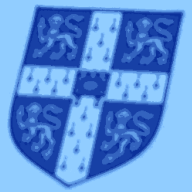


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Introduction from the Editors in Chief

The Cambridge Journal of Political Affairs was founded in 2020 and has since received hundreds of submissions from students at the University Cambridge and academic institutions across the world. Despite its unconventional launch at the start of the COVID-19 pandemic, it is safe to say that the Journal has now firmly established itself as a leading undergraduate publication based at the University of Cambridge. The Journal remains committed to extensive peer-review and promoting original scholarship, the results of which can be seen in the fifth issue.

We are proud to continue the work and purpose of the Cambridge Journal of Political Affairs to make academia more inclusive and approachable by engaging undergraduate authors, editors, and readers in the academic review process. The world of academia can appear elusive from a student vantage point and the Journal helps break down these barriers to academia by familiarising students with academia and allowing undergraduates to see their work published. Indeed, we are pleased that the Journal supports an active community of like-minded students at the University of Cambridge, passionate about political affairs in all its diversity.

The fifth issue has only been possible thanks to the exceptional work of our Editorial Board who have reviewed and carefully selected the articles presented here. Our fifth editorial board consisted of 33 undergraduates at 20 colleges, reading in degrees including Politics, Anthropology, Law, History, Philosophy, Sociology, Modern Languages, and even Natural Sciences, reflecting the Journal's commitment to an inclusive and multi-disciplinary study of political affairs.

Building on the work of our fourth issue, the fifth issue of the Cambridge Journal of Political Affairs is delighted to present yet another exceptional and diverse showcase of undergraduate scholarship

Our fifth issue begins with:

1. **Comparative Politics**, where Adia Keene analyses the role of Gender Quotas for ensuring political equality for women in countries in the Maghreb, marked by histories of autocracy and gender-oppressive rule. Keene demonstrates that quotas can provide an important first step towards inequality, yet argues that quotas alone are far from sufficient in a context where both constitutional and social change is required for the political equality of women.
2. Next up in **Comparative Politics**, Saskia Poulter deploys computational methods to demonstrate the link between MPs' educational background and speeches on foreign aid. Using quantitative text analysis, Poulter finds that comprehensively educated MPs were statistically significantly less likely to give speeches on foreign aid and helps open up new avenues of research on the links between MPs' educational background and their political preferences.
3. Moving on to **International Relations**, Ava Peters scrutinises the power asymmetries involved in the process of Investor-State Dispute Settlements (ISDS) and International Investment Treaties between transnational corporations and sovereign states. Peters examines the history and political controversies of ISDS and draws upon case studies from Latin America, ultimately arguing for the need to create an alternative system to ISDS in order to protect state sovereignty and involve third parties. In particular, Peters highlights the role of Latin American countries in bringing about this change.
4. The second piece in **International Relations** by Nolan Drazin argues that the Iranian regime can be understood as a theatrical production of a tyrannical dictatorship that masquerades itself as a democracy. Drazin examines the 'theatrical masterclass' of the Islamic Republic of Iran in false democratic institutions that can circumvent the conscious mind in favour of a storyline of fabrication and symbolism.
5. In **Political History**, Boyang Hou examines the development of Chinese vernacular education in South East Asia, focusing in particular on the regions of British Malaya and the Dutch East Indies between 1900 to the early 1930s. Through this historical analysis, Hou shows that it was predominantly the Overseas Chinese themselves, as opposed to Republican Government or

- colonial authorities, who controlled and shaped the development of their own education.
6. Continuing on to **Political Philosophy**, Locryn Geake asks whether faith in democracy requires faith in progress and examines the different answers provided by proceduralist, substantive, minimalist and Socratic theory of democracy. Geake asserts that what binds these theories of democracy together is a requirement of faith in ‘the people’, whether conceived of as a collective decision-making body or as an active body resigned to selecting representatives.
 7. In **Political Sociology**, Jade Chamieh examines the influence of present representational frameworks of trauma in the healing and integration of refugees in host countries. Chamieh argues that trauma frameworks are both reductive and actively harmful to refugees by anchoring them into an identity of victimhood and stripping them of their political agency.
 8. Finally, in **Political Sociology**, Magnus Oakes seeks to demonstrate that Du Bois provides a theory of racial capitalism by examining his archival material. Oakes argues that the misrepresentation in the teaching of Du Bois as focused on his psychological theories of racial inequality obscures the economic dimensions in the deeply anti-capitalist core of his work

This issue is indebted to the rigorous and thought-provoking work of these authors, alongside the dedication of the editors who worked tirelessly to prepare these works for academic publication. We hope that the CJPA can continue to provide a platform through which they can be shared. Our thanks also go to the institutional support we received from the Department of Politics and International Studies at the University of Cambridge.

We hope you enjoy reading the fifth issue of the Cambridge Journal of Political Affairs.

Olivia Young
Oona Lagercrantz
Editors-in-Chief

Quote-on-Quota “Equality”: Gender Quotas and Sustainable Representation for Women in the Maghreb

Adia Keene

In order to remedy severe gender gaps in political institutions, many countries have used gender quotas that demand that a certain number or proportion of parliamentary candidates or nominees be women. Past literature suggests that quotas delegitimise women and prevent them from creating substantive change. This article will argue that the main barrier to women’s free political exercise in countries with patriarchal political institutions is electability, and that quotas are one in a series of critical steps to overcome that. Previous critiques of quotas have focused on other regions of the world, such as Latin America, but this article seeks to demonstrate whether quotas can make a demonstrable difference in countries in the Maghreb, which face steep histories of autocratic and gender-oppressive rule. This is accomplished through a literature review surveying the history of quotas in the region, followed by an analysis of how political parties and civil societies have interacted with quota-elected women.

Despite the fact that women make up virtually half of the world’s population, gender parity in government and politics is still an uphill battle. Only three countries globally have legislative bodies where at least 50% of members are women: Rwanda, Cuba, and the UAE ([World Bank 2022](#)). These countries are among the 132 nations that have decided to address gender disparities in government with quotas, an affirmative action method that guarantees either seats in parliament or positions on party candidate lists for women ([Sobhani 2021](#)). Governments primarily implement two types of quotas: reserved seat quotas, which specify in advance the number of seats that are reserved for women, and legislated candidate list quotas, which mandate that all party candidate lists include a designated number of women. The latter does not require that parties select the women on those lists ([Darhour & Dahlerup 2013](#)).

Even though quotas are proposed to be a remedy to gender inequality in the legislature, good faith critics often question whether they provide ‘sustainable’ representation for women. Hanane Darhour and Drude Dahlerup ([2013](#)) defined sustainable representation as ‘durable, substantial political representation of women, freed of the risk of an immediate major backlash.’ (p. 132) Measures of sustainable representation include responsiveness to female constituents and deputies, and the implementation of policies that protect and progress women and children ([Benstead 2016](#); [Moghadam 2014](#)).

One region currently in the throes of striking the balance between proportional and sustainable representation for women is the Middle East and North Africa (MENA). Three-quarters of MENA countries have gender quotas ([Benstead 2016](#)). A catalyst for expanded political participation for women and young people in the MENA region was the 2011 Arab Spring, a political movement that resulted in multiple regime changes and altered constitutions ([Benstead, Jamal & Lust 2015](#)). However, the region still sees the lowest levels of gender diversity in political participation in the world ([Benstead 2016](#)).

This paper will explore the use of gender quotas in three countries in the Maghreb (Northwest Africa): Morocco, Tunisia, and Algeria. First, a survey of the history of quotas in the Maghreb will provide insight

into the prevailing motivation behind their implementation and the initial outcomes from quota programs. Then, general and regional critiques of quota systems will be examined. Finally, an analysis on the interaction between parties, civil societies, and quotas in the Maghreb will identify shortcomings and areas for growth for women’s political participation. The literature review and analysis in this paper will establish that women appointed by quotas attempt to provide substantive representation for women, but quotas alone are insufficient in creating a political infrastructure that ensures the longevity of women in Maghrebi politics. It is through leadership, within parties and in government, that women can meaningfully influence national politics.

QUOTAS IN THE MAGHREB

Morocco, Algeria, and Tunisia have all developed gender quotas for their legislatures in the 21st Century, but their implementation and results vary greatly. Though the three countries are proximal, both geographically and culturally, their nuanced post-colonial histories and political dynamics led each country to a different solution to resolve the disparities in gender representation in parliament.

MOROCCO

Like Algeria and Tunisia, Morocco spent much of the first half of the 20th century under colonial rule. However, one Moroccan institution has withstood the test of time, despite French and Spanish occupation: the monarchy. Though there were post-independence efforts to depose Morocco’s king, they saw little success.

From the 1960s to the 1980s, under King Hassan II, Morocco underwent the ‘Years of Lead’, which were characterised by state violence and democratic repression. One strategy used to remedy the image of Morocco’s monarchical regime was the progression of women’s political and civil rights ([Gilson-Miller 2013](#), p. 191). Like many other political issues in the Maghreb, civil societies were largely responsible for the push for legislative gender quotas ([Darhour & Dahlerup 2013](#)). The movement for women’s political rights in Morocco culminated in the country ratifying the Convention on

the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1993. Morocco's participation in CEDAW saw the first official proposal for a Moroccan gender quota system. Less than a decade later, in 2002, Morocco would implement a reserved seat quota for the first time (Sobhani 2021).

Initially, Morocco adopted 30 reserved seats in parliament, serving a national constituency. The seats were apportioned according to the proportion of votes won by parties nationally. In 2002, due to Morocco's multiparty system, 26 parties competed for 30 reserved seats, with 11 of those parties successfully securing quota seats. No party secured more than five reserved seats. After the Arab Spring, this quota system was expanded, with 60 seats reserved for women and 30 reserved for men under 40. The PJD—the Justice and Development Party and the prominent Islamist faction in Morocco—was more dominant after this change, seizing 16 out of the 60 reserved seats for women in 2011, making it the only party to reach double digits (Darhour & Dahlerup 2013).

TUNISIA

Tunisia is a particularly interesting case study for women's political rights in the Maghreb. Both Morocco and Algeria reformed their family law codes in the early 2000s, but Tunisia's family law has been classified as liberal since 1956 (Moghadam 2014). President Habib Bourguiba (1957–1987), a Western-educated man, was the nation's first president and spearheaded the charge for the 1956 Code of Personal Status. This updated code eliminated restrictions on interfaith marriage and gave women and maternal family members a greater say in child custody (Kedher 2017). Tunisia also saw some of the greatest post-Arab Spring changes in the treatment of gender in its 2014 constitution, which said that men and women 'have equal rights and duties and are equal before the law without any discrimination.' (Art. 21)

Between 2014 and 2020, Tunisia led the Maghreb in the descriptive representation of women in politics. Despite using a legislated candidate list quota, Tunisia saw a higher percentage of women (28%) in the legislature relative to Morocco (11%), which has a reserved seat structure (Moghadam 2014). In Tunisia, candidate lists alternated between men and women, ensuring gender parity on candidate lists without requiring the selection of women. Women also headed half of the party lists, giving them the agency that is not seen in Algeria (Yerkes & McKeown 2018).

Tunisia now faces the risk of backsliding. Provisions of Tunisia's Constitution of 2014 give the president unique powers to amend the constitution without review (Art. 143). President Kais Saied recently announced the dissolution of the Tunisian parliament, eight months after its suspension. The initial suspension of parliament was justified under the pretense of fighting the COVID-19 pandemic, but now President Saied has suggested that the parliament attempted a coup, and he is merely protecting 'the state and its institutions'. (Al Jazeera 2022) This is a move that undoubtedly undermines democracy, and with President Saied's suggestion of a new constitution, the future of women's representation in the Tunisian government is uncertain.

ALGERIA

The role of women in Algeria is shaped by their role in

Algeria's independence era. The Ministry of Veteran Affairs records 11,000 women fighting in the Algerian War of Independence. Motifs from the Algerian Civil War relied on images of female victimhood and suffering to mobilise action. In a description of a prominent image of the era—Madonna of Bentalha—one scholar aptly summarised the symbolic use of womanhood, stating, '[t]he female body comes again to serve as an intermediary symbol between conflict and triumph, or conflict and tragedy.' (Flood 2017, p. 117)

Unlike Morocco, Algeria didn't attempt to institute a gender quota until after the Arab Spring. Like Morocco, Algeria initially instituted a reserved seat quota. This resulted in a parliament that was 30% female—the highest in the Arab world (Marwane 2021). This all changed after the 2019 election.

Algeria's newest president, Abdelmadjid Tebboune, described quotas as 'ignorant' (Marwane 2021). While he did not eliminate quotas entirely, he supported the switch to party candidate list quotas—which mandates that women are nominated but does not require that they serve—and maintained open direct elections. The reduced role of women in parliament was striking: women won 145 seats in 2012 and 120 in 2017, but only 34 in 2021 (Marwane 2021).

LITERATURE REVIEW: CRITIQUES AND RECOMMENDATIONS FOR GENDER QUOTAS

One of the main sources of critique of gender quotas is a 2008 paper by Susan Franceshet and Jennifer M. Piscopo, which used Argentina as a case study. The authors concluded that quotas do not guarantee improved substantive representation for women (Franceshet & Piscopo 2008, p. 421). This paper was published prior to the institution of mandates in Tunisia and Algeria, but their critiques align with the literature published on Maghrebi gender quotas.

The first critique to emerge from Franceshet and Piscopo is called the *mandate effect*. The mandate effect states that women appointed with quotas feel an obligation to represent all women nationwide, rather than a particular constituency. There is clear evidence of this in Morocco, where women only secured 4% of district seats in 2011 despite making up 17% of parliament (Darhour & Dahlerup 2013). Their second critique was that quotas promulgate the myth that women in parliament are less experienced and less qualified (Franceshet & Piscopo 2008). This can be seen in Algeria, where the post-quota parliament was jokingly referred to as 'the coiffeur parliament' because many of the women had previously worked in trades, including hairdressing (Marwane 2021). Female politicians face a Catch-22: those who lack experience are viewed as unelectable, but women cannot gain the proper experience unless they serve in elected positions.

A big issue with women's electability is that women who hold national list seats, providing them with parliamentary experience, are by and large not running for directly-elected district seats, even though they would have more experience than all other females—and most male—candidates (Darhour & Dahlerup 2013). The reasons for this are not explicitly spelt out in the literature, but it is likely that national list parliamentarians fear that gender biases will impact their chances for district seats and, consequently, running for such seats jeopardises their government careers.

Even after women enter parliament, they run up against new limitations. It is typical for women to be assigned to the 'women's issues' committees; examples include gender parity, social affairs, and family rights (Sobhani 2021). While these are all issues that require the input of women, reducing women to women's rights advocates ignores the contributions women could make to committees with broader powers, such as appropriations and foreign affairs. The justification behind relegating women to less influential committees is that they are 'newcomers'. This is troublesome considering a theory investigated by Marwa M. Shalaby and Laila Elimam (2020), which suggested women might face an incumbency disadvantage in electoral politics in the Maghreb. This means that women with legislative experience were found to be less electable. Incumbency disadvantage compounded with demands for seniority in influential committees results in the exclusion of women from domains outside of social issues.

Even though Franceshet and Piscopo present compelling arguments as to why quotas are not the panacea for women's political rights, other literature argues that quotas are still an effective method to boost female political participation. Lindsay J. Benstead studied the interaction between female parliamentarians, deputies, and constituents in a 2016 paper looking specifically at clientelism. She concluded that 'controlling for other factors, quota-elected women are more responsive to females than parliamentarians of either sex elected without quotas' (2016, p. 186). Franceshet and Piscopo speculated that 'legislatures may be unequal playing fields for women, who enter as newcomers and who face higher barriers to empowerment' (2008, p. 421). Benstead responded by saying, '[q]uotas are needed to create mandates and level the playing field.' (2016, p. 198)

In a 2013 paper tracking sustainable representation and quotas, Hanane Darhour and Drude Dahlerup concede that quotas might have been established as a method for appeasement, but in patriarchal regimes, alternative avenues for women's representation might not exist. They also found that, in Morocco, there was progress with respect to the two critiques given by Franceshet and Piscopo. Women in parliament were found to be ideologically different from each other but, as a collective, they were more sensitive to women's issues. There has also been some upward movement in Morocco; two women were appointed as ministers after the Arab Spring (Darhour & Dahlerup 2013).

Delana Sobhani, a recipient of a Fulbright grant to study gender quotas, conducted interviews with national list women in Morocco and found that a range of women found empowerment through their appointments. Among the appointees were a child psychologist from a politically active family, a councilwoman inspired by her parents' involvement in the expulsion of Spanish colonialists in Western Sahara, and a daughter of journalists with experience in tech who was inspired by the Arab Spring (2021). A lingering critique against quotas is that the quota-appointed women are all from prominent families (Benstead 2016). But this is an issue pervasive across genders and internationally, and should not be the basis for the exclusion of women.

Women in parliament also generally change things positively. Increased gender parity in government is associated with reduced government corruption,

and women are more likely to dedicate time to public goods, and women in parliament are associated with improved women's services (Benstead 2016). Though the Franceshet and Piscopo article doubted substantive representation, in Argentina, the number of women's rights bills introduced in the Congress of the Argentine Nation increased alongside the number of women in parliament and women legislators introduced more bills. The Maghreb also saw important changes following the Arab Spring quotas. In 2014, Morocco's parliament unanimously voted to remove the rape-marriage loophole—a statute which allowed men convicted of statutory rape to avoid sentencing by marrying their underage victims—and feminist groups are continuing to push, asking for the criminalisation of domestic violence (Moghadam 2014). Women's civil societies were the original advocates for women in parliament and, in Morocco at least, they are using women in parliament as a mechanism to progress women's issues.

ANALYSIS: DOMINANT POLITICAL PARTIES AND GENDER QUOTAS

In order to better understand the practical implementation of quotas in the Maghreb, this section analyses the interaction between political parties and gender quotas. Specifically, it looks at the PJD in Morocco, Ennahda in Tunisia, and the dissolution of quotas in Algeria, as well as the voluntary quota implemented by the National Liberation Front. These analyses will find that powerful political parties and coalitions use quota-elected women as a tool to promote their agendas and simultaneously fail to promote those same women.

GENDER AND THE PJD IN MOROCCO

The PJD occupies an interesting space in the Moroccan government and society. The country is a constitutional monarchy, led by a family that claims descendancy from relatives of the Prophet Muhammad. Though the regime legitimises itself through religion, the Western-facing image of Morocco is one of moderate Islam (Sakthivel, 2019). This is the consequence of a history of conflict between the monarchy and Islamist factions.

One of the parties that posed the greatest threat to the regime of King Hassan II (1961–1999) was the Istiqlal, a nationalist Islamist faction that called on the monarchy to 'return to God.' (Gilson-Miller 2013, p. 189) The 1980s and 1990s also saw the rise of Salafism, a conservative branch of Sunni Islam that seeks to return to early Islamic traditions. This ushered in Justice and Spirituality, which is speculated to be the largest Islamist group in Morocco, though it intentionally keeps its membership numbers secret and refuses to found a formal political party (Pruzan-Jørgensen 2010). The PJD—the Justice and Development Party—also took inspiration from Salafism, as well as the Muslim Brotherhood, but the regime has found they are a more manageable and public opposition party than the Istiqlal or Justice and Spirituality (Pruzan-Jørgensen 2010; Gilson-Miller 2013).

Though Islamism has an association with traditionalism, the PJD in has been a leader in women's political participation in Morocco. Many people expect progressive parties to lead the charge on women's issues, but anthropologist Nadia Guessous observed the opposite, stating that '[t]he male leadership of leftist and progressive parties, in particular, has relied for too long on a

contrast effect with Islamists and conservatives to hide its own sexism.’ (Haitami 2016, p. 81) The PJD also has a history of dedication to social issues (Haitami 2016). This might be attributed to the party’s desire to distance itself from Salafi jihadism and align itself with social progress. This paid off for the PJD, which doubled its vote share to become the third largest party in the Moroccan parliament in the first election after the instatement of quotas (Darhour & Dahlerup 2013).

Even though the PJD has been a leader in pushing women’s participation, it serves as a prime example of tokenism. There are women’s sections of the PJD, which some argue further marginalise women by implying that women’s issues should only be of importance to women. Many still see women as intruders in the party and, consequently, they are unlikely to rise through the ranks (Haitami 2016). In her paper critiquing the PJD, Meriem M. Haitami concludes that “the party has one of the highest percentages of female presence in the parliament, yet this does not translate into visible action.” (2016, p. 88) The PJD fails to provide the “sustainable representation” described by Darhour and Dahlerup (2013, p. 132). They are not spearheading ground-breaking legislation or freeing women from fear of backlash.

QUOTA COMPLIANCE AND ENNAHDA IN TUNISIA

Though Tunisia holds the reputation of being a relatively secular country in the Maghreb, similar interactions have occurred between electoral quotas and the leading Islamist party. In Tunisia, that party was Ennahda. Ennahda originally emerged in the post-independence era, but state suppression led to the submergence of the party, resulting in the organisation operating underground throughout the 1990s and 2000s. However, after Tunisia’s 2011 revolution, Ennahda made a comeback, securing 37% of the vote (Brechenmacher & Habbard 2020).

This was met with some initial pushback. Some feared that Ennahda would oppose much of the progress Tunisia made both during and before the Arab Spring. The party was prepared for this. Past state oppression had forced the party to moderate its stances on gender roles in order to maintain its standing, and during the period that Ennahda was underground, women’s involvement led to an elevated status for women within the party (Brechenmacher & Habbard 2020). Additionally, the party explicitly affirmed its commitment to women’s social progress in its 2011 election program (European Parliament 2012).

One of the most prominent signallers of Ennahda’s commitment to women’s issues is the organisation’s endorsement of vertical and horizontal gender parity on candidate lists, meaning not only should women make up 50% of candidate lists, but they should head 50% of lists as well (Brechenmacher & Habbard 2020). However, similar to the PJD, Ennahda’s support for gender parity is not entirely altruistic. A 2015 paper studying Tunisian electoral preferences might explain why Islamist parties are so receptive to the integration of women into politics. Secular male candidates were determined to be the ideal candidates, according to potential voters, but either secular or religious women were preferred to religious men. This is partially due to the fact secular women were more likely to support a religiously incongruent but gender-congruent candidate than a secular man (Benstead, Jamal & Lust 2015).

There are also structural reasons for a larger, more established party like Ennahda to support gender quotas. Among Tunisian parties, Ennahda sees the highest quota compliance rates across the board for women, youth, and those with disabilities. In a study focusing on electoral engineering, Jana Belschner (2022) suggested that the stronger parties are more capable of being quota-compliant and can consequently use them as a way to gain an advantage over less-established—and in the case of Tunisia, left-leaning—parties. When this is considered in conjunction with the fact Ennahda has blocked measures progressing gender equality in Tunisia, it becomes clear that the party is more concerned with how women can provide substantive representation for Ennahda in parliament than with how Ennahda can better represent women.

‘IGNORANT QUOTAS’ AND PARLIAMENTARY REFORM IN ALGERIA

If parties like the PJD and Ennahda can manipulate gender quotas to maintain their party platforms, without significantly progressing women, it would support the claims put forth by Franceshet and Piscopo (2008). It initially appears that, in the Maghreb, major parties develop constituencies of women loyal to the party program and largely immobile on major women’s rights issues. With that in mind, quotas also serve as a stepping-stone for women in municipal and national politics, and Algeria serves as a strong example of why the dissolution of quotas is not an appropriate prescription for the Maghreb or similarly situated countries.

In 2021, Algeria moved from a reserved seat quota to a legislative candidate list quota. This move, on its own, was not a great regression; Tunisia used candidate list quotas and still saw women elected to parliament at comparable rates to Algeria with a reserved seat quota. The mechanism that crippled Algeria’s quotas was Article 317 of the new election laws, which allows parties to submit lists that did not comply with the candidate list quotas and obtain parliamentary seats. In other words, gender parity on candidate lists was rendered more of a suggestion than a requirement. The result is a parliament where only 8% of the representatives are women (Marwane 2021).

There is still some evidence of parties implementing quotas to establish legitimacy. In Algeria, the dominant party is the National Liberation Front (FLN). Unlike the PJD and Ennahda, the FLN is not characterised as Islamist, preferring to associate with moderate Islam, and has allied with the regime in recent history. The FLN is also the only Algerian party that is recorded taking up the voluntary party quotas, according to the Institute for Democracy and Electoral Assistance (Institute for Democracy and Electoral Assistance 2022). The president decried quotas as ignorant, yet the FLN—the only party that voluntarily implemented quotas—won 105 out of 407 seats, allowing it to prevail over Hamas, the leading Islamist coalition in Algeria, which secured 64 seats (Ahmed & Chikhi 2021). This complements the theory that dominant parties might see gender quotas as a way to affirm they are religious moderates. This is especially important in Algeria—a country that underwent a Civil War with an Islamist political party in the 1990s and is still riddled with corruption decades later.

SUMMARY OF ANALYSIS

In the Maghreb, parties benefit from gender quotas primarily in two ways. First, they gain a reputation of progressivism on women's issues and religious moderatism without having to significantly alter their party platforms. This was evident with both the PJD in Morocco and Ennahda in Tunisia, and likely factored into the decision to maintain party quotas for the FLN in Algeria. Secondly, larger parties are better able to comply with government-mandated quotas due to membership size and party structure. This means that established parties can secure additional seats that other parties simply cannot fill. In the Maghreb, quotas play a role in parties' electoral engineering, but parties do not appear eager to reciprocate by platforming women's issues or promoting female parliamentarians.

Despite these shortcomings, the literature review revealed that there is intrinsic value in women serving in parliament, regardless of partisan affiliation or ideology. Quota-elected women are responsive to female constituents and, when working in conjunction with civil societies, can build coalitions to propose women's issues (Benstead 2016). However, multiparty systems in the Maghreb are not conducive to this coalition-building and instead allow self-interested parties to use female parliamentarians as a means to an end.

CONCLUSION

The Maghreb is still in democratic transition in the wake of the 2011 Arab Spring. The initial plan to bring women into this democratisation was the use of quotas, and while they have been helpful in increasing the descriptive representation of women, they have also illuminated the gaps that still exist. Women are not developing party platforms, leading influential committees, or directly representing localised constituencies. What quotas provide is a safety net—a guarantee that women will have a place in government, even if the public votes with a strong gender bias. Quotas were an important first step in advancing women's political rights, hence their global popularity, but the Maghreb proves that quotas alone are not sufficient.

Tunisia should have been a success story. The country managed to achieve a 28% female parliament without mandating that seats be reserved for women

(Moghadam 2014). Though there might be disagreement over whether Ennahda and other dominant parties provided ample platforms for women, they provided a space in the public sphere where women could be perceived as political actors. Now, after President Saied's dissolution of parliament, that space is gone. In Algeria, when President Tebboune supported the elimination of the quota systems amidst accusations of corruption in parliament and his ministries, the presence women had in parliament was severely diminished. Recent history in the Maghreb has demonstrated that the precursor for strong representation for women is a strong democracy.

While Morocco does face its own difficulties with women's participation, its quota system has been stable for two decades and its civil societies have been consistent, making it an ideal site for future research. Going forward, researchers should observe how women can receive promotions within parties and government, legitimise their presence, and earn placement on influential committees. It is also necessary to explore non-quota systems that have successfully increased women's political participation, particularly in MENA and comparable regions. Stable democracies with strong women's rights protections will be the greatest models for how to organically increase women's representation.

The long-term solution for countries in the Maghreb likely consists of two components. The first is constitutional reform, which allows for a truly representative government that can keep autocrats in check. However, these countries have reformed their constitutions time and time again, making only minor progress on these issues. Even in Tunisia's Constitution of 2014, which had a lot of promise, there were loopholes which allowed for an autocratic power grab. The second component is women's social progress. As was mentioned before, one of the primary challenges women face in the Maghreb is electability. If they are inexperienced, they will be called 'coiffeurs'. (Marwane 2021) If they are experienced, they risk losing their careers if they seek to participate in municipal government or serve in district seats (Shalaby & Elimam 2020). Seeing women fairly elected to parliament will hinge on the social progress of women, which can be achieved through civil societies, but also through political representation. The relationship between women's social and political progress is reciprocal.

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Appendix | Women elected by popular parties in the National List, Morocco.

Party	2002 election	2007 election	2011 election
Justice and Development Party (PJD)	4	6	16
Istiqlal Party	4	6	9
National Rally of Independents (RNI)	4	5	8
Authenticity and Modernity Party (PAM); est. 2008	0	0	8
Socialist Union of Popular Forces (USFP)	5	5	6
Total number of women in the National List	30	30	60

Adapted from Darhour, H. and Dahlerup, D. (2013) 'Sustainable Representation of Women Through Gender Quotas: A Decade's Experience in Morocco', *Women's Studies International Forum*, 41(2), pp. 132-142.

Does Charity Begin at Home (or School)?: Secondary Educational Background as a Predictor of MPs' Propensities to Deliver Speeches on Foreign Aid during UK Parliamentary Debates

Saskia Poulter

This article uses computational methods of quantitative text analysis to discern an individual-level relationship between legislators' secondary educational backgrounds and their propensities to deliver speeches on foreign aid during United Kingdom Parliamentary debates. Its key finding—that comprehensively educated MPs give such speeches with significantly lower frequency than their grammar and independently educated counterparts—is robust to alternative model specifications controlling for MPs' genders, party affiliations, ethnic minority statuses, and the profiles of their constituents. This result runs contrary to theoretical expectations grounded in the liberal conceptualisation of foreign aid as an extension of the domestic welfare state: given that comprehensively educated persons tend to come from less affluent backgrounds, and that working-class MPs are most likely to advocate for left-wing causes during domestic policy debates, one might expect such MPs to be the most vocal advocates for overseas aid. Since survey data has found socioeconomically disadvantaged people to be least likely to support aid expenditure, this article's findings also go some way to vindicating claims that diversifying Parliament's socioeconomic composition would improve the substantive, as well as descriptive, representation of less privileged voters. Factors such as the ethnic diversity of and values promoted by state-selective and independent schools are also investigated as explanations for the article's empirical findings. Although a significant body of literature examines the determinants of foreign aid expenditure at the country level, determinants of individual MPs' prioritisation of and attitudes towards the topic remain conspicuously understudied. Moreover, to the author's knowledge, this article is the first to quantitatively examine the relationship between MPs' secondary educational backgrounds and their parliamentary speech on any topic in the United Kingdom context.

I. INTRODUCTION

Although a substantial body of literature has examined those institutional, strategic, ideological and macro-economic variables which predict the magnitude and distribution of countries' overseas aid expenditures (Alesina & Dollar 2000; Blodgett & Leblang 2015; Grossman & Helpman 2001; Pevehouse & Vabulas 2013; Heinrich et al. 2016; Arellano et al. 2009; Roodman 2008; Lumsdaine 1993; Gibler & Miller 2012; Dreher et al. 2015), such research has tended overwhelmingly to treat legislatures as 'black boxes', overlooking the roles played by individual MPs in aid policy's design and adoption. So too has a growing body of work documenting the evolving socioeconomic composition of parliaments, with many authors taking MPs' secondary educational backgrounds—that is, whether the MP attended a state comprehensive, state selective (grammar) or fee-paying (private) secondary school—as a rough proxy for class background (The Sutton Trust 2010; Social Mobility Commission 2019). Presumably, interest in this topic is motivated at least partially by the assumption that the socioeconomic composition of parliaments has implications for substantive, as well as descriptive, representation (Phillips 1998; Mansbridge 1999); strikingly little empirical work, however, has examined whether this assumption is correct. What little which has, however, has been limited both in scope. O'Grady (2019), for example, investigates the relationship between class and stances on welfare reform within Tony Blair's Labour Party only and in methodology (*ibid.*), same paper operationalises working-class MPs simply as those with manual labour backgrounds: a criterion of questionable relevance to post-industrial

21st-century economies).

The research question which this article addresses—to what extent do MPs' secondary educational backgrounds predict the frequency with which they deliver speeches on foreign aid during UK Parliamentary debates?—rests at the confluence of these underexamined areas. On one hand, existing literature finds that MPs from socioeconomically disadvantaged backgrounds deliver parliamentary speeches in support of left-wing domestic policies more frequently than their advantaged counterparts (O'Grady 2019); so too does a prominent field of literature, drawing on the liberal tradition in international relations, conceive foreign aid as an extension of the left-wing domestic welfare state abroad (Noel & Therien 1995). We might expect, on this basis, that less advantaged, hence more left-wing, comprehensively educated MPs would be most likely to deem foreign aid a priority, and so to deliver speeches on the subject. The converse hypothesis might also be defended, however: since a substantial body of research concludes that MPs disproportionately represent the preferences of the groups from which they hail (Clayton et al. 2016; Saalfeld & Bischof 2013; Grey 2006), and that the least affluent, at least in western democracies, are often most averse to aid expenditure (Chong & Gradstein 2008), we might expect comprehensively educated MPs to speak thereon infrequently. As such, this article addresses an area of theoretical underdetermination.

This research also makes two methodological contributions. Firstly, it develops and validates a novel dictionary-based procedure for identifying foreign aid-related speeches from Hansard records. Secondly, it uses an

original dataset containing the secondary educational backgrounds of all MPs who returned to Parliament in the 1997 UK General Election, compiled from MPs' biographies. These innovations may be applied in future work.

The article proceeds as follows. Firstly, **Section II** reviews the existing literature on the factors which affect legislatures' prioritisation of foreign aid *qua* policy issues, and the known effects of legislators' demographic backgrounds on their parliamentary speech. It also presents two hypotheses. Subsequently, **Section III** introduces the dataset used for estimation and describes the methodology employed. In **Section IV**, the results of this analysis are presented and discussed. **Section V** concludes.

II. LITERATURE REVIEW AND HYPOTHESIS

II. i. DOMESTIC DETERMINANTS FOR LEGAL SUPPORT FOR OVERSEAS AID

Existing research tests numerous hypotheses about those factors which affect legislatures' overall support for overseas aid. One line of inquiry, in tandem with the 'realist' tradition in international relations, examines whether donors use aid 'as a foreign policy instrument that enables [them] to pursue their national interests' (Noel & Therien 1995, p. 525). Empirical support for this thesis is supplied by Alesina and Dollar (2000), who find that between 1970 and 1994 the USA disproportionately sent funds to strategic allies in the Middle East, and to countries whose development was perceived as integral to regional stability. Realist justification can similarly be offered for the finding that, across Organisation for Economic Cooperation and Development (OECD) nations, aid expenditure is positively correlated with the number of residents from recipient countries migrating to the donor (Blodgett & Leblang 2015). Perhaps, as Blodgett and Leblang (*ibid.*) suggest, benefactor governments perceive overseas development assistance (ODA) as an instrument with which they manipulate immigration flows in their own self-interest, reasoning that if conditions in origin countries are ameliorated, incentives for emigration diminish. Private citizens' self-interest, in addition to grand strategy concerns, has also been raised as determinants of ODA provision: a second explanation of the aid-migration nexus is that migrants already residing in the donor nation lobby for aid increases to their homelands (Grossman & Helpman 2001; Pevehouse & Vabulas 2013). Non-immigrants' interests are seemingly also instrumental: Heinrich et al. (2016), Arellano et al. (2009), and Roodman (2008) all conclude that, across nations and times, during business-cycle downturns governments conserve fiscal resources by contracting aid expenditure, in line with public demands.

Nevertheless, it remains plausible that, in accordance with the liberal tradition in international relations (Riddell 1987; Zimmerman 1993), foreign aid also functions as 'a projection abroad of national values' (Noel & Therien 1995, p. 525): an instrument through which ideals of distributive justice can be pursued. That is to say, if a country's government supports highly redistributive domestic policy on the principle that all individuals have rights to a certain minimum standard of living, then it would seem consistent for that government to redistribute internationally too, since foreign nationals would lay claim to that same right. If this

thought is correct then one could reasonably hypothesise a relationship between governments' left-right positioning and their prioritisation of ODA. Empirical studies testing this expectation, however, provide at best partial evidence in its favour. Lumsdaine (1993), for example, finds that in most cases a positive relationship between the OECD countries' social spending and their aid provision indeed exists. This relationship, however, is not universal: Italy, Austria and Switzerland are each coded as large domestic spenders who send little overseas (*ibid.*, 121). In more recent case studies examining Germany and the US, Gibler and Miller (2012) and Dreher et al. (2015) find no clear correlation between governments' left-right orientation and their aid expenditure patterns. Indeed, controlling for commercial and geopolitical interests, Dreher et al. (*ibid.*) suggests that German aid spending tends to be lowest when the country is under Socialist Party leadership.

Clearly, then, neither the realist nor liberal theoretical frameworks as presented above can fully explain national aid expenditure patterns. Nevertheless, the observations that both self-interest (private and national) and principle appear at least partially to motivate support for foreign aid will be leveraged in this article when constructing the hypotheses to be tested.

II. ii. DEMOGRAPHIC DETERMINANTS OF MP'S SPEECH DURING PARLIAMENTARY MEETINGS

Existing literature which analyses intra-party variation in the policies which MPs support and prioritise has drawn heavily on parliamentary debates when seeking to identify individual MPs' positions (O'Grady 2019; Saalfeld & Bischof 2013). In the UK context, this makes much sense: British MPs enjoy significant autonomy over their expression during Commons debates, since no formal mechanisms through which party leaders may delimit the positions advanced or the individuals called upon to speak therein exist (O'Grady 2017, p. 113). Voting records, by contrast, are of little use when examining the stances of UK politicians: in ordinary votes, polling directions are prescribed by party whips, from which rebellion is costly and so comparatively rare (Cowley 2002). In some studies, free votes, usually held on 'issues of conscience' such as LGBTQ+ rights, have been used to isolate demographic-related voting trends (Hibbing & Marsh 1987; Cowley & Stuart 1997); no such votes were held on aid during the period observed in this research, however, so their use is not appropriate here. Signatures on 'early day motions'—non-binding statements often signed by MPs to signal dissatisfaction with their party's line—have also successfully been used for similar purposes: they are analysed by Childs and Withey (2004), for example, to ascertain that women in Tony Blair's first Parliament were more likely to advocate for feminist causes than were men. Nevertheless, it is extremely rare for such motions to be signed by ministers (O'Grady 2019, p. 111); as such, the insights that they provide are of limited scope. For these reasons, speeches are the primary medium drawn upon in this study for information on MPs' personal policy preferences and priorities.

Myriad demographic variables have been studied as determinants of parliamentary speech patterns. A common finding is that MPs disproportionately advocate for the interests of people who share their

characteristics: female MPs, are often found to speak more frequently than men on issues such as women's rights.¹ Saalfeld and Bischof (2013) similarly find that MPs of Black, Asian and Minority Ethnic (BAME) heritage are almost six times more likely to raise questions on ethnic minority rights than MPs from the ethnic majority. In a rare study of the effects of class background on MPs' Parliamentary activity, O'Grady (2019) concludes that Labour politicians with manual labour backgrounds, who typically come from less affluent families, were most likely to speak against neoliberalising reforms proposed under the same time-period that this article studies: the 52nd Parliament of the United Kingdom (the first New Labour government), which spanned between 1997 and 2001.

Various mechanisms can be offered to explain this phenomenon's ubiquity, each presumably affecting individual MPs to differing degrees. Firstly, instrumentally rational legislators likely have private interests in advancing policies designed to benefit people who resemble them: the MPs themselves, and their close friends and family, are, after all, relatively likely to be among the intended beneficiaries thereof. Secondly, MPs likely have first-hand knowledge regarding issues which affect people like them; in the language of feminist epistemologists, they may possess *epistemic advantages* over members of other social groups given their proximity to group-specific issues and experiences (Hill-Collins 1997). Thus, these MPs are likely to empathise more closely with the causes which such groups prioritise and are better equipped to suggest solutions. Thirdly, MPs will likely have spent significant amounts of time around people who share their characteristics; one might expect these people's preferences to influence the MP given repeated exposure to their expression (Neundorf & Smets 2017).

Sociological institutionalist theories of political representative behaviour are useful in clarifying the above mechanisms. Such theories, championed by March and Olsen (2004) and Blomgren and Rozenberg (2012), model legislators as operating on a 'logic of appropriateness' rather than or in addition to the 'logic of consequences' which rational choice theories would have them follow. Sociological institutionalism proposes that in their work MPs seek to conform to their own norm-based conceptions of how a legislator in their country *ought* to behave and what sorts of roles such actors *ought* to fulfil. Searing (1994) makes concrete of this framework by presenting a taxonomy of roles which have become 'normalised' in the UK House of Commons.² One of these is the 'policy advocate' role, according to which MPs specialise in a narrow policy area and take particular care in scrutinising government activity concerning that speciality; parliamentarians with epistemic advantages arising from their social background have reason to specialise disproportionately frequently in areas related to the object of that advantage, since the costs of their acquiring sufficient knowledge to do so are lower than for their non-advantaged counterparts. Another of Searing's (*ibid.*) identified roles is that of 'constituency member', under which MPs promote the interests and preferences of particular constituents rather than focussing on the 'national good' *per se*, as Burkean trustee and Madisonian lawmaker models of political representation suggest that they should.³ In performing this role, legislators may act as

ambassadors for particular social groups and might choose to represent those groups from which they hail because they are more aware of and empathetic towards them, owing to the mechanisms outlined in the previous paragraph.⁴

Both rational choice-based and sociological institutionalist mechanisms will be drawn upon in what follows to establish the hypotheses to be tested.

II. iii. HYPOTHESES

The hypotheses advanced in this subsection are undergirded by the strong assumption that politicians deliver aid-related speeches most frequently when they support aid provision. Clearly, this will not hold true in all cases, but it nevertheless can be taken as a reasonable simplifying heuristic with empirical and theoretical justification. With regards to the empirical, manual inspection of a simple random sample of 100 aid-related speeches taken from the dataset used for final estimation in this study shows that only six contain calls for reductions in aid expenditure. With regards to the theoretical, in their study of party campaign materials, Dietrich et al. (2020) suggest that parliamentarians, under normal economic circumstances, avoid advertising preferences for aid withdrawal for fear of being perceived as misanthropic; politicians with such preferences tend, instead, to not mention aid at all. A similar reluctance may contribute to the low incidence of negative speeches in the aforementioned sample.

H1: MPs who attended fee-paying schools deliver aid-related speeches infrequently, compared to the reference group of state-selectively educated MPs.

The first hypothesis to be tested is formulated in part on the premise that independently educated pupils disproportionately come from affluent backgrounds: indeed, in 1984, the year closest to that in which the median-aged MP in the sample studied by this article was of secondary school age, and for which data is publicly available, the mean annual fee for one child to attend day school was over 10% of the median annual salary (Independent Schools Council 1984; Hansard 1984). To understand the significance of this, note that across Western democracies, wealthy individuals tend to be the most averse to fiscal expenditure, preferring instead that socioeconomic issues be addressed through private philanthropy (Evans 1993; Evans & Tilley 2017); such preferences are often attributed to their interests in avoiding taxation, their positive personal experiences with the 'free' market, and that they frequently interface with the government in its capacity as a regulator so regard it largely as a constraining enforcer of red tape (Langsæther & Evans 2020; Svallfors 2006). Independently educated MPs, then, are more likely to come from wealthy families, whose fiscal aversion may have been passed on to them: Neundorf & Smets (2017) conclude that parents' political values are often transmitted to children during early years and adolescent socialisation. Even if the student did not have wealthy parents or close relatives who were strongly averse to fiscal expenditure—they might have attended their school on a bursary, for example—they would nevertheless have interfaced frequently during years formative to their political development with classmates who *did* and *had* been so socialised; classmates, too, are

¹ Clayton et al. (2016) observe this phenomenon in Uganda, and Grey (2006) in the Kiwi Parliament.

² The term 'normalised' is used here to mean that to perform such roles is to conform to parliamentary norms.

³ On the 'Madisonian lawmaker' model of political representation, legislators are expected to promote the preferences of their constituents as a whole; under the 'Burkean trustee' model, legislators have license to decide and promote these policies which they judge to be in their constituents' collective interests (Rehfeld 2009).

⁴ In her analysis of the UK House of Commons, Nixon (1998) concludes that many MPs reject this 'ambassadorial' role, expressing instead a preference for the 'Madisonian lawmaker' or 'Burkean trustee' models introduced above. Nevertheless, her study *does* find that many MPs openly claim to embrace the ambassadorial role, vindicating Searing's (1994) typology.

important sources of political socialisation and tend to transmit political values laterally (Deth et al. 2011). Since foreign aid is a form of fiscal expenditure which can be loosely substituted for private philanthropy, it seems reasonable to expect independently educated MPs to be comparatively unlikely to support it, so to deliver fewer speeches on the subject.

An additional ground for proposing **H1** concerns the principles and values which independent school attendance might tacitly promote. For one, independent school attendance goes some way towards normalising the use of private funds to purchase personal advantage irrespective of the negative externalities which arise from the transaction. Negative third-party harms may manifest when an independent education is bought because education is a positional good: that is to say, its value to any single consumer is a function of the comparative quantity and quality of the same good which is consumed by other students. This is because decisions on whether to admit an individual to a university or to hire them for employment depend largely on how the candidate compares to other applicants; when students from elite independent schools purchase superior educations and are propelled ahead of their state-schooled peers in these markets, the latter are harmed since they are denied positions to which they would otherwise have had access (Brighouse & Swift 2006). Thus, the principle that it is permissible for individuals to choose to use their private wealth in ways which disadvantage others is normalised by the act of purchasing a private education; that same principle could support the position that governments should not solicit funds from citizens to spend on overseas aid (that is, to impose an opportunity cost on domestic residents to equalise living conditions internationally). A further consideration is that to attend a state-funded school is to interface regularly and extensively with the state as a provider of services; state-educated MPs will on average have greater familiarity with governments acting in this capacity, so may be more trusting of top-down management's (hence aid's) efficiency, whereas independently educated MPs may be more likely to expect government-run schemes to be mired in corruption or inefficiency in general. Unfortunately, there is a paucity of empirical research on the differences in opinion between pupils and alumnae of different types of educational institution, and so much of this reasoning must remain speculative.

H2: MPs who attended state comprehensive secondary schools deliver aid-related speeches infrequently, compared to the reference group of state-selectively educated MPs.

The second hypothesis advanced is partially grounded in a similar logic to that which belies **H1**: unable to afford independent school fees and less likely to pass state-selective school entrance exams due to early-years educational disadvantage, comprehensive school pupils disproportionately hail from less affluent backgrounds (Jerrim & Sims 2019). Moreover, from analysing World Values Survey data, Cong and Gradfield (2008) find that support for foreign aid is lowest amongst the least well-off in OECD nations. At least two lines of reasoning are useful in explaining this. Firstly, domestic citizens are modelled as instrumentally rational agents who

perceive public funds in any one period to be largely fixed in quantity; they subscribe to the belief that there exists a trade-off in the distribution of government finances, with the reduction of domestic fiscal spending a necessary opportunity cost of increasing ODA provision. In high-income Western economies, the least well-off domestic citizens often benefit disproportionately from domestic fiscal expenditure—through the receipt of benefits payments, subsidised housing, public healthcare and public education, for example—and so would experience a disproportionately large portion of the opportunity costs associated with an increase in ODA. Moreover, given the diminishing marginal utility of wealth, less affluent people are likely to suffer the largest utility loss when made to forego a nominal quantity of public funding. Thus, such individuals' estimates of the private utility losses which they would sustain as a consequence of increased ODA are high compared to that of other socioeconomic groups. Moreover, the perceived benefit of delivering foreign aid is often low: since responsibility for international development has never explicitly been apportioned amongst high-income nations, a political instantiation of Darley and Latane's (1968) 'bystander effect' arises whereby rich nations can console themselves that other nations may simply fill the gaps left by their withdrawal of funds, propelling the perception that ODA provision is supererogatory. Other concerns mentioned above, such as the potential for ODA to be squandered through inefficiency and corruption, further lower estimations of the benefits of aid. With relatively high personal utility losses and questionable benefits to the recipient anticipated, low-income individuals are expected to be somewhat unlikely to deem aid expenditure to be worthwhile on the basis of cost-benefit analysis.

A second mechanism is that generally less wealthy comprehensively-educated people are more likely than their wealthy counterparts to have personal acquaintance with other domestic residents suffering acute economic hardship, which could be ameliorated through public spending. As a result, they form an 'imagined community' of the domestic disadvantaged (Anderson 1983), that is more closely bound than the less tangible 'imagined community' of the global disadvantaged, with whom they have less in common. Assuming that comprehensively-educated MPs disproportionately share this experience, the sense of affinity may foster an in-group preference, leaving legislators with a stronger emotional spur to adopt the 'advocate' normal role on behalf of the domestic disadvantaged compared to aid recipients. An additional reason to expect comprehensively educated MPs to deliver fewer speeches on aid is that, recalling O'Grady's (2019) conclusion, MPs from less affluent backgrounds dedicated disproportionate Parliamentary time over the period observed in this article to speaking against welfare reforms. If Parliamentary time is limited, then more time spent debating this would leave them with less time to speak on foreign aid.

Thus, state-selectively educated MPs are expected to deliver aid-related speeches with the highest frequency of the three groups. Since selective schools' pupils typically come from low- to middle-class backgrounds (Hart et al. 2017; Robbins 1963), it is expected that their alumni will display a lesser aversion to state spending than the privately-educated do. For one, on average they are likely to have experienced less socialisation at the

hands of tax-averse individuals than those from fee-paying institutions; moreover, they are likely to display weaker preferences for the domestic concentration of spending compared to comprehensively-educated MPs, given the socioeconomic composition of their social circles and their lesser dependence on government funds. Another factor supporting this hypothesis is that grammar schools are usually more ethnically diverse than both comprehensive and independent schools (Sears et al. 2016); grammar-schooled MPs, then, might be more likely to have friends from aid recipient countries, so to have greater knowledge of or concern for living conditions therein. Furthermore, through a combination of the racial diversity of their peers and their orientation towards scholarship, grammar-schooled pupils might be on average more cognisant of the impact of British colonialism, so to believe that the UK should give aid as compensation. A final reason to expect the hypothesised result is that, both in contemporary times and in preceding centuries, grammar schools have been touted as vessels to facilitate social mobility (Ware 2017); in actively encouraging their students to apply to elite universities and to aspire to professional careers, they implicitly promote the principle that the socioeconomic position into which one is born should not dictate one's economic outlook in adulthood. This principle, if internalised by students and taken to apply universally, could drive MPs with grammar school backgrounds to consider ODA a priority insofar as it could foster social mobility abroad.

Note that none of the hypotheses advanced above predict the relative propensities to deliver speeches on foreign aid between comprehensively and independently educated MPs; this is because the author sees no reliable method for estimating *a priori* the relative importance of the mechanisms outlined.

III. DATA AND METHODOLOGY

This study draws on the Harvard Dataverse ParlSpeech V2 Dataset (Rauh & Schwalbech 2020) for its information on the content of parliamentary speeches. This dataset contains full-text corpora of each of the speeches delivered in nine legislative chambers between 1988 and 2019, alongside variables such as the speaker's identity, from which additional dependent and control variables can be coded. To reduce computational burdens and to provide a limited scope for analysis, speeches delivered in the 52nd UK Parliament, which ran between 07/05/1997 and 14/05/2001 inclusive, are isolated. This interval is selected because dramatic changes in UK aid policy were made therein, including Prime Minister, Tony Blair's, introduction of the Department for International Development in 1997 and the adoption of the Millennium Development Goals in 2000. As such, one would expect to find a high number of aid-related speeches given here, providing a large sample size and so permitting the precise estimation of regression parameters. All speeches containing fewer than 40 characters are removed, since these are often apolitical interruptions (Osnabrügge et al. 2021, p. 889); contributions from the (Deputy) Speaker are also removed, as these are almost exclusively procedural (Hargrave & Blumenau 2022, p. 7). Finally, speeches made by MPs who were acceded to the office during by-elections or who left Parliament before the 2001 General Election are also removed, to ensure that all units are observed over the

same period.

Subsequently, a dictionary-based method is deployed to isolate those speeches which pertain directly to foreign aid. Given that, to the author's knowledge, no dictionary-based quantitative analysis of aid-related parliamentary speech has been attempted previously, this dictionary must be constructed originally. The dictionary development process is heavily guided by the United Nations' 'Global Humanitarian Assistance' reports (2000, 2001), which highlight the issues which aid efforts, and therefore aid-related speeches, are likely to focus on over the period. The final dictionary contains 65 terms (see Appendix 1), including references to development-related policies ('0.7', 'oil-for-food'), organisations ('unicef', 'dfid') and causes to be addressed ('malaria', 'tsunami'). Flood-related terms are not included, as manual inspection of the data reveals that speeches containing these words usually refer to domestic rather than overseas disaster relief.

To validate the dictionary, a simple random sample of 750 speeches is generated; these are manually coded as aid-related or not and used to calculate Cohen's kappa. Trialling various dictionary application methods, it is found that the trade-off between false-positives and false-negatives (that is, the number of speeches incorrectly coded as aid-related, and incorrectly coded as not aid-related) is optimised when speeches containing four or more dictionary terms are selected, and those containing the strings 'missile*' and 'ballistic'*⁵ are removed.⁵ The Cohen's kappa for this dictionary application method is 0.627 (3 s.f.), which indicates 'substantial' agreement between manual coding and the dictionary's selections, on the standard Landis and Koch (1977) interpretation. Subsequently, this method is applied to the entire corpus using the *quanteda* package in R, and the total number of aid speeches delivered per MP is aggregated. This data is assigned to the variable *aid_speech_frequency*.

Subsequently, given that one does not yet exist, a dataset containing the secondary educational backgrounds of all MPs elected in 1997 is constructed. This process draws extensively on their (the relevant MPs') autobiographies as contained in Dods Parliamentary Companion (Newton 2001) and, where such records are incomplete, the Who's Who (2021) digital compendium. These autobiographies usually list the names of the educational institutions attended by politicians but omit their funding or selection statuses, so this information is obtained from National Archives records and schools' own heritage pamphlets. It is noted that between the 1960s and 1980s, many Labour Local Education Authorities took measures to reduce the number of grammar schools in operation; consequently, between 1971 and 1978, 650 grammars became either comprehensive or independent (Gillard 2017). Care is required, therefore, to ensure that schools' statuses are coded correctly for the time at which the MPs were in attendance (the relevant years are identified using MPs' ages). The finished dataset is then used to create two dummy variables, *independent_school* and *comprehensive_school*, which equal one if the MP attended that kind of institution and zero otherwise. The 'grammar school' category is omitted to avoid the dummy variable trap. MPs who attended schools across more than one category are also removed from the dataset.

⁵ Manual inspection reveals that almost 40% of the speeches that the dictionary falsely identifies as aid-related when the four-term threshold is applied pertain to US ballistic missile production.

	Observations	Mean number	Std. dev.	Minimum	Maximum
All MPs in the sample	3,581	5.92	9.74	0	90
State comprehensive alumni	897	4.29	5.56	0	32
State-selective alumni	1,345	6.43	11.5	0	90
Independent school alumni	1,357	7.18	11.0	0	80

Table 1 | Foreign aid speech delivery frequency by school category: descriptive statistics.

Inspecting the remaining data, it becomes apparent that the value of `aid_speech_frequency` for Clare Short MP is an outlier: she delivered 245 foreign aid speeches over the period—2.72 times as many as the next most frequent speaker (Robin Cook, at 90). Short was Secretary of State for International Development over the period investigated; since her speech count would be likely to skew this article's results, and is clearly augmented by office rather than the educational background, she is excluded from the data.

Table 1 provides descriptive statistics on the number of aid-related speeches delivered by the 606 MPs in the final dataset. The mean number of speeches given by the independently-educated is almost 170% of that of the comprehensively-educated. There is also by far the least variation in the comprehensive school alumni group, their coefficient of variation being 1.30, compared to 1.53 for independent alumni and 1.80 for state-selectively educated MPs.

Eight control variables are subsequently coded. The first is a `MP_gender` dummy, equalling one if the MP is female and zero otherwise. The reason for this control's inclusion stems from Eagly and Karau's (2002) 'role incongruity theory', according to which onlookers are considered to reward female legislators when they speak in line with the nurturing female archetype (*ibid.*, p. 574) and punish them when they deviate from it, thereby reinforcing 'stereotype conforming' behaviour. Existing quantitative text analysis work has examined gendered differences in foreign aid-related parliamentary speech only indirectly, however: Osnabrügge et al. (2021) find that women are less likely to speak on 'foreign affairs' than males, an umbrella category under which they code speech on foreign aid alongside speech on military strategy and traditional diplomacy. There is good reason to expect that gendered trends in a speech on foreign aid follow different patterns to those on 'foreign affairs' in general, however: though diplomacy and combat are traditionally masculine domains, foreign aid is closer in its associations to the 'feminine' domain of care, and one would therefore expect women MPs to speak thereupon more frequently. Moreover, if gender is also associated with school status, then not including this control would lead to omitted variable bias. In this study, the gender variable is coded using the R `gender` package (Mullen 2021), which works through automatic name recognition. The number of MPs that this tool identifies as female diverges from the total-number figures provided in Dods Parliamentary Companion (Newton

2001), however; by manual inspection, it becomes clear that the programme codes some MPs with gender-ambiguous names (e.g. Robin Corbett) incorrectly, and that others with uncommon names (e.g. Phiara Khabra) are not coded at all. Thus, in such cases, it is necessary to amend gender data manually.

The second control is the dummy `minority_MP`, which equals one if the MP is of ethnic minority status and zero otherwise (data from Newton (2001)). This is included since, as mentioned in Section II.ii, BAME MPs tend disproportionately to advocate for the interest of BAME citizens, who one would expect to be disproportionately likely to have ties to aid recipient countries. A `minority_constituents` variable, which identifies the proportion of each MP's constituents who are 'non-white' (as recorded in the 2001 census), is also included. This is because, as mentioned in Section II.i, past literature suggests that migrants disproportionately lobby their MPs for aid; minority constituents, then, may do so at a higher rate than majority ones, pressing their MPs to speak more frequently thereon. MPs representing constituencies with high BAME populations may also have electoral incentives to use speeches to signal their support for aid, and to garner the votes of minority constituents (O'Grady 2017; Bäck et al. 2021, p. 2). In the opposite direction, vote-seeking MPs representing less affluent constituencies might reduce their speech on aid to avoid constituent backlash; a variable for the `median_income` (in thousands of pounds) of an MP's constituents, according to National Archives Data for 2002, is also added. Although 2002 falls just outside of the period studied, it is the earliest year for which constituency-level data is available, and the data remains useful since relative median incomes across constituencies rarely change dramatically year-on-year. Control variables for the total number of speeches given by each MP over the period are also added, alongside codes for party allegiance: the dummy variables `labour_party`, `conservative_party` and `libdem_party` each equal one where the MP is a member of that party and zero otherwise ('other' is the omitted category).

Finally, the data is analysed by estimating four negative binomial regression models. In each of these, the dependent variable is `aid_speech_frequency` and the main independent variables are educational background. Model 1 includes these variables only, Model 2 controls for the total number of speeches given by the MP, Model 3 contains all control variables except for party dummies, and Model 4 introduces

	Model 1	Model 2	Model 3	Model 4
(intercept)	6.44 (0.0842) ***	3.55 (0.0832) ***	1.47 (0.329)	0.949 (0.406)
independent_school	1.12 (0.369)	0.925 (0.114)	0.941 (0.116)	0.958 (0.119)
comprehensive_school	0.660 (0.000576) ***	0.671 (0.1112) ***	0.680 (0.111) ***	0.670 (0.111) ***
total_speeches	-	1.00 (0.000114) ***	1.00 (0.000112) ***	1.00 (0.000112) ***
MP_gender	-	-	1.31 (0.120) *	1.28 (0.121) *
minority_MP	-	-	2.05 (0.460)	2.06 (0.463)
minority_constituents	-	-	1.28 (0.435)	1.13 (0.461)
median_income	-	-	1.28 (0.435)	1.04 (0.0224) *
labour_party	-	-	-	1.64 (0.259) .
conservative_party	-	-	-	1.47 (0.272)
libdem_party	-	-	-	1.92 (0.230) *

Table 2 | **Negative binomial regression results.** Coefficients are expressed as incidence rate ratios; standard errors are expressed in brackets. Figures to 3 s.f. Significance codes: *** P < 0.001; ** P < 0.01; * P < 0.05; . P < 0.1 (two-tailed).

these also. Negative binomial regression is an appropriate method for use in this study since the data to be analysed is overdispersed count data (the overdispersion assumption can be verified from **Table 1**: the conditional variance of `aid_speech_frequency`, 9.74 (3 s.f.), exceeds its conditional mean of 5.92 (3 s.f.)). To further confirm the appropriateness of the regression model, a hanging rootogram is plotted (**Figure 1**). The visibly small total distance between the bars and the abscissa indicate that the negative binomial distribution is indeed a good fit.

IV. RESULTS

The results of the four regressions are summarised in **Table 2**. Strong evidence is found in support of the second hypothesis: comprehensively educated MPs are shown to speak 33% less frequently on foreign aid than their state-selectively educated counterparts, when all other variables are held constant. This result is significant at the 0.1% level and is robust to each of the model specifications. Insufficient evidence is found, however, to reject the null in favour of **H1**.

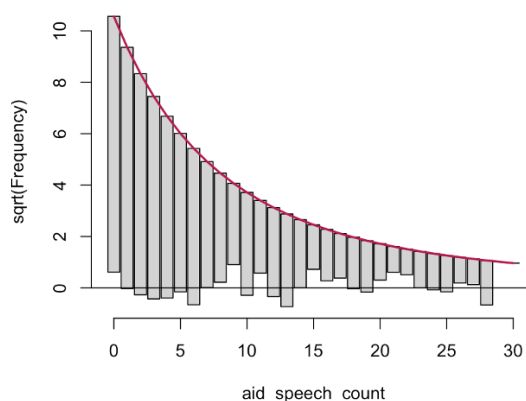


Figure 2 | Hanging rootogram showing goodness of fit of the negative binomial distribution.

The `independent_school` coefficient, contrary to expectations, is greater than 1 under the first model, indicating that private-school attendance is associated with a 12% increase in aid-speech delivery compared to grammar school attendance; this result is not, however, significant at conventional levels, and the coefficient is reversed (i.e., falls below one) in subsequent models. This suggests that much of independently educated MPs' speech on aid can be explained through their tendency to speak more *overall*.

Models 3 and 4 also demonstrate, in line with expectations, that an MP being female is associated with an increase in a speech on foreign aid; this result is significant at the 5% level and is robust to party controls. No significant relationship is found between ethnic minority status and the frequency with which MPs speak on aid, or between the dependent variable and the proportion of non-white residents in the MP's constituency. A small significant (at the 5% level) *positive* relationship is identified between the median constituent's wage and the frequency of speeches on aid delivered.

To aid the interpretation of these regression results, the average marginal effects of treatment based on Model 4 are calculated and plotted as a dot-and-whisker diagram (**Figure 2**). Comprehensive school attendance is found to be associated with an average of 5.48 fewer foreign aid-related speeches being delivered compared to the grammar school omitted category. The marginal effect associated with independent school attendance is a reduction in the number of aid-related speeches delivered by 0.589, but, again, this effect is not significant.

At least two explanations can be given for the insignificance of the `independent_school` variable in these results. The first is that the hypotheses presented in **Section II.iii** did not account for the possibility that preferences for aid provision *qua* instrument for promoting the national interest might be distributed differently between MPs of different educational backgrounds to preferences based on rational self-interest and group

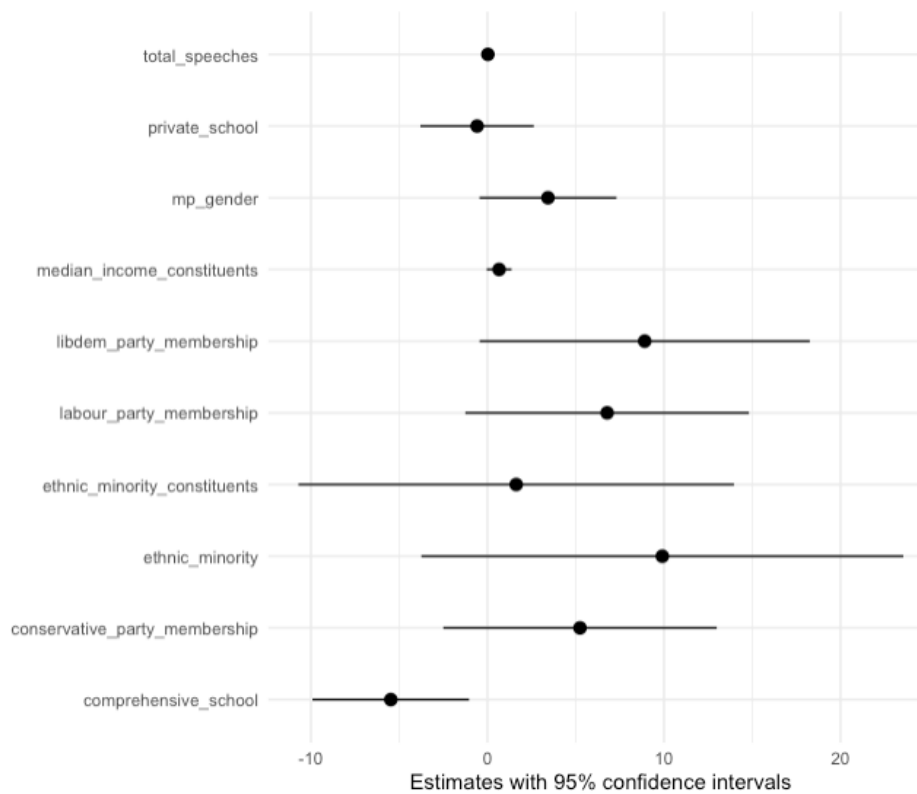


Figure 2 | Foreign aid speech delivery frequency by school category: descriptive statistics.

identity. Indeed, it seems plausible that these preferences differ among socioeconomic groups: as Mawdsley (2017) notes, the heavily privately educated Conservative government of David Cameron increased aid expenditure to levels exceeding even those of New Labour following the 2010 election. Cameron's government was also far more likely to justify aid spending on domestic interests compared to Blair's government (*ibid.*). Such differences were not initially hypothesised to be important for this study, given Honeyman's (2019) finding that self-interest-based justifications for aid were rarely given under Blair's first Parliament; Honeyman does not extensively investigate the speeches of non-Labour politicians, however, and so such differences may, in fact, be more important than originally expected. The regression results, then, may capture some complex combination of preferences for aid motivated by self-interest and group affinity, and those based on the national interest. Future research might investigate the differences in rates at which duty and interest-based arguments are fielded in speeches by MPs from different backgrounds.

A second suggestion is that independently educated MPs might be more likely than others to be 'career politicians', as defined by O'Grady (2019): that is, to only ever have held expressly 'political' jobs as trade unionists, Special Advisers and suchlike. A possible explanation for this is that independent school alumni are more likely to have acquired the connections necessary to enter such roles early in life, having attended elite universities and being able to draw on family or friends' acquaintances. O'Grady (*ibid.*) suggests that, where MPs have spent their entire careers surrounded by pollsters, party strategists etc., they are more likely to have been socialised

into viewing electoral success—and party cohesion as an instrument to that—as a fundamental priority; thus, they might be more likely to defend key party policies in parliamentary debates, irrespective of their personal beliefs. Since all parties officially supported foreign aid provision over the period studied, this might constitute another factor increasing privately educated MPs' tendencies to speak on foreign aid, adding further complexity to the phenomenon combinations that the regression results in Table 2 capture. Future research might control for 'career politician' status to isolate this effect.

Aside from these theoretical ambivalences, threats to the internal validity of the regression results above should be considered. Importantly, the Cohen's kappa for the dictionary employed was not 1, so the incorrect identification of aid-related speeches might have some effect. The results' validity could be improved by using more advanced methods of speech-topic identification: by using a hand-coded subsample of aid-related texts to train an algorithm to automatically code unlabelled speeches using supervised-learning techniques, for example (Grimmer & Stewart 2013; Osnabrügge et al. 2021). Further limitations include that the methodology did not distinguish between the positions advanced in speeches; as preliminary manual inspection showed, addresses were not universally positive, so a more granular investigation might test whether MPs from different backgrounds speak on aid more *positively*, as well as at different rates. Finally, it would be useful to control for MPs' childhood family incomes and pre-Parliamentary careers, to isolate the effects of secondary education from other factors which are suspected to drive this study's results. Such information is not

presently available to researchers, however.

V. CONCLUSION

Ultimately, then, this research finds that comprehensively educated MPs were less likely than their state-selectively-educated counterparts to give speeches on foreign aid during the 52nd UK Parliament; the difference in delivery rates between independently educated MPs and those who attended grammars is not, however, significant. Although a lack of gathered data, both on speech content and MPs' characteristics, constrained

attempts to identify the mechanisms undergirding these results, this article opens novel avenues of research into the predictors of *individual* MPs' support for aid, and the relationship of secondary education to parliamentary speech. Future work might extend on this analysis by investigating the same phenomenon in other parliaments and time-periods, and by differentiating between the positions expressed in speeches. Further research might also investigate the relationship between MPs' schooling and their tendencies to speak on other subjects, such as domestic welfare policy.

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Appendix 1 | Dictionary of terms compiled to isolate speeches pertaining to foreign aid.

aid	bilateral	cotonou	unicef	donor *
humanitarian *	oda	mdgs	multilateral	o7
forgiveness	dfid	oil-for-food	develop *	undp
unfwp	aids	mortality	cholera	microfinance
drought *	epidemic *	earthquake *	famine *	hiv
hunger	hungry	hurricane *	impoverished	malnutrition
mosquito	sanitation	polio	malnourished	squalor
starv *	tornado *	tsunami *	tuberculosis	tb
underdeveloped	volcanic	wildfire *	bangladesh *	bosnia *
burkina	burundi	cambodia *	croatia *	ethiopia *
ghana *	hipc *	ldc *	ledc *	liberia *
lic	malawi *	mozambique	nepal *	nigeria *
sierra	uganda *	vietnam *	zambia *	zimbabwe *

A Shattered Structure: Latin America's Role in ISDS Retreat, Reassessment and Reform

Ava Peters

Many states in Latin America have been plagued with the 'Resource Curse', a term coined by economist Richard Auty to describe the paradoxical situation in which a country with an abundance of natural resources underperforms economically and has worse development outcomes than countries with fewer natural resources (Auty 1993). As a result, these states can be caught in a double bind: many are pressured to choose between compromising their environmental and human rights through unsustainable exploitation of their natural resources or run the risk of being fined millions by international corporations. This is all facilitated by one institution: the International Center for Settlement of Investment Disputes (ICSID). Self-defined as an 'independent, depoliticized, and effective dispute-settlement institution', ICSID has mediated thousands of cases since 1966 between foreign investors and importing host states through the process of Investor-State Dispute Settlements (ISDS).¹ Proponents of ISDS view it as a 'shining example of the rule of law', whilst critics argue it shields transnational corporations from accountability and undermines state sovereignty (Kahale 2018). I side with the latter, arguing that there are extreme foundational power asymmetries intrinsic to ISDS and International Investment Treaties which create a pressing need for reform. Thus, the question should not be if the system is flawed, but whether the flaws are repairable, or if the system's too broken to be fixed?

'[ICSID] signifies colonialism, slavery with respect to transnationals, with respect to Washington, with respect to the World Bank and we cannot tolerate this.'

– Rafael Correa, speech withdrawing from ICSID (Carbrera Diaz 2009)

This paper seeks to address the critiques of ISDS by reviewing the different perspectives involved in current international investor-state arbitration discourse. However, to analyse the successes and failures of ISDS, we must first review the larger political context in which it has evolved. We begin **Part I** with a historical overview of the ISDS system and present the major arguments arising from its purpose and application. Two distinct critiques are outlined:

1. the lack of an effective mechanism to protect and promote third parties, and
2. the system's affront to national sovereignty.

After situating the system in its broader political context, the failure of ISDS is taken as a given and the discussion moves to explore whether investor-state arbitration is broken beyond a state of repair. **Part II** uses the case studies of *Occidental v. Ecuador* and *Suez and Vivendi v. Argentina*² to explore this question. **Part III** evaluates the potential reforms to ISDS with reference back to the initial critiques made in **Part I**. Latin America's contribution to reform is examined, revealing the role that a continent of the 'Global South' can play in the future design of the ISDS.

Finally, this paper concludes that the best way to protect state sovereignty and involve third parties is to shift the focus to creating an alternative system to ISDS. All reform options have strengths and weaknesses and range from conservative to acutely interventionist, but when prioritising equal representation, withdrawal from treaties and favouring alternative dispute mechanisms is

most effective. As we will evidence, the current structure is asymmetrical by design and the embedded obligations towards corporate interests compromises just representation of interested third parties and encroaches on state sovereignty.

PART I. THE EVOLUTION OF ISDS

ISDS—or Investor-State Dispute Settlement—is a system that allows foreign investors to resolve disputes with the government of a country in which their investment was made. It was established in 1966 by the *Convention on the Settlement of Investment Disputes between States and Nationals of Other States* to 'promote compliance with international law, help to settle international disputes, and provide redress for victims of harm caused by violations of various aspects of international law'.³ ISDS, therefore, serves as 'both an enforcement mechanism that promotes [state] compliance and a means of compensating victims of harm caused by breaches of investment treaty provisions'.⁴ This protection mechanism was designed with the purpose to encourage foreign direct investment (FDI) to supplement economic growth and development, and insulate investors from political risk. In tandem with the spread of neoliberalism and the proliferation of International Investment Treaties (IIAs), foreign companies became more willing to invest in emerging economies. This introduced the problem of how to strike the right balance between providing investor protection and protecting State sovereignty from abuses (Patel 2017). The challenge was to create a system which found equilibrium between protecting the interests of corporate investors and host states.

ISDS occurs through *ad hoc* arbitration, rather than public courts, with tribunals composed of party-appointed private lawyers. Cases are based on terms found in IIAs which typically include substantive protections and obligations that protect the economic rights of the investors yet consider little of the rights of the state or third parties. The majority of ISDS cases are brought

¹ Investor-state dispute settlements, 'About ICSID', ICSID.

² *Suez, Sociedad General de Aguas de Barcelona S.A., and Vivendi Universal S.A. v. Argentine Republic (II)* (ICSID Case No. ARB/03/19)

³ OECD (2012), 'Investor-State Dispute Settlement: Public Consultation: 16 May–9 July 2012', p. 7.

⁴ *ibid.*, p. 8.

against developing countries and transition economies.⁵ In 2019, 80% of claims were made against developing nations with investors from developed nations bringing about 70% of the cases.⁶ Latin America bears the brunt of many of these cases. Between the years 1987–2019, Argentina received the largest share of claims (sixty-two), followed by Venezuela with fifty-two and Ecuador with twenty-four.⁷ Developing nations do not just have more cases brought against them, but also receive the most economic harm: of the one hundred and fifty-eight concluded disputes with an award, investors have reaped economic benefits from both awards and settlements in one hundred and twenty-three cases under ISDS in Latin American countries, or 65% of times. In contrast, just 35% was decided in favour of the states.⁸ This means Latin America provides an ideal focus for analysis of the shortcomings of ISDS.

Numerous arguments have emerged both in support and rejection of the ISDS system. Proponents argue that ISDS is fair and efficient, succeeding in its initial aims to encourage foreign investment and increase economic growth. Economists Kohler and Stähler argue that the system reduces regulatory risk by encouraging ‘beneficial investments ... to the socially optimal amount.’ (Kohler & Stähler 2019). Chase (2015) agrees, stating that ‘without ISDS, the enforceability of contractual obligations between investors and the government would be undermined.’ In addition to the economic rationale, political scientists point to the benefits of ISDS by protecting against political risk. Won-Mog Choi (2017) suggests that ISDS arbitration can provide a framework for international law to mitigate potential political threat and protect against host-state’s changing political climate. Ultimately, the successful encouragement of FDI for economic growth and protection from political risk all evidence the success of the ISDS system.

On the contrary, opponents of ISDS ground their arguments in two distinct criticisms:

1. ISDS lacks effective mechanisms to uphold the rights of third parties, and
2. it fails to protect national sovereignty against corporate interests.

Further arguments cite how proceedings are often opaque, exclusive, costly, and time-intensive: challenges that greatly disadvantage under-resourced state agencies or parties. In this paper, we will focus on the first two critiques.

First, the lack of a mechanism that considers the interests of third parties is a key claim made by opponents of ISDS.⁹ Third parties will be defined in this paper as local and indigenous communities, environmental agencies and activists’ groups who are frequently the subject of human rights affronts due to the actions of foreign companies. Tribunals often have the discretion to accept or reject third-party amicus briefs and third parties have no clear ability to effectively intervene in proceedings. Further, these parties often lack the funding and support necessary to be successful in ISDS proceedings. For these reasons, critics of the system argue that third parties are severely unrepresented and constrained by the structure of ISDS.

To address the second criticism, many scholars argue ISDS values corporate interests over state sovereignty. As put by political scientist Nimesh Patel:

Allowing corporations to circumvent domestic courts and sue the host-state government to seek relief from taxpayers in ISDS tribunals compromise government sovereignty. An investor’s suit against a host government’s public welfare policy concerning the environment or public health thus interferes with a government’s regulatory autonomy ... creating a substantial risk of undermining state sovereignty. (Patel 2017)

In conjunction with states’ obligations under IIAs, the ISDS system can negatively implicate a government’s ability to craft public policy in areas such as health, the environment, and education. Developing countries are particularly vulnerable to this as they are less likely to have a robust internal legal apparatus and more frequently sign treaties that are unbalanced in favour of developed states (Salacuse & Sullivan 2019). Additionally, the threat that a company could sue stops smaller states from adopting policies that protect the rights and wellbeing of their citizens; a concept is known as the *regulatory chill effect*. Taking this into account, it seems the balance between investor protection and state sovereignty within ISDS is off—investors are supported whilst states are pressured to act according to foreign wishes.

However, both the imbalance between protecting investors and state sovereignty and the lack of mechanisms to support third parties must be viewed as criticisms of the *consequences* of ISDS, rather than the failure of the system. Objectively, ISDS succeeds in satisfying its original purpose. To ensure a non-risky investment context for foreign companies, ISDS proves fruitful. As a professor pointed out, ‘to criticize a [bilateral treaty] on the ground that it only gives rights to investors is like criticising a screwdriver for only being useful for attaching screws.’ (Lowe 2015) The same is the case with the ISDS system—it was constructed with the purpose to support investors, so, unsurprisingly, it’s imbalanced in favour of them. However, that is not to say it should not be reformed. The following section provides two examples where state sovereignty was compromised and third parties were left without a voice; they reflect the drastic power asymmetry that can evolve through the system, and provide support for why ISDS is in desperate need of reform.

PART II. ISDS CASE STUDIES IN LATIN AMERICA *OCCIDENTAL V. ECUADOR (I)* (AWARD, 5 OCTOBER 2012)

In 2012, the ICSID tribunal ruled that Ecuador breached a US–Ecuador Bilateral Treaty (BIT) by violating the fair and equitable treatment obligation and expropriating the investment of US-based oil company, *Occidental Petroleum*. The tribunal awarded Occidental US\$1.77 billion for the violation of the contractual commitments—the largest sum in history awarded to ISDS claimants.

The controversy was rooted in a wave of expropriations and tax legislation reforms that occurred in Latin America after 2000, resulting from the rise in oil prices (Cardenas-Garcia 2013). As the oil market changed, the government failed to renegotiate contracts and international oil companies struggled to adapt to the new situation. In the case of Occidental, the government of Ecuador terminated the contract after the company

⁵ UNCTAD (2020). ‘Investor-State Dispute Settlement Cases Pass the 1,000 Mark: Cases and Outcomes in 2019’, *IIA Issues Note*, 2, July 2020.

⁶ *ibid.*

⁷ *ibid.*

⁸ CAROLA Georgetown Law (2022). ‘Investor-State Dispute Settlement in Latin America and the Caribbean’, in *ISDS – In Numbers*.

⁹ Columbia Center on Sustainable Investment (2019). *Primer: International Investment Treaties and Investor-State Dispute Settlement*. Columbia Center on Sustainable Investment Staff Publications, p. 3.

attempted to transfer rights under a farmout agreement to a foreign investor, AEC, without the Ecuadorian government's authorisation (Cardenas-Garcia 2013). Whilst Occidental's attempt to transfer part of their ownership was found in violation of their contract with the State, Ecuador's reaction of terminating the contract was found disproportionate to Occidental's breach. The tribunal deemed Ecuador in violation of international law for failing to accord fair and equitable treatment; a right included in the US-Ecuador BIT.

Yet, to fully appreciate the limitations to ISDS, we first need to look at the political context in which this case unfolded. During the 1990s, oil was a topic of great controversy in Ecuador. A tension emerged between supporters of neoliberal reforms and the anti-extractivist movement. Under Borja and Durán-Ballén's leadership, Ecuador followed a policy of neoliberalism consisting of eliminating price controls, lowering trade barriers and liberalising the oil sector (Hey 1993). 16 BITs were signed, and a system of land ownership was established to attract foreign investment (Calvert 2018). For example, the *Ley de Desarrollo Agrario [Agrarian Development Law]* of 1994 made it more difficult for squatters (largely comprised of indigenous communities) to obtain legal rights to privately-owned land by invading and occupying it, ensuring a more risk-averse environment for private foreign investors (Hey & Klak 1999). Occidental capitalised on these policies, securing a generous contract in 1999. Yet, as the 'pink tide' swept across Latin America, the election of Rafael Correa in 2007 marked a distinct political shift from neoliberalism to neo-extractivism, a policy characterised by a dependence on raw materials for economic growth which entailed state expropriation of private assets and goods (Mendoza 2018). This coalesced with resistance from indigenous and environmental groups. Local communities mobilised to challenge the minimal compensation for indigenous families, the expropriation of their land and the environmental damage caused to their forests and public water sources. For example, the Cofán people from northeast Ecuador were 'heralded for ... their bold and successful protests' and gained a reputation as 'the world's most anti-oil indigenous peoples' (Cepek 2018).

Pressure from third parties, such as the Cofán people, was a key reason for Correa's termination with Occidental. In response, Occidental filed a suit in ICSID claiming that Ecuador had breached the terms of the treaty. The case unfolded, but interested third parties, namely indigenous groups and environmental activists, made a distinct decision not to participate in the process as they believed by doing so would legitimate the unbalanced power structure of ISDS that fails to uphold the rights of the people. The opportunities to participate are extremely limited in the first place: even though they have the option to request permission to submit *amici curiae*, an arbitral tribunal decide to accept such requests at their own discretion. Further, even if they are granted access, the submission's main purpose is to provide additional information on facts of the case, not to grant a platform for actors whose rights are directly afflicted.¹⁰ Thus, the decision for third parties to reject formal participation in the legal proceedings out of fear of legitimating a system pitted against them is understandable.

The tribunal's decision further emphasises the

challenges of ISDS. The arbitrators made their decisions based on investment rules in isolation from the dispute's political context or pushback from third parties. However, Brigitte Stern, one arbitrator of the tribunal, issued a dissenting opinion, stating:

The consequence of the fault committed by [Occidental of transferring their rights to another company, AEC], when they violated the Ecuadorian law, is overly underestimated and insufficiently taking into account the importance that each and every state assigned to the respect of its legal order by foreign companies.¹¹

By referencing the failure of the tribunal to accurately weigh the breach of Occidental with the violation of Ecuador, Stern implies arbitrators are aware of the inequality intrinsic to ISDS. Yet, irrespective of their awareness, the basic structure of ISDS prohibits arbitrators from factoring in the rights to safeguard national sovereignty. Similarly, the immense award has drastic implications for national governance. States like Ecuador now have an economic incentive to put the investor's rights before their peoples, given the potential threat of liability and the cost of defending against ISDS claims, undermining state sovereignty further (Franck 2005).

SUEZ AND VIVENDI V. ARGENTINA (III) (DECISION ON JURISDICTION, 3 AUGUST 2006)

The case of *Suez and Vivendi v. Argentina* provides a similar level of insight into the shortcomings of ISDS and the possibility for reform. It involved two European companies—French company *Suez* and *Vivendi Universal* and Spanish company *Sociedad General de Aguas de Barcelona*—who operated the water and wastewater services for the province of Buenos Aires and seventeen surrounding municipalities. In November 2015, the ICSID tribunal awarded the investors more than US\$380 million for breaching the fair and equitable treatment terms in two BITs: Argentina–France BIT (1991) and Argentina–Spain BIT (1991).¹²

It is necessary to review the economic developments preceding the case to understand the extremity of ICSID's decision. The end of the 1990s marked the Argentine Great Depression which caused widespread unemployment, the fall of the government, a default on the country's foreign debt, and a shrinking of the economy by twenty-eight percent (Saxton 2003). Economic instability led to the termination of the Currency Convertibility Plan (which pegged the peso to the dollar), causing the peso to devalue by almost 70 percent. Since foreign investors' debts were in US dollars, they faced severe financial losses. The government also declined Vivendi's various requests to increase tariffs, as fulfilling them would lead to the denial of water to millions of impoverished citizens. They argued it would be an affront to basic human rights. As a result, in January 2002 the government froze its investments and defaulted on loans, provoking Vivendi's claim to the ICSID. The company argued that Argentina illegally expropriated their investments and violated the treaty obligation of full protection and security and fair and equitable treatment. The case directly exemplifies the two critiques of ISDS made in this paper: (1) the lack of an effective mechanism to promote third parties, and (2) the system's affront to national sovereignty.

¹⁰ Columbia Center on Sustainable Investment, IIED, and IISD (2019). *Third Party Rights in Investor-State Dispute Settlement: Options for Reform*. UNCITRAL Working Group III, p. 6.

¹¹ *Occidental v. Ecuador (II) (Dissenting Opinion: Brigitte Stern)* (ICSID Case N° ARB/06/11).

¹² *Suez, Sociedad General de Aguas de Barcelona, S.A. and Vivendi Universal, S.A v. Argentine Republic (III)* (ICSID Case N° ARB/03/19).

To address the first critique, the Columbia Center on Sustainable Investment states: 'Unlike common legal protections that allow affected non-parties to participate in cases ... and/or require cases to be dismissed if third-parties will be affected but can't join the proceedings, affected third parties in ISDS have no clear ability to effectively intervene in ISDS proceedings.'¹³ Yet, five Argentinian NGOs sought to challenge this by attempting to open up opportunities for participation for third parties. This marks a sharp distinction from *Occidental v. Ecuador*. Although there were still fears that participating in arbitration would legitimate ISDS as a process fundamentally biased towards corporate interests, there was a larger aim to present their side of the argument and advance the broader goal of creating a more democratic and participatory decision-making system at an international level.

In January 2005, a *Petition for Transparency and Participation in Amicus Curiae* was put forward to the tribunal, demanding access to hearings, a platform for third parties to present legal arguments, and unrestricted access to the court documents.¹⁴ However, it was not as straightforward as requesting access. ICSID Arbitration Rule thirty-two (2) which regulates the participation of third parties in ICSID presents a caveat that third parties may be allowed to attend or observe the hearings, 'unless either party objects.'¹⁵ Both claimants must accept requests for transparency and participation in *amicus curiae*: a situation very rare in ISDS hearings. This reinforces the idea that ISDS is structurally pitted against third-party interests. In this case, Vivendi objected to the coalition's access to court documents, arguing that it would unfairly favour the State. Yet, Article forty-four of the ICSID Convention provides that 'if any question of procedure arises which is not covered by this Section ... the Tribunal shall decide the question.'¹⁶ Through this caveat, the petition was accepted. This marked the first time in ICSID history that a tribunal decided it had the power to accept *amicus* submissions. One might view this as an indication that ISDS is becoming more equitable to third parties.

The acceptance of an *amicus* brief is significant, but its success is more important. In the brief, the coalition framed the actions of the government as a human rights issue, attempting to leverage the connection between investor rights under the BITs and basic human rights under public interest law to influence the way arbitrators read the law. The tribunal, however, was not convinced. In the written decision, they wrote:

Given the frequency of crises and the emergencies that nations, large and small, face from time to time, to allow them to escape their treaty obligations would threaten the very fabric of international law and indeed the stability of the system of international relations.¹⁷

They disregarded the coalition, ultimately arguing that Argentina's human rights obligations to ensure citizens have the water right should be trumped by the BIT commitments to investors. This speaks to our second critique that ISDS undermines state sovereignty. When the Argentinian government was confronted with the challenge to balance national sovereignty against investor interests, they chose to protect their citizens—the incorrect choice, according to International

Investment Law. As pointed out by a coalition of more than six hundred organisations from sixty-seven organisations, ISDS 'elevates the rights of investors far above those of governments, local communities, citizens, workers, and the environments' (Choi 2007). *Suez and Vivendi v. Argentina* provides the ultimate example of this, highlighting how ISDS allows the investor to challenge public interest regulation thereby creating a substantial risk of undermining state sovereignty (Patel 2017).

PART III. LATIN AMERICA'S ROLE IN ISDS REFORM

Occidental v. Ecuador and *Suez and Vivendi v. Argentina* evidence the uneven way investment structure is applied to ISDS cases in Latin America and the alarming risk of undermining state sovereignty. These cases are not anomalous, rather they serve as examples of the numerous ISDS cases brought against states in Latin American and the Caribbean. The enormous awards and damages brought against states, the escalation of disputes, the unpredictability of ISDS outcomes and increasing regulatory chill effect have prompted many to rethink the current ISDS system. In the next section, I will analyse possible reforms and alternatives to the system, keeping in mind the best way to protect state interests and achieve proper representation for third parties in international investment law. Whilst many suggestions have been made for how to reform the system, four will be discussed below:

1. dispute prevention,
2. working commissions for system reform,
3. termination and withdrawal of treaties, and
4. an alternative dispute resolution mechanism.

Latin America also has a key role to play in this development. As Scholars Gómez and Titi note, 'recent developments in Latin America have been driving reforms of IIAs and especially ISDS' (Gómez & Titi 2016). This demonstrates the major role that host countries and Global South nations such as those in Latin America can play in reforming the ISDS system.

Dispute prevention is one potential way of reducing the frequency and temperature of ISDS cases. Defined as 'extensive planning to reduce the number of conflicts that escalate or crystallise into formal disputes',¹⁸ this is a precautionary method that focuses on the creation of a specific mechanism to calm disagreements that may arise from BITs. Specific target areas include improving institutional governance and developing specific working agendas that will create 'attractive business environments'. For example, the United Nations Commission on International Trade Law (UNCITRAL) has advocated for 'early intervention through national and inter-state dialogue' which works to ensure the durability of investments but focuses on maximising benefits for both the host state and foreign investor (Kelsey 2019). Early intervention approaches include establishing avenues for public feedback through a contact point or involve communication between state parties (Kelsey 2019). This option is advantageous as it helps reduce inconsistency, incoherence and involved more stakeholders in the conversation. However, it fails to address the structural asymmetries of ISDS: although it provides a platform for more voices to be heard, it serves to shore up business-friendly practices,

¹³ Columbia Center on Sustainable Investment (2019). *Primer: International Investment Treaties and Investor-State Dispute Settlement*. Columbia Center on Sustainable Investment Staff Publications, p. 3.

¹⁴ *Suez and Vivendi v. Argentina (II) (Petition for Transparency and Participation as Amicus Curiae)* (ICSID Case No ARB/03/19, 27 January 2005).

¹⁵ ICSID (2006). 'ICSID Convention, Regulations and Rules', p. 115.

¹⁶ *ibid.*, p. 21.

¹⁷ *Suez and Vivendi v. Argentina (II) (Decision on Liability)* (ICSID Case No ARB/03/19, 30 July 2010), p. 100.

¹⁸ UNCTAD, 'Investor-State Disputes: Prevention and Alternatives to Arbitration', in *UNCTAD Series on International Investment Policies and Development*, p. xiv.

perpetuating the unequal distribution of rights and obligations between importing host countries and investors. Similarly, whilst it has the potential to increase communication and reduce the costs and duration of ISDS, productive dialogue is not guaranteed, and issues may not be resolved. If, and when, the early intervention avenues fail, the state parties will resort to ISDS. Whilst this solution is likely to be favoured by those advocating for modest reforms, most states and involved parties are demanding more.

A second, more intervention-focused method would be to make concrete reforms to the ISDS system. Some international governing bodies have made valiant efforts to address the weaknesses of the system and advocate for change. For example, in 2017, UNCITRAL began tackling the question of ISDS reform, forming a committee to '(i) identify and consider concerns regarding ISDS; (ii) second, consider whether reform was desirable in light of any identified concerns; and (iii) third, if the Working Group were to conclude that reform was desirable, develop any relevant solutions to be recommended to the Commission.'¹⁹ Yet, as noted by Roberts, much of the Commission's energy was spent disagreeing over who would chair the working group, rather than tackling the central question of how to fix the system (Roberts 2017). The group analysed various reforms, including state-state arbitration, inter-state and national dialogue mechanisms, domestic legislation and enforcement with limited to no international arbitration, and exhaustion of domestic remedies.²⁰ The conclusion of the group was that they will 'need to propose credible, durable and effective solutions' and noted that 'these are just some of the options for the process side of the equation, which need to be complimented by fundamental changes to the unbalanced investor protection rules.' Whilst ideas were discussed at great length, there was little concrete outcomes which shaped ISDS procedure. Interestingly, the group noted themselves that 'failure to look beyond the limited reforms that have dominated the working groups discussions on process to date will doom the current UNCITRAL initiative to irrelevancy' (Kelsey 2019). They themselves recognise their own shortcomings and the need for more. Scholar George Kahale suggests that 'too much effort will be invested in debating and designing a mechanism that will either never come into being or be of dubious value, or even harmful if they do, the inevitable result of a compromise between opposed views' (Kahale 2018). However, the value of discussion should not be downplayed, and efforts to address such critiques of ISDS should be commended. If a relatively conservative approach to ISDS reform is preferred, the idea to keep current systems in place but combat any failures and shortcomings through a commission could be of use. Yet, several countries—in addition to the working group themselves—express that the discussion and proposed reforms do not go far enough in addressing the abuses of power they have experienced, emphasising their need for a more invasive approach.

The first two solutions have been critiqued as failing to address the power asymmetries of ISDS. They seek to improve the system, but fail to totally protect states sovereignty, and third parties are in no better position to voice their concerns to the tribunal. More extreme advocates suggest if dispute prevention and internal

structural system reform doesn't appease host states and third parties, a more aggressive avenue of change should be considered.

Thus, we turn to a third solution: the termination or withdrawal of IIAs, or 're-domestication' (Gomez et al. 2019). This solution circumnavigates ISDS and grants foreign investors the same protections available to domestic investors. In the spirit of international investment law triage, this solution eliminates the possibility of putting Global South countries at an even further disadvantage in their dealings with international corporations. Bolivia, Ecuador and Venezuela have opted for this method, officially withdrawing from ICSID in 2007, 2008 and 2012 respectively. On a global scale, there has been a declining trend of fewer BITs being negotiated. It seems there has been a denouncement of BITs worldwide and an attempt to renegotiate international contracts to create a more balanced regulatory system. In states that have left ICSID, such as Ecuador, investor claims are now resolved by national courts. However, it is not as easy as 'just withdrawing from international treaties' as the system was built with various protections to safeguard against this. IIAs contain survival clauses which protect certain guarantees, including the right for arbitration through ISDS for five to twenty years. Bolivia, for example, continued to receive notices of arbitration from foreign investors despite withdrawing from ICSID and terminating IIAs (Bernal Rivera & Viscarra Azuga 2017). A solution to this has been proposed by Columbia Center on Sustainable Investment (CCSI), the International Institute for Environment and Development (IIED), and the International Institute for Sustainable Development (IISD), which allows countries to terminate IIAs through a multilateral instrument and, at the same time, eliminate their survival clauses. This would, however, require investors to withdraw their consent to arbitrate; an obstacle that may prove difficult to overcome. Another shortcoming is that, as much as countries attempt to reform domestic law, without international investment strategy evolving in parallel, the success of domestic legal reforms will be limited (Gomez et al. 2019). For example, Ecuador adopted a new constitution which prohibits it from entering new treaties that provide jurisdiction to arbitration mechanisms such as ISDS, and in 2009 Bolivia established that the oil and gas sector was beyond the scope of ISDS (Gomez et al. 2019). However, both states have continued to face investment claims, since their governments have involved themselves in other international debt contracts (Coronel Ortega 2017). Additionally, Latin American countries which have attempted to exit the system have been met with hostility—regarded as averse to international arbitration—yet remain vulnerable to ISDS. This reputation has the potential to hurt FDI, which plays an integral role in supporting development. Thus, whilst this solution does help strengthen state sovereignty through returning some decision-making power to national governments, the survival clauses embedded in IIAs means they remain effective after termination, limiting the strategy's success.

A final solution, optimal for the longer term, is the creation of an entirely new system alternative to ISDS. The Columbia Center on Sustainable Investment advocates for 'looking more closely at the objectives of [IIAs], as well as alternative modes of dispute settlement

¹⁹ UNCITRAL Working Group III (2017). *Report of Working Group III (Investor-State Dispute Settlement Reform) on the work of its thirty-fourth session (Vienna, 27 November–1 December 2017)* (Report No. A/CN.9/930). UNCITRAL, p. 3.

²⁰ *ibid.*, p. 6.

that might better serve the identified objectives.²¹ Again, Latin America have led in this pursuit, establishing the *Centro de Solución de controversias en Materia de Inversiones* negotiated under the auspices of *Unión de Naciones Suramericanas* (UNASUR; including Argentina, Bolivia, Brazil, Colombia, Ecuador, Guyana, Paraguay, Peru, Suriname, Uruguay and Venezuela). They aim to establish a new mechanism to resolve investment disputes and ‘overshadow the hegemony of the ICSID’ (Gómez & Titi 2016). Ecuador is a trailblazer of this project: they constructed a written proposal including a set of rules for arbitration centre, a code of conduct for UNASUR arbitrators and mediators, and organised an advisory centre for settling investment disputes (Gómez & Titi 2016). The document establishes the centre’s international legal personality (Article 4); the mechanism for facilitation, conciliation, and arbitration (Article 13); and grants jurisdiction over both state-state disputes and investor-state disputes (Gómez & Titi 2016). It is a great task, but Ecuador and its supporting nations have risen to the challenge. Since it is being designed by Latin American states, it has the potential to better protect state sovereignty than the current system. However, building an entirely new system is likely to be a complex, long-drawn-out process. Similarly, since it is only in the initial discussion phase, the extent to which the new system addresses third-party participation is unknown. Investors have advocated for more conservative reforms, thus the likelihood of investors opting into this new system is questionable. This solution has the potential to be a great alternative to the current ISDS system, but to avoid being overly optimistic, it is still too early to determine its true success.

Yet, looking at Brazil’s Cooperation and Facilitation Investment Agreement (CFIA) model provides hope that replacing ISDS provisions with alternative means of dispute resolution can work. CFIA distances itself from the adversarial approach taken in ISDS and focuses on cooperation and the elements of mutual benefit to states and investors (Vieira Martins 2017). As noted by the Center for the Advancement of the Rule of Law in the Americas (CAROLA), Brazil’s CFIA model is ‘a *sui generis* investment treaty model that includes no investor-state arbitration provisions ... [it] relies on institution governance mechanisms designed to promote cooperation between parties’ (Gomez et al. 2019). The system works by first ensuring all other avenues to reach an agreement between investors and host states are prioritised. It avoids a focus on ISDS-centred BITs but uses joint committees and includes provisions which respect the right of the state to regulate. Currently, Brazil has used the CFIA model to engage in negotiation agreements with numerous states, including Chile, Colombia, Peru, India, Jordan, and Angola. The General Coordinator of Trade and Investment Policy for Brazil, José Vieira Martins, has noted that ‘the success of the CFIA model in terms of generating more investments and fewer disputes cannot yet be tested.’ However, the system has already had positive repercussions on relevant economic agents and partners involved in Brazil’s international investment, and has had success in agreements with Mexico and Peru. Investment scholars and international organisations suggest the model is moving in the right direction (Vieira Martins 2017). Countries who

prefer establishing a new structure entirely different to ISDS-centred BITs could model their own investor agreements off Brazil’s CFIA approach.

CONCLUSION

The foundational power asymmetries intrinsic to ISDS and International Investment Treaties have been explored in this essay. Contrary to the definition of the ICID as an ‘independent, depoliticized, and effective dispute-settlement institution’,²² I side with the critics who deem the institution as inconsistent, opaque, and biased to privileging investor rights over the interests of states and third parties. Although ISDS serves its originally intended purpose of protecting investor rights against home-state breaches, it encroaches on state sovereignty. The cases of *Occidental v. Ecuador*²³ and *Suez and Vivendi v. Argentina*²⁴ demonstrate the system’s lack of consideration for context outside of BITs: in *Occidental v. Ecuador* the cries of local communities for justice vocalised through the Ecuadorian government were largely ignored, and in *Suez and Vivendi v. Argentina* the rights of investors eclipsed the basic human rights of low-income Argentinian citizens. Both provide examples of the way ISDS undermines state sovereignty by allowing corporations to circumvent national courts. Similarly, although third-parties involvement differed between the two cases, the same conclusion is drawn: whether they have a say or not, involved parties do not feel as though ISDS takes their concerns seriously. For both states and third parties, engagement in ISDS seems like a losing battle.

Many reforms have been proposed by host states, international organisations, non-profits, scholars, and investors alike, ranging from conservative to extreme. On the conservative end of the spectrum, dispute prevention and internal ISDS structural reform offer ways of modifying the current system from within. Dispute prevention is useful for opening up avenues for dialogue but fails to adequately address the problems of structural asymmetry. Likewise, internal ISDS reform has provided stimulating discussion for the options of reform but has produced little action. On the more radical end of the spectrum, termination of IIAs re-domesticate international investment, granting foreign investors the same guarantees afforded to domestic investors, effectively tackling the threat to state sovereignty but are complicated by survival clauses. Lastly, the creation of an alternative dispute resolution system has proven to be effective to rebalance the system providing space for states to regulate and impose obligations on investors, as well as enhancing the avenues that third parties can involve themselves, yet a lot is left unknown. It is inconclusive whether investors will agree to this new system and there is no guarantee it will be an improvement from the old system. All options have benefits and shortcomings, further dependent on level of intervention and time scale.

When considering which solution is the most effective way to ensure the rights of all parties are upheld, I argue for the creation of a system alternative to arbitration through ISDS. This process has already started in Latin America. Although interim solutions such as dispute prevention and withdrawal of BITs may keep the shortcomings of ISDS at bay, the creation of UNASUR’s *Centro de Solución de controversias en Materia de Inversiones* or a system similar to Brazil’s

²¹ Columbia Center on Sustainable Investment, IIED, and IISD (2019). *Third Party Rights in Investor-State Dispute Settlement: Options for Reform*. UNCITRAL Working Group III, p. 6.

²² Investor-state dispute settlements (2019). ‘About ICSID’, ICSID.

²³ *Occidental Petroleum Corporation and Occidental Exploration and Production Company v. Republic of Ecuador (I)* (ICSID Case No ARB/06/11).

²⁴ *Suez, Sociedad General de Aguas de Barcelona, S.A. and Vivendi Universal, S.A v. Argentine Republic (I)* (ICSID Case No ARB/03/19).

CFIA model has the most potential. The journey towards a proper dispute resolution mechanism will follow a long road, but it is achievable, with Global South continents like Latin America leading the charge.

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Iranian Democracy: A Theatrical Escapade

Nolan H. Drazin

Theatrical productions are often thought to result in works of cinema, plays and concerts. They are and historically have been, the epitome of culture and sophistication. These works have influenced global society in ways unattainable in the real world. Their use of imagination, creativity and subtlety shape a narrative. The ability to circumvent the conscious mind and present a world of fabrication and symbolism manufactures a storyline. These gifts work to elevate mankind from the likes of animals. However, these gifts are also abused.

The Islamic Republic of Iran is often misunderstood. The nation is littered with inconsistencies, contrasts and elements of hypocrisy. Its governing institutions can be described in the same manner. In analysing Iran, the question of what constitutes democracy, or further democratisation, comes to mind. Yet, one thing is clear—the Iranian regime conducts a theatrical masterclass that rivals the likes of Hollywood and the Royal National Theatre.

Iran maintains strict and open elections. Iran has three branches of government. Iran has a system of checks and balances. Yet, Iran is a production. Put simply, Iran is a tyrannical dictatorship masquerading as a democracy. The conduct of their institutions is akin to actors in a play. In this paper, we will examine the theatrical production that is the Iranian regime.

MEASURING DEMOCRACY AND CALCULATING IRAN

Democracy is a fickle institution. In theory, democracy is a form of government with the power vested in the people. This does not mean that the people are free and it does not mean that the people have a preponderance of rights. This means elections. Elections can be direct or indirect. The people can vote on any issue, or simply on their representatives. This makes measuring the different aspects of democracy, or coming to a clear definition, highly subjective. This is affirmed by the School of Social Policy & Practice at the University of Pennsylvania, in publishing: '[to] aggregate these indicators into an index is a subjective exercise [which involves] recruiting the judgements of experts to identify which metrics to include and how to weight each appropriately' ([Center for High Impact Philanthropy n.d.](#)).

Although difficult to discern, it becomes clear that the theoretical definition of democracy is not a justifiable means to measure its components. Since the theoretical definition excludes the necessity for a protection of individual rights and liberties, it must additionally be understood to exclude the ability for any real power to be vested in the people. Just as a slave cannot control his master, the people cannot compose their government if they themselves are not free. This ensures that any form of measurable democracy must mean *liberal* democracy—which requires these freedoms. According to Andrew Hacker in the *American Political Science Review*, '[l]iberal democracy ... is the worthiest of political creeds [as it is the only] way attention can be focused on the preservation of liberties and the encouragement ... for the allocation of power [by the people]' ([Hacker 1957](#), p. 1009). This is where subjectivity, although still present, becomes less of an obstacle in measuring a nation's democracy. We will then focus our analysis on the presence of *liberal* democracy within the Iranian regime.

One major index for democracy is *Freedom in the World* by Freedom House. In basing its metrics on the same principles of *liberal* democracy, determinations favour considerations of protections of individual rights and liberties—freedoms. As such, Freedom House gives

a nation a clear ultimate designation: 'Free', 'Partly Free', or 'Not Free'. These labels are derived from a 100-point scale, via the methodologies discussed below.

The *Freedom in the World* rankings are composed of two categories: civil liberties and political rights. A nation's civil liberties are ranked on a zero to sixty scale, which measure factors such as freedom of expression and belief, organisational rights, rule of law and so on. The political rights category is ranked on a zero to forty scale, measures the electoral process, political pluralism and participation, the functioning of government and so forth. The ultimate designation is reached by determining a nation's combined score. Although the exact algorithm used to determine the weighting of combinations varies slightly (around \pm five, depending on the ratio), these are the general score ranges for classification: zero to thirty-nine is 'Not Free', forty to seventy-two is 'Partly Free', and seventy-three to one hundred is 'Free' ([Freedom House 2022a](#)). It is important to note the disclaimer that these ultimate designations are not *absolutes*—they merely depict the *general* conditions of a nation in a given year. Nonetheless, this index will be predominantly used in analysing the Islamic Republic of Iran.

The 2022 *Freedom in the World* report ranks Iran firmly within the 'Not Free' designation. Iran received a combined score of fourteen out of one hundred, which was made up of ten out of sixty civil liberties and four out of forty political rights. Freedom House summarised as follows:

The Islamic Republic of Iran holds elections regularly, but they fall short of democratic standards due in part to the influence of the hard-line Guardian Council, an unelected body that disqualifies all candidates it deems insufficiently loyal to the clerical establishment. Ultimate power rests in the hands of the country's supreme leader, Ayatollah Ali Khamenei, and the unelected institutions under his control. These institutions, including the security forces and the judiciary, play a major role in the suppression of dissent and other restrictions on civil liberties ([Freedom House 2022b](#)).

From this, it must be understood that Iran cannot be misinterpreted to be a democracy. Although the nation appears to uphold democratic principles, such as regular elections and three distinctive branches of government, these are largely *for show*. Elected leaders, judges, or representatives have no *real* power in government. Any autonomy is superseded by the jurisdiction of the theocracy, which is in turn superseded by the dictator. While this could be likened to a traditional top-down governmental structure, it is clear that each institution acts on behalf of a single individual. The fourteen points assigned by Freedom House appear to come simply from the fact that there are such distinctions on paper, as opposed to reality. As such, the main argument for Iran actually being a democracy rests upon the theatrics—the on-paper structure—of false democratic institutions. These stated institutions will be further examined under this *liberal* criteria.

FROM ONE DICTATOR TO ANOTHER: TRANSITIONING FROM PERSIA TO IRAN

Although this report will be largely contemporary, it is important to understand the manner in which the current dictatorial regime came to power. While we will not stray from this theme, a brief description of the previous government and the resulting revolutionary replacement will be examined.

Prior to the revolution, Iran—then commonly referred to as Persia—was ruled by Shah (King) Mohammad Reza Pahlavi. In this system, the Shah ruled as a *de facto* dictator. To maintain power, the Shah controlled the secret police, known as SAVAK—the National Intelligence and Security Organization. This force worked to crush any opposition. According to a contemporary report, the SAVAK regularly ‘investigated opponents of the Shah, arrested them, and detained them indefinitely without filing charges [while] encouraging them to confess’ (de Camara 1980). This kept political opposition—in both the courts and legislature—docile, while allowing for a program of modernisation and secularism. This, in addition to the inhibition of civil rights and liberties, led to the eventual revolution.

Although the exact catalyst for revolution is a subject of debate, it is clear that Islamic populist attitudes against the dictatorship, and its programs of secularism, were widespread. According to Said Arjomand in *State, Culture, and Society*, ‘[r]ather than creating an artificial substitute for religion, as did the Communists and the fascists, the Islamic militants fortified an already vigorous religion with the ideological armor necessary for battle in the arena of mass politics’ (Arjomand 1985, p. 61). This propagandised dogma led to mobilisation of rebel forces en masse, which called for the establishment of exiled cleric, Ruhollah Khomeini, as the new leader (Maloney & Razipour 2019). According to Ervand Abrahamian in the *Middle East Research and Information Project*:

In most other revolutions, the collapse of the old order has enough support to mount a counteroffensive and thereby initiate a civil war. But in the Iranian case, the Shah was so weak, so unpopular and so discredited that he had no choice but to flee without even attempting such a counter-offensive (Abrahamian 1980, p. 21).

With such an effective form of populism—metaphorically, weaponised fundamentalist-Islam—Khomeini assumed control of the rebel forces and diminished the remaining structure of the Shah’s government with ease. The way in which the government was overthrown—in using the predominant religion, of which was strengthened in response to the Shah’s programs of secularism, as the main exhortation—makes this transition more akin to a populist uprising, rather than a traditional *coup d’état*.

By late 1979, Khomeini had succeeded in the destruction of the government and began formation of a new regime. According to an article published by the Brookings Institution, on December 3rd, 1979, the people of the new nation—The Islamic Republic of Iran—‘overwhelmingly approved [the] new constitution ... [which] enshrined Khomeini’s innovative doctrine of *velayat-e faqih*, which accords ultimate authority to a religious leader’ (Maloney & Razipour 2019). Khomeini adopted the mantra of *Ayatollah*—the Supreme Leader or dictator of Iran. This use of religious fervour to upset the previous regime, while installing himself as a ‘God-ordained’ ruler, set the stage for much of the democratic inhibitions that we will discuss below. This point, consequently, marks the beginning of the contemporary era.

It is clear that the Islamic Revolution produced astounding change—a difference from one dictatorship to another. It will become clear that the rights and liberties of the people would remain inhibited—even more so than before. The presence of a popular vote to ratify the constitution does not undermine this principle. This vote, perhaps the one true act of democracy, is symbolic of power changing hands; the people relieved themselves of authority in favour of their new dictator. Even in the case of the people wholly exercising their *real* power in government—a stark criteria in *liberal* democracy—to give up said power can only lead to what is objectively a non-democratic state. As such, beyond any Hobbesian interpretation, there is a resounding absence of democratisation to this point. We will next examine the regime’s actions. We will question—were there any future waves of democratisation?

WAVE OF DEMOCRATISATION: THE CHEF D’OEUVRE OF AUTHORITARIANISM

The Islamic Revolution was rooted in the displeasure of the poor and disenfranchised. Given this historical notion, it is not difficult to analogise the Revolution as the *proletariat* commoners acting to usurp the *bourgeois* shah. Despite the apparent similarities, any credence toward a Marxist interpretation of events is misguided. Rather than adopting an analysis on the social hierarchy—the class structure—involved, a focus must be placed on the outcome of the Revolution itself. To quote Shaul Bakhash in *The American Historical Review*:

The outcome of the Revolution is better understood ... as the seizure of the state by a new but narrow and self-serving ruling group. The social origins of this ruling group do not necessarily tell us much about the classes that dominate Iran or about those whose benefit policies are determined (Bakhash 1991, p. 1496).

From this, we can tailor our analysis to encompass *what* the people desired through their revolt, rather than

who they were. This will ultimately allow us to judge the outcome of the Revolution by its initial *goals*, rather than superficial means.

Although we have previously discussed the context of the Revolution—prompted by a dictatorial regime, unpopular modernisation reforms and a departure from core Islamic values—in line with this approach, we will look at its goals as the means of analysis. According to Fahollah-Nejad (2019) in the Brookings Institution, '[the] 1979 Iranian revolution promised three goals: social justice, freedom and democracy and independence from great power tutelage'. While combining these ambitions with the doctrine of Islamic fundamentalism (*Sharia*) may seem oxymoronic, it is important to recognise that the two are not necessarily mutually exclusive. Even if certain rights would be lost in such an Islamic fundamentalist system (i.e. a woman's right to initiate divorce proceedings), the people, theoretically, would have accepted this eventuality in exchange for greater freedoms than they had pre-Revolution. The Revolution was, after all, according to the popular will of the people. Yet by no stretch of the imagination were these goals fulfilled.

Although the initial ratification of the constitution was conducted via a public referendum, the immediate result was the ceding of nearly all governmental power to the Ayatollah. This, in on itself, constitutes a clear violation of the stated revolutionary goals:

1. a stricter standard of social or religious proceedings;
2. an overt 'handing over' of power from the people to the Ayatollah, and;
3. said transfer leaving the populace under the tutelage, or guardianship, of the Ayatollah and his religious mandate, rather than being a mere secular dictator like the Shah.

Nonetheless, additional background will be provided.

In 1989, Ayatollah Ruhollah Khomeini initiated a constitutional amendment ([Amendment to the Constitution](#)). Khomeini called for a clarification on the power and requirements of the Supreme Leader, which led to the adoption of several reforms, namely by:

1. eliminating the qualification requiring the Supreme Leader to be a *marja* (spiritual leader chosen by popular accord);
2. abolishing the Office of the Prime Minister;
3. incorporating the power of the abolished Office into the hands of the Ayatollah, and;
4. reaffirming the ability of the Ayatollah to set the overall policies and direction of the nation ([Esfandiari 2014](#)).

In plain terms, the Ayatollah dramatically consolidated power and removed many of his own (or his successors') checks and balances. This amendment was brought to a popular referendum, which passed with an astonishing 97.6% approval rate ([Boyer 2020](#), p. 13). This once again brings forth the same question—can a seeming authoritarian regime be democratic if the people themselves voted in favour of the authoritarian?

In *The Journal of Democracy*, Daniel Brumberg provided an analysis of this dictatorial consolidation,

claiming:

While some scholars use concepts like 'corporatism' or 'Islamic democracy' to capture this phenomenon, I prefer the term 'dissonance' because it points not to a coherent system (or ideological synthesis) but rather to the deliberate and uneasy linking of competing notions of political community ([Brumberg 2000](#), p. 130).

This interpretation is true. As noted within the 'Measuring Democracy and Calculating Iran' segment, while a democracy may be contentious and competitive, in order to form a true representative government—what is inherently a *liberal* democracy—it must allow for such liberal principles as basic rights and freedoms. According to Brumberg (2000), any actualisation of these principles is resoundingly absent. While public referendums had been conducted twice, each occurrence resulted in the seizure of power from the people. Although the initial marked a true democratic process, as noted, the result can be described as the antithesis of liberal democracy. The second, coming over a decade after the first deficit of freedoms, merely reinforced these notions, further taking away any concept of 'checks and balances' within the government. Therefore, in answering the above proposed question, to imply democracy, the regime would have to ensure the rights and liberties of its constituents, not remove them. The presence of said referendums or votes represent only the *end* of true democracy, not the continued presence of such.

DICTATORSHIP AND REAL POWER

Similar to many Western nations, the Islamic Republic of Iran is composed of three branches of government: the Executive—which enforces the laws; the Legislative—which composes the laws; and the Judiciary—which decides upon the laws. On face value, this arrangement gives the outward façade of democracy. Key elements, namely the separation of powers, checks and balances, and the rule of law, are seemingly apparent. Yet this is not the case. When closely examined, it becomes clear that the ultimate authority in Iran vests in the hands of a single individual—the Ayatollah, or *miraculous sign of God* ([Online Etymology Dictionary 2012](#)).

Iran has traditionally followed this governmental structure. Prior to the Islamic Revolution of 1978–1979, the nation was ruled by the Shah: *king*. Despite the presence of both a legislative and judicial branch of government, the Shah ruled with sole authority. In a contemporary report by *The Harvard Crimson*, '[the Shah] consistently violated the codes of law and justice [while] systematically dismantling the judicial system ... and the country's guarantees of personal and social liberties' ('[Life under the Shah](#)' 1979). Although this form of tyrannical governance, in part, led to the revolution, its successor remained largely the same, if not worse.

In this post-Revolution era, Iran has been ruled by two Ayatollahs. The first, Ruhollah Khomeini, came to power by leading the revolt. His reign lasted from 1979 to his eventual death in 1989 ([Anderson 1989](#)). His disciple, Ali Khamenei, was then selected to replace him. Ayatollah Khamenei is the current dictator of Iran.

Since there has only been an individual instance of an Ayatollah being selected without revolution, the codified power structure is largely obscure. Under

Iran's Constitution, the Ayatollah is selected by the Assembly of Experts. This group is composed of 86 Islamic clerics, each of which are chosen by popular election every 8 years. The members then convene twice annually. Similar to all other elections in the nation, each candidate for the Assembly is thoroughly vetted and approved by the current Ayatollah, or others following in his mandate (Farhi 2011). Despite this seeming oxymoron, the Assembly of Experts theoretically has the power to remove the Ayatollah from authority. As such, it is the *only* institution with any jurisdiction over the dictatorship. Unfortunately, as is the case with the three branches of government, this power is largely ceremonial. According to Emma Borden in the Brookings Institution, 'with limited interpretation of its mandate and the infrequency of meetings, it is no surprise that the Assembly does not have a significant effect on day-to-day politics in Iran' (Borden 2016b). Further, as a result of its vetting process, along with the need for a direct approval of each candidate from the Ayatollah, the Assembly has never interfered against the Ayatollah and it is unlikely that an Ayatollah's mandate would ever be subject to further intervention.¹

Having been established as *de facto* unchecked in authority, it is important to recognise how the Ayatollah works to influence politics within the nation. Being a single individual, it is impossible for the Ayatollah alone to supervise the entire government. For the sake of proper management, the Ayatollah gives subject autonomy in managing the everyday proceedings of the nation to the three branches, respectively. Yet, to ensure his ultimate power, the Ayatollah maintains a council to oversee their management. This is known as the Guardian Council.

The Guardian Council is composed of twelve seats, split up into six clerical and six legal representatives. The six clerical representatives are directly appointed by the Ayatollah. The six legal representatives are nominated by the Chief of the Judiciary and are confirmed by the *Majles* (Parliament). All members serve six-year terms, with half changing every three years due to staggered appointments. Each member is subject to the mandate of the Ayatollah and may be removed at any time (Naini 2006, p. 200).

Under Iran's Constitution, the Guardian Council has three mandates:

1. to maintain veto power over all forms of legislation passed by the *Majles*;
2. to vet, approve, or disqualify all individuals running for office in the *Majles*, Assembly of Experts, or the Presidency, and;
3. to supervise the legitimacy of, and can overturn, elections (Boroujerdi & Rahimkhani 2018).

As such, the Guardian Council serves as the primary facilitator in enforcing the Ayatollah's mandate. In the *Middle East Journal*, William Samii asserts that the Council's use 'of [its authority] to disallow reformist victories by annulling or otherwise changing election results ... [has] caused some unhappiness in Iran' (Samii 2001, p. 644). The Council's intervention against the popular will of the people can be directly categorised as a guise for blatant authoritarianism. Nonetheless, these actions work to ensure both the authority and legitimacy of the dictatorial Ayatollah, shielding him

from any official opposition, while maintaining the theatrical appearance of democratic principles. We will examine the effect of these theatrics on the Iranian constituency itself.

While the Ayatollah's mandate is not subject to official opposition, when confronted with electoral candidates that seek reformed policies, there is occasional public backlash to Guardian Council censorship. In response to the disqualification of most candidates in the most recent 2021 election, the Ayatollah responded to public concerns directly. In a televised speech, he claimed that 'some candidates were wronged. They were accused of untrue things' (Wintour 2021). It is important to note that this was done *before* the election and all individuals barred from running remained so. The Ayatollah's move was tactful. On one hand, it worked to somewhat appease the people, showing that he had heard their concerns and sympathised with attitudes against outright censorship. On the other, his display of empathy worked to further distract from what had occurred: no candidate that opposed his agenda remained in the contest. As we will see in a later segment profiling this election, the misdirection worked. Iranians continued to participate in the façade of the electoral process and freely voted for the Ayatollah's 'preferred' candidates. This represents the Ayatollah's cunning: although a dictator with near-absolute power, sometimes the best strategy to maintain control of the people and avoid rebellion is to put on an act, a theatrical performance that contraposes everything that actually occurs. While it is not hard to imagine that the Iranian people know that they live in the grips of authoritarianism, their actions largely represent such aspects of theatre working to placate them.

To this point, we have analysed where the *real* governmental power lay in Iran. The Ayatollah is the dictator, the Assembly of Experts is an appointing body with other ceremonial (figurative) powers and the Guardian Council serves as the primary enforcer and facilitator of the Ayatollah's whims. As noted, despite the severe regulations placed upon the three branches of government, they do play a vital role in the everyday governing of the country. In understanding that Iran is a dictatorship, the limited—or curtailed—roles of these branches will now be discussed.

THE EXECUTIVE BRANCH

The Executive Branch of Iran is somewhat minimal in scale. Due to limiting factors placed by the aforementioned Guardian Council and influences of the Ayatollah, there is no objective *need* for a dominant executive structure. This structure, as a result, leaves the majority of governmental power in the hands of the Ayatollah. Nonetheless, this portion of government is composed of a President, several Vice-Presidents and a Cabinet of Ministers (FRONTLINE n.d.).

The President is elected via a two-round system (TRS).² In this arrangement, if a candidate fails to achieve a majority of the vote, a run-off election is held. In this run-off, the two candidates with the highest proportion of the initial vote compete directly with one another (Staino 2006). This competition, although it can be fierce, is ultimately the antithesis of radical. As noted, each candidate is subject to thorough vetting and approval by the Guardian Council. Potential candidates with dissident or antithetical platforms are disqualified

¹ It is unclear if the Assembly has the *real* authority to oppose the Ayatollah, beyond 'on paper.' Since its establishment, no such instance has occurred. Given the aforementioned consolidation of dictatorial powers, it is unlikely that any opposition would come to fruition.

² This TRS system is additionally used for legislative (*Majles*) elections. This will be further explored in the following section (The Legislative Branch).

long before any elections take place. As such, no matter how contested an election may be, the nation will have no major change in direction. For any change to occur, the Ayatollah would have to approve, or initiate, the proceedings himself.

Each election constitutes a four-year term of office. Although there are no formal term-limits, the President may not serve more than two terms consecutively (Bruno & Afridi 2009). Once elected, the President has the mandate to appoint Vice Presidents and a Cabinet. Similar to the lack of term-limits, it appears there is no limit to the amount of people that can hold either position. Nonetheless, we will begin with the Vice Presidents.

Iran currently has 12 Vice Presidents. They are appointed directly by the President and are not subject to approval by the *Majles*. However, in the same manner as the President, they can be removed from office by the Ayatollah at any time (Zimmt 2021, p. 3). The most important Vice President—the First Vice President—operates as the President's primary advisor and facilitator. Under Article 131 of Iran's constitution, in the event of the President's death, dismissal, or incapacitation, the First Vice President acts as the immediate successor to the Presidency, barring the Ayatollah's approval (Constitution of the Islamic Republic of Iran). The First Vice President additionally presides over all cabinet meetings and ceremonies in which the President is unavailable. Aside from this important position, synonymous with the colloquial role of a Vice President, the other 11 individuals hold varying roles. These roles, which range from Executive Affairs to the Department of Environment, are largely ceremonial and inconsequential (Cabinet 2022). In essence, aside from the First Vice President, the Office(s) of the Vice President in Iran is effectively pointless. Beyond being interpreted to be an advisory role, it is difficult to see their purpose. This organisation illustrates a key function of the regime's theatrics: it allows for a vast executive structure 'on paper' to give credence to legitimacy and checks and balances, whilst maintaining all of the real power under the Ayatollah.

Along with appointing Vice Presidents, the President appoints a Cabinet of Ministers. These appointments are subject to the approval of the Ayatollah and are additionally subject to a vote of confidence by the *Majles* (Noronha 2021). These Ministers are then responsible for overseeing and reporting on their respective departments. Ranging from Education to Intelligence, these Ministers provide information to the *Majles* and President, which in turn act to legislate and/or enforce existing laws (Boroujerdi & Rahimkhani 2018). This is representative of basic day-to-day governmental organisation. Simply, the Cabinet members *manage* what they are given—they do not *control* it.

With discussion of the President's appointments, we will now examine their direct power. Given the limitations imposed, what jurisdiction or autonomy does the President actually have?

The President, being the highest elected official in Iran, operates as the chief executive. In his book, *Who Rules Iran*, Buchta asserts:

[in acting] as chief executive, [the President] is responsible for the day-to-day running of the country. He does not, however, determine the general guidelines of Iranian

domestic and foreign policy, nor does he command the armed forces and security organs ... this authority lies in the hands of the 'supreme leader' (Buchta 2000, p. xi).

In similar fashion to the previously outlined powers, or roles, of the Vice Presidents and Cabinet Ministers, it appears that the President operates much the same. He is elected, he serves as a figurehead, and most importantly, he acts as an analogised middle-management figure. While their power is largely *for show*, as are the democratic principles that put them there, he serves an important role in everyday governing. This weakness of the Presidency is intentional—the Ayatollah maintains supreme authority, while gaining the ability to delegate mundane governmental responsibilities (Buchta 2000, p. 41). Such is the power of the executive: theatrical in presentation, yet realistic in management.

THE LEGISLATIVE BRANCH

The Legislative Branch of Iran is primarily composed of the *Majles* (Parliament). The *Majles* is a unicameral legislature, made up of 290 seats (Farhi 2010). The seats are distributed among 207 electoral districts, which hold one or more seats depending on population (Borden 2016a). In all cases, whether from a single-member district or multiple, representatives are elected directly. As noted previously, these elections utilise the same TRS system as the Presidential variant. In a single-member district, if a candidate fails to reach a majority of the vote in the initial election, a corresponding run-off is held between the two most successful candidates. In a multiple-member district, candidates who failed to reach a majority, yet hold a minimum of 25% of the vote, move on to the run-off election (IFES 2016). All members are limited to a maximum of three terms, being served in periods of 4 years (Iran International 2019). As additionally noted, *all* candidates are vetted and approved by the Guardian Council. This requirement, like the Presidential variant, ensures that the electoral process in Iran is pacified under the Ayatollah's mandate.

Prior to a discussion on the roles and powers of the legislature, it is important to note a brief designation. The *Majles* maintains an electoral quota of equitable representation: five seats are reserved—one for Jews, one for Zoroastrians, one for Assyrian and Chaldean Christians, one for Armenian Christians in the north of the country and one for Armenian Christians in the south of the country (IPU n.d. a). This does not bar additional representation of these minority groups, but ensures a minimum tenure.

With an apparent focus on fair and diverse representation, two questions come to mind:

1. Is the Iranian legislature truly as open and transparent as it tries to exhibit, or are such metrics of equity and popular sovereignty theatrical in nature?
2. Does the *Majles* itself hold any real power, or is its influence severely curtailed like that of the Executive?

The *Majles* has the authority to legislate on any literal or figurative issue in the nation. As the governmental structure of Iran is analogous to a unitary system, all lower jurisdictions and authorities are subservient

to its statutes and decrees (*Majlis Monitor* 2016). In similar fashion to many Western legislatures, and in addition to its role as lawmaker, the *Majles* approves the nation's annual budget, certifies international treaties and approves the heads of ministries (*Borden* 2016a). Beyond its aforementioned powers to impeach Vice Presidents and Cabinet Ministers, the *Majles* additionally has the authority to impeach the President himself. This can be done with two-thirds of the vote, barring the Ayatollah's approval (*Reuters Staff* 2020). These powers, even in face of a thorough vetting process, appear to mark the legislature as a formidable institution. This is not the case.

Although the *Majles*, in theory, operates as an independent body, it is heavily influenced by external factors. Aside from the obvious intervention, approval and vetting processes conducted by the Guardian Council, certain pressures have been placed on legislative action. *Borden* (2016a) identified such an instance: 'in 2000, [when] Ayatollah Ali Khamenei ordered that a bill concerning press law reform not be debated'. Bills have additionally been forced through on several other instances, whether by the Ayatollah himself, the Guardian Council, or other institutions that are directly controlled by the Supreme Leader. Additionally, per Farideh Farhi, '[former Presidents] such as Rafsanjani and Ahmadinejad, have often treated [the] parliament as a nuisance and tried to bypass, contain or co-opt its members' (*Farhi* 2010). Although it technically holds the power to oversee a principle of checks and balances, particularly over the executive branch, the *Majles* has been routinely undermined and strong-armed. When combined with the vetting process that allows only loyalist members into government, it is clear that the *Majles*, in general terms, is merely a formality in instituting the whims of the Ayatollah and his delegation.

Although we will not go into overt detail on this, Iran is composed of thirty-one official provinces. Each province maintains a local government. These governments, known as Provincial Societies, are responsible for the everyday maintenance of their local populations (*Provincial Governments n.d.*). Provincial Societies—analogue to a City Council—are composed of seats depending on population. Members serve four-year terms and are elected directly by their constituents. In the same manner in which seats vary, term limits, or a lack thereof, depend on the specific regulations of a given province. Although somewhat autonomous in their managerial roles, each Provincial Society is ultimately subject to the mandate of the *Majles*, the Guardian Council, and the Ayatollah (*Tajbakhsh* 2000, p. 386). Their function is merely to deal with local issues and distribute government resources to a limited constituency.

Regardless of ultimate level in government, whether the *Majles* itself or a local council, the role of the legislative branch in Iran is inhibited. In answering the two previous questions, it is clear that any sense of *real* power is outside the reach of legislative government. In according to this principle, the Ayatollah uses the equity quota and other ceremonial aspects of this branch to give the illusion of democracy. A true free and just government would allow for a separation of powers and popular sovereignty. As *all* elections in Iran are merely a register for approved candidates, and the decision for which policies to approve or initiate are

made by the Ayatollah or his delegation, the autonomy of the legislative branch of Iran cannot be described as anything other than a farce. While the branch does act in a generalised managerial aspect, similar to the executive function, it is largely *for show*. As such, the notion of democracy is absent insofar as legislative autonomy is concerned.

THE JUDICIAL BRANCH AND ITS INDEPENDENCE

Following the Islamic Revolution, the Iranian judicial system adopted a theocratic interpretation of fundamentalist Islamic (Sharia) law. Under this system, the Ayatollah—the Supreme Leader and predominant theocrat—maintains full authority over the judiciary. The resulting branch is composed of the Chief of the Judiciary,³ a Supreme Court, and various lower courts that deal with both civil and criminal procedures (*Rahmani & Kooshahi* 2016, p. 47). For the purposes of this paper, discussion will entail only the most powerful institutions: the Chief of the Judiciary and the Supreme Court.⁴

The Chief of the Judiciary is the presiding officer of the Supreme Court and the manager of the judicial branch of government. The office is responsible for the appointment, dismissal, transfer, and further commission of the nation's judges (*Lahidji* 2012, p. 5). Appointed directly by the Ayatollah, the Chief serves a five-year tenure, with a maximum of two terms. Given this direct appointment, the Chief is not held accountable to any other branch of government (*Rahmani & Kooshahi* 2016, p. 48). Instead, the Chief acts as the Ayatollah's direct means in controlling the various courts. In addition to these roles, the significance (aside from being a figurehead for the Ayatollah) of the office lay in its nominating power. The Chief of the Judiciary is directly responsible for appointing half (6 members) of the Guardian Council (*Boroujerdi & Rahimkhani* 2018). Being the most powerful institution in the nation (under the Ayatollah himself) this nominating ability makes the Chief extraordinarily influential. Although ultimately a puppet for the Ayatollah's mandate, this office theoretically competes with the Presidency as the highest *individual* office in the nation.

The Supreme Court is officially the highest court in Iran. The court is composed of forty-two branches, with locations throughout the nation. Each branch is presided over by two justices (*Sial* 2006). Despite extensive research, it is unclear how judges are appointed. The duration and maximum of the terms are likewise unclear.⁵ Nonetheless, the power of the Supreme Court is relatively limited. Despite having appellate authority—the ability to decide upon the previous ruling(s) of lower courts—the jurisdiction is absent any external power. According to Burke Inlow in the *Osgoode Hall Law Journal*, '[t]he procedures of the Court are set by [the Ayatollah]. There is no accepted principle of judicial review or of any review of executive power' (*Inlow* 1970, p. 554). This means that the Court has no authority to determine the constitutionality of any action or initiative taken by the other branches of government. The Court is purposefully isolated. It can manage the function of its own—the judicial—branch, yet has no influence on the actual rule of the nation. This nullifies any theoretical purpose of an independent judiciary.

Being a mere tool for the Ayatollah to strengthen

³ Although the Chief of the Judiciary additionally serves on the Supreme Court, the vast powers accorded to the Office merit in-depth exploration.

⁴ The structure of the Iranian judicial system is extraordinarily complicated. In describing the Supreme Court alone, the various branches, subsects, members, and authorities are delegated depending on circumstance and region. As such, only a *brief* overview of the courts, or respective position(s), will be given. Emphasis is placed on the general role and independence of the judiciary as a whole, per the theme of democratisation.

⁵ Please note that most data (academic or otherwise) surrounding the Supreme Court of Iran is either nonexistent or conflicting. This extends (specifically) to the number of judges, the number of jurisdictions, how judges are selected, and how long judges serve in office. All information presented beyond these explicit mentions is verifiable and accurate. All data presented on the Chief of the Judiciary is additionally substantiated.

his mandate, the Judicial Branch of Iran has drawn international critique. In a 2020 interview at an event hosted by the Council of Foreign Relations, Iran's Foreign Minister Javad Zarif claimed that '[Iran has] an independent judiciary and the government is not involved in the decision-making of the judiciary. In fact, judges in the judiciary have their own independence from the center of authority of the judiciary' ([IranWire 2020](#)). This statement is absurd at face value, and upon closer inspection, furthers the theatrics of the Iranian regime. Despite claims of independence—which are akin to saying the Ayatollah is not a dictator—Iran cannot be misconstrued to have an independent judicial system. The hand-picked leader—the Chief of the Judiciary—presiding over all judicial function, the lack of any open-source transparency into the function of the Supreme Court, and the complete lack of judicial review, make a compelling argument that the Iranian judicial system is merely a guise for dictatorial control.

A TRANSITION FROM GOVERNMENTAL STRUCTURE TO THE DEMOCRATIC PROCESS

Thus far, the major theme of this presentation has centred around contradictions and theatrics. Whether it be the initial Revolution to oust a tyrannical dictator resulting in another dictatorship, the executive branch serving as the mere enforcement of mundane duties, the legislative branch being abused and inhibited by clerical whims, or the judiciary remaining opaque and firmly within the grasp of the Ayatollah, these elements have permeated across every aspect of the Iranian government. These themes are not limited to the simple institutions of government; they are entrenched into every aspect of life in Iran. Perhaps the most perplexing aspect of Iran lay in the democratic process itself.

POLITICAL PARTIES

Officially, the Islamic Republic of Iran hosts hundreds of varying political identities and party affiliations. Despite this, although the current total of recognised political parties in Iran is estimated to be 250, political parties are largely irrelevant to the political process ([Reuters Staff 2016](#)). According to a report by the Austrian Centre for Country of Origin & Asylum Research and Documentation (ACCORD), 'elections in Iran are candidate-centered, and individuals are self-nominated ... as the political environment in [Iran] has not been conducive to [political] parties' ([ACCORD 2017](#), p. 3). The report further states that:

Iranian [political] parties do not pursue the goal of taking power [as] it does not matter much who wins the presidency or the parliament, for even the country's president does not hold real power but rather has a 'secretarial' role, with the real power residing with the Supreme Leader ([ACCORD 2017](#), p. 3).

Candidates, regardless of whether they will hold real power in government, still opt to pursue elected office. In contrast, given this disparity, there is no technical advantage (outside of personal gain) for a political party to exist as a dominant force or platform. As part of our discussion on the democratic process, we will examine how these realities impact the existing political parties in the nation.

Under Article 26 of Iran's Constitution:

Parties, societies, political or professional associations, as well as religious societies, whether Islamic or pertaining to one of the recognized religious minorities, is permitted provided they do not violate the principles of independence, freedom, national unity, the criteria of Islam, or the basis of the Islamic Republic ([Constitution of the Islamic Republic of Iran](#)).

In theory, this excerpt of the constitution ensures the right to both an ideologically and an ethnically diverse political environment. In reality, this excerpt ensures the exact opposite. According to Vahid Pay, in his book *Republican Islam: Power and Authority in Iran*, 'the clear 'red line' set out for political parties is declared to be the fact that they should not violate the basic principles of the Islamic Republic' ([Pay 2016](#), p. 155). This means that, in spite of the flowery language suggesting an open political process, if the authority of the Islamic Republic (the Ayatollah or his delegation) disagrees with the platform, it is thereby disallowed.

This is evidenced by the common occurrence of the Guardian Council—which has the authority to oversee all elections in the nation—barring candidates from running for office. In the 2021 Presidential Election alone,⁶ nearly all the candidates were disqualified by the Guardian Council ([Reuters Staff 2016](#)). This extends beyond a simple bar on undesirable contenders. The Guardian Council has repeatedly moved to ban entire political parties from participation in the electoral process. This includes, but is not limited to, the Liberation Movement of Iran, Mojahedin (Freedom Fighters) of the Islamic Revolution Organization, the National Trust Party, and the Communist Party ([Pars Times n.d.](#)). Although several of these parties are radical in nature—namely the Communist Party, which was accused of spying for the Soviet Union ([Reuters 1983](#))—others, like the National Trust Party, are moderate and slightly reformist. This makes the decision to allow for, or ban, completely at the discretion of the clerical establishment. This structure operates in a clear antithetical sense to any concept of liberal democracy, for if the people cannot choose their party, much less candidates, any voting operates as a façade for dictatorial management. We will next examine the process of voting itself. Are there additional limitations on the citizenry beyond what can be officially recognised as a political entity?

VOTING AND PARTICIPATION

Despite the Iranian government and political system acting as a guise for dictatorial control, elections in the nation are held regularly. They are taken seriously. Each elected office—the ones the citizenry is allowed to vote for (not including Guardian Council, Assembly of Experts, Supreme Court, and so forth)—holds respective elections every four years.⁷ The Presidential and Parliamentary elections take place a year apart from one another. All members of the parliament are elected at the same time, with the most recent election taking place in 2020 ([Nada 2020](#)). The last Presidential election, which will be profiled in the following segment, took place in 2021 ([Robinson 2021](#)).

All elections utilise a two-round system (TRS)⁸ of voting. Given the nation's uses of both single and multi-member electoral districts, this system works to simplify the electoral process. This operates in a

⁶ The 2021 Presidential Election will be profiled in a later segment. This specific reference is meant to illustrate the point of ideological suppression.

⁷ Although the people elect their local Provincial Society representatives (see [The Legislative Branch](#)), this segment will be focused on the two predominant/national elections: the Presidential and Parliamentary.

⁸ Refer to previous description found in [The Executive Branch](#) and [The Legislative Branch](#) segments.

first-past-the-post manner, in which the people vote on an individual candidate (one per seat, in cases of multiple representatives). Upon obtaining a majority of the vote, whether in the initial or secondary round of voting, the candidate(s) is then elected to office.

Iran has a population of ~82,820,766 people as of 2019 (IFES n.d. a), with ~59,310,307 being registered to vote. Having ~71% of the entire population eligible to vote is an impressive feat. Yet more impressive is Iran's average vote turnout rate of 64.19% within the past 15 general elections (IFES n.d. a). These statistics dwarf that of the United States, for instance, which records only an average of 53.63% turn out, with less than 55% of its population registered to vote (IFES n.d. b; US Census Bureau 2022).

All citizens over the age of eighteen, who have not been diagnosed as mentally ill,⁹ and who present valid government-issued identification are provided the right to vote. Although the nation boasts an impressive voter registration rate, such registration is not required prior to voting. Iran additionally allows convicted felons to vote (Schmidt 2016). This access to the electoral process is arguably more liberal than much of the Western world, representing yet another contradiction. However, upon realisation that elections do not actually matter in the *true* governing of the nation, it makes sense for the regime to give an air of *openness* to the electoral process, so as to disguise from its authoritarian nature. This is similar to the Ayatollah's apparent sympathy to the disgruntled populace mentioned previously: a blatant guise for, or misdirection from, what actually occurs.

A CLOSER EXAMINATION OF ELECTIONS: A CASE STUDY OF THE 2021 PRESIDENTIAL CONTEST

To further illustrate the functioning of the electoral system, in addition to the hypocrisy found throughout the political system, the 2021 Iranian Presidential Election will be profiled. This contest exhibits elements of incongruity, dictatorial overreach and elements of theatrics.

Of the ~600 candidates who registered for the election, only seven were approved by the Guardian Council (Robinson 2021). Of the seven approved candidates, three dropped out of the race prior to the election.¹⁰ The four remaining candidates included:

1. Ebrahim Raisi, the former Chief of the Judiciary with close ties to Ayatollah Khamenei, who, according to the Human Rights Watch, was complicit in the 1988 mass execution of political dissidents and prisoners of war following the Iraq-Iran War (Human Rights Watch 2021a);
2. Mohsen Rezaei, a former army general who had previously and unsuccessfully run for president;
3. Abdolnaser Hemmati, a businessman who served as the Chief of the Central Bank of Iran and the Vice President of the Islamic Republic of Iran Broadcasting media conglomerate, and;
4. Amir-Hossein Ghazizadeh Hashemi, the Deputy Speaker of the *Majles* (Robinson 2021).

Following the constitutional term limit of former President Hassan Rouhani, the Iranian electorate shifted its ideological approach. This shift probably occurred as a result of the Trump administration pulling out of the Joint Comprehensive Plan of Action (JCPOA), an

agreement made between the Obama and Rouhani administrations that significantly eased international sanctions on Iran, in return for a curtailment of its nuclear weapons program (Landler 2018). With the USA's withdrawal from this agreement, Iran was subjected to additional sanctions (Forgey 2020). With the resulting economic inhibitions of the sanctions, and the effective collapse of achievement made by the former moderate- and reform-centred Rouhani administration, the electoral appeal to hardline elements strengthened.

When considering this trend away from moderate politics, it is important to recognise the fact that ~98% of presidential candidates were disqualified from participating. Ebrahim Raisi, the extremist candidate, won the election by a landslide, with 61.95% of the vote in the first round (Motamedi 2021). Despite this electoral rout, Iran experienced its lowest-ever presidential voter turnout, with only 48.8% of eligible voters participating (Iran International 2021). This, compared to the aforementioned average of ~65% voter turnout, attests to a lack of trust in the electoral system, despite elections being relatively meaningless since the founding of the Islamic Republic. This reduction in electoral participation can likely be attributed to significant Guardian Council censorship and meddling. Nonetheless, while the data represents a significant decline in electoral turnout, the overall trend of the public participating remained true. Nearly half of all eligible voters cast ballots, with their collective attitudes resulting in an overwhelming margin of victory for the Raisi candidacy. While a marked decline may hint at a potential future deterioration of the regime's hold over its constituency, it appears that, for now, the guise of electoral democracy is still largely accepted by the general population.

Given the dramatic Guardian Council overreach in this election cycle, Freedom House reduced Iran's democracy index from sixteen out of one hundred in 2021 to its current score of fourteen (Freedom House 2022b). Although the loss of a mere two points may seem marginal, when calculating the percentages, Freedom House considers the disqualification of candidates in an already authoritarian regime to represent a 13% decrease in democratic freedoms. This illustrates that although the regime puts on elections, the theatrics do not hide its true nature beyond its immediate constituency.

THE ECONOMICS OF IRAN: MISBEHAVIOUR BREEDS UNCERTAINTY AND UNDEMOCRATIC FRIENDS

The Islamic Republic of Iran is a nation embroiled in hardship. Although it remains the 9th largest producer of crude oil in the world, and accounts for ~3% of the global oil supply, the economy is in disarray (United States EIA 2021).

Over the past several decades, Iran has worked to fund terrorist and militant groups across the Middle East and North Africa (Bureau of Counterterrorism 2019). In addition to maintaining these proxies, Iran has been the subject of international condemnation for its continued advancement of its nuclear weapons program (DIA 2019). As a result of these actions, Iran has been the target of international sanctions. Sanctions have been placed directly on its leadership, the real property and monetary assets held by its government, a prohibition on conducting direct business transactions with other nations or corporate entities, and on the

⁹ There is no open-source definition of what constitutes 'mentally ill' in this context.

¹⁰ Although unverifiable, this is likely due to a lack of polling popularity.

exports of the nation ([United States Treasury 2022](#)). These sanctions have resulted in substantial economic impacts. In 2020, Iran's economy shrank by an estimated 4.9%, continuing the trend set since the Trump administration withdrew from the aforementioned JCPOA and imposed additional sanctions ([Ng 2021](#)).

As a result of its actions, and the consequential sanctions, the relationship between Iran and the West has deteriorated significantly. As it is barred from engaging with the United States, Iran has worked to strategically ally itself with China and Russia, among other less democratic regimes. In early 2021, Iran and China signed a twenty-five year cooperation agreement, which pronounces a long-term commitment to economic and political ties ([Reuters Staff 2021](#)). This agreement includes ways in which Iran can circumvent international sanctions, sell its petroleum exports, and maintain its policy of pursuing regional hegemony ([Forough 2021](#), p. 31). As an effect of this agreement, Russia has held diplomatic talks with Iran regarding a potential twenty-year agreement of their own ([Toupchinejad 2022](#)). These measures effectively subvert the intended goal of sanctions imposed by the West and allow Iran to continue on in its current pursuits. This embodies what Yazdanshenas ([2021](#)) calls the 'look to the East policy' in *Foreign Policy*. In doing so, Iran is metaphorically moving further away from democratic ideals—those which are considered a part of western influence—and into the embrace of authoritarian regimes. Although such a shift can largely be causally linked to economic necessity, the regime's initiative to seek out allies within authoritarian actors, instead of political reforms to potentially improve its relations with the West, leaves little hope in a further enhancement of its constituents' rights and liberties.

GENDER EQUALITY AND WOMEN'S SUFFRAGE

Under Mohammad Reza Pahlavi, the last Shah of Iran, the nation implemented a platform of modernisation. Known as the 'White Revolution', the Shah aimed to 'wrest Iran from the middle ages into the modern industrialized society' ([Time 1966](#)). Given this reconstruction, the Shah placed the issue of women's representation up to a public referendum. In 1963, with the passing of this referendum, women were granted both the right to vote in elections and the right to hold public office. In that year, six women were elected to the *Majles* ([Beck & Nashat 2004](#), p. 3). From this juncture, it would appear that the nation was on the path to gender equality, yet this was not the case.

As noted, immediately following the initial referendum, six women were elected to the *Majles*. Interestingly, there are currently more women in the *Majles* than ever before, albeit at a still dismal number of sixteen ([IPU n.d. b](#)). The current figures narrowly beat the previous all-time high of fourteen, which occurred immediately after the 1979 Islamic Revolution ([Dehghan 2016](#)). Regardless, given that the *Majles* is composed of 290 seats, it is apparent that the very low proportion (<6%) of women representatives is not conducive to, or indicative of, any form of equitable representation.

In addition to this lack of representation, the Human Rights Watch found several common discriminatory practices against women in Iran, namely discriminatory hiring practices, state media decrying the pervasiveness of single (unmarried) women and constant promoting

for women to subscribe to traditional domestic roles ([Human Rights Watch 2021b](#)). Beyond this, following the Islamic Revolution, the regime nullified a woman's right to initiate divorce proceedings, dropped the age of marital *consent* to thirteen, restricted women's rights to inheritances and child custody, and placed several restrictions on public dress and travel ([Hanna 2020](#)). Abortion is likewise illegal in Iran. These severe restrictions on women in both governmental and daily roles portray an oxymoronic depiction of gender equality in Iran: the regime claims equality, yet the reality it shapes within its borders is inherently unfair.

This brings forth the overall point: Iran is a dictatorship operating under the guise of democracy. From one regime to another, from the previous Shah to the current Ayatollah, this same principle has remained true. The most plausible explanation for any of these antics must rely on this interpretation. As noted in previous segments, all candidates for office are preliminarily approved and then subject to the subsequent whims of the Ayatollah's mandate. The presence of women in the *Majles*, whether at the current sixteen persons, or even in the hypothetical case of majority, serves no purpose other than perfunctory theatrics. This is confirmed by Ali Ansari in *Middle Eastern Studies*, stating that 'the voter has no choice, for the only candidates listed are those [selected by] the ruling party' ([Ansari 2001](#)). Although the representatives do have power of sorts, it is thereby limited to the superseding authority. Therefore, in practice, they have no *real* power.

THE PRESS (JOURNALISM)

Thus far we have discussed the severe limitations on the democratic processes of Iran. In determining the level of creative or critical autonomy the press has, the result is likewise inhibited. The Researches Without Borders' (RSF) *World Press Freedom Index*, in a similar fashion to the Freedom in the World democracy index, ranks countries according to their journalistic freedoms. In a ranking of 180 eligible countries, RSF identified Iran as the 178th most repressive nation for journalists in 2022. This figure represents an drop from the 174th ranking in 2021, potentially due to stigma surrounding the Guardian Council's actions preceding the recent presidential election ([RSF n.d.](#)).

The Constitution of Iran makes only limited mentions of press freedoms:

1. under Article 24: 'Publication and the press have freedom of expression except when it is detrimental to the fundamental principles of Islam or the rights of the public. The details of this exception will be specified by law', and;
2. under Article 168: 'Political and press offences will be tried openly and in the presence of a jury, in courts of justice ... [this] will be determined by law in accordance with the Islamic criteria' (Constitution of the Islamic Republic of Iran).

In a similar fashion to the constitution's reference to political parties, the vague description of what constitutes an 'exception' or 'offense' leaves rife the potential for abuse.

In 1985, the *Majles* passed the *Press Law* ([Mudbidri 2021](#)). Beyond basic stipulations regarding press activity—the requirement for published topics, serial

numbers, and labels—the law created the Supervisory Press Board. This Board has the authority to remove articles from publication, and if it so desires, ban newspapers outright (Mudbidri 2021). A specific instance of this occurred in 2021, when the Board banned the non-partisan newspaper *Kelid*, after it published an article on the rampant poverty in the nation (AP 2021). In this case, the attention to undesirable aspects of Iranian life was considered a threat to the clerical establishment. Although this publication was removed, the editors did not experience the worst of the regime's authorities.

Iran has set a historical precedent for imprisoning, or outright killing, journalists. According to the Committee to Protect Journalists, an NGO that advocates for international press freedoms, in 2021 alone, five journalists were killed in Iran, with eleven being imprisoned (CPJ n.d.). Although the vast majority of murdered journalists are not formally executed by the regime, Iran has done so in the recent past. In 2019, Iranian clandestine forces kidnapped a formally exiled journalist from Iraq. The man, Ruhollah Zam, was complicit in reporting on and 'instigating' popular protests against poor economic conditions in 2017. Upon being returned to Iran, Zam was tried and convicted of corruption, leading to his execution in late 2020 (Gambrell 2020).

In analysing this essential ban on independent reporting, the further imprisonment and murder of *dissident* activists or reporters, and the extrajudicial manners in which the regime conducts its proceedings, it becomes clear that the regime seeks to dramatically stifle the flow of information within its territory. Rather

than opting to keep its constituency informed, or grant freedom of expression, access to such freedoms are inhibited, controlled, and policed. Although the mere presence of a press appears to symbolise the autonomy of the citizenry, upon closer inspection, it remains yet another aspect of Iranian theatrics.

CONCLUSION

The evidence presented in this work proves an undisputable notion: the Islamic Republic of Iran, in the entirety of its governmental workings, is an authoritarian regime. The government is structured in a manner that each branch, or jurisdiction thereof, is directly subservient to the mandate of the Ayatollah. The guise of a separation of powers, whether through the constitutional mandate of the Assembly of Experts, the Guardian Council, the Office of the Presidency, the Parliament, or the Judiciary, is meant only to disguise from this reality. This attempt at masquerading—the use analogised to a theatrical performance—has worked to pacify the constituencies of the regime. Iran has maintained its illusion of "democracy", and in proving as such, boasts non-compulsory voter turnouts that rival many Western nations. It is clear that, although economic and political conditions have resulted in much turmoil in recent years, the regime has done much to consolidate its power and standing. As such, beyond these theatrical disguises, it is clear that the Iranian regime is by no means a democracy and has only shifted further away from this notion in recent years.

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The Influence of Overseas Chinese Communities on the Development of Chinese Vernacular Education in British Malaya and the Dutch East Indies, 1900–1940

Boyang Hou

INTRODUCTION

'The running of the schools by the overseas Chinese was accomplished through the donation of money earned by their sweat and toil ... The Ministry of Education in China did not give the slightest help in money or manpower.'

—Tan Kah Kee (1994, p. 51)

These words from Overseas Chinese businessman and education pioneer Tan Kah Kee highlight that any study of the history of Chinese vernacular education in the geographical region known today as Southeast Asia (SEA) cannot ignore the role of the Overseas Chinese themselves in shaping its development.¹ However, a line of historical inquiry characterising control over Chinese education in SEA as a bilateral competition between the Chinese Republican government and colonial authorities is a legacy of older China-centric historiography that obscures the importance and agency of the Overseas Chinese. Such historiography often examined education as part of broader works about how Overseas Chinese were influenced by events, ideas, and policies emanating from China, while regarding the colonial state as rivalling the Republican government for control over the Chinese.² Many presume education was shaped by developments in China through teachers and textbooks, or controlled by the Republican government.³ However, since Mark Frost's influential call for a focus on Overseas Chinese networks in the historiography of the Chinese diaspora, several historians have reassessed the history of Overseas Chinese education (Frost 2005, pp. 29–66).⁴ These include Oiyan Liu, Siew-Min Sai, and Didi Kwartanada on the Dutch East Indies (DEI), Leander Seah on the Jinan school, Karen Teoh on women's education, and Jerry Dennerline on transborder educational reformers (Liu 2010, pp. 22–28).⁵

Building on these historiographical developments, this essay argues that it was the Overseas Chinese, and not the Republican Government or colonial authorities, who exerted the strongest influence over the development of Chinese vernacular education in SEA. The Overseas Chinese were motivated by their own interests to develop education, formed discourses on education in their public spheres, and drew on transborder networks and resources to construct and manage schools. It was due to their efforts that the Chinese schools and

educational networks the Republican government and colonial authorities sought to influence even existed, and chapter one argues for this fundamental role Overseas Chinese played. Chapter Two argues that efforts by the Republican government and colonial authorities to influence the educational networks the Overseas Chinese constructed were largely unsuccessful, as the Overseas Chinese resisted some efforts while effectively adapting to others, maintaining their agency and control over educational developments. This essay focuses on British Malaya and the DEI, covering a period from 1900 to the early 1930s.⁶ Chapter one analyses developments throughout, while Chapter two focuses on the 1920s and early 1930s when Kuomintang (KMT) interest in education peaked.

The Overseas Chinese communities which existed in the territories that would become British Malaya and the DEI were formed by a process of maritime contact, trade, and migration dating back to at least the 13th century (Reid 2001, pp. 15–49). Through this, many Chinese settled permanently overseas, intermarried with local peoples, and formed their own communities, most notably in Batavia which has been characterised by Leonard Blussé (1981) as a Chinese 'colonial town' from 1619 to 1740. Although official imperial policy during the Qing dynasty as well as traditional Confucian ideals of filial piety were both hostile to emigration, it remained common, particularly among the Hokkien and Teochew. By the late nineteenth century, these migrant communities in the Malay archipelago were commonly known as the Peranakan or Straits Chinese. Furthermore, from the mid-nineteenth century onwards, a massive new wave of migration occurred, with ten to twelve million Chinese moving to British Malaya and the DEI between 1850 and 1940 (McKeown 2010). The vast majority of these came from the coastal regions of Southern China, notably Fujian and Guangdong. This 'age of mass migration' was shaped by a complex combination of factors, including 'push' forces such as overpopulation and the extensive social and economic disruption caused by the Opium War and the later Taiping Rebellion, as well as other factors such as family networks, 'native-place ties', and technological developments in travel and communications.

This essay conceptualises the Overseas Chinese using Frost's framework which centres on the transborder networks that connected Chinese communities across the ports and settlements of SEA (Frost 2005). These

¹ To the Chinese, Southeast Asia was referred to as 'Nanyang' (南洋); for more on conceptualisations of the 'Nanyang', see Siew-Min Sai (2013). 'The Nanyang Diasporic Imaginary: Chinese school teachers in a transborder setting in the Dutch East Indies', in *Chinese Indonesians Reassessed: History, Religion and Belonging*, edited by Chang-Yau Hoon and Siew-Min Sai, and Leander Seah (2017). 'Between East Asia and Southeast Asia: Nanyang Studies, Chinese Migration, and National Jinan University, 1927–1940', *Translocal Chinese: East Asian Perspectives*, 11(1), pp. 30–56.

² For examples, see Ching-hwang Yen (1976), 'The Confucian Revival Movement in Singapore and Malaya, 1899–1911', *Journal of Southeast Asian Studies*, 7(1), pp. 33–57; Ching Fatt Yong and R.B. McKenna (1990), *The Kuomintang Movement in British Malaya 1912–1949*.

³ For example, Douglas P. Murray (1964), 'Chinese Education in South-East Asia', *The China Quarterly*, 20(2), pp. 67–95; this is also evident in more recent works such as Ting Hui Lee (2011), *Chinese Schools in Peninsular Malaysia: The Struggle for Survival*.

⁴ For more on this historiographical turn, see Anh Sý Huy Lê (2019), 'The Studies of Chinese Diasporas in Colonial Southeast Asia: Theories, Concepts, and Histories', *China & Asia*, 1(2), pp. 232–233.

⁵ See also: Siew-Min Sai (2016), 'Mandarin Lessons: Modernity, Colonialism and Chinese Cultural Nationalism in the Dutch East Indies, c. 1900s', *Inter-Asia Cultural Studies*, 17(3), pp. 375–394; Didi Kwartanada (2013), 'The Tiong Hoa Hwee Koan School: a transborder project of modernity in Batavia, c. 1900s', in *Chinese Indonesians Reassessed: History, Religion and Belonging*, edited by Chang-Yau Hoon and Siew-Min Sai, pp. 27–44; Seah (2017); Karen M. Teoh (2018), *Schooling Diaspora: Women, Education, and the Overseas Chinese in British Malaya and Singapore, 1850s–1960s*; Jerry Dennerline (2017), 'Lee Teng Hwee, Ho Pao Jin, and Educational Reform in Malacca, Singapore, Shanghai and beyond, 1885–1945', *Translocal Chinese: East Asian Perspectives*, 11(1), pp. 57–89.

⁶ 'British Malaya' refers to the Straits Settlements (including Singapore), the Federated Malay States, and the Unfederated Malay States.

networks predated late-nineteenth-century migrations out of China and were instead shaped by Chinese who had settled permanently abroad, such as the Peranakan communities of the Malay Archipelago (2005, pp. 28–40). Frost characterises the mid- to late-nineteenth century as these networks being strengthened and reconnected to China's coastal provinces by new waves of migration and imperial connections, rejecting Adam McKeown's 'bilateral' conceptualisation of 'rays' connecting Chinese ports with Overseas Chinese communities (2005, pp. 31–34; pp. 65–66). Furthermore, Frost's focus on the 'settled' Chinese emphasises the importance of problematising 'Chineseness' (2005, pp. 31–38). The distinctions between Peranakan and new Chinese migrants are key for comprehending Peranakan interests in Chinese education.⁷ Several historians have effectively used Frost's approach in studying Overseas Chinese education. Sai has argued that the development of the DEI Tiong Hwa Hwee Kwoan (THHK) school was primarily shaped by transborder networks and local context (Hoon & Sai 2013, p. 48; Sai 2016). Dennerline's study of education pioneers Lee Teng Hwee and Ho Pao Jin has demonstrated the importance of transborder networks and individuals who operated within them in shaping education across SEA and in China itself (Dennerline 2017).

This essay utilises Dennerline's conceptualisation of public spheres as 'activities of progressive social groups, their institutions, and their public discourse in each locale', emphasising how these were constantly reshaped based on local developments (2017, p. 59). Works by Tim Harper, Frost, and David Kenley have sketched out how 'diasporic public spheres' functioned in Singapore (Harper 1997, pp. 261–292; Kenley 2003). Frost emphasises the importance of print media such as the *Straits Chinese Magazine* (SCM) and *Lat Pau*, as well as institutions such as the Philomathic Society which hosted lectures and debates, in shaping public discourse among the Overseas Chinese (Frost 2005, pp. 51–57). Harper notes that the 'public sphere' of Singapore's Chinese was also integrated to some extent with the British (Harper 1997, pp. 275–278). The Straits Philosophical Society, for example, facilitated discussions on myriad issues among colonial officials and prominent Chinese (1997, pp. 276–278).

These public spheres, though shaped by local context, were not compartmentalised by political boundaries. Transborder networks connected public spheres across SEA and coastal China, with ideas and information flowing alongside movements of people in an age of steam and print (Frost 2004, pp. 67–79). The *Li Po* newspaper of the DEI was created shortly after its founders visited Lim Boon Keng in Singapore, and Frost notes that its motto was a Malay translation of the SCM's Confucian frontispiece (Frost 2005, p. 57). Lim's articles were published in *Li Po*, and Lim himself went on lecturing tours in the DEI (2005).⁸ The SCM reported regularly on the DEI, with many issues containing a 'Batavia Letter' summarising the latest developments among Chinese there.⁹ Writing in 1907, THHK President Phoa Keng Hek noted that 'in the last ten years, the relationship between the Dutch East Indies and other areas such as Singapore has become closer', with many visits between the Chinese of these locations (Phoa 1907). As a result, DEI Chinese became more aware of the 'wider world' that lay only a short

distance away (Phoa 1907).

Ultimately, the Overseas Chinese in SEA were communities with their own 'public spheres' and connected by transborder networks. This essay utilises this framework, rather than older 'China-centric' or 'bilateral exchange' models, to emphasise the crucial role of the Overseas Chinese in the development of Chinese education in SEA.

CHAPTER ONE: THE OVERSEAS CHINESE

The Chinese communities of Malaya and the DEI shaped virtually every aspect of the development of Chinese vernacular education in their regions from 1900 to the early 1930s. They were motivated by their own interests and public sphere discourses within a colonial socio-political context to develop education, and their educational projects were shaped and supported by transborder networks. This resulted in the creation of 600 schools in the DEI by 1931 and 1,015 schools in British Malaya by 1938, with minimal support from colonial states or the Republican government (Lee 2011, p. 31; Murray 1964, p. 76). In Malaya, the only colonial assistance was limited grants, while DEI authorities set up competing schools which used Dutch as the language of instruction (Lee 2011, pp. 20–23; Murray 1964, p. 76).

The interest of the Overseas Chinese in the development of education in SEA fundamentally resulted from a lack of educational opportunities for a rapidly expanding Overseas Chinese population. Tan Kah Kee noted that 'before the founding of the Republic', Overseas Chinese struggled to find Chinese education as the British only provided English-language schools and the Dutch initially forbade Chinese from attending Dutch schools (Tan 1994, pp. 47–48). Similarly, Principal Tu of Singapore's Chinese High School (TCHS) lamented that in the USA, there were 2 middle school students for every 100 people, while for the Chinese in Singapore, the ratio was 5 in 10,000 (TCHS 1922, p. 1). The few Chinese schools in Malaya were old-style *sishū's* and a British scheme for Chinese elementary schools also failed (Lee 2011, pp. 3–6). Seah argues that the Qing's founding of the Jinan school in 1907 was to respond to this demand and compete with schools Overseas Chinese were constructing, though it too had limited impact (Seah 2017, pp. 32–33). A TCHS graduation booklet noted that the 'fathers and brothers' (*fùxiōng*) of many Overseas Chinese students were unwilling to allow them to attend the faraway Jinan school, demonstrating a need for schools such as TCHS (TCHS 1922, p. 34).

This shortage of Chinese education greatly concerned the Overseas Chinese, many of whom subscribed to Confucian views of education as being key to moral development. Others were concerned about the next generation becoming 'assimilated'. Lim wrote that according to Confucianism education was critical for 'the development of the moral nature', and without it, 'man is simply a talking animal' (Yan 2014, p. 126). Seah Leang Seah argued in the SCM that China's 'ancient sages' had established that education was part of maturing into 'manhood', to persuade readers to support schooling (Seah 1897, p. 147). Phoa, who enlisted Lim's help in hiring a headmaster, argued in a letter to all DEI Chinese that education and the 'wonderful teaching of Confucius' would make one 'less prone to wrongdoing or to misbehaviour' (Executive Committee of the THHK 1900). For Lim, Seah and Phoa, their concern

⁷ The Peranakan Chinese are also often referred to as Straits Chinese.

⁸ See also Sai (2016), p. 384.

⁹ See, for example, 'Our Batavia Letter' (1902), *The Straits Chinese Magazine*, 6(21), p. 53; 'Our Batavia Letter' (1902), *The Straits Chinese Magazine*, 6(22), p. 88; 'Batavia Notes' (1902), *The Straits Chinese Magazine*, 6(23), p. 122.

for education certainly stemmed in part from belief in its intrinsic value, and their use of 'intrinsic value' to attract supporters suggests that many in the 'public sphere' found the idea convincing. Soon Cheng Tan's work on Penang has also identified a similar group of 'believers in education' (Tan 2007, p. 42). Furthermore, Tan Kah Kee recounted that the 'lack of Chinese culture' in education meant that many 'young overseas Chinese' were 'assimilated', an idea echoed in a TCHS publication (Tan 1994, p. 47; TCHS 1922, p. 15). The desire of many Overseas Chinese to retain cultural connections with China was noted by Colonial Secretary Lord Passfield, who argued that the British could not expect Malayan Chinese to be 'cut off from the ideals and culture' of China (Passfield 1930).

However, for the Peranakan Chinese, their interest in Chinese education was not so much to 'sinicise' themselves, but rather to improve the socio-political positions of their communities (Liu 2010, pp. 22–23).¹⁰ Liu has argued that DEI Peranakans promoted educational reforms to adapt to Dutch policies which marginalised the Chinese as 'foreign orientals' and regulated their movements (2010, pp. 22–23).¹¹ The pursuit of education could demonstrate that the Chinese were a 'civilised' people at a time when ideas of civilisational hierarchies were prevalent globally, persuading the Dutch to improve the legal position of the Chinese.¹² Kwartanada has noted that DEI Chinese were under particular pressure to attain 'standards of civilisation' due to Dutch views of the Chinese as 'evil' and exploitative (Kwartanada 2013, p. 29). Indeed, Kan Hok Hoei, a Chinese Volksraad representative, began a 1918 speech asking for 'complete legal equality' with Europeans by emphasising that the Chinese as a 'people' could 'boast' of being in the 'higher stage of civilisation', and highlighted their contributions to the DEI (Kan 1918). He then argued that the massive efforts DEI Chinese channelled into developing education were a 'manifestation of the natural drive for development inherent in a population that is culturally advanced' (Kan 1918). This highlights that education was regarded as a mark of civilisational development, and used as such by DEI Chinese for their own goals. Furthermore, Phoa noted that those 'literate in Chinese and English' could escape the DEI into a wider world (Phoa 1907). Sai suggests that DEI Chinese became more aware of this through their travels and contacts in transborder networks, something supported by Phoa's own account (Sai 2016a). Paradoxically, Dutch hostility towards the DEI Chinese can be said to have been the strongest 'influence' it had over Chinese education, since it motivated the Chinese to engage in educational developments.

For Peranakans in Malaya, concerns about the perceived erosion of their pre-eminent position as merchant-literati and leaders of the Chinese community who 'mediated' between the British and new migrants led to efforts at reforming the Peranakan (Teoh 2018, pp. 68–72). Lim, a key reformist leader, explained reforms as applying 'Chinese system of thought and social polity' to 'newer needs of international intercourse', and historians have generally characterised it as combining revitalised elements of Confucian teachings and Chinese culture with Western 'modernity' to assert their position as 'model' Chinese (Frost 2005). Teoh has highlighted a transborder dimension, noting that the Peranakan were partially motivated by fears of

becoming marginalised 'foreign orientals' like the DEI Peranakans. Kevin Blackburn and Pauline Leong have posited that some reformers might have been motivated by Methodism and its emphasis on personal empowerment and 'social advancement' (Blackburn & Leong 1999, pp. 333–336; p. 356). The role of print media such as the SCM in facilitating public sphere discourse on Peranakan reforms, exemplified by articles such as Lim's 'Straits Chinese reform' series, has been highlighted by Frost, Harper, and Teoh (Frost 2005, pp. 55–56; Harper 1997, p. 278; Teoh 2018, pp. 68–71). Education was a cornerstone of these reforms, inculcating revitalised Confucian teachings into the next generation, and demonstrating the Peranakan were 'enlightened' people (Teoh 2018). In a public lecture on 'Education for the Chinese', Lim argued that the educated, who 'appreciate the teaching of Mencius' and 'profit by the experience of Europe', would become drivers of positive change, and the 'better class of Chinese' had a duty to improve education (Song 1967). An SCM writer argued that studying Chinese would allow the Peranakan to become 'properly educated citizens of the British empire without losing all the benefits and advantages of that ancient culture', further highlighting the aim of improving socio-political status ('News and Notes: We are a peculiar people' 1902, pp. 167–168). The Peranakan were particularly concerned with women's education, based on a patriarchal discourse that educated women would, in Song Ong Siang's words, be more 'perfect' and 'worthy' mothers, and symbols of the Peranakan's 'educated and enlightened nature' (Teoh 2018). This culminated in the founding of Singapore Chinese Girl's School in 1899. While it taught Chinese, it was not a Chinese vernacular school, further emphasising that Peranakan education reforms were aimed at improving their socio-political position, not sinicisation. All this contradicts earlier works by historians such as Ching-Hwang Yen, who argued for understanding the 'Confucian revival' and its educational activities as Overseas Chinese being transformed by influence from China.

The Overseas Chinese, motivated by a combination of these reasons, drew upon their resources and transborder networks to carry out educational developments suitable for their socio-political context. Kwartanada and Sai's work on the THHK's development have emphasised the importance of transborder connections (Kwartanada 2013, pp. 30–31; Sai 2016a, pp. 379–383). Khoe A Fan and Tan Kim San, THHK founders with extensive ties to Singapore, were sent to seek Lim's help in hiring the THHK's first headmaster (Kwartanada 2013, p. 34). When THHK leaders sought a teacher from Kang Youwei's Datong school in Japan to be their second headmaster, they dispatched Khoe, a Cantonese with ties to Cantonese networks extending to Japan (2013, pp. 34–35). Transborder connections shaped the THHK's structure and curriculum. Kwartanada notes that the THHK preceded mainland Chinese schools in adopting a Japanese model, while Sai has emphasised transnational connections and local context as underpinning the THHK's choice to teach Mandarin (Kwartanada 2013, p. 33; Sai 2016a, pp. 379–383). Although not the official language of China at the time, it was widely used among Overseas Chinese, especially in Japan, and using it would make it easier to hire Overseas Chinese educators (Sai 2016a,

¹⁰ For an example of the idea that the THHK represented 're-sinicisation', see Nobuto Yamamoto (2014). 'Shaping the "China Problem" of Colonial Southeast Asia', *TRANS*, 2(1), p. 142.

¹¹ See also Sai (2016), p. 384.

¹² For more on the civilisational discourse in Western and Asian political thought around this period, see Christian Geulen (2007). 'The Common Grounds of Conflict: Racial Visions of World Order 1880–1940', in *Competing Visions of World Order: Global Moments and Movements, 1880s–1930s*, edited by Sebastian Conrad and Dominic Sachsenmaier, pp. 69–96; Brett Bowden (2009). *The Empire of Civilization: The Evolution of an Imperial Idea*; Prasenjit Duara (2001). 'The Discourse of Civilization and Pan-Asianism', *Journal of World History*, 12(1), pp. 99–130; Gerrit W. Gong (1984). *The Standard of Civilization in International Society*.

pp. 379–381). Furthermore, works of Chinese reformers advocating Mandarin's use for 'mass literacy' due to it being easily taught were entering Peranakan public sphere discourse, likely influencing their decision (2016a, p. 379). Kwartanada argues that the THHK's inclusion of English after 1908 was also enabled by cooperation with Methodist networks, hiring Methodist teachers and appointing Minister Denyes 'Inspector of English' (Kwartanada 2013, pp. 37–39).

Similarly, in British Malaya, the Overseas Chinese drew on their resources, transborder networks, and public sphere discourses to extensively develop Chinese education. Dennerline notes that the 1906 founding of the modern-style Tao Nan School (TNS) in Singapore was a cooperative effort by the Peranakan and wealthy, newly arrived Chinese such as Tan (Dennerline 2017, p. 71). Dennerline emphasises the role of 'old Malacca elite' Peranakans such as Tan Chay Yan and Chan Kang Swi, many of whom benefited immensely from the post-1899 'rubber boom' (2017, pp. 74–78). This is visible in the 1919 founding of TCHS by Tan and prominent Chinese, with Tan noting that 'between \$500,000 and \$600,000' was raised (Tan 1994, p. 41). Dennerline highlights that Chan Kang Swi opened the fundraising, while Tan recalled that Peranakan businessman Lim Nee Soon was a key early leader of the school (Dennerline 2017, p. 75; Tan 1994, p. 46). Tan hired teachers from Shanghai, drawing on ties with well-connected educator Huang Yanpei who had helped Tan recruit teachers for his Jimei school (Tan 1994, p. 16; pp. 41–42). S.C. Tan notes that in Penang, Overseas Chinese efforts created the Chung Hwa School, Chung Ling school, and others (Tan 2007, pp. 42–43). Merchants such as Chen Qinggui funded seven schools, while others volunteered as administrators (2007, pp. 41–42; pp. 79–82). Dennerline has even identified a collaborative effort between Penang reformers and others in Malacca, Hong Kong, and China to form a World Chinese Students' Federation to support Chinese students globally (Tan 2007, p. 42; Dennerline 2017, pp. 70–71).

Many Overseas Chinese education pioneers moved actively within transborder networks. They engaged with educational efforts in different locales, brought new ideas into public sphere discourses, and influenced developments across SEA. Dennerline highlights Lee and Ho as key examples (Dennerline 2017). Lee was raised within transborder Peranakan networks, traveling from Batavia to Singapore to be educated at a Methodist school, followed by university in America (2017, pp. 67–71). Upon his return, he contributed to public sphere discourses on Peranakan reforms in the SCM, established the English-language 'Yale School' in Batavia that merged with the THHK, and helped form the aforementioned federation, demonstrating how his transborder experiences enabled him to contribute to and shape numerous educational movements (2017).¹³ Ho was educated at TNS in Singapore and the Jinan school, followed by university in Illinois and joining the faculty at Fudan (Dennerline 2017, pp. 75–77). Dennerline notes that when Ho returned to Malaya, he used his experience to effectively reform existing institutions such as TCHS, as well as reorganising the 'Three Schools' through 'hands-on engagement', even bringing the board to serve as 'cheerleaders' at exams (2017, pp. 78–82). Many other figures, such as Lim, also fit Dennerline's characterisation of transborder

reformers.

It is important to focus not only on these 'elite' reformers but also on ordinary educators within these transborder networks. These educators, whom Sai characterise as a 'transborder literate community' and a network of their own, were integral to the development of schools across SEA (Hoon & Sai 2013, p. 46). Li Chun-Ming was first recruited from China by Huang to teach at TCHS in 1919, being one of the several 'teachers from Shanghai' Tan mentions in his memoirs (Hoon & Sai 2013, pp. 50–51; Tan 1994, p. 41). After four years, he returned to China, before moving to teach at the Batavian THHK and later becoming principal of Johor's Foon Yew High School (Tan 1994). Huang's recruitment networks, which Dennerline notes Lee played an important role in, also led to China-born Situ Zan working at THHK Muntilan. Situ Zan later taught at numerous other DEI schools and established the Palembang Overseas Chinese School (*Jùgǎng huáqióu xuéxiào*; 巨港华侨学校) (Tan 1994, pp. 52–53; Dennerline 2017, p. 79). Sai notes that the Batavian THHK was a key node for these educators, and many taught there before moving to other schools in the region (Hoon & Sai 2013, p. 49). Sai's claim that such mobile educators were the norm in Overseas Chinese education is supported by S.C. Tan, who notes how 'more often than not' Penang educators were involved in the development of numerous schools (Tan 2007, p. 42). She cites Wang Qiyu, who taught at the Penang schools, TNS in Singapore, and others in Malacca and Johor (2007).

Sai has even argued that the conceptualisation of 'Nanyang' in Chinese education, a 'conception of Chinese settlement and localisation', was produced by these transborder educators through their textbooks and publications (Hoon & Sai 2013, pp. 45–46). She bases this on geography textbooks by Situ Zan and Huang Sufeng which emphasised the long history of the Chinese in the region and their contributions to its development while interacting with 'barbaric native people' (2013, p. 59). Such ideas arguably originated in the writings of Chinese reformers, notably Liang Qichao, before entering public sphere discourses in Chinese communities in SEA.¹⁴ Indeed, this conceptualisation of 'Nanyang' in Chinese education is visible in TNS's 1925 graduation booklet which claimed the Nanyang was 'barbarian land' (*yidi*) until Zheng He brought Chinese settlers who sparked 'the evolution of civilisation' (*wénmíng jìnhuà*), with TNS being part of this historic Chinese presence (Tao Nan School 1925, p. 13). Sai has perhaps placed too much emphasis on the importance of the textbooks transborder educators produced, as the vast majority of textbooks used in Overseas Chinese education still originated in China (Lee 2011, pp. 34–35). However, their contribution to public sphere discourses conceptualising the Chinese presence within European-ruled territories must be acknowledged.

Although educational developments were directed by the Overseas Chinese, they did not occur in isolation from broader developments in China and Europe. Rather, instead of a 'unidirectional' model of Chinese educational developments guiding developments in SEA, Sai's model of 'coeval' development, with Overseas Chinese education and Chinese education influencing each other as they developed, must be utilised (Hoon & Sai 2013, p. 48). Educational influences from China

¹³ For an example of Lee's contributions to debates on Peranakan reforms, see Teng Hwee Lee (1901). 'The Effects of Ancestral Worship on Society in China', *The Straits Chinese Magazine*, 5(20), pp. 130–135.

¹⁴ See Qichao Liang (1904). *Biographies of China's Eight Great Colonial Heroes*.

were refracted through public sphere discourses to fit the interests of the Overseas Chinese (Frost 2005, p. 56). Frost and Teoh have rejected the simplistic argument by some historians that Peranakan Chinese began to promote Confucian education due to the influence of Kang Youwei, who visited Singapore in 1900 and allegedly 'stimulated them to think' (2005, pp. 57–58).¹⁵ Frost notes that Peranakan reformers went much further than Kang in attacking Confucian practices, and understood Confucius not as part of a national 'religion', but as a 'scientific sage' and 'rational philosopher', an approach suitable for adapting Confucian revival as a modernising reform under European rule and for asserting a distinct Overseas Chinese identity (2005, pp. 57–58). Overseas Chinese educators even sought to use their experiences to influence education in China. Tan asked the Minister of Education to construct teacher-training schools in Fujian and Guangdong and even admonished the Minister that based on his experience, schools in other provinces might not be useful (Tan 1994, p. 48). Dennerline has highlighted how Lee and Ho influenced developments at Fudan, with Ho leading 20,000 Shanghai students 'on strike' in 1919 and emerging as a key educational figure in the Shanghai public sphere (Dennerline 2017, pp. 59–63). Thus, a coeval model must be utilised in understanding educational developments in China and SEA.

In conclusion, it was the Overseas Chinese themselves who oversaw the development of Chinese education in SEA, drawing on their resources and transborder networks with little support from the Republican government or colonial states. The Republican government did, however, attempt to influence Overseas Chinese education, particular after 1928, while the colonial authorities increasingly sought to regulate it. This essay will now turn to these developments.

CHAPTER TWO: COLONIAL REGULATIONS AND REPUBLICAN SCHEMES

On 17 October 1929, the High Commissioner of British Malaya sent a dispatch to Lord Passfield which enclosed an 'Interim Report' on the KMT (Clifford 1929). The report warned that the 'National Government' was attempting to take control of Chinese schools through a 'registration law', to prepare the way for ultimate control of these territories as *de facto* Chinese colonies' (Allen 1929). This report clearly highlights British fears of Chinese education as potentially subverting colonial rule, and hints at reasons for the KMT's interest in Chinese education. Indeed, in the 1920s and 1930s, the schools and educational networks the Overseas Chinese had constructed came under pressure from both colonial authorities and various incarnations of the Chinese Republican government, most notably the KMT after 1928. Neither the KMT nor the colonial authorities gave much recognition to the agency of the Overseas Chinese, a tendency that has been reproduced in secondary scholarship.¹⁶ This chapter argues that the KMT was largely unsuccessful in influencing Chinese education, primarily due to opposition from the Overseas Chinese who sought to preserve their control and agency. The Overseas Chinese also adapted to colonial regulations which were largely aimed at preventing Chinese education from falling into KMT hands and did little to reduce Overseas Chinese control. Due to primary source availability, this chapter focuses

primarily on British Malaya.

After the Xinhai Revolution, the various factions warring for control over the Republic of China all expressed some interest in continuing Qing efforts at influencing Chinese education abroad. Regulations vesting Consuls with the power to approve new schools were implemented in 1913 (Lee 2011, p. 12). The KMT, which only ruled parts of southern China before 1928, also attempted to influence education through its Malayan branches (2011, pp. 12–15). However, it was only after the Northern Expedition nominally unified China in 1928 that the KMT-led Republican government was able to take a far more active interest in influencing Overseas Chinese Education (2011, pp. 26–27). Anna Belogurova, Sai, and Liu have noted that this was fundamentally due to a belief by many KMT leaders that the 'Nanyang' was a Chinese sphere of influence (Belogurova 2019, p. 157; Hoon & Sai 2013, pp. 60–61; Liu 2010, pp. 25–26). Many Overseas Chinese were considered Chinese nationals, due to the *jus sanguinis* principle of the Nationality law which gave citizenship to individuals born to a Chinese father everywhere (Dan 2009, pp. 5–18). Indeed, the 'Manifesto' of the Second National Education Conference emphasised education of all Chinese, domestic and overseas, as part of the 'Political Tutelage period' (*Summary of the Manifesto of the Second National Educational Conference 1930*). Belogurova further argues that the KMT intended to use education to 'indoctrinate' Overseas Chinese in Chinese nationalism and secure their loyalty in face of Japanese aggression (Belogurova 2019, p. 157). KMT educational documents clearly highlight this aim. In April 1930, the Overseas Chinese Planning Committee called for formulating policies aimed at 'enforcement of Tang principle education', 'training of Tang principle teachers', and developing a 'Tang principle curriculum' (Overseas Chinese Planning Committee 1930). Ministry Order 107 listed 'books on Tang principles' as priority for all libraries and reading rooms in SEA (Ministry of Education of the ROC 1930). Furthermore, Ong has argued the KMT sought the financial resources of the Overseas Chinese, and that KMT attitudes towards Overseas Chinese education were also shaped by a 'civilising project', based on negative views of Overseas Chinese as 'simple minded', 'less cultured', and lacking 'national consciousness' (Ong 2013, pp. 4–5; pp. 19–21). The language of a 'civilising project' is visible in Order 107, which noted that 'promoting overseas Chinese education' would 'enlighten the minds of the overseas brethren' and 'spread the culture of our motherland' (Ministry of Education of ROC 1930). KMT interest in Overseas Chinese education was shaped by a combination of all these factors.

British and Dutch colonial interest in regulating Chinese education stemmed not from a desire to develop it, but rather due to fears of subversion. KMT control over Chinese schools and the education of the next generation in the colonies was viewed as leading to a potential 'imperium in imperio' (Goodman & Allen 1927). A 1922 British report noted that KMT activities, including influencing of Malayan schools, construed 'training up a nation inside another government's territory' (Guillemand 1922). The aforementioned 1929 report further warned that KMT plans would result in 'an organised community' that was 'willing and able on instructions from China' to undermine

¹⁵ Such an argument is also cited in Lee (2011), p. 8

¹⁶ For example, see Lee (2011), pp. 26–31; Yong and McKenna (1990), pp. 134–163.

British rule (Allen 1929). In particular, Governor Cecil Clementi, a man sceptical of modern Chinese nationalism and highly wary of potential KMT subversion, sent numerous dispatches denouncing Chinese ‘interference’ (Yong & McKenna 1990, pp. 134–136). A 1931 SS (Straits Settlements) Legislative Council discussion among senior colonial officers also concluded ‘we must be masters in our own house in the matter of education’ (Legislative Council of the Straits Settlements 1931).

Fears of KMT interference were exacerbated by concerns about KMT ideology. One set of concerns centred around the socialism of Sun Yat-Sen and the KMT Left. A 1922 report claimed Sun had ‘Bolshevik leanings’ and connected him to a potential communist conspiracy involving Sneevliet and ‘Javanese extremists’ to ‘drive the Europeans out of Asia’ (Guillemard 1922). A 1926 report emphasised how ‘Hailam night schools’ were disseminating ‘extreme propaganda of the left wing’, and attached a translated set of ‘Catechisms’ promoting communism (Goodman & Allen 1927). Even after Chiang purged the communists in 1927 and weakened the KMT left, some officials remained concerned. Clementi, in a 1930 meeting with local KMT leaders, argued that there remained a ‘strong communist element’ in the KMT and that the KMT could once more ‘be tinged with communism’ if Chiang lost the Central Plains War against warlords backed by Wang Jingwei.

Another set of concerns related to KMT nationalism and anti-foreignism potentially being disseminated through education. Lampson noted that since 1927, the KMT’s educational policy had ‘xenophobia’ as an essential element, and anti-foreign ideologies could be found in textbooks such as the ‘Hsin Shi Tai’ (Lampson 1930). Indeed, the KMT’s curriculum for Junior Secondary history education in 1929 emphasised the importance of teaching students about foreign invasions of China and awakening their national spirit and patriotism, and its aims constantly referred to the Three Principles, which some British officials viewed as a serious ideological threat (*Temporary Curriculum Standards in Junior Secondary History 1929*). Lampson claimed ‘there is much in these three principles’ that was ‘hardly consonant with loyalty to the colonial government’, and that ‘we are up against the “dead hand” of Dr. Sun’ (Lampson 1930). Another report claimed that due to these ideologies Chinese education would lead to the next generation regarding the British as ‘the historic oppressors of the Chinese race’ (Goodman & Allen 1929). British concerns about socialism, nationalism, and subversion were shared by the Dutch. DEI Secretary Dr. Mouw noted that KMT textbooks would ‘educate the children that the foreigner is to be hated as an aggressor’, while Yamamoto has highlighted Dutch concerns about Comintern activities among the Chinese (Yamamoto 2014).

Many KMT and colonial officials gave little consideration to the agency of the Overseas Chinese. Some regarded them as subjects who needed protection from the other side. In June 1930, the KMT Central Propaganda Department and the Ministry of Education issued a statement urging Chinese schools to comply with registration, ‘so that the National Government can take steps to protect their interests’ (Goodman 1930). Similarly, Minister Lampson noted that the British had to protect the ‘peaceful Chinese population’ who ‘only wanted to be left in peace’ from the KMT’s educational

propaganda (Lampson 1930). Overseas Chinese were also often marginalised from efforts to ‘help’ them. The KMT’s registration law asserted that if Overseas Chinese running a school ‘contemplated’ making any changes, they had to obtain the ‘sanction’ of the Ministry, which would hold decision-making powers over all schools operated by Overseas Chinese (Allen 1929). In Malaya, Clementi held two conferences in 1930 on how to develop an ‘educational policy’ that would ‘safeguard the interests of Chinese’ without actually consulting any Chinese in the process (CO 717/74/4 1930). Clementi was criticised for this by Passfield, who often recognised the interests of the Overseas Chinese in their education, emphasising the importance of acknowledging differences within the ‘colonial mind’ (Passfield 1930). Overall, however, many colonial and KMT officials paid little attention to the agency of the Overseas Chinese.

Having established KMT and colonial attitudes towards education, the agency, adaptability, and resistance of the Overseas Chinese in face of these interventions will be illustrated using two key historical moments: the Registration Ordinance and its aftermath in the period 1920–1923, and the period of renewed KMT interest in Overseas Chinese education from 1928 to the early 1930s.

The *Registration of Schools Ordinance* in 1920 marked the first major attempt by the British to regulate Chinese education in Malaya. It was implemented in response to the role Chinese students and teachers played in the riots and protests of 1919, notably the June 19 Singapore riot, which Kenley notes occurred as news and sentiments surrounding the May 4th movement in China entered public sphere discourses in Malaya (Lee 2011, pp. 17–19; Kenley 2003, pp. 32–42; pp. 49–52). The ordinance required that all schools, teachers, and managers be registered, and gave the government the power to close down ‘unlawful schools’ (Lee 2011, pp. 16–19). Initially, the Overseas Chinese attempted to draw on their networks and public spheres to seek the regulation’s repeal. Penang and Singapore Chinese formed organisations to resist, while educators published articles to rally mass support for petitions, with one being dispatched directly to London (*ibid.*). The Republican government notably played little role. Nanyang Girls School principal Yu Peigao did travel to Beijing to enlist its help, but the government was unable to intercede effectively in this matter (Lee 2011, pp. 16–19).

The Overseas Chinese adapted effectively to these regulations. Lee Ting Hui notes that many schools circumvented regulation by having fewer students than the registration threshold of fifteen, with the first being the Penang Island First Self-Governing School (Lee 2011, p. 19). Many schools also opted to adapt to regulation and register. In the Straits Settlements, seventy-nine schools were registered and fifty-one closed down, while fifty-six were registered in the Federated Malay States with twenty closed down (*ibid.*, p. 20). Registration did not significantly impact growth in Chinese education and the number of schools increased from 252 in 1921 to 665 by 1927 (*ibid.*, p. 31). In his memoirs, Tan did not view registration as a problem, noting that ‘although school principals and teachers had to register’, there was ‘little government interference’ in education unless teachers were involved in ‘illegal activities’ (Tan 1994, p. 43). While Tan was unlikely to be too critical of the

British, given that he was publishing his memoirs in British-ruled Singapore, the steady growth of Chinese education throughout the 1920s suggests that registration had a limited impact on the Overseas Chinese's efforts (*ibid.*, pp. x–xi). In 1923, the British sought to further influence Chinese education by offering grants-in-aid to schools willing to adapt their curriculum to be 'useful preparation' for 'English education', which Lee notes was to channel 'brighter students' to English further education (Lee 2011, pp. 20–21). This scheme failed due to Overseas Chinese resistance, with a 1926 report noting that Chinese schools had not 'shown any desire to seek Government assistance or submit to the slight measure of control' (*ibid.*, p. 21). In a 1931 SS Legislative Council debate, it was noted that 'only 15 out of a total of 332 schools' applied for grants-in-aid (*Legislative Council of the Straits Settlements 1931*). Thus, the Overseas Chinese effectively adapted to post-1919 British colonial regulations and remained in control over educational developments.

The KMT government initiated a comprehensive effort to take control of Chinese education in SEA in 1928. Several proposals on Overseas Chinese education were implemented at the First National Education Conference in May 1928, including the convening of a 'Nanyang Chinese educational and literary conference' and establishing Jinan University as 'the highest educational organ for overseas Chinese students' (CO 273/561/15 1930). This resulted in the 1929 conference hosted by Jinan University. Seah notes that forty-nine educators from SEA attended, and forty-six proposals, including the teaching of the Three People's Principles and Mandarin, were adopted (Seah 2017, pp. 46–47). The KMT, based on findings from these conferences, swiftly implemented numerous policies. An August 1929 law mandated registration for Overseas Chinese schools, ordered them to follow KMT-approved curriculum and granted the Ministry of Education power to cancel 'unsatisfactory' schools, while plans for an 'Overseas Chinese Educational Planning Commission' were drawn up by September 1929 (CO 273/554/7 1929). KMT policies were further developed at a November 1929 conference and consolidated into a comprehensive 'scheme' for Overseas Chinese education at the 1930 Second National Education Conference (CO 273/561/15 1930).

In British Malaya, early signs of KMT intervention were questionnaires sent to Chinese schools, with British officials noting at least 172 were dispatched by September 1929 (Allen 1929). These asked for comprehensive information about schools, including their organisers, history, and source of funds (*ibid.*). By late 1930, registration forms for Chinese schools had been widely distributed. They required information on the Directors, Teachers, and school committee, questioned whether these figures were KMT members, and even requested their membership numbers (CO 717/74/4 1930). There were also questions about whether schools had taken British grants-in-aid, which the KMT disallowed (*ibid.*). Consuls and the Ministry also actively interfered with local educational developments. Tan recounted an incident where his attempt to develop an 'Overseas Chinese normal school' was interrupted by the Ministry which sent him a telegram 'saying that the principal and teachers must be appointed by Ministry', and threatening to forbid students from the school from future

education in China (Tan 1994, pp. 49–50). Consuls also convened meetings of educators to implement the KMT's new policies, while textbooks containing the Three Principles were exported to schools.

British and Dutch colonial authorities reacted strongly to these KMT policies. In British Malaya, Clementi implemented a crackdown on KMT influence over education as part of a broader set of measures against KMT activities. Upon Clementi's arrival, he met with local KMT leaders and immediately ordered an end to all KMT activities (WO 32/5350 1930). Restrictions on textbooks, which had begun in 1928, were stepped up, particularly those containing the Three Principles (Lee 2011, p. 27). Clementi also recruited more 'cadet officers' and 'inspectors of schools' to increase supervision over Chinese schools, initiated plans for government-run Chinese middle schools, and for compiling textbooks, though the latter two schemes eventually failed (CO 717/74/4 1930). In 1934, Clementi also halted applications for grants-in-aid, though existing grants were continued (Lee 2011, p. 27). Similarly, in the DEI, teachers who taught the Three Principles were deported, and textbooks banned. In September 1929, the Dutch Secretary for Chinese Affairs personally reproached teachers in Kota Medan, informing them that textbooks on the Three Principles were 'illegal and must not be used' (Qian 1930).

British colonial crackdowns dealt serious damage to the KMT's political activities in general, as noted by Ching Fatt Yong (1990). However, the failure of KMT efforts to influence education can only be explained to a limited extent by these measures, as those efforts were already floundering even as the crackdown was being carried out. Goodman noted that the 'actual position' of KMT education efforts in Malaya differed greatly from the 'paper programme of organisation' laid down by KMT authorities, which he attributed to 'trade conditions', 'chaos in China', and British policies (CO 717/74/4 1930). However, the evidence he cited, including lukewarm responses to registration forms, points to the role of the Overseas Chinese themselves.

The failure of KMT schemes to control Chinese education in Malaya was primarily due to the resistance of the Overseas Chinese who sought to maintain their own control over education. The KMT's Registration law was extremely unsuccessful as many Overseas Chinese educators simply ignored it. A June 1830 Ministry of Education statement noted that very few schools in Singapore had registered, and asked local KMT branches to 'urge Chinese schools' to register (*ibid.*). A 'circular letter' sent by the Consul-General to schools in Perak also noted that many had not registered, and ordered 'immediate compliance' (CO 717/74/4 1930). A 20 November 1930 news report on a meeting with educators convened by the Consulate in Singapore further highlights this resistance. The Vice-Consul noted that 'only 3 or 4 schools' in Singapore completed the questionnaires or registration forms, and only the Ai Tong school held the mandated 'weekly commemoration meetings' (CO 717/79/8 1930). Such resistance can possibly be explained by a view shared by many Overseas Chinese leaders that KMT intervention would not be beneficial for educational development. At the same meeting, Lim Keng Lean, 'head of the Educational Committee of the Hokkien Hoey Kuan', argued that 'the consulate should have a thorough understanding of the

conditions of the particular school before giving any recommendation' (*ibid.*). Such views were also shared by some DEI Chinese. A 1928 article noted that the 'hoakiau' (*huáqiáo*) should be ashamed' if they had to turn for assistance from China in education since 'education which is organized as in China' was inappropriate for the DEI (Kwee 1928). Tan, too, was disparaging of KMT intervention. He noted that when the Ministry of Education first demanded his new school use ministry-selected educators, he 'paid no attention' to them, and expressed discontent that the ministry 'would actually interfere', since 'all costs for schools were raised by the Overseas Chinese' (Tan 1994, pp. 49–51). Writing about a 1940 KMT scheme to dispatch 'guidance counselors' to supervise schools which was blocked by the British, he noted that these 'youths still wet behind the ears' certainly could not 'direct entire schools' and 'much damage to education' could have been done if the KMT succeeded (*ibid.*). Tan also lamented that Republican governmental assistance could have been beneficial, but 'incompetent' and 'disgraceful' consular officials actually hindered educational developments, citing various incidents (*ibid.*, pp. 43–44). Interestingly, Tan did not view Clementi's crackdown as a major issue, noting the 'only restriction' was on Three Principles textbooks (*ibid.*, p. 43). When Tan was writing in 1943, he had already fallen out with the KMT and would naturally be much more critical (*ibid.*, pp. ix–x). However, given that numerous other sources suggest a similarly negative view of KMT intervention and active resistance against it, Tan's claims in his memoirs are likely relatively accurate.

Even where Overseas Chinese educators did not resist KMT policies, they worked with KMT educational initiatives to shape them in a direction that reflected the Overseas Chinese's own needs and interests. This was visible at the 1929 Nanyang conference, attended by Lee Teng Hwee and TCHS teacher Ye Huafen, both transborder education pioneers affiliated with the Malacca 'public sphere' identified by Dennerline (2017). Dennerline highlights that Malacca representatives presented a plan 'for a common examination' for Overseas Chinese schools, which they themselves implemented in 1930. Ye also raised a proposal that Chinese schools in SEA should 'teach the history of the China-South relationship'. He offered two reasons in line with KMT goals, such as fostering 'national awareness', before noting that the proposal would train educated individuals able to produce academic knowledge on 'overseas Chinese history' and 'overseas Chinese culture', something which seems to reflect the Overseas Chinese's efforts to construct their own history and identity. Hence, many Overseas Chinese educators were unwilling to simply take orders from the KMT and sought to influence KMT initiatives, further highlighting the agency of the Overseas Chinese.

The KMT's schemes to influence and control Overseas Chinese education were broadly unsuccessful, and in some ways, colonial regulations were 'more influential', since they forced Overseas Chinese

schools to adapt to registration and accept increased supervision.¹⁷ However, such an angle misses the key point that KMT failure was caused not so much by colonial crackdowns, but by the agency of the Overseas Chinese, which both KMT and colonial authorities and overlooked. This chapter rejects China-centric explanations by earlier historians that textbook exports and KMT policies demonstrated KMT control of Overseas Chinese education, such as Murray's claim that 'everywhere', Chinese schools were 'run virtually as charges of China's Education Ministry'. Given that the colonial state was primarily interested in education as a precaution against it becoming a tool of KMT subversion, many regulations did little to impact the central role Overseas Chinese had in overseeing educational developments, and the Overseas Chinese effectively adapted to most colonial regulations. That, perhaps, was why Tan Kah Kee concluded 'there was little government interference' in British Malaya (Tan 1994, p. 43).

CONCLUSION

Thus, both KMT schemes and colonial regulations had limited influence on the development of Chinese vernacular education in SEA, due to the agency, adaptability, and resistance of the Overseas Chinese. Instead, it was the Overseas Chinese, connected by transborder networks, who controlled and shaped the development of their own education. Archival limitations have forced this essay to rely on translated KMT documents from British archives and secondary sources, a selectively limited account that also raises the potential issue of meanings lost or changed in translation. However, accounts in other primary sources and secondary literature largely corroborate the details in these translated documents. Length constraints and lack of primary and secondary sources also prevented this essay from making a detailed comparison of British and Dutch colonial regulations.

This essay further emphasises the importance of centring the history of the Overseas Chinese and their education on the Overseas Chinese themselves, and there remains considerable room for more works taking such an approach to move our understanding of educational developments across Southeast Asia beyond a China-centric model. There is currently no comprehensive reassessment of Chinese education in pre-WWII DEI, with the works of Sai, Kwartanada, and Liu focusing on the early THHK. Future research must look beyond the state, Republican and colonial, to other voices within Overseas Chinese networks and beyond that promulgated their own visions for education. The nature of those networks and how they shaped education and Overseas Chinese identities can also be further explored, looking not just at Malaya and the DEI but also connections to Siam, Indochina, or even further afield. Ultimately, Overseas Chinese education remains an under-studied topic, and new works will certainly shed more light on the agency and role of the Overseas Chinese in shaping their own education.

¹⁷ For more on the KMT's failure, see Seah (2017), pp. 49–50.

Democracy and Progress: Uncovering a Requisite Faith in ‘The People’

Locryn Geake

This article examines whether faith in democracy requires faith in progress. Having defined faith and progress, I move to assess competing theories of democracy and the extent to which they require faith in progress. First, I turn to a proceduralist theory of democracy, one which requires faith in progress because it requires effective participation, enlightened understanding and because the theory places faith in freedom of expression and associational autonomy within the wider idea of perfectibility. I then argue that a substantive account of democracy requires faith in a flawed progress, before asserting that both a minimalist and a Socratic theory of democracy do not require faith in progress. I also uncover a requisite faith in ‘the people’ if the four theories of democracy are to retain conceptual coherence.

To determine whether faith in democracy requires faith in progress, we must first define faith and progress. The link between progress and democracy warrants academic attention because the inevitability of progress cannot be guaranteed. We should question whether democracies around the world, plagued by increased levels of partisanship, disinformation and disaffection, are up to the task of delivering progress. After the necessary effort to define faith and progress, the first claim to be asserted will be that the theory of democracy one employs influences the extent to which democracy requires faith in progress, since there are many such theories of democracy. This article will analyse democracy through proceduralist, substantive, minimalist and Socratic theories. This range captures theories of democracy which vary in notoriety and age, contain different parameters for the role of ‘the people’, and which ultimately have different levels of requisite faith in progress. Analysing multiple theories of democracy against one another will confirm my first claim, before going on to maintain a second claim that faith in democracy necessarily requires faith in ‘the people’. This essay will claim that not only do different interpretations of democracy yield different faiths in progress, but that faith in democracy requires faith in ‘the people’, two claims that have consequences for individual actors in democracies.

Progress will be interpreted as moral and material progress encompassed within the wider belief that humanity retains the potential to ‘pass from a qualitatively inferior to a qualitatively higher stage in a sequence that will ensure a radically better spiritual and material life for ... the whole of the human community’ (Salvadori 2008). The idea of moral progress, informed by Enlightenment thought, entails the ‘improvement of man’s faculties and growing success in the pursuit of the greatest possible individual and collective happiness’, the idea that human autonomy, reason and capacity serve to provide humanity with the means for collective and individual development (Salvadori 2008). Regarding the latter, material progress demands the idea of ‘sustained progress in the satisfaction of material needs’, including ‘scientific research, technology, economic development, (and) political and social institutions’ (Wagner 2016; Salvadori 2008). On the aspect of potential, as Wagner notes, progress does not imply the pursuit of an ‘end state’, an idea contrary to Salvadori’s belief that

progress ‘is destined to culminate in an order capable of preventing all the evils and crises that have previously marked the history of humanity’ (Wagner 2016; Salvadori 2008). Rather, progress is characterised by its pursuit of ‘perfectibility’ (Wagner 2016). This speaks to progress’ aspect of ‘temporalisation’, that Koselleck denotes (Koselleck 2006). Progress, for Koselleck, is a ‘collective singular’, a term for ‘appreciating the sum of numerous phenomena’ (Koselleck 2006; Wagner 2016). Koselleck’s interpretation of progress is important here, because humanity is ‘both the subject of progress, those who are doing the progressing, and as the object, those with and for whom progress takes place’ (Wagner 2016). Thus, when we later attribute faith in progress to faith in different theories of democracy, this entails that the faith in democracy is premised on faith in the improvement of man’s faculties and happiness, faith in our ability to satisfy material needs through economic development and the creation of institutions, and faith in the pursuit of perfectibility. Whilst settling on a definition of progress is of course necessary when determining democracy’s requisite faith in progress, we must remain open to the idea that progress is to be situated historically and temporally. The historical context and debates informing ideas of progress in the past were very different to contemporary ideas of progress. Progress as a normative ideal cannot be interpreted outside of history, so we must acknowledge the subjectivity of progress, informed by different social and historical contexts as well as political theorist’s ideas on progress.

Having reached our definition of progress, we can now offer an interpretation of faith. The Oxford English Dictionary defines faith as ‘the fulfilment of a trust or promise, and other related senses’.¹ To go further, the Bible’s definition of faith in Hebrews 11:1 reads ‘the assurance of things hoped for, the conviction of things not seen’,² and speaks to the notion of faith without evidence. There is also another aspect of faith that is central to understanding faith in democracy, which is that faith and trust demand action. In Hebrews 11:9, ‘By faith Abraham ... dwelt in the promised land (and) lived in tents ... For he was looking forward to the city with foundations, whose architect and builder is God’.³ Herbert McCabe insists that the ‘institutional church is like the tent in which Abraham dwelt on his way to the Promised Land, he “didn’t make the mistake of thinking that what he built was the real thing”’ (McCarragher

¹ Oxford English Dictionary (OED). *faith, n. and int.*

² The Holy Bible. Hebrews 11:1. English Standard Version (2016). Available at: <https://www.biblegateway.com/passage/?search=Hebrews%2011&version=ESV>

³ The Holy Bible. Hebrews 11:9. English Standard Version (2016). Available at: <https://www.biblegateway.com/passage/?search=Hebrews%2011&version=ESV>.

2010). From this analogy, one's faith is an active decision and process to live within a temporary structure ('the tent') with the knowledge that, in the fullness of time, one's permanent home will be prepared. Transferring this analogy onto democracy yields an important method for thinking about the problem of maintaining faith and participating in institutions that are manifestly imperfect or corrupt, yet which point toward the realisation of an ideal. To have faith in democracy necessitates action. We 'the people' participate actively in democracy with the knowledge that we are inhabiting a manifestly imperfect institution, yet we continue to do this with the faith that we are over time realising a democratic ideal. Faith will thus be understood broadly as a sense of trust that demands action.

The distinction between faith in people and 'the people' must also be clarified in order to understand the second claim that democracy requires faith in 'the people.' From the perspective of natural sociability, we can have faith in people as socially cooperative beings, yet lack faith in 'the people' within the context of democracy to deliver substantively good outcomes. However, we have already established that to have faith in democracy demands action. It will therefore be asserted that to have faith in democracy demands we have faith in 'the people' either as an institutional, collective, and active body for decision-making, or as an active body resigned to democratically select representatives. Faith in progress will now be traced with reference to a proceduralist account of democracy.

THE PROCEDURALIST THEORY OF DEMOCRACY

It can be argued that faith in a 'timeless' theory of democracy as Meckstroth terms it, does require faith in progress (Meckstroth 2015). The rationale behind this is that one has faith in a proceduralist account of democracy, where a set of predetermined criteria must be adhered to if we are to define a regime as legitimately democratic. Faith in this theory is ultimately faith in the democratic process 'as the most reliable means for protecting and advancing the good and interests of all the persons subject to collective decisions' (Dahl 1989). This theory of democracy requires faith in progress both because the whole democratic process is understood to *advance* the good and interests of people, and the criteria underpinning this theory of democracy are inextricably linked with progress, as expounded by Robert Dahl in *Democracy and Its Critics*.

Dahl builds his theory of democracy from the 'elementary idea of "rule by the people"' (Dahl 1989). Defining democracy according to the idea of rule by the people raises many problems, as Dahl notes. Namely, who 'ought to comprise the people and what does it mean for them to rule' (*ibid.*). In pursuit of a suitable theory of democracy, Dahl denotes a set of 'criteria for a democratic process' (*ibid.*). The five 'ideal standards', from which Dahl settles his theory of democracy, 'effective participation, voting equality at the decisive stage, enlightened understanding, control of the agenda, (and) the inclusion of all adults', are then 'implemented in six distinctive institutions' (Dahl 1989; Bühlmann & Kriesi 2013). It is first necessary to tackle a foundational problem that supports Dahl's theory of democracy, a problem that ostensibly perverts faith in this theory of democracy.

As Meckstroth notes, if a timeless theory of

democracy seeks to 'legislate *a priori*', this conceptualisation has far-reaching implications for faith in democracy (Meckstroth 2015). This speaks to the idea that the 'political content of democracy is here being done entirely *a priori* by the political theorist' (Accetti 2017). If this is the obstacle to the timeless theory of democracy's conceptual coherence, the problem lies with the notion of authorisation. If the theorist usurps the democratic notion of self-determination, and instead of 'the people' determining what democracy requires or what democracy is or isn't, the *theorist* is the one doing the deciding, it is then hard to say that a regime or process for translating the will of the people is democratic or not. This is because the criterion for decision stems not from 'the people' but the theorist, which Meckstroth terms the 'paradox of authorisation' (Meckstroth 2015). Thus, perhaps to have faith in the timeless procedural theory of democracy implies that one has faith in the theorist's set of criteria that distinguishes democracy from other forms of political organisation and practice. Superficially, it would seem faith in this theory is the opposite of faith in the fundamental idea that democracy is rule by the people, because what is ruling here is not 'the people' but a set of predetermined procedural criteria. Yet, a closer look at Dahl's procedures shows this flawed theory of democracy requires both a complex faith in 'the people' and faith in progress.

To argue around the latter, if we interpret progress according to the moral aspect defined earlier, because Dahl's theory of democracy requires faith in effective participation by people and enlightened understanding as ideal standards, and because the theory endorses and places faith in freedom of expression and associational autonomy, Dahl's version of democracy fosters 'independence, self-reliance, and public-spiritedness' (Dahl 1989). These are all qualities that provide for an Enlightenment-style moral progress which calls for 'opportunities for individuals to develop their full capacities' (Coglianese 1990). At a wider level, precisely because the democratic process seeks to advance the good and interests of people, the process involves a connection with Kosseleck's aspect of temporalisation. That is, the Dahlian democratic process requires faith in humans as the subject and object of progress towards perfectibility.

To trace faith in 'the people' within Dahl's theory is more complex. It can be argued that faith in 'the people' according to Dahl's polyarchal democracy stems from his discussion surrounding the balance between concrete substantive and procedural values. Dahl posits that 'integral to the democratic process are substantive rights, goods, and interests that are often mistakenly thought to be threatened by it' (Dahl 1989). Dahl's procedural democracy 'endows citizens with an extensive array of (substantive) rights, liberties and resources sufficient to permit them to participate fully' (*ibid.*). The necessity of substantive rights to the coherence of Dahl's democratic process ensures a faith in 'the people' to participate collectively in democratic decision making. In this sense, the democratic process Dahl outlines is a supporting structure that enables faith in 'the people' to go about their democratic decision making, yet it is simultaneously a democratic process 'essential to ... the right of people to govern themselves' (Dahl 1989). Ultimately, although Dahl's theory of

democracy is plagued by the ‘paradox of authorisation’, if one is to have faith in this theory of democracy, one must also have a requisite faith in moral progress and the pursuit of perfectibility, as well as faith in ‘the people’.

THE SUBSTANTIVE THEORY OF DEMOCRACY

We can also examine the substantive theory of democracy and argue that faith in this theory requires faith in progress. For faith in the substantive theory to hold, one must have faith in the fact that democracy produces a ‘condition of life and politics (which) promotes human welfare, individual freedom, security, equity, social equality, public deliberation, and peaceful conflict resolution’ (Tilly 2007). Engaging with John Stuart Mill’s utilitarian thought on substantive outcomes, namely individual liberty, we can elucidate how faith in the substantive theory of democracy requires faith in progress. The best way to approach Mill’s thought is to argue inversely: to suggest that faith in progress requires faith in a substantive theory of democracy.

Mill’s conception of individual liberty can be approached by looking at the ideas of authenticity and self-development. The premise here is that if we are to have faith in the progressive, substantive outcomes of liberty and individuality, we must have faith in substantive democracy as the mechanism through which we can realise these ends. For Mill, the superior ‘manner of existence’, is one in which higher faculties of ‘intellect, imagination, and of the moral sentiments’, play a crucial role (Mill 2009c). To be authentic, for Mill, is to have the ability to realise one’s self. This is essential for social progress, as is the cultivation of individuality. One aspect of Mill’s conception of liberty warrants focus. Freedom of expression and opinion, guaranteed though democracy, are essential for human development and progress. Only through democracies’ protection of these essential freedoms can individuals and society at large ascertain truth, which is beneficial for personal and societal development. It is only with ‘absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral or theological’, freedom of ‘tastes and pursuits’ and freedom of association, that allows individuals and society develop and progress together (Mill 2009b). Taken to its logical conclusion, faith in democracy for Mill is faith not only in the mode of government that best maximises liberty, but faith in democracy as the mechanism for moral progress and for the utilitarian satisfaction of material needs. Between Mill’s progressive substantive outcomes and his faith in democracy there lies a reciprocal relationship. Ultimately, to have faith in progress requires us to have faith in democracy, and vice versa.

Having traced Mill’s thought on the relationship of progress to individual freedom within the context of the substantive outcomes of his theory of democracy, it is necessary to examine the shortfalls of the substantive theory and the consequences for the seemingly requisite faith in progress. The first criticism follows from Tilly’s contention that ‘focusing on the possible outcomes of politics undercuts any effort to learn whether some political arrangements – including democracy – promote more desirable substantive outcomes than other political arrangements’ (Tilly 2007). In other words, if we continue to have faith in the substantive theory of democracy because it produces substantive outcomes we deem desirable, how are we to know

whether democracy is truly superior to other political arrangements if we are determining progress according to those substantive outcomes? In a sense, upholding faith in substantive democracy limits the scope of progress because we reinforce the idea that only through democracy can we produce our condition of life and politics according to desirable substantive outcomes. We are therefore left with a faith in progress that is somewhat paradoxical to the idea of progress itself. Indeed, faith in substantive democracy requires faith in the improvement of man’s faculties and happiness, and faith in our ability to satisfy material needs through economic development and the creation of institutions. Yet, substantive democracy fails to require faith in the idea of perfectibility more widely, precisely because focusing on substantive outcomes closes down alternative possibilities and the ideal of perfectibility.

Whilst substantive democracy ostensibly requires faith in a flawed progress, and therefore fails to satisfy the criterion of perfectibility, Millian substantive democracy requires faith in ‘the people’. Within Mill’s *Considerations on Representative Government*, in which it is claimed that ‘the ideal type of a perfect government’ would be one that is both democratic and representative, Mill makes a key contention that serves to illuminate faith in ‘the people’ (Mill 2009a). Universal suffrage, coupled with active participation when electing representatives, ensures that we are left with a representative body to articulate the wishes of the electorate. The elected representative’s role is ‘to indicate wants, to be an organ for popular demands, and a place of adverse discussion for all opinions relating to public matters’ (Mill 2009a). Seemingly then, Mill’s faith in ‘the people’ extends only so far as to mean the electorate are the best judges of their own representatives. This is especially significant when we look to an inherent contradiction within Mill’s writing, though it is one that paradoxically serves to highlight an even greater faith in ‘the people’. The contradiction is one highlighted by Dennis Thompson in *John Stuart Mill and Representative Government*, where he proposes Mill maintained two conflicting principles: those of ‘participation’ and ‘competence’ (Berger 1978). The principle of competence requires ‘giving as great an influence as possible to those citizens with greatest competence’ (Berger 1978). Mill simultaneously requires the electorate to participate given ‘they are the most interested protectors of their interest’, yet understands that all citizens within the electorate are not equal in their competence, so requires those with developed faculties and intellect to provide an ‘educative role by example and precept’ (Berger 1978). Within Mill’s faith in ‘the people’, there lies a relationship between the two conflicting bodies of ‘the people’ as a whole and those few competent individuals within ‘the people’. To dismiss Mill as an elitist theorist is to misrepresent his faith in ‘the people’. It can be maintained that those individuals Mill deems competent within his system of plural voting only increase his faith in ‘the people’ given they, along with the rest of the electorate, work symbiotically to direct progress as agents of progress. This conception of a mutually beneficial relationship would direct progress as we would commonly conceive it, by working towards implementing policies and the creation of institutions that yield substantive outcomes through the election of representatives. The relationship

would also, through active participation and didacticism, lead to the progress of 'the people' and people by making them 'consider the requirements of the common interest, and the active, energetic aspects of their natures', contributing to the Millian notion of self-development (Berger 1978). In the context of Mill's faith in democracy, Mill's faith in 'the people' ostensibly precedes his faith in progress. Indeed, 'the people' and progress are inextricably intertwined within his writing, yet when you separate the two and trace where Mill's faith in progress and requirement of progress start, we find an utmost faith in 'the people' firstly as agents, and secondly as beneficiaries of progress.

THE MINIMALIST THEORY OF DEMOCRACY

The third account of democracy, Joseph Schumpeter's minimalist conception, serves as a counter to the procedural and substantive theories of democracy. The premise here is that faith in democracy, understood as 'a political *method* ... a certain type of institutional arrangement for arriving at political - legislative and administrative - decisions and hence incapable of being an end in itself', does not require faith in progress (Schumpeter 2010). Schumpeter directs focus on the classical doctrine of the democratic method 'which realizes the common good by making the people itself decide issues through the election of individuals who are to assemble in order to carry out its will' (Schumpeter 2010). Schumpeter also attacks the common good, asserting that there is no common good that can be rationally attained and that this definition of democracy assumes a priori the existence of a common good. This idea has basis in Schumpeter's reflections on individual and common wills. If, as Schumpeter asserts, individual will's amount to little more than 'an indeterminate bundle of vague impulses loosely playing about given slogans and mistaken impressions', we are making a mistake when attributing to the individual will a rationality and independence that is in fact fictitious (Schumpeter 2010). Following from this denigration of individual will, the concept of the will of the people fails to hold, because the collection of divided individual volitions cannot possibly represent the will of the people, and worse, is vulnerable to being exploited by the more cynical elements within political parties or lobby groups. In explicating the utilitarian desire for health, Schumpeter shows that even whilst the majority of an electorate vote for something that may represent the will of the people, a more in-depth look will show that individuals vote for certain policies because of conflicting reasons, and therefore it is impossible to ascribe to their outcome a will of the people.

Schumpeter then relegates the element of decision making, making it subservient to the element of electing politicians. The role of the people is then not to govern, but to 'produce a government' (Schumpeter 2010). Faith in democracy is reduced to faith in the rule of the politician. Schumpeter bestows an autonomy to the elected politician from the electorate, indicating that the only power the electorate have over their representatives is the choice not to elect them. If we hold faith in Schumpeter's minimalist democracy, there is not a requisite faith in progress. This is primarily because of the means orientation of the minimalist conception of the democratic method. Schumpeter's democracy seeks nothing further than the establishment of a mechanism

for selecting leadership. It could also be asserted that this minimalist conception of democracy fails to live up to the argument that democracy requires faith in 'the people'. However, it can be maintained that there remains a latent faith in 'the people' in their capacity for selecting professional politicians. Despite Schumpeter's conviction that democracy understood as rule by the people is neither precise nor correct, he retains an implicit faith in 'the people', not as a collective body for decision making or as agents of progress, but as an institutional body resigned to determine and approve government. Schattschneider captures this idea when speaking of the limited vocabulary of the electorate in *The Semi-Sovereign People*. If one is to have faith in Schumpeter's democracy and if his argument is to retain cogency, one must have faith in 'the people' in their limited capacity to say 'Yes and No' to competing leaders (Schattschneider 2004). Indeed, Schumpeter holds little faith in 'the people' as a rational, autonomous and independent body. His atomisation of the electorate as a collection of individuals incapable of finding the common good and collating their wills into one general will leaves little scope for faith not only in 'the people' but also people more generally. Yet when we look at the different parameters for defining 'the people', reducing it to mean those individuals that must decide through their vote the election of politicians according to their 'vague likes and dislikes', we find a latent faith in 'the people' who at that given moment exercise their (however impaired) judgment to elect a government approved by 'the people' (Schumpeter 2010).

THE SOCRATIC THEORY OF DEMOCRACY

The fourth and final theory of democracy we will turn to in order to determine whether faith in democracy requires faith in progress is the Socratic theory that Meckstroth delineates in *The Struggle for Democracy*. Meckstroth's Socratic theory ultimately attempts to circumvent the problems associated with the timeless and substantive theories of democracy. Meckstroth's own theory of democracy applies a Platonic mode of argumentation to 'competing claims to truth or justice', which are to be 'evaluated on their own terms on the basis of their capacity to live up consistently to their own presuppositions' (Accetti 2017). This mode of argument is referred to by Meckstroth as the 'elenchus method' (Meckstroth 2015). By employing the elenchus method for his Socratic theory of democracy, Meckstroth ensures that there is no need for 'certain foundational principles', since democracy is to be understood and 'determined in a contingent and historical situation' (Meckstroth 2015; Accetti 2017). In order to understand 'competing claims to represent the people's will in a given historical situation', and examine whether these claims live up their presuppositions, Meckstroth turns to the notion of Immanuel Kant's categorical imperative as set out in his *Groundwork of the Metaphysics of Morals* (Accetti 2017). Comparable to Kant's categorical imperative, Meckstroth introduces two principles. The first principle which denotes a democracy is that it must 'respect all citizen's equal freedom's, both in the content of its decisions and in the process through which those decisions are authored (and) do so through a political system those citizens have chosen for themselves' (Meckstroth 2015). The second principle holds that 'in a contest over democratic change, that party counts as

representing the choice of the democratic people which more consistently meets its own interpretation of principle one more than any other party' (Meckstroth 2015). These two principles function as a 'criterion of interpretation through which political actors can evaluate actual claims to represent the people's will, in order to establish what democracy requires in the present' (Accetti 2017). Given Meckstroth's theory of democracy is an historic one, the aspect of the present is important. If democracy is to be understood according to the Socratic theory, faith in democracy cannot depend, like the substantive theory or procedural theory, on the imposition of extrinsic values. The Socratic theory cannot be said to work towards progress when progress is defined according to the aspects of moral and material progress and perfectibility already outlined. If faith in the Socratic theory of democracy does not place faith in progress, either in its moral or material conception, then faith in the Socratic theory of democracy is reliant upon both faith in 'the people' and the present.

Regarding the former, faith in 'the people' stems from Meckstroth's construct that 'the people' can follow whatever their interpretation of democracy is at a given point in time. Faith in democracy requires faith in the 'the people' to come to their own decisions about what democracy means for them, and for 'the people' as an active body to recognise that the 'political project that is being thereby pursued is consistent with its own implicit premises' (Accetti 2017). Faith in the present speaks to the Socratic theory's reliance upon the rationality and will of 'the people' at a given historical point. Indeed, within the Socratic theory of democracy, 'the people' and the present are inextricably linked together as the enablers and authorisers of what we would term progress, yet there is no theoretical causal relationship between faith in the Socratic theory of democracy and faith in progress. Ultimately, to have faith in the Socratic theory means to have faith in 'the people' and the present to achieve the outcome that is desired by 'the people' in the present. What faith in the Socratic theory of democracy does not require is faith in 'the people' and the present to do the right thing according

to external values deemed intrinsically good in the pursuit of progress.

CONCLUSION

Ultimately, the conclusion one reaches when examining the relationship between faith in democracy and faith in progress is that different theories of democracy yield different faiths in progress. We can assert that dependent upon the theory of democracy analysed, requisite faith in progress responds across a broad scale. A proceduralist theory of democracy requires faith in progress because it requires effective participation, enlightened understanding, and because the theory places faith in freedom of expression and associational autonomy, all within the wider idea of perfectibility, advancing the good and interests of people. A substantive theory of democracy requires faith in a flawed progress, one that fails to satisfy the criterion of perfectibility, yet one that still requires faith in moral progress as the realisation of individual freedom. The interpretations of democracy as set out by both Schumpeter's minimalist conception and Meckstroth's Socratic theory, ensure that faith in democracy does not require faith in progress. Whilst we will inevitably fail to make a universal rule that democracy either does or does not require faith in progress, given democracy's nebulous nature, it can nevertheless be asserted that what binds these four theories of democracy together is their faith in 'the people'. If these four theories of democracy are to cohere with each other, they must require faith in 'the people' either as an active, collective and institutional body for decision-making, or as an active body resigned to democratically select their representatives. Some theories of democracy require faith in progress, others do not, but democracy necessarily requires faith in 'the people'. The implication of this understanding is that the onus remains on each individual actor to form their own conception of democracy and consider their own measure of faith, thereby allowing them to take meaningful action in the democratic construct in which they find themselves, whatever the theoretical or practical limitations confronting them.

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From Clinical Intervention to Media Representation: Rethinking Refugee Crises and the Trauma Narrative

Jade Chamieh

Within the current socio-political context of mass immigration and refugee crises, an analysis of the ways in which the needs of refugees can be attended to in an effective and considerate way is thus of paramount importance. While a wide array of literature on the refugee crisis exists—both tackling the causes of the refugee crisis and roadblocks to solving it—this essay adopts a psycho-political lens to specifically analyse the enablers and blockers of refugee *integration* in host countries. Since 2011—or more notably the Syrian civil war—there have been increasing reports, stories, headlines documenting the countless horrendous traumas of refugees waiting at, or attempting to move across, the borders of their home states seeking asylum, the international community has become more responsive to the label of trauma. This, paired with the growing conception of mental health as a legitimate subdivision of health, has raised the question of whether frameworks of trauma can help refugees in both their healing and integration processes. Using clinical research, collections of popular photographs/paintings, as well as academic resources, this article argues that representational frameworks of trauma hurt refugees on a collective basis, by anchoring them into an identity of victimhood, often manifested through infantilisation, feminisation, and the trope of the 'good refugee'. This article contends that this kind of representation, further than simply being reductive, is also deeply harmful, for three reasons: the first is that this framework sets up an implicit conditionality for receiving aid; the second is that it fragments the identity of the refugee in such a way that the refugee is stripped of their other social identities as well as their political agency; the final reason is that these current frameworks of trauma address the symptoms of the current refugee crisis rather than the root causes of it, insofar as the media representation as well as medicalisation of trauma obscures issues of political intervention, responsibility and accountability. Ultimately, this article makes the case for a re-positioning of state and non-state actors which have stakes in the refugee crisis in a way which facilitates the organic processing and use of trauma by *refugees themselves* in order to ensure frameworks of trauma serve their intended purpose of aid.

'Please save us: Refugees face death at Poland Belarus border' was the headline of the Al Jazeera newspaper on the 14th of November 2021. For most, the refugee crisis hardly qualifies as news anymore: since the onset of the Syrian civil war, reports documenting the countless traumas encountered by refugees have abounded. According to the UN Refugee Agency (UNHCR), about 82.4 million people were forcibly displaced of their homes in 2020, 26.4 million of whom are refugees and 4.1 million of which are asylum-seekers (UNHCR 2020). Thus, an analysis of the ways in which the needs of refugees can be attended to in an effective and considerate way is of paramount importance. In this context, the growing conception of mental health as a legitimate subdivision of health has raised the question of whether frameworks of trauma can help refugees in both their healing and integration processes. In this essay, by 'framework of trauma', I am referring both to the clinical emphasis on trauma as a means for humanitarian efforts to target mental health needs, and to the emphasis on trauma in the media's representation of refugees, as a means to increase public and governmental intervention.

With these definitions in mind, this article will argue that although on a case-by-case basis, individual refugees can be helped through frameworks of trauma, these frameworks are harmful to refugees as a collective group. This article will begin by acknowledging that medical frameworks of trauma by recognising and treating refugees' traumatic experiences, and by helping individual refugees' health and re-integration process; however, this is subject to many practical limitations. Most importantly, representational frameworks of

trauma hurt refugees on a collective basis, by anchoring them into an identity of victimhood, often manifested through infantilisation, feminisation, and the trope of the 'good refugee': this kind of representation, further than simply being reductive, is also deeply harmful, for three reasons. The first is that this framework sets up an implicit conditionality for receiving aid; the second is that it distorts, fragments and categorises the identity of the refugee in such a way that the refugee is stripped of their other social identities as well as their political agency; the third and final reason is that these current frameworks of trauma address the symptoms of the current refugee crisis rather than the root causes of it, insofar as the media representation as well as medicalisation of trauma obscures issues of political intervention, political responsibility and accountability.

ON THE NECESSITY OF ADOPTING A CLINICAL APPROACH TO REFUGEES' TRAUMA

On a basic level, frameworks of trauma can help individual refugees, because refugees on the whole *are* traumatised. About 92% of refugees have experienced one or several traumatic events in their lives (Shawyer 2017). Moreover, several studies have shown that more than 61% of asylum seekers will experience serious mental distress, stemming from both pre-migration experiences, such as events in their home country or the dangerous crossing of international borders through unsafe means, as well as post-migration experiences, such as integration in a new country, separation from close ones, legal procedures and financial difficulties (Eaton et al. 2011). These traumas can, from then on, manifest into many different strands of illness, the most

common being PTSD, depression and anxiety. A clinical framework of trauma is thus necessary for refugees' health needs to be met, and by extension, for them to be able to function in and successfully integrate into society (Cunningham & Silove 1993). Medical frameworks and the psycho-therapeutic techniques they entail emphasise refugees' trauma as a clinical emergency and allows for the right care to be given. In that sense, frameworks of trauma are helpful on an individual, care-level basis.

This is not to say these medical frameworks of trauma do not come with their own shortcomings. Indeed, in practice, medical frameworks are not always effective in their aims of rehabilitating refugees and healing their traumas. The practical limits with clinical efforts are evident: first off, culturally mismatched clinical approaches may prove to be inefficient at best, and harmful at worst; secondly, there are many ethical risks entailed by refugees believing their mental health evaluations might influence their asylum rights. This article will first focus on the point that the Western clinical approach is not necessarily well-adapted to the refugees they intend to treat. Indeed, the most common shortcoming of the Western clinical framework of trauma is that it is not built to understand the totality of what the refugee is communicating, whether because of language barriers, non-verbal cues, or other cultural differences. For medical frameworks to effectively help refugees, healthcare strategies need to be revised to include language courses, and extensive training on culturally specific social behaviours and forms of self-expression (Miller et al. 2019). Only if healthcare professionals are appropriately trained to understand refugees' trauma and their recounting of it, can refugees be helped through a clinical framework.

The second common challenge to the medical framework of trauma is the reluctance of refugees to recount their stories and their traumas. The current Western medical frameworks of trauma and the therapeutic approaches they entail are largely based on communication between the refugee and the healthcare professional; however, victims of trauma often have a narrow window of tolerance (Siegel 1999), which makes it so they are often physically and mentally unable or unwilling to share their stories. This is most often the case because refugees do not feel safe within the healthcare environment they are in, as they fear the information they provide to their therapists will be transmitted to government officials, and may hinder their asylum claims. Indeed, 'traumatised adults are prone to revert to primitive self-protective responses when they perceive certain stimuli as a threat' (van der Kolk 2006, p. xx). This fear is not unfounded: in the early 2000's, the medical label of 'trauma' was often used for policy-formulation on refugee rights and was instrumentalised as legislative backing to asylum claims. In France in 2002, clinical psychological reports had the aim of validating experiences of torture suffered by political asylum-seekers, reports which would then inform legal certificates certifying a refugee's status and determining their asylum claims. However, the psychological treatment of trauma is not congruent with the demands and the language of the bureaucracy. Indeed, the application of medical frameworks of trauma to legal status not only makes Western aid conditional only on what it deems as 'trauma' but also furthers the

political sterility of the refugee, in that the only route to political safety and integration a refugee can find is through their trauma. As the Primo Levi Centre claims, 'administrative logic is incompatible with therapeutic logic' (Fassin & Rechtman 2009, p. 220). Thus, it is only if they are strictly clinical and are not instrumentalised as new political tools to sort through 'valid' or 'non-valid' refugees, that medical frameworks of trauma can help refugees, and even then, refugees need to trust that this is indeed the case.

TRAUMA FRAMEWORKS IN THE MEDIA: FROM EMPATHY TO PITY

Having established the importance of clinical trauma frameworks, but also the great ethical and medical risks of common misapplications, this article will now focus on trauma frameworks applied to the mediatic representation of refugees, and the in-built problems associated with a media emphasis on refugees' trauma. One might argue that conceptualising refugees as traumatised may better allow both civil society and governmental forces to empathise with them, and therefore to donate and help their cause. Indeed, the international community responds to trauma and to labels of trauma, as the concept has been expanded to represent a universal experience rather than an individual one (Fassin & Rechtman 2009). Although the nature of the trauma differs from individuals and situations, the label remains the same, and therefore resonates with most people, today. Following that, the conceptualisation of the refugee figure as a traumatised one is in accordance with our tendencies to relate to traumatic experiences of others and of ourselves. Because the notion of trauma is a humanising concept that has been increasingly universalised in that it is both 'the product of an experience of inhumanity and the proof of humanity of those who have endured it' (Fassin & Rechtman 2009, p. 20), the feelings of empathy it creates engenders a link between cultures, a medium by which to communicate and understand refugees, and thus a sensitivity and lenience towards helping refugees through personal and group mobilisation. Theoretically, refugees could be helped through a framework of trauma in that the representation of their traumas is actively instrumentalised to evoke empathy: in other words, frameworks of trauma in the media can help refugees to the extent that they awaken the social intelligence of external actors. The public is culturally attracted to the idea of a traumatised refugee because a traumatised refugee equates a humanised one. This empathy towards the traumatised refugee ignites a 'responsibility for the condition of the other' (Jonas 1984). The resultant collective or individual empathy can in turn incite civil society initiatives such as the Khora grassroots organisation in Greece, Refugee Action in the UK, or Tiafi in Turkey, all of which seek to both address refugees' individual needs as well as strengthen social cohesion between refugee groups and citizens of the society they have immigrated to.

However, whether representative frameworks of trauma actually spur productive action for refugees is another story. There are limits to the assumption that representations of traumatised refugees automatically devolve into feelings empathy from the public. Instead, this article would argue that mediatic frameworks of trauma create feelings of pity within the public, rather

than empathy. This leads to a power structure whereby aid is marketed through a currency of pity and suffering: and, crucially, pity does not always incite us to act. Instead, pity reinforces relationships of domination (Guinea 2003). As Arendt said: '[pity] has just as much vested interest in the existence of the unhappy as thirst for power has a vested interest in the existence of the weak' (Arendt 2006, p. 79). In other words, pity, or what is advertised as such, can quickly become a medium by which agents can increase their power and control in a certain situation. And even through permissive empathy, the object of that empathy—the refugee—would remain stuck in what I will call the 'victimhood trap', which refers to the public's conceptions, labels and social conditions of 'the refugee' as a permanent helpless victim (Pupavac 2008). As Foucault coined it, the refugee would be transformed from an individual into a subject 'to someone else by control and dependence, and tied to his own identity by a conscience or self knowledge' (Foucault 2020, p. 339). In that sense, media frameworks depicting refugee traumas establish a *normalising gaze* that distances the figure of a refugee from the public. Indeed, a framework of trauma by which refugees are solely represented as victims that are to be pitied, only further entrenches their roles as victims, and does not enable them to be perceived by those in a position to help as anything other than that. This framework thus cements refugees in a victimhood trap whereby their route towards socio-political consideration or integration by other actors is made difficult.

THE VICTIMHOOD TRAP: SOCIO-PSYCHOLOGICAL EFFECTS AND CONSEQUENCES ON REFUGEES' POLITICAL AGENCY

Beyond the victimhood trap, trauma frameworks also imply a frequent agency trap: if refugees are considered and depicted as traumatised, and thus by definition are subjects to mental disorders, then a logical corollary would be that they are not in a fit state to make decisions for themselves (Cohen 2016). Firstly, the medical label of the 'traumatised refugee' entails a transfer of the refugee's autonomy and mental integrity to political and medical bodies. Secondly, the categorisation and representation of the refugee branding them as ill, impair their moral as well as political agency (Pupavac 2008). Because medical frameworks recognise trauma and its symptoms as mental illnesses, then traumatised refugees are medically considered as ill. As such, their rights often do not fully belong to them and are delegated to an external political or medical authority. This very clearly disempowers the refugee, as they would now be put into a position of dependency. For example, a 1989 study by Mollica and Jalbert has shown that humanitarian assistance to interned refugees has actually yielded pathological dependency and low socio-political engagement and agency (Cunningham & Silove 1993). The social, medical or mediatic label of the 'traumatised refugee', or more specifically, the conceptual framework of trauma (Pupavac 2008), can easily shift from a protective mode of governance to a paternalistic mode of healthcare by which social control is activated through an enactment of the mental health system as a political project (Cohen 2016). In that sense, frameworks—whether they be medical, mediatic or conceptual—seeking to label the refugee as ill or of limited capacity to reason because

of their trauma, can delegitimise refugees' political agency as well as a conception of them as 'full beings' or 'full citizens'. Although this is also largely due to the stigma connected to mental illnesses, this argument holds relevance in consideration of the refugee crisis: as Arendt comments, if refugees are 'regarded as belonging to a political community then their rights are more likely to be respected than if they do not' (Pupavac 2008, p. 272). In that sense, refugees cannot be considered 'full citizens' or belonging to a new political community if they are constantly represented or labelled as victims with limited capacity to reason or agency. Trauma frameworks have the potential to alienate them and hinder their efforts towards integration.

Beyond political agency, this article would argue that media frameworks of trauma, representing refugees as traumatised, physically deprived and mentally damaged individuals, undermine their humanity itself. Indeed, many media representations of refugees have drawn up pictures of refugees as scrawny, desperate bodies-in-need, which although reflecting the reality of many refugees, also vehicles a negative image of them as 'sub-citizens' through corporeal vulnerability (Hyndman 2000). In the next part of this essay, this point will be illustrated with a few media representations of refugees that serve to show how frameworks of trauma crystallise and normalise refugees as not only disempowered victims, but also, and more alarmingly, as mentally damaged or incapacitated. These visual representations echo the belief that refugees do not have the capacity for political participation, nor do they have political agency. Ultimately, these media frameworks of trauma highlight the implicit conditionality for receiving aid, and the ways in which only a portion of refugees are unconsciously collectively selected to be helped because of their sensationalist potential, that is to say, the shock value of powerful images portraying their trauma itself.

THE MEDIA SENSATION OF 'THE POWERLESS REFUGEE'

Frameworks of trauma can often hurt refugees as it erases parts of their identity in an effort to make them more palatable to the public. Humanitarians often wish to advance a picture of a traumatised disengaged refugee in order to avoid any political opposition and polarisation (Pupavac 2008). As such, trauma is often a way to neutralise the refugee. And this tendency to neutralise the refugee often takes shape in the form of infantilisation and feminisation. Indeed, most media frameworks of trauma predominantly involve representations of children refugees. This has an immense humanising potential, and leaves great opportunity for empathy, as children are most often associated as pure, innocent, and politically disengaged figures. For example, the viral photograph of Syrian toddler Aylan Kurdi, who drowned on the coast of Turkey in September 2015, highlights how, in fact, 'children dramatise the righteousness of a cause' as Moeller says, in that 'their innocence [is] contrasted with malevolence (or perhaps banal hostility) of adults in authority' (Moeller 2002, p. 39). However, this framework is extremely damaging as well. In order to portray the trauma of refugees as well as the ways in which refugees are innocent victims, media outlets have used child imagery, but have disregarded how this reinforces power structures of the West versus the Rest.

As Burman puts it, if children suffer, they then plead for help, which refers back to a colonial narrative whereby the 'adult-Northerner offers help and knowledge to the infantilised South' (Burman 1994, p. 241). In depicting refugees as children in need, refugees are ultimately disempowered to represent their own narratives, and to claim their rights themselves. The predominantly feminised images of refugees are a further manifestation of this tendency. For example, as Margaret Stetz's analysis of a photo of a Kosovar woman refugee shows, the portrayal of a mother carrying her child emphasises the tragic dimension of the refugee cause (Nyers 2006). The representation of traumatised refugee women also advances a view of refugees as politically blameless, innocent and ethical selves that are not political subjects in any way. The broadcasting of women and children as traumatised and suffering has great shock value, and has the potential for great emotional triggering, as it appeals to sacred social ideals of women and children as sacred, innocent and pure beings.

This reveals a larger problem. Indeed, these representational frameworks of trauma are often drastically disconnected from the refugee's own sense of self. For example, many refugees do not see themselves as victims or as traumatised, but rather see themselves as resistants or combatants, as is the case for many Palestinian refugees that were displaced to Lebanon in the late 20th century (Fassin & Rechtman 2009). In this sense, a framework of trauma does not take into account the multiple realities of the refugee experience, and rather fragments the refugee's identity into mutually exclusive parts whereby one cannot be a victim and a political agent. Hence, frameworks of trauma create dichotomies of the 'good' refugee versus the 'bad' refugee, and banks on trauma as the key characteristic defining the 'good' refugee (Silverstone 2002). Current media frameworks representing refugees as traumatised, and as politically disengaged—or innocent—excludes how refugees can be traumatised including in potentially controversial ways. Refugees who are politically active are often viewed as threats, and therefore are rarely represented or given aid. This is why women and children are usually the covers of issues on refugees—a picture of a man connotes strength, assertion of opinion, and political engagement. Here, representational frameworks of trauma do not help refugees insofar that they over-simplify and draw a Manichean version of what a refugee should look and be like. Any politically active refugee is instead either viewed as a 'faceless stranger' (Banks 2012, p. 294), or is viewed as a potential terrorist (Malkki 1996).

Using reductive as well as allegorical figures of victim versus perpetrator, frameworks of trauma thus do not necessarily help refugees. Instead, these frameworks can become quite harmful, insofar as the attention, compassion and aid they advertise to the public is contingent on what qualifies as a 'worthy' or 'good' refugee rather than the refugee's actual experiences and particular traumas. One example of allegorical figurations intended to make refugees' trauma more palatable to extern and often Western audiences include contemporary representations of refugees mirroring biblical patterns of forced migrations such as 'The Expulsion from the Garden of Eden' or 'The Flight into Egypt'. For example, Darren Whiteside's 1999 photograph of a couple in distress accompanied by an armed guard in East Timor, echoes

back to Masaccio's biblical painting titled *The Expulsion from Paradise*, with Adam and Eve being sent to Earth as punishment for their sins by an angel (Wright 2002). On the long-term, these representations can have harmful consequences, in that, whereas empathy is largely based on similarity, these images further entrench the power differential between the refugees and the Western public. The relationship easily shifts from one of aid to one of an audience viewing refugees' horrors, one of 'us' versus 'them'. Because refugees' trauma is displaced from our own everyday experiences, and is only conveyed through media outlets, this places the refugee crisis and refugees' traumas as dramatic stories re-told, as non-entertaining entertainment. In that sense, media frameworks of trauma have increasingly become sensationalist and exploitative. A consequence is that many refugee groups are left out of the conversation completely, and only a select few images—the ones with the most shock value—are chosen to be represented, a framework which can help one group selected by a Western audience, but only at the expense of other, less unanimously palatable groups.

Even for groups of refugees which are represented, humanitarian and media frameworks of trauma dispossess these refugees from their own stories. Individual photographs of refugees that are circulated often show pictures of distressed and desperate women, but do not share anything about their stories—their names and their histories are completely removed from their portrayals. This reveals how the humanitarian and media frameworks of trauma are not actually focused on the needs of individual refugees per se, but rather on the collective representation of them as dispossessed beings. News outlets often refer to forced displacement through headlines of 'Aid official: Thousands of Afghan refugees fleeing to Iran' (Vahdat 2021), or 'Thousands of Iraqi, Syrian refugees shiver at Belarus-Poland border' (Lucente 2021). This article would argue that representing these crises through a mass of traumatised individuals does not help refugees. Indeed, representational frameworks of trauma are inefficient if they refer to a generalised group of people. As Nyers put it, 'clustering refugees into one single undifferentiated mass deprives them of their biographical specificity as historical beings' (Chouliaraki & Stolic 2017). Moreover, states are, for the most part, more reluctant to grant asylum to large groups of traumatised refugees (Pupavac 2008). As Silverstone coined it, 'substantial' responsibility is only activated through narratability, whereby individual stories, dreams and challenges are translated and heard. However, this notion is absent from current media frameworks of trauma. Media frameworks of trauma can only help refugees if they include this notion of narratability at the core of their representations.

DOES PALATABILITY NECESSARILY MEAN REACTIVITY?

One may argue that these media frameworks of trauma, and representations of the refugee crisis may be the only way to elicit action, and that whatever shortcomings they may entail, their benefits outweigh their controversies. From a utilitarian perspective, indeed, it could be argued that the hurt of the erasure of refugee identities, in the service of making them palatable to the public, does not outweigh the gains of that palatability. How else to raise awareness on the refugee crisis, and on refugees'

respective traumas? Using images that will resonate with those that view them is often the only way to spur public action. As Ignatieff contends, ‘images can only instantiate something if the viewer is already predisposed in the form of a moral obligation’ (Wright 2002, p. 54). Thus, if representations of refugees as traumatised, as women and children, or as near-biblical figures evoke a sense of responsibility within the viewer, then these representations might be most helpful even if they do entail other, more conceptual harms. As Médecins Sans Frontières claims, the aim of a humanitarian or advocacy group is to inform and raise awareness on situations of distress encountered by medical teams (Fassin & Rechtman 2009). For example, on November 25th 2021, Sky News released an article, stating that ‘[d]ozens of migrants have been brought ashore off Dungeness - hours after 27 died near Calais while attempting to make the same journey across the Channel. Women and young children were among them’ (Mehta 2021). This last statement emphasises how trauma, specifically applied to women and children, is a more sensationalist and effective framework to spread information on refugee crises. In that sense, representational frameworks of trauma focused on feminised or infantilised figures, can help evoke a reaction from the public and governments alike. Here, frameworks of trauma often make it so the refugee is not only recognised but also legitimised as a refugee.

However, even if productive action occurs—whereby asylum is granted, policies are changed, or the public donates—as a result of the media framework of trauma, the fact that this action occurs on the basis of apolitical, victim-based help is concerning. From a moral perspective, this representation of refugees as traumatised, and as necessarily disengaged beings, ultimately removes the very humanity of the refugee. More importantly, from a utilitarian perspective, palatability does not necessarily lead to any concrete or long-term action. Indeed, most media frameworks of trauma do not incorporate clear calls to action within their outlets. Perhaps if a key component of news stories, images or videos representing traumatised refugees, consisted of clear steps the public could do to help, then these frameworks would help refugees in a practical way. In this sense, representational harms are not just conceptual, as they are intrinsically linked to the perpetuation of refugee status. Furthermore, from a practical perspective, if it is only when people are regarded as belonging to a political community that their rights are more likely to be respected (Arendt 1985), media frameworks of trauma framework risk cementing refugees outside the political communities they could otherwise claim.

BAND-AID OVER A BULLET WOUND?

Ultimately, the removal of political components within frameworks of trauma makes it so the refugee experience is solely understood as and through victimisation. Centring frameworks of trauma on the refugee’s psychological experience rather than the political situation’s outer causes places the notion of political and long-term accountability off the agenda. Aid is consequently directed towards relief efforts or individual psychological support, rather than targeted at the root-cause of the problem that forced individuals out of their homes in the first place. For instance, one might consider that medical and media frameworks overlook the responsibility for reparation of refugees’ collective

traumas caused by both their local leadership, as well as Western interventions or decisions to back those states, be it the United States propping up dictatorships in Chile or Cuba ensuing a large Latin American refugee crisis, or be it Western intervention in Libya leading to the collapse of the central government and a subsequent Libyan refugee crisis. In that sense, global aid and current frameworks of trauma are somewhat displaced from the cause or perpetrators of the trauma to the symptoms, manifestations and victims of it. This renders media as well as medical frameworks of trauma insufficient and haphazard means to truly *help* refugees, as they are neither preventative nor permanent. Hence, it is not just that these frameworks are band-aids over a bullet wound, but it is that band-aids elude any responsibility or reparation for the bullet wound.

Viewing, representing and treating refugees as traumatised may attend to the symptoms of the refugee problem, but at their core, these do not address the structural problems that have created refugees’ trauma and more broadly, that have created refugees themselves. Indeed, although treating refugees with trauma techniques and therapy methods that soothes their mental health is helpful, it is a case by case, individual approach that does not tackle the institutional failures that have led to the current refugee crisis in the first place (Cohen 2016). In that sense, an over-medicalisation of the refugee problem, and conceptualising refugees as traumatised first and foremost, as victims of their trauma rather than as victims of their oppressive states, overlooks the social contexts within which and because of which refugees’ traumas arise. In order to avoid accountability for its actions of supporting establishment and maintenance of many oppressive states, as well as its responsibility for other actions and interventions that have led to refugee crises today, Western political leadership has framed refugees’ trauma as a medical, natural condition of displacement. However, the nucleus of the refugee crisis and of refugee traumas is not located in refugees’ mental health pre-immigration or post-immigration, but it is rather a socio-politically created problem. As Higginbotham and Marsella put it through their study of Southeast Asia, ‘investing authority in biomedical reasoning about human problems eliminates explanations of disorder at levels of psychologic, political and economic functioning. Consequently, problems with origins in poverty, discrimination, role conflict and so forth are treated medically’ (Bistoën 2016, p. 31). In short, frameworks of trauma can often look more like a biography than a comprehensive understanding of the cultural and political contexts of that trauma (Nemiah 1989). This portrayal not only distracts from Western political action, but actively advances the narrative that political action is not morally required even in cases when it is. In that sense, both media and medical frameworks of trauma cannot help refugees as a collective group to the extent that within these frameworks, help is often limited to humanitarian efforts, whereas the cause of the refugee crisis is rooted in political action.

CONCLUSION

On the one hand, medical frameworks of trauma can help refugees on an individual, case by case basis. On the other hand, media frameworks of trauma can only help refugees if they are targeted at, and include, clear

specific actions for the public or governments to take. Today, both medical and media frameworks do not help refugees as a collective group for three reasons. The first reason is that the trauma of refugees, by being clinically and representationally emphasised, might portray them as having limited capacity. In that sense, before they reap the benefits of a trauma framework, refugees will reap the harms of trauma stigmas, which are compounded in a group that is already vulnerable to discrimination. The second reason is that these frameworks rely on, as well as perpetuate, a stereotype about refugees as helpless victims, which cements a power dynamic that

undermines empathy and makes action conditional. Thirdly, these frameworks remove the political nature of the refugee crisis and the refugees' identities themselves, which both hinders their chances towards integration, as well as erases any demand for political accountability, responsibility and action. Ultimately, what may be needed for trauma to serve a positive role for refugees is not the imposition of external frameworks of trauma, but the organic processing and use of trauma by refugees themselves to create and reclaim political agency and solidarity, even across transgenerational lines.

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A Misrepresented Legacy: An Archival Investigation into the Adequacy of Du Bois' Theory of Racial Capitalism

Magnus Oakes

INTRODUCTION

Du Bois has often been taught as a theorist of the psychological effects of racial inequality. While the theory of 'double consciousness' is undoubtedly his, a search for 'double consciousness' on the Du Bois archive returns zero results whereas one for 'socialism' returns 2,245 results, one for 'capitalism' returns 238 results and one for 'economic' returns 1,219 results. This suggests that Du Bois theorised the economic dimension of racial inequality in similar or more detail than his psychological theories, but that this is not represented in how Du Bois is taught. This misrepresentation of Du Bois' theory has been investigated academically outside of his archive by Andrew J. Douglas (Douglas 2019) who also advances the theory that Du Bois had a theory of *racial capitalism*. However, the resources of the archive allow for a deeper investigation into his model. This investigation of Du Bois' theory of race and capitalism through the Du Bois papers aims to show how Du Bois also provides an adequate theory of racial capitalism and therefore of the material effects of racial inequality.

As Du Bois did not set out in any of his texts to primarily theorise racial capitalism, collecting his thoughts on the matter has proven challenging but fruitful. Racial capitalism in the simplest sense should be understood as the processes by which the structures of capitalism and racism support each other i.e., how capitalism makes use of racism to protect and increase profits. Du Bois' own argument of what makes up racial capitalism is more complicated. The core parts of his argument are that: colonialism did not end with the end of colonial administration, the labour of Black people is crucial to economic growth as they are not fairly compensated, and that racism and racist economic relations played a crucial role in the creation of capitalism. Many of these arguments appear Marxist in nature and thus the much debated extent of Du Bois' Marxism (Buschendorf 2017) will be engaged with. This debate is not however crucial to understanding Du Bois' model as it stands on its own analytically. These key features will be explored through an evaluation of the adequacy of Du Bois' model, which will include an investigation of mechanisms, where that structure stands historically and an exploration of the people living under that structure (Mills 2000, pp. 6–7).

MECHANISMS

For Du Bois, racial capitalism as a mechanism is not just the 'the process of deriving social and economic value from the racial identity of another' (Leong 2013, p. 2152), but the defining characteristic of modern economic life. Du Bois even describes the colour line,

a product of racial capitalism, as 'the problem of the Twentieth Century' (Du Bois 2007a, p. 3). It is important to consider both the international and national aspects of this structure. It must be emphasised that this is a distinction created for academic ease as Du Bois' theory avoids methodological nationalism for the most part.

Internationally, Du Bois shows how the formerly colonised are not freed from their shackles and are still economically exploited. Decolonisation for Du Bois is a false liberation as countries that are nominally free are still controlled economically by the same colonial powers that used to rule them directly. He compares the false liberation from colonialism to that of slavery and argues that '[i]n a similar way today, there are many countries which have nominal independence which are under almost as complete control by other nations as formerly' (Du Bois 1954, p. 1). This is a compelling description of the structure as it speaks to both the racial and economic similarities in the master freed slave and colonial core free periphery relationship. In both past unequal relations dominate current "free" relations. For both the freed slave and the politically liberated colony their economic options are so limited that they have no option but to work for their former employer. While Du Bois certainly admits that there is 'more freedom and possibility of progress' with both changes in relation, he highlights that it is a matter of 'degree not of essence' (Du Bois 1954, p. 2).

Du Bois' theory then identifies the key ways in which the structural relations of international trade are built around domination and control. He shows that '[s]he [India] must pay prices determined in London and New York and sell for prices set in San Francisco and Paris' and '[s]he must manufacture not what her people need but what Europe and America want and will buy' (Du Bois 1954, p. 2). This argument is important as it establishes the ways that capitalism benefits from racism on an international scale. Du Bois' argument is not that these prices are set by racists. Instead, he contends that the conditions which enabled particular individuals to set prices and in the control that price-setting affords them. This is because price setting control entails immense power over another's economy. The preference towards cash crops in the post-colonial world is a good example. Du Bois mentions production in the post-colonial world is catered to what people in Europe and America want, which has led to a continuation of the prioritisation of cash crops over traditional farming habits (Tosh 1980). This establishes a dependency on foreign desires and prevents indigenous economic growth as cash crops are often very labour-intensive but only benefit a few wealthy shareholders and consumers

in Europe and America, who acquire cheaper, luxury crops. In this instance, Du Bois was clearly perceptive in his conception of the racial capitalism present within price setting abroad and its structural nature.

The extraction built into this structure is further explored by Du Bois. In a page from his archive he sketches out the profit rates of colonial endeavours and shows how much wealth is being extracted from South Africa and Northern Rhodesia (modern day Zambia) (Du Bois 1945). It is clear from these brief notes that more is being taken out of these countries than is invested into them. This fits into what Du Bois points to as the motivation for colonialism: 'private profit from low wages of coloured workers and low prices for priceless and unusually desired raw materials all over the Earth' (Du Bois 1954, p. 3). We are left, therefore, with a structure that is more than adequate. Du Bois identifies the mechanics and components of international racial capitalism and explores its motivation.

Du Bois additionally explores the mechanisms of racial capitalism within the US. Domestically, Du Bois explores both the racial and capitalistic dimensions of racial capitalism. As a lot of his sociology was "public" sociology, a term used historically with scorn, much of his analysis of the US was less mechanical. Nevertheless, Du Bois maps out the structure of racial capitalism to a degree. He identifies that '[t]he basic ill of Negroes is poverty and inability to get work which they qualify at pay equal to that paid white folk' (Du Bois 1949, p. 4). Importantly, he expands this picture to include that Black people 'were the toilers who helped make this land rich and prosperous' (Du Bois 1960a, p. 2), and that their path to wealth is not built on 'the number of Cadillacs we own' (Du Bois 1949, p. 4). Du Bois shows here both an understanding of the past and present role of Black people in the creation of wealth within the US.

Beyond this, Du Bois explores the contradictions of capitalism itself within his structure. He argues that 'the true object of business should not be profit, but service' (Du Bois 1960b, p. 11). Adopting an anti-capitalist stance, Du Bois argues here that a profit-motivated society fails to deliver for most people. In fact, in other texts, he supports the Labour Theory of Value. In arguing that 'vast unearned income should not be given to the man who steals the land and takes from the laborer that which is his due' (Du Bois 1960b, p. 11), Du Bois gives labour the Marxian position of the creator of value. While this quote references international resource exploitation, the concept of the labourer creating the value remains the same. Du Bois reiterates this when discussing race, arguing that those who are the most racist are also those who 'who fatten on their unpaid or half-paid toil' (Du Bois 1949, p. 4). Thus, there is a clear trend in Du Bois' work that goes beyond critiquing racial capitalism, as he also challenges the basis of capitalism itself.

Du Bois is not, however, dogmatically anti-capitalist, as he argues in his writing that 'if you want to be a Capitalist, be a Capitalist; show the world what you can do, employ all your workers, heal you're sick, educate your youth and stop their crime, curb gambling, take the chains off your writers and speakers and free the Negro' (Du Bois 1960a, p. 11). The extent to which these goals are achievable under capitalism is debateable, as much of Du Bois' work shows. However, it is notable that he somewhat accepts capitalism as an acceptable

path to follow. Therefore, while Du Bois was influenced by Marxism, he was not an orthodox Marxist—while he extensively critiques the flawed nature of profit as the primary motivator of society, he does not completely reject capital ownership.

Furthermore, Du Bois links the domestic structure of racial capitalism with the international, showing his lack of methodological nationalism. Du Bois' analysis extends beyond individual nations and accounts for the connectivity of racial capitalism. In a poem at the end of a speech, Du Bois reminds listeners to think of those 'who feed the world // who clothe the world, // who house the world?' (Du Bois 1960a, p. 13). In this speech, Du Bois is addressing and discussing the future of the 'American Negro', and it is notable that he links their struggle and existence with the international one. Therefore, while Du Bois presents a structure of sorts for domestic racial capitalism, it is less mechanically extensive than his framework for international racial capitalism.

THE NATIVE GAP

There is, however, an undeniable gap in Du Bois' analysis. Du Bois misses the important domestic and international role of native people in racial capitalism. In much of his discussion of international structure, indigenous populations outside of Africa are left unmentioned and within the US there is little discussion of native land. Du Bois fails in this regard as the relations and history of native people provide rich material for the sort of analysis Du Bois carries out regarding Black folk. Discussions of how best to ameliorate the Native experience, debates over how Native people should and have been forced to engage with capitalism and an exploration of Native history would all fit well within the wider narrative Du Bois constructs. For example, the violent removal of native people's land and culture fits well into Du Bois' narrative of continued exploitation despite increased freedom. It is clear from his archive that he was aware of the Native struggle and in Africa he speaks from time to time of the importance of protecting Indigenous African people (*Bureau International pour la Défense des Indigènes* 1920).

However, this critique should be considered in light of Du Bois' background, as Du Bois was a Black thinker exploring and analysing Black relations. His focus within organisations like the Atlanta Sociological Laboratory was on Black Americans, as it was his area of expertise. Therefore, while the comparative lack of analysis on indigenous peoples is perhaps questionable, levelling an accusation of inadequacy may be too harsh as native relations were not within Du Bois' purview or traditional area of focus. Additionally, Du Bois' methods of analysis are applicable to Native people; analysing the Native experience through the Du Boisean lens would be very possible.

Hence, while there is one notable gap in Du Bois' structure—the lack of analysis of indigenous peoples—he does present, overall, a coherent and convincing model of how wealth is extracted domestically and internationally from Black people but misses a more complete analysis of capitalism by not analysing Native people. The analysis of the extraction of wealth from the land that has already been explored would only be furthered by the inclusion of Native people but is not made inadequate by their exclusion.

WHERE DOES IT STAND

For Du Bois, racial capitalism is a necessary precondition and core part of modern capitalism. His theory both explores the historical role of racial capitalism and shows the ways in which capitalism and race interact politically. In this way Du Bois' theory is both full of political action and a theory about the world as it was in his time and how it came to be.

He advances this theory by primarily showing how capitalism is built upon race and racism. Du Bois argues that slavery was both 'the first experiment in organized modern capitalism' and that 'which indeed made capitalism possible' (Du Bois 2007b, p. 50). Du Bois' conception of racial capitalism is thus a historical mode of relations that is both a prerequisite for-- capitalism itself and a form of capitalist organisation. This differs slightly from the more traditional Marxian approach which holds that slavery both operated as 'pre-capitalist' and a part of 'industrial capitalism' (Novack 1939, p. 3). While it is important to emphasise that Marx was a strong abolitionist (Marx 1864), he does not afford slavery the importance that Du Bois does. They do agree however that it is not a historical constant. It is specifically 'the problem of the Twentieth Century' (Du Bois 2007a, 29). Du Bois therefore uniquely situates the birth of capitalism through racism.

He further explores how the history of racial capitalism has been the underlying causes behind much of history. In arguing that the seeking of colonial profits 'turned Germany to militarism' and is the driving force behind American militarisation Du Bois places racial capitalism within a wider historical context and shows how it influences history (Du Bois 1954, p. 4). By placing economic interests at the centre of his analysis, the model both explains events that happened and those that did not. He underpins this by using racial capitalism to aid in conditional arguments like 'If the Russian revolution had never taken place, there would have been the same effort on the part of our industrial organization to restore and maintain profit from colonial enterprise' (Du Bois 1954, p. 4). The argument here uses his model to pose and answer a counterfactual, and also proves the historical applicability of his arguments. Arguments like this place Du Bois' theory of racial capitalism within a wider historical setting.

Du Bois is primarily concerned with the liberation of Black folk as a separate but *externally connected* struggle to that of class. The term "externally connected" means that while the struggles are strongly related, they are not 'inextricably entwined' (Bhattacharya 2017, p. 110). This is important to note as Du Bois' argument for Socialism is one that is built upon his argument for Black liberation. Du Bois believes that 'race hate will persist in the United States even when the lines of class struggle are closely defined and the Russian experience is so definite that it does not disprove but rather strengthens my belief' (Du Bois 1931, p. 1). While Du Bois' commitment to socialism is clear, this train of thought within his model of racial capitalism strongly argues that issues of race are externally connected to capitalism and that they each require separate liberations to some extent. Du Bois is clear that 'we must then vote for Socialism' and that there are ways in which capitalism and race are strongly intertwined. However, he is also very clear that he is 'not fighting to settle the question of racial equality in America by the process of getting rid of the

negro race' and instead aims to create 'the possibility of black folk and black cultural patterns existing in America without discrimination and on the terms of equality' (Du Bois 1960b, p. 4). For Du Bois this is a struggle that is connected to capitalism but must also require its own, independent liberation. In this way Du Bois' theory differs from the work of more recent Black feminists, such as that of Angela Davis, that aim to see race and capitalism as 'systemically related' (Davis 1982, p. 66), and also from other left-wing models that simply characterise race as part of class struggle (Jones 2008, p. 4).

There are however times where some of Du Bois' work does support this internally connected model of race and capitalism. In discussing foreign policy of the United States Du Bois points out how race and capitalism work for one another. In arguing that 'if white labour gets ideas of wages too high for the present level of your profits' capitalists will levy the economic profits of imperialism to convince them to 'kill off the darkies of the world' for increased weapon production profits (Du Bois 1954, p. 6). Du Bois shows here that the racism of the world is subsidised by the capitalist profit motive and, more specifically, that capitalism uses racism to protect it. Furthermore, in *Black Reconstruction*, he concludes the argument with a harrowing picture of the United States that came out of the failures of Reconstruction. In this analysis there are even clearer trends of a more internally connected theory. Du Bois explains how 'the United States, reinforced by the increased political power of the South based on disfranchisement of black voters, took its place to reenforce the capitalistic dictatorship of the United States, which became the most powerful in the world, and which backed the new industrial imperialism and degraded coloured labour the world over' (Du Bois 2017, p. 563). Here Du Bois shows how capitalism requires racism and racism requires capitalism. He shows how capitalism requires the disenfranchisement of Black people and the racialisation of the Global South.

Hence, politically, Du Bois' image of racial capitalism is more complicated than a simple, external connection between racism and capitalism. Du Bois paints a picture that shows internal connection to an extent but emphasises giving each struggle its own place. This again places him in a somewhat unique place academically as he stands apart from some of his contemporary left-wing activists and modern theorists like the aforementioned Angela Davis.

WHO ARE THE PEOPLE

Du Bois aimed not to simply analyse racial inequality but to solve it. He aims to 'lay down a line of thought and action which will accomplish two things: the utter disappearance of colour discrimination in American life and the preservation of African history and culture as a valuable contribution to modern civilization as it was to medieval and ancient civilization' (Du Bois 1960b, p. 6). In turn, much of his analysis is interspersed with messages of hope and radical change, especially regarding Black folk, as his aim was not simply to analyse the world but to change it. This is not to say that Du Bois did not explore and confront the realities of living under racial capitalism; rather, he wanted to look to the future instead of simply lamenting the present.

Du Bois is clear that for Black people there is a hope

¹ 'Euromarkets' is a somewhat misleading name which refers to markets and trading done in a currency other than the local one, most often US dollars.

outside of the 'so called American way of life' (Du Bois 1960a, p. 6). He presents Black people with hope and the possibility of a better future through the end of capitalism and the protection of Black culture. He argues against the idea that Black people are 'dominated ... by Negro capitalists' and strongly argues that the working class and Black people share interests (Du Bois 1931, p. 1). For Du Bois, therefore, Blackness is more than simply skin colour. He is clear that if Black people were to adopt white American culture they would 'cease to be negroes and such and become white in action if not completely in colour' (Du Bois 1960b, p. 2). This is a powerful argument as it shows that Du Bois' understanding of race is not biologically essentialist. Du Bois fears that 'we [black folk] are losing our souls to gain' (Du Bois 1954, p. 6). This is a powerful exploration of the black experience under capitalism. Du Bois often explores this false choice or 'cruel dilemma' often in his writing about Black people living under racial capitalism (Du Bois 1960a, p. 1). He bemoans that Black folk are 'asked to follow it [American way of life], to praise it, and not to criticize it on pain of losing their jobs and status' (Du Bois 1960a, p. 6). Hence for Du Bois, the Black experience is difficult in the sense that to succeed within the system means giving away much of yourself. The extent to which this is a uniquely Black experience is not fully interrogated but Du Bois' point stands. His analysis here links strongly to his previously explored beliefs about equality and his disdain for it. The key to liberation is not working within the system but the abolition of it through voting for socialism and protecting Black history (Du Bois 1960b, p. 18; Du Bois 1960b, p. 4). Du Bois' theories thus articulate the difficulty of being Black under racial capitalism and the contradictions that have led him to advocate for its abolition.

Du Bois' engagement with white people is also worthy of exploration; he does not bring the same messages of hope to white people but is clear about where they sit in the racial hierarchy. There is a note of sympathy when he discusses white people 'putting their sons in uniform to die for big profits' (Du Bois 1954, p. 6). However, this is not a trend as in other writings he attacks 'the white American' who 'grew up thinking he had a right to make "niggers" work and to steal their

resources at the point of bayonets, greased with religion' (Du Bois 1954, p. 6). This tone certainly reappears in his essay 'Winds of Time', in which he notably specifies the wealth of a white man by addressing him as 'Mr. Rich White Man' (Du Bois 1947, p. 1). In this essay Du Bois shows the depths of white power over the world as we know it. His exploration varies from discussions of how 'free' the press are to labour unions to military spending (Du Bois 1947, p. 2). In all these categories, Du Bois mocks the arrogance and self-entitlement of white people. This essay is, however, not an analysis of all white people but just those 'free white Americans with an income in five figures' (Du Bois 1947, p. 2). It is the intersection of race and class then for Du Bois that creates those worthy of mocking.

Furthermore, there is a shared belief about race underlined in Du Bois' analysis of white and Black folks: neither are at all biologically based. Even when mocking white people, Du Bois makes no mention of characteristics that are racially inherent and instead focuses on behaviours and beliefs, in a similar manner to Du Bois' understanding of Black people reaching far beyond their skin colour. Thus, Du Bois' portrayal of those under racial capitalism reveals wider parts of his beliefs.

CONCLUSION

Du Bois presents a coherent model of racial capitalism. In some areas, it is far better than adequate. His model shows how capitalism and race are intertwined and how they intersect. While a variety of archival material was necessary to construct the model in its entirety, it is clearly compelling and offers a novel, socialist perspective on colonial history. This is a model that could certainly be taught alongside his more psychological work and would aid in providing a deeper understanding of the relationship between racism and capitalism. Where Du Bois is clearly very convincing in his model and has a lot to offer is how he differs from the Marxian tradition in his placement of slavery at the core of the birth of modern capitalism. It is clear, therefore that Du Bois proposes a unique and well-grounded model of racial capitalism that differs from his contemporaries.

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