

# **The UConn Undergraduate Political Review**

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## Letter from the Editor

*Shankara Narayanan*

12/9/20

Dear Readers,

It is a privilege to write to you as Editor-in-Chief of the University of Connecticut's Undergraduate Political Review. In this tumultuous semester, we are proud to publish the eleventh edition of the journal and to welcome Sofia DiNatale and Mohammed Hussain as Assistant Editors. We are in our fifth year as an organization, and we are excited by the growth of our publication.

In addition to submissions from our staff writers, this semester's edition contains articles by members of our Editorial Board. We have chosen to analyze emerging trends which will determine the future of politics and society in the 2020's. 2020 proved a pivotal year, as we witnessed the COVID-19 pandemic, a resurgent civil rights movement organized around police brutality, the death of Supreme Court Justice Ruth Bader Ginsberg, and a national election rife with discord. In our Editorial essays, our team has traced the future trajectories of key issues such as crisis management, structural politics, Big Tech, and race relations.

The articles included in this edition were written by undergraduate students, and they have undergone a rigorous peer-review drafting process overseen by our student-run editorial team. We accepted submissions on a wide range of pressing political issues. We are proud to feature articles on topics ranging from Turkish Nationalism to Supreme Court term limits.

This publication would not have been possible without the support of several people. I would first like to thank all of our editors and writers for their perseverance through this semester. Several students from our original pool of writers were unable to continue participating in our revision process because of the unique challenges experienced this Fall. Our writers who continued on through the process submitted excellent papers, despite navigating the effects of a global pandemic. We could not have published such quality research articles without a dedicated group of undergraduate students. I would like to thank last year's Editor-in-Chief, Kyle Adams, for leaving the Undergraduate Political Review in a strong place and ensuring a smooth transition into new leadership. I would also like to thank Dr. Oksan Bayulgen and the University of Connecticut's Department of Political Science for their continued support. We are grateful to have a supportive environment in which to improve our writing, editing and analytical skills.

Lastly, our readers should know that we accept new writers each semester. We encourage talented University of Connecticut students from all campuses to apply by emailing a resume and writing sample to [uconnpoliticalreview@gmail.com](mailto:uconnpoliticalreview@gmail.com).

Sincerely,

Shankara Narayanan | Editor-in-Chief

## A Double Public Health Crisis: The Coronavirus and the Opioid Epidemic

*Sofia DiNatale*

The opioid epidemic has driven increases in deaths throughout the United States over the past 30 years. In 2017, when the Department of Health and Human Services and President Trump declared the opioid crisis a public emergency, drug overdose deaths reached a record high of more than 70,000.<sup>1</sup> Almost 70% of drug overdose deaths continue to be attributed to opioids such as prescription painkillers and heroin since 2018.<sup>2</sup> In addition to the opioid crisis, the country has been confronted with another public health crisis, the coronavirus, notoriously known as COVID-19, since March of 2020.

In the nine months since COVID-19 was declared a pandemic, the opioid epidemic has worsened from its already detrimental state. U.S. fatal drug overdoses rose last year, reversing a one-year-decline from around 2018, indicating that this public-health crisis was worsening as the coronavirus pandemic was anticipated to begin.<sup>3</sup> The pandemic has “destabilized people trying to maintain sobriety or who are struggling with addiction during a time of increased social isolation and stress, according to treatment providers and public-health authorities”.<sup>4</sup> Individuals who suffer from opioid use disorders are also more likely to have suppressed immune systems, are at greater risk for respiratory infections, and may have underlying health conditions such as lung and heart diseases, making them more susceptible to COVID-19. These health factors could present a greater risk for COVID-19 infection or more severe cases of the disease. In addition to risk factors for coronavirus, a survey of U.S. adults released by the Centers for Disease Control and Prevention, 13% of respondents in June said they had started or increased substance use to deal with stress or emotions related to the disease. More than 40 states have recorded increases in opioid-related deaths since the pandemic began, according to the American Medical Association.<sup>5</sup> With hundreds of deaths each day from both crises, the race to a solution has become imperative.

Addiction to opioids originated in the 1980s when a multitude of scientific journal articles was published regarding prescribing opioids for painkillers. These journals relaxed the long-standing and very rational fear that doctors had due to the addictiveness of opioids. Soon after, the pharmaceutical industry began to market drugs such as OxyContin and Percocet heavily.

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<sup>1</sup> Swift, Hilary, and Abby Goodnough. “‘The Drug Became His Friend’: Pandemic Drives Hike in Opioid Deaths.” *The New York Times*, 30 Sept. 2020 [www.nytimes.com/2020/09/29/health/coronavirus-opioids-addiction.html?searchResultPosition=1](http://www.nytimes.com/2020/09/29/health/coronavirus-opioids-addiction.html?searchResultPosition=1)

<sup>2</sup> Campo-Flores, Jon Kamp and Arian. “The Opioid Crisis, Already Serious, Has Intensified During Coronavirus Pandemic.” *Wall Street Journal*, 8 Sept. 2020, [www.wsj.com/articles/the-opioid-crisis-already-serious-has-intensified-during-coronavirus-pandemic-11599557401](http://www.wsj.com/articles/the-opioid-crisis-already-serious-has-intensified-during-coronavirus-pandemic-11599557401)

<sup>3</sup> Ibid.

<sup>4</sup> Swift, Hilary, and Abby Goodnough. “‘The Drug Became His Friend’: Pandemic Drives Hike in Opioid Deaths.” *The New York Times*, 30 Sept. 2020 [www.nytimes.com/2020/09/29/health/coronavirus-opioids-addiction.html?searchResultPosition=1](http://www.nytimes.com/2020/09/29/health/coronavirus-opioids-addiction.html?searchResultPosition=1)

<sup>5</sup> Campo-Flores, Jon Kamp and Arian. “The Opioid Crisis, Already Serious, Has Intensified During Coronavirus Pandemic.” *Wall Street Journal*, 8 Sept. 2020, [www.wsj.com/articles/the-opioid-crisis-already-serious-has-intensified-during-coronavirus-pandemic-11599557401](http://www.wsj.com/articles/the-opioid-crisis-already-serious-has-intensified-during-coronavirus-pandemic-11599557401)

Although prescription pills contributed to addiction, they also led to an increase in the use of heroin. Increased access to prescription opioids ironically occurred simultaneously when heroin prices decreased.<sup>6</sup> Now, not only did the population have the ability to take advantage of prescription opioids, but they could purchase heroin at a low cost, creating a deadly combination.

Both federal and state governments have previously attempted to implement policies to contain the misuse of opioids. According to the National Conference of State Legislatures (NCSL), "28 states had enacted legislation with some type of limit, guidance or requirement related to opioid prescribing by April 2018".<sup>7</sup> In fact, in April 2018, the National Institute of Health launched the Helping to End Addiction Long-term (HEAL) Initiative, a trans-agency effort to accelerate solutions for the opioid public health crisis. Successes from this research include the development of the nasal form of naloxone; the most commonly used nasal spray for narcotic overdoses in an emergency situation, the development of buprenorphine for the treatment of opioid use disorder, and the use of non-drug and mind/body techniques such as "yoga, tai chi, acupuncture, and mindfulness meditation to help patients control and manage pain".<sup>8</sup> Additionally, laws related to prescription drug monitoring programs, provider education and training, and access to drugs such as naloxone have been enacted. The NCSL tracks such laws passed by the state governments in the "Injury Prevention Database." This database has documented over 1,300 bills on opioid misuse from 2015 to 2017.<sup>9</sup> Other efforts include limiting the availability and accessibility of prescription opioids. The Opioid Crisis Response Act of 2018 and the Opioid Crisis Accountability Act of 2019 are covenants geared towards restricting recreational use of opioids and holding pharmaceutical industries accountable. These attempts have not been sufficient, as more than 40 states have recorded increases in opioid-related deaths since the pandemic began.<sup>10</sup> The Comprehensive Addiction Resources Emergency (CARE) Act of 2019, a covenant introduced in 2019, proposes \$10 billion per year in federal funding to address the opioid crisis. This legislation would target funds to counties and cities hardest hit by the opioid crisis.<sup>11</sup>

Depending on race, ethnicity, socioeconomic status, or areas with more poverty, U.S. residents can experience a disproportionate burden of COVID-19 cases and deaths. Given that these same factors are known to shape discrepancies in substance use and access to health care, it is likely that the effects of COVID-19 in conjunction with the opioid epidemic will widen racial, ethnic and socioeconomic disparities in the health of the U.S. population even more. In addition to

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<sup>6</sup> Katz, Josh. "Drug Deaths in America Are Rising Faster Than Ever." *The New York Times*, 5 June 2017, [www.nytimes.com/interactive/2017/06/05/upshot/opioid-epidemic-drug-overdose-deaths-are-rising-faster-than-ever.html](http://www.nytimes.com/interactive/2017/06/05/upshot/opioid-epidemic-drug-overdose-deaths-are-rising-faster-than-ever.html)

<sup>7</sup>"Prescribing Policies: States Confront Opioid Overdose Epidemic." *Www.Ncsl.org*, 30 June 2019, [www.ncsl.org/research/health/prescribing-policies-states-confront-opioid-overdose-epidemic.aspx](http://www.ncsl.org/research/health/prescribing-policies-states-confront-opioid-overdose-epidemic.aspx)

<sup>8</sup>Commissioner, Office of the. "FDA Insight: The Opioid Epidemic and Covid-19 Pandemic." *FDA*, 10 Sept. 2020,

<sup>9</sup>Hoffman, Jan. "\$26 Billion Settlement Offer in Opioid Lawsuits Gains Wide Support." *The New York Times*, 5 Nov. 2020, <https://www.nytimes.com/2020/11/05/health/opioids-settlement-distributors.html>

<sup>10</sup>Haley, Danielle. "Validate User." *Jamanetwork.com*, 18 Sept. 2020, [jamanetwork.com/journals/jama/2770985](http://jamanetwork.com/journals/jama/2770985)

<sup>11</sup> *Ibid.*

social effects on the U.S. population's health, the coronavirus and the opioid epidemic pose a deadly combination, as suspected overdoses rose almost 18% after stay-at-home orders were implemented across the country.<sup>12</sup>

The lieutenant governor of Connecticut, Susan Bysiewicz, stated that the pandemic "exacerbated the overdose epidemic by the isolation and the stress on families," later saying that overdose deaths are on track to surpass last year's total of 1,200. In Connecticut, nearly 87% of all overdose deaths this year have been linked to the powerful opioid fentanyl.<sup>13</sup> It is evident that the pandemic has adversely affected the opioid epidemic in terms of the increase in overdose deaths; however, there is more to the problem than just that. According to the Drug Enforcement Administration, the pandemic has disrupted the supply of illegal drugs from the United States-Mexico border, thus inducing a sudden supply shortage in opioids. In turn, these supply interruptions can heighten risks for substance abuse users to seek new dealers and buy unfamiliar products such as heroin or street fentanyl.<sup>14</sup> Efforts to treat those suffering from substance abuse disorder have been hindered by social distancing protocols, as treating addiction requires close contact. It is nearly impossible to distance people in detox centers or walk-in syringe exchanges, offering clean needles and injection tools, overdose prevention training, and safer injection counseling with peers.<sup>15</sup> Lastly, the pandemic has triggered an economic recession that has affected the capacity and sustainability of nonprofit addiction treatment centers and introduced housing instability for those who are homeless due to substance abuse.<sup>16</sup>

Despite the hardship in combating the public health crises, federal agencies and state and federal governments have had the incentive to do so. In Connecticut, Democratic U.S. Senator Richard Blumenthal recently declared that he plans to urge his colleagues in the U.S. Senate to pass the HEROES Act, which includes \$3 billion to be distributed across the United States substance abuse services, noting that it is a top priority.<sup>17</sup> The federal government has loosened restrictions to make it easier to access medication remotely in addition to providers making themselves more accessible through telemedicine. In an interview with Megan Moncur, the FDA's Associate Director of Opioid Policy, she mentioned numerous actions the FDA has taken to reduce opioid overdoses and deaths. An example is a "requirement that labeling for opioid pain medicine and medicine to treat opioid use disorder be updated to recommend that as a routine part of prescribing these medicines, health care professionals should discuss the

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<sup>12</sup> Campo-Flores, Jon Kamp and Arian. "The Opioid Crisis, Already Serious, Has Intensified During Coronavirus Pandemic." *Wall Street Journal*, 8 Sept. 2020, [www.wsj.com/articles/the-opioid-crisis-already-serious-has-intensified-during-coronavirus-pandemic-11599557401](http://www.wsj.com/articles/the-opioid-crisis-already-serious-has-intensified-during-coronavirus-pandemic-11599557401)

<sup>13</sup> AP. "Coronavirus CT News: Drug Overdose Increase in Connecticut Linked to Coronavirus Pandemic." *ABC7 New York*, 1598, [abc7ny.com/ct-news-connecticut-Covid-19-coronavirus-update/6397299/](http://abc7ny.com/ct-news-connecticut-Covid-19-coronavirus-update/6397299/)

<sup>14</sup> Swift, Hilary, and Abby Goodnough. "'The Drug Became His Friend': Pandemic Drives Hike in Opioid Deaths." *The New York Times*, 30 Sept. 2020, [www.nytimes.com/2020/09/29/health/coronavirus-opioids-addiction.html?searchResultPosition=1](http://www.nytimes.com/2020/09/29/health/coronavirus-opioids-addiction.html?searchResultPosition=1)

<sup>15</sup> Kamp, Jon. "Coronavirus Pandemic Complicates Opioid Treatment." *Wall Street Journal*, 7 Apr. 2020, [www.wsj.com/articles/coronaviruspandemic-complicates-opioidtreatment-11586262903?mod=article\\_inline](http://www.wsj.com/articles/coronaviruspandemic-complicates-opioidtreatment-11586262903?mod=article_inline)

<sup>16</sup> Haley, Danielle. "Validate User." *Jamanetwork.com*, 18 Sept. 2020, [jamanetwork.com/journals/jama/2770985](http://jamanetwork.com/journals/jama/2770985)

<sup>17</sup> AP. "Coronavirus CT News: Drug Overdose Increase in Connecticut Linked to Coronavirus Pandemic." *ABC7 New York*, 1598, [abc7ny.com/ct-news-connecticut-Covid-19-coronavirus-update/6397299/](http://abc7ny.com/ct-news-connecticut-Covid-19-coronavirus-update/6397299/)

availability of naloxone with patients and caregivers, both when beginning and renewing treatment”.<sup>18</sup> This requirement will not be mandated entirely until early 2021; however, this concept originated in July of 2020.<sup>19</sup>

Another factor contributing to the worsening of the opioid epidemic in conjunction with the coronavirus pandemic is President Donald Trump and his administration's actions. Throughout his four years in office, repealing the Affordable Care Act (ACA) was a significant objective of his political agenda. Although the ACA was not entirely repealed, provisions such as eliminating individual mandates and removing payments from the federal government to insurers affected the livelihood of this federal statute. More than 29 million people lacked health insurance in 2019 due to attacks on Obamacare.<sup>20</sup> According to Census Bureau Data, 2.3 million more people were insured in 2020 than in 2016.<sup>21</sup> Rolling back the Affordable Care Act caused millions of Americans to lose health insurance coverage, as well as contributed to the elimination of coverage for treatment of those who suffer from substance abuse disorder. Without coverage, treatment would be inaccessible to those who cannot afford it, leading to those on SUD treatment to suffer from withdrawal or resort to alternative methods of obtaining opioids, consequently leading to more opioid deaths. Although President Trump has made monetary efforts to curb the epidemic, the funding in his initiative to stop opioid abuse was "insufficient to turn the tides," according to public health officials.<sup>22</sup> By contrast, President-elect Joe Biden's campaign proposed a \$125 billion federal investment in "prevention, treatment, and recovery services over the next ten years, with 60% of funds distributed in the form of flexible grants to state and local communities", as well as passing the aforementioned Comprehensive Addiction Resources Emergency Act.<sup>23</sup> Additionally, Biden wants to expand on Obamacare by achieving universal coverage and integrating SUD programs into standard healthcare practice for numerous federal healthcare systems. His plan would reduce the overprescribing of opioids, support investment for promoting mental health specialists and social workers, and increase resources to address the apparent socioeconomic discrepancies in access to recovery services.<sup>24</sup>

The future of the opioid epidemic is contingent upon the trajectory of the coronavirus and the next four years under President-elect Joe Biden. If approached correctly, COVID-19 will be an element of the past, leaving a direct focus on the opioid epidemic. If both public health crises are controlled, the United States can then focus on the underlying factors that led to why these two crises amplified in the first place. The U.S. healthcare system and the overall health of

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<sup>18</sup> Commissioner, Office of the. "FDA Insight: The Opioid Epidemic and Covid-19 Pandemic." *FDA*, 10 Sept. 2020

<sup>19</sup> *Ibid.*

<sup>20</sup> Bernstein, Jared. "Thanks to Trump's actions, millions lose health coverage." *The Washington Post*, Fred Ryan, 22nd September 2020, <https://www.washingtonpost.com/outlook/2020/09/22/thanks-trumps-actions-millions-lose-health-coverage/>

<sup>21</sup> *Ibid.*

<sup>22</sup> Haley, Danielle. "Validate User." *Jamanetwork.com*, 18 Sept. 2020, [jamanetwork.com/journals/jama/2770985](https://jamanetwork.com/journals/jama/2770985)

<sup>23</sup> "The Biden Plan to End the Opioid Crisis." *Joe Biden for President*, [joebiden.com/opioidcrisis/](https://joebiden.com/opioidcrisis/)

<sup>24</sup> *Ibid.*

Americans are both currently in a fragile state; however, forward-thinking policy will lead to a new beginning for the United States.

## Exploring American Political Polarization Through Liberal and Conservative Moral Foundations

*Musa Hussain*

Currently at an all-time high, and seemingly rising all the time, political polarization in the United States has arguably become one of the defining characteristics of the current political moment. Families are divided along political lines, activists from either side meet in the streets, and politicians at all levels of government paradoxically call for unity while condemning their opponents and supporters as “crooked” or “a basket of deplorables”.<sup>25</sup> Liberals and conservatives no longer just disagree, they think of each other as bad people; those on the other end of the political aisle are not considered different, or even just wrong, they are existentially immoral. A 2017 report by the Pew Research Center found that 55% of Republicans say Democrats are “more immoral” when compared with other Americans and 47% of Democrats say the same about Republicans.<sup>26</sup> In a nation built on political unity and compromise, the public is further apart than ever.

Today, political divisions are so intense that it can be easy to think the country has always been so deeply split along ideological lines and that this mainstream divisiveness is embedded in its national identity. However, overwhelming research shows liberals and conservatives have only become so deeply disconnected from one another in the past two to three decades. The shares of Republicans and Democrats who express *very* unfavorable opinions of the opposing party has more than doubled since 1994.<sup>27</sup> Further, gaps between liberal and conservative stances on issues such as race, government regulation, the military, and the environment have all widened considerably in the past twenty years.<sup>28</sup> Aside from a few issues, conservatives have become more conservative and liberals more liberal. It is also interesting to note that in recent years, “partisans on each side exaggerate the degree to which the other side pursues moral ends that are different from their own.”<sup>29</sup> Americans not only disagree more, they are also increasingly unaware of their similarities to members of the opposite political orientation. Both liberals and conservatives now seemingly self-sabotage potential unification around shared common values. Finally, the current political climate has not only intensified ideological differences, but a generally more hostile and malicious mood. Indeed, echoing politicians from both parties, it

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<sup>25</sup> AP, Source: 2016. “Hillary Clinton: 'Half of Trump's Supporters Go into the Basket of Deplorables' - Video.” *The Guardian*. <https://www.theguardian.com/us-news/video/2016/sep/10/hillary-clinton-half-of-trumps-supporters-go-into-the-basket-of-deplorables-video> (December 5, 2020).

<sup>26</sup> “2. How Partisans View Each Other.” 2020. *Pew Research Center - U.S. Politics & Policy*.

<https://www.pewresearch.org/politics/2019/10/10/how-partisans-view-each-other/> (December 5, 2020).

<sup>27</sup> “Political Polarization in the American Public.” 2020. *Pew Research Center - U.S. Politics & Policy*.

<https://www.pewresearch.org/politics/2014/06/12/political-polarization-in-the-american-public/> (December 5, 2020).

<sup>28</sup> “The Partisan Divide on Political Values Grows Even Wider.” 2020. *Pew Research Center - U.S. Politics & Policy*. <https://www.pewresearch.org/politics/2017/10/05/the-partisan-divide-on-political-values-grows-even-wider/> (December 5, 2020).

<sup>29</sup> Graham, Jesse, Brian A. Nosek, and Jonathan Haidt. 2012. “The Moral Stereotypes of Liberals and Conservatives: Exaggeration of Differences across the Political Spectrum.” *PLoS ONE* 7(12). doi: 10.1371/journal.pone.0050092.

often seems as if the “decency” in politics has disappeared. The current president’s refusal to concede this year’s election with baseless claims of voter fraud might be the most fitting example.

In this paper I explore the polarization between liberals and conservatives by examining the moral foundations on each side. Popularized in the growing field of political psychology in recent years is the Moral Foundations Theory (MFT) developed by NYU professor Jonathan Haidt. MFT proposes five moral foundations upon which people base political decisions. These are care, fairness, loyalty/in-group, authority, and sanctity/purity. Care is concerned with protecting others and a natural sensitivity to others’ suffering; fairness with rendering justice according to societal rules; loyalty/in-group with standing within an individual’s group or community; authority with showing respect towards legitimate authorities, and purity/sanctity (most associated with religion) with resisting carnal passions such as lust, greed, and gluttony.<sup>30</sup> These five values can be organized into two primary categories: Individualist and Binding foundations. Individualist foundations are those that focus on the rights and wellbeing of individuals, while binding foundations place more emphasis on “group-binding loyalty, duty, and self-control”.<sup>31</sup> Care and fairness tend to correspond to individualizing foundations, and in-group/loyalty, authority and purity/sanctity to binding foundations. A large amount of research shows that liberals value care and fairness moral foundations almost exclusively, while conservatives rely about evenly on all five.<sup>32</sup>

In creating these five foundations, MFT opposes classical approaches to morality that only deem care and fairness as legitimate values. From a liberal perspective it seems as if these are the only values worth considering, but MFT theorists argue that when exploring morality from a more anthropological and historical perspective, there are many other values espoused especially in religious populations and in non-Western society. For example, the Bible, the Quran, and teachings by Confucius all mention some sort of loyalty, respect for certain identities, self-restraint, and guidelines around sex and gender.<sup>33</sup> The crucial implication of MFT therefore, is that “conservative” values are legitimate foundations upon which political views are based. MFT theorists argue that liberals have a greater responsibility to reach across the political aisle to appreciate the opposing perspective. This argument is rooted in the logic of the Asymmetry of Understanding (AU); the idea that mutual understanding can only be achieved by appreciating the values held by members of the opposing political orientation.<sup>34</sup> Therefore, the fact that conservatives recognize all five values and liberals only recognize two means liberals must recognize and appreciate the values of in-group, authority, and purity if they are to understand

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<sup>30</sup> Graham, Jesse et al. 2013. “Moral Foundations Theory: The Pragmatic Validity of Moral Pluralism.” *Advances in Experimental Social Psychology*. <https://www.sciencedirect.com/science/article/pii/B9780124072367000024> (December 5, 2020).

<sup>31</sup> Graham, Jesse, Jonathan Haidt, and Brian A. Nosek. 2009. “Liberals and Conservatives Rely on Different Sets of Moral Foundations.” *Journal of Personality and Social Psychology* 96(5): 1029–46. doi: 10.1037/a0015141.

<sup>32</sup> Ibid

<sup>33</sup> Haidt, Jonathan, and Jesse Graham. 2007. “When Morality Opposes Justice: Conservatives Have Moral Intuitions That Liberals May Not Recognize.” *Social Justice Research* 20(1): 98–116. doi: 10.1007/s11211-007-0034-z.

<sup>34</sup> Sauer, Hanno. 2015. “Can’t We All Disagree More Constructively? Moral Foundations, Moral Reasoning, and Political Disagreement.” *Neuroethics* 8(2): 153–69. doi: 10.1007/s12152-015-9235-6.

and engage in productive political discourse with conservatives. Underpinning MFT and AU specifically is the Social Intuitionist Model (SIM) of morality that describes how moral judgement is made on the basis of immediate intuitive thought processes, and not highly thought-out reasoning.<sup>35</sup> SIM proposes that political disagreements that are “ultimately based on incommensurable moral foundations should not (and cannot) be resolved with facts and rationality, but with mutual understanding and reconciliation as a guiding standard”.<sup>36</sup> In other words, because of the natural intuitiveness of moral judgement, liberals should not seek to persuade conservatives of what they see as the illegitimacy of their values, but learn to appreciate these values instead and then debate their disagreements.

Since its conception, MFT has come under criticism from various academics in the fields of psychology, philosophy, and political science. A major argument comes from those who doubt the validity of SIM. This argument rests on the fact that research has shown that when asked to evaluate whether a situation is morally wrong or not, once presented with an opposing argument, many people do actually change their minds. In other words, “when there is enough time available and people are presented with good arguments – as should, at least often enough, be the case in the political arena – people can reconsider even their most highly emotionally charged moral intuitions”.<sup>37</sup> Further, and more importantly, research has shown that it is much more likely for people’s intuitions grounded in the conservative moral foundations of in-group, authority, and purity to be undermined when presented with new information. By contrast, people rarely change their minds when presented with information that might potentially lead them to give up the liberal values of care and fairness. This finding suggests MFT’s proposed conservative foundations may be unstable, and that the seemingly “natural” foundations on which these values are based, are not so intrinsic.<sup>38</sup>

Further, this conclusion would lead to the implication that liberals are both more rationalizing and confident in their moral judgements. Jost and other thinkers skeptical of MFT state that conservative moral foundations are relatively valid in their intuitive logic- immediate emotional reactions related to in-group, authority, and purity may indeed exist. An issue arises when MFT theorists proceed from this point to the conclusion that liberals must then recognize these foundations as legitimate.<sup>39</sup> After all, if liberals are steadier in their moral foundations, and are able to persuade conservatives by providing them with new information, why would they not focus on this than adopting foundations they find deeply disagreeable?

This worry is echoed by a number of scholars who point to the connections between the three binding foundations (associated with conservatism) proposed by MFT, and authoritarianism and social dominance theory. Particularly the moral foundation of authority and its ideals of respect and obedience, are associated with discrimination against disadvantaged groups, specifically foreigners and immigrants. Ties between the in-group moral foundation and social dominance

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<sup>35</sup> Ibid

<sup>36</sup> Ibid

<sup>37</sup> Ibid

<sup>38</sup> Ibid

<sup>39</sup> Jost, J. T. 2012. “Left and Right, Right and Wrong.” *Science* 337(6094): 525–26. doi: 10.1126/science.1222565.

theory are equally troubling.<sup>40</sup> Social dominance theory is conceptualized as a “preference for group-based hierarchy and the maintenance of inequality”<sup>41</sup> and deeply preaching of racism, sexism, classism, and other prejudices. Indeed, it is not too difficult to see how a moral foundation based on unwavering loyalty to one’s communal group might translate to animosity towards others who don’t look, act, or speak like you. Studies have also shown correlations between the more conservative moral foundations and out-group hostility. For example, individuals who endorsed in-group loyalty and obedience to authority, and purity, were less likely to believe Christians and Muslims should have the same rights, and that the lives of foreigners from the Middle East were as valuable as the lives of Americans.<sup>42</sup> Overall, the general distrust of the conservative moral foundations is rooted in the worry that MFT theorists have been hasty to legitimize foundations that have historical roots in the marginalization of minority groups including people of color, women, immigrants, and members of the LGBTQ+ community.

Diagnosing the rise in political polarization is no simple task and Moral Foundations Theory, like other approaches is not, and cannot be expected to be perfect in its explanation. Liberals and conservatives have increasingly different perspectives on politics and it is clear disagreements between the two groups run deeper than policy or culture. This is why understanding differences in morality is so vital; in doing so, the roots of the division are examined, rather than seeking solutions for issues that exist in multiple moral frameworks. By bringing this outlook to the forefront of the polarization debate, MFT has proved undoubtedly valuable. However, its legitimization of moral foundations entrenched in prejudice and marginalization cannot be ignored. In the words of MFT critic John Jost, “If [conservative moral foundations] are to be ushered into the ever-broadening tent of ‘group morality,’ one wonders what it would take to be refused admission”.<sup>43</sup> MFT provides a useful framework, but contain troubling implications.

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<sup>40</sup> Kugler, Matthew, John T. Jost, and Sharareh Noorbaloochi. 2014. “Another Look at Moral Foundations Theory: Do Authoritarianism and Social Dominance Orientation Explain Liberal-Conservative Differences in ‘Moral’ Intuitions?” *Social Justice Research* 27(4): 413–31. doi: 10.1007/s11211-014-0223-5.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Jost, J. T. 2012. “Left and Right, Right and Wrong.” *Science* 337(6094): 525–26. doi: 10.1126/science.1222565.

## **The Future of Our Presidential Elections: Debates and the Electoral College**

*Marianna Kalander*

America's political landscape, and its institutions, are constantly evolving. Many of the institutions and systems that were once used to lay a foundation for the federal government and Presidential elections have progressed to become more dynamic than ever before. This progress can be traced to a multitude of reasons, from the increased polarization of voters to the growing expectations of a President. Specifically, two large, fundamental systems that have been, and will continue to be, points of controversy are Presidential debates and the Electoral College. The importance, influence, and necessity of these systems have been debated over for some time, with the 2020 Presidential election exacerbating the issue even more. As a result, looking into the future, the political landscape could evolve into one in which debates are modified, or even absent, and there is a different, amended process of selecting the President.

Presidential debates are thought to serve the role of informing voters on the two prospective Presidential candidates' stances on various issues. As a result, debates tend to have a stake in voters' partisanship as they reinforce partisan positions. Specifically, "studies confirm the idea that the debates reinforce partisan positions, with partisans merely becoming more critical".<sup>44</sup> Thus, it is possible that watching a Presidential debate may sway a voter to align with one candidate or another. However, debates usually reinforce partisan positions of voters, making their positions stronger. There are many reasons that debates typically reinforce, rather than create, partisan positions. For one, the timing of the debates is farther along in the overall election. Given the fact that the debates usually occur within a 2 month or so of Election Day, voters typically have an idea already of which candidate they favor and will probably vote for. Voter's minds are usually made up, so the debates serve as a way to further prove and strengthen their decision on who they will vote for. The voter's position becomes more cemented than before. Thus, overall, Presidential debates can directly impact voters, as voter's partisan positions tend to become stronger.

Debates have transformed from a discussion between two candidates to now tools morphed by candidates in their presidential campaigns. With the first televised Presidential debate occurring in 1960, a candidate's image, way of speaking, and body language in a debate became just as important as their answers to the issue questions. However, most recently, candidates have used the debates for their own gain, as exemplified through President Trump in 2016. For example, President Trump used debates to his advantage as a way to set him apart from other candidates. Running on the platform that he was outside of the sphere of political correctness and traditional politics, President Trump went into debates without any preparation. Thus, his responses were all based on his immediate reaction to the questions, in which the responses were exactly what Trump believed. However, especially with the most recent debates being wild and uncontrollable, many argue that the debates are not as useful as they once were. For example,

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<sup>44</sup> Ordway, Denise-Marie, and John Wihbey. "Presidential Debates and Their Effects: Research Roundup." *Journalist's Resource*, 30 Sept. 2020, [journalistsresource.org/studies/politics/elections/presidential-debates-effects-research-roundup](https://journalistsresource.org/studies/politics/elections/presidential-debates-effects-research-roundup)

many argue “the debates have never made sense as a test for presidential leadership. In fact, one could argue that they reward precisely the opposite of what we want in a president.”<sup>45</sup> The debates often reward candidates that use one-liners to catch the attention of the audience, rather than those with the best substantial answers. Looking back, many remember the quick words of a candidate, in which the answers to important questions are overshadowed. Thus, especially given how polarized voters are and that debates merely reinforce, rather than create, partisan identities, many have pushed to do away with holding Presidential debates. In other words, since the debates have been shown to strengthen preconceived views held prior to the debates and have become an arena of entertainment, many oppose the necessity of holding debates.

On the other hand, many people argue that the information learned through the debates is valuable, and that debates should be held. For example, some point to the idea that debates are “now the best way for candidates to distinguish themselves and share their policies and positions with voters.”<sup>46</sup> Even though the debates tend to not change voters’ minds, the information one can learn about the candidates is very important. In addition, just because most people’s views are not swayed does not mean there are not still some that use the debates as a way to form a decision. Getting rid of the debates would rid these people of needed information. Thus, instead of completely getting rid of debates, many point to changing the format and logistics of the debates to keep them more controlled and professional. Larger factors, such as the moderator and topics covered, change with each debate cycle. However, smaller, but still substantial, changes could be made, such as muting the microphones of candidates when they are not speaking. Specifically, “moderators would be empowered to keep things on track, including, keeping the ability to mute the candidates’ microphones to prevent mass chaos from breaking out.”<sup>47</sup> This was done with the most recent second Presidential debate, in which the overall performance was more controlled than previous. Thus, these changes could continue through to future debates, which would allow them to still occur, but in a more managed, direct way, so that voters are not deprived of information.

The use of the Electoral College in Presidential elections has been a point of contention and debate for many years, in which the 2020 election is no different. For one, there has been a movement towards getting rid of the Electoral College entirely. Many cite the fact that the Electoral College has become more and more undemocratic, as a candidate can win the Presidency without winning the popular vote. Specifically, “because states want to maximize their influence in selecting the president, they also have a strong incentive to use a winner-take-all approach to awarding electors, which all but two states currently do. The result — as we’ve now seen twice in the last two decades — is that a popular vote loser can be an Electoral College

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<sup>45</sup> Drew, Elizabeth. “Let’s Scrap the Presidential Debates.” *The New York Times*, The New York Times, 3 Aug. 2020, [www.nytimes.com/2020/08/03/opinion/trump-biden-presidential-debates-2020.html](http://www.nytimes.com/2020/08/03/opinion/trump-biden-presidential-debates-2020.html)

<sup>46</sup> Michonski, Zach. “The Evolution of Presidential Debates.” *EF Tours Blog*, 2 Feb. 2018, [blog.eftours.com/inspiration/education/the-evolution-of-presidential-debates](http://blog.eftours.com/inspiration/education/the-evolution-of-presidential-debates)

<sup>47</sup> Brown, Hayes. “We Have to Improve the Presidential Debates before 2024.” *MSNBC*, NBCUniversal News Group, 23 Oct. 2020, [www.msnbc.com/opinion/we-have-improve-presidential-debates-2024-n1244405](http://www.msnbc.com/opinion/we-have-improve-presidential-debates-2024-n1244405)

winner.”<sup>48</sup> Since the Electoral College awards the Presidency to the candidate who reaches 270 Electoral votes first, the use of the winner take all method might be most effective in influencing the outcome, but can yield a result where the winner did not win the majority of the total votes. As seen as recently as the 2016 Presidential election, President Donald Trump won the Electoral College, but lost in the popular vote, where he won 62,984,825 of the popular vote compared to Hillary Clinton’s 65,853,516.<sup>49</sup> Thus, President Trump won the Presidency with less support from the electorate. Situations like this propel many to believe the Electoral College to be undemocratic, as the voices of the voters are undermined.

There have been pushes towards alternative methods of selecting a President, such as the National Popular Vote Interstate Compact. This compact “will guarantee the Presidency to the candidate who receives the most popular votes across all 50 states and the District of Columbia”<sup>50</sup>, thus, in a way, replacing the Electoral College’s use of an indirect voting method. Basically, the winner of the popular vote nationwide will win each state’s Electoral College votes. It is thought that this system will be more democratic and representative of the electorate, as each vote will have a direct impact and voice on the outcome of the election. The “compact will go into effect when enacted by states possessing a majority of the electoral votes—that is, enough to elect a President (270 of 538)”<sup>51</sup> in which “16 jurisdictions possessing 196 electoral votes”<sup>52</sup> have already signed onto it. There is no exact timeline for when, or if, the compact will reach the needed amount of votes. However, the fact that this compact is making grounds in our political arena shows that more and more people are looking for a future that is free of the Electoral College.

On the other hand, many are in support of the use of the Electoral College. For one, the Electoral College ensures that the Presidential election has an actual outcome. The possibility of a tie is present, but this has not occurred since the 1800 election, thus giving way to the idea that one can securely believe that the Electoral College yields a tangible result and winner. On the other hand, “if the election were based on popular vote, it would be possible for a candidate to receive the highest number of popular votes without actually obtaining a majority.”<sup>53</sup> In other words, switching from the Electoral College to a national popular vote yields the possibility of not producing a winner. No candidate could obtain a majority of the votes, or even a tie could occur. Thus, the Electoral College is the safer bet, as it produces a winner.

In addition, many argue that the Electoral College helps ensure that smaller states have a stake in the election. Although some claim that the Electoral College favors the smaller states a little too much, there are negative implications for smaller states if a popular vote was implemented as

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<sup>48</sup> Chafetz, Josh. “Why We Should Abolish the Electoral College.” *The New York Times*, The New York Times, 17 Mar. 2020, [www.nytimes.com/2020/03/17/books/review/let-the-people-pick-the-president-jesse-wegman.html](http://www.nytimes.com/2020/03/17/books/review/let-the-people-pick-the-president-jesse-wegman.html)

<sup>49</sup> “Presidential Election Results 2016 - CNN.” *CNN Politics*, CNN, [www.cnn.com/election/2016/results/president](http://www.cnn.com/election/2016/results/president).

<sup>50</sup> “Agreement Among the States to Elect the President by National Popular Vote.” *National Popular Vote*, 28 Nov. 2020, [www.nationalpopularvote.com/written-explanation](http://www.nationalpopularvote.com/written-explanation)

<sup>51</sup> *Ibid.*

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

<sup>53</sup> “The Electoral College: Top 3 Pros and Cons.” *ProCon.org*, 2 Oct. 2020, [www.procon.org/headlines/the-electoral-college-top-3-pros-and-cons/](http://www.procon.org/headlines/the-electoral-college-top-3-pros-and-cons/)

well. For example, “if only the popular vote mattered, candidates might concentrate their energies on densely populated metro areas like New York, Los Angeles and Chicago.”<sup>54</sup> Thus, through the use of a popular vote, it is possible that candidates may disregard smaller states when campaigning, only focusing on the most populous states and areas, essentially making smaller states less relevant to election efforts. The Electoral College forces candidates to consider and focus on smaller states, not completely disregard them and only focus on large states. As a result, many smaller states and their voters push to preserve the Electoral College.

For now, future Presidential elections will be decided through the use of the Electoral College. Alternative methods, such as the National Popular Vote Interstate Compact, do not have the fully needed support to be implemented. In addition, abolishing the Electoral College would require a Constitutional Amendment, given that the Electoral College is written into the Constitution. For one, passing an amendment is not easy. An Amendment would require a  $\frac{2}{3}$  approval vote in Congress, in which there is no proof that enough Congress members would sign onto abolishing the Electoral College.<sup>55</sup> However, our political arena is not new to quick changes and surprises, so the possibility of elections without the Electoral College is not completely out of question.

America’s political landscape is constantly changing. The institutions created to form our government and Presidential elections have remained in place, but through time, have evolved in complexity. Specifically, Presidential debates and the Electoral College have grown to do more than simply help select a President. The importance, influence, and necessity of these systems have been debated over for some time, in which there are sides both for preserving them and for abolishing them. In the future, there is the possibility of a political arena without either of these institutions. However, for now, that is just a possibility, not a reality.

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<sup>54</sup> Josephson, Amelia. “The Pros and Cons of the Electoral College.” *SmartAsset*, SmartAsset, 29 Oct. 2020, smartasset.com/insights/the-pros-and-cons-of-the-electoral-college

<sup>55</sup> Bomboy, Scott. “The 23rd Amendment and the Chance of a Tied 2020 Presidential Election.” *The National Constitution Center*, 3 Nov. 2020, constitutioncenter.org/interactive-constitution/blog/the-23rd-amendment-and-the-chance-of-a-tied-2020-presidential-election

## The Future of Big Tech in the United States

*Danielle Macuil*

During the coronavirus pandemic, Big Tech has seen a surge in business and benefitted heavily, despite already being a trillion-dollar industry.<sup>56</sup> President-elect Joe Biden has not indicated how he will tackle Big Tech, however with flagrant misinformation, election tampering, and increasing monopolies, the tech industry has been criticized by Democrats and Republicans alike.<sup>57</sup> Although COVID-19 and health care reform were Biden's primary stances, the issues of monopolies and misinformation within the tech industry are two topics which may now be given more attention in the white house. With 2 major antitrust lawsuits pending, the President-elect may new court decisions that will show the direction of big tech regulation.<sup>58</sup> Companies such as Google, Facebook, and Amazon must be attentive to the charges brought against them, while Americans must be aware of the benefits and consequences that Big Tech reform will have.

President Trump and President-elect Biden have both expressed concerns about regulating Big Tech, and combatting misinformation. Trump famously attempted to ban Huawei, WeChat, and Tik Tok by claiming that it was a national security concern. Biden has shared similar sentiments, expressing that it is "a matter of genuine concern."<sup>59</sup> Despite their stark differences, Trump and Biden share a few bipartisan concerns. One concern is the seemingly infinite growth of Big Tech companies; Biden has not made a clear stance on antitrust but will face the consequences of the impending lawsuits against Google and Facebook. Further, section 230 of the Communications Decency Act, which concerns regulating information on social media platforms, has been heavily criticized by both presidents. Republicans and Democrats have opposing reasons for changing section 230. Republicans seem to want less moderation of social media content because they believe that conservative opinions have been censored more heavily than liberal opinions. On the other hand, Democrats want more moderation of content because of the impact of misinformation and election meddling.<sup>60</sup> Although Big Tech might not be at the forefront of the issues Biden will tackle, Democratic and Republican critics of Big Tech will be eager to see change through lawsuits and legislative reform called for by both of their 2020 candidates.

The issue of antitrust can be tackled through various ways, some of which include "working with the courts, advocating new legislation, and creating a new competition office in the White House."<sup>61</sup> The government has already begun tackling antitrust in a few manners. In October, the

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<sup>56</sup> Eavis, P., & Lohr, S. (2020, August 19). *Big Tech's Domination of Business Reaches New Heights*. The New York Times. <https://www.nytimes.com/2020/08/19/technology/big-tech-business-domination.html>

<sup>57</sup> Contreras, B. (2020, November 8). *What a Biden presidency means for Facebook and big tech*. Los Angeles Times. <https://www.latimes.com/business/story/2020-11-08/biden-technology-industry-regulation-antitrust>

<sup>58</sup> Rushe, D. (2020, November 7). *Big tech and corporate tax cuts: the targets of Joe Biden's urgent economic plans*. The Guardian. <https://www.theguardian.com/us-news/2020/nov/07/joe-biden-most-urgent-economic-plans-key-elements>

<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

<sup>61</sup> Schechter, A. (2020, December 5). *What Should the Biden Administration's Antitrust Agenda Look Like? A Roundtable*. Pro Market. <https://promarket.org/2020/12/02/joe-biden-antitrust-agenda-zephyr-teachout-william-kovacic/>

Department of Justice brought a lawsuit against Google because of its anticompetition tactics, arguing that it has been a gatekeeper in the web.<sup>62</sup> Among the primary concerns are that Google has created a monopoly in search and search advertising, especially in its pursuits of being a default search engine in most platforms. This lawsuit was backed by the Attorney Generals of 11 states, including Texas and Florida.<sup>63</sup> Google has defended its business practices and refuted the lawsuit by stating that the suit will not benefit users, users have free choice in the search engine they use, and that phone bill prices will increase with this new regulation. Both the DOJ and Google have meticulously cited reasons for their presumptive sides. The Federal Trade Commission is also in the process of determining whether they will pursue an antitrust lawsuit against Facebook. The decision has not been made yet but follows the DOJ's lawsuit against Google.<sup>64</sup> Big Tech is not a new respondent in lawsuits, as privacy concerns have led to billion-dollar settlements with the government. However, antitrust suits will impact mergers and acquisitions in an attempt to restrict company growth.

Big business has a long-standing history in the United States and enforcing antitrust legislation has arisen from the consequences of the uninhibited growth of a few large corporations. In the 19th century, the United States saw a vast rise in big business, spanning across industries from oil to railroads.<sup>65</sup> With a rise in monopolies came the birth of antitrust laws, which sought to limit excessive pricing, huge corporations, and corporations' political influence. Today, the tech industry has been heavily criticized for their political influence both through financial donations and through the information they host on social media platforms. Before the 1860s, the nature of the American economy protected small businesses in localities. Yet, through notable industry leaders and large monopolies, corporations began dominating various industries. Eventually, legislation following the growth of big business and an increased anti-big business political agenda led to the development of antitrust laws and regulation against these businesses.

Big business in the United States was supported by shifting Supreme Court decisions, some of which allowed for greater corporate independence and therefore uninhibited growth. In *Dartmouth College v. Woodward* (1819), the Supreme Court enforced the Contract Clause, stating that it applied to corporations.<sup>66</sup> This essentially established that corporations were intangible beings that could sue and be sued. *Santa Clara County v. Southern Pacific Railroad* (1886) was a case that surrounded taxing the fences of Southern Pacific Railroad.<sup>67</sup> Its effect

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<sup>62</sup> Rushe, D., & Paul, K. (2020, October 21). *US Justice Department sues Google over accusation of illegal monopoly*. The Guardian. <https://www.theguardian.com/technology/2020/oct/20/us-justice-department-antitrust-lawsuit-against-google>

<sup>63</sup> *Justice Department Sues Monopolist Google For Violating Antitrust Laws*. (2020, October 21). The United States Department of Justice. [https://www.justice.gov/opa/pr/justice-department-sues-monopolist-google-violating-antitrust-](https://www.justice.gov/opa/pr/justice-department-sues-monopolist-google-violating-antitrust-laws#:~:text=Today%2C%20the%20Department%20of%20Justice,and%20search%20advertising%20markets%20)

[laws#:~:text=Today%2C%20the%20Department%20of%20Justice,and%20search%20advertising%20markets%20](https://www.justice.gov/opa/pr/justice-department-sues-monopolist-google-violating-antitrust-laws#:~:text=Today%2C%20the%20Department%20of%20Justice,and%20search%20advertising%20markets%20)  
<sup>64</sup> Kang, C. (2020, October 23). *F.T.C. Decision on Pursuing Facebook Antitrust Case Is Said to be Near*. The New York Times. <https://www.nytimes.com/2020/10/22/technology/facebook-antitrust-ftc.html>

<sup>65</sup> History.com Editors. (2020, April 3). *Gilded Age*. History. <https://www.history.com/topics/19th-century/gilded-age#:~:text=They%20soon%20accumulated%20vast%20amounts,as%20Andrew%20Carnegie%2C%20John%20D.>

<sup>66</sup> *Trustees of Dartmouth College v. Woodward*, 17 U.S. 518 (1819)

<sup>67</sup> *Santa Clara County v. Southern Pacific Railroad Company*, 118 U.S. 394 (1886)

extended the Equal Protection Clause under the 14th Amendment to apply to corporations. These are a few notable cases that demonstrated the impact that the court system in the United States has had on antitrust efforts in the U.S.

While the Supreme Court was making judicial decisions, the federal government was passing antitrust acts which would limit the expansion of huge corporations. The Sherman Antitrust Act, passed by the federal government in 1890, was extremely effective both in limiting trusts and appeasing public opposition.<sup>68</sup> The Sherman Antitrust Act was so popular that it was passed through a unanimous vote in the House of Representatives and a 51-1 vote in the Senate. Congress passed the Sherman Antitrust Act to stop the rapid growth of the corporations that were controlling over 90% of their respective industries. The Clayton Act of 1914 further outlines price-fixing and deters monopolies from growing. Finally, the Federal Trade Commission was established in 1914 to prevent monopolies from unfair competition, collusion, and other acts that inhibited commerce.<sup>69</sup> The acts, and subsequently laws, ultimately prevented the growth of monopolies, dismantled them, and slowed the era of big businesses.<sup>70</sup> The history of antitrust in the United States is important because of its impact in both encouraging the growth of American companies while maintaining antitrust legislation in an attempt to uphold innovation in the United States. However, while the government often successfully broke up big businesses in the oil and railroad industries, the rise of big tech has posed new difficulties and unprecedented dilemmas for the Federal Trade Commission and antitrust legislators. In fact, the DOJ's pending antitrust lawsuit is the first lawsuits under the Sherman Antitrust Act since 1998, when the Court ruled that Microsoft had to be broken up.<sup>71</sup> Therefore, new legislation must be considered in order to address the growing monopolies in the tech industry.

Besides antitrust concerns, Big Tech has also been criticized for supporting misinformation and censoring information. Facebook's new monitoring policies were heavily criticized by Republicans, arguing that conservative voices were being censored — an example being Facebook's restrictions of Holocaust denial posts.<sup>72</sup> Instagram and Twitter have both started putting warning labels on posts that may contain misinformation or conspiracies, other censorships criticized by Republicans.<sup>73</sup> Accusations of spreading fake news and censoring information are causes for concerns by both parties. Although Republicans and Democrats have different stances on speech regulations posted on social media platforms, there is a bipartisan call for some sort of reform. The reform might come in the repeal or changing of section 230, which Biden's team has already criticized. This section of the Communications Decency Act of 1996 "shields social media companies from lawsuits over the content they host."<sup>74</sup> Balancing the

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<sup>68</sup> *The Antitrust Laws*. (2017, December 15). Federal Trade Commission. <https://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/antitrust-laws>

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.*

<sup>71</sup> Mosley, T., & Wu, T. (2020, October 20). *Antitrust Lawsuits: Google 2020 Vs. Microsoft* 1998. NPR. <https://www.npr.org/2020/10/20/925895717/antitrust-lawsuits-google-2020-vs-microsoft-1998>

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

<sup>73</sup> Akala, A. (2020, October 16). *Don't Censor! Stop the Hoaxes! Facebook, Twitter Face A Catch-22*. NPR. <https://www.npr.org/2020/10/16/924625825/dont-censor-stop-the-hoaxes-facebook-twitter-face-a-catch-22>

<sup>74</sup> *Ibid.*

autonomy of private corporations, protecting free speech, and maintaining honest forms of information will be hot topics in the coming years.

Ultimately, the future of Big Tech in the United States is uncertain. The vast growth of tech companies contributing positive benefits to society cannot be overlooked. However, the Democratic and Republican parties will be addressing the vast growth of tech companies that have created an influx of positive and negative impacts on American society with few major restraints.

## What’s Really Inhibiting the Creation of a Post-Racial Society? A Commentary on Human Nature

*Henry Seyue*

The term “post-racial society” has been increasingly present in contemporary discussions about the existence of racism in America. These discussions have created optimism, which is especially warranted in a nation where race and racism have defined many of the features of our lives. Even with this being said, optimism must be restrained by the concern that far too many discussions involving the idea of a post-racial society fail to elaborate on what obstacles preclude it. Some discussions vaguely point to *perceived* racism, or racist social structures as the sole mechanisms working against racial progress, but I observe that racism and racist structures are merely products of a greater, more formidable obstacle.<sup>75</sup> Human nature, which is the impetus that disseminates good and evil throughout society, has been the fundamental foe to racial progress. More specifically, the primary characteristics of human nature that work against racial progress are the pursuit of power and the need to establish a sense of security and comfort.

### The Need to Establish Security & Comfort

Despite how highly we may think of ourselves, humans are simple beings. Like all other animals, we fear the unpredictability of our world, and we find solace in what is familiar. Also like other animals, we have a propensity to simplify difficult tasks—a quality that has served to innovate our society—but now contributes to our apparent inability to transcend race. The comforting simplicity of race explains why we ignore the science that challenges its existence, and why we coalesce around racial identities while alleging a desire for a post-racial society.

In an attempt to simplify the arduous task of finding comfort and security, we utilize assumptions, which evolve into expectations—and this, not biology, is the bedrock of our racial identities. Modern science has affirmed time and again that *biologically*, there is only one race of humans.<sup>76</sup> Science has also established that our socially constructed groups often have more biological similarities across them than within them.<sup>77</sup> So although evidence has prompted scientists to increasingly depart from the inaccurate term “race,” society-at-large hasn’t been as

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<sup>75</sup> NAACP LDF. ““Post-Racial America”?-- Not Yet.” NAACP Legal Defense and Education Fund, 2009. [https://www.naacpldf.org/wp-content/uploads/Post-Racial-America-Not-Yet\\_Political\\_Participation.pdf](https://www.naacpldf.org/wp-content/uploads/Post-Racial-America-Not-Yet_Political_Participation.pdf). Dawson, Michael C., and Lawrence D. Bobo. “One Year Later and The Myth of a Post-Racial Society.” Harvard Library Office for Scholarly Communication, 2009. [https://dash.harvard.edu/bitstream/handle/1/10347165/One%20Year%20Later%20and%20the%20Myth%20of%20a%20PostRacial%20Society\\_DBR.pdf?sequence=1](https://dash.harvard.edu/bitstream/handle/1/10347165/One%20Year%20Later%20and%20the%20Myth%20of%20a%20PostRacial%20Society_DBR.pdf?sequence=1).

<sup>76</sup> “There's No Scientific Basis for Race-It's a Made-Up Label.” National Geographic, June 8, 2020. <https://www.nationalgeographic.com/magazine/2018/04/race-genetics-science-africa/>.

<sup>77</sup> Witherspoon, D J, S Wooding, A R Rogers, E E Marchani, W S Watkins, M A Batzer, and L B Jorde. “Genetic Similarities within and between Human Populations.” Genetics. Genetics Society of America, May 2007. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1893020/>.

eager to abandon it because we are an insecure species.<sup>78</sup> The illusion of race allows us to pacify our need for security by allowing us to quickly—albeit naively—determine what affinity we have with individuals. The comfort and affinity we seek explains our intransigence about the concept of race, and it explains why we half-heartedly push towards a post-racial world.

We have an inclination to find comfort in people's phenotypic similarity to us, which derives from our family relationships in the earliest, most vulnerable stages of life. These early relationships also establish the basis for what we expect of people who look like us. We often use it to predetermine their values and beliefs, what qualities and interests they may have, and even which life experiences they should have had. As we mentally categorize individuals based on the level of animosity they may have towards us, those who look like us are assumed to be like us, and initially fall into the category of “low perceived threat.” This instinct has been especially active in minority groups in America, who more heavily rely on these assumptions to navigate a society with disproportionately more *perceived* enemies than allies.<sup>79</sup> The assumption that people who look like us have things in common with us, and ultimately have low animosity towards us, is the basis for community building. However, these assumptions impose barriers on individuals in a way the

Every individual we observe that can validate our assumptions helps to justify and fortify our sense of comfort, and this allows us to develop a sense of community. With racial communities, it is imperative that all members place high value on their racial identity, as this is the defining quality of the community. This has the effect of each member of that community accepting race as their defining characteristic. This is why it is common for many people to market other aspects of their identity with their racial adjective. Labels like “black mom,” “black lawyer” and “black doctor” are used with the assumption that blackness defines that individual. This may be true for some individuals, but the issue as it pertains to transcending race is that individuals (especially from minority groups) who do not hold their race in high esteem relative to other aspects of their identity are often characterized as self-hating individuals and ostracized.

Any sentiment resembling “*I’m not black, I’m OJ!*” is frowned upon because the black man or the white man who purports to transcend race threatens racial allegiance the way someone who commits treason threatens national allegiance.<sup>80</sup> This is ironic because racial transcendence is exactly what a post-racial society demands. As long as groups actively promote race as a defining characteristic, or discourage individuals from thinking of themselves outside of a racial context, it poses an obstacle to our human identities taking prominence.

So how do we achieve a post-racial society while upholding our racial allegiances? The simple answer is “we don’t.” This discomfoting truth exceeds even racism as the paramount challenge

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<sup>78</sup> Chou, Vivian, and Daniel Utter. “How Science and Genetics are Reshaping the Race Debate of the 21st Century.” Harvard University Graduate School of Arts and Sciences, February 27, 2019.

<http://sitn.hms.harvard.edu/flash/2017/science-genetics-reshaping-race-debate-21st-century/>.

<sup>79</sup> Dyer, W. Gibb. “Patterns and Assumptions: The Key to Understanding Organizational Cultures.” Massachusetts Institute of Technology, June 1982. <https://apps.dtic.mil/dtic/tr/fulltext/u2/a117610.pdf>.

<sup>80</sup> Demby, Gene. “Encore: ‘I’m Not Black I’m O.J.’” NPR. NPR, October 12, 2016. <https://www.npr.org/2016/10/12/497565530/encore-im-not-black-im-o-j>.

to reaching a post-racial society. We are frightened to view our world as the racially homogenous edifice that it is because establishing a sense of affinity and security would become a more laborious task. As society currently stands, it's more convenient to ostracize or marginalize those who complicate our racial expectations than it is to deconstruct our racial expectations, so the status quo persists. To be true to the goal of transcending race, we must desist from making assumptions about who we have an affinity with based on superficial qualities. We must also desist from ostracizing individuals from racial communities who don't share expected values or reinforce our preconceived notions. This makes the myth of race a reality, and so long as we are actively reinforcing the comforting lie of race, we cannot achieve a post-racial society.

### **The Pursuit of Power**

As observed by James Baldwin more than sixty years ago “people are not terribly excited to be equal, but they love the idea of being superior.”<sup>81</sup> It is this travail towards superiority that creates many obstacles to racial progress. This nefarious quest supersedes hatred, fear, and ignorance as the preeminent root of racism, as well as other obstacles that we tend to ignore. Baldwin's observation works in tandem with thoughts from modern black thinkers like Shelby Steele of Stanford's Hoover Institution who have posited that “we human beings never use race except as an end to power.”<sup>82</sup> The truth of Baldwin and Steele's observations is evinced in demagogues who use visceral, race-based appeals to maintain power; in individuals who use race as a means of establishing moral legitimacy and righteousness; and in revolutions where the oppressed later becomes the oppressor.

When we are angry, it is very easy for us to be deceived. This is why demagogues across the spectrum often try to convince people of color that whites are racist and greedy, or try to convince whites that people of color are dangerous and lazy. This enrages and polarizes groups, and leaders often seek to capitalize on this polarization with racially tailored messages. This is why it comes as little surprise that Joe Biden would facetiously proclaim that if you don't vote for him “you ‘aint’ black,”<sup>83</sup> or that Hillary Clinton would brandish hot sauce in a gaudy attempt at relating to the black community.<sup>84</sup> The truth is, the more polarized and solidified that racial identities are, the easier it is for leaders to broadly appeal to large groups of people. Because of this, they have more than enough incentive to exploit race, thus they insidiously push us away from seeing ourselves as individuals.

If you convince people that they are part of a racial monolith, you reinforce the idea that there is little variation within their interests and values—like Joe Biden has suggested of the black community. Paired with the aforementioned anger that is sowed within racial groups, race can be

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<sup>81</sup> James Baldwin, *The Fire Next Time*. (New York: Dial Press 1963), 68.

<sup>82</sup> *What Killed Michael Brown*. Man of Steele Productions, 2020. <https://whatkilledmichaelbrown.com/>.

<sup>83</sup> Swerdlick, David. “Perspective | Biden Said Black Trump Voters 'Ain't Black.' That's a Double Standard.” *The Washington Post*. WP Company, May 29, 2020. <https://www.washingtonpost.com/outlook/2020/05/22/biden-charlamagne-trump-black/>.

<sup>84</sup> Newkirk, Vann R. “Was Hillary Clinton Pandering When She Talked About Hot Sauce?” *The Atlantic*. Atlantic Media Company, April 20, 2016. <https://www.theatlantic.com/politics/archive/2016/04/hillary-clinton-pandering-radio/479004/>.

used to get individuals to support proposals that are inconsistent with their personal interests. Even so-called progressives like Bernie Sanders have utilized this cunning strategy. Consider that despite non-partisan research indicating the adverse effects of minimum wage increases on blacks, Bernie Sanders has repeatedly attempted to garner their support for it. Data shows that only 3.8% of the meager gains from this proposal would go to needy black families, while it threatens to increase unemployment among black youth by as much as 85% (if hiked to \$15/hr).<sup>85</sup> Despite this reality, invoking the image of an oppressive, white ruling class would elicit the sort of emotion necessary for blacks to support the initiative—which ultimately grants its proposer more legitimacy and political power.

Aside from the political power sought by leaders who pander to race, average people pursue power and obstruct racial progress in a similar way. In this case, we rely on race and racial animosity as a crutch to uphold claims of righteousness and establish moral superiority in society. Increasingly popular pretenses like “all white people are racist” and “black people cannot be racist” are nothing more than power-grabs.<sup>86</sup> For black individuals, if racism is understood to be a morally inferior quality, it follows that the inability to be racist makes those individuals morally superior in at least one respect. But to believe that one can be naturally adorned with any form of moral superiority is a deeply racist sentiment, and it allows its claimants to profess inalienable righteousness. As righteousness has always equated to power, we’ve repeatedly attached faux righteousness to our racial identities. There is no group innocent of this sin, and it is a sin that we still indulge in, to the detriment of racial progress.

It is the faux righteousness we attach to our races that empowers leaders like Louis Farrakhan to exclaim “we and white people are mortal enemies...they are made to be our enemies, and there is no redemption for them.” We humans have an obsession with righteousness, this is why through our history we’ve repeatedly deified ourselves. In Farrakhan’s case, the judgment he casts upon white people can only be made by someone who purports god-like righteousness.<sup>87</sup> The righteousness he purports is one gleaned from his blackness, and this particular sentiment parallels the messages of notorious racists from Hitler to David Duke. Unfortunately, whereas we readily disavow this rhetoric when espoused by a character like David Duke, the pursuit of moral legitimacy (a form of power) makes some more tolerant to it when it comes from someone of a marginalized group.

Particularly in America, the pursuit of power in the form of moral legitimacy produces white guilt. By showing great sympathy and deference to minorities, many whites believe they can atone for the “sin” of being white. Whatever meager reparation comes with their deference is nonetheless residual. This is because the primary objective is to no longer be seen as a mortal enemy (as was espoused by Farrakhan) to the “righteous” victims of society. This partially explains why in the wake of tragedies in the black community, unprecedented amounts of whites

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<sup>85</sup> Employment Policy Institute. “Research Shows Minimum Wage Hike Would Put Low-Skilled Adults Out of Work and Fail to Effectively Help Poor Families.” August 2006. <https://epionline.org/release/o172/>

<sup>86</sup> *What Killed Michael Brown*. Man of Steele Productions, 2020. <https://whatkilledmichaelbrown.com/>.

<sup>87</sup> *Uncle Tom*, 2020. <https://www.uncletom.com/>.

tend to join pro-black trends. By establishing a good rapport with blacks, even if temporarily, some whites attempt to signal their virtue. This derives from the pursuit of moral superiority, and in a post-racial world, there would be no such opportunity to establish this sort of superiority. With the status quo of racial victimhood providing unlimited opportunities to seek legitimacy, there is an incentive to perpetually down-play racial progress because the end of racial victimhood means the end of exploiting it for moral superiority.

Our power-seeking nature has served to corrupt even the noblest of objectives, this is why we must approach even the endeavor of equality with the highest level of scrutiny. As shown, those who have power often exploit our social ills to maintain it. But even those who lack power have the facade of equality as a pathway to superiority. Those in a state of superiority have little motivation beyond mere sympathy to pursue anything that resembles equality. This is why equality is something that is only sought by those in a state of inferiority. But once equality is achieved, or once a group even approaches the precipice of equality, the pursuit of power subtly begins.

This view is admittedly cynical, but this cynicism is not unfounded. Consider Liberia, where the oppressive Americo-Liberian government structure was overthrown by a junta led by marginalized natives and future president Samuel Doe in 1980.<sup>88</sup> Rather than facilitate the equality that was demanded in the years prior, President Doe oversaw the oppression of Americo-Liberians, and sought to elevate his tribal group above the groups they were previously equal to. This example is not as foreign to us in America as it may appear. The relevant takeaway is: due to our power-seeking nature, the pursuit of reparation can quickly dissolve into the pursuit of retribution. As groups near the precipice of equality, they begin to champion ideas that parallel the ones that oppressed them. Whether it be deifying themselves or advocating for policies that discriminate against another racial group, it can be argued that this phenomenon is already present in America. If it is, it is working against the pursuit of a post-racial society without us even realizing it.

## **Conclusion**

Humans have oversimplified our world to the point where we allow great divisions to exist because they offer us comfort. Everything about how we subconsciously and consciously maintain the construct of race suggests that we aren't as eager about the idea of oneness as we pretend to be. We've let the comfort and simplicity of racial divisions become a source of power in many ways, and the culmination of power and comfort has served to disincentivize the transcendence of race. As we proceed into this decade, we must be more reflective. This means realizing that transcending race is not a battle against ostensibly racist systems and individuals, but fundamentally a battle against our insecure, power-seeking nature. The alleged racist individuals and systems that we divert attention to only minimally obstruct racial progress, yet

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<sup>88</sup> "Samuel K. Doe." Samuel K. Doe. Encyclopædia Britannica, inc., May 30, 2017. <https://www.britannica.com/biography/Samuel-K-Doe>.

we overemphasize their influence because we rather not acknowledge that it is our subconscious reliance on race, and our exploitation of it that inhibits the creation of a post-racial society.

## America's Failure to Avoid Catastrophe: COVID-19 and the Climate Crisis

*Ben Albee*

In the Fall of 2020, President Trump made many baseless claims about the role of science in both the climate crisis and the COVID-19 pandemic. In response to whether or not climate change was driving the severity of the wildfires in the west coast this summer, he said, "I don't think the science knows, actually." Similarly, in response to COVID-19, he claimed that doctors "get more money if [patients] die from COVID,"<sup>89</sup> both claims that CNN reports as "baseless."<sup>90</sup> These are continuations of his scientific denialism, which has translated into his lack of political action to prevent these crises. Denying science is a strategy to protect backlash on his policies that fail to address them. COVID-19 and climate change have gone through similar phases, from their inceptions as scientific questions to political disasters, and may both be past the point of recovery.

It took a significant amount of time to determine within scientific communities that climate change and COVID-19 were legitimate scientific phenomena and threat multipliers. Threat multipliers are phenomena that may or may not directly impact people, but make pre-existing threats more dangerous.<sup>91</sup> The beginning of understanding climate change started in the 1820s, with Joseph Fourier's discovery of the atmospheric greenhouse effect. Charles Keeling's experiments in the 1950s and 60s gave evidence that industrialization's release of CO<sub>2</sub> into the atmosphere would raise the global temperature to dangerous levels.<sup>92</sup> Similarly, the first cases of COVID-19 trace back to December of 2019, with the W.H.O.'s situation report<sup>93</sup> on January 20th tracing 282 confirmed cases and six deaths to a seafood market in Wuhan, deeming the virus highly dangerous and contagious. Science, however, does not suggest specific policy; rather, it gives policymakers and the public the information necessary to respond to issues that affect people.

When those policymakers were initially faced with the aforementioned climate science, they were aided by an excited public that used their individual actions to prevent environmental destruction.<sup>94</sup> In addition, large protests and marches demanded the government to enact change. To President Nixon, it was a politically savvy choice to champion environmentalism, and

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<sup>89</sup> Reston, Maeve. "Analysis: Trump Makes Baseless Claims about Pandemic in Final Stretch as Covid Cases Rise." *CNN*, Cable News Network, 31 Oct. 2020, [www.cnn.com/2020/10/31/politics/donald-trump-doctors-midwest-2020-election/index.html](http://www.cnn.com/2020/10/31/politics/donald-trump-doctors-midwest-2020-election/index.html)

<sup>90</sup> Vazquez, Maegan. "Trump Baselessly Questions Climate Science during California Wildfire Briefing." *CNN*, Cable News Network, 14 Sept. 2020, [www.cnn.com/2020/09/14/politics/donald-trump-wildfires-briefing-climate-change/index.html](http://www.cnn.com/2020/09/14/politics/donald-trump-wildfires-briefing-climate-change/index.html)

<sup>91</sup> "Definition of Threat Multiplier." *Law Insider*, [www.lawinsider.com/dictionary/threat-multiplier](http://www.lawinsider.com/dictionary/threat-multiplier)

<sup>92</sup> History.com Editors. "Climate Change History." *History.com*, A&E Television Networks, 6 Oct. 2017, [www.history.com/topics/natural-disasters-and-environment/history-of-climate-change](http://www.history.com/topics/natural-disasters-and-environment/history-of-climate-change)

<sup>93</sup> "Novel Coronavirus (2019-NCov) SITUATION REPORT - 1." *W.H.O.*, 20 Jan. 2020, [www.who.int/docs/default-source/coronaviruse/situation-reports/20200121-sitrep-1-2019-ncov.pdf?sfvrsn=20a99c](http://www.who.int/docs/default-source/coronaviruse/situation-reports/20200121-sitrep-1-2019-ncov.pdf?sfvrsn=20a99c)

<sup>94</sup> "The 1960s and 1970s." *ENVIRONMENTAL CORRUPTION IN THE UNITED STATES*, [usenv.weebly.com/the-1960s-and-1970s.html](http://usenv.weebly.com/the-1960s-and-1970s.html)

creating the Environmental Protection Agency helped him win reelection. This environmentalism, however, was insufficient to many, as the laws that were passed, such as the Clean Air Act, and the Water Pollution Control Act targeted non-greenhouse gas pollutants. Carbon dioxide and methane gas, the primary greenhouse gases, were not regulated specifically in federal legislation until 2011. Finally, in an address to Congress in 1973, he declared the environmental crisis over.<sup>95</sup>

Just as with the environmental movement of the 1960s and 70s, it was in everyone's interest to prevent an outbreak in the first few weeks of public awareness of the virus. In the public's eyes, people could legitimately "save the world,"<sup>96</sup> with their individual actions. "When the coronavirus began sweeping around the globe this spring," says NYT author Julie Bosman, "people from Seattle to Rome to London canceled weddings and vacations, cut off visits with grandparents and hunkered down in their homes for what they thought would be a brief but essential period of isolation." Their contribution towards preventing outbreak had more of an effect than it would after the tipping points were reached.<sup>97</sup> However, people knew that these restrictions were powerless unless everyone followed them, which wouldn't happen unless governments imposed them.<sup>98</sup> President Trump responded in late January by setting limits on travel between the U.S. and China, and creating a "White House Coronavirus Task Force." However, like Nixon's EPA, this response did little to prevent a crisis. By mid-February, he said, "Sixty-one percent of the voters approve of Trump's handling of the coronavirus,"<sup>99</sup> touting a victory, like Nixon, on a catastrophe that had not yet begun. He subsequently stopped talking about the virus for two weeks, except to reassure his victory, tweeting, "The Coronavirus is very much under control in the USA." Unlike Nixon, Trump remained in office when the risk turned to crisis.

Between risk and crisis, however, existed the last window of opportunity where catastrophe could have been avoided. In 1988, James Hansen presented to Congress, "a 99% statistical certainty that greenhouse warming is happening now."<sup>100</sup> In 1989, the EPA "issued a 100-page report on how global warming could affect human health."<sup>101</sup> The Reagan and George H.W. Bush Administrations continued Nixon's bipartisan support of environmentalism, "but as soon as Bush got into office, the administration started to work against meaningful policy on climate

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<sup>95</sup> Rinde, Meir. "Richard Nixon and the Rise of American Environmentalism." *Science History Institute*, 18 Apr. 2019, [www.sciencehistory.org/distillations/richard-nixon-and-the-rise-of-american-environmentalism](http://www.sciencehistory.org/distillations/richard-nixon-and-the-rise-of-american-environmentalism)

<sup>96</sup> Benton, Sarah Allen. "The Savior Complex." *Psychology Today*, Sussex Publishers, 6 Feb. 2017, [www.psychologytoday.com/us/blog/the-high-functioning-alcoholic/201702/the-savior-complex](http://www.psychologytoday.com/us/blog/the-high-functioning-alcoholic/201702/the-savior-complex)

<sup>97</sup> Gladwell, Malcolm. *The Tipping Point: How Little Things Can Make a Big Difference*. Abacus, 2015.

<sup>98</sup> Saad, Lydia. "Trust in Federal Government's Competence Remains Low." *Gallup.com*, Gallup, 30 Oct. 2020, [news.gallup.com/poll/321119/trust-federal-government-competence-remains-low.aspx](https://news.gallup.com/poll/321119/trust-federal-government-competence-remains-low.aspx)

<sup>99</sup> Bump, Philip. "Analysis | What Trump Did about Coronavirus in February." *The Washington Post*, WP Company, 20 Apr. 2020, [www.washingtonpost.com/politics/2020/04/20/what-trump-did-about-coronavirus-february/](https://www.washingtonpost.com/politics/2020/04/20/what-trump-did-about-coronavirus-february/)

<sup>100</sup> Lewin, Bernie. "30 Years On, Remembering James Hansen's 1988 Congressional Testimony." *The Global Warming Policy Forum (GWPF)*, 23 June 2018, [www.thegwpf.com/30-years-on-remembering-james-hansens-1988-congressional-testimony/](http://www.thegwpf.com/30-years-on-remembering-james-hansens-1988-congressional-testimony/)

<sup>101</sup> Dean Russell, Elisabeth Gawthrop. "Deadly Heat Is Killing Americans: Climate Death Toll Rises after a Decade of Federal Inaction." *The Guardian*, Guardian News and Media, 16 June 2020, [www.theguardian.com/us-news/2020/jun/16/climate-deaths-heat-cdc](https://www.theguardian.com/us-news/2020/jun/16/climate-deaths-heat-cdc)

change.”<sup>102</sup> Even though this time (late 1980s to 1990s) was a time that climate science and popular opinion suggested governments worldwide take meaningful measures to prevent climate change, it was also a time of growing corporate influence on government and neocolonialism. This meant that the corporations who influenced much of policymakers’ decisions had to protect their growing businesses that caused environmental destruction worldwide<sup>103</sup>. Even when President Bill Clinton proposed a comprehensive climate action deal at the Kyoto protocol in 1997, Congress rejected it due to the pressure of this corporate influence and the constraints of the U.S. electoral system.<sup>104</sup>

That window of opportunity for COVID-19 was March. If the United States had recognized the potential threat of the virus and conducted a true three-week quarantine, the virus may not have been spread as much as it did. Instead, economic limitations made it impossible to completely shut down. While many areas of the economy shut down—especially small, family- owned businesses—the more oligopolistic sectors (Amazon, Uber Eats, agri-farm companies) continued to operate, relying on its workers to come into close contact with people.<sup>105</sup> Without a safety net for workers,<sup>106</sup> adequate accountability for corporations, nor a mechanism to pause the consumerism of capitalist nations like the United States,<sup>107</sup> a true quarantine never took effect. 45,000 people lost their lives to the virus by the end of March.<sup>108</sup>

It is suggested that the severity of Hurricane Katrina (2004) can be attributed to climate change, and is regarded as one of the first major instances of the climate crisis.<sup>109</sup> The Bush Administration was notorious for its inadequate response to the natural disaster; no new policies to prevent natural disasters of similar or worse magnitude were passed under his administration. At this point, climate change was still mostly a bipartisan issue, yet Republicans tended to emphasize the need for more scientific consensus on climate research. Though the Administration worked with major corporations to reduce their greenhouse gas emissions, reporting the numbers of those emissions was voluntary.<sup>110</sup> President Bush, relying on states’

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<sup>102</sup> Waldman, Scott, and Benjamin Hulac. “WHITE HOUSE: This Is When the GOP Turned Away from Climate Policy.” *WHITE HOUSE: This Is When the GOP Turned Away from Climate Policy -- Wednesday, December 5, 2018*, 5 Dec. 2018, [www.eenews.net/stories/1060108785/](http://www.eenews.net/stories/1060108785/)

<sup>103</sup> Klein, Naomi. *On Fire: The Burning Case for a Green New Deal*. Vintage Canada, 2020.

<sup>104</sup> Aschwanden, Christie. “A Lesson from Kyoto's Failure: Don't Let Congress Touch A Climate Deal.” *FiveThirtyEight*, FiveThirtyEight, 4 Dec. 2015, [fivethirtyeight.com/features/a-lesson-from-kyotos-failure-dont-let-congress-touch-a-climate-deal/](http://fivethirtyeight.com/features/a-lesson-from-kyotos-failure-dont-let-congress-touch-a-climate-deal/)

<sup>105</sup> Julie Kotsis, Windsor Star. “New COVID-19 Outbreak at Leamington Manufacturing Plant.” *Windsorstar*, Windsor Star, 6 July 2020, [windsorstar.com/news/local-news/covid-19-update](http://windsorstar.com/news/local-news/covid-19-update)

<sup>106</sup> Gordon, Colin, and Sarah K. Bruch. “COVID-19 Is Exposing the United States' Ragged, Shameful Safety Net.” *Jacobin*, 21 Apr. 2020, [jacobinmag.com/2020/04/covid-19-social-safety-net-united-states/](http://jacobinmag.com/2020/04/covid-19-social-safety-net-united-states/)

<sup>107</sup> Harvey, David. “Anti-Capitalist Politics in the Time of COVID-19.” *Jacobin*, 20 Mar. 2020, [jacobinmag.com/2020/03/david-harvey-coronavirus-political-economy-disruptions/](http://jacobinmag.com/2020/03/david-harvey-coronavirus-political-economy-disruptions/)

<sup>108</sup> Ritchie, Research and data: Hannah. “Coronavirus (COVID-19) Deaths - Statistics and Research.” *Our World in Data*, 7 Dec. 2020, [ourworldindata.org/covid-deaths](http://ourworldindata.org/covid-deaths)

<sup>109</sup> Irish, Jennifer L et al. “Simulations of Hurricane Katrina (2005) under Sea Level and Climate Conditions for 1900.” *Climatic Change*, Springer Netherlands, 1 Jan. 1999, [link.springer.com/article/10.1007/s10584-013-1011-1](http://link.springer.com/article/10.1007/s10584-013-1011-1)

<sup>110</sup> “Council on Environmental Quality.” *National Archives and Records Administration*, National Archives and Records Administration, [georgewbush-whitehouse.archives.gov/ceq/global-change.html](http://georgewbush-whitehouse.archives.gov/ceq/global-change.html)

rights and federalism, left greenhouse gas regulation to the state governments; the first legislation to regulate greenhouse gases came from the state of California in 2006.<sup>111</sup>

Similarly, after the outbreak became serious in mid April, President Trump relied on federalism to deal with this global crisis, giving state governors, “discretion whether to implement these guidelines.”<sup>112</sup> Both Republican Presidents, following the party belief of limited government, parceled power to states to help deal with the crises. By summer, partial shutdowns had only concentrated the outbreaks in places where governors imposed less restrictions, especially in low income, high density areas. People’s individual actions had had little to no effect on the whole of the outbreak, and rhetoric moved from “prevent the outbreak,” to “How can I protect myself from the coronavirus as cities and states start to reopen?”<sup>113</sup>

A compromise had been reached; most of the population would live in a “new normal,” with social distancing, masks on, and partial openings of schools and businesses. Life could go mostly back to normal, and a small percentage of the population would continue to die from this virus. Likewise, Barack Obama’s presidency is often characterized as one of compromise. His Administration ushered in the first federal legislation regulating greenhouse gas emissions, yet did nothing about the Flint water crisis.<sup>114</sup> Like how the U.S. has adapted to COVID-19, President Obama “prepared the United States for the impacts of climate change that we cannot avoid.”<sup>115</sup> The last two years of his presidency were the two hottest years on record,<sup>116</sup> though he, personally, may not have had the power to prevent this; too many economic and geological tipping points had been passed by the time he was sworn in.

Though the first instances of the COVID-19 outbreak and climate crisis were serious, the lack of addressing these problems made future instances far more dangerous. The spikes in summer led to a death toll that exceeded 200,000, and droughts, wildfires, and heat waves killed many and displaced more. But as action continues to stall, these crises will continue to worsen. “By 2030, without climate action, 100 million people will be pushed into poverty, and by 2050, 143 million people will be displaced from their homes by climate change.”<sup>117</sup> The Biden presidency is being

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<sup>111</sup> “California Air Resources Board.” *AB 32 Global Warming Solutions Act of 2006 | California Air Resources Board*, 28 Sept. 2018, [ww2.arb.ca.gov/resources/fact-sheets/ab-32-global-warming-solutions-act-2006](http://ww2.arb.ca.gov/resources/fact-sheets/ab-32-global-warming-solutions-act-2006)

<sup>112</sup> Selin, Jennifer. “Trump versus the States: What Federalism Means for the Coronavirus Response.” *The Conversation*, 2 Dec. 2020, [theconversation.com/trump-versus-the-states-what-federalism-means-for-the-coronavirus-response-136361](http://theconversation.com/trump-versus-the-states-what-federalism-means-for-the-coronavirus-response-136361)

<sup>113</sup> Maragakis, Lisa Lockerd. “The New Normal and Coronavirus.” *Johns Hopkins Medicine*, 14 Aug. 2020, [www.hopkinsmedicine.org/health/conditions-and-diseases/coronavirus/coronavirus-new-normal](http://www.hopkinsmedicine.org/health/conditions-and-diseases/coronavirus/coronavirus-new-normal)

<sup>114</sup> Milman, Oliver, et al. “Obama’s Legacy: the Promises, Shortcomings and Fights to Come.” *The Guardian*, Guardian News and Media, 3 Jan. 2017, [www.theguardian.com/us-news/2017/jan/03/barack-obama-president-legacy-policy-issues-wins-fights](http://www.theguardian.com/us-news/2017/jan/03/barack-obama-president-legacy-policy-issues-wins-fights)

<sup>115</sup> “Climate Change.” *National Archives and Records Administration*, National Archives and Records Administration, [obamawhitehouse.archives.gov/energy/climate-change](http://obamawhitehouse.archives.gov/energy/climate-change)

<sup>116</sup> “What Is Net Zero?” *Climate Central*, 2 Dec. 2020, [www.climatecentral.org/gallery/graphics/2016-was-the-hottest-year-on-record](http://www.climatecentral.org/gallery/graphics/2016-was-the-hottest-year-on-record)

<sup>117</sup> John Podesta, “Podesta: The Climate Crisis Is Here.” *Climate Power 2020*, September 29, 2020 [www.climatepower2020.org/resources/the-climate-crisis-is-here/](http://www.climatepower2020.org/resources/the-climate-crisis-is-here/)

championed for believing in science, but his administration will have to make up for lost time with both issues, while balancing those economic forces that stalled action.

## **“Made in China:” The Impact of Chinese Trade on Developed and Undeveloped Nations**

*Jack Bergantino*

“Made in China” marks the bottom of seemingly every product in the American store’s aisle. As the United States de-industrializes and shifts to a service-based economy, China has become an increasingly important trading partner: the U.S. imports more goods from China than from any other country.<sup>118</sup> According to the U.S. Census Bureau, in 2018 the U.S. imported almost \$540 billion worth of products from China. Most economists laud China’s foray into global trade, following its admission to the World Trade Organization in 2001, as beneficial for the country and its trading partners.<sup>119</sup> Indeed, neoclassical trade theory assumes that international trade maximizes allocative efficiency. Thus, when populist politicians bemoan the “China shock’s” impact on American manufacturing jobs and innovation, one may attribute such concerns to outdated mercantilist theory. The China trade shock is used to describe the effect of Chinese exports on manufacturing jobs within the United States and Europe, following China’s admittance to the World Trade Organization. While the U.S. labor market has largely been successful in reallocating jobs from the manufacturing sector to the service sector, these concerns have merit, particularly in undeveloped nations that have yet to industrialize.<sup>120</sup> Though trade with China presents challenges for the U.S., such issues are even more acute in undeveloped or developing sub-Saharan African countries. However, this is hardly a new phenomenon: British exports led to the premature deindustrialization of India in the nineteenth century. Since then, India has witnessed sustained, intensive economic growth, providing a possible blueprint for industrialization in sub-Saharan African countries.

U.S. trade with China undoubtedly incited labor market disruption. The slowing demand for factory laborers in the U.S. constitutes a preexisting U.S. trend toward de-industrialization: the U.S. has been shedding manufacturing jobs since the 1950s.<sup>121</sup> China’s emergence as a key trading partner likely only exacerbated this process. Studies find that Chinese imports account for one third of the total job losses in the American manufacturing sector; losses are concentrated in the Midwestern and Southeastern parts of the U.S.<sup>122</sup> They conclude, however, that U.S.-China trade has not led to a net loss in domestic jobs. In essence, most of the companies

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<sup>118</sup> US Census Bureau. 2020. “Top Trading Partners.” US Department of Commerce, <https://www.census.gov/foreign-trade/statistics/highlights/toppartners.html>

<sup>119</sup> Commission on the Theft of American Intellectual Property, 2017, “The Theft of American Intellectual Property: Reassessments of the Challenge and United States Policy.” The National Bureau of Asian Research.

<sup>120</sup> Nicholas & Kurmann Bloom, Andre & Handley, Kyle & Luck, Phillip, 2019. “The Impact of Chinese Trade on U.S. Employment: The Good, The Bad, and The Apocryphal,” 2019 Meeting Papers 1433, Society for Economic Dynamics.

<sup>121</sup> Dan Rodrik, “Premature Industrialization,” Working Paper 20935, National Bureau of Economic Research, March, 2015,

<sup>122</sup> Bloom, Nicholas & Kurmann, Andre & Handley, Kyle & Luck, Phillip, “The Impact of Chinese Trade on U.S. Employment: The Good, The Bad, and The Apocryphal,” 2019 Meeting Papers 1433, Society for Economic Dynamics

responsible for closing production lines in the U.S. are multinational employers who offset layoffs by hiring service sector employees. As a post-industrial country, the U.S. has a generally well-educated and skilled populace. Therefore, this labor force disruption merely reallocated positions from low human capital heartland locations to high human capital coastal areas.

China's substantial economic involvement in sub-Saharan Africa introduces similar issues that have greater consequences. Since the 1970s, Africa has been considered the future labor-intensive manufacturing powerhouse.<sup>123</sup> The import of \$113 billion worth of Chinese manufactured goods in 2019 challenges this view. The standard blueprint for economic growth generally includes a transition from an agrarian to an industrial economy. Rodrik refers to Africa as an example of premature deindustrialization: the manufacturing sector declined long before levels of income met those of deindustrialized economies. According to Rodrik's analysis, Africa's manufacturing employment share, manufacturing value added (MVA) at current prices, and MVA at constant prices have decreased.<sup>124</sup> China directly competes with Africa in low-technology manufacturing, often the first step toward sustained, intensive economic growth.<sup>125</sup> The exportation of cheap Chinese goods to Western and domestic markets displaces the production of substitute goods within Sub-Saharan countries, retarding their ability to industrialize. African countries seeking to industrialize are confronted with a two-fold issue. China's comparative advantage in manufacturing hinders import-substitution. Furthermore, by "skipping" the industrial phase, these nations become vulnerable to the relative price trends established by post-industrial countries: the relative price of manufacturing decreases for developed countries, inhibiting the advancement of countries that do not already specialize in manufacturing.<sup>126</sup>

For instance, Britain and the United States became manufacturing powerhouses after undergoing periods of significant industrialization during the nineteenth and early twentieth centuries. This enabled the rise of a middle class who could purchase the manufactured goods in both countries; however, sub-Saharan countries have never undergone such a period of sustained, intensive economic growth. The relatively well-off in these countries can purchase manufactured imports produced in other countries like China, but without large-scale domestic demand, sub-Saharan African countries cannot compete with China's low production costs. While more research needs to be done to understand the scope of the impact of Chinese trade on African countries, Gebre-Egzlabher studied 96 microenterprise, small, and medium Ethiopian shoe manufacturers to understand the implications of Chinese shoe imports. He concluded that 28% were bankrupted,

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<sup>123</sup> Dan Rodrik, "Premature Industrialization," Working Paper 20935, National Bureau of Economic Research, March, 2015

<sup>124</sup> Ibid.

<sup>125</sup> Rachel and Morris Kaplinsky, Mike, "Do the Asian Drivers Undermine Export-oriented Industrialization in SSA?" *World Development* 36, no. 2: 254-273. 2007.06.007

<sup>126</sup> Dan Rodrik, "Premature Industrialization," Working Paper 20935, National Bureau of Economic Research, March, 2015

and 32% scaled back production as a result of Chinese competition.<sup>127</sup> Small to medium-sized factories shed an average of 24 employees each. Until 2005, the U.S. instituted quotas on Chinese imports, which encouraged the emergence of African textile production.<sup>128</sup> Textiles, which require labor-intensive, low technology production, are an essential export for African countries<sup>129</sup>. As such, clothing exports from Lesotho comprised 50% of the country's GDP, whereas Kenyan clothing production represented 20% of Kenya's formal manufacturing sector. Two years after the quotas were removed, sub-Saharan exports to the U.S. fell by 26%, crippling textile production in Sub-Saharan countries. During this period, equivalent Chinese exports to the U.S. grew by 85%, suggesting a strong relationship between the rise of Chinese textile exports and the downfall of African textile production.<sup>130</sup> The failure of Africa's manufacturing sector to withstand domestic and international Chinese competition undermines the continent's greater ability to industrialize.

India faced similar significant challenges to its own textile industry in the nineteenth century, following Britain's emergence as a major textile exporter. Improved British productivity drastically lowered global textile prices; thus, the artisanal weavers who supported India's blooming textile industry in the late eighteenth century could no longer compete in the export market.<sup>131</sup> Decreasing shipping costs at the turn of the century facilitated a stronger trade relationship between India and Britain, meaning that Britain slowly won over India's domestic market. In the mid-eighteenth century, Bengal (a region in India) exported 21% of domestic textile output. By 1800, India was still a net exporter of textiles, but its exports fell by 20 percentage points. In 1833, India became a net importer. Finally, by 1877, foreign imports constituted up to 65% of India's domestic market. This shock had profound effects on India's industrialization: labor force engagement in industry contracted by about 40% from 1800 to 1900. Whereas India accounted for nearly a quarter of world manufacturing in 1750, it accounted for less than a tenth of global production by 1860. While India was colonized by Britain in 1858, which could have exacerbated the flow of British imports into India, there is an undoubtable parallel between Britain's relationship with India and China's modern-day relationship with sub-Saharan Africa. India has since reversed the effects of its premature industrialization. Following Indian independence in 1947, the government invested heavily in high-risk sectors, including infrastructure, while providing foreign private corporations with greater access to liquidity.<sup>132</sup> The average growth rate increased by 7% annually in the decade following the implementation of this modernization strategy. Foreign collaboration and access to sophisticated technology

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<sup>127</sup> Tegegne Gebre-Egziabher, 2007, "Impacts of Chinese imports and coping strategies of local producers: The case of small-scale footwear enterprises in Ethiopia" *The Journal of Modern African Studies* 45, no. 4: 647-679. doi:10.1017/S0022278X07002911

<sup>128</sup> Rachel and Morris Kaplinksy, Mike. 2008. "Do the Asian Drivers Undermine Export-oriented Industrialization in SSA?" *World Development* 36, no. 2: 254-273. doi:10.1016/j.worlddev.2007.06.007

<sup>129</sup> Ibid.

<sup>130</sup> Ibid.

<sup>131</sup> Jeffrey G. Williamson, *Trade and Poverty: When the Third World Fell Behind*. (Cambridge, Mass: The MIT Press, 2011), 122

<sup>132</sup> Prabhat Patnaik, 1979. "Industrial Development in India since Independence." *Social Scientist* 7, no. 11: 3-19. doi:10.2307/3516530

enabled the production of more complex materials like metals and pharmaceuticals in favor of cotton textiles. India has since emerged as a manufacturing and information technology hub in the twenty-first century.

Because the U.S. and Africa experienced the “China shock” at two very different points in their developmental timeline, the consequences are varied in type and scope. The U.S.’s ability to reallocate labor from low human capital to high human capital sectors is a post-industrialized luxury not available to Africa. However, China’s impact on Sub-Saharan African countries’ development should not be used to make a case against globalism; these issues have been rehearsed in the past, including with Britain’s deindustrialization of India. Evidently, African countries will need to find a new economic growth model. The case of India suggests that expansion into relatively skilled manufacturing and I.T. could unleash the productivity advancements once spurred by Britain’s textile mills in the nineteenth century.

## Introduction to Impact Investing: The Every-Day Green Deals in Banking

*Grace Burns*

Seven years. We have seven years until the detrimental effects of climate change on planet Earth are permanent and irreversible.<sup>133</sup> Despite individual recycling efforts and abandoning plastic bags and straws, there is significant work to be done to mitigate this glaring fate. Impact investing can be among one of the contributing factors to reversing the damage humankind has caused.

Impact Investing, to most, is the practice of generating specific beneficial social or environmental effects in addition to financial gains.<sup>134</sup> It is the paramount integration of monetary growth and ethical practice; it seeks to intertwine doing both ‘good’ and ‘great’ things. Impact investments may take the form of numerous asset classes and may result in many specific outcomes in the effort to use money and investment capital to generate positive social results.”<sup>135</sup> It is a subset of socially responsible investing, defined as the general avoidance of harm, whether it be to the environment, human rights, or otherwise. Impact investing, instead of harm avoidance, goes a step farther, and preemptively seeks to make positive environmental and social changes through conscious institutional investments and concurrent advocacy. The future of the environment is wholly dependent on systemic change sponsored by private capital and arguably reliant on the practice of impact investing.

The strategy behind impact investing can be attributed largely to capital gains rather than environmental impact. Still, it holds the unique dichotomy of furthering private sector profit while propelling a socially conscious agenda. Since 2009, the Global Impact Investing Network was founded as a unifying organization of this growing market niche as a way to provide clarity to financial markets about what constitutes credible impact investing.<sup>136</sup> The Global Impact Investing Network (GIIN) is a conglomerate of private sector companies that pledges membership to a cohort of investors looking to make impactful investments. The GIIN spearheads the impact investing movement and guides start-up companies looking specifically to enter the impact investing space.

Often, impact investing is confused with ESG: Environmental, Social, and Governance Initiatives, an initiative more akin to philanthropy than strategic long-term investing. ESG is a popular initiative among bulge-bracket banks with extensive liquid capital to commit to isolated community projects. An accurate juxtaposition of the two is as follows: A company acting on behalf of ESG initiatives would employ the practice of risk avoidance, avoiding investing in certain stocks, such as expansive oil and gas conglomerates such as BP, because of their harmful

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<sup>133</sup> Jennifer Hassan, “How long until it's too late to save Earth from climate disaster? This clock is counting down.” November 12, 2020, <https://www.washingtonpost.com/climate/2020/09/21/climate-change-metronome-nyc>

<sup>134</sup> Figure 2f from: Irimia R, Gottschling M (2016) Taxonomic revision of *Rocheportia* Sw. (Ehretiaceae, Boraginales). *Biodiversity Data Journal* 4: E7720. <https://doi.org/10.3897/BDJ.4.e7720>. (n.d.). doi:10.3897/bdj.4.e7720.figure2f

<sup>135</sup> James Chen, “Impact Investing” October 7, 2020, <https://www.investopedia.com/terms/i/impact-investing.asp>

<sup>136</sup> “What World Are You Investing In?”, November 12, 2020, <https://thegiin.org/>

environmental implications. Impact investing, in contrast, would motivate investors to invest in a company like BP, so much so that they have enough leverage to mitigate the negative practices of the company. ESG, in this case, perpetuates a divide between big business and environmental movements. In contrast, impact investing marries the two, with the shared incentive of increasing profitability for the company and its respective shareholders.

The role of impact investors serves as a logical fallacy to the widespread theory that reusable straws, boxed water, and thrifted clothing are the answer to solving climate change. Systemic change must come from a constructive initiative from both the private sector and the federal government. This partnership's significance is derived from the combination of liquid capital funneled through Political Action Committees (PACs) or (SuperPACS ). These private investment initiatives and the legislative platform provided by the federal government can incentivize private companies to include tax breaks, tariff reduction, or general support in their industry of trade. Without the federal government's endorsement and the investment interest of Wall Street, there is no way to garner substantial monetary support. If there is a lack of private sector support, congressional initiatives will be stagnant in progression. In terms of environmental justice, the legislative branch's efforts are currently championed by Congresswoman Alexandria Ocasio-Cortez, a Democrat from the 14th congressional district of New York, along with Senator Ed Markey, a fellow Democrat from the 7th district of Massachusetts.

The Green New Deal, H.Res.109, introduced by Congresswoman Alexandria Ocasio-Cortez, has been widely contested as a "socialist" initiative, specifically underscored by Senate Majority Leader Mitchell McConnell, a Republican from the 4th district of Kentucky. Senator McConnell stated that the Green New Deal has the semblance of "a good old-fashioned state-planned economy" and is "garden variety 20th century socialism" because it would unify lifestyle choices of Americans in the happenstance that they directly negatively impact the environment.<sup>137</sup> These sentiments were mirrored by Representative Chris Stewart, a Republican from the 2nd district of Utah. Stewart noted that the legislation was socialist because, "The government will come into almost every part of everyday life, from energy to transportation to literally what you eat..."<sup>138</sup> If appropriately implemented, the framework and diction in the resolution would directly support the aforementioned movement of impact investing and would adhere to the symbiotic relationship of private sector growth and environmental conservation.

H.Res.109 states that to achieve the Green New Deal goals and mobilization, the following, among others, will be required:

(A) providing and leveraging, in a way that ensures that the public receives appropriate ownership stakes and returns on investment, adequate capital (including through community

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<sup>137</sup> Kimberly Guilfoyle, "The 'sham' of Green New Deal is its true intent: Advancing socialism," The Hill, October 12, 2020, <https://thehill.com/opinion/energy-environment/436320-the-sham-of-green-new-deal-is-its-true-intent-advancing-socialism>

<sup>138</sup> Dan Zak, "A Green New Deal ignites an old red scare," The Washington Post, May 8, 2019, [https://www.washingtonpost.com/lifestyle/style/a-green-new-deal-ignites-an-old-red-scare/2019/05/07/6f65be80-62df-11e9-9412-daf3d2e67c6d\\_story.html](https://www.washingtonpost.com/lifestyle/style/a-green-new-deal-ignites-an-old-red-scare/2019/05/07/6f65be80-62df-11e9-9412-daf3d2e67c6d_story.html)

grants, public banks, and other public financing), technical expertise, supporting policies, and other forms of assistance to communities, organizations, Federal, State, and local government agencies, and businesses working on the Green New Deal mobilization.<sup>139</sup>

While the previously mentioned legislature describes the overall monetary incentive for private sector companies to get involved in the Green New Deal, the following text parallels the goals of impact investing. While private initiatives are crucial for movement, the text below creates an explicit precedent for sustainable investing to be a priority nationwide. It states that both the federal government and cooperating third parties must allocate their investments to socioeconomically and environmentally disadvantaged populations:

Directing investments to spur economic development, deepen and diversify industry and business in local and regional economies, and build wealth and community ownership, while prioritizing high-quality job creation and economic, social, and environmental benefits in frontline and vulnerable communities, and deindustrialized communities, that may otherwise struggle with the transition away from greenhouse gas-intensive industries.<sup>140</sup>

Although the Green New Deal has been cast as a radical leftist notion condemning all big business, the influence of impact investing, which is closely tied to the previous excerpt of legislation, is integrating itself throughout Wall Street. As of Thursday, October 8, 2020, Morgan Stanley, an American multinational investment bank and financial services company, is reportedly acquiring Eaton Vance for \$7 Billion. Eaton Vance is a considerably smaller American investment management firm that has a branch named Calvert, which is entirely responsible for impact investing. According to Eaton Vance, Calvert manages one of the largest and most diversified portfolios of responsibly invested mutual funds, including active and passively managed equity, income, alternative and multi-asset strategies.<sup>141</sup> Through the bank's acquisition of Eaton Vance, Morgan Stanley will join the cohort of \$1 trillion money managers and expand in its current weaker product lines, including municipal bonds and sustainable investing.<sup>142</sup>

This acquisition follows suit of the projected profitable future of impact investing, as the industry as a whole capitalizes on the tumultuous political polarization the United States of America is currently experiencing, combined with the heightened media exposure to social crises across the country. According to recent forecasting research done by the GIIN, the roadmap to the future of investment banking consists of six premises to position financial markets as central in manifesting solutions to global threats and crises.<sup>143</sup> Economic market trends maintaining a close

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<sup>139</sup> "H.Res.109 - Recognizing the duty of the Federal Government to create a Green New Deal," (116<sup>th</sup> Congress, Introduced February 12, 2019) 11

<sup>140</sup> Ibid, 12.

<sup>141</sup> Calvert Research and Management: Eaton Vance. (n.d.). October 09, 2020, <https://www.eatonvance.com/calvert.php>

<sup>142</sup> Liz Hoffman, "Morgan Stanley to Buy Eaton Vance for \$7 Billion", October 09, 2020, <https://www.wsj.com/articles/morgan-stanley-to-buy-eaton-vance-in-deal-valued-at-7-billion-11602159806>

<sup>143</sup> Bouri, A., Mudaliar, A., Schiff, H., Bass, R., & Dithrich, H. (2018). Roadmap for the Future of Impact Investing: Reshaping Financial Markets (pp. 1-3, Rep.). Washington, District of Columbia: The Rockefeller Foundation. doi:<https://thegiin.org/research/publication/giin-roadmap>

parallel to social justice issues on a global level further aligns the incentives of the federal government and the private sector; as demonstrated below:

“Businesses and investors will hold themselves accountable to multiple sets of stakeholders, including...affected communities, and the environment. The concept of ‘externalities’ will be relegated to history, with finance theory accounting for risk, return, and impact equally,” said the GIIN.<sup>144</sup>

The above externalities include the global community's general well-being, which is guided mainly by the United Nations (UN), and their published Sustainable Development Goals (SDGs). The GIIN concluded that thus far, “42% of impact investors reported using the SDGs as a tool or indicator set in their impact measurement and management”.<sup>145</sup> These sustainable development goals were established in 2015, and are a compilation of 17 goals designed to address world crises such as: ending extreme poverty, reducing inequality, and protecting the planet by 2030.<sup>146</sup>

From a federal perspective, the future of impact investing is heavily reliant on the 2020 election and contingent economic legislation. The Community Development Financial Institution (CDFI) Fund currently sits as a subset of the United States Treasury, under the executive branch. Its position makes it directly impacted by the President and their respective budget plan. The CDFI Fund is the paramount federal proponent of impact investing. Its focus is community development and microlending, a form of loan that provides small sums of money to underserved individuals and entrepreneurs to encourage self-sufficiency and develop systemic wealth equity. It has branches across the country and follows suit to access capital to make loans to both businesses and individuals.

The legislative branch, the United States House of Representatives and Senate, have the ability to support the CDFI Fund through legislation such as the Community Reinvestment Act (CRA). The CRA was enacted into law in 1977 and acts to encourage depository institutions like the CDFI in order to serve the credit needs of low- and moderate-income communities. With a Republican majority in the Senate and a significantly narrowed Democratic majority from the 2020 election, programs such as the CDFI Fund will be omitted from infrastructure packages and will cease to exist in effectivity, leaving further responsibility up to the private sector. Fortunately for the CDFI, Joe Biden, the Democratic presidential elect, has a plan for an infrastructure package which will spur the construction of 1.5 million sustainable homes and affordable housing units, as well as creating environmental justice and racial equity in middle class communities.<sup>147</sup> He will extend the Community Reinvestment Act, which will incentivize the private sector to participate in community development while involving the federal

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<sup>144</sup> Abhilash Mudaliar, Aliana Pineiro, Rachel Bass, and Hannah Dithrich, *The State of Impact Measurement and Management Practice*, First Edition (New York: The Global Impact Investing Network, 2017), <https://thegiin.org/knowledge/publication/imm-survey>

<sup>145</sup> Ibid.

<sup>146</sup> “Sustainable Development Goals”, October 11, 2020, <https://unfoundation.org/what-we-do/issues/sustainable-development-goals/>

<sup>147</sup> “The Biden Plan to Build a Modern, Sustainable Infrastructure and an Equitable Clean Energy Future”, August 5, 2020, <https://joebiden.com/clean-energy/>

government to finance projects as well. While the legislative branch can influence the amount of economic investment allocated to sustainable initiatives and development; it is ultimately up to the discretion of the executive branch, and, by extension, the President, to pilot the future of sustainable development and investing.

As stated, the future of impact investing is limitless, as it sits at the intersection of the public and private sectors. Moving forward, companies will include sustainability into their C-Suite, as seen in companies like Dupont, P&G, Mastercard, Nissan, Ralph Lauren, and Nike.<sup>148</sup> With inclusion in upper management, sustainable values will matriculate through larger conglomerates mores seamlessly. This, in combination with the rapid acquisition of smaller investment management companies versed in sustainability by global powerhouses like Morgan Stanley, will further the integration of sustainability into the fabric of mainstream investment. The presidential elect, Joe Biden, and his appointed executive branch will be the ultimate deciding factor in the future short-term federal investments regarding sustainability, but it is equally crucial to harness private sector support, advocacy, and action.

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<sup>148</sup> Berndtson Odgers, “The rapid rise of the Chief Sustainability Officer”. November 22, 2019, <https://www.odgersberndtson.com/en-us/insights/the-rapid-rise-of-the-chief-sustainability-officer>

## **A Federalist System's Response to a Global Pandemic: A Comparative Analysis of State Policies in the Age of COVID-19**

*Kempton Campbell*

A government's response in a time of crisis permanently impacts the lives of the citizens it governs. The best example to demonstrate this is the present. COVID-19 has crept into every corner of the world. In the span of nine months, over 1 million people have died and approximately 37.3 million others have been infected with the virus.<sup>149</sup> As a result of the pandemic, national governments have enacted policies aimed at protecting the lives of their constituents. Despite the President of the United States' positive rhetoric concerning his administration's handling of COVID-19, the world has looked upon the U.S. with growing concern. When comparing the U.S. to other developed nations, the evidence is clear: The U.S. is one of the countries with the highest number of COVID-19 infection and death rates in the world.<sup>150</sup> However, there continues to be an uneven distribution of infection rates across state lines that lead many citizens to question why certain states have higher rates of COVID-19 infections. In order to begin answering this question, this article provides a brief comparative analysis about the effectiveness of two state-issued policies: Mandatory mask mandates and travel restrictions. Here, mandatory mask mandates are defined as policies which require citizens to wear masks when in public areas, whereas travel restrictions are understood as policies which aim to prevent the infection of state residents by out-of-state travelers. These two types of policies have been chosen because of the direct impact each has on the daily lives of the citizens it is enacted to protect.

In order to understand the uneven distribution of COVID-19 cases across the country, an understanding of how the system is governed must be reached. The U.S. prides itself in operating under a federalist system which divides power amongst local, state, and national governing bodies. This means that the primary daily protection from COVID-19 comes from individual state responses, whereas the President of the United States and his administration is charged with protecting the nation as a whole from the virus. Given the importance of state governance to setting COVID-19 related policies, this article takes into consideration the 10 lowest and highest states with COVID-19 infection rates per 100,000 people as of October 2020. In addition, because governors are the single major influencers in setting pandemic-related state policy, all comparisons made throughout this article equate the state's party with the governor's party.

A shallow analysis of state-to-state responses reveals that 8 of the 10 highest states with COVID-19 have Republican leadership (see Figure 1). However, this surface level analysis does not tell the full story. This is because it does not take into account various policies that may be enacted by both Democrats and Republicans. Further research is required to better understand the

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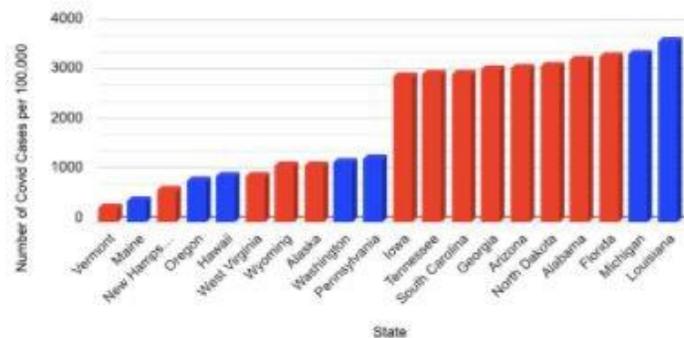
<sup>149</sup> "COVID-19 Dashboard by the Center for Systems Science and Engineering at Johns Hopkins University", October 11, 2020, John Hopkins University & Medicine,

<sup>150</sup> "Coronavirus Pandemic - the Data", October 11, 2020, Our World in Data.

policies each of these states has enacted and the level of effectiveness they have had in protecting their citizens.

### Figure 1

The Lowest and Highest COVID-19 Case States per 100,000 as of October 8, 2020 - Categorized by Governor's Party



Note. Constructed from "CDC Covid Data Tracker." Center for Disease Control and Prevention. Accessed October 8, 2020. [https://covid.cdc.gov/covid-data-tracker/#cases\\_casesper100k](https://covid.cdc.gov/covid-data-tracker/#cases_casesper100k). and "Partisan Composition of Governors." Ballotpedia. Accessed October 8, 2020. [https://ballotpedia.org/Partisan\\_composition\\_of\\_governors](https://ballotpedia.org/Partisan_composition_of_governors)

A mandatory mask mandate is an example of a policy which directly impacts every citizen on a daily basis. Such policies have recently been widely adopted in order to flatten the curve of COVID-19 infection rates. The Center for Disease Control (CDC) has provided significant evidence to show how masks limit the transmission of respiratory droplets which have the ability to carry the virus.<sup>151</sup> Currently, 33 of the 50 states have mandatory mask policies.<sup>152</sup> Of the 10 lowest states with COVID-19 infections, 7 require masks in public. Conversely, of the 10 highest states with COVID-19 infection rates, 7 don't require masks in public (see Figure 2).

Therefore, the pattern between mandatory mask policies and lower COVID-19 infection rates should come as no surprise. It should be noted that the only states which do not require masks in public areas are Republican states as classified by their Governor's party. This pattern may be directly attributed to the emphasis on individual liberty, a concept which has historically taken precedence over collective liberty within the Republican party. An example of this shift, outside the topic of COVID-19, is the debate surrounding mandatory childhood vaccines. Democrats typically support these policies citing that they help the collective good while Republicans tend to oppose such policies, citing infringements on individual liberty.<sup>153</sup> Individual liberty emphasizes the right for an individual to freely exercise rights outside of government control. However, there is a concern by many Democrats in addition to a number of Republicans that the

<sup>151</sup> "Considerations for Wearing Masks." Centers for Disease Control and Prevention. Last modified August 7, 2020. Accessed October 8, 2020.

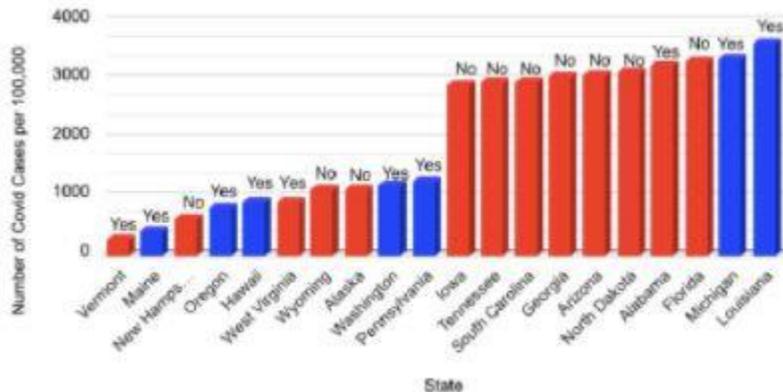
<sup>152</sup> "State-by-State Guide to Face Mask Requirements." AARP. Accessed October 8, 2020.

<sup>153</sup> Sheffield, Matthew. "Poll Shows Emerging Ideological Divide Over Childhood Vaccinations." The Hill. Last modified March 14, 2019. Accessed October 26, 2020.

liberties of mask-wearers are being infringed upon by those claiming to exercise their individual liberty by not wearing a mask.

**Figure 2**

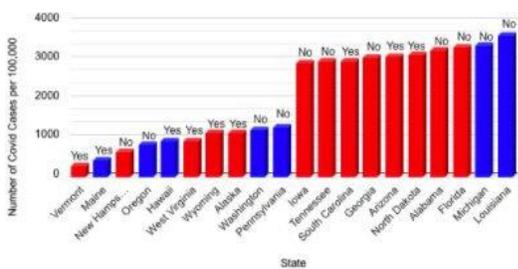
The Lowest and Highest COVID-19 Case States per 100,000 as of October 8, 2020 - Categorized by Governor’s Party and Mandatory Mask Policies



Note. Adapted from "CDC Covid Data Tracker." Center for Disease Control and Prevention. Accessed October 8, 2020. [https://covid.cdc.gov/covid-data-tracker/#cases\\_casesper100k](https://covid.cdc.gov/covid-data-tracker/#cases_casesper100k). and "Partisan Composition of Governors." Ballotpedia. Accessed October 8, 2020. [https://ballotpedia.org/Partisan\\_composition\\_of\\_governors](https://ballotpedia.org/Partisan_composition_of_governors). and "State-by-State Guide to Face Mask Requirements." AARP. Accessed October 8, 2020. <https://www.aarp.org/health/healthy-living/info-2020/states-mask-mandates-coronavirus.html>.

Another widely enacted set of policies that directly impact the daily lives of citizens are travel restrictions. This is another policy type which aims to flatten the COVID-19 infection curve. Presently, 25 of the 50 states have enacted one of the various forms of travel restrictions. Of the 10 lowest states with COVID-19 infections, 6 have enacted travel restrictions. Conversely, of the 10 highest states with COVID-19 infections, 6 have not had any form of travel restrictions since the pandemic started (see figure 3). The evidence provided demonstrates a pattern between travel restriction policies and lower rates of COVID-19 infections.

**Figure 3**



The Lowest and Highest COVID-19 Case States per 100,000 as of October 8, 2020 - Categorized by Governor’s Party and Travel Restriction Policies

Note. Adapted from "CDC Covid Data Tracker." Center for Disease Control and Prevention. Accessed October 8, 2020. [https://covid.cdc.gov/covid-data-tracker/#cases\\_casesper100k](https://covid.cdc.gov/covid-data-tracker/#cases_casesper100k). and "Partisan Composition of Governors." Ballotpedia. Accessed October 8, 2020. [https://ballotpedia.org/Partisan\\_composition\\_of\\_governors](https://ballotpedia.org/Partisan_composition_of_governors). and Marples, Megan. "Covid-19 Travel Restrictions State by State." CNN Travel. Accessed October 8, 2020. <https://www.cnn.com/travel/article/us-state-travel-restrictions-covid-19/index.html>.

A brief analysis of these two policy types reveals a connection between each and the containment of COVID-19. By analyzing common factors across each figure, it can be concluded that the best policy decision for lower rates of COVID-19 infections involved implementing both a mask mandate and a travel restriction policy. If states did not implement both policies, then the next most influential policy appears to have been the individual mask mandate. While not as effective as enacting both mandates or even just the mask mandate, the travel restrictions did appear to lead to reductions in COVID-19 cases. Conversely, from this data it can also be concluded that the states which did not enact either a travel restriction or a mandatory mask mandate were more likely to have higher rates of COVID-19.

It should be noted that there are numerous factors involved in determining the cause of inconsistent infection rates across state lines. However, this article aims to highlight the effectiveness of two policies which directly impact every citizen on a daily basis. The U.S. prides itself on governing with a federalist system. This system brings with it freedom and democracy, yet, in a time of a global pandemic, this system leads to inconsistencies in the protection of citizens across the nation. The analysis of mandatory mask mandates and travel restrictions succinctly demonstrate these inconsistencies. Moving forward, during national emergencies like the COVID-19 pandemic, state leaders should focus directly on creating and adequately enforcing policies aimed toward protecting the health of all citizens because it is clear that a focus on individual liberties has appeared to increase health risks associated with COVID-19 infections.

## The West Wing and The West Wing: An Analysis of the Idealized White House and Why We Need One

*Christian Chlebowski*

Many made-for-television shows about government have swept onto and off of the airwaves in the past few years, ranging from *Veep*, *Designated Survivor*, and *Madam Secretary*—to the Trump Presidency. These shows are very similar in some regards: for the most part, the events covered are heavily motivated by partisan leanings, the presidential character is highly influential, and the senior staff utilizes extreme twists and tactics to ensure victory.

First airing in 1999, *The West Wing* followed the many foreign and domestic policy crises of Democratic President Josiah Bartlet and his eventual successor.<sup>154</sup> Utilizing senior staff including Chief of Staff Leo McGarry, Deputy Chief of Staff Josh Lyman, Press Secretary C.J. Cregg, and Communications Director Toby Zeigler, *The West Wing* presented the American public with an idealized look at issues such as the nomination and confirmation of Supreme Court justices, the relationship between the Legislative and Executive Branches, and bipartisanship.<sup>155</sup> Looking through a lens twenty-one years later that has been tainted by the strongly politicized America of today, it is clear that the Bartlet West Wing is much different from the West Wing of today—and we need it back.

One of the defining characteristics of *The West Wing* was its ability to captivate audiences with fairly mundane topics. In the season five episode “The Supremes,” the Bartlet administration faced a difficult situation wherein a staunch conservative Associate Supreme Court justice passed away, kickstarting a confirmation fight where the Republican-held Senate clashed with the Democratic White House regarding the nominee. This circumstance is not unlike the events that transpired in 2016 after the passing of Associate Justice Antonin Scalia, when the White House was controlled by the Democratic Obama administration and the Senate was held by the Republicans under Majority Leader McConnell. On *The West Wing*, Josh Lyman and Toby Zeigler met with the extremely liberal Honorable Evelyn Baker Lang while interviewing candidates, and her incredible intellectual capacity immediately impressed Josh and Toby when she told them that “a conservative anchor just died. A young brilliant thinker who brought the right out of the closet and championed a whole conservative revival. You cannot replace Owen Brady with a woman who overturned a parental consent law. You’d be shish-ka-bob’d and set aflame on the south lawn.”<sup>156</sup> This impassioned statement reveals a harsh truth about America’s judicial system—those that have the power to confirm nominees frequently only accept and vote in favor of those justices who conform to their beliefs. Bipartisanship is not a factor—it is a fight to find the staunchest liberal or conservative without alienating too many supportive Senators in

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<sup>154</sup> Trevor Parry-Giles, “The West Wing.” <https://www.britannica.com/topic/The-West-Wing>.

<sup>155</sup> “The West Wing.” NBC. <https://www.nbc.com/the-west-wing>.

<sup>156</sup> “The West Wing: #105 The Supremes.” The West Wing Transcripts. <http://www.westwingtranscripts.com/wwscripts/5-17.txt>.

an effort to just get a liberal or conservative-leaning justice on the bench. In a shouting match directly outside the Oval Office, Josh and Toby confront this realization:

**Toby:** What do you care how moderate they are? Two is twice as many as one!

**Josh:** Not moderate, mediocre...if we had a bench full of moderates in '54, 'Separate but Equal' would still be on the books and this place would still have two sets of drinking fountains.

**Toby:** Moderate means temperate. It means responsible. It means thoughtful.

**Josh:** It means cautious. It means unimaginative.

**Toby:** It means being more concerned about making decisions than making history...

**Josh:** Is that really the biggest tragedy in the world? That we nominated somebody who made an impression instead of some second-rate crowd pleaser?

This argument reveals a fundamental truth about America today—Toby Zeigler is fighting for a moderate because it will placate both sides of the aisle, whereas Josh Lyman fights for a more clearly opinionated justice because it is through bold statements and actions that change occurs. Josh believes that it doesn't matter, *per se*, *what* a nominee believes. What matters is that they have the courage to stand up and judge honestly according to the law. His statement about Separate but Equal is an especially poignant reminder of this observation because that doctrine was only overturned due to the willingness of the Supreme Court to overrule a horrible precedent and reform a broken system.<sup>157</sup> This is especially evident in the 2016 case study involving the replacement of the Honorable Antonin Scalia, given that the Republican-held Senate refused to hold hearings, debates, or votes on the moderate Merrick Garland. Despite previous bipartisan support for Garland, Senator Orrin Hatch explained at the time that the Senate would wait for a new president to fill the vacancy.<sup>158</sup> The Republicans largely avoided confirming Garland due to their hope that a Republican would win the presidency, clearing the way for them to appoint a more conservative justice and shift the ideological makeup of the Court to the right. A refusal to compromise on a nominee led to a stalemate in the Senate that reduced the Supreme Court's effective size from nine to eight for over a year. These actions are, unfortunately, in line with the above noted observations from *The West Wing*.

Up until this point in "The Supremes," the overwhelming consensus among the senior staff of the West Wing is that it is more plausible for the Senate Republicans to coalesce around a moderately liberal justice as opposed to a clearly opinionated justice. This understanding that it would be difficult to appoint such a figure as to ensure fierce debate continued to exist on the Supreme Court comes to an end when Toby engages with the Honorable Christopher Mulready, who is the presumptive Republican nominee for a position on the high court, on the Defense of Marriage Act (DOMA). In this scene, Mulready is in the White House waiting for President

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<sup>157</sup> Plessy v. Ferguson." Oyez. <https://www.oyez.org/cases/1850-1900/163us537>.

<sup>158</sup> Seung Min Kim, "Hatch Repeats: No Hearings for Garland before Election." POLITICO, May 26, 2016, <https://www.politico.com/story/2016/05/orrin-hatch-merrick-garland-meeting-223626>.

Bartlet to finish his interview with Baker Lang. When the two potential nominees meet, they state a cordial hello and express their admiration of each other; additionally, the two share a laugh over how Toby tried to convince Mulready that DOMA is unconstitutional when Mulready already believes that the act is unconstitutional. As Baker Lang explains, the two share a common belief in the act's unconstitutionality—in fact, there is as much that the two agree over as they disagree. This moment convinces Toby that it would be one of the best things to happen to the Supreme Court if the two were to be nominated and appointed together: “I hate him. I hate him, but he's brilliant and the two of them together, they are fighting like cats and dogs. But it works.”<sup>159</sup> After all the debate, Toby's support falls in line because he understood that this attitude was what the Supreme Court was all about. Being able to have a balanced and actual debate about the Constitution and not fighting over which decision is not going to ruffle the most feathers is what the Framers designed the Court for. This is the moment Toby decides to fight for that reality to occur.

There is one final nail that is put in the coffin for the nomination of a moderate who would appeal to the Republican Senate, which comes from Bartlet's meeting with the Honorable Christopher Mulready. In that meeting, the two discuss the possibility of Baker Lang becoming a justice, at which point Mulready expresses a wholehearted endorsement of her: “Use her, if you can. I'm not sure what all this is about. I suppose a number of people are placated by a glimpse of someone like her or someone like me in these halls. I'm most certainly here for that.”<sup>160</sup> This sense of bipartisanship and camaraderie leads directly into a conversation about the nomination of moderates to the Supreme Court.

Ultimately, it is this comment by Mulready that rings true with Bartlet and the viewer. It is the voice of true believers and true intellectuals who have the willingness and determination to judge law, to examine precedent, and to fight for America that changes our lives for the better. These conversations and decisions regarding the nomination of Supreme Court justices, which ultimately leads to the nomination of both Evelyn Baker Lang and Christopher Mulready, are moments from an idealized White House. No president has ever—no president will ever—do such a thing as nominate a justice with opposing viewpoints in order to maintain a balanced court. Ultimately in the case study involving the successor to Antonin Scalia, Garland's nomination expired, clearing the way for the Republican-held White House and Senate to confirm the extremely conservative Neil Gorsuch. In this case, compromise was avoided at all costs in an effort of the Republicans to appoint a justice who was favorable in their eyes. *The West Wing* exhibited the belief that a justice's political leaning or bent in rulings shouldn't matter in appointing them to the court, but this was unheeded in real life. An unwillingness to compromise or support a nominee due to party affiliation is a loss for all Americans, and is something that *The West Wing* confronted further in additional circumstances. This comparison highlights the difference between the White House of reality and the idealized West Wing of the TV show, and reveals striking insight into why we need an idealized White House.

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<sup>159</sup> “The West Wing: #105 The Supremes.” The West Wing Transcripts.  
<http://www.westwingtranscripts.com/wwscripts/5-17.txt>.

<sup>160</sup> Ibid

After all is said and done in “The Supremes,” President Bartlet ends up nominating an extremely liberal and an extremely conservative justice to the Supreme Court in order to keep it ideologically balanced. A balanced court poses risks to any political figure, as it is impossible to rely on a preferential ruling or to steer the Court one way or another. A highly liberal makeup would result in decisions upholding traditionally liberal views and a staunch conservative makeup would lead to traditionally conservative decisions being handed down. Ensuring a balanced bench, therefore, means fairness and honest debate occurs in the chambers of the Supreme Court building because there is no majority—the Justices make rulings based on individual interpretations of the law, and ultimately they have to coalesce around a decision.

The case study involving Merrick Garland, as well as the recent confirmation of the Honorable Amy Coney Barrett, exhibits that the idealism of *The West Wing* doesn’t exist in the real world. But why do we need the idealism in the first place? The answer to that is simple: imagine a world where the law was judged honestly, without regard to partisan politics. It would be less likely to see constant challenging of precedent before a changing Court because the Court would be balanced. Take the legal challenges to the Affordable Care Act: in *National Federation of Independent Business v. Sebelius* in 2012, Republicans challenged the ACA and lost at the Supreme Court under a 5-4 conservative justice majority.<sup>161</sup> In a world with an ideologically balanced Court, one would imagine that being the end of the discussion because the balanced ideological makeup of the Court made a definite ruling. In real life, however, the ACA is facing another challenge now that the Supreme Court has a 6-3 conservative justice majority. This is a perfect example regarding the need for an idealized White House: the maintenance of a balanced Court yields the potential for less partisan influence in the rulings of such a Court, enabling fair debates. And yet, it is doubtful that real life will ever provide this balanced court.

Bipartisanship is a concept that seems foreign in this day and age; it seems that most legislation faces a steep uphill battle to get passed resulting from extreme support on the behalf of one party and opposition on the other. *The West Wing* took this issue to heart, depicting many instances of cross-party interactions for the betterment of all. In an early episode of the show’s second season titled “In This White House,” White House Deputy Communications Director Sam Seaborn goes on Capitol Beat, a political news show similar to *Meet the Press* or *Face the Nation*, to express support of one of Bartlet’s many policies, but meets his match in the young and savvy Ainsley Hayes. Hayes manages to best Seaborn convincingly and embarrassingly, catching the eye of President Bartlet, who expresses his wish to Leo McGarry that they hire her. While offering her the position of Associate White House Counsel, McGarry tells Hayes that “the President likes smart people who disagree with him.”<sup>162</sup> After initially planning to turn down the offer, Hayes witnesses the White House in action, planning its strategy to combat a coup in another country, and begins to change her mind. In a later interaction with her anti-Bartlet friends, she complains about their characterizations of Bartlet’s administration, rebutting them by telling them to: “say

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<sup>161</sup> *National Federation of Independent Business v. Sebelius*, 567 U.S. 519 (2012).  
[https://www.supremecourt.gov/opinions/14pdf/14-114\\_qo11.pdf](https://www.supremecourt.gov/opinions/14pdf/14-114_qo11.pdf)

<sup>162</sup> “The West Wing: In This White House.” *The West Wing Transcripts*.  
<http://www.westwingtranscripts.com/wwscripts/2-04.txt>

they're smug and superior, say their approach to public policy makes you want to tear your hair out. Say they like high taxes and spending your money. Say they want to take your guns and open your borders, but don't call them worthless. At least don't do it in front of me. The people that I have met have been extraordinarily qualified, their intent is good. Their commitment is true, they are righteous, and they are patriots...and I'm their lawyer.”<sup>163</sup> This is an extremely important moment for Ainsley, as it is the moment when she officially decides to accept the job. But it is important for additional reasons, especially to American citizens watching the program. It showed an instance of bipartisanship. The White House Counsel's office is a vital part of the West Wing, and President Bartlet's decision to appoint her to that organization reveals his belief that dedicated citizens, regardless of affiliation, should be able to participate in government.

These actions by Bartlet and the Bartlet White House directly contrast much of the current political environment. Forgetting even bipartisanship, President Trump has repeatedly dismissed and fired senior staffers and aides for expressing opposing beliefs. John Kelly and Reince Priebus both served as Chief of Staffs under Trump, and both were fired as a result of some of their statements contradicting the President. In a December 2018 ABC News article discussing the ousting of John Kelly, a trio of journalists wrote that, “while Trump was careful to praise Kelly in public, the two repeatedly clashed behind the scenes. The chief of staff found himself left out of certain meetings and decisions by or involving the president.”<sup>164</sup> This reluctance of Trump to accept Kelly's advice and decisions, such as vetting the information reaching the Resolute Desk, and ultimately disagreeing enough to demand his resignation, is just one of many examples of the attacks against bipartisanship in the political landscape. During the presidencies of Obama, Bush, and Clinton, all three dismissed staffers and high-profile officials for comments made in opposition to either the president, their staff, or opponents and colleagues. Although these aren't necessarily comparable to the firing of multiple Chief of Staffs, they certainly exemplify non-tolerance policies held by these administrations towards such actions. One example from the Obama presidency involves the relief of General McChrystal, who made comments to news agencies complaining about the administration's goals and plans for military involvement around the world.<sup>165</sup> This example from the Obama White House, and others from prior administrations, contrast to *The West Wing*. In fact, in the first episode of *The West Wing*, President Bartlet retained Josh Lyman as his deputy Chief of Staff even after Lyman publicly insulted a political adversary on television. Again, while there are differences in the severity of the missteps leading to firings by Trump, Obama, and their predecessors, it is clear to see that many did demand the resignations of those who seriously disagreed with them, their staff, or their policies. It doesn't take much to see that bipartisanship doesn't exist in the West Wing, but *The West Wing* provides a perfect example of why bipartisanship is necessary and how it can

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<sup>163</sup> Ibid

<sup>164</sup> Korte, Gregory, David Jackson, and John Fritze. “John Kelly, Hired to Restore Order for President Donald Trump, Is out as Chief of Staff.” USA Today. Gannett Satellite Information Network, December 10, 2018. <https://www.usatoday.com/story/news/politics/2018/12/08/john-kelly-out-donald-trump-chief-staff/339220002/>

<sup>165</sup> Waterman, Shaun. “McChrystal Resigns Afghan Command.” The Washington Times, June 23, 2010. <https://www.washingtontimes.com/news/2010/jun/23/mcchrystal-leaves-white-house-war-meeting/>

provide a fantastic resource. *The West Wing* proved that by working together, the things America can achieve far surpass the individual achievements that can be made by one party.

After a long week, the Bartlet White House staff is looking forward to going home and enjoying their weekends. They all have something they plan to be doing, but that is threatened when Senator Stackhouse begins filibustering a bill called the “Family Wellness Act.” Talking to the Press Corps, C.J. Cregg tells them to “Listen up! Everybody, this was unforeseen. Obviously, he's got to finish sometime. When he does, there will be a vote immediately. When it's done, the President will make his calls, White House staff will be available for comment, and most important, you will all write about it.”<sup>166</sup> The senior staff is understandably furious at Senator Stackhouse—he is a Democratic senator, after all, and yet he is filibustering to stop their bill’s passage. Nobody in the West Wing understands why, until assistant Donna Moss realizes that his request for autism research funding was cut out of the plan—and one of his grandchildren has autism. This personal request was flat-out denied by the White House, and so the eighty-seven year-old Senator decided to filibuster to ensure that the funding would be added. After hours of trying to find a way to shut Stackhouse down and vote on the bill, this newfound understanding changes things for the Bartlet White House, as they work to assist with the filibuster: “[Moss] The Senator's allowed to yield for a question without yielding the floor...[Bartlet] I want to call Senators. We'll start with our friends. When we're done with those two, we'll go on to the other 98.”<sup>167</sup> With this statement, the Senior Staff begins working to find Senators to continue the filibuster—and they are successful. In what is one of the most powerful visual moments from the episode, Senator Grissom walks onto the floor, and the following exchange occurs, with events happening on the Senate Floor contrasted to the President and Senior Staff watching from the White House:

**Grissom:** Point of order, Mr. Chairman

**Chairman:** Mr. Grissom?

**Grissom:** Will the Senator yield for a question?

**Seaborn:** Come on.

**Chairman:** Mr. Stackhouse?

**Lyman:** Come on.

**Bartlet:** Trust me just this once...

**Stackhouse:** Mr. Chairman, I yield to the Senator from Washington for a question.

**Grissom:** My question is in 22 parts and might take quite a while. Perhaps you'd like to sit and have some water while I ask it.

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<sup>166</sup> “The West Wing: The Stackhouse Filibuster.” The West Wing Transcripts.  
<http://www.westwingtranscripts.com/wwscripts/2-17.txt>.

<sup>167</sup> Ibid

After Grissom, additional Senators lined up to ask questions and continue the filibuster until the Senate adjourned and the bill wasn't passed. It takes a lot to get a bill passed into law—the partisanship is intense and interparty fights can be strong. But it takes even more to purposefully torpedo your own bill by supporting a filibuster. And yet that is exactly what the Bartlet White House administration does in order to ensure that the bill is fair and helps as many people as possible, which reinforces in viewers an understanding that this is the way that government should work. This sentiment is expressed by Bartlet's senior staff at the end of the episode, when they collectively reflect that “there are so many days here where you can't imagine that anything good will ever happen...[but] tonight I've seen a man with no legs stay standing, Dad, and a guy with no voice keep shouting, and if politics brings out the worst in people, maybe people bring out the best 'cause I'm looking at the TV right now and damn if 28 U.S. Senators haven't just walked onto the floor to help.”<sup>168</sup> This opportunity for broader approval of Presidential decisions, which gives the government more legitimacy, is one of many possible benefits of an idealized White House.

This is one of the most powerful moments of an idealized West Wing because it shows that the betterment of the country took precedence over scoring a political win. In real life, politicians often focus on earning legislative or Supreme Court “victories” to bolster their image and their re-election chances. One downside of this, however, is that policies enacted may not be the best for the country. For example, look no further than the 2017 and 2018 Tax Reforms. According to estimates by the Congressional Budget Office, these reforms could cost the United States over 5 trillion dollars in the next decade.<sup>169</sup> Regardless of one's position over the reforms, the United States is deep in debt, and Republicans champion their plans to cut the deficits and debts: indeed, their 2016 party platform specifies that “the huge increase in the national debt demanded by and incurred during the current Administration has placed a significant burden on future generations. We must impose firm caps on future debt, accelerate the repayment of the trillions we now owe in order to reaffirm our principles of responsible and limited government, and remove the burdens we are placing on future generations.”<sup>170</sup> Despite that platform statement, they passed a tax reform significantly expanding the national debt because it was a legislative win they desperately wanted. This example of a real-life desire to score wins in government makes a convincing argument for why we actually *do* need an idealized government—one that is willing to scrap their own bill once they realize how harmful it is or fight for the needs of all Americans.

*The West Wing* presents a highly idealized White House, one that is unlike the administrations of real life. While many episodes seem extremely unrealistic to viewers given the current political climate, the show was able to provide a vision of hope and a picture of what Americans expect the White House to be. Politics today are bitterly divided and, in many regards, have torn this country apart. What citizens need is to see a White House that works for the betterment of all,

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<sup>168</sup> Gordon, Bryan, dir. 2001. *The West Wing*. Season 2, episode 17, “The Stackhouse Filibuster.” Aired March 14, 2001, on NBC.

<sup>169</sup> “Tax Cut and Spending Bill Could Cost \$5.5 Trillion Through 2029.” Committee for a Responsible Federal Budget, February 27, 2019. <http://www.crfb.org/blogs/tax-cut-and-spending-bill-could-cost-55-trillion-through-2029>.

<sup>170</sup> Republican National Committee, 2020. [https://prod-cdn-static.gop.com/docs/Resolution\\_Platform\\_2020.pdf](https://prod-cdn-static.gop.com/docs/Resolution_Platform_2020.pdf)

that fights for equality and success, and that is not afraid to stand up for what is right no matter the consequences. Americans haven't seen that in the real-life West Wing in many, many years – but Americans certainly saw it in *The West Wing*.

## **The Power of Turkish Nationalism in a Fractured Country: Why Recep Tayyip Erdogan is Really Fighting Armenia**

*Sila Inanoglu*

As of July 2020, violent conflict between Armenia and Azerbaijan has resurfaced again, this time bloodier than ever before. Azeris and Armenians are fighting over the disputed territory of Nagorno-Karabakh, a region within Azerbaijan's borders but controlled by ethnic Armenians, who make up  $\frac{3}{4}$  of the population. Both sides have fought over the region since 1920, but brutal fighting ended with a ceasefire agreement in 1994 when Russia intervened, resulting in the current territorial arrangement. Both sides have fought sporadically in the past three decades, but the current situation has brought out a full-on war with both sides pointing the finger at each other for instigating. With Azeris hoping to reclaim their territory, Armenians wanting to keep their control, and both sides claiming to protect themselves from one another, fighting has not only intensified but also grown deadlier.

Similar to past Armenian-Azeri conflict, Turkey has yet again lent its military support to Azerbaijan. Turkey has had long standing hostility with Armenia since the Ottoman Empire led the Armenian Genocide in 1914. Ever since, Turkey jumps at the chance to support their ethnic Azeri ally to further push against Armenians. This type of engagement is expected and greatly fueled by nationalism. However, leading news outlets put a large emphasis on Turkey's involvement as not only ethnic but also territorial and strategic; President Recep Tayyip Erdogan wants to support his Turkic allies as well as gain more international authority and hold onto the profitable oil reserves in Nagorno Karabakh. Unfortunately, few media outlets discuss Erdogan's main motives. With COVID-19 hitting hard coupled with a disastrous economic crisis, Erdogan risks losing support. Although Erdogan wants to help Azerbaijan against a common enemy, he is also using the war against Armenia to regain his foothold over Turkey. As his popularity grows more fragile, he looks to Turkish nationalism as a safety net, a historic tactic that has proven to sway the country. While frontline media and world powers continue to ignore Erdogan's fascist, chauvinist motives, they blindly accept his growing genocide.

Turkish nationalism does focus on pride in the country, but its power comes from the rejection of non-Turks. When Mustafa Kemal Ataturk formed the Turkish Republic in 1924, he had rejected the Treaty of Sevres and dismissed orders to stop Ottoman attacks. With the Treaty of Lausanne, he negotiated terms that fought against western imperialism to grant the Turks a country of their own through the "six principles of Ataturk" encompassing the idea of "one language, one flag, one nation" affixed to a single Turkish identity.<sup>171</sup> In order to form the republic, wars such as the Armenian Genocide and Dersim Rebellion took place to kill and relocate Armenian and Kurdish minorities. This conflict, despite its violence and bloodshed, formed a country many Turks feel immense pride in. It also led to the criminalization and demonizing of ethnic groups with

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<sup>171</sup> "What Happened Last Week in Kurdistan • A Podcast on Anchor." Anchor. <https://anchor.fm/whlwkurdistan>.

narratives of Armenians and Kurds that are still prevalent today. Powerful leaders like Erdogan use these narratives to manipulate power within the country.

Since elected as Prime Minister in 2002, Erdogan has kept a steady approval rating that hovers around 50%. After becoming president in 2014, Erdogan maintained this; with strong support from the populace, his ratings have not dropped below 40% since June of 2015.<sup>172</sup> With this strong base of “Erdogan nationalists”, he receives overwhelming support for his policies and beliefs. The other half of the country, however, consists of both Turks who disapprove of Erdogan and Kurds and other ethnic minorities. The former makes up around 30% of the population and the latter makes up around 20% of the population. It is less likely for Erdogan to win votes from the minority groups that he oppresses. However, he only needs a fraction of the votes from those who disapprove of him. Turkish nationalism unites Turks regardless of their feelings towards their government. Thus, Erdogan capitalizes off of minorities to gain enough favorability to maintain a 50% approval.

Erdogan has used this mechanism throughout his time as President, and each time was successful. In Turkey’s 2018 attacks on Afrin, a region in Syria home to many Kurds, Erdogan’s approval sat at a low of 45%. However, with 80% of Turks supporting military attacks against the district, his approval rating went up 10%.<sup>173</sup> In July of 2019, Erdogan’s approval rating dropped to 41%. By October, after launching an attack into Rojava, his approval rating increased to 48%. During the start of the COVID-19 pandemic, Turkey’s economy had been hit hard with the Turkish lira at an all-time low and an expected 25% fall in GDP.<sup>174</sup> Yet, as Erdogan pointed the blame for domestic economic issues on other countries, his approval rate shot up to 55.8% — higher than before the pandemic. Some Turks may not support Erdogan directly, but their love for their country and rejection of others triumphs their political attitudes.

Normally, Erdogan finds himself with an issue that he can fix with a speech or rally. For larger problems, he uses military action to buy him time. This year, however, Turkey is struggling with a plethora of systemic issues that require leadership and policy change to fix. To start, Turkey’s economy has been fractured for a while, but its biggest hit came in 2018 when the value of the Turkish lira was cut 30%.<sup>175</sup> Through 2019 and into 2020, the country faced high inflation and record high government debt as Erdogan continued to borrow and inject more money into the economy. Erdogan’s approach to COVID-19 brought more chaos after he told the public to ignore the pandemic. On top of an already inflated economy buried with debt, the International Monetary fund expects the unemployment rate to reach over 17% by the end of the year with an

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<sup>172</sup> "Coronavirus in Turkey: Erdogan's Approval Ratings Surge to Four-year High." Middle East Eye. <https://www.middleeasteye.net/news/coronavirus-turkey-erdogan-approval-ratings-surge-high>.

<sup>173</sup> Kurdistan24.net. <https://www.kurdistan24.net/en/analysis/62c19f9f-ddd3-4369-b7ce-c430f0e71375>.

<sup>174</sup> (www.dw.com), Deutsche Welle. "Turkey Blames 'foreign Powers' for Fresh Currency Woes: DW: 14.05.2020." DW.COM. <https://www.dw.com/en/turkey-blames-foreign-powers-for-fresh-currency-woes/a-53431231>.

<sup>175</sup> "Turkish Economy to Pick up Some pace in 2020 after Stumble: Reuters Poll." Reuters. January 16, 2020. <https://www.reuters.com/article/us-turkey-economy-poll/turkish-economy-to-pick-up-some-pace-in-2020-after-stumble-reuters-poll-idUSKBN1ZF09Q>.

additional 5% shrink in the economy.<sup>176</sup> As journalists and citizens attempt to speak out, Erdogan subdues them. When the IMF reaches out to help, he ignores them. Erdogan managed to save his approval rating at the start of COVID-19, but his quick fixes grow null as the economy and pandemic worsen; slowly, his approval rating is falling. Unable to bounce back, the president looks to his favorite tactic: reigniting nationalism.

As predicted, Erdogan quickly backed Azerbaijan when conflict arose again. However, sources like the New York Times consider his involvement as more openly supportive than ever before.<sup>177</sup> He first spoke out to Armenians, telling them to protest their leaders who were “dragging them into catastrophe”. Erdogan then declared that Ankara, Turkey’s capital, would continue to support Baku, Azerbaijan’s capital. He told Turkey that Armenia “has shown once again that it is the biggest threat to peace in the region” and told the entire world “to stand with Azerbaijan in their battle against invasion and cruelty”.<sup>178</sup> Turkey’s defence minister and presidential spokesman piggybacked, accusing Armenia of violating international law and being so “reckless” and “hostile” to the point of “throw[ing] the region into fire”. Even the CHP, Erdogan’s opposing political party, came out with similar statements condemning Armenia and fully supporting Azerbaijan. CHP leader Kemal Kılıçdaroğlu said “the foreign policy followed [by Turkey] has always been wrong. But Azerbaijan is in a different position” and went on to approve the government’s decisions in the war.<sup>179</sup> Both sides, regardless of their feelings for one another, manage to agree on the same narrative: Armenia poses a serious threat, and Turkey must support their ally.

The Turkish public, mainly Erdogan supporters and nationalists, responded with anti-Armenian hate crimes and speech. In Istanbul, Azeris and Turks led large demonstrations in front of the Armenian patriarchate with ease while against city rules that restrict “risky and provocative protest[s]”. In Ankara, Turks destroyed and uprooted Armenian graves. Armenian writers report increasing anxiety amongst Armenians living in Turkey and announce over a hundred Armenians leaving Turkey to escape the animosity.<sup>180</sup> As activists and writers try to speak out, the government silences and targets them publicly.<sup>181</sup> When Turkey’s military attacks are

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<sup>176</sup> Kemal Kirisci, "Reopening the World: As the Country Normalizes, COVID-19 Strains Turkey's Economy and Politics," Brookings, July 02, 2020, <https://www.brookings.edu/blog/order-from-chaos/2020/06/16/reopening-the-world-as-the-country-normalizes-covid-19-strains-turkeys-economy-and-politics/>.

<sup>177</sup> Andrew E. Kramer, "Fighting Flares Between Azerbaijan and Armenia." The New York Times, September 27, 2020, <https://www.nytimes.com/2020/09/27/world/europe/azerbaijan-armenia-conflict-nagorno-karabakh.html>.

<sup>178</sup> Tuvan Gumrukcu, "Turkey Criticises Armenia after Clashes with Azerbaijan, Supports Baku." Reuters. September 27, 2020, <https://www.reuters.com/article/us-armenia-azerbaijan-turkey/turkey-criticises-armenia-after-clashes-with-azerbaijan-supports-baku-idUSKBN26I0CI>.

<sup>179</sup> Hurriyetdailynews.com. "We Stand by Azerbaijan under All Circumstances, Says CHP Leader - Turkey News." Hürriyet Daily News, September 30, 2020, <https://www.hurriyetdailynews.com/we-stand-by-azerbaijan-under-all-circumstances-says-chp-leader-158731>.

<sup>180</sup> Nordic Monitor, "Anti-Armenian Sentiment Increases in Turkey following Azerbaijani-Armenian Clashes." Nordic Monitor, October 07, 2020, <https://www.nordicmonitor.com/2020/10/anti-armenian-sentiments-increases-in-turkey-following-azerbaijani-armenian-clashes/>

<sup>181</sup> "Anti-Armenian Sentiment Increases in Turkey following Azerbaijani-Armenian Clashes: Report." Stockholm Center for Freedom, October 29, 2020,

broadcasted on TV, leaders like Azeri President Illham Aliyev treat it as a sign of power, telling a televised audience “Thanks to advanced Turkish drones... our casualties on the front shrunk. These show Turkey’s strength. It also empowers us”.<sup>182</sup> Turkish violence is not only normative within the country but also a sign of power outside.

While all this happens, leading news sources in the U.S ignore the nationalist intentions of the Turkish government. They dismiss Erdogan’s speeches, overlook the country’s involvement, and hardly report the rise in Armenian hate crimes and speech within the country. This is both misleading and dangerous; as the U.S, Turkey’s NATO ally, continues to excuse Erdogan’s actions as strategic and territorial, they ignore the growing power of Turkish nationalism and its danger to not only ethnic minorities but also the world. Further, it normalizes Turkey’s actions by portraying them as yet another “democratic” country supporting its ally to improve the wealth of its own country. In reality, Erdogan is leading Turkey down a steep path towards authoritarian, fascist, genocidal ruling, and he is using Turkish nationalism to get him there.

As of now, Turkey’s domestic issues are continuing to grow; the economy is following a downward spiral with no hope for improvement, and COVID-19 continues to rise without the proper mandates. While Erdogan normally manages to compensate domestic strife with rallies, propaganda, and military action, Turkey’s future looks more grim than ever before — coupled with these larger issues are other fractures. A magnitude 7.0 earthquake hit Izmir, Turkey’s third largest city, and displaced tens of thousands of individuals. During a pandemic with hospitals full and an economic crisis that has drained the banks, Erdogan has still promised 21 million Turkish lira to provide for the victims.<sup>183</sup> Meanwhile, Turkey has a refugee crisis to deal with, and Erdogan has broken his 2016 deal with the European Union that financially supported vulnerable refugees. Turkey has lost even more financial aid, hurt foreign relations, and instigated more domestic unrest. As of August 2020, Erdogan’s approval rating has fallen from his high of 55% to 47.9%.<sup>184</sup> Although still relatively high, with few optimistic solutions in sight to rebuild the country, it seems it will continue to drop, and Erdogan may continue to double down on scapegoating and attacking ethnic minorities to safeguard his presidency. In this scenario, far more world powers and leading media need to document these patterns and tactics. Erdogan has manipulated the public for too long, and he will continue to do so as long as people turn a blind eye.

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<sup>182</sup> "Turkish Armed Drones Used against Armenia, Azerbaijan Confirms." Middle East Eye, <https://www.middleeasteye.net/news/armenia-azerbaijan-conflict-turkey-drones>

<sup>183</sup> "Dramatic Rescues After Major Earthquake Kills at Least 39 in Turkey." The New York Times, October 31, 2020, <https://www.nytimes.com/2020/10/31/world/europe/turkey-greece-earthquake-izmir.html>

<sup>184</sup> "Erdogan's Job Approval Rating at Lowest Level since COVID-19 Outbreak," Ahval, <https://ahvalnews.com/turkey-politics/erdogans-job-approval-rating-lowest-level-covid-19-outbreak>

## Voter Suppression; the Real Voter Fraud

*Margaret McGuire*

Numerous studies have reiterated that there is no historical evidence of widespread voter fraud. Recently, the New York Times has confirmed, after contact with officials from nearly every state, that there is no evidence that systematic voter fraud played a role in the 2020 Presidential Election.<sup>185</sup> Yet, the President of the United States and his aides repeatedly claim that the influx of mail-in voting, which soared because of the health concerns associated with in-person voting amidst the COVID-19 pandemic, has led to a “fraudulent election,” and an illegitimate outcome. The explanation for the President’s false rhetoric, which he used throughout the course of his re-election campaign, lies in the ugly history of voter suppression in America. Racist Jim Crow Laws, which intentionally barred African Americans from voting for nearly a century in the U.S., set the scene for the widespread practice of voter suppression today. While these overtly racist laws have been outlawed, minority groups still find themselves disproportionately restricted from voting due to the utilization of strict voter ID laws, poll purges, and gerrymandering by state governments.<sup>186</sup> It is crucial to understand the history, as well as the new repressive tactics being employed, in order to grasp the severe and undemocratic implications of voter suppression today. Despite the recent flurry of baseless claims contesting the result of the election, we must not be distracted from the greatest threat to our democracy: voter suppression.

The lingering impacts of racist Jim Crow Laws are visible today in many states that have enacted laws and voting requirements that systematically restrict Americans of minority backgrounds from voting. After the U.S. Government ended reconstruction in 1877, southern state governments seized the opportunity to deny Black Americans their basic rights through the creation of new voting laws such as poll taxes, literacy tests, and grandfather clauses.<sup>187</sup> Through fees that most Black Americans were unable to pay and impossible written exams that were intended to set up African Americans for failure, state governments successfully barred the overwhelming majorities of Black citizens in these states from voting.<sup>188</sup> Out of fear that these discriminatory methods would also deter poor white southerners from voting, many states enacted “Grandfather Clauses.” These statutes stated that individuals who were registered to vote or were “lineal descendants of voters” before 1867, had the ability to do so without completing literacy tests and paying poll taxes.<sup>189</sup> 1876 was uncoincidentally the year that African Americans were legally given the right to vote. In addition to these institutional barriers, the inhumane, brutal violence and lynching’s committed against Black citizens intimidated many

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<sup>185</sup> Nick Corasaniti, Reid J. Epstein, and Jim Rutenberg, “The Times Called Officials in Every State: No Evidence of Voter Fraud,” *The New York Times*, Nov. 10, 2020, <https://www.nytimes.com/2020/11/10/us/politics/voting-fraud.html>

<sup>186</sup> Lisa Cortes and Liz Garbus, “All in: The Fight for Democracy,” September 9, 2020, Amazon Studios, Prime Video, <https://www.amazon.com/All-Fight-Democracy-Stacey-Abrams/dp/B08FRQQKD5>.

<sup>187</sup> *Ibid.*

<sup>188</sup> *Ibid.*

<sup>189</sup> Alan Greenblatt, “The Racial History of the ‘Grandfather Clause,’” *NPR*, October 22, 2013, <https://www.npr.org/sections/codeswitch/2013/10/21/239081586/the-racial-history-of-the-grandfather-clause>

voters who understandably refrained from exercising their rights. Civilian violence, as well as police-issued violence, instilled the fear in Black citizens that to vote was to risk being killed.

Through the tenacity, resilience, and courage of Civil Rights activists, the Voting Rights Act of 1965 was passed and finally outlawed Jim Crow laws that stripped African Americans of their fundamental rights. Two years after the passing of this law, 54% of African Americans in the South were registered to vote, as compared to 3% in 1940, during the Jim Crow Era.<sup>190</sup> However, in 2013, the Supreme Court ruled that a major provision of the Voting Rights Act of 1965 was unconstitutional.<sup>191</sup> This decision exonerated specific states who had previously been subject to the law because of their use of voter suppression tactics in the past from needing to obtain federal approval when changing voting laws.<sup>192</sup> In her dissent, Justice Ginsburg passionately declared that, “Throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet.”<sup>193</sup> The *Shelby County v. Holder* (2013) decision essentially threw out all of the legal voting protections put in place for Americans of minority backgrounds in these states, under the justification that the provision was no longer needed to prevent state governments from enacting discriminatory laws.<sup>194</sup> Unsurprisingly, the Court’s assessment was wrong; The *Shelby County v. Holder* (2013) decision has “opened the floodgates” for the implementation of new voter suppression tactics.<sup>195</sup>

The Supreme Court’s decision in *Shelby County v. Holder* (2013) has encouraged state governments that are reluctant to adapt to their changing and growing voter demographics to instead implement new and perhaps less overt tactics of voter suppression.<sup>196</sup> Most immediately, Texas announced within one day of the Court’s ruling its plan to enact a new, restrictive photo ID law.<sup>197</sup> It is estimated by the Brennan Center for Justice that this law resulted in 600,000 citizens being unable to vote because they did not have a correct form of ID.<sup>198</sup> Other states, such as Mississippi, North Carolina and Alabama shortly followed suit in instituting their own strict voter ID laws.<sup>199</sup> The ACLU explains the impact of these voting laws by pointing out that these restrictions disproportionately deter “low-income, racial and ethnic minorities, the elderly, and people with disabilities” from voting because members of these groups are more likely to have difficulty paying the costs of these IDs or providing the documentation necessary to acquire

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<sup>190</sup> Lisa Cortes and Liz Garbus, “All in: The Fight for Democracy.” September 9, 2020, Amazon Studios, Prime Video, <https://www.amazon.com/All-Fight-Democracy-Stacey-Abrams/dp/B08FRQQKD5>

<sup>191</sup> *Shelby County v. Holder*. 570 US 529, 12-96 (U.S. Supreme Court 2013)

<sup>192</sup> *Ibid.*

<sup>193</sup> *Ibid* 33.

<sup>194</sup> Lisa Cortes and Liz Garbus, “All in: The Fight for Democracy.” September 9, 2020, Amazon Studios, Prime Video, <https://www.amazon.com/All-Fight-Democracy-Stacey-Abrams/dp/B08FRQQKD5>

<sup>195</sup> *Ibid.*

<sup>196</sup> *Ibid.*

<sup>197</sup> Brennan Center for Justice, “The Effects of *Shelby County v. Holder*.” August 6, 2018, <https://www.brennancenter.org/our-work/policy-solutions/effects-shelby-county-v-holder>

<sup>198</sup> *Ibid.*

<sup>199</sup> *Ibid.*

these forms of identification.<sup>200</sup> Furthermore, two months after the *Shelby County v. Holder* (2013) decision, North Carolina passed one of the most restrictive voter laws to date. This law ended up going to the 4th Circuit Court in the case *McCrorry v. NAACP* (2016) where the Court found the law to be unconstitutional, arguing that the provisions of the law target “African Americans with almost surgical precision.”<sup>201</sup> The Court’s decision to remove a vital component of the Voting Rights Act encouraged many state officials to find “subtle” methods of targeting individuals from certain populations and making it significantly more difficult for them to vote.

Perhaps the least discussed and most misunderstood voter suppression tactic is gerrymandering, or the strategic redistricting by state legislatures to purposefully ensure an election outcome. One of the primary ways in which state governments engage in gerrymandering is by intentionally “packing” districts with members of the opposition party in order to diminish the influence of these voters in other districts.<sup>202</sup> The other way that states manipulate district lines is by dispersing members of the opposing party across many districts so that they have less influence than the governing party in every district.<sup>203</sup> Most recently, it is reported that the strategic redistricting issued by Republican state governments in 2010 was a result of the national Republican party pouring “money and expertise into state legislative races with the specific aim of gaining control over redistricting; the Democratic Party had not.”<sup>204</sup> Many of these gerrymandering efforts have been brought to the attention of the Courts, but the Supreme Court has determined that it is the job of Congress to decide whether or not political gerrymandering is permitted.<sup>205</sup> Since the Republican state legislatures have been the most frequent gerrymandering offenders, there are racial implications of these “political” gerrymandering tactics. Statistics from Pew Research Center reveal that registered Black, Asian, and Hispanic voters are overwhelmingly more likely to “identify/lean” Democratic.<sup>206</sup> Similarly, as of 2019, white voters were reported to make up 81% of the Republican party versus making up only 56% of the Democratic party.<sup>207</sup> Therefore, gerrymandering that intentionally reduces the impact of Democratic voters disproportionately impacts voters of racial minority backgrounds. Since the Supreme Court has neglected to address the threat of gerrymandering to our democracy, these redistricting practices continue to suppress the voices of already disenfranchised individuals and help elect politicians that likely are not representative of the majority of constituents in a state.

In addition to restrictive voter ID laws and gerrymandering, state legislatures also continue to enact exhaustive poll purges and eliminate polling sites in an intentional effort to bar individuals

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<sup>200</sup> American Civil Liberties Union, “Oppose Voter ID Legislation-Fact Sheet.” 2020, <https://www.aclu.org/other/oppose-voter-id-legislation-fact-sheet>

<sup>201</sup> Brennan Center for Justice, “The Effects of *Shelby County v. Holder*.”

<sup>202</sup> Michael Wines, “What is Gerrymandering? And How Does it Work?” June 27, 2019, <https://www.nytimes.com/2019/06/27/us/what-is-gerrymandering.html>

<sup>203</sup> *Ibid.*

<sup>204</sup> *Ibid.*

<sup>205</sup> *Rucho et al. v. Common Cause et al.* 588 US \_\_, 18-422, (U.S. Supreme Court 2019)

<sup>206</sup> Pew Research Center, “Trends in Party Affiliation Among Demographic Groups,” March 20, 2018.

<https://www.pewresearch.org/politics/2018/03/20/1-trends-in-party-affiliation-among-demographic-groups/>

<sup>207</sup> *Ibid.*

from being able to exercise their rights.<sup>208</sup> During his term as Secretary of State of Georgia, Brian Kemp oversaw the removal of over 1.4 million voters off of the registered voter list and the closure of more than 200 polling places from 2012-2018.<sup>209</sup> Increased distance to a polling location, particularly without prior notification of the change, can significantly deter people from voting.<sup>210</sup> While Georgia's state legislature is certainly not alone in its use of voter suppression tactics, the 2018 Georgia gubernatorial election put the issue of voter suppression in this country on full display.

In her last speech as a 2018 Georgia gubernatorial candidate, Stacey Abrams passionately declared, "Concession means to acknowledge an action is right, true or proper. As a woman of conscience and faith, I cannot concede."<sup>211</sup> Her unwillingness to concede her fervently fought campaign to be the first Black female Governor not only of Georgia, but in America, was a result of her opponent's unconscionable efforts to suppress the vote of minority communities in order to secure his own election. Now-Governor Brian Kemp, was the acting Secretary of State of Georgia throughout the entire duration of his gubernatorial campaign. On election day, polling sites were extremely backed up in African American communities resulting in unimaginably long lines, while "hundreds of available polling machines sat unused in government warehouses."<sup>212</sup> Further, the New York Times reported that tens of thousands of voter registration applications, the vast majority being African Americans, were not processed because of a new law requiring that the signatures on the applicant's government-issued ID and the registration request be identical.<sup>213</sup> These techniques resulted in the narrow victory of Brian Kemp over Stacey Abrams and a nationwide outrage.

In a representative democracy, individuals make their voices heard by voting to elect representatives who they believe will advocate for them, their values and their interests. Strict voter ID laws, purging voters from registration lists, closing convenient polling places, and gerrymandering all undermine the most vital aspect of our democracy: voting. *The Shelby County v. Holder* (2013) decision has made individuals feel powerless against systems that in some cases make it impossible for them to vote. Republican politicians have tried to justify their obvious voter suppression tactics with claims that these methods prevent voter fraud. However, after compiling highly respected studies and government investigations of voter fraud, the Brennan Center for Justice details that in elections that were "meticulously studied," incidents of voter fraud occurred at rates of "0.0003 percent and 0.0025 percent."<sup>214</sup> By these statistics, the

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<sup>208</sup> Lisa Cortes and Liz Garbus, dir. "All in: The Fight for Democracy."

<sup>209</sup> Maggie Astor, "Georgia Governor Brian Kemp Faces Investigation by House Panel," March 6, 2019, <https://www.nytimes.com/2019/03/06/us/politics/governor-brian-kemp-voter-suppression.html>

<sup>210</sup> The Leadership Conference Fund, "Democracy Diverted, Polling Place Closures and the Right to Vote." September 2019, <http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf>

<sup>211</sup> Maggie Astor, "Georgia Governor Brian Kemp Faces Investigation by House Panel."

<sup>212</sup> Ibid.

<sup>213</sup> Ibid.

<sup>214</sup> Brennan Center for Justice "Debunking the Voter Fraud Myth." 2020

[https://www.brennancenter.org/sites/default/files/analysis/Briefing\\_Memo\\_Debunking\\_Voter\\_Fraud\\_Myth.pdf](https://www.brennancenter.org/sites/default/files/analysis/Briefing_Memo_Debunking_Voter_Fraud_Myth.pdf)

research center points out that it is more likely that an American voter “will be struck by lightning than that he will impersonate another voter at the polls.”<sup>215</sup>

The assault on voting is urgent. Americans must be relentless in protecting their civil rights by ensuring before every election that their voting registration is intact, that they make a plan to vote and that they encourage their friends and family to do the same.<sup>216</sup> Voting is a fundamental right that many people have spent their lifetimes fighting for and we must protect it, and our democracy, at all costs.

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<sup>215</sup> Ibid.

<sup>216</sup> Lisa Cortes and Liz Garbus, dir. “All in: The Fight for Democracy.”

## The Time is Now: Abolishing the Death Penalty in The U.S.

*Chineze Osakwe*

The United States was founded on the principles of life, liberty, and the pursuit of happiness, yet many people have fought to ensure that they were afforded these very rights. The fact of the matter is, although the U.S. is known as the “land of the free,” there have been several mechanisms of oppression that have developed to inhibit various populations from attaining full, unalienable freedom. Capital punishment—the death sentence for serious crimes, especially murder—unequivocally violates the fundamental human right to life.<sup>217</sup> More recently, the past four years were full of the desire within the Trump Administration to enforce punitive rather than rehabilitative criminal justice policies. It is these very policies that have historically targeted communities of color, and thus, capital punishment was allowed to continue as mechanism of “law and order.”

As a member of the United Nations Security Council, the U.S. has helped draft human rights conventions and declarations such as the International Covenant of Civil and Political Rights, which explicitly states that “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life”.<sup>218</sup> Moreover, America has often revitalized and adapted many human rights documents that deal with civil and political liberties into its own federal legislation with the belief that they will prohibit discrimination and “provide remedies for victims of human rights violations”.<sup>219</sup> However, in April 1999, the United Nations Human Rights Commission passed the Resolution Supporting Worldwide Moratorium on Executions. The resolution calls on countries which have not abolished the death penalty to restrict its use of the death penalty, including not imposing it on juvenile offenders. Ten countries, including the United States, China, Pakistan, Rwanda, and Sudan voted against the resolution.<sup>220</sup>

The persistent utilization of capital punishment within America is particularly paradoxical, seeing as this nation’s founding principles include the right to life. The death penalty has perpetuated within this country because it is utilized as the most recent instrument of oppression that disproportionately impacts people of color in general, but Black people more specifically.<sup>221</sup> Moreover, the states where capital punishment is most prominent (Texas, Florida, Georgia,

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<sup>217</sup> U.S. Legal, Inc. (n.d.). Capital Punishment Law and Legal Definition. Retrieved May 06, 2020, from <https://definitions.uslegal.com/c/capital-punishment/>

<sup>218</sup> United Nations, General Assembly Resolution. (1989). *Second Optional Protocol to the International Covenant on Civil and Political rights aiming at the abolition of the Death Penalty: (adopted at New York on 15 December 1989)* ... London: Stationery Office. Retrieved May 06, 2020, from <https://www.ohchr.org/EN/ProfessionalInterest/Pages/2ndOPCCPR.aspx>.

<sup>219</sup> Human Rights and United States Law. (n.d.). Retrieved May 06, 2020, from [https://www.theadvocatesforhumanrights.org/human\\_rights\\_and\\_the\\_united\\_states](https://www.theadvocatesforhumanrights.org/human_rights_and_the_united_states)

<sup>220</sup> U.S. Legal, Inc. (n.d.). Capital Punishment Law and Legal Definition. Retrieved May 06, 2020, from <https://definitions.uslegal.com/c/capital-punishment/>

<sup>221</sup> Racial Demographics. (n.d.). Retrieved May 06, 2020, from <https://deathpenaltyinfo.org/death-row/overview/demographics>

Alabama, Virginia, South Carolina, etc.) have historically abused Black codes, perpetuated a multitude of lynchings, and housed a large population of Ku Klux Klan supporters, thus indicating that as mechanisms of oppression have developed and redeveloped throughout U.S. history, capital punishment is just the most recent occurrence.<sup>222</sup>

Since the inception of this nation, Black and Brown people have been treated as less than human. After four hundred years of slavery was abolished, America developed a Reconstruction system followed by Black Codes and Jim Crow laws. Once again, African Americans were relegated to the bottom of the barrel, coerced into labor for White plantation owners, and perceived as disposable beings rather than people. The Civil Rights movement and the subsequent development of the Civil Rights Act marked the end of the Jim Crow era, but it did not take long for U.S. institutions to develop a new means of targeting and oppressing Black and Brown people. The death penalty legalized lynchings of African Americans (and people of color generally), who comprise nearly half of the nation's prison population, while only composing thirteen percent of the national population.<sup>223</sup> In fact, before the 1972 Supreme Court decision in *Furman v Georgia*, "The application of the death penalty from 1930 to 1962 had meant that 49 percent of all those executed for homicide were black."<sup>224</sup> Yet, within years after this court ruling, the racial imbalance in death penalty sentences returned, and now the Black population alone accounts for about forty- one percent of all death penalty convictions.<sup>225</sup>

In particular, Southern states have had a long and contentious relationship with racism, institutions of oppression, and African Americans. In the article, "Capital Punishment and Lynching," J.E. Cutler claims that lynching is such a pervasive aspect of American life, as a means to punish Black people, that "no legal punishment other than ignominious death to the perpetrator, can satisfy the popular sense of justice..."<sup>226</sup> Moreover, Eric Cummins's, who's article tracks the development and redevelopment of institutions of oppression within this country, exemplifies Cutler's argument when saying: "A major study of death sentences in Georgia in the 1970s, known as the Baldus study after one of its authors, found that, all other factors held equal, killers of Whites were 4.3 times more likely to be condemned to death than killers of Blacks."<sup>227</sup> This demonstrates that the disparities in implementation of the death penalty is largely attributed to a desire not only punish Blacks who cross racial lines, but also ensure that race is the largest factor in determining punishment and justice within the criminal justice system. This pattern is illustrated through the capital punishment executions in Florida. In comparison to its other Southern State counterparts, Florida had the most capital punishment sentences proportional to its population, with 91 percent being African Americans; and between

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<sup>222</sup> Eric Cummins, "The Criminal Justice System and African Americans." *Africana: The Encyclopedia of the African and African American Experience*, Retrieved May 06, 2020, from <https://doi.org/10.1093/acref/9780195301731.013.40889>.

<sup>223</sup> Ibid.

<sup>224</sup> Ibid.

<sup>225</sup> Ibid.

<sup>226</sup> Ibid.

<sup>227</sup> Ibid.

1924 and 1964 alone, of the 196 men executed for their crimes, 132 of them were Black.<sup>228</sup> Vandiver claims that “Florida’s legal institutions were entirely in the hands of whites, who did not leave the assumptions and prejudices of their culture behind when acting in their official capacity. Racial beliefs influenced decisions made at every level of the criminal justice system in Florida and were given open expression in Florida’s courtrooms and newspapers. African American witnesses were often subjected to degrading remarks and their testimony was not given serious consideration.”<sup>229</sup>

Although these numbers have reduced in recent years, the reality is that the primary function of the criminal justice system and the use of government sanctioned killings is intended to target people of color. We see this through other law and order policies such as the War on Drugs, mass incarceration, stop and frisk, mandatory minimums, etc. Present-day Texas epitomizes this fact insofar as people of color comprise the bulk of capital punishment sentences. In fact, back in 2018, all of those sentenced with an execution were men of color.<sup>230</sup> Once the *Furman* case had determined that the death penalty was no longer an appropriate punishment for the rape of a woman, which was the main source of the death penalty sentences against African Americans up until this point, Texas legislatures quickly reconvened to find a way in which capital punishment could still be implemented effectively and primarily target Black and Brown people.<sup>231</sup> As a result, they passed a law that asked jurors to consider three questions concerning the deliberate or intentional perpetration of an act that caused a victim to die, whether the alleged criminal would likely be a continuing threat to society, and whether the murder of the victim was justifiable.<sup>232</sup> In passing this legislation, Texas officials legalized the lynching of any person of color accused of a violent crime. As a result, the state has not only seen about one-third of the nation’s executions, but of those sentenced, seventy- five percent are people of color.<sup>233</sup>

There are numerous human rights documents that explicitly discuss the ways in which capital punishment violates human dignity and, therefore, inalienable human rights. As stated before, the International Covenant for Civil and Political Rights (ICCPR) indicates that every human being has “the inherent right to life,” and therefore, no one should be deprived of this right.<sup>234</sup> However, the Second Optional Protocol to the International Covenant on Civil and Political Rights further expands upon this notion by explicitly aiming to abolish the death penalty.<sup>235</sup> This

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<sup>228</sup> Vandiver, M. (2006). Lethal Punishment in Tennessee and Florida. In *Lethal Punishment: Lynchings and Legal Executions in the South* (pp. 18-27). Rutgers University Press. doi:JSTOR

<sup>229</sup> Ibid.

<sup>230</sup> Liliana Segura, “Race Looms Ever Larger as Death Sentences Decline,” December 03, 2019, Retrieved May 06, 2020, from <https://theintercept.com/2019/12/03/death-penalty-race-texas/>

<sup>231</sup> Ibid.

<sup>232</sup> Ibid.

<sup>233</sup> Ibid.

<sup>234</sup> United Nations, General Assembly Resolution. (1989). *Second Optional Protocol to the International Covenant on Civil and Political rights aiming at the abolition of the Death Penalty: (adopted at New York on 15 December 1989)* ... London: Stationery Office. Retrieved May 06, 2020, from <https://www.ohchr.org/EN/ProfessionalInterest/Pages/2ndOPCCPR.aspx>

<sup>235</sup> United Nations, General Assembly Resolution. (1989). *Second Optional Protocol to the International Covenant on Civil and Political rights aiming at the abolition of the Death Penalty: (adopted at New York on 15 December*

covenant states that each country should “take all necessary measures to abolish the death penalty within its jurisdiction,” thus indicating that the human right to life far supersedes any desired punishment for a crime.<sup>236</sup> The Convention Against Torture (C.A.T.), which has been ratified by the U.S., states that capital punishment is classified as a form of torture because the racialized distribution of judicial killings in the U.S. violates the provision which disparages infliction of pain and suffering “based on discrimination of any kind”.<sup>237</sup> Finally, the International Conventions on the Elimination of All Forms of Racial Discrimination (ICEAFRD) exemplifies how capital punishment in America is based on discrimination and therefore produces unjust consequences. All in all, the death penalty in the United States, which disproportionately impacts people of color, is a violation of human rights and founding principles established in this country.

Numerous human rights organizations within the U.S. and abroad have worked to eliminate the use of capital punishment sentencing that is often perpetrated against racially and ethnically underrepresented populations. In the United States, the Southern Poverty Law Center (SPLC), Equal Justice Initiative (E.J.I.), Floridians for Alternatives to the Death Penalty (FADP), Texas Coalition to Abolish the Death Penalty (TCADP), Amnesty International, and the American Civil Liberties Union (ACLU); are just a few of the organizations advocating for criminal justice reform and the enforcement of systems to operate justly and equitably. Brian Stevenson founded the E.J.I. to not only exonerate innocent people of color, but also highlight the overt racial disparities of punishment within the criminal justice system. Since its inception in 1989, the Equal Justice Initiative has expanded in number and goals. Brian Stevenson has worked closely with members of Congress to outlaw capital punishment sentencing against minors. Moreover, the organization as a whole is committed not only to challenging the death penalty but also to “ending mass incarceration and excessive punishment in the United States, to challenging racial and economic injustice, and to protecting basic human rights for the most vulnerable people in American society.”<sup>238</sup> Law and order policies have historically and continue to target people of color in general, but Black people in particular, and capital punishment is merely one example. Judicial executions are not only a clear violation of the individual’s right to life, but also fundamentally opposed to American principles. In order to ensure that all men are created and thus treated equally, the U.S. should abolish the death penalty and consequently terminate one of the most violent mechanisms of racial oppression.

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1989) ... London: Stationery Office. Retrieved May 06, 2020, from <https://www.ohchr.org/EN/ProfessionalInterest/Pages/2ndOPCCPR.aspx>.

<sup>236</sup> Ibid.

<sup>237</sup> United Nations, General Assembly Resolution. (1990). *Convention Against Torture: Hearing before the Committee on Foreign Relations, United States Senate, One Hundred First Congress, second session, January 30, 1990*. Washington: U.S. G.P.O. Retrieved May 06, 2020, from <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>.

<sup>238</sup> “About the Equal Justice Initiative.” Equal Justice Initiative, November 16, 2020, [eji.org/about/](http://eji.org/about/)

## Indigenous Land Conservation: A Solution Against Climate Change

*Emely Ricci*

The race against the clock in the fight against climate change is ever-present. With local, national, multilateral, and international bodies creating policy and declarations, indigenous peoples have also been active in the conservation of land and the climate. Much of climate change policy at the international level has surrounded itself with issues like renewable energy, sustainable development, and the decline of greenhouse gas emissions. While innovation has driven clean technologies to keep production and consumption continuous, it does not completely stop the degradation of our land and our climate. For example, in the past few years, Californian forests have been burning. High temperatures and covered shrubland have caused acres of forests to burn and millions to lose their homes. The indigenous people of California have been stewards of the land long before the start of European colonization and today's wildfire measures, though there has been a shift in practice. After decades of suppressive fire policy placed on native tribes like the Yurok, Hupa, and Chumash, who practiced culture burnings in the past, California policymakers are finally listening to indigenous groups and traditional ecological knowledge.<sup>239</sup> California now implements cultural burnings, that were once illegal by law, in fire prevention and mitigation practices. Thus, as shown, the need to incorporate traditional ecological knowledge to science and the participation of indigenous communities is a solution to the wicked problem<sup>240</sup> of climate change.

Traditional ecological knowledge (TEK) refers to generationally and culturally passed down information of the surrounding environment; one that evolves with the changing landscape and describes relationships between humans and non-humans.<sup>241</sup> This involves vast amounts of native flora and fauna, migratory paths of fish and mammals, and forestry information about that particular locale. TEK, unlike mainstream views of the environment, sees people as part of nature and living in it, rather than as a place to control; spirituality and cultural beliefs are embedded into this knowledge as well. TEK is rooted in the generational knowledge and culture of indigenous communities. The inclusion of indigenous groups in research, policymaking, and environmental implementation would solve issues of equity, participation, and information biases in the scientific community with the use of TEK in collaboration with conventional science.<sup>242</sup> Needs and demands from these groups would also be met. Environmental policy is governed largely by international and federal policy. Cooperating with local native groups, who

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<sup>239</sup> Susie Cagle, " 'Fire is medicine': The tribes burning California forests to save them." *The Guardian*, Guardian News and Media, November 21, 2019, <https://www.theguardian.com/us-news/2019/nov/21/wildfire-prescribed-burns-california-native-americans>

<sup>240</sup> A wicked problem is a problem that policy alone cannot solve due to its contradictory and increasing complexity. The requirements to resolve climate change, changes periodically each year and applies differently to parts of the world.

<sup>241</sup> Native American Program, U., Rinkevich, S., Greenwood, K., & Leonetti, C. U.S. Fish & Wildlife Service Traditional Ecological Knowledge, February 2011, <https://www.fws.gov/nativeamerican/pdf/tek-fact-sheet.pdf>

<sup>242</sup> H.C. Wheeler and M. Root-Bernstein, "Informing decision-making with Indigenous and local knowledge and science." *J Appl Ecol*, 57 (2020): 1634-1643. doi:10.1111/1365-2664.13734

have been historically disenfranchised and oppressed, helps bring greater collaboration and insight to problems with the environment.

International multilateral groups, like the United Nations, have created various programs and worked with groups in instances such as different environmental summits like Copenhagen and Rio20+. Yet, when looking closely into the programs, some came into conflict with the interests and livelihoods of indigenous people. A governance initiative created by the UNFCCC was collectively called ‘Reducing greenhouse gas Emissions from Deforestation and forest Degradation, forest stock conservation, sustainable forest management, and the enhancement of forest stock’ (REDD+). REDD+ encompasses a variety of initiatives from carbon pricing and market-driven environmental projects. Within forest-rich countries in South America, Asia, and Africa, concerns were made about the protection of indigenous communities relying on and living in the areas in which the projects would be implemented as the indigenous groups had no say in the practices. Issues raised by civil groups include land-grabs by market actors and local governments and the absence of indigenous rights secured within the program’s goals<sup>243</sup>. While environmental policies do focus on the protection of the ecosystem, there must be space for people who live in that space to participate. Programs like these must benefit not only those who implement them but those who are being affected by them.

In 2014 the International Tribunal for the Rights of Nature met in Peru to discuss and share their stories of the effects of REDD+. Mary Lou Malig of the Philippines shared that due to the market-driven base of these programs, it does not solve the pollution problem, but masks it. Carbon markets, to which Malig points to as a mask, enable countries to pollute through carbon permits without actually cutting emissions and creates a false sense of decarbonization. Other programs under REDD+ include corporate-funded reforestation programs in trade for carbon production. It does not look at the root of the problem that is increasing climate change but indirectly tries to fix it through other means. Ninawa Kaxinawa of Brazil stated that indigenous communities are threatened with the loss of social services and death if they do not comply with REDD+ projects<sup>5</sup>. Governance and proper policy implementation need to include the human aspect of livelihood to succeed; it cannot impede on human rights.

There has been much success when traditional ecological knowledge (TEK) was applied and indigenous communities were consulted. The 1989 Exxon oil spill cleanup in Alaska was helped by TEK and the local community. Data on pre-spill fish and bird populations were shared as well as conditions of water and land. Interrelated relationships of animals were also shared, creating a whole picture of the effects to mitigate and clean up the mess. Approximately 2,000 sea otters, 302 harbor seals, 14 whales, 250,000 seabirds, and millions of salmon and herring eggs died within days<sup>244</sup>. These efforts led to the conservation of the land and its animals and the need for

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<sup>243</sup> Hayley Stevenson, *Global environmental politics: problems, policy and practice*. (Cambridge University Press, 2017), 123

<sup>244</sup> Sarah Graham, “Environmental Effects of Exxon Valdez Spill Still Being Felt,” *Scientific American*, December 19, 2003, <https://www.scientificamerican.com/article/environmental-effects-of/>

baseline data of the national park<sup>245</sup>. Since the native communities relied on fishing and marine industry as their main source of income, years after the spill and clean-up helped bolster data on the population and regeneration of these animals. It must be noted that these communities suffered heavily in the next years due to the oil spill, of which oil can still be found even after years of clean-up.

When it comes to land, agriculture is an important subject. Industrial agriculture has taken up most methods of food production. Conventional agriculture has devastated large swaths of land due to its use of fertilizers, mono-culturing, and water use. In Central America, an international group of peasant farmers, Campesino a Campesino, have started to implement agroecology. Agroecology is a form of farming that incorporates the surrounding environment into farming and returns farming to its small scale, water management, and traditional knowledge of the land. This movement focuses on the preservation of existing systems to promote long-term benefits. It ensures strengthening habitats, restoring watersheds, and enhancing biodiversity<sup>246</sup>. Though this process cannot keep up with global demand for food, locally and even regionally it connects farmers from different parts of the world to share new knowledge. This encourages mindful stewardship of the land while being sustainable against large scale farming.

Agroecology promotes diversity in farming, unlike industrial monoculture fields. Runoff and soil degradation are real issues that can have lasting effects. Chemical fertilizers change the makeup of the soil, making it need to be re-fertilized after every use. Pesticides kill off necessary insects and pollinators, decreasing the activity in the surrounding area. Agroecology connects communities and builds capacity for meaningful participation between members. In Puerto Rico, after Hurricanes Irma and Maria hit, monoculture farms were hit the worst economically. On the other hand, agroecological farms were hurt less because of their diverse crops, which allow food chains to still be active<sup>247</sup>. Animal waste causes the build-up of untreated manure to be improperly spread and contaminate water supplies and pollute the air. The chemical makeup of soil changes with synthetic fertilizers and pesticides, many of which have been closely correlated to higher risks of cancer in people and genetic mutations in pollinators. Cattle ranching is also a big industry of concern. Large parcels of land are cleared for cattle production, especially in South America where soybean and cattle are raised near the Amazon Jungle<sup>248</sup>. Agriculture makes up 11% of the total global emissions<sup>249</sup> and then 9% of USA pollution<sup>250</sup>. Much of this pollution comes from methane, carbon dioxide, leaching chemicals, and animal waste.

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<sup>245</sup> National Park Service, "20 Years Later...Exxon Valdez Oil Spill," March 1, 2009, [https://www.nps.gov/kefj/learn/nature/upload/kefj\\_evos\\_1989-2009\\_qa.pdf](https://www.nps.gov/kefj/learn/nature/upload/kefj_evos_1989-2009_qa.pdf)

<sup>246</sup> Hayley Stevenson, *Global environmental politics: problems, policy and practice*, (Cambridge University Press, 2017), 155

<sup>247</sup> "The People's Agroecology Process Brings a Global Lens to U.S. Food Justice Work," Civil Eats, September 17, 2020, <https://civileats.com/2020/09/10/the-peoples-agroecology-process-brings-a-global-lens-to-u-s-food-justice-work/>

<sup>248</sup> Courtney Lindwall, "Industrial Agricultural Pollution 101" NRDC, July 31, 2019, <https://www.nrdc.org/stories/industrial-agricultural-pollution-101>

<sup>249</sup> "Global Emissions," C2ES, <https://www.c2es.org/content/international-emissions/>

<sup>250</sup> "Inventory of U.S. Greenhouse Gas Emissions and Sinks," EPA, <https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks>

In the U.S., agroecology takes form in the Eastern Woodlands Rematriation Collective (EWRC) and the Northeastern Farmers of Color Trust (NEFOC). These two programs are about cultivating community within the American Indigenous community and using traditional diets and farming methods to cultivate the land<sup>251</sup>. NEFOC works with indigenous groups by consulting and creating pathways through their Indigenous Community Consultation Policy with native communities in exclusive land ownership, stewardship, rematriation, and decision-making land authority. This group has various programs like the NEFOC Land Network program that connects BIPOC farmers and utilizes regenerative farming methods. The other program is the Community Conservation program that aids ecological health projects and development through TEK and community action of the natural land. The EWRC focuses on the reclamation of indigenous food resources, medicine, and relationship to the earth<sup>252</sup>. The group runs a native-funded and resourced apothecary, the Wabanaki Community Herbal Apothecary. They have created networks of local native fisheries, gardens, and agroecological farms within the northeastern tribes of the Maliseet, Mi'kmaq, Passamaquoddy, and Penobscot. NEFOC's main project includes their Wabanaki Herbalism Apprenticeship program that trains individuals in traditional births, non-pharmaceutical health, ancestral knowledge, and cultivates education on native harvesting, planting, identification, and land access and conservation. Thus, as exemplified through these two organizations, TEK is about sustainability while also respecting life and taking accountability within the food systems and cultural practices that assuage climate change while benefiting from conservation.

When it comes to participation in policymaking, specifically regarding climate change, the participation of those who are most affected is essential. In the U.S., Native Americans' historical relationship with the federal government is inconsistent at best. Various policies took land away from natives, permanently removed them from ancestral lands, and prohibited them from practicing traditional environmental practices. The participation of indigenous groups is highly important when speaking about local and regional issues of climate change. The decision-making process at various levels of financing, methods of conservation, non-state actors, and private and public interests must consult communities whose lives will be affected by the policy. For example, in 2019 the New South Wales government in Australia worked hand in hand with the Nari Nari people by deeding the land to them for long-term stewardship<sup>253</sup>. This partnership between the indigenous people and the Nature Conservancy let the Nari Nari cultivate the land for agriculture while keeping wetlands intact and thriving perpetually. This success should highlight the cooperation and achieved goals when government bodies work with indigenous groups, and an example of environmental action the United States should invest in to achieve goals as well as ensure equity and collaboration with Native American communities.

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<sup>251</sup> NEFOC, N. (n.d.), "Our Work," <https://nefoclandtrust.org/our-work>

<sup>252</sup> "KOEf Grant Partner Spotlight: Eastern Woodlands Rematriation Collective," Cultural Survival, Retrieved November 22, 2020, from <https://www.culturalsurvival.org/news/koef-grant-partner-spotlight-eastern-woodlands-rematriation-collective>

<sup>253</sup> "COMPLETED: Gayini Nimmie-Caira Project (Australia)," WYSS Campaign for Nature, March 19, 2020, <https://www.wysscampaign.org/project-list/nimmie-caira>

Interests of indigenous groups can and do line up with the larger audience of the world in environmental justice and climate justice. Greater political participation for these groups, allows governments to expand their programs and create bridges of policy-making and enforcement. In Nepal, the resurrection of the Nepal tiger was in part due to indigenous groups living near tiger sanctuaries. The Bote, Mushar, and Tharu people worked with the National Park services by sharing TEK and creating informal agreements to allow farming and conservation of the surrounding areas<sup>254</sup>. Yet, it must be said that full recognition of their rights to the land has been difficult due to these agreements having the potential to not be honored all the time and the creation of ‘buffer zones.’ Biases against indigenous people’s land rights are pitted against environmental conservation and the proper use of the land. This caused delays in protecting their rights.

The buffer zones were created by the fourth amendment to the 1973 National Parks and Wildlife Conservation Act that gives indigenous people a benefit-sharing system where 30-40 percent of park revenues would be diverted for community benefits and sustainable use rights of resources. The government recognized fishing rights on the land, as well as investing in homestays for ecotourism within these communities as a venue of economic development. Yet, it must be noted that while these provisions and practices were put into place, indigenous people still need to be co-managing conservation areas. Conflicts within informal agreements need the legal backing of the law or state to be honored and give legislative security on the use of resources. With many indigenous groups living under federal control, there is a need for communication and collaboration. There need to be fair trade-offs as indigenous groups are economically disadvantaged when resource access is limited.

Working with indigenous groups benefits their communities by paying into programs. Collaborating employs community members and builds skills that can bring opportunities into the community. Giving indigenous people access to core leadership positions and administration tools increases the capacity to make decisions and greater political capital for future projects. Indigenous groups have historically been politically disenfranchised and have little political influence, so creating these networks gives them capacity to connect with other nations across the globe and share information. Governments must be able to benefit these communities with economic opportunities as well. As seen in Nepal, government support in industries that align with the community’s needs can provide long-term monetary benefits for all members.

The inclusion of TEK and participation of indigenous groups in conservation benefits both sides. National and international governing bodies would benefit well from generational information from native groups who have lived upon the land by giving in-depth information on wildlife, patterns, and ecological standards. These conservation projects, because many are implemented in areas where native groups have resided for years, need to include these groups in discussions. Native groups rely on the natural resources of the land for sustenance, religious purpose, and

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<sup>254</sup> Smriti Dahal, “Unsung Heroes of Nepal’s Tiger Recovery,” Nepali Times, November 5, 2020, <https://www.nepalitimes.com/banner-nepals-tiger-recovery>

cultural needs so by extension care for the land itself for long-term usage. Their inclusion will ensure equity and proper stewardship of lands while being able to provide their knowledge and skills to bolster conservation projects to meet certain standards and goals.

## Racial Disparities in the United States Criminal Justice System

*Aylin Saydam*

The United States criminal justice system is the largest in the world and the majority of those incarcerated are Black people. According to Prison Policy Initiative, a research advocacy group, there are hundreds of counties that have a 10-to-1 “ratio of over-representation” between incarcerated Blacks and Blacks in the surrounding county. This means that the portion of the prison that is Black is at least 10 times larger than the portion of the surrounding county that is Black.<sup>255</sup> Many believe that this can largely be attributed to the systemic racism that has always existed in the United States. Rooted in slavery, systems of oppression continued under Jim Crow laws and White supremacy, and today manifest in a deeply racist criminal justice system. American law enforcement continues to treat Black people differently than White people. According to ABC news, Black people are five times more likely than White people to be stopped while driving.<sup>256</sup> In addition, Black people are treated more violently by the police than people of other races. The Kaiser Family Foundation, a non-profit source for information on national health issues, found that 21% of Black Americans have been a victim of police violence.<sup>257</sup> This abuse can often lead to physical and mental problems that last the victim’s entire life. Systemic racism continues to plague the American criminal justice system and there have been increasing calls that it must be addressed and reformed.

Black people are more likely to be stopped by a police officer and given a penalty than White people. According to the Sentencing Project, a research advocacy group, “African Americans are more likely than White Americans to be arrested; once arrested, they are more likely to be convicted; and once convicted, and they are more likely to experience lengthy prison sentences.”<sup>258</sup> This systematic bias can be better understood through a closer examination of the War on Drugs that began in 1971. Many Americans are incarcerated for possessing drugs and the majority of them are Black. The Drug Policy Alliance, a nonprofit organization that actively promotes drug policy reform legislation, has found that prosecutors are twice as likely to pursue a mandatory minimum sentence for Black people than for White people charged with the same offence.<sup>259</sup> This contributes to the mass incarceration that the African American community faces. The racial profiling and harsh sentencing of Black people must end if we are to begin tackling systemic racism in this country.

Not only are Black people more likely to be stopped by police, they are also more likely to be treated with violence. U.S. law enforcement has had a long history of brutally murdering Black

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<sup>255</sup> Peter Wagner and Daniel Kopf, “The Racial Geography of Mass Incarceration,” Prison Policy Initiative <https://www.prisonpolicy.org/racialgeography/report.html>

<sup>256</sup> “ABC News Analysis shows Black Americans far more likely to be stopped by police,” ABC News, <https://abcnews.go.com/Nightline/video/abc-news-analysis-shows-black-americans-stopped-police-72919111>

<sup>257</sup> “KKF Health Tracking Poll,” <https://www.kff.org/wp-content/uploads/2020/06/june2020poll.png>

<sup>258</sup> “Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System,” The Sentencing Project, April 19, 2018, <https://www.sentencingproject.org/publications/un-report-on-racial-disparities/>

<sup>259</sup> “The Drug War, Mass Incarceration and Race (English/Spanish),” The Drug Policy Alliance, January 25, 2018, <https://www.drugpolicy.org/resource/drug-war-mass-incarceration-and-race-englishspanish>

people and it remains a critical issue that continues to devastate the Black community. Oftentimes, police officers use unnecessary violence to arrest people of color. The NAACP have found that 84% of Black adults say that White people are treated better than Black people by police. Furthermore, 63% of White adults agree based on 2019 research on police relations.<sup>260</sup> It is clear that there are problems in the ways police treat Black people.

By turning to violence when arresting Black people, police officers' actions have led to many tragic deaths. Although both Black and White people are killed by police, people of color are more at risk. According to the NAACP, although more White people have been killed by police, Black people are disproportionately impacted. While White people make up a little over 60% of the population, they only make up about 41% of fatal police shootings. Black people on the other hand make up 13.4% of the population, yet make up 22% of fatal police shootings.<sup>261</sup> It is important to note that Black victims of police murder are 1.3 times more likely to be unarmed than White victims.<sup>262</sup> Black people continue to be murdered by police to this day. On May 25<sup>th</sup>, 2020, George Floyd, a forty-six year old Black father was killed after a clerk store had alleged that he had passed a counterfeit twenty dollar bill in Minneapolis. NBC news reported that after Floyd complied with law enforcement, White police officer Derek Chauvin held his knee on Floyd's neck for 8 minutes and 46 seconds, suffocating him.<sup>263</sup>

After this tragic incident, thousands took to the streets protesting systematic racism and demanding changes in the law enforcement system. Racial disparities in the criminal justice system cause both physical and mental health issues among Black people. A case study conducted by the Center for American Progress, a research advocacy group, found that, “[m]ass incarceration has long-term physiological effects that contribute to a range of health issues...diabetes, asthma, hypertension, HIV, and Hepatitis C.”<sup>264</sup> In addition, one of the most detrimental effects of racial disparities in the criminal justice system is the connection between the increased rate of Black infant mortality and mental health. Black Women suffer the immense stress of mass incarceration. When their partners are incarcerated, Black women become more susceptible to being stressed. This racism induced stress may cause a higher risk of infant mortality. The Center for American Progress found that “structural racism exposes Black women to distinct stressors-such as contact with the criminal justice system... Today, infants born to Black mothers die at twice the rate as those born to White mothers.”<sup>265</sup> As a result of the increased rate of infant mortality, mental health issues such as depression, anxiety, and post-

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<sup>260</sup> “Criminal Justice Fact Sheet,” NAACP, <https://www.naacp.org/criminal-justice-fact-sheet/>

<sup>261</sup> Ibid.

<sup>262</sup> J. L. Eberhardt, P. A. Goff, V.J. Purdie, & Davies, P. G. (2004). Seeing Black: Race, Crime, and Visual Processing. *Journal of Personality and Social Psychology*, 87(6), 876–893. <https://doi.org/10.1037/0022-3514.87.6.876>

<sup>263</sup> Tom Winter, “May 29 coverage of nationwide unrest and ongoing protests,” NBC News, June 2, 2020, <https://www.nbcnews.com/news/us-news/blog/george-floyd-death-minneapolis-protests-live-upd-ates-n1217886/ncrd1218406#blogHeader>

<sup>264</sup> Connor Maxwell, Danyelle Solomon, “Mass Incarceration, Stress, and Black Infant Mortality,” Center for American Progress, June 5, 2018, <https://www.americanprogress.org/issues/race/reports/2018/06/05/451647/mass-incarceration-stress-black-infant-mortality/>

<sup>265</sup> Ibid.

traumatic stress disorder arise among Black families. These mental and physical health problems lead to disruptions in everyday life and create long lasting ruptures in families and communities.

Our criminal justice system is a prime example of how structural racism is embedded in the United States. The existence of this system continues to damage the lives of millions of Black people around the country, and it must be restructured in order to take another step in ending systemic racism. One of the ways this can be done is by decreasing the amount of government spending put towards “law and order.” Dorian Warren, President of the Center for Community Change Action, argues there must be “redistribution for reconstruction... with fewer buys of expensive military-style equipment for police departments, fewer people in expensive jails and fewer expensive legal defenses for police officers who commit crimes on the job, our criminal justice system would better serve the people.”<sup>266</sup> Not only have ideas such as reducing the funds for expensive military-style equipment been proposed, there has also been a fight to elect progressive candidates that will fix the broken criminal justice system and invest in communities of color. Many believe that with the election of progressive leaders and the implementation of new policies, there is a possibility of racial equality in the country.

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<sup>266</sup> Katrina Vanden Heuvel, “How we can start dismantling systemic racism,” The Washington Post, June 9, 2020 <https://www.washingtonpost.com/opinions/2020/06/09/how-we-can-start-dismantling-systemic-racism/>

## The Supreme Court: Should Lifetime Appointments Be Abolished?

*Jared Williamson*

Throughout history, the courts in the United States have continually fulfilled an important role in interpreting and enforcing the laws of society. As was stated in the legendary Supreme Court case *Marbury v. Madison* (1803), the Supreme Court has the authority to engage in judicial review, which simply means that the courts have the power to declare laws and executive and citizen actions constitutional or unconstitutional. The Supreme Court has a substantial responsibility to interpret the laws in the country, and it requires the attention of responsible individuals who will make decisions based on the constitution and past court precedent. However, overall distrust of the lifetime appointment system of Supreme Court justices has grown, with the encapsulation of this coming in the form of proposed legislation in the House of Representatives in 2020 to set 18-year term limits for SCOTUS justices.<sup>267</sup> Since this is occurring, the question remains: are justices given too much power through lifetime appointments? If so, how would term limits resolve this? To align with the proposed legislation, the subsequent paragraphs will explore the idea of an 18-year term limit for justices. In order to properly assess this issue as a whole, it is important to examine the detriments and triumphs of the current system as well as the benefits and consequences that come with a new system of judicial term limits.

It is important to first examine the benefits of the current Supreme Court. According to Article III Section 1 of the United States Constitution, judges “shall hold their offices during good behavior”, which implies that the only way for justices to be removed from the court is through impeachment—otherwise the judge could serve until death or until they retire.<sup>268</sup> Former United States President George W. Bush stated in 2010 that “while White House staff and Cabinet appointments are crucial to decision making, they are temporary. Judicial appointments are for life”, which highlights the significance of Supreme Court appointments in the U.S.<sup>269</sup> When the Supreme Court was constructed, Alexander Hamilton explained that it was done with the intention of it being “an intermediate body between the people and the legislature, in order...to keep the latter within the limits assigned to their authority.”<sup>270</sup> Essentially, the Supreme Court was designed to be a proponent of the checks and balances principle, as the courts interpret the laws of Congress and the actions of the other two branches of government. Since 1789 (when the court system was established), the Supreme Court has evolved immensely. The court at one point had a total of six justices, while the Supreme Court in 2020 has 9 justices. Additionally, representation on the court has grown, as more women and non-white men have received

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<sup>267</sup> Kalvis Golde, “House Democrats to introduce new bill for Supreme Court term limits,” SCOTUSblog, September 25, 2020, <https://www.scotusblog.com/2020/09/house-democrats-to-introduce-new-bill-for-supreme-court-term-limits/>

<sup>268</sup> Richard W. Garnett, David A. Strauss, “Article III, Section One,” Interactive Constitution, National Constitution Center, <https://constitutioncenter.org/interactive-constitution/interpretation/article-iii/clauses/45>

<sup>269</sup> Christine L. Nemacheck, *Selecting Justice: Strategy and Uncertainty in Choosing Supreme Court Nominees* (New York: Routledge), 3

<sup>270</sup> Charles A. Beard, *The Supreme Court and the Constitution* (Mineola, New York: Dover Publications Inc.), 52

nominations to the court over time. Some of the most iconic figures in American law have been appointed to the highest court of the land, such as Ruth Bader Ginsburg, Thurgood Marshall, Antonin Scalia, and Sandra Day O'Connor. The Supreme Court as presently constructed with lifetime appointments oversaw numerous important cases: *Obergefell v. Hodges* (2015), *Roe v. Wade* (1973), *Citizens United v. FEC* (2010), and *Lawrence v. Texas* (2003). Regardless of whether citizens agree with the decisions of the court, the Supreme Court remains the supreme authority on the interpretation of the U.S. Constitution.

Despite the success that the Supreme Court in its current form has experienced, there are numerous flaws in its selection process and the function. Arguably one of the most important flaws is its lack of support from Americans. According to the advocacy group Fix the Court, in May of 2020 77% of Americans answered in a poll that they “favor restrictions on length of SCOTUS service”.<sup>271</sup> There is also the issue of appointment windows opening irregularly. President Trump appointed three judges to the Supreme Court in one term as president. The Harvard Journal of Law and Public Policy discusses this flaw in our current system, and suggests “Spacing appointments out evenly, so that each President gets two in four years...would, in our view, do a great deal to promote the public’s and the Justices’ respect for the rule of law.”<sup>272</sup> With term limits for justices or appointment limits for Presidents, it could be argued that the judicial nomination process would be a little more fair, as democratically elected Presidents would have the opportunity to engage in one of the most important jobs that a President has. In its present construction, the Supreme Court has been criticized for its somewhat undemocratic functions.

If the United States is going to explore setting an 18-year limit for Supreme Court justices, it is important to examine the benefits of setting up such a system. As previously stated, this process has the potential to make the Supreme Court nomination process more democratic, as it spaces out the appointments evenly. Also, as was previously stated in the Fix the Court poll, the idea of limiting the tenure of Supreme Court justices has public support. Another consideration for this idea is that term limits could reduce the polarizing nature of the current structure of the nomination process. Center for American Progress President Neera Tanden stated in a virtual webinar that since term limits for justices would give presidents equal opportunities to nominate a judge, it would “reduce arbitrariness and polarization inherent in the nomination process”.<sup>273</sup> This could be beneficial, and it would legitimize the idea that the court acts and functions independent of political ambitions. Along with public support, the concept of term limits for Supreme Court justices has gained support from current justices John Roberts and Stephen Breyer, with Breyer adding that “an 18-year term period would give justices enough time to fully

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<sup>271</sup> “New Poll Shows SCOTUS Term Limits Still Popular Across Party Lines,” *fixthecourt.com*, Fix the Court 2020, June 10, 2020, <https://fixthecourt.com/2020/06/latest-scotus-term-limits-poll/>

<sup>272</sup> Steven G. Calabresi, James Lindgren, “Term Limits for the Supreme Court: Life Tenure Reconsidered.” *Harvard Journal of Law and Public Policy* 29, no. 3 (2006)

<sup>273</sup> Kalvis Golde, “Experts tout proposals for Supreme Court limits,” *SCOTUSblog*, August 4, 2020, <https://www.scotusblog.com/2020/08/experts-tout-proposals-for-supreme-court-term-limits/>

learn the job and develop jurisprudence”.<sup>274</sup> Therefore, not only do current justices agree with this principle, but one of them added that a term limit would not negatively impact the tenure of future justices. This is an important detail, as the job performance of justices would be a concern if they can only serve for a certain amount of time. Columbia Law Professor Thomas W. Merrill stated that if term limits were made for justices, the court itself would, “move further in the direction of a ‘living constitution’ approach to constitutional interpretation”.<sup>275</sup> If the court were to move in this direction, it is reasonable to expect that the members of the court would become more diverse over time. Diverse representation on the court is important, as it was stated that “As the court’s first woman, [Sandra Day] O’Connor keenly felt she had been a symbol, a role model for millions of young professional women over the years.”<sup>276</sup> While having the proper experience and qualifications are important considerations for nominating a judge to the Supreme Court, having diverse members is equally as important, as it motivates future women and people of color to work towards becoming a Supreme Court justice as well. With a limit in tenure on the court for the justices (and therefore a frequent change in justices), the United States could work towards having a more diverse and representative court system.

While there are benefits to having this limit on the Supreme Court, there are also some flaws to this system as well as aspects of the current system that term limits wouldn’t necessarily fix. Ilya Shapiro stated that “term limits wouldn’t change the ideological composition of the court” and they wouldn’t “address the fundamental power that each justice wields, which is the reason we see such ferocious political battles every time a vacancy occurs”.<sup>277</sup> Therefore, the term limits wouldn’t solve the power dynamics that are currently examined in the courts today. A fair critique of the term limit proposal is that it doesn’t solve the more abundant problems seen in the current construction of the courts, and that if the United States wishes to improve these problems it would need to limit the power of justices. Additionally, there is a possibility that even if the justices themselves remain consistent with their views, the court itself would weaken in consistency over time. Professors Suzanna Sherry and Christopher Sundby completed a study in which they tested how the court would rule on *Roe v. Wade* over time. The results led to immense inconsistency, as Sherry and Sundby state that “*Roe* would have been overruled in 1987, reinstated in 2009, and overruled again in 2017.”<sup>278</sup> To conclude the study, Sherry and Sundby said that “term limits are likely to have a substantial detrimental effect on doctrinal stability. A case could go from being a sure winner to a sure loser over the course of a single

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<sup>274</sup> Maggie J. Buchanan, “The Need for Supreme Court Term Limits.” americanprogress.org, Center for American Progress, August 3, 2020, <https://www.americanprogress.org/courts/2020/08/03/488518/need-supreme-court-term-limits/>

<sup>275</sup> “Pros and Cons of Potential Term Limits for Supreme Court Justices.” law.columbia.edu, Columbia University School of Law, March 25, 2014, <https://www.law.columbia.edu/news/archive/pros-and-cons-potential-term-limits-supreme-court-justices>

<sup>276</sup> Jan Crawford Greenburg, *Supreme Conflict: The Inside Story of the Struggle for Control of the United States Supreme Court* (New York: Penguin Press). 214

<sup>277</sup> Ilya Shapiro, “Term Limits Won’t Fix the Court.” theatlantic.com, The Atlantic, September 22, 2020, <https://www.theatlantic.com/ideas/archive/2020/09/term-limits-wont-fix-court/616402/>

<sup>278</sup> Suzanna Sherry, Christopher Sundby, “Academic Highlight: The Risks of Supreme Court Term Limits.” SCOTUSblog, April 5, 2019, <https://www.scotusblog.com/2019/04/academic-highlight-the-risks-of-supreme-court-term-limits/>

election.”<sup>279</sup> This level of inconsistency could be intimidating to some Americans, particularly those who believe that progress should work slowly. This study also strengthens the point that Shapiro makes, as it emphasizes the power that the courts have. Critics of term limits for Supreme Court justices present valid concerns about the consequences that can occur with this arrangement.

As has been clearly outlined, there are beneficial and detrimental aspects to the idea of limiting the tenure of Supreme Court justices. It could present benefits such as diversity, democracy, and a fair opportunity for United States Presidents, but it could also hinder the consistency of the court while also not fixing other glaring flaws in the court system. Regardless of what’s decided for the Supreme Court in the future, it’s important that whatever decision is made is done so with the intention of doing what is best for the institution itself and what is best for the American people. To reference former President George W. Bush, the impact Supreme Court justices lasts forever, and it should be treated with the level of importance that it deserves.<sup>280</sup> Supreme Court Justices carry on a legacy that far outlives the Presidents who appoint them, as they rule on cases that impact the country for a long time. Therefore, it is crucial that decisions made in regards to the Supreme Court reflect this importance in order to construct it in a way that works best.

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<sup>279</sup> Ibid.

<sup>280</sup> Christine L. Nemacheck, *Selecting Justice: Strategy and Uncertainty in Choosing Supreme Court Nominees* (New York: Routledge), 3