used their questioning period with Kavanaugh to come to Ford's defence. For example, Senator Hirono made note that Kavanaugh is being interviewed "for one of the most important positions of trust" in the United States, therefore "credibility, character, and candor" of a nominee are vital considerations.<sup>112</sup> This implies that if the allegations are not true, Kavanaugh's behaviour during the hearings is still relative to his nomination.

This was certainly not the case in 1991 when Democratic senators, specifically Senator Biden, questioned Hill's credibility. Biden repeatedly asked Hill the specifics of Thomas' sexual comments of which Hill had already, in great detail and discomfort, spoken about. She even stated that the graphic details Biden would like repeated are "spelled out in [her] statement", yet he persisted.<sup>113</sup> Biden pressed on the comments Thomas made about the Coke can, about the "size of his penis", and about Thomas' references to the pornographic movie, "Long Dong Silver."<sup>114</sup> He strategically framed his inquiries to further demean and belittle Hill's accounts of the incidents of harassment. In addition to this, Biden did very little to stop the other senators' discriminatory, racist attacks on Hill. He bowed to the Republican senators' demands to allow Thomas to testify both before and after Hill, which undoubtedly gave Thomas an advantage.<sup>115</sup> Needless to say, Biden, as the Chairperson, was in a position to set a precedent for sexual harassment cases in the United States for years to come, yet he fell short in his duties and did a great disservice to Hill and many other women of colour who are

survivors of such incidents.

In years following Hill's hearing, Biden's stance would dramatically shift to promote gender equality, particularly in the political and legal domains. In 1994, Biden drafted the Violence Against Women Act, an important legislation that shed light on how violent crimes against women were investigated and prosecuted in the United States.<sup>116</sup> During his vice presidency, Biden alongside Barack Obama was instrumental in increasing awareness of sexual assault on college campuses through the launch of the "It's on Us" Campaign.<sup>117</sup> Biden began advocating for sexual harassment and assault awareness three years after Hill's hearing and long before his vice presidency campaign, reflecting the important role of intersectionality before it was beneficial to his voter base. Now, in the post #MeToo era, Biden, as well as much of the Democratic Party, champions women's empowerment and gender equality. This in large part is due to the political effects of the #MeToo movement. The #MeToo movement has given voice to the experiences of many middle and upper-class women with sexual harassment and assault, and has become an increasingly prominent issue among Democratic voters in the United States. Sixty percent of Democrats believe it is a major problem when men get away with sexual harassment or assault and if women are not believed as victims, while only thirty-three percent of Republican voters identify with this concern.<sup>118</sup> This high importance on righteous legal proceedings to address sexual harassment and assault cases explains the political motives behind the Democratic senators, wanting to appeal to their voter base, coming to

<sup>112</sup> Ember, "I Believe Her."

<sup>113</sup> *The New York Times Archives*, "The Thomas Nomination," *The New York Times Archives*, "The Thomas Nomination."

<sup>114</sup> *The New York Times Archives*.

<sup>115</sup> M.S.R., "Joe Biden's #MeToo Problem."

<sup>116</sup> Biden, "20 Years of Change."

<sup>117</sup> M.S.R., "Joe Biden's #MeToo Problem."

<sup>118</sup> Graf, "Sexual Harassment at Work."

the defence of Ford. The #MeToo movement has shifted the way in which political leaders speak about sexual harassment and assault allegations, as well as how they address survivors. This is a key consideration for understanding how the different eras produced the stark contrast between the Democratic senators' rhetoric while questioning Hill in comparison to questioning Ford. Even with this cultural shift, understanding the intersectionality of believability still remains relevant and critical in the post #MeToo era in order to account for differences in treatment of coloured women as survivors of sexual harassment and assault.<sup>119</sup> There is no 'model survivor' of sexual harassment and assault, and by incorporating the intersectionality of believability, righteous judicial action can take place in favour of racialized and marginalized survivors.<sup>120</sup>

### Improving Reactions and Supports to Survivors

Hill was right to say that it is not "atypical" behaviour for sexual assault victims to remain silent.<sup>121</sup> Sixty-six percent of sexual harassment, assault, and rape cases go unreported in the United States, and of the thirty-four percent that are reported, only one percent lead to a felony conviction.<sup>122</sup> One percent. Victims do not come forward because they are not believed, their reputations are jeopardized, and the justice system often fails them. The Committee and the general public considered the Hill and Thomas hearings as a 'he said, she said' situation for which the truth will never be known, but this is not true. Justice is

only served when all sources and fields of information are exhausted. Had Biden called on an expert witness to explain the experiences, fear, and emotional distress victims of sexual harassment endure, the Committee may have been more informed on this issue. Had Biden called upon Angela Wright and the two other corroborating witnesses, the Committee may not have dismissed Hill's allegations as easily.<sup>123</sup> When Biden gavelled the hearings to a close without any effort in strengthening Hill's case, he signified Hill's testimony was not worthy of further investigation because the Committee did not believe her.

Twenty-eight years after, Ford too is denied an appropriate and thorough FBI investigation and no witnesses are called in efforts to clear discrepancies between Ford's and Kavanaugh's testimonies. Importantly, in the post #MeToo era, when a prototypical, 'good victim', such as Ford: white, educated, vulnerable, is deprived justice then what hope is left for the 'bad victim'? This speaks volumes to how much work is left to be done to improve the judicial system so it does not continue to diminish and silence the voices of survivors. Both Hill and Ford did not sacrifice their privacy and reputation in vain. They came forward because they believed the truth should be known, thus performing their "civic duty."<sup>124</sup> The judicial system must then also perform its duty to ensure that when survivors come forward, their motives should not be considered as "a calculated and orchestrated political hit" or a "high tech lynching."<sup>125</sup> Victims of sexual harassment and assault need to be heard and believed, not blamed and certainly not put on trial for their moral character.

The purpose of this paper is not

<sup>119</sup> Crenshaw, "Mapping the Margins," 1298.

<sup>120</sup> Félix, "One Year of #MeToo."

<sup>121</sup> *The New York Times Archives*, "The Thomas Nomination."

<sup>122</sup> Berksth, et al., "Rape and Sexual Assault," 752.

<sup>123</sup> PBS NewsHour, *Supreme Court Moments in History*.

<sup>124</sup> Scott, "The 7 most important moments."

<sup>125</sup> Scott, *The New York Times Archives* "The Thomas Nomination."

to pit survivors of sexual harassment and assault against each other, but rather to analyze the institutions and the narratives that allow for some accounts of sexual harassment and assault to prevail over others due to believability. The question then becomes how do we allow the voices of women who are marginalized and underrepresented to be heard and validated? The disparity seen in the treatment of Hill in comparison to Ford is representative of the realities regarding the judicial system and sexual harassment and assault. Women of colour who have experienced sexual harassment or assault are criminalized in the United States by way of arrest, incarceration, or entry into juvenile detention centers.<sup>126</sup> There is strong evidence that the defensive actions of women of colour in situations of victimization are more likely to be interpreted as aggressive by the judicial system, while similar actions of white women do not constitute the same criminalization.<sup>127</sup> Black women are four times more likely to face criminalization and imprisonment compared to their white female counterparts.<sup>128</sup> This leads to a systemic overrepresentation of black women in state and federal prisons in the United States; to be exact, twice as many black women than white women are held in the United States' prisons.<sup>129</sup> It is critical to note that the experiences of coloured women with sexual harassment and assault do not yet hold the same weight in the judicial system. Instead, their experiences are silenced. In contrast, white women have better access to ideals of fragile parity than women of colour, and this relates to vulnerability.<sup>130</sup> Ford faces partisan Republican senators who are pushing a

specific agenda: to confirm Kavanaugh to the Supreme Court. Ford is interrogated about the clarity of her memory and about her alcohol consumption on the night of her assault, but she is never blamed for the events that lead to her assault, nor is the substance of her allegations minimized.<sup>131</sup> Importantly, she does not experience malicious defamation at the hands of the Committee. None of the senators downplay the severity of the behaviour and trauma Ford describes. Essentially, Hill is considered to be recounting a fantasy, while Ford is believed to have been assaulted, just not by Kavanaugh.

## Conclusion

The Committee's denial of Hill's experience with sexual harassment and support of Ford's credibility as a victim of sexual assault are representative of the fact that when women of colour speak about their experiences with sexual harassment they are not believed. Hill's testimony was a missed opportunity to gain a more nuanced understanding of sexual harassment against women of colour, and we must ensure to not repeat history. Moving forward, the intersectionality of believability must be understood and implemented. In order for more survivors to come forward about sexual harassment and assault, the judicial system, feminist movement, and public discourse must ensure that the voices of women of colour survivors, whom are too often marginalized and underrepresented, are at the forefront of our conversations and are reflected in our political and legal bodies. To do better by all women, we must create a more inclusive narrative by recognizing the historical context of each trauma and each testimony of sexual

<sup>126</sup> Childers, et al., "The Status of Black Women," 122.

<sup>127</sup> Childers, et al., 122.

<sup>128</sup> Childers, et al., 123.

<sup>129</sup> Childers, et al., 122.

<sup>130</sup> Waldman, "A Sociologist Examines."

<sup>131</sup> Scott, "The 7 most important moments."

harassment and assault, as well as by providing more inclusive reactions and supports for every survivor, including women of colour, who stand against their assailants.

While this paper only focuses on the analysis of the Hill and Ford hearings in order to present the importance of intersectionality of believability in sexual harassment and assault survivors, looking through the intersectional lens is critical in all spheres if true feminism is to be achieved. For feminism to truly expand as a movement that applies to all women of colour, the larger goal must be gender equality *and* racial equality because both race and gender contributed to Hill's hypersexualization, character assassination, and victim blaming at the hands of the Committee.<sup>132</sup> We all must step up and claim that it is our collective responsibility to ensure the true rights and worth of women of colour are realized. Anita Hill was a pioneer for the rights of survivors of sexual harassment and assault, and it is long past time for us to begin building a government, legal system, and culture where all women are truly believed.

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<sup>132</sup> bell hooks, *Feminism is for Everybody*, 15-6.

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## ‘Made in Italy’: How Italy is Importing Chinese Labour and Disrupting Global Labour Relations

Sana Fatima

*By drawing upon the issues discussed in “The Chinese Workers Who Assemble Designer Bags in Tuscany” by The New Yorker’s D. T. Max, this paper aims to explore how the immigration of Chinese workers to Italy’s Prato industrial zone disrupts the current core-periphery world order outlined by dependency theory. Prato does this by rejecting the role of international power relations and agreements, by exploiting Chinese labourers away from their native home, and by policing labourers through national forces that include policy, police, and permits. Through these components, Prato disassembles the bidirectional framework of dependency between core and periphery countries.*

For global fashion houses like Prada, the widely coveted ‘Made in Italy’ label on luxury goods is essential to their brand. However, like any other production force, they seek to reap the benefits of globalization and the development project without sacrificing the prestige of authentically European labels. According to D. T. Max’s *The New Yorker* article, “The Chinese Workers Who Assemble Designer Bags in Tuscany”, the city of Prato became an industrial zone that continues to host several mills and workshops where clothing and goods are produced at a rapid rate.<sup>133</sup> More than 200,000 of the city’s legal residents are Chinese immigrants that provide inexpensive labour to create clothing, accessories, and more.<sup>134</sup> There are also thousands of undocumented Chinese immigrants that work in hiding, contributing to the output of production.<sup>135</sup> Through this, what Italy has done is bring the Chinese labour it was using outside of Europe into Italy, just to preserve the exclusive

‘Made in Italy’ status of its products.

The phenomenon of Italy taking in foreign labour and situating it within national borders is significant to the discussion of global development for a multitude of reasons. To begin, the industrial zones in Prato build upon issues related to global migration and immigrant labour. Chinese immigrants’ accessible labour is driving out the Italians’ traditional artisan craft, which in turn is building resentment and racist rhetoric amongst locals.<sup>136</sup> The issue of labour rights also arises, highlighting the plight of Chinese workers in poorly-structured Italian sweatshops.<sup>137</sup> Most importantly though, Prato’s industrial zone is incredibly significant for global development because it disrupts the expected relationship between core and periphery nations.

As proposed by dependency theory, the world exists in an imbalanced hierarchy that places nation-states in polarized categories of

<sup>133</sup> Max, “Chinese Workers,” 1.

<sup>134</sup> *Ibid.*, 2.

<sup>135</sup> Ceccagno, *City-Making*, 97.

<sup>136</sup> Max, “Chinese Workers,” 2.

<sup>137</sup> *Ibid.*, 6.

'core' nations and 'periphery' nations, with economic surplus flowing from the periphery to the core.<sup>138</sup> For decades, it has been argued that the dependency relationship employs the underdevelopment of the non-European world to develop the European world.<sup>139</sup> However, in Prato's case, if labourers from the periphery of China are being brought into the core of Italy, does such a rigid bidirectional relationship still exist? Through Prato's industrial zone, the relationship between Italian and Chinese labour and trade is redefined and condensed into an Italian affair rather than a Europe-Asia affair. Thus, it becomes important to ask: is this reimagining of globalized labour a deconstruction of the current global division of resources, or is it just rejecting traditional notions of dependency and reproducing inequality on a national scale instead of a global one? This paper asserts that the industrial zone of Prato is doing the latter. By exploring the relocation of export processing zones, the circumstances of migrant labourers, and the forces of national policing, this paper aims to delve into how Italy is reproducing the exploitative patterns of international labour on a domestic scale.

## Literature Review

Over the past two decades, global consumerism has merged with the instant gratification that comes with easily accessible marketplaces. Along with other industries, this has caused the global fashion industry to morph into a competitive arena where success is no longer dependent on just the quality of products, but also on how quickly products are produced, released, and improved upon based on

consumer desires.<sup>140</sup> This puts a strain on brands' reputations, but also on all of the international actors that are part of the global supply chains that these brands are dependent upon.<sup>141</sup> This is because almost all mass-produced items are global in their nature. Even when a product has a domestic 'Made in' label, its journey to market probably combines components and labour from production and assembly sites located around the world.<sup>142</sup> Taking this into consideration, the true nature of the 'Made in Italy' label becomes more clear.

The phenomenon of Prato's industrial zone, an area that enables Italy to tote the 'Made in Italy' claim, is one that has only recently begun to be analyzed by researchers. Prato's emergence as a textile manufacturing leader is largely due to Chinese modes of production.<sup>143</sup> This migration to Prato during the 1980s resulted in a new labour-intensive form of clothing and accessory production, which lent itself to the development of fast fashion.<sup>144</sup> However, to associate this production with 'Chinese characteristics' that are unknown to Italy's economic culture would be unfair.<sup>145</sup> As Ceccagno argues, this mode of production and exploitation was a result of "[...] the legal regimes of Italy that regulate[d] migration flows, the industrial production and the working and housing conditions... [and] the changing structures of production, demand and distribution of textiles and clothing [...]"<sup>146</sup> Due to this, "the sources of the Chinese immigrants' economic success are also the causes of the difficulties in their social [...] and economic integration."<sup>147</sup>

<sup>138</sup> Reyes, "Four Main Theories," 114.

<sup>139</sup> McMichael, *Development*, 6.

<sup>140</sup> D'Avolio et al., "Replenishment," 967.

<sup>141</sup> *Ibid.*, 968.

<sup>142</sup> McMichael, *Development*, 15.

<sup>143</sup> Ceccagno, *City-Making*, 88; Ottati, "Industrial", 1824.

<sup>144</sup> Ottati, "Transnational", 1253.

<sup>145</sup> Ceccagno, "Emplacement", 1112.

<sup>146</sup> *Ibid.*, 1112.

<sup>147</sup> Ottati, "Industrial", 1830.

Despite identifying the historical and economic circumstances behind the Chinese presence in Prato's industrial zone, the existing literature does not take into account the larger forces of globalization that create these circumstances. The current state of research does not draw connections between Prato and global development, nor does it emphasize the significance of the Italy-China example in relation to global patterns of labour. It is here that the current research question becomes important, as the case of Prato demonstrates a subversion of currently understood interconnectedness and dependencies between global nations.

## Discussion

### *1. The Creation of Domestic Export Processing Zones (EPZs)*

Research on Prato's industrial zone does not definitively address how Prato's reorganization of global labour relations situates itself in the current world order, with regards to the power structures that reinforce a dependency relationship between Italy and China. In order to understand this, it is important to first look at how the industrial zone acts as a domestic export processing zone (EPZ). EPZs "[...] are specialized manufacturing export estates with minimal customs controls [...] usually exempt from labor regulations and domestic taxes. [They also] serve firms seeking lower wages [...]"<sup>148</sup> In line with dependency theory, typical EPZs serve two purposes. Firstly, they enable the core-periphery relationship that creates the bifurcation of the global labour force, with "[...] the core [focusing] on [...] capital-intensive or intellectual production and the periphery [being] associated with

lower-skilled, labor-intensive production[...]"<sup>149</sup> The EPZs are focused on cheap labour that serve the interests of the core, as well as key players of the periphery. Thus, through EPZs and their exports, Third World governments are able to see foreign capital investment in their country.<sup>150</sup>

The industrial zone in Prato subverts all of this. It blurs the line between geographical boundaries that dictate which group should be located in which area of the world. Due to this, it also redefines power relations on the surface, making it harder to hold core nations accountable for their actions. Already, the new international division of labor (NIDL) reproduced colonial divisions of labour by enforcing policies that shifted all industrial production from the First World to the Third World.<sup>151</sup> By taking the labourers out of the periphery, the core can argue that the labourers have the agency to migrate and are no longer generational victims of colonial pursuits. Yet, as with Italy, they can reproduce those very power structures on national soil, with more freedom to exercise their exploitative power. The core can do all of this without having to accommodate Third World needs and trade deals. According to the tenets of dependency theory, peripheries like China depend on EPZs for capital and profitable exports.<sup>152</sup> If these EPZs are removed from the periphery, then they no longer produce profit for the periphery's people. Thus, while the relocation of EPZs to national ground would seem like a step towards positive change at first, it only further convolutes an already complex relationship. The repackaging of EPZs into domestic labour zones only increases the amount of influence that the core has on the periphery, and does nothing to

<sup>149</sup> Ibid., 7.

<sup>150</sup> Ibid., 86.

<sup>151</sup> Ibid., 89.

<sup>152</sup> Ibid., 86.

<sup>148</sup> McMichael, *Development*, 86.

change the power imbalance that currently exists between First World corporations and consumers, and Third World producers.

## ***II. The Exploitation of Chinese Migrant Labourers***

A core country like Italy cannot do this without the willing and unwilling cooperation of Chinese migrant labourers. To begin with, the Italian Trade Commission has associated prestige with the 'Made in Italy' label, placing itself in a superior position in the hierarchy of labour and production.<sup>153</sup> In its initial stages, this portrayal of luxury brought with it the image of opportunity and prosperity. As a result, when Italy opened up space for a low-skilled labour force for new migrants, Chinese migrants were quick to take advantage of the opportunity.<sup>154</sup> The pioneer migrants were able to find their footing in the local economy, and several of them started small contracting workshops that later became larger houses of production.<sup>155</sup> What is unique about this progress is that it was operating on an almost exclusive, alternate plane of existence. This is because the Chinese workshops were self-employing, self-sustaining, difficult to account for and difficult to monitor. In addition, regulations governing Italian taxation, environment and labour standards were often overlooked.<sup>156</sup> As a result, Chinese workshops serve as locations of 'in situ offshoring' or on-site offshoring, where foreign labour that would typically be involved in offshoring practices in other nations are instead engaged in the same processes within the core country.<sup>157</sup>

The Chinese people that worked at these workshops often came from the same village and the same culture as the owners, so they possessed a sense of loyalty towards their employers.<sup>158</sup> In addition, since they were isolated from the native Italian population, the employees' only community and social network largely included their employers, making everyone deeply interconnected.<sup>159</sup> This connection is of particular interest because it is what leads to the reproduction of poor living and working conditions for Chinese migrant labourers. Due to the their social and economic dependency on employers, employees fall into silence when faced with harsh working conditions. For instance, several workshops display spatial arrangements that violate Italian labour laws and lead to workplace disasters such as fires.<sup>160</sup> Yet, the workers continue to remain loyal to the system that puts them in harm's way. For low-paid workers, as well as undocumented labourers, these unsafe accommodations are their only option. Taking into account that the workshops serve as a place of shelter and refuge from the authorities, some workers are often willing to work extra-long hours during peak seasons for free food and lodging.<sup>161</sup>

This cooperation, although micro-level in its practice, is important because it allows for racialized inequality to be reproduced. Italy is able to exploit the Chinese through Chinese employers, all without interacting with China as a whole. This phenomenon contradicts the assertion that dependency theorists such as Andre Frank argue, which is that satellite, or periphery, nations experience the most development when

<sup>153</sup> Yanagisako, "Labour," 48.

<sup>154</sup> Ceccagno, *City-Making*, 89.

<sup>155</sup> *Ibid.*, 89.

<sup>156</sup> Ottati, "Industrial," 1830.

<sup>157</sup> Ceccagno, "Emplacement," 1117.

<sup>158</sup> Ottati, "Transnational," 1257.

<sup>159</sup> *Ibid.*, 1257.

<sup>160</sup> Lan, "District," 170.

<sup>161</sup> *Ibid.*, 172.

their ties to the metropolis are weakest.<sup>162</sup> When migrants leave China and cooperate with dangerous working conditions in Italy, they demonstrate an unrewarded and often unwilling loyalty that detracts from Chinese development as a whole. China not only loses members of its workforce that would have otherwise contributed to production at home, but it also loses international influence as Italy no longer has to consider international trade or labour formalities as diligently as before. Thus, even though China's ties to the Italian metropolis are technically weaker than before, it is not in a position where it can achieve greater levels of development, as claimed by dependency theory.

### ***III, The Systematic Policing of Chinese Migrant Labourers***

To further develop the argument of Italy subverting traditional dependency and reproducing global inequalities on a national scale, it is important to look at the way that Chinese labourers are policed in Prato. Traditional EPZs are usually separated from the rest of the country, often walled in and monitored with an almost prison-like approach.<sup>163</sup> In Prato, the predominantly Chinese industrial zone has few connections with the rest of the production industry and is often seen as a 'parallel district' by the native Italian population.<sup>164</sup> In fact, the isolated success of the Chinese production house starkly contrasts the declining conditions of the local population, and has often led to anti-Chinese sentiment.<sup>165</sup> This sentiment was quickly transcribed into racist rhetoric and policy in 1990, with Italy banning "[...] the access to entrepreneurship to new immigrants

originating from countries where Italian citizens could not access self-employment [...] exposing migrants to an increased vulnerability, and pushing many to resort to illegal practices."<sup>166</sup> This ban was lifted in 1998, but by then, it had already developed a culture in which the national police force selectively applies the law to Chinese workshops in Italy. On one hand, the Italian police force wants the informal economy to come to an end, and has intensified workshop checks to bring undocumented Chinese labourers to the surface.<sup>167</sup> On the other hand, it consistently tolerates instances of undocumented labour despite having knowledge about the unsafe practices involved.<sup>168</sup> Even though seventy Prato firms were found to have been employing undocumented labourers between 1999-2000,<sup>169</sup> no strict action has been taken to prevent further undocumented labour from taking place.

This form of policing seems to be more of a threat that hovers over undocumented workers' heads rather than an actual consequence, and serves as a form of national control. However, although it does not actively prevent undocumented labour, Italy has taken several steps to systematically prevent Chinese migrant workers from acquiring residence permits or citizenships. For instance, "[...] a residence permit currently costs between eighty and two hundred euros, but requires a full record of social taxes, which the Chinese firms rarely pay for their workers."<sup>170</sup> For the most part, Italian immigration policies target low-skilled labourers and have them sign contracts that force them to reside within Italy until the contract expires.<sup>171</sup>

<sup>162</sup> Frank, "Development," 110.

<sup>163</sup> McMichael, *Development*, 86.

<sup>164</sup> Ottati, "Industrial," 1818.

<sup>165</sup> Ceccagno, "Emplacement," 1125.

<sup>166</sup> Ceccagno, *City-Making*, 95.

<sup>167</sup> Ottati, "Transnational," 1260.

<sup>168</sup> Ceccagno, *City-Making*, 100.

<sup>169</sup> *Ibid.*, 99.

<sup>170</sup> Lan, "District," 167.

<sup>171</sup> *Ibid.*, 174.

However, with Chinese labourers, particularly undocumented ones that are not even permitted to sign workplace contracts, this structured, bureaucratic form of exploitation is harder to enforce. Nevertheless, the complex and intimidating presence of Italian authorities proves to be a force that monitors and polices Chinese labourers into compliance. Whether it be through policy, police checks, or permits, Italy continuously threatens and disadvantages Chinese labourers, further pushing them into the cramped quarters of unsafe workshops. This demonstrates that a core nation-state can easily replicate the global system of inequality and exploitation using its own independent forces, and does not require the cooperation or assistance of other core countries. This independence rejects trade agreements, labour regulations, and human rights codes, which are a condition that can prove to be dangerous for not only Chinese labourers, but other racialized labourers around the world as well.

## Conclusion

'Made in Italy', but at what cost? While Italian fashion houses are manufacturing items within Italy, they are doing so through documented and undocumented Chinese migrant labour. This phenomenon is of particular interest to development because it disassembles the bidirectional framework of dependency between core and periphery countries. Firstly, the relocation of EPZs to an area within Italy has led to the revaluation of current international power relations. Historically, core countries like Italy have negotiated trade and labour supply with peripheries like China. However, by providing Chinese workers with the illusion of agency in Italy, Italian fashion houses are able to maintain more control over production

without the added hassle of diplomatic and economic relations with China. Secondly, this phenomenon demonstrates that peripheries can be disconnected from the core and still be far away from development, as core countries do not have to directly work with government forces to exploit the people of another nation. The migrant workers of China are struggling in Italy at the expense of themselves and China's international presence. Finally, the Prato case showcases that the maintenance of such a system does not rely on a globalized, imperialist cooperation amongst various core countries, as previously asserted by dependency theorists. Italy has been able to employ national forces such as policy, police, and permits to disadvantage, control and keep migrant groups in the margins of society.

For these reasons, it is of utmost importance to analyze the industrial zone in Prato. It is necessary to recognize that this issue is not just limited to Prato because "the increasing reliance of capital on global supply chains over the past three decades has dislocated both people and labour processes,"<sup>172</sup> and will continue to do so in the future. If this trend expands to other types of production, especially those with a larger pollution output, how will the issue of global environmental degradation be addressed then? As of now, periphery countries face an agglomeration of environmental disasters and low standard of living, and are being subjected to the most regulations. If countries like Italy also begin to face these issues, how will pollution in the context of outsourcing be viewed? With regards to outsourcing and offshoring, how will these practices change if migrant labour is imported to core countries and exploitative structures parallel to those in the Third World are

<sup>172</sup> Yanagisako, "Labour," 47.

set up within core borders? If a country replicates the conditions and population of a particular mode of production, but does this on national soil, is it still subject to the international agreements and regulations? Or does this become a matter of national jurisdiction? For migrant labourers searching for a better life, they may become stuck in situations where they have little access to unions, public sympathy, and even recognition.

Thus, in an effort to recognize the plight of Chinese labourers in places like Prato, it is important to research the circumstances and impact of Prato outside of an economic lens. A sociological approach needs to be taken, particularly one which employs dependency and world-systems theories as they tackle the issues of nation-states, world-systems, labour, and exports in different ways. Perhaps a framework that marries the two ideas can be developed, as nation-states exploit the world system and vice versa. For labourers in Prato, it is important to strengthen the relationship between them and the Chinese government so that the labourers can find a safer way to work in Italy and the Chinese government is more involved in the growing export of labour. If this is done, then the possibility of a reimagined and less exploitative core and periphery relationship can perhaps be devised—particularly one that pushes past dependency in all senses of the word.



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## Offshoring Waste to the West Bank: Ecological Imperialism in the case of Israel/Palestine

Soraya Ahmad Parwani

*This paper uses the concept of ecological imperialism to explore how Israeli waste facilities in the West Bank are externalizing negative environmental costs to Palestine. I argue that the presence of these waste facilities creates a 'coercive environment' which facilitates the forcible transfer of Palestinians, and expands Israel's control over the territory. In making my argument, I unpack the legal and political frameworks through which the state of Israel is incentivizing companies to offshore operations to the West Bank, contributing to the expansion of 14 illegal industrial settlement zones.*

Imperialism is the "deliberate act of expanding power, control, and authority by one country over an area outside its borders."<sup>173</sup> Ecological imperialism, then, is the process in which states use ecological means to achieve imperialist aims. Ecological imperialism requires a disproportionate and undercompensated transfer of matter and energy from the periphery to the core, as well as the exploitation of environmental space within the periphery for intensive production and waste disposal.<sup>174</sup> It requires the acknowledgement of systematic asymmetries in the exploitation of the environment, and perpetuates environmental degradation and unequal ecological exchange between states.<sup>175</sup> These conditions are embedded within the case of Israeli waste facilities being offshored to the industrial settlement zones in the West Bank. In this paper, I study the presence of Israeli waste facilities in the West Bank and the implications of

externalizing environmental costs to other states. I argue that the presence of Israeli waste facilities in the West Bank is creating a coercive environment that is leading to the forcible transfer of local Palestinians. I begin my argument by describing the asymmetric relationship between Israel and the West Bank that sets the condition for an unequal exchange of resources. Next, I assess the political and legal framework within which Israel is acting. Finally, I show that this practice is increasing Israeli control by creating a 'coercive environment', resulting in the forcible transfer of Palestinians.

### Israel: Unequal Exchange

In 2017, Israel's GDP was worth 350.85 billion US dollars, and represented approximately 0.57% of the world economy.<sup>176</sup> In the same year, Palestine had hit an all-time high of \$14.5 billion US dollars in GDP value—which comprises merely 4.3 percent of the Israeli economy.<sup>177</sup> Israel's high level of

<sup>173</sup>Mulvaney and Robbins, "Ecological Imperialism," in *Green Politics: An A-to-Z Guide*, 126.

<sup>174</sup>Clark and Foster, "Ecological imperialism," 316.

<sup>175</sup>Rice, "Ecological Unequal Exchange," 1372.

<sup>176</sup>World Bank, "Israel."

<sup>177</sup>World Bank, "West Bank and Gaza."

GDP also results in high levels of waste production. As Israel continues to increase its production to maintain and increase its economic growth, it needs more and more space to handle its waste products. Last year, Israel produced 5.4 million tons of waste, of which 350,000 metric tons were hazardous waste.<sup>178</sup> The hazardous waste was produced almost entirely by the industrial sectors: chemical, pharmaceuticals, agricultural raw materials, and more.

The geographical distribution of waste and hazardous material evidently implies greater risk to the population based on their proximity to those sites. There are segments of the population that are influential and can lobby their governments to keep such facilities away from their communities through a process known as “Not in My Backyard.” This movement has sparked a consciousness in democratic governments to be mindful of geographical distribution of waste facilities in relation to populations. In Israel, two plants that treated sludge waste similar to the OR facility closed down in 2013 and 2014, after citizens protested the unbearable stench from the companies.<sup>179</sup>

A research report conducted by the prominent Israeli NGO B'Tselem, has found that there are “at least fifteen” Israeli waste treatment facilities in the West Bank.<sup>180</sup> Furthermore, six of these facilities handle hazardous waste requiring special process and regulatory supervision, due to the dangers it poses including: toxicity, mutagenicity, infectiousness, flammability, and combustibility.<sup>181</sup> In 2017, Israel's Director of the Ministry of Environmental Protection's Jerusalem District stated at an Ariel University

event that “there are certainly wastes, especially hazardous waste and expensive waste, that Israelis transfer to the West Bank to get rid of.”<sup>182</sup> This is supported by evidence suggesting an increase in the amount of Israeli waste facilities operating in the West Bank. In its research report, B'Tselem conducted intensive research on five of the facilities which either treated sludge waste, medical waste, solvent waste, electronic or oil waste.<sup>183</sup> From the research, it can be concluded that a disproportionate share of the recycled waste is treated primarily by the waste facilities in the West Bank. For instance, the waste facility Compost OR in the North Jordan Valley, between the settlements of Mass'a and Yafit, treats sludge waste—an organic solid originating in human feces. According to Israel's Ministry of Environmental Protection, 65 percent of all sludge is recycled to produce fertilizer. The OR facility converts over half the total recycled at roughly 60 percent; whereas the facilities that operate in Israel only treat a few dozen metric tons annually.<sup>184</sup>

These waste facilities are an example of ecological imperialism, because Israel is compensating for the degradation of its own environment by more rapid exploitation of the Palestinian resources. The increasing rate of development and industrial output will also result in a growing amount of waste that needs to be treated, which will entrench asymmetric relations.<sup>185</sup>

### Asymmetric Relationship: Israel Makes the Rules

The West Bank is split into three sectors, respectively known as Area A, B,

<sup>178</sup>Israel Ministry of Environmental Protection, “Waste in Israel.”

<sup>179</sup> Ibid., 8.

<sup>180</sup> Aloni, *Made in Israel*, 5.

<sup>181</sup> Aloni, 5.

<sup>182</sup>Ashly, “Israel Turns West Bank.”

<sup>183</sup>Aloni, *Made in Israel*, 6.

<sup>184</sup> Ibid., 10.

<sup>185</sup> Rice, “Ecological Unequal Exchange,” 1370.

and C. Area A is under Palestinian Authority and Area B is under the joint leadership of Israel and Palestine—together, these two regions only make up 41 percent of the total land in the West Bank.<sup>186</sup> In comparison, Area C includes settlements, roads to access the settlements, buffer zones and almost all of the Jordan Valley and Jerusalem and is solely under Israeli control. A vast majority of the Palestinian population lives in Area A and B, whereas Area C holds much of the available and vacant land for construction. In the approved areas, 97 percent of all approved permits were given to Israelis.<sup>187</sup> Furthermore, there is a discrepancy between companies operating in the West Bank relative to those in Israel thereby incentivizing companies to offshore operations due to more relaxed regulations.

In Area C, Israel applies Israeli Military Orders with the force of the law without democratic control or parliamentary approval—enforced by military courts.<sup>188</sup> The West Bank is divided from Israel by the Green Line (boundary), and all waste within this area is under several laws that outline the proper standard and procedures that need to be maintained for the treatment of the waste facilities.<sup>189</sup> This includes the Licencing Business Law (1986) which overlooks the regulation of permits for handling hazardous materials and waste, and outlines the reporting duties. There is also the Hazardous Substance Law (1993) that requires all waste treatment facilities to get a special permit from the Ministry of Environment to handle toxins. Furthermore, these companies are also subject to the Clean Air and Environmental Protection Law.

By contrast, the military order in the West Bank has only applied some of these environmental laws and regulations. It has excluded the Clean Air Law, which means that there are no restrictions on air pollution for facilities operating in the West Bank.<sup>190</sup> Furthermore, Israel has also not included the Environmental Protection Law in the West Bank territory. Therefore, companies are not obligated to measure the pollutants being released, as well as report on the waste management process of the company.<sup>191</sup> The legislative disparities in the regulation of the polluting plants allow companies that operate in the West Bank clear advantages to offshore the operation of the plants. Therefore, companies are incentivized to operate in the industrial settlement zones because the policies of the state provide a greater profit margin for these companies. The companies are not subject to the same environmental laws, and thus are not going to be penalized for pollution or not reporting.

### Avoiding International Regulations

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, usually known as the Basel Convention, is an international treaty that was designed to reduce the movement of hazardous waste between nations, specifically to prevent transfer of hazardous waste from developed to less developed countries.<sup>192</sup> In order for Israel to legally operate waste facilities in the West Bank, they require a signed agreement from the Palestinian

<sup>186</sup> Al-Khatib et. al., "Public Concerns," 3.

<sup>187</sup> Ibid., 12.

<sup>188</sup> Ibid., 12.

<sup>189</sup> Aloni, *Made in Israel: Exploiting Palestinian Land for Treatment of Israeli Waste*, 8.

<sup>190</sup> Aloni, *Made in Israel: Exploiting Palestinian Land for Treatment of Israeli Waste*, 14.

<sup>191</sup> Ibid., 15.

<sup>192</sup> Basel Convention, "The Basel Convention."

Authority.<sup>193</sup> In the absence of the agreement, the generator of the waste is acting illegally and engaging in a criminal act of trafficking.<sup>194</sup> The largest hindrance to bringing these crimes to light is the unavailability and lack of access to information. Since Palestine became party in 2015, however, it has reported three incidents concerning waste transfer from Israeli sources – to which negotiations with the Basel secretariats led to Israel retracting the waste back to Israel.

Israel has occupied the West Bank since 1987, and claims that it is within its own territory when operating waste facilities in the West Bank.<sup>195</sup> The Israeli government has full control over Area C, which is where these sites are primarily held and therefore, denounces requiring the approval of the Palestinian government. The international community recognizes Israel as an occupying power of the West Bank and with it comes international obligations and responsibilities. As an occupying power, Israel must uphold public order and safety in the occupied territories of Palestine. Moreover, occupying powers are prohibited from extracting and exploiting resources from the occupied nations for their own benefit. Therefore, it is absolutely imminent for the Basel Convention to be applied and be relevant in the controlling of waste that is being offshored to the West Bank.

### Geopolitical Interest: Forcible Transfer

There is a clear political gain to be made from the presence of waste facilities in the West Bank. These waste facilities create a 'coercive environment' that makes it

uninhabitable for the local communities and leads to forcible displacement.<sup>196</sup> A forcible transfer includes the triggering of specific factors that give individuals or communities no choice but to leave, due to a coercive environment.<sup>197</sup> Any transfer without the genuine and fully informed consent is considered forcible—and consent cannot be obtained by the use or threat of physical force, coercion, fear of violence, or duress. The waste facilities in the West Bank are creating a coercive environment for the Palestinians by increasing their exposure to harmful chemicals and pollutants that were produced in Israel.

The forty-six Bedouin communities that reside in Area C are just some of the many Palestinian communities that are at risk of forcible transfer due to coercive environmental conditions.<sup>198</sup> The Bedouin people are from the Jahalin tribe who are facing expulsion from Khan al-Ahmar, an area on the road between Jerusalem and Jericho in the West Bank.<sup>199</sup> The government has offered permanent resettlement for a few of the communities near an Israeli waste disposal site or along an Israeli sewage-treatment plant—on the condition that these residents are joined by the three other Jahalin communities. The Palestinian authority has claimed that removing the village is part of the greater move to 'annex the West Bank'.<sup>200</sup> There are three main implications if the state is successful in this move (1) East Jerusalem would become isolated from the rest of West Bank (2) greater Israeli settlement construction would divide the occupied Palestinian territories in two (3) no

<sup>193</sup> Abdel-Qader and Roberts-Davis, "Toxic Occupation," 35.

<sup>194</sup> Abdel-Qader et al. "Toxic Occupation," 35.

<sup>195</sup> Aloni, "Occupation Pollutes."

<sup>196</sup> United Nations High Commissioner for Human Rights, "Israeli Settlements."

<sup>197</sup> *Ibid.*, 6.

<sup>198</sup> Amnesty International, "Israel: Cancel Plan."

<sup>199</sup> Holmes, "Inside the Village."

<sup>200</sup> *Ibid.*

continuous land for the Palestinians.<sup>201</sup> In recent times, there has been increasing amount of Palestinians residing in the West Bank that have complained about the stench of the waste facilities.

The waste facilities in the West Bank are creating a coercive environment that is leading to the forcible transfer of individuals. The Palestinians that become exposed to the harsh chemicals and pollutants from these companies are either forced to relocate or accept the damage. The current status quo for Israel is that it enjoys the extraction and exploitation of resources from its periphery whereby the periphery is unable to engage in equal negotiation with the state. The waste facilities being transferred to the West Bank are a part of Israel's larger imperial motive to increase its control over the region. The transfer of these waste facilities are essentially forcefully subjugating the Palestinians to economic structures and policies that are in the benefit of the occupying state.

its obligations towards the occupied territory of the West Bank. The waste facilities make large areas of the West Bank uninhabitable for the nearby Palestinian communities that are now exposed to various hazardous materials. The externalizing environmental degradation by Israel has created a 'coercive environment' for the Palestinians leading to their forcible transfer.

## Conclusion

Ecological imperialism is increasing economic inequality among states and worsening ecological conditions for developing states due to perpetuating asymmetric relationships. The case study of Israeli waste facilities in the West Bank highlighted the implications of these neoliberal policies that are embedded within the capitalist framework. The core offers economic incentives for companies to operate in the peripheries, whilst minimizing environmental degradation within their own borders. Israel has strategically avoided the Basel convention by invoking its status as an occupying power, and yet also actively disregards

<sup>201</sup> Ibid.

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## A Tale of Two Knights: The Effects of Chinese and Russian Trade Linkages on African Political Regimes

Omri Rozen

*The democratization literature has mostly assumed that the increasing prominence of the world's autocratic superpowers – namely, Russia and China – in international trade and aid will negatively affect the global prospects of democracy. This paper seeks to empirically verify this claim, specifically by testing whether trade linkages among these autocratic powers and fifty African states affect the latter's democratic outcomes. Surprisingly, Chinese trade is found to have a seemingly positive effect on democratic outcomes, with Russian trade having a negative one. These findings suggest that a more complex understanding of autocratic linkages needs to be developed before their effects on democratization can be determined.*

“Numerous grains of earth make a mountain; numerous drops of water form an ocean. As long as we keep advancing China-Africa cooperation, we will make even bigger achievements”

- PRC President Xi Jinping, 2013

As the United States continues to retreat from long-standing commitments to international democracy promotion and development aid under the current administration's 'America First' foreign policy, the autocratic promotion and linkage literature has assumed that the rise of autocratic agents in America's place will negatively affect the prospects of democracy in the world's most politically volatile regions. Whether understood as a tool for the explicit promotion of autocratic regimes or simply as a means of expanding economic and soft power, it is argued that the rapidly increasing and mostly unconditional flow of capital from these so-called 'Black Knights' – namely, the People's Republic of China (PRC) and Russia<sup>202</sup> – will

depress incentives for authoritarian elites to liberalize their regimes as well as the resources available to oppositional actors to effectively challenge these elites.

This conclusion, however, has been mostly assumed rather than systematically verified. Indeed, few studies have attempted to quantitatively measure the direct effects of capital originating from these autocratic powers. Simply put, is it true that Black Knight trade (that is, capital, goods, and services originating from the world's major autocratic powers) negatively affects the prospects of democracy in the world's aid-dependent regions? In this paper I argue that the effects of financial linkages with major autocratic powers are not as deterministic as some have assumed. Using data on outward trade flows from the PRC and Russia to fifty African countries across

<sup>202</sup> Chou, "Have the Black Knights Arisen?" 175.

twenty-two years, this paper will show that the two Black Knights vary significantly in the effects which their trade seems to have on regime outcomes – Chinese trade seems to have a positive effect on democratic performance while Russian trade seems to have a negative one. I will argue that this divergence, in part, stems from the variation in the type and volume of trade in which these two Black Knights engage, their own strategic intentions in pursuing these trade relationships, and the degree of ‘promotability’ provided by their respective regime types given our contemporary international context in which democracy has considerable normative power.

### The Traditional Linkage Literature

An extensive literature in the field of comparative politics convincingly argues that the linkages which states form among themselves – whether financial, diplomatic, migratory, or otherwise – influence regime outcomes.<sup>203</sup> Thus, outside of the structural conditions of the ‘modernization’ thesis or the strategic interactions of actor-based democratization theories, both of which are invariably situated in the domestic realm, a given state’s *international* relationships have come to be understood as key explanatory variables in the emergence and consolidation of democratic, autocratic, and hybrid regimes. Spearheaded by the seminal work of Levitsky and Way, the literature argues that extensive linkages among autocratic regimes and Western democratic powers “raises the cost of autocratic behavior by heightening the salience of government

abuses, increasing the odds of an international response, and creating influential constituencies for political change.”<sup>204</sup> This relatively straightforward causal mechanism between linkage, leverage, and regime change allows Levitsky and Way to forward their enduring conclusion that “dense linkages [with the West] generate democratizing pressure that is... systematic and... effective.”<sup>205</sup>

Nevertheless, with the ongoing “global democratic recession” since the turn of the millennium,<sup>206</sup> and the particularly resilient presence of ‘hybrid’ competitive authoritarian regimes in places where post-Cold War optimism predicted imminent democratization,<sup>207</sup> some scholars have shifted their attention away from democratic linkages and instead to autocratic linkages. Mirroring studies of democratic linkage demonstrate that the density of financial, diplomatic, and migratory networks which autocratic regimes have constructed *among themselves* correlates with the resilience of their political regimes. For instance, Tansey, Koehler, and Schmotz focus on what they call the “ties to the rest, rather than ties to the West,”<sup>208</sup> finding that trade-based, migratory, and diplomatic linkages among authoritarian countries have significant positive effects on the survivability of autocratic regimes, as such linkages “foster preferences for status quo politics both among international partners and domestic constituencies.”<sup>209</sup> Similar findings have been forwarded by the likes of Tolstrup,<sup>210</sup> specifically in relation to the effects of Russian linkages on the

<sup>204</sup> Levitsky and Way, “International Linkage,” 32.

<sup>205</sup> *Ibid.*, 33.

<sup>206</sup> Mechikova, Luhrmann, and Lindberg, “How Much Democratic Backsliding,” 162.

<sup>207</sup> Levitsky and Way, *Competitive Authoritarianism*, 4.

<sup>208</sup> Tansey, Koehler, and Schmotz, “Ties to the Rest,” 1222.

<sup>209</sup> *Ibid.*, 1225.

<sup>210</sup> Tolstrup, *Russia vs. the EU*, 3.

<sup>203</sup> Levitsky and Way, *Competitive Authoritarianism*, 339.

survivability of post-Soviet autocracies; by Ambrosio<sup>211</sup> in his analysis of the growing 'authoritarian backlash' to democratization movements through trade and diplomatic networks; and by Vanderhill,<sup>212</sup> through her exploration of the complex strategic and structural interplays which determine, in part, the success of explicit autocratic promotion. In sum, a growing literature confirms that the effects of linkages on political regimes are dependent not only on the 'density' of the given relationships, but on the regime types of the countries which form these relationships, and that increasingly dense networks among autocracies "help to reinforce rather than undermine authoritarian rule at the domestic level."<sup>213</sup>

These general findings on the effects of democratic and autocratic linkages, in conjunction with ongoing geopolitical trends, seem to have worrying implications for the prospects of democracy in the world's most autocratic regions. For one, the West, driven by populist and isolationist movements in the United States, continues to retreat from explicit democratic promotion. Indeed, current US President Donald Trump has made bold promises to implement "deep cuts to foreign aid... and to ask the rest of the world to... pay its fair share."<sup>214</sup> In turn, this Western 'retreat,' it is argued, has provided the space for the world's autocratic rising powers – namely, the PRC and Russia – to displace existing Western linkages with the Middle East, Africa, and Asia. China, in particular, seems to have capitalized on this opportunity to expand its (mostly financial) horizons, perhaps most conspicuously with the Belt and Road Initiative (BRI).<sup>215</sup> The BRI represents

an economic network stretching "across Central, Western, and Southern Asia, as well as the Middle East... and North Africa," and one which has "become the centerpiece of China's economic diplomacy."<sup>216</sup> Some scholars have even explicitly characterized economic projects like the BRI as ostensibly 'innocuous' political strategies which in reality uphold a system of autocratic promotion.<sup>217</sup> The above literature on autocratic linkage thus seems to suggest that newly-emerging autocratic linkages will work to reinforce autocracy in these politically volatile regions.

Others, however, have begun to challenge this simplistic characterization of autocratic linkages as necessarily damaging to the prospects of democracy. For example, Vanderhill, albeit in the context of *explicit* autocratic promotion (i.e. strategies of expanding autocratic governance abroad) as opposed to simple linkage (i.e. bilateral ties which do not explicitly function as tools of regime change), argues that there remain "many unanswered strategic and theoretical questions about... what determines the success or failure of... the promotion of authoritarianism."<sup>218</sup> In particular the role of local conditions and the consequent difficulty in uncovering "generalizable causes" remain mostly unaccounted for.<sup>219</sup> I find this critique to be relevant more broadly to the entire literature on authoritarian linkage. Simply put, is it true that expanding linkages with autocratic regimes, and in particular with economically and politically powerful autocratic regimes like the PRC and Russia, negatively affect the prospects of democracy? The following section seeks to empirically test this

<sup>211</sup> Ambrosio, *Authoritarian Backlash*, 13.

<sup>212</sup> Vanderhill, *Promoting Authoritarianism Abroad*, 32.

<sup>213</sup> Tansey, Koehler and Shmotz, "Ties to the Rest," 1224.

<sup>214</sup> Trump, "America First," 2.

<sup>215</sup> Magri, "Introduction," 7.

<sup>216</sup> Magri, "Introduction," 8.

<sup>217</sup> Fels, "Geopolitical Significance," 247.

<sup>218</sup> Vanderhill, *Promoting Authoritarianism Abroad*, 3.

<sup>219</sup> *Ibid.*, 3.

question in the context of Africa, finding – in line with the suspicions of Vanderhill and others<sup>220</sup> – that the density of autocratic linkages alone does not systematically and invariably negatively affect democratic performance.

### Research Design

As outlined above, I wish to test the extent to which the density of linkages with autocratic regimes – specifically, linkages with powerful autocratic regimes – affect the prospects of democracy or, inversely, the persistence of autocracy. With the limitations of this short paper in mind, I have decided to focus on such linkages in the context of Africa, which I have chosen for several reasons. For one, Africa provides a wealth of variation across the fifty country cases for which I have found adequate data. The continent, while home to some of the world's most severe autocracies (Eritrea, Equatorial Guinea, and Zimbabwe provide quintessential examples), also offers several 'high-scoring' democratic country-cases and, perhaps more importantly, has also been the site of dramatic regime change. Such transformations (both toward democracy and autocracy) have occurred in places as economically, historically, and geographically disparate as Tunisia, South Africa, Nigeria, and Mali. The continent thus provides a wealth of variation to the study's central dependent variable – namely, regime type.

Moreover, Africa as a whole remains the world's most aid-dependent region, though of course regional variation in development and resource wealth affects the scale of this dependency across cases. As Wamboye, Adekola, and Sergi broadly generalize,

African countries have mostly been “unable... to wean themselves from foreign aid and duplicate the Asian growth miracle,” mainly because “mounting external debt, weak economic institutions [and] poor governance” have maintained the region's “cycle of foreign aid dependency.”<sup>221</sup> As a whole, this means that the effects of increasing financial linkages on the part of African countries with the world's autocratic Black Knights should have even greater effects than in places where economic development and diversity may make dependency less likely. In other words, an influx of investment by the PRC and Russia, and thus an increase in the density of autocratic linkages, should have even more substantial effects in Africa than elsewhere precisely because of the region's relatively lower development and diversification, and consequently its greater propensity toward dependency. Or, as Levitsky and Way explain, “governments in weak states with small, aid-dependent economies (like much of Sub-Saharan African) are more vulnerable to external pressure than those of larger countries with substantial... economic power.”<sup>222</sup> Of course, it must be noted that in large part this dependency is the product of a deeply violent Western colonial heritage in Africa. Thus, further research is certainly needed to contextualize activities in Africa by emerging powers like Russia and the PRC in the larger history of exploitation and colonialism which has unfortunately, in part, defined the contemporary African economic and political experience.

This is, in part, why Western commentators have treated the growth of Russian and Chinese investments in Africa with such vocal anxiety. Vanderhill, for instance, explains that

<sup>220</sup> Chou, “Have the Black Knights Arisen?” 176.

<sup>221</sup> Wamboye, Adekola, and Sergi, “Foreign Aid,” 336.

<sup>222</sup> Levitsky and Way, *Competitive Authoritarianism*, 41.

despite the fact that the PRC has not “attempted to affect regime type” in African countries which it has targeted for investment,<sup>223</sup> simply “the rapid rise of Chinese involvement in Africa has caused unease” in the West.<sup>224</sup> Thus, in a continent where democratically-conditional aid has often been portrayed as the greatest hope for democratization,<sup>225</sup> the mere expansion of autocratic investment, and with it the inevitable displacement of existing Western aid structures by autocratic linkage, is seen as a harbinger of democratic backsliding and autocratic expansion/consolidation. All of these factors, in my view, make Africa invaluable as a region from which larger insights may be gleaned into the effects of autocratic linkage on political regimes.

Perhaps more controversially, I have decided to limit my study to *financial* linkages, in direct contrast to other contributions to the linkage literature in which migratory, diplomatic, and geographic relationships are often included. I argue that this decision is justified in that these latter components of linkage, while useful in globally-oriented studies, have little relevance to this particular project. For instance, geographic proximity loses its importance when focusing on the relationships among China, Russia, and Africa, as the distances involved in studying these relationships make the conventional concern with the diffusion effects of geographic proximity mostly irrelevant, especially in light of the PRC and Russia's positions as less fervently ‘ideological’ autocratic actors.<sup>226</sup> A similar case can be made with migration, seeing as the overall flow of people from Russia and China to Africa is small, at least in comparison to

migration from these countries to their near abroads, where such movements are likely to have significantly larger effects. Finally, while I would have liked to include some measure of diplomatic linkage, such as the number of “diplomatic envoys sent and received” by each African country and China/Russia, which is the measure used by Tansey, Koehler, and Schmotz,<sup>227</sup> the data available on these diplomatic exchanges has only been updated to 2005.<sup>228</sup> Using this dataset would have therefore severely limited my study's scope, and would have effectively excluded the last decade – one in which linkages among these Black Knights and Africa have substantially increased. Thus, I have chosen to focus solely on trade, or more accurately, dependency on Black Knight trade, as my measure of linkage.

To operationalize this, I use data found in the “Correlates of War” trade dataset, which provides the total unilateral trade flows (that is, the total value of goods and services) originating from any one country to any one other country for a given year.<sup>229</sup> Using this data, I catalogue the total outgoing trade flows from both Russia and the PRC (respectively) to all fifty African countries included in my study for given year, specifically from 1992 to 2014. I then use these total figures (provided in current US dollars) to calculate the *proportion* of a given country's total GDP represented by the incoming trade from each of these Black Knight powers in a given year. The GDP figures used are provided by the International Monetary Fund (IMF) as reported in the “Quality of Government” dataset,<sup>230</sup> and are also calculated in current US dollars,

<sup>227</sup> Tansey, Koehler, and Shmotz, “Ties to the Rest,”

<sup>228</sup> Ibid. 2.

<sup>229</sup> Bayer, “Diplomatic Exchange Dataset.”

<sup>230</sup> Barbieri and Omar-Keshk, “Correlates of War.”

<sup>230</sup> Teorell et. al, *The Quality of Government Standard Dataset*.

<sup>223</sup> Vanderhill, *Promoting Authoritarianism Abroad*, 6.

<sup>224</sup> Ibid. 2.

<sup>225</sup> Way, “The Limits of Autocracy,” 694.

<sup>226</sup> Weyland, “Autocratic Diffusion,” 1246.

allowing for the simple division of incoming Black Knight trade over total GDP to be done without the issue of inflation-related changes.

As an example, take the case of Côte d'Ivoire in 2013. The country's total GDP in current US dollars, as reported by the World Bank, was \$31.3 billion. The total inward trade flows from the PRC and Russia, as reported by the "Correlates of War" trade dataset in current US dollars, were \$993 million and \$68 million. Using the total GDP as the denominator and the given Black Knight trade flows as separate numerators yields two 'Black Knight trade dependency indicators' – 3.2% of the country's total GDP was directly constituted by inward Chinese trade flow in 2013, whereas only .2% of the country's total GDP was directly constituted by inward Russian trade flow for the same year. This process is repeated for all fifty countries for every year beginning in 1992 and ending in 2014, resulting in 1150 total country-year cases.

I use the above 'Black Knight trade dependency' measure as my operationalization for the density of the financial linkages that a given country has to both the PRC and Russia in a given year. These act as the study's main explanatory variables. To test the effects which these variables have on the survivability of autocracy or the prospects of democracy, I must use some measure which captures regime type, or the 'degree' of democracy/autocracy. I have chosen to operationalize this using data provided by the Varieties of Democracy Institute (VDEM), an ongoing initiative led by the University of Gothenburg's Political Science Department with the aim of providing more transparent and systematic cross-sectional measurements of democracy. Thus, VDEM data are meant to capture the extent to which a given country-year case can be adequately described as

'democratic'.<sup>231</sup> Of course, it must be noted that all measures of democracy are inherently imperfect. Minimalist and/or procedural conceptions of democracy provide clarity and leverage (e.g. Dahl, 1971) with an arguable loss of validity (i.e. polyarchic conceptions of democracy arguably fail to capture all necessary dimensions of contemporary democratic governance). Meanwhile, more substantive measures (e.g. Freedom House) rectify this invalidity by capturing more elements of democracy but inevitably increase the subjectivity of the measures used and undermine their reliability (i.e. by involving measures beyond suffrage and electoral competition, such conceptualizations introduce and indeed require greater levels of measurement subjectivity and consequently become less reliably systematic).

Thankfully, VDEM data provide both a substantive and a (more) procedural measure of democracy, namely, the 'liberal democracy index score' (substantive) and the 'electoral democracy index score' (procedural). Both measures range from 0 (purely non-democratic) to 100 (purely democratic). Surprisingly, VDEM's 'procedural' measure is thus continuous, which may suggest that it is not purely procedural (i.e. polyarchic). Yet, this latter measure is nevertheless far less demanding than the liberal democracy score, essentially representing only the 'core' democratic requirements of electoral competition and universal suffrage, which the VDEM codebook explains represent "the essential element of any other conception of democracy."<sup>232</sup> These two variables allow me to construct two separate models which, while both biased in their own ways, will

<sup>231</sup> Coppedge et al., "V-DEM Country-Year/Country-Date Dataset."

<sup>232</sup> Coppedge et al., "V-DEM Country-Year/Country-Date Dataset."

collectively help to demonstrate the effects (if any) of the Black Knight financial linkage measure on democratic performance.

The study proceeds with four separate Ordinary Least Squares (OLS) regressions, two using the liberal democratic score index as the dependent variable and two others using the electoral democratic score index as the dependent variable, with both using the separate Russian and Chinese trade dependency measures as explanatory variables. One model for each VDEM score type lags the explanatory variables by five years – i.e. each democracy score is matched with the corresponding dependency score from five years prior – in order to isolate the effects of incoming trade on long-term democratic performance. This is important because it helps to counter the possibility that either the PRC or Russia may be preferentially investing in countries which are already democratic (and thus perhaps more stable), which would effectively inverse the variables' causal direction (in other words, it could be that instead of Black Knight investments *causing* democracy/autocracy, they could be investing in places *because* of their existing regime type).

Finally, I include several control variables in all four models which help control the effects of Black Knight trade as a proportion of GDP on democratic scores. Namely, these variables include oil-rent dependency as a proportion of GDP, GDP per capita, estimated GDP growth, and state membership in the Commonwealth of Nations. The choice of using these controls is inspired by the immense existing scholarship highlighting their importance in determining democratic outcomes. I use oil-rents (here, the proportion of total GDP constituted by direct oil-related profits) to approximate the

resource curse.<sup>233</sup> GDP per capita and GDP growth capture the key claim of the modernization thesis: that higher levels of development either spur the emergence and consolidation of democracy,<sup>234</sup> or simply the survivability of democracy.<sup>235</sup> As for membership in the Commonwealth of Nations, a substantial literature on the democratization effects of British colonial heritage<sup>236</sup> makes the inclusion of this variable important, particularly in Africa, where a legacy of British colonialism is still incredibly salient. This data is collected using the “Quality of Government” time-series cross-sectional dataset,<sup>237</sup> apart from the “Commonwealth membership” dummy variable which uses data provided by the Commonwealth’s website.<sup>238</sup>

## Empirical Findings

Broadly, this data confirms that both Russia and the PRC have substantially increased their total investments in Africa over the last two decades, strengthening the narrative that both have expanded their (economic) interests to regions beyond their near-abroad. However, their respective investment trajectories operate at significantly different magnitudes. Figure 1<sup>239</sup> shows the dramatic increase in total Chinese trade flow to Africa, which grew from \$1.4 billion US dollars in 1992 to a staggering \$112.9 billion US dollars in 2014. Russian total outward trade flows to Africa likewise increased dramatically – nearly twenty-fold in fact (albeit on a much

<sup>233</sup> Friedman, “The First Law of Petropolitics,” 31.

<sup>234</sup> Lipset, “Some Social Requisites of Democracy,” 71.

<sup>235</sup> Przeworski and Limongi, “Modernization: Theories and Facts,” 177.

<sup>236</sup> Bernhard, Reenock, and Nordstrom, “The Legacy of Western,” 226.

<sup>237</sup> Teorell et al. *The Quality of Government Standard Dataset*.

<sup>238</sup> Commonwealth, “Member Countries.”

<sup>239</sup> See Appendix.

smaller scale) – as they grew from \$500 million US dollars in 1992 to \$8.9 billion in 2014. As for the dependency scores (that is, the proportion of a given country's GDP constituted by either Black Knight trade flows), the cases involved show remarkable variation, particularly in regards to Chinese dependency. The mean Chinese trade dependency/linkage score across all cases with complete data was 2.39 percentage points, as compared to the Russian mean of .21 percentage points. Perhaps even more surprising are the standard deviations—Chinese trade dependency scores had a standard deviation of 4.53 percentage points, as compared to the Russian standard deviation of .41 percentage points. This explains, in part, why the outliers in Chinese trade dependency are much more dramatic than the Russian case—the maximal Chinese dependency score out of all cases with complete data was 40.52 percentage points, which represents the case of Benin in 2011 (meaning that nearly half of Benin's total GDP was the product of Chinese trade flows in that year). This is greater by more than tenfold as compared to the maximal Russian dependency score of 3.42 percentage points.

While both have thus increased their total trade flows to the continent in the last twenty-two years, the effects of their respective investments on democratic scores remarkably diverge. Tables 1 through 4 present<sup>240</sup> the results of the OLS regression models outlined in the previous section

As Table 1 shows, Chinese and Russian trade dependency scores seem to have the opposite effects on a given country's liberal democratic scores. A one-point increase in Chinese trade flow as a proportion of a given country's GDP is associated with a 0.917-point *increase* in a country's

liberal democratic score, which can range from 0 to 100. Alternatively, a standard deviational increase in Chinese trade flow as a proportion of a given country's GDP is associated with an astounding 4.15-point increase in the liberal democracy score. Meanwhile, a one-point increase in Russian trade flow as a proportion of GDP is associated with a 3.14 percentage-point *decrease* in a country's liberal democratic score, or, for the sake of comparability, a standard deviational increase in Russian trade dependency is associated with a 1.29-point decrease in the dependent variable. Both of these coefficients are highly significant, with p-values below .01 and .05 respectively. As suspected, the control variables have similarly significant effects on the dependent variable (with the exception of GDP growth). Indeed, the oil-rent measure and Commonwealth membership stand out as having particularly large and significant effects.

Equally significant and divergent results are found using the electoral democracy score model represented in Table 2 (which effectively replaces Table 1's substantive democratic measure with a procedural one).<sup>241</sup> A one-point increase in Chinese trade flow as a percentage of GDP is associated with a 1.08-point *increase* in the electoral democracy score, as compared to the 5.68-point *decrease* in the same variable associated with a one-point increase in Russian trade flow as a percentage of GDP. Of course, a single percentage-point increase in the Russian trade dependency variable is unlikely, seeing as the standard deviation across all cases for the variable is only .41; such an increase is associated with the still-substantial decrease of 2.33 points on the electoral democracy measure. Once

<sup>240</sup> See Appendix.

<sup>241</sup> See Appendix.



more, these regression coefficients are highly significant, with both having p-values smaller than 0.01, as are the coefficients for the control variables.

These non-lagged findings would seem to suggest a highly significant and relatively strong relationship between Chinese and Russian trade linkages and regime type, with Chinese trade having a systematically *positive* effect on democratic performance and Russian trade having an equally strong but oppositely *negative* effect on democratic performance. The addition of a five-year lag, however, complicates this conclusion. At least, such a conclusion is contradicted by Table 3<sup>242</sup>, in which the effects of Russian trade as a proportion of total GDP lose their significance in relation to liberal democratic scores. Thus, while in Table 3 a one percentage-point increase in Chinese trade dependency still significantly associates with a large, positive change in liberal democratic scores, the effects of the same unit increase in Russian trade dependency become statistically insignificant, suggesting that the effects of Chinese trade linkages may have longer-lasting effects in comparison to the effects of such linkages between African countries and Russia. Nevertheless, Table 4, which uses a procedural measure of democratic performance for the dependent variable, reaffirms Russia's negative effects on electoral democratic performance, with a one-point increase in the Russian trade dependency measure being associated with a 5.96-point decrease in the electoral performance score, an effect which is highly significant.<sup>243</sup> China's effects remain largely the same across both lagged models, maintaining their positive sign, a similar magnitude, and

the same high significance (i.e. a p-value smaller than 0.01).

### **Volume, Strategy, and Promotability: Explaining the Variation**

Why, then, do Chinese and Russian trade linkages seem to have divergent effects on democratic scores, whether understood substantively or procedurally? And why does the significance of Russia's influence on liberal democratic scores disappear when introducing a five-year lag? In this final section, I briefly argue that these trends may be related to the differences in the total volume of Russian and Chinese trade, their different temporal perspectives and strategies involved in pursuing these trade partnerships, and the effects which their different regime types have on the 'promotability' of their autocratic politics abroad.

For one, the general discrepancy between the positive effects of Chinese trade dependency and the negative effects of Russian trade dependency might simply be the product of the substantially larger volume and the more transformative nature of Chinese investments in Africa, as compared to Russia's smaller scale and more opportunistic trade strategy. Chinese investments in Africa involve massive infrastructure projects, including long-term investments in telecommunication, railways, ports, mines, and supportive industries like healthcare, education, and electricity. In line with China's larger geopolitical goal of reorienting global trade eastward through the ambitious Belt and Road Initiative, Chinese firms have been particularly keen to invest in transportation infrastructure and maritime ports. The larger economic benefits accrued by these investments

<sup>242</sup> See Appendix.

<sup>243</sup> See Appendix.

affect the entire economies in which China invests, spurring growth and, according to some, even incentivizing rule of law and a “stable political environment.”<sup>244</sup> Thus, it might be that Chinese investments directly affect the viability and capacity of the economies to which they become linked, catalyzing development and consequently making democracy more likely – in short, the modernization thesis. Indeed, the fact that the effects of Chinese dependency only become larger with the introduction of lag suggests that perhaps the economic and developmental benefits of China’s infrastructure projects, and thus their effects on the prospects of democratization, are felt even more in the long-term.

By comparison, even the largest Russian investments in Africa tend to be more directly concentrated on resource extraction and short-term gain. Russia’s largest projects in the continent include investments in energy-related infrastructure, primarily orchestrated by partially state-owned enterprises like Gazprom and Rosneft.<sup>245</sup> These investments are heavily concentrated in North Africa and in the Gulf of Guinea, where economies tend to be larger and more developed than in the rest of the continent, making dependency on Russian financial linkages unlikely. In addition, trade outside of the energy sector largely relates to the weapons industry, with Russian firms engaging in highly lucrative arms deals across the continent,<sup>246</sup> at times even in violation of international law.<sup>247</sup> These projects, unlike the much more expansive infrastructure investments pursued by Chinese firms, further reinforce the resource curse of

petroleum-rich regimes by expanding local governments’ petroleum-related rents and, in the case of military-related trade, expand the toolset available to autocratic elites to coercively maintain their power. Thus, the fact that Russian trade is primarily related to these ‘autocratic’ industries perhaps explains, in part, why Russian trade dependency correlates so dramatically with negative democratic outcomes. It also might explain why this effect seems to disappear after the introduction of a five-year lag (at least in terms of liberal democratic scores), seeing as both the energy and weapons industries, and the investments which they incentivize, intimately rely on short-term changes in petroleum prices and military conflict/domestic instability, respectively.

Finally, the differences among the Chinese and Russian political regimes may also explain why Russian linkages correlate with autocracy, in that the ‘competitive authoritarian’ Russian political structure may be more ‘promotable’ as compared to China’s more rigid, strictly one-party, and culturally particular form of government. Many have noted that authoritarian regimes have a vested interest in undermining democracies abroad, as the failure of democracies “undermines the value of democratization... and serves as a negative example of regime change.”<sup>248</sup> Some, however, have taken this further, arguing that some autocratic powers not only seek to undermine existing democratic regimes, but wish to promote their own autocratic political structures, despite the fact that “the normative power of democracy remains relatively strong.”<sup>249</sup> Seeing as Russia maintains a competitive authoritarian regime that is at least

<sup>244</sup> Koomson-Abekah and Nwaba, “Africa-China Investment,” 146.

<sup>245</sup> Bilgin, “Energy Security,” 120.

<sup>246</sup> Kinsella, “Illicit Arms Transfers,” 523.

<sup>247</sup> McFarland, “Africa in Retrospect” 476.

<sup>248</sup> Ambrosio, *Authoritarian Backlash*, 23.

<sup>249</sup> Mechkova, Luhrmann, and Lindberg, “How Much Democratic Backsliding,” 168.

nominally 'democratic,' Russia thus likely has an easier time exporting its own 'semi-democratic' brand of authoritarianism abroad as compared to the purely autocratic PRC, which cannot claim to even superficially subscribe to the international democratic norm. Indeed, Russia has been much more aggressive in undermining democratic institutions abroad, perhaps most famously through its interference in the 2016 US presidential election.<sup>250</sup> In turn, it has also pursued more aggressive authoritarian promotion campaigns. As Chou notes, "Russia has been extremely active" in promoting autocracy, particularly in Eurasia, where it has pursued a strategy of "providing economic assistance, endorsing elections, putting pressure on political opposition, and in the most extreme cases propping up particular governments."<sup>251</sup> While the naturally clandestine nature of autocratic promotion makes it difficult to systematically study,<sup>252</sup> the very fact that Russia might have an easier time in pursuing autocratic promotion in the current international system may help explain the overall negative effects of its trade linkages on democratic scores in the above study.

## Conclusion

Ultimately, this paper by no means offers a definitive account of autocratic linkages and the mechanisms by which they affect regime outcomes. Instead, this paper has sought to contribute to the view that these effects are not as deterministic as some alarmist commentators and scholars have portrayed them to be. In fact, in the case of Africa over the past two decades,

it seems that deepening financial linkages with the PRC – the world's foremost autocratic power – have had a net *positive* effect on the prospects of democratic regimes. Meanwhile, Russia, a similarly expansionist autocratic power, seems to have had a *negative* effect on democratic outcomes in the same region and timeframe. While I have offered some potential explanations for this discrepancy relating to the different strategies underpinning these two countries' increasing financial interest in the African continent, as well as its different political regimes, much more extensive research, and particularly research on the country-case level, will have to be done in order to fully account for these differences. Moreover, if the West continues to retreat from regions like Africa, and if the PRC solidifies its place as the world's largest economic power, it is certainly possible that the leadership in Beijing may become more strategically emboldened and politically motivated, which could transform the effects of its linkages abroad and truly make it deserving of its 'Black Knight' label. All of this is to say that autocratic linkages are simply more complex than they would seem. Thus, seeing as we are transitioning into an era in which autocratic powers are able to fundamentally challenge the hegemony of the West, it is crucial that we complicate our understanding of these increasingly salient and powerful linkages; indeed, refusing to do so would be to misunderstand the very prospects of democracy in our increasingly authoritarian world.

<sup>250</sup> National Intelligence Council, *Assessing Russian Activities*.

<sup>251</sup> Chou, "Have the Black Knights Arisen," 179.

<sup>252</sup> Vanderhill, *Promoting Authoritarianism Abroad*, 14.

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## Appendix

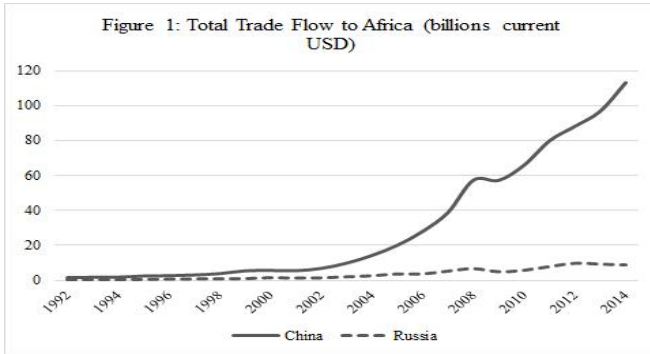


Table 1: Non-lagged Effects of Black Knight Trade on Liberal Democracy Score

	VDEM Liberal Democracy Score
Chinese Trade Flow (% of GDP)	0.917*** (0.124)
Russian Trade Flow (% of GDP)	-3.139** (1.446)
Oil Rents (% of GDP)	-0.471*** (0.042)
GDP Growth	0.099 (0.062)
GDP Per Capita	0.001*** (0.000)
Commonwealth Membership	20.132*** (1.313)
Constant	20.188*** (1.101)
Obs.	619
R-squared	0.531

Standard errors are in parenthesis

\*\*\* p&lt;0.01, \*\* p&lt;0.05, \* p&lt;0.1

Table 3: 5-year Lagged Effects of Black Knight Trade on Liberal Democracy Score

	VDEM Liberal Democracy Score
Chinese Trade (% of GDP)	1.085*** (0.193)
Russian Trade (% of GDP)	-2.463 (2.096)
Oil Rents (% of GDP)	-0.494*** (0.048)
GDP Growth	0.106 (0.069)
GDP Per Capita	0.001*** (0.000)
Commonwealth Member	20.252*** (1.502)
Constant	21.468*** (1.268)
Obs.	489
R-squared	0.544
Standard errors are in parenthesis	
*** p<0.01, ** p<0.05, * p<0.1	

Table 2: Non-lagged Effects of Black Knight Trade on Electoral Democracy Score

	VDEM Electoral Democracy Score
Chinese Trade Flow (% of GDP)	1.075*** (0.132)
Russian Trade Flow (% of GDP)	-5.677*** (1.536)
Oil Rents (% of GDP)	-0.489*** (0.045)
GDP Growth	0.130** (0.066)
GDP Per Capita	0.001*** (0.000)
Commonwealth Member	19.532*** (1.395)
Constant	33.586*** (1.170)
Obs.	619
R-squared	0.513
Standard errors are in parenthesis	
*** p<0.01, ** p<0.05, * p<0.1	

Table 4: 5-year Lagged Effects of Black Knight Trade on Electoral Democracy Score

	VDEM Electoral Democracy Score
Chinese Trade (% of GDP)	1.188*** (0.203)
Russian Trade (% of GDP)	-5.955*** (2.205)
Oil Rents (% of GDP)	-0.518*** (0.050)
GDP Growth	0.124* (0.073)
GDP Per Capita	0.001*** (0.000)
Commonwealth Member	19.093*** (1.580)
Constant	36.002*** (1.333)
Obs.	489
R-squared	0.522
Standard errors are in parenthesis	
*** p<0.01, ** p<0.05, * p<0.1	

## Cyberspace and Norm Construction: What's Holding Democracies Back?

Will Trefiak

*The nature of cyberspace is changing. While original understandings of this domain lamented its 'untameable' character, the ubiquity of cyberspace has made its regulation inevitable. How can democracies position themselves to ensure their norms and values take hold in this new era of cyberspace regulation? This paper argues there are three distinct barriers currently preventing the 'democratization' of cyberspace. These barriers are [1] democratic information controls, [2] democratic cybersecurity measures, and [3] authoritarian influence on cyber-norms. Through a dissection of all three barriers, this article establishes three distinct pathways of research for scholars of cyberspace and norm construction to pursue.*

Since its inception in 1991, many have recognized the internet's open nature as inherently democratic. John P. Barlow first articulated this in his "Declaration of the Independence of Cyberspace," which frames cyberspace as a realm immune to government regulation.<sup>253</sup> Since then, however, the internet's ubiquity in social, political, and economic spaces has made its regulation inevitable. While states, policymakers, and scholars agree on the necessity for cyber regulation; they are far from understanding how such a feat can be accomplished. The challenge is more vexing in the realm of international law, where a pattern of 'West v.s. The Rest' has emerged in discourses of cyber-norm construction. In short, western democracies maintain cyberspace as a "global commons," where limited regulation is necessary to uphold democratic values such as freedom of expression, access to information, and promotion of

human rights.<sup>254</sup> Conversely, the authoritarian 'rest,' maintain the importance of national sovereignty and believe a top-down approach to cyber-governance is crucial for preserving regime stability and traditional values.<sup>255</sup>

Although democratic cyberspace principles have been articulated at international forums, implementing these norms remains challenging. In this emerging field, a growing number of scholars have identified challenges such as securitization, surveillance, content-censorship, and commercial interests as key hindrances to the proliferation of democratic cyber-governance.<sup>256</sup> While these

<sup>254</sup> Hurwitz, "A New Normal?" in *Conflict and Cooperation in Cyberspace: the Challenge to National Security* ed. Yannakogeorgos et al., 237, 238; Kavanagh and Carrieri, "Cyberdialogue 2012 Briefs" 1, 2; and Tsagourias et al., "Towards EU Cybersecurity Law," 97.

<sup>255</sup> Cooley, "Countering Democratic Norms," 52; Hurwitz, "A New Normal?" in *Conflict and Cooperation in Cyberspace: the Challenge to National Security* ed. Yannakogeorgos et al., 258.

<sup>256</sup> Deibert and Crete-Nishihata, "Global Governance and the Spread of Cyberspace Controls," 340; Flyverbom et al., "The Governance of Digital Technology, Big Data, and the Internet," 10,11; Horten, "Net Neutrality Under Pressure," 72; Hurwitz, "A New

<sup>253</sup> Barlow, "Declaration of Independence."



arguments certainly address the challenges faced in promoting democratic cyber-norms, they do so in a way that makes cogent theory-building immensely complex. The purpose of this critical review is not to formulate such a theory, but rather categorize these challenges into a typology of three distinct barriers preventing cyberspace from becoming a democratic “global commons.” Before cyberspace can globally reflect democratic norms, I argue the barriers of [1] democratic information controls, [2] democratic cybersecurity measures; and [3] authoritarian influence on cyber-norms must all be addressed through effective research strategies. While this typology of barriers is extremely broad, enough specificity remains to direct further research on the subject. Furthermore, the intent behind organizing this typology into three categories also lends a degree of intuition for researchers. Namely; barrier [1] demarcates challenges that are within the locus of control for democratic regimes, barrier [2] describes challenges that are impacted by the interaction between democratic and authoritarian regimes, and barrier [3] highlights challenges to cyber-norm construction that are wholly outside of the democratic scope. This typology also provides a framework for scholars that highlights the congruence between a set of democratic values and their actual manifestation in cyberspace.

These three barriers to democratic norm promotion in cyberspace will be analyzed in terms of norms articulated within three distinct international agreements. Namely, the *OECD Principles on Internet Policy-Making*, *The Council of Europe Declarations on Internet Governance Principles*, and *The Hague Declaration*

*of Internet Freedom* are all instructive in determining the trajectory of democratic cyber-norm construction.<sup>257</sup> While the principles they outline differ slightly, the norms promoted can be classified into broad categories that comprise an ‘ideal type’ when taken as a whole. Specifically, principles related to *protecting the free flow of ideas, information, expression, and innovation*; *network neutrality*; and *universal access* are evaluated in terms of their congruence with information controls [1]. Principles related to *individual privacy rights* and *cybersecurity cooperation* are evaluated in terms of their congruence with democratic cybersecurity measures [2]. Finally, principles related to *internet decentralization* and the *promotion of multi-stakeholder development*, and *governance* are evaluated in the context of authoritarian influence on democratic cyber-norms [3]. After this analysis, a final section will briefly address the implications of this “barrier typology” and the how it can potentially direct future research in this field.

## Barriers Preventing Democratic Norms From Manifesting In Cyberspace

### *1. Information Controls in Cyberspace: A Regime-Blind Phenomenon*

The concept of information controls comes from information and communication technology (ICT) scholar Ronald Deibert, who describes them as “actions conducted in and through cyberspace that seek to deny, disrupt, manipulate, and shape

Normal?” in *Conflict and Cooperation in Cyberspace: the Challenge to National Security* ed. Yannakogeorgos et al., 241; Tsagourias et al., “The Legal Status of Cyberspace,” 21.

<sup>257</sup> Council Of Europe, *Declarations on Internet Governance Principles*; Dutch Foreign Ministry, “The Hague Declaration of Internet Freedom”; and OECD, *Principles on Internet Policy-Making* 1-15.

information and communications for strategic and political ends.”<sup>258</sup> The foremost example of information controls appears in the form of China’s “great firewall,” a content filtering mechanism that restricts access to a plethora of websites, creating an insular, regime-friendly internet.<sup>259</sup> However, these information controls can assume many forms across all regime types. One such example is “just in time filtering,”<sup>260</sup> a tactic regimes employ to shut down or restrict internet access during times of political instability or popular protest. This form of information control was used throughout the Arab Spring movement, most notably in Egypt and Libya, as a way to neutralize anti-regime protests.<sup>261</sup>

Although the Arab Spring and the great firewall are key examples of authoritarian information controls, it is also important to note their use in democracies. One example of democratic information controls is the utilization of content filtering to restrict access to illicit media, such as child pornography or materials that explicitly encourage terrorism. This policy, however, is less innocuous in democratic South Korea, where filtering practices are implemented against ‘unlawful’ statements and content that violates “public morality,” calling into question the right to free expression.<sup>262</sup> There are also notable examples of “just in time” shutdowns being employed in democratic contexts, such as a cancellation of cellular service in the San Francisco Bay Area as a means of preventing disruptive protests throughout the BART transit system.<sup>263</sup> Legal scholar Rachel Lackert notes this implementation of “just in time”

filtering violates a fundamental democratic right to freedom of expression and assembly, indicating an incongruence between the cyber-democratic norms espoused in international forums and the actual policies practiced in the U.S.

Whereas content filtering and “just in time” shutdowns characterize what Deibert calls “first generation” information controls, “second” and “third” generation controls adopt a character that is more institutional in nature. As a result, these next generation controls typically assume a form akin to legislative measures that promote surveillance, restrict content, and criminalize certain behaviours online. Again, democracies are not immune to this phenomenon. A prominent example of content-restricting legislation can be found throughout democracies in the form of anti-copyright and anti-piracy policies aimed at preserving the liberal norm of property rights.<sup>264</sup> This issue has become visible in the EU’s recent passing of the *Directive on Copyright in the Digital Single Market*, which is “aimed at improving the position of right-holders to negotiate and be remunerated for the exploitation of their content by online services giving access to user-uploaded content.”<sup>265</sup> Some scholars have noted a tension between this principle of (intellectual) property rights and other democratic cyber-norms, specifically the preservation of free flowing data, information and ideas, especially in the contexts of scientific research and investigative journalism.<sup>266</sup>

Another example of next generation democratic controls comes from developments surrounding network neutrality, a democratic

<sup>258</sup> Deibert and Crete-Nishihata, “Global Governance,” 339.

<sup>259</sup> Ibid, 347.

<sup>260</sup> Deibert et al., “Beyond Denial,” 8.

<sup>261</sup> Ibid, 8.

<sup>262</sup> Fish, “Internet Censorship,” 74.

<sup>263</sup> Lackert “BART Cell Phone.” 580.

<sup>264</sup> Meyer, “Internet Versus Copyright?” 50, 51.

<sup>265</sup> EU Parliament and Council of Europe, *Directive on Copyright in the Digital Single Market*, 2016, § 1.1

<sup>266</sup> Meyer, “Internet Versus Copyright?” 44, 45; Raue, “Free Flow of Data?” 381, 382.

cyber-norm that is fundamental in promoting the internet as a “global commons.” Network neutrality, often referred to as ‘net neutrality’, which Monica Horten describes as “the principle that all traffic is treated without discrimination, restriction, or interference regardless of its sender, recipient, type or content.”<sup>267</sup> However, increasing pressure from large ICT companies such as AT&T, Verizon, Deutsche Telekom, and Vodafone present a significant challenge to the ability of democratic regimes to uphold this principle.<sup>268</sup> These ICT giants argue that the internet’s infrastructure is not a public utility, as they are responsible for its construction, maintenance, and monitoring.<sup>269</sup> Actors who wish to overturn network neutrality advocate for a system of online access that is “pay-for-play” meaning certain forms of content would be restricted to only those who can afford it.<sup>270</sup> The debate surrounding net neutrality reached a boiling point in mid-2018, when the U.S Federal Communications Commission repealed net neutrality laws implemented in 2015. The impact of this development has yet to be realized, however it is crucial to underscore that repealing net neutrality in the U.S has established a context that is far less congruent with the democratic cyber-norms of universal access and free flow of information, ideas, and innovation.<sup>271</sup>

With the relationship between information controls and democratic cyber-norms explained, we can now turn the second barrier—that is, democratic cybersecurity measures—preventing these norms from

proliferating in an international context.

## *II. Cybersecurity and Democratic Regimes*

As a result of increased state-led securitization in cyberspace, international legal scholars Hitoshi Nasu and Helen Trezise have argued this virtual realm can be viewed as the “fifth domain” of warfare.<sup>272</sup> This viewpoint is valid; when one considers the amount of critical state infrastructure that relies on ICTs to operate, it is reasonable to address any vulnerabilities that compromise national security. This concern is seen as states and international organizations such as the U.S, Australia, the EU, and ASEAN all cite threats in cyberspace as high priority concerns to national and regional security.<sup>273</sup> While cybersecurity is currently at the fore of securitization discourses, scholars such as Ramses Wessel and David Fidler have raised concerns about the congruence between cybersecurity and the norm of privacy rights.<sup>274</sup> For Wessel, the right to privacy is discussed in the context of personal data processing protocols articulated by the European Data Protection Supervisor (EDPS). This supervising body acts as an oversight mechanism to ensure individual privacy rights are being respected when EU institutions process personal data.<sup>275</sup> However, in 2013, the EDPS produced an internal report highlighting “the issue of taxonomy,” whereby ambiguous language provided “a justification for certain special measures which could cause

<sup>267</sup> Horten, “Net Neutrality,” 71.

<sup>268</sup> *Ibid.* 72.

<sup>269</sup> Pai, “Story of Net Neutrality,” 173, 174.

<sup>270</sup> Scott, Heumann, and Kleinbans “Net Neutrality Decisions,” 1.

<sup>271</sup> Horten, “Net Neutrality,” 71.

<sup>272</sup> Nasu and Trezise, “Cyber Security,” 463.

<sup>273</sup> Deibert, “Cyberspace Under Siege,” 73; Tsagourias et al., “Cyber Security in the Asia-Pacific,” 446.

<sup>274</sup> Tsagourias et al., “Cyberspace and Human Rights.”

<sup>275</sup> Wessel, “Towards EU Cybersecurity Law,” 407, 408.

<sup>276</sup> Tsagourias et al., “Towards EU Cybersecurity Law,” 407.

interference with fundamental rights, including the rights to privacy and data protection.<sup>276</sup> Furthermore, Wessel notes this could become a problematic trend in the drafting of future EU cybersecurity legislation. In the growing securitization of cyberspace, ambiguous language that can potentially breach privacy rights is problematic and incongruent to the cyber-norms the EU and other democracies espouse.

Fidler approaches the relationship between cybersecurity and privacy from a different angle. Although he discusses the ramifications of data protection in a cybersecurity context, Fidler focuses on the implications of security-based surveillance and espionage in democratic and authoritarian regimes alike.<sup>277</sup> For Fidler, legitimate uses of surveillance and espionage in cyberspace are often interpreted broadly under the guise of national security.<sup>278</sup> While this is certainly the case in authoritarian regimes, developments surrounding Edward Snowden and the NSAs notorious digital surveillance program reveal how democratic regimes also neglect the right to privacy. U.S. officials justified this violation of privacy rights in terms of national security and the necessity of combating terrorism, cyber espionage, and the proliferation of cyber attacks.<sup>279</sup> American perpetrated cyber espionage is also problematic in the realm of cybersecurity cooperation. As noted by Fidler, as well as international legal scholar Anne Peters, extraterritorial espionage efforts in the PRISM program were most notably perpetrated in U.S allied Germany, a key player in

EU politics.<sup>280</sup> As a response to this ally-perpetrated transgression, Germany, in conjunction with Brazil, presented a UN resolution titled 'The Right to Privacy in the Digital Age', sparking disagreement with the U.S over a clause that placed extraterritorial espionage in cyberspace under the jurisdiction of privacy rights in international law.<sup>281</sup> As a result, the resolution passed with "compromise language," which allowed both sides to claim the resolution reflected their perspective on the matter, effectively widening the gap on norm consensus with respect to privacy and cyberspace cooperation.<sup>282</sup>

Inter-democratic debates surrounding the legal demarcation of privacy and acceptable surveillance make cybersecurity cooperation an incredibly challenging principle to develop in the context of international law. However, the issue becomes more complex when cyber-securitization tensions between democratic and authoritarian regimes are considered. This shall be covered in the following section, along with a number of other challenges to democratization in cyberspace authoritarian regimes present.

### ***III. Authoritarian Influence on Cyber-Norm Construction***

Thus far, this review has dedicated little time to discussing the role authoritarian regimes play in influencing cyber-norm construction. This omission was wholly intentional: as it was necessary to first highlight the 'self-defeating' policies democracies implement, which hinder full development of the 'ideal' cyber norms

<sup>276</sup> High Representative of the European Union for Foreign Affairs and Security Policy and the EDPS, *Opinion of the European Data Protection Supervisor*, pts. 22 and 23.

<sup>277</sup> Tsagourias et al., "Cyberspace and Human Rights."

<sup>95.</sup>

<sup>278</sup> Tsagourias et al., "Cyberspace and Human Rights," 104.

<sup>279</sup> The New York Times, "In Secret."

<sup>280</sup> Müller and Peters, "Privacy, *Rechtsstaatlichkeit*, Legal Limits," 158, 162.

<sup>281</sup> Tsagourias et al., "Cyberspace and Human Rights," 113.

<sup>282</sup> *Ibid.*, 113.

listed above. With this being said, authoritarian regimes also impact the propagation of democratic norms in cyberspace, but do so in a way that is increasingly problematic for their democratic counterparts. Authoritarian posturing in cyberspace is characterized by a top-down, sovereignty-centered approach that aims to establish the “norm of the state being the final arbiter of matters relating to cyberspace in their territory.”<sup>283</sup> This authoritarian posturing has significant implications for the democratic principles of decentralization and multistakeholder governance in cyberspace.

In the case of decentralization, Diebert and Crete-Nishihata explain how autocratic regional organizations promote a state-centric interpretation of cyber governance.<sup>284</sup> These regional organizations—such as the Chinese-led Shanghai Cooperation Organization (SCO) and the Russian-led Collective Security Treaty Organization (CSTO)—serve as vehicles for autocratic regimes to share “best” practices and subvert the internet’s decentralized character.<sup>285</sup> Authoritarian policy coordination also has international implications. As regional autocratic practices are promoted in global forums to “reassert the legitimacy of national sovereign control over cyberspace,” the democratic cyber-norm of decentralization is further undermined.<sup>286</sup> One example of autocratic posturing against decentralization comes from the 2012 World Congress on Information Technology (WCIT). During this forum, Russia, China, Saudi Arabia, Algeria,

Sudan, and Egypt proposed Contribution 27, a digital governance framework which called for “greater national controls over Internet routing and content,” attempting to lay the foundation for more insular and territorialized cyberspace in the process.<sup>287</sup> Such autocratic state posturing in cyberspace also has the potential to create what Hurwitz describes as the “Splinternet.”<sup>288</sup> In this scenario, cyberspace would be divided into two distinct realms based on diverging norms of digital governance. Here, authoritarian “best practices” in cyberspace would adopt an insular, centralized, and sovereignty-based character that directly contrasts with the open, decentralized, and universal character of democratic norms support. The posturing of authoritarian regimes in international forums also challenges the democratic cyber-norm of multi-stakeholder governance. In essence, a multistakeholder approach to digital governance asserts that governments, businesses, civil society, and NGOs all play a crucial role in regulating cyberspace.<sup>289</sup> According to Carol Glen, the norm of multistakeholderism has come into conflict with another cyber-governance model classified as “repressive multilateral,” which asserts that multilateral organizations and states should act as the sole arbiter of cyberspace while emphasizing domestic control and security.<sup>290</sup> By imposing increased obligations for state oversight in national contexts, Glen maintains Contribution 27 had a significant impact on the final language used in the 2012 WCIT treaty.<sup>291</sup> Therefore, the democratic cyber-norm of multi-stakeholder

<sup>283</sup> Hurwitz, “A New Normal?” in *Conflict and Cooperation in Cyberspace: the Challenge to National Security*, ed. Yannakogeorgos et al., 237.

<sup>284</sup> Diebert and Crete-Nishihata, “Global Governance.”

<sup>285</sup> Cogburn “ISOC, ICANN, and Experiments in Multistakeholder Global Internet Governance,” 122, 123; Diebert and Crete-Nishihata, “Global Governance and the Spread of Cyberspace Controls,” 340.

<sup>286</sup> Diebert and Crete-Nishihata, “Global Governance,” 348.

<sup>287</sup> Glen, “Territorializing Cyberspace?” 647.

<sup>288</sup> Hurwitz, “Play of States,” 326.

<sup>289</sup> Glen, “Territorializing Cyberspace?” 644; Hurwitz, “The Play of States,” 325.

<sup>290</sup> Glen, “Territorializing Cyberspace?” 644.

<sup>291</sup> *Ibid.*, 644.

governance was weakened in an international context. This weakened stance of multi-stakeholder governance is also visible in the 2013 *Seoul Framework Statement*, a UN Group of Governmental Experts report aimed at addressing issues of militarization and territorialization in cyberspace.<sup>292</sup> Due to the Russian perpetrated denial of service attacks in Estonia and the American Stuxnet virus attack on an Iranian nuclear facility, the international community began to reconsider their position on the direction of global cyber-governance.<sup>293</sup> During articulation of the 2013 Seoul Framework, the multi-stakeholder model of digital governance was criticized for a lack of oversight mechanisms to hold states accountable in the event a cyberattack is perpetrated.<sup>294</sup> As a result, the Seoul Framework opted to use language that falls into the digital governance framework of “open” multilateralism, a model that emphasizes the importance of multilateral oversight while doing away with the sovereignty-centric approach as typified in “repressive” models.<sup>295</sup>

As the example above displays, developing consensus on international norms for cyberspace, whether they be democratic or autocratic in nature, is a complex task when issues of securitization are involved. Due to this increasing climate of cyberspace securitization, democratic regimes may have to abandon some of their espoused norms for cyberspace altogether. One such example is the role social media giants Facebook and Twitter played regarding Russian involvement in the 2016 U.S. presidential election.<sup>296</sup> Since these

powerful online ‘stakeholders’ were culpable in spreading disinformation campaigns, future U.S. officials may begin to abandon their defense of “multistakeholderism” in cyberspace and begin adopting an “open” multilateral mode of cyber-governance.<sup>297</sup>

### Overcoming the Barriers: Where Do We Go From Here?

As displayed above, there are numerous factors that hinder the propagation of democratic cyber-norms. What is interesting, however, is the prominence of self-defeating policies implemented within democracies themselves. The barrier of information controls commonly typifies these policies. While authoritarian regimes certainly pose a host of challenges in their own right, perhaps it is prudent for democracies to first look inward and compare their national policies with the norms they promote at international venues. Research should circulate around the extent to which long-standing democratic institutions can ensure guaranteed rights are upheld in this new domain. Specifically, I believe the barrier typology can be applied empirically by strongly emphasizing the congruence between a certain set of institutional mechanisms and its relationship to a given democratic norm in cyberspace.

One interesting, yet paradoxical suggestion for further research, asks the question of whether democratic regimes can in fact *learn* from authoritarian cooperation in cyberspace. As Diebert and Crete-Nishihata discuss, authoritarian regimes have become extremely deft at using regional

<sup>292</sup> Hurwitz, “The Play of States,” 324.

<sup>293</sup> Ibid, 326, 327.

<sup>294</sup> Ibid, 323, 326.

<sup>295</sup> Glen, “Territorializing Cyberspace?” 644.

<sup>296</sup> Auchard, “Cambridge Analytica CEO Claims Influence on U.S. Election,” para. 2; Tenove et al., “Digital Threats to Democratic Elections,” 18.

<sup>297</sup> Glen, “Territorializing Cyberspace?” 644, 652.

organizations to spread “best practices,” take cues of acceptable conduct, and effectively propagate norms within regional organizations themselves.<sup>298</sup> For the most part, we have seen little of this level of regional cooperation within democratic blocs. Even within the famously integrated EU, cooperation in cyberspace is mostly handled at the national level with the exemption of cybercrime policy and single market policies<sup>299</sup>. As a result, democratic cyber-norm construction is a difficult task that is further hindered by a plethora of overlapping legal sources that lay claim to EU cyberspace regulation.<sup>300</sup> Therefore, scholars should focus on comparative research as to why authoritarian regional blocs are far more adept at constructing cyber-norms than their democratic counterparts. In doing so, this can help overcome the barrier of democratic securitization in cyberspace.

Another area of research should circulate around democratic digital governance itself as a means of overcoming the barrier autocratic regimes pose in cyberspace. With cyberspace becoming a domain of increased contention, it is time for researchers to begin entertaining the merits and drawbacks of certain democratic norms and supplanting them with others that are more suitable to the role ICTs play in commerce, communication, and security. One example, as alluded to in the final section, would be research directed around ill intended actors in a multi-stakeholder framework such as Facebook and

Twitter, who effectively acted as conduits for undermining democratic processes during the 2016 U.S. Presidential Election<sup>301</sup>. Since these bad faith actors can already undermine one crucial democratic principle, researchers must also identify whether these key stakeholders can undermine other democratic norms within the “multi-stakeholder” framework.

As outlined in this article, there are a number of challenges to preserving cyberspace as a “global commons.” However, by establishing this barrier typology, three key areas of research have been demarcated for scholars to further advance understandings of the role democratic cyber-norms play in this new, virtual frontier. By further extending this typology into a potential mechanism for identifying empirical relationships between democratic cyber-norms and their constraints, it is my hope that this framework helps scholars, policymakers, and states alike explore the path towards a cyberspace made in their own image.

<sup>298</sup> Deibert and Crete-Nishihata, “Global Governance,” 350.

<sup>299</sup> Tsagourias et al., “Towards EU Cybersecurity Law,” 403, 404, 405.

<sup>300</sup> Tsagourias et al., “Towards EU Cybersecurity Law,” 414, 415.

<sup>301</sup> Tenove et al., “Digital Threats,” 18.

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## Healing and Retribution in Post-Conflict Regimes: Truth and Reconciliation Commissions and International Criminal Tribunals

Meghanne Uptigrove

*Transitional justice refers to the various ways in which post-conflict regimes attempt to address instances of grave human rights abuse which occurred as a result of mass conflict. This includes the disparate processes of legal proceedings and truth commissions. The historical use of these individual processes has given rise to an ongoing debate which seeks to establish the most effective method of establishing transitional justice. This article argues that the future of transitional justice lies in a multi-faceted approach, integrating both legal proceedings and truth commissions in post-conflict regimes.*

The academic understanding of transitional justice is arguably one of contention and continual evolution. Scholars of the field are contributors to an ever-growing pool of information examining the successes and failures of varying mechanisms employed in post-conflict regions. One particular field of interest highlighted here is the analysis of differing mechanisms to determine the ways in which transitional justice can best be achieved following instances of grave human rights abuses. This includes the use of legal proceedings, or 'retributive justice', and truth commissions, or 'restorative justice', two mechanisms that seek to achieve transitional justice through different means. Legal processes following mass conflict, such as genocide, tend to take place in international criminal tribunals, which focus on the prosecution and legal indictment of those individuals guilty of human rights abuses during the conflict. National criminal tribunals fulfill a similar role in retributive justice on a smaller scale, but are

beyond the scope of this investigation. In contrast, the focus of truth commissions tends to be more victim-centered, with the ultimate goal of achieving a level of healing for those negatively impacted, largely through the creation of a permanent historical narrative composed of victim testimonies. This constitutes an important step in the official recognition and acknowledgement of the violations suffered by the right-bearing individuals who were victimized as a result of the conflict.

This paper will use relevant scholarly sources to define transitional justice as an evolving concept implemented through various mechanisms following mass conflict. Within this context, a comparative examination of legal proceedings and truth commissions as individual mechanisms of transitional justice will take place, citing the International Criminal Tribunal for Rwanda and the Canadian Truth and Reconciliation Commission as case studies to

highlight the potential values and shortcomings of each. Finally, citing the dual operation of retributive and restorative justice embodied in both the Special Court for Sierra Leone and Truth and Reconciliation Commission for Sierra Leone in the wake of the region's civil war, an argument will be made in favour of a multi-faceted approach. Such an approach incorporates the simultaneous application of legal processes and truth-collecting processes, and is the most effective way to achieve transitional justice in post-conflict regions.

### What is Transitional Justice?

The nature of transitional justice dictates that it generally takes place within the context of great societal fragmentation, often following or nearing the end of a mass conflict, in which the society in question is defined by high levels of personal suffering and political instability. According to the International Center for Transitional Justice

[...] transitional justice refers to the ways countries emerging from periods of conflict and repression address large-scale or systematic human rights violations so numerous and so serious that the normal justice system will not be able to provide an adequate response.<sup>302</sup>

Given that conflicts occur largely as the culminations of various economically, culturally, socially, and geographically specific factors, no "one-size-fits-all" remedy exists to address them. The term 'transitional justice', therefore, represents a blanket concept under which numerous possible

circumstantially-dependent approaches exist. That being said, the main focus of transitional justice, established more universally, is the pursuit of reinstated stability through the acknowledgment of violations, recognition of individual dignity, restoration of confidence in institutions, application and respect of the rule of law, fostering of resolution and the advancement of reconciliation.<sup>303</sup>

Pablo De Greiff highlights the definition of transitional justice as presented in a former UN Secretary General's Report, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, which states that transitional justice is

[...] the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice, and achieve reconciliation.<sup>304</sup>

Similarly, Chrisje Brants et al. describes the ultimate aim of transitional justice as

[...] the transition from a society divided by the chaos, illegality and injustices of the past to one in which democracy and the rule of law are the leading and binding principles of stability.<sup>305</sup>

These definitions highlight the nature of transitional justice as the final goal of a series of mechanisms employed within post-conflict societies, to enable them to begin to move forward in the wake of disruptive conflicts that compromised the peace and security of its citizens.

The complex reality of transitional justice is an extremely difficult and sensitive process in which systemic societal structures, historical

<sup>302</sup> Ibid.

<sup>303</sup> De Greiff, "Transitional Justice," 2.

<sup>305</sup> Brants et al., *Transitional Justice*, 3.

<sup>302</sup> ICTJ, "What is Transitional Justice?"

legacies, and high levels of personal and collective suffering must be addressed. The legitimacy of transitional justice, therefore, is subject to critique by many scholars, who highlight gaps in the processes or general oversights which can allow victims to fall through the cracks. Brants et al. argue that

[...] all transitional justice, in the narrow, procedural sense, leaves unaddressed a multitude of complex issues that surround the transition from chaos and hopelessly divided society to stability, from conflict to peace.<sup>306</sup>

This can occur as the result of a disconnect between imposed processes of transitional justice and local realities, in which processes are too top-down and fail to pay respect to the lived experiences of those impacted. Transitional justice is by its nature inherently political, and occurs within established contexts of unequal power relations. Furthermore, an inherent one-sidedness has been highlighted, as scholarship

[...] tends to be concerned with the “spoilerism” or “deviancy” of those unwilling to accept transitional justice processes [...] stem[ming] from the assumption that transitional justice is a moral “good” [...] inherently positive and in the pursuit of unquestionable normative goals, such as justice, peace, and democracy.<sup>307</sup>

Transitional justice may therefore be established as an essentially contested concept, continuously analyzed and debated as the process itself continues to evolve. Interpretation of the arguments surrounding transitional justice as either a positive attempt at

reconciliation and recovery or a lacking structure of oversights and shortcomings requires close examination of the specific processes which constitute the concept itself.

### Justice as Retribution and the International Criminal Tribunal

Crimes of extreme proportions, such as genocide or crimes against humanity, are notoriously difficult to address, and complicate the fair, legitimate and timely application of justice through the sheer scope of damage done. Legal proceedings following mass conflicts or atrocities often take place in international criminal tribunals (ICTs), introduced as a method of transitional justice following the end of the Second World War. According to Nobuo Hayashi “these jurisdictions are created to prosecute individuals responsible for international crimes, end impunity, and assure accountability to communities victimized by violence.”<sup>308</sup> In other words, an important aspect of international tribunals that differentiates them from national criminal tribunals is that the punishment of atrocities comes from a supranational entity, to ensure the proportionate application of discipline and halt any possible attempts at illegitimate acquittal. According to Larry May “[...] a core of the idea of international criminal tribunals can be defended as providing the fairest way to deal with mass atrocity crimes in a global arena.”<sup>309</sup>

The International Military Tribunal, established in Nuremberg, Germany in 1945, has been identified as the “first modern international tribunal.”<sup>310</sup> The IMT was formed in the

<sup>306</sup> Brants et al., *Transitional Justice*, 4.

<sup>307</sup> Jones and Bernath, *Resistance*, 3.

<sup>308</sup> Hayashi et al., *The Legitimacy*, 1.

<sup>309</sup> May, *International Criminal Tribunals*, 4.

<sup>310</sup> Hayashi et al., *The Legitimacy*, 4.

wake of the Second World War with the purpose of holding Nazi leaders accountable for their actions during the war through the process of legitimate judicial trials, which took place as a result of the coordinated efforts of the Allied Powers. According to Larry May and Shannon Fyfe "[this] tribunal was considered successful [...] due to its adherence to reasonable procedures and judgements."<sup>311</sup> Since then, several other ICTs with similar intentions have been formed following mass conflicts. Some of the earliest and most well-documented are the UN *ad hoc* tribunals, including the 1993 International Criminal Tribunal for the former Yugoslavia (ICTY) and the 1994 International Criminal Tribunal for Rwanda (ICTR). In 2010, the UN Security Council created the International Residual Mechanism for Criminal Tribunals (MICT), specifically mandated to function alongside the ICTR and the ICTY, until their respective closures in December 2015 and December 2017. Since then, the MICT has continued to operate, carrying out a number of essential tasks formerly assigned to the tribunals, with the purpose of "maintain[ing] the legacies of [the] two pioneering *ad hoc* international criminal courts and striv[ing] to reflect best practices in the field of international criminal justice."<sup>312</sup>

### **The ICT for Rwanda: Punishment, Sentencing, and Ownership**

The International Criminal Tribunal for Rwanda (ICTR) represents one of the earliest modern UN endeavours towards legal proceedings in the wake of a mass conflict. The ICTR was formed on November 8, 1994, following

the Rwandan genocide, which took place from April to July 1994 and left approximately 800,000 people dead.<sup>313</sup> The ICTR was located in Arusha, with offices in Kigali, the Rwandan capital, where it officially operated for twenty-one years. The purpose of the tribunal, according to UNSC resolution 922, was

[...] the prosecution of persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighboring states between 1 January 1994 and 31 December 1994.<sup>314</sup>

The success of the ICTR in aiding the process of transitional justice after the Rwandan genocide has been subject to scrutiny, particularly in terms of legitimacy, effectiveness, and application. This includes the nature of the imposition of the ICTR upon Rwanda, despite the Rwandan Government voting against its implementation based on a series of concerns regarding the ownership and execution of the transitional justice process.

According to Mengyao Li et al., "justice mechanisms such as criminal tribunals may help satisfy [the] particularly strong desire for retributive justice among victim group members and thereby increase their support for peace."<sup>315</sup> This form of retributive justice occurs through the application of legitimate sentences to members of the perpetrator group,

<sup>311</sup> May and Fyfe, *qtd. in* Hayashi et al., 4.

<sup>312</sup> United Nations International Residual Mechanism for Criminal Tribunals, "About."

<sup>313</sup> United Nations International Residual Mechanism for Criminal Tribunals, "The Genocide."

<sup>314</sup> Bachmann and Fatić, *The UN International*,

46.

<sup>315</sup> Li et al., "The Role of Retributive Justice," 135.

wherein their role in perpetrating the conflict and the detrimental impact they had on the lives of those in the victim group is recognized and assigned punishment. According to the International Residual Mechanism for Criminal Tribunals, a total of ninety-three individuals were indicted by the ICTR during its two-decade operation. Fourteen individuals were acquitted, ten were referred to national jurisdictions for trial, three fugitives were referred to the MICT, two died prior to judgment, two indictments were withdrawn before trial, and sixty-two individuals were sentenced.<sup>316</sup> Among those sentenced were various high-ranking government officials, political figures, military and ideological leaders, as well as those responsible for propaganda and militia participation.

An example of a prosecution carried out by the ICTR is highlighted in the case of Michel Bagaragaza, which was brought before the tribunal on August 15, 2005. He was tried on one count of complicity in genocide and sentenced to eight years in prison after "the chamber found that Bagaragaza substantially contributed to the killings of more than one thousand members of the Tutsi ethnic group who sought refuge in Kesho hill and Nyundo cathedral."<sup>317</sup> Bagaragaza was, however, granted an early release on December 1, 2011, due to legal precedent, the fact that he had already served three-quarters of his original sentence, his perceived demonstration of rehabilitation, voluntary surrender to the tribunal, and exhibition of good behaviour and genuine remorse.<sup>318</sup>

A second case is that of Théoneste Bagosora, a former Colonel of the Rwandan military, whose role in

the 1994 genocide is regarded as integral and significant. Bagosora was brought before the tribunal with a number of his colleagues and found guilty on numerous charges, including "conspiracy to commit genocide, genocide, complicity in genocide, direct and public incitement to commit genocide, crimes against humanity, and violations of article 3 common to the Geneva conventions and additional protocol II."<sup>319</sup> Bagosora was originally sentenced to life, which, after an appeal, was ultimately reduced to 35 years in prison.

Before its implementation, the Rwandan Government expressed a series of concerns regarding the structure and jurisdiction of the ICTR, including the restrictive time frame, number of judges, lack of resources, and location. This initially led Rwanda, as a member of the UN Security Council, to vote against Resolution 955 regarding the establishment of the tribunal,<sup>320</sup> arguing that "the establishment of so ineffective an international tribunal would only appease the conscience of the international community rather than respond to the expectation of the Rwandese people and of the victims of genocide in particular."<sup>321</sup> Although some amendments were made to the resolution in response to the concerns of the Rwandan Government, the tribunal largely proceeded on UN terms despite reluctance from the Rwandan state. However, according to Payam Akhavan, "[...] a relationship of cooperation with the Rwandese Government, indispensable to the success of the Tribunal, was eventually established."<sup>322</sup>

A struggle inherent to the transition process following mass conflict, particularly genocide, lies in

<sup>316</sup> United Nations International Residual Mechanism for Criminal Tribunals, "ICTR Milestones."

<sup>317</sup> United Nations, "ICTR Case Profile."

<sup>318</sup> International Criminal Tribunal for Rwanda, "The Prosecutor."

<sup>319</sup> Ibid.

<sup>320</sup> Akhavan, *The International Criminal Tribunal*, 505.

<sup>321</sup> Ibid., 506.

<sup>322</sup> Ibid., 508.

addressing the sheer number of people involved. The process of identifying and trying the perpetrators in an effort to address the various human rights abuses and achieve a level of retributive justice constitutes a massive undertaking. This process can translate into a level of healing for the victim group through the facilitation of "the peace process by addressing past atrocities, meeting victim needs and holding perpetrators accountable."<sup>323</sup> Such an approach requires extensive resources and cooperation, two things which are often in low supply following conflicts, and may take years to achieve. This is highlighted by the experiences of the ICTR and the number of individuals officially found guilty. At last count, there were sixty-two ICTR convictions, which certainly does not represent the totality of individuals guilty of participating in the genocidal acts that led to the deaths of almost one million people in the span of just three months. An in-depth field study conducted by Scott Straus which attempted to address the highly contested question of how many individuals perpetrated one of the most rapid and violent genocides in history produced an estimate of "between 175,000 and 210,000 active participants in the Rwandan Genocide."<sup>324</sup> Additionally, it is highlighted in the documents produced by the ICTR that of the small number of perpetrators actually imprisoned, not all were made to serve their sentence in full. This reality is reflective of the initial concerns expressed by the Rwandan Government regarding the legitimacy and effectiveness of the tribunal to serve justice through international means.

Consequently, the recourse achieved by the ICTR in the twenty years following the genocide

arguably represents a mere fraction of that which is due. This forms the basis for a significant critique of these legal proceedings, which states "the pursuit of individual accountability in the context of a criminal tribunal requires adherence to due process guarantees, which means that justice is slow and that those who are guilty may be released on a technicality."<sup>325</sup>

In this sense, solely legal processes fall short of aiding transitional justice, characterized as they are by slow, methodical processes unequipped to deal with the realities of the aftermath of a genocide. Analysis of the ICTR therefore raises more questions than it answers. To what degree was justice achieved through the official sentencing of sixty-two individuals? Is justice recognized in a post-conflict society when it originates from an institution originally denied by the state itself? Does this process address the needs of the victim group following such a traumatic event? It is questions such as these that underpin the scholarly debate regarding the legitimacy of legal processes in the pursuit of transitional justice.

A shortcoming of legal processes in establishing transitional justice can also be highlighted as the ways in which courtroom justice overlooks the deep traumatic and emotional realities experienced by individuals as a result of conflict. As highlighted by Brants

it is certainly true that dealing with atrocity within the limits of (international) criminal law by definition reduces the human experience to what is legally relevant to the primary aim of a criminal procedure: determining the guilt of those who happen to be standing trial.<sup>326</sup>

<sup>323</sup> Li et al., "The Role of Retributive Justice," 134.

<sup>324</sup> Straus, "How Many Perpetrators," 93.

<sup>325</sup> Leebaw, "The Irreconcilable Goals," 114.

<sup>326</sup> Brants et al., *Transitional Justice*, 3.



The emotional and logistical constraints experienced in legal processes attempting to address instances of grave human rights abuse provide support for arguments in favour of more victim-focused truth-telling processes as effective methods of transitional justice. The importance of recognizing the human aspect of trauma and conflict has been elevated through the establishment of Truth and Reconciliation Commissions (TRC), which function as another transitional justice "tool".

### **The TRC of Canada: Trauma, Testimony, and Controversy**

Truth and Reconciliation Commissions are alternative approaches to transitional justice which attempt to address some of the gaps identified in legal proceedings, such as effectiveness, timeliness and resource constraints. These commissions attempt to provide victims with a more personal platform, less defined by strict legal procedures, where their traumatic emotional realities can be recognized and acknowledged.

Strictly defining truth commissions is difficult, as many scholars offer insights into what is essentially a fluid, largely context-dependent concept. Onur Bakiner offers a broad definition, stating that a truth commission is "a temporary body established with an official mandate to investigate past human rights violations, identify the patterns and causes of violence, and publish a final report through a politically autonomous procedure."<sup>327</sup> These commissions function largely through the collection of testimonies, sometimes as a component of judicial

justice, but overall as the construction of a narrative through which victims may be heard, remembered, and honoured, and the reality and legacy of the conflict preserved. This particular recognition and acknowledgement is valuable to survivors as it reaffirms the illegitimacy of the actions committed against them and recognizes the "significance and value of persons as individuals, as citizens, and as victims."<sup>328</sup> As Priscilla B. Hayner summarizes, "[...] the commission's task is to reach and fairly represent the stories of thousands upon thousands of victims. It is clear that truth commissions are of a fundamentally different nature from courtroom trials, and function with different goals in mind."<sup>329</sup>

While the Canadian context perhaps lacks the rapid and explicitly bloody features that define the conflict in Rwanda, the Residential School system nonetheless represents a conflict which gave rise to deep-seated and long lasting social and political fractures, which require national address and transitional efforts. The Truth and Reconciliation Commission (TRC) of Canada was founded on June 2, 2008, as an official platform upon which the legacy of the Canadian Residential School System could be acknowledged and addressed at the national level. The Canadian Residential School system was in place for over a century, from the 1870s to 1996, and functioned as a genocidal component of an assimilatory endeavour to eradicate indigenous culture within the Canadian context. The unofficial goal of the schools was famously summarized as "kill[ing] the Indian in the child."<sup>330</sup> According to the *Summary of the Final Report of the*

<sup>327</sup> Bakiner, *Truth Commissions*, 24.

<sup>328</sup> De Greiff, "Transitional Justice," 43.

<sup>329</sup> Hayner, *Unspeakable Truths*, 5.

<sup>330</sup> Young, "Killing the Indian," 65.

*Truth and Reconciliation Commission of Canada*, the residential schools were

created for the purpose of separating Aboriginal children from their families in order to minimize and weaken family ties and cultural linkages, and to indoctrinate children into a new culture – the culture of the legally dominant Euro-Christian Canadian society.<sup>331</sup>

The aim of the Canadian TRC was to create an “overall holistic and comprehensive response to the Indian Residential School legacy” featuring “acknowledgement of the injustices and harms experienced by Aboriginal people and the need for continued healing.”<sup>332</sup> The first stage of the TRC, which concluded on December 18, 2015, was the creation of several projects and the collection of victim testimonies, which detailed the reality of the emotional, physical, and sexual abuses victims of the school system faced, and the ensuing negative impact these violations had on their lives beyond the schools.

The website for the Truth and Reconciliation Commission of Canada features a collection of over 6,200 statements from former students, some of which are stored at the National Research Centre on Indian Residential schools, and some of which have been made public. The emotional statements feature recollections of personal experiences of physical and sexual abuse suffered at the hands of authority figures and other students within the schools. The nature of the Canadian TRC, as highlighted by Ravi de Costa, is fundamentally different from traditional transitional justice mechanisms which form in the wake of violent conflict and attempt to restore

stability to a compromised society. The Canadian TRC was created within the context of a democratic society, and “its institutional authority, then, [is] depend[ent] on public awareness of the Commission and respect for its work. It [has] power only to inform and to persuade.”<sup>333</sup> The testimonies included below offer a small insight into the integral mandate of the Canadian TRC, which was the collection and preservation of survivor testimonies to inform and educate the greater public on the Canadian institutional failure suffered by Aboriginal children for over 100 years.

One case exemplifying the intensity of shared experience is former student Harvey Behn’s memory of a form of collective punishment he and his siblings were forced to take part in

[...] For you people that don’t understand what the gauntlet is, it’s a row of people standing with weapons in their hands, their fists clenched and the offending students were made to run through this group of people and get hit and beat [...] I, myself, was made to run through and was hit and beaten, and my brother ran through it and I had to hit him and I had to beat him.<sup>334</sup>

A second case is the testimony of former student William Antoine, who recounts witnessing the public punishment of a boy who tried to escape the schools by running away, stating

They cut all his hair off and they pulled, pulled his pants down and he was kneeling on the floor, and holding onto the chair. And they were, whipping him, with this big belt. I

<sup>331</sup> Truth and Reconciliation Commission of Canada, “Honouring the Truth.”

<sup>332</sup> Truth and Reconciliation Commission of Canada, “Our Mandate.”

<sup>333</sup> De Costa, “Discursive Institutions,” 188.

<sup>334</sup> Truth and Reconciliation Commission of Canada, “The Survivors Speak,” 169.

mean hard too. They were hitting him, for I don't know how long. He, he started to cry after; it was hurting so bad eh ... And those boys that got whipped that time ... they couldn't sit down for two months, that's how bad it was.<sup>335</sup>

The collection of these statements constitutes an important undertaking, particularly in terms of survivors and perpetrators, and the relationship between these two groups. The process of gathering testimony has been interpreted as an act of individual and group agency, through which survivors may pursue healing. The process also enables the challenging of the existing constraints of the TRC process, gradually working to rewrite the dominant narratives of Canadian history and "[...] asserting their own agency and empowerment through the process."<sup>336</sup> The nature of these statements, representative of a much larger narrative that details the abuses of the residential schools, serves to highlight the most obvious differences between the more strict legal procedures of ICTs and the more emotional, truth-collecting objectives of TRCs. These processes both function as mechanisms of transitional justice, each geared towards the achievement of a different definition of justice: legal retribution through judicial trial, and restorative justice through truth-telling and the establishment of a historical narrative.

Following the individual examination of two major aspects of transitional justice, both of which feature strengths and relative shortcomings, an argument can be made in support of a multi-faceted approach, such as the one applied in

the west African country of Sierra Leone following a decade-long civil war.

### Multi-Faceted Approaches to Transitional Justice: the Case of Sierra Leone

The civil war in Sierra Leone began in 1991, when conflict in the neighboring country of Liberia began to spill across the border, and an insurgency force known as the Revolutionary United Front (RUF), led by Foday Sankoh, began a violent campaign against the Sierra Leonean government.<sup>337</sup> In subsequent years, Sierra Leone's political landscape was dominated by a sequence of military coups in which a series of leaders exacted political power through undemocratic means. During this time, civilian life in Sierra Leone was largely defined by unimaginable violence, stemming from the conflict between the RUF and the regime, in which both government and rebel forces committed grave atrocities against citizens of the country. The most severe offences represented "exceptional brutality and the breakdown of moral and social order" that became characteristic of the war, including the maiming of innocent people, amputation of limbs, use of human shields, conscription of child soldiers, rape, and torture.<sup>338</sup>

The conflict came to an official end in January of 2002, leaving an estimated 70,000 people dead and approximately 2.6 million displaced.<sup>339</sup> After over a decade of extreme violence, Sierra Leone was left with deep civil and political fractures, faced with the monumental task of rebuilding, both physically and emotionally. The recovery effort made in Sierra Leone in the years following the civil war

<sup>335</sup> Truth and Reconciliation Commission of Canada, "The Survivors Speak," 146.

<sup>336</sup> Angel, *Before Truth*, 201.

<sup>337</sup> Kaldor and Vincent, "Evaluation of UNDP," 6.

<sup>338</sup> Milton, *Rebels*, 6.

<sup>339</sup> Kaldor and Vincent "Evaluation of UNDP," 6.

demonstrates the opportunities provided by a multi-faceted approach to transitional justice, which exceeded those made possible through an ICT or TRC alone. The approach is summarized well by Evenson, who states that

[...] the Lomé Peace Accord envisioned an amnesty in exchange for peace with a truth commission tacked on for good measure, [and] the UN's reservation to the amnesty provisions opened a door into a future for Sierra Leone where the truth commission and criminal prosecutions could proceed side-by-side.<sup>340</sup>

As a result, the government worked with the UN to implement the Special Court for Sierra Leone (SCSL) on January 16, 2002,<sup>341</sup> just as the regime launched the Truth and Reconciliation Commission on July 5, 2002.<sup>342</sup>

The Special Court for Sierra Leone represents a unique undertaking, as unlike the ICTR, it was not "established by [a UN] Security Council resolution, but rather by agreement between the United Nations and the Government of Sierra Leone."<sup>343</sup> Other major differences included the dual designation of judges and prosecutors from the UN and the Government of Sierra Leone, the specific mandate to prosecute individuals "bearing the greatest responsibility" for the atrocities<sup>344</sup>, as well as funding for the court coming from voluntary contributing states, as opposed to the UN reserves.<sup>345</sup> According to Schabas, "[...] the configuration of the court was clearly

influenced by lessons the United Nations had learned from its experience with international justice in the former Yugoslavia and Rwanda."<sup>346</sup> As a result, the SCSL operated on a smaller scale than the ICTR and ICTY. Among the most high profile of the SCSL indictments was the trial of the former Liberian President Charles Taylor, who was accused of committing various human rights abuses in support of the RUF. In April of 2012, Taylor was found guilty of "five counts of crimes against humanity, five counts of war crimes and one count of other serious violations of international humanitarian law,"<sup>347</sup> and sentenced to fifty years in prison. The court's ruling was upheld on September 26, 2013 after an appeal, marking one of the final major decisions of the SCSL before its completion.

The mandate for the Truth and Reconciliation Commission for Sierra Leone was laid out in the Lomé Peace Accord to "address impunity, break the cycle of violence, provide a forum for both the victims and perpetrators of human rights to tell their story, [and] get a clear picture of the past in order to facilitate genuine healing and reconciliation."<sup>348</sup> The TRC had three designated phases, the first of which was a deployment stage, which included investigations as well as the collection of statements, which would number roughly 6,000 by its completion on April 1, 2003.<sup>349</sup> The following stage included hearings, which operated for five months and featured the inclusion of both perpetrator and victim voices contributing to a grand historical narrative of the conflict. The final stage of the TRC concerned the creation of a final report, which was released in

<sup>340</sup> Evenson, "Truth and Justice," 739.

<sup>341</sup> *Ibid.*, 738.

<sup>342</sup> *Ibid.*, 739.

<sup>343</sup> Schabas, "The UN International," 37.

<sup>344</sup> *Ibid.*, 38.

<sup>345</sup> *Ibid.*, 37.

<sup>346</sup> *Ibid.*, 38.

<sup>347</sup> Gherie, "The Special Court."

<sup>348</sup> Evenson, "Truth and Justice," 737.

<sup>349</sup> *Ibid.*, 740.

October of 2004, and included findings, recommendations, reparations, victim lists, and a national vision for the future of Sierra Leone. The victim testimonies featured in the TRC final report, similar in nature to those found in the Canadian TRC final report, are graphic and emotional retellings of the brutal violence experienced by innocent civilians as a result of the decade-long civil war. An example of one of thousands of statements collected throughout the process comes from an individual named Tamba Finnoh, as he recalls the horrors experienced after being ambushed by rebel forces. He states, in part, that “they called on us one at a time and then, began to cut off our limbs. When it was my turn I was beaten with a machete and my hands were chopped off.”<sup>350</sup>

The simultaneous operation of the Special Court and the TRC within Sierra Leone following the civil war that left the country and its citizens in a state of great social and political instability represents an endeavour towards a hybrid form of transitional justice. This multi-faceted approach differentiates the Sierra Leonean case from the Rwandan and Canadian cases. According to Evenson, “although the Special Court [outlasted] the TRC’s formal mandate, their operation overlapped for a significant period, during which the same events, witnesses, victims, perpetrators, and evidence were relevant to both bodies.”<sup>351</sup> Despite critiques regarding coordination issues between the two bodies, this nascent venture into holistic transitional justice represents a pivotal undertaking. The shortcomings of highly contested trade-offs between legal proceedings and truth commissions in pursuit of transitional

justice may be mitigated through the application of such a multi-faceted approach, as

no single mechanism can do all the work of transitional justice. Individual mechanisms are much more likely to meet with success if layered with complementary mechanisms carefully designed to work with each other to advance the immediate, and final goals of transitional justice.<sup>352</sup>

For this reason, this more holistic approach has continued to garner support. Essentially, it can be argued that “these different approaches should not be seen as alternatives for one another [...] truth commissions are not a substitute for prosecutions.”<sup>353</sup>

## Conclusion

Judicial proceedings, which produce definitive legal consequences, constitute an important building block of transitional justice, but they should not necessarily take place at the expense of social processes, which prioritize the lived experience and healing of the victim group both as individuals and a collective. Given the subjective and varying nature of conflict, which emerges from a distinct context, there is an emerging consensus advocating for a multidimensional approach valuing simultaneous application of legal and social processes in pursuit of reconciliation. “Increasingly, a multi-pronged approach that includes international and/or domestic criminal trials, truth commissions, and reparations constitutes the transitional

<sup>350</sup> Sierra Leone Truth and Reconciliation Commission, “Appendix 3: Transcripts of TRC Public Hearings.”

<sup>351</sup> Evenson, “Truth and Justice,” 744.

<sup>352</sup> Williams, “*Transitional Justice*,” 6.

<sup>353</sup> ICTJ, “What is Transitional Justice?”

justice 'toolkit'".<sup>354</sup> Therefore, arguments in favor of legal proceedings or truth commissions in pursuit of transitional justice should acknowledge the possibility of a third, multi-faceted approach that takes the best of both methods, and choose a strategy that fulfils the specific needs of the post-conflict society. This should take place within the context of an overarching narrative, which establishes effective transitional justice as the cumulative outcome of multiple mechanisms.

The perceived success or failure of transitional justice following a mass conflict constitutes a complex issue with various layers of personal and political influence, as well as potential consequences. Ultimately, transitional justice hangs in a balance between the application of legal discipline and the exercise of truth-telling in pursuit of peace. As a result, neither can be definitively established as 'better' or 'worse' for the achievement of transitional justice. Instead, a consensus must be reached which acknowledges the benefits and failings of both mechanisms, and recognizes the importance of their simultaneous application in the form of a multidimensional approach to reconciliation following conflict. As the pursuit of transitional justice continues in the public sphere, in the form of newly emerging criminal tribunals and truth commissions, as well as through the function of residual mechanisms employed by the UN, the importance of continued analytical debate surrounding the implementation of proper mechanisms cannot be overstated. The emerging consensus surrounding the value of a multi-faceted approach to transitional justice arguing for the integration of legal processes and truth commissions should remain a topic of interest and

investigation, with emphasis placed on the importance of a subjective approach to each conflict that prioritizes the welfare of the people in each region. In this way, transitional justice may continue to be achieved in evolving ways throughout the world.

<sup>354</sup> Williams, "Transitional Justice," 4.

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