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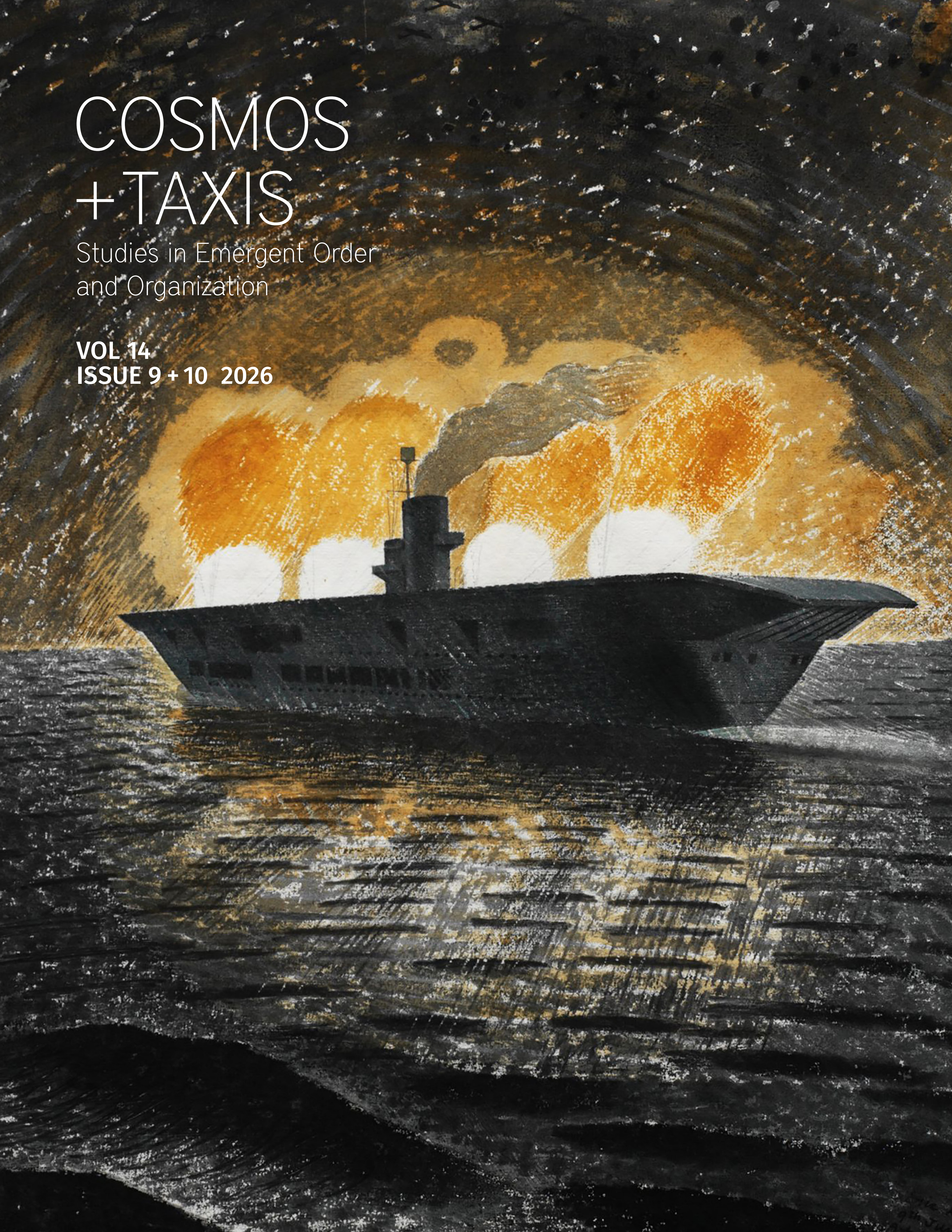

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Eric Ravilious, 1940. *HMS Ark Royal in Action.* Imperial War Museums. Public domain.

An Introduction to the Special Issue on Defense and Peace Economics

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Questions of war, defense, and peace have long occupied a place in economic analysis. Standard economic frameworks often approach defense through the lens of public goods, welfare maximization, and optimal policy design (Coyne and Lucas 2016). That approach has its place and provides some analytical convenience, but tends to abstract from the political and institutional environments in which defense-related decisions are made. As a result, core features of war and peace—coercion, secrecy, bureaucratic incentives, entrepreneurial behavior, and profound uncertainty—are frequently treated as secondary considerations rather than as constitutive elements of the phenomena under study.

This tension between theory and reality is particularly striking given the historical prominence of organized violence in shaping modern political and economic institutions. The twentieth century is often characterized as one of the most violent periods of modern history, marked by two world wars, prolonged ideological conflict, persistent civil wars, and repeated episodes of political violence. According to data from Lyall (2020), nearly 35-million people died in wars between 1900 and 1999.[1] However, a number of scholars have interpreted the post–Cold War world, including the early twenty-first century, as one in which large-scale violence and all-out war are historically diminished relative to the century that preceded it. From different perspectives, these accounts emphasize long-run declines in violence or the erosion of the ideological and geopolitical conditions that previously fueled conflict (Fukuyama 1992; Pinker 2012). Whether one accepts these interpretations in whole or in part, they have contributed to a broader tendency to treat war as an episodic disturbance rather than as an ongoing institutional problem requiring sustained analytical attention.

Recent geopolitical developments serve as a reminder that war and peace cannot be relegated to the background of economic analysis. Armed conflict persists across multiple regions, tensions among major powers have reemerged, and military intervention remains a recurring feature of international politics. Although war remains the exception rather than the rule, and many ongoing conflicts may yet find resolution, the continued salience of defense and conflict underscores a more fundamental point. Regardless of whether violence is rising or falling in aggregate, the institutional processes that generate war, militarization, and peace remain imperfectly understood.

Economists have engaged with these issues for decades within the broad field of defense and peace economics. Early work, much of it conducted in close proximity to government and military institutions such as the RAND corporation, focused on strategic concerns such as nuclear deterrence, defense procurement, and military planning. For example, Thomas Schelling was a consultant and regular contributor to research for the RAND corporation on issues such as nuclear deterrence. Over time, the field expanded to include theories of defense provision, the role of military spending in technological change, and the structure of the defense industrial base (Kistiakowsky 1989; Rogerson 1989, 1994; Bajari and Tadelis 2001;

Fredland 2004; Geiger 2017). More recently, scholars have increasingly emphasized the importance of political processes in shaping defense outcomes. Because decisions about war and peace are made within political institutions, analyses that abstract from political incentives, institutional constraints, and information problems risk missing key determinants of observed outcomes (Coyne 2015).

Research in public choice economics and Austrian political economy on topics of defense, war, and peace has been especially influential in this regard.[2] By emphasizing the incentives facing political actors, the limits of centralized knowledge, and the endogenous evolution of institutions, this body of work has reshaped how economists approach issues of defense and peace. The research from these scholars have illustrated the utility of understanding a variety of topics within defense economics by leveraging analytical lenses such as entrepreneurial behavior, bureaucratic incentives, and institutional environments that shape how power and resources are deployed. This special issue contributes to that tradition. The papers collected here apply political economy tools to a diverse set of problems from constitutional change and civil resistance to the environmental consequences of war. Taken together, they underscore the value of approaching defense and peace as an institutional and political processes marked by uncertainty, incentive misalignment, and unintended consequences.

In the first paper of the issue, “Constitutional Entrepreneurship and Civil Resistance,” Joshua Ammons applies a theory of constitutional entrepreneurship centered on civil resistance as a mechanism for avoiding violent conflict while achieving constitutional change. The paper argues that nonviolent movements are not merely expressions of dissent, but are often shaped by constitutional entrepreneurs who deliberately work across pre-constitutional, constitutional, and post-constitutional stages. These entrepreneurs reframe cultural norms, design participation strategies that solve collective action problems, and maintain nonviolent discipline in environments where escalation is both tempting and costly. Drawing on insights from constitutional political economy and the civil resistance literature, Ammons emphasizes that successful constitutional change depends less on formal drafting moments than on prior entrepreneurial efforts that reshape informal institutions and align revolutionary demands with existing social norms.

Ammons illustrates this framework through comparative case studies of Estonia’s Singing Revolution and Algeria’s Arab Spring–era mobilizations. Estonia serves as a successful case in which constitutional entrepreneurs embedded resistance within long-standing cultural traditions, used entertainment and identity-based incentives to broaden participation, and sustained nonviolent discipline. In this case, durable constitutional reform was made possible. Algeria, by contrast, highlights the obstacles faced when informal institutions are co-opted by the state, leadership structures are fragmented, and historical path dependencies undermine collective action. Together, the cases underscore the paper’s central contribution. Constitutional entrepreneurship, when coupled with strategic civil resistance, can reduce the likelihood of violent conflict and improve the prospects for peaceful institutional change. In doing so, the paper bridges constitutional political economy with defense and peace economics by identifying civil resistance as an underexplored pathway through which societies may escape violent equilibria and pursue constitutional reform without resort to force.

The second paper, “Border Militarization as an Entrepreneurial Process,” by Nathan Goodman, applies the theory of political entrepreneurship to explain the long-run process of U.S. border militarization. Rather than treating militarization as a sequence of discrete policy choices driven by security needs, the paper conceptualizes it as an emergent outcome of entrepreneurial behavior within political institutions. Goodman argues that episodic crises, most notably the war on drugs and the post-9/11 war on terror, create profit opportunities for political entrepreneurs operating within legislatures, bureaucracies, and private contracting firms. These actors respond entrepreneurially by expanding budgets, authority, technologies, and organizational forms, each of which in turn generates new opportunities for further militarization over time.

Goodman shows how initial expansions of border enforcement authority facilitate rent-seeking by private contractors and mission creep by public agencies, leading militarized tools and tactics to be repurposed far beyond their original justifications. Drawing on historical evidence from border policing, counter-drug operations, and counterterrorism, the paper demonstrates how political entrepreneurship systematically biases institutional evolution toward expanded coercive capacity. In doing so, the paper highlights how entrepreneurial responses to insecurity can undermine polycentric governance and entrench militarization, even in the absence of clear evidence that such expansions improve security outcomes.

Next, in, "Competition and Shirking in the Provision of Defense," Garrett Wood examines the bureaucratic provision of national defense in the United States through the lens of public choice and Gordon Tullock's theory of bureaucracy. The paper begins from the observation that effective defense requires coordination among distinct military services, yet those services face incentives to pursue their own budgets, prestige, and mission sets rather than the objectives of civilian principals. Wood argues that conventional reforms such as increased oversight, additional layers of management, or stronger centralization have repeatedly failed to resolve these incentive problems because they do little to reduce information asymmetries or curb bureaucratic shirking within and across the services.

The paper's core contribution is to apply Gordon Tullock's argument that competition among agents performing similar tasks can serve as a substitute for direct monitoring. Wood shows how legal and institutional rules in the U.S. defense establishment intentionally differentiate the missions of the Army, Navy, Air Force, Marine Corps, and Space Force, thereby preventing meaningful performance comparisons and insulating each service from discipline. Drawing on historical episodes ranging from interwar service rivalry to nuclear weapons development and close air support, the paper demonstrates that where competition has been permitted (either formally or informally) it has revealed inefficiencies, reduced shirking, and accelerated innovation. By contrast, enforced specialization has tended to entrench bureaucratic independence and weaken civilian control.

In, "The Fatal Conceit of Foreign Intervention: Evidence from the U.S. Occupation of Iraq" Matthew Owens, applies F. A. Hayek's concept of the fatal conceit to the U.S. intervention and postwar reconstruction in Iraq using extensive qualitative evidence drawn from the Iraq Papers and reports of the Special Inspector General for Iraq Reconstruction (SIGIR). Owens argues that the Iraq War exemplifies the presumption that external planners can deliberately design and reconstruct complex social orders using discretionary power, expert knowledge, and bureaucratic administration. Building on prior work in the political economy of intervention (Lambert et al., 2021), the paper emphasizes that U.S. policymakers faced severe epistemic constraints—stemming from the absence of local, tacit knowledge and meaningful feedback mechanisms—as well as incentive constraints generated by bureaucratic rivalry, soft budget constraints, and contractor opportunism.

Owens structures the analysis around a means–ends framework, showing how the fatal conceit manifested in the selection of intervention goals, the choice of bureaucratic and contractual means, and the ultimate failure to realize stated ends such as stable governance, reduced corruption, and durable democratic institutions. Drawing directly from interviews, audits, and internal assessments contained in the Iraq Papers and SIGIR reports, the paper documents widespread discoordination across agencies, reliance on crude spending metrics as indicators of success, pervasive waste and fraud in contracting, and the systematic marginalization of Iraqi preferences and institutional realities. The paper's contribution lies in its detailed empirical grounding of Hayekian insights. It demonstrates how large-scale military and reconstruction efforts can fail not primarily because of insufficient resources or poor intentions, but because centralized intervention is fundamentally ill-suited to manage complex social systems. In doing so, Owens provides a cautionary account of the limits of foreign intervention and reinforces the case for institutional humility in the pursuit of peace and post-conflict reconstruction.

The fifth paper, "Competition or Cooperation: The Case of al-Qaeda and the Taliban in Afghanistan 1996-2001," by Anne Bradley, examines the evolution and interaction of terrorist organizations through the lens of economic organization, extending and deepening a research agenda she has developed over the past two decades. The paper asks why terrorist groups that share territory and ideological commitments sometimes cooperate rather than compete, and what such organizational choices imply for the effectiveness and durability of terrorism. Using the theory of the firm and cost–benefit analysis, Bradley conceptualizes terrorist organizations as non-profit firms operating in a quasi-market environment, where leaders respond rationally to incentives, scarcity, and institutional constraints. Terrorist groups, on this account, face tradeoffs analogous to those confronting market firms: competition can dissipate resources and generate negative-sum outcomes, while cooperation can increase operational effectiveness, albeit at the cost of autonomy and potential inefficiency.

Bradley's paper develops this framework through a detailed case study of al-Qaeda and the Taliban during their period of co-location in Afghanistan from 1996 to 2001. Bradley shows that cooperation between the two groups emerged not from organizational fusion or ideological homogeneity, but from compatible goals, mutual gains from exchange, and an institutional environment characterized by weak state capacity and violent competition. Al-Qaeda provided financial resources, training, and transnational expertise, while the Taliban offered territorial control and safe haven, allowing both organizations to focus on their respective missions rather than expending resources on rivalry. The analysis also highlights the fragility of such cooperative equilibria. Shifting geopolitical conditions and external intervention altered the cost–benefit calculus after 2001, reshaping organizational behavior. By treating terrorist alliances as endogenous responses to incentives rather than as fixed ideological commitments, the paper clarifies how terrorist organizations adapt, coordinate, and evolve.

The final paper, "Private Pigou Goes to War: The Environmental Costs of Warmaking," by Christopher Coyne, Abigail Hall, and Jordan Lofthouse, offers a pointed critique of standard welfare-economic treatments of war and national defense. Framed around the figure of "Private Pigou," the paper interrogates the conventional public-good justification for state warmaking by focusing on a largely neglected category of costs: the environmental externalities generated by military preparation, conflict, and postwar activity. The authors argue that the textbook move from identifying a market failure to endorsing state provision implicitly assumes away two central problems, knowledge and incentives, that are especially severe in the context of war. Policymakers, they contend, lack both the epistemic capacity to identify the full environmental costs of warmaking and the incentives to internalize those costs, which are routinely shifted onto civilians, foreign populations, and future generations.

Their paper synthesizes insights from Buchanan's critique of the "organismic" state, and Hayekian epistemics to show why Pigouvian logic breaks down when the producer of externalities is also the ultimate taxing and regulating authority. Through a systematic discussion of air and water contamination, soil degradation, unexploded ordnance, deforestation, and harm to animals, the authors document how warmaking generates a wide range of long-lived and spatially diffuse environmental bads that fall outside standard welfare accounting. The paper's contribution is twofold. First, it highlights a persistent asymmetry in economic analysis, whereby the costs of private production are scrutinized while those of state violence are normalized or ignored. Second, it challenges the presumption that national defense can be cleanly modeled as a welfare-improving public good once institutional realities are taken seriously. By combining analytical rigor with satire, the paper underscores a broader theme of the special issue, that evaluating war and peace requires economists to confront the limits of idealized welfare analysis in settings dominated by coercion, complexity, and weak accountability.

It was an honor to serve as guest editor for this issue, and I would like to thank every author for their contribution. I also want to extend my gratitude to the editor of *Cosmos + Taxis*, Leslie Marsh, for inviting me to put together the issue. I hope that this collection of papers spurs further research in what I consider to be an incredibly important field in economics.

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NOTES

1 Lyall (2020) data from Project Mars as processed by Our World in Data counts low estimates of deaths in ongoing conventional civil wars and interstate wars in a year. The near 35 million figure is the sum of civil war and interstate war deaths from 1900 to 1999.

2 Scholars working in this area have contributed to a variety of topics within the broader field of defense and peace economics including: postwar reconstruction (Cowen and Coyne 2005; Coyne 2008), terrorism (Bradley 2006; Shughart 2006; Bradley, Coyne, and Hall 2023), torture (Yakovlev 2011), revolution and civil war (Tullock 1971; Young 2023), the defense industrial base (Lee 1990; Duncan and Coyne 2013; Coyne et al. 2016), defense expenditures (Higgs 1987; Reilly 2024), and alternatives to state-provided defense (Coyne and Goodman 2020; Escalante 2020; Alshamy et al. 2023).

Constitutional Entrepreneurship and Civil Resistance

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Abstract: This paper examines the role of civil resistance in constitutional change. Constitutional entrepreneurs utilize nonviolent action to alter the government's cultural and political foundations. Empirical studies demonstrate that nonviolent revolutions are nearly twice as likely to succeed as violent regime change. By analyzing civil resistance mechanisms and exploring pre-constitutional and constitutional entrepreneurs who use these tactics, this paper sheds light on their influence in shaping cultural institutions and instituting new forms of government.

Keywords: Constitutional Choice, Constitutional Bargaining, Institutional Political Economy, Political Exchange, Revolutions

JEL Classification: B53, D63, D74, P16, P48

1. INTRODUCTION

Civil resistance is a mechanism for constitutional change, as demonstrated in three channels. First, constitutional entrepreneurs reimagine social and constitutional systems that dovetail existing customs, norms, and culture. Second, they develop and deploy strategies to engage the public. Third, these tactics are nonviolent and guard against bloodshed and destruction.

Constitutional entrepreneurs using nonviolent action seek to alter the government's cultural and political foundations. The scope of the paper is tailored to nonviolent revolutions as distinct from violent coups or civil wars. However, many of my arguments could be made of constitutional entrepreneurs using violent methods. From 1900 to 2019, nonviolent revolutions are nearly twice as likely to succeed as violent regime change (Chenoweth and Stephan 2021). Of the 50% of nonviolent revolutions that succeed, many do not experience significantly higher Polity IV or economic freedom scores a decade after the change. Burkina Faso in 2014, Ghana in 2000, Kyrgyzstan in 2010, and Georgia in 2003 significantly improved their Polity scores after recent nonviolent revolutions. Yemen in 2012, Venezuela in 2002, Thailand in 2006, and Egypt in 2011 scored much worse.

Constitutional entrepreneurs who want to rebuild their country's political system take the energy and ideas from peaceful protest movements and use them to carefully design new rules that shape how people work together and make decisions, like a skilled carpenter building a house that will last for generations. These reformers think carefully about what motivates people, create rules that encourage good behavior, and draw on both academic knowledge and real-world experience. This happened during the Sudanese Revolution in 2019 (Hassan and Kodouda 2019), the 2019 Smile Revolution in Algeria (Zoubir and White

2015), the 2011 Jasmine Revolution in Tunisia (Alvi, 2019), Iceland's Pots and Pans Revolution in 2009 (Bernburg 2016; Elkins et al. 2012), and the 2005 Rebellion of the Forajidos in Ecuador (Thoresen 2009).

The constitutional entrepreneurs analyzed in this paper utilize tools commonly called civil resistance or nonviolent action. Civil resistance is defined as "widespread nonviolent resistance by the civilian population, usually practiced in conflicts over political issues" (Sharp 2011) or "collective action that seeks to affect the political, social, or economic status quo without using violence or the threat of violence against people to do so" (Chenoweth 2021). Nonviolent action is a synonym for civil resistance, and they both are distinct from principled nonviolence because they rely on strategic decisions rather than normative justifications or religious convictions.

Empirical studies, such as those by Chenoweth and Stephan (2011), indicate that nonviolent campaigns attract a broader societal spectrum, making them more extensive than violent movements. This inclusiveness contrasts with violent revolutions, which tend to centralize power among a select few, maintaining the status quo as Tullock (1971) observed. Hayo and Voigt (2013) further highlight that while violent methods like assassinations often perpetuate institutional challenges, nonviolent approaches like strikes lead to positive governmental changes. Governments recognize the efficacy of nonviolent movements, often preferring to negotiate with them over violent factions. This nonviolent approach is particularly effective when movements are organized through established institutions like trade unions and religious organizations, which provide the social networks and organizational infrastructure needed for sustained nonviolent action (Butcher et al. 2018). However, the presence of "violent flanks" can compromise the effectiveness of primarily nonviolent movements by diminishing public support, though there are occasional short-term gains (Chenoweth and Schock 2015; Feinberg et al. 2020; Muñoz and Anduiza 2019). Even purely nonviolent urban protests can have complex consequences, as Gerling (2017) finds they may trigger coups in autocratic regimes without necessarily leading to democratization. To curb violent tendencies, movements can employ strategies like fostering a nonviolent identity and centralized leadership, proven methods for promoting peace (Busher et al. 2023; Belgioioso et al. 2021a). In essence, nonviolent campaigns, even when unsuccessful, often pave the way for democratic governance more effectively than their violent counterparts (Chenoweth and Stephan 2011).

Constitutional Political Economy, Buchanan's framework for analyzing welfare-enhancing constitutional agreements (Buchanan 1990), rests on normative individualism and modified Pareto-criteria requiring unanimous consent (Buchanan 1991, 2005, 1962; Buchanan and Vanberg 2002). However, empirical research shows constitutional development deviating from these ideals (Mueller 1996; Kirstein and Voigt 2006; Voigt 2011, 2015), with market entrepreneurship's welfare claims proving non-analogous to political and constitutional contexts (Vanberg and Buchanan 1991; Callais and Young 2024; Holcombe 2002). Recent scholarship challenges assumptions about unanimous consent (Buchanan 2011), with constitutional interpretation and historical exclusions undermining idealized constitutional development theories (Salter and Wagner 2019; Novak 2023).

Constitutional entrepreneurship emerges as a distinct process where actors seek to create or modify constitutional rules for improved outcomes (Thomas and Thomas 2014; Kiser and Ostrom 1982). Lucas (2021) identifies four distinct levels of nonmarket entrepreneurship: political and social entrepreneurs working within existing rules, public entrepreneurs operating at the governance level, constitutional entrepreneurs changing formal institutional environments, and cultural entrepreneurs modifying embedded norms and customs. This framework aligns with Martin and Thomas (2013), who outline three discrete arenas: pre-constitutional rules (linguistic and cultural institutions), constitutional rules (formal frameworks), and post-constitutional rules (policies and implementation).

The scope of constitutional entrepreneurship extends beyond traditional state structures, encompassing private provision through various organizational forms (Thomas et al. 2010; Berg et al. 2020; Skarbek 2016). Research demonstrates how constitutional entrepreneurs must balance competing interests while providing selective incentives to overcome collective action problems (Novak 2023; Rajagopalan and Wagner 2013). This perspective emphasizes constitutional entrepreneurship as a dynamic process of experimentation and bargaining (Salter and Wagner 2018; Martin and Thomas 2015), where entrepreneurs must navigate complex social dynamics while operating across multiple governance levels, from cultural institutions to formal constitutional frameworks (Thomas and Thomas 2014; Salter and Furton 2018).

This paper seeks to contribute to Voigt's (2011, p. ?) challenge that, "[l]eaders' individual traits are but one potentially relevant aspect in the determination of and change to constitutions. Empirical analysis needs to be theory-driven and it is the theory that is sorely needed." Following Buchanan's writing on constitutional political economy, scholars contributed theory and empirical work to great effect on the practical analysis of revolutions and constitutions (Aidt and Franck 2015; Aidt and Albornoz 2011; Aidt and Jensen 2014; Aidt et al. 2018; Apolte 2011; Congleton and Yoo 2018; Congleton 2006; Hayo and Voigt 2010, 2016; Tridimas 2016; Salzberger and Voigt 2002; Voigt 2011). However, the constitutional political economy literature on revolutions rarely examined civil resistance movements. Likewise, the literature on nonviolent action within political science, history, sociology, and conflict studies fails to engage with constitutional political economy with a few notable exceptions (Goldstone 2014; Lichbach 1996, 1998; Novak 2023).

This paper is organized as follows. First, I outline four activities undertaken by successful constitutional entrepreneurs using civil resistance in Section 2. Then, Section 3 examines how each of these applies to the successful case of Estonia in Section 3.1. Section 3.2 examines Algeria, an unsuccessful case. Finally, in Section 4, the paper examines the relevance of these insights to global social movements, constitutional political economy, entangled political economy, and public choice more broadly.

2. CIVIL RESISTANCE AND CONSTITUTIONAL ENTREPRENEURSHIP

Constitutional entrepreneurs distinguish themselves through the attainment of pivotal outcomes. They commence by crafting a vision of political and constitutional change harmoniously with a nation's intrinsic customs, norms, and culture. Subsequently, they implement a meticulously devised strategy that leverages selective incentives to engage the public, often deploying subversive tactics that resonate with, entertain, and captivate the citizenry. Throughout their endeavor, they diligently guard against any resort to violence.

2.1 The Role of Pre-constitutional Entrepreneurship

Pre-constitutional entrepreneurs within a civil resistance framework develop the informal institutions that animate constitutional change. Representing revolutionary thought leaders, these constitutional entrepreneurs champion political and cultural metamorphosis sans violence. They channel social movements and mold societal perceptions through diverse tools like moral suasion, entertainment, selective incentives, expansive social networking, insider insights, and identity affirmation (Novak 2021). Such tactics necessitate rigorous planning and an unwavering pledge to nonviolence, aiming for a seamless integration into the prevailing political fabric.

Significant constitutional alterations are often heralded by shifts induced by pre-constitutional entrepreneurs in customs, ideologies, and religious tenets. This demarcation between pre-constitutional and constitutional rules is more conceptual than chronological, placing a premium on efforts impacting informal institutions (Martin and Thomas 2015). Successful constitutions are grafted onto deep-rooted informal institutions (Boettke et al. 2015). Pre-constitutional entrepreneurs endeavor to transform or safeguard societal conventions and values in this context. Key societal influences like religious leaders, moral thinkers, and dissidents assume the mantle of pre-constitutional entrepreneurs when they construct pivotal cultural shifts. Participants in civil resistance campaigns often target these foundational structures in their quest for holistic societal renewal.

Vaclav Havel exemplifies pre-constitutional entrepreneurship through his deliberate efforts to transform informal institutions under communism (Keane and Havel 1985). His core contribution was not merely coordinating resistance, but fundamentally reshaping societal norms and values. He modeled a form of living that was a direct challenge to the institutional foundations of communist rule. By advocating alternative paradigms and experimental lifestyles, Havel and fellow intellectuals engaged in pre-constitutional entrepreneurship by creating new social norms and cultural frameworks that operated outside state control. The establishment of parallel institutions like underground universities and independent unions served a dual purpose while they coordinated resistance activities, their primary entrepreneurial function was transforming the informal institutional environment by demonstrating alternative ways of organizing society, thereby undermining the communist system's normative foundations.

Religious leadership also emerges as a pivotal force in fostering regime transitions. Empirical studies attest to the enabling role of religious elite defection in bolstering social movements, even if it isn't a sine qua non (Nepstad 2021a). By fostering unity and serving as conduits for anti-state narratives, religious figures amplify resistance efforts. Their global linkages, like connections to the International Fellowship of Reconciliation, and their adeptness at liaising with international actors to navigate governmental roadblocks, further bolster their influence. Historically, their teachings have been instrumental in tempering movement strategies and rallying expansive support.

Integrating pre-constitutional entrepreneurs into the constitutional entrepreneurship paradigm unveils the intricate tapestry of experimentation, societal learning, setbacks, and political negotiations culminating in pivotal constitutional moments. These entrepreneurs may take many forms, including scholars, poets, or clergy. However, most campaigns fail without their initial work and leadership firmly placed at the foundation of a movement for constitutional reform.

2.2 Strategy, Tactics, and The Dynamics of Selective Incentives

The linchpin of civil resistance lies in its adept orchestration, as leaders discern innovative approaches to harness social, human, and physical capital, galvanizing revolutionary momentum. Their acumen is particularly sharpened towards discerning public sentiment, particularly in regions where public dissent is muzzled, leading to an informational vacuum regarding citizen grievances. In these circumstances, constitutional entrepreneurs serve as pivotal conduits, accelerating the diffusion of this knowledge.

At the heart of this endeavor lies nonviolent action, a compendium of tools used by individuals or groups within states or organizations to navigate political, economic, or societal terrains. Unlike violent means, these tools pivot on non-cooperation, encompassing a spectrum from strikes, civil disobedience, and boycotts to persuasion and protests. The methods of nonviolent action set the stage for a strategic duel, where on one hand, social movements strive to bolster their relevance and erode governmental authority. At the same time, governments grapple to suppress these movements, cement their dominion, and preserve their legitimacy. The state's conflicting objectives further complicate this intricate dance, with excessive suppression risking public legitimacy. Constitutional entrepreneurs astutely exploit these vulnerabilities, choreographing their tactics over time. This nuanced strategy-counterstrategy dynamic resonates with the 'political jiu-jitsu' notion in civil resistance scholarship.

Glaeser and Sunstein (2015) have further dissected this dynamic, positing a model rooted in the signaling by political stewards. Classifying leaders as either "tough" or "benign," they outline a strategic matrix with actions ranging from hostility to neutrality towards a dissident faction. For instance, while overt aggression might project strength, excessive hostility, especially against a frail opponent, might inadvertently betray vulnerability. Civil resistance movements must tread cautiously, evoking responses without pushing the state to extremes the public might perceive as justifiable. This model, incorporating varied assumptions, uncertainties, and bounded rationalities, delineates potential trajectories for governmental and civil resistance factions.

Yet, a perennial conundrum for constitutional and political entrepreneurs is the provision of selective incentives, sidestepping collective action dilemmas highlighted by Olson (1965). Tullock (1971) subsequently posited that violent upheavals might merely reproduce existing structures, given the inherent expectation of post-revolution power dynamics among the most active participants.

Subsequent work has identified multiple complementary mechanisms for solving collective action problems in social movements. Lichbach's (1996) framework organizes solutions into market (cost-benefit adjustments), community (shared values and social incentives), contract (self-governance and conditional cooperation), and hierarchy (leadership and organizational) categories. Building on this, Chong (2014) emphasizes the role of selective incentives (both positive and negative), moral and social norms, leadership strategies, emotional mobilization, reputation effects, and tangible outcomes in overcoming participation barriers. Novak (2021) further identifies entrepreneurial coordination, normative framing, social networks, technological facilitation, and incremental victories as crucial mechanisms. These works suggest that successful movements employ multiple, overlapping strategies that combine material incentives, social pressure, moral appeals, and organizational structures to align individual interests with collective goals and sustain participation despite significant costs.

To amplify their influence and realize their vision, constitutional entrepreneurs relentlessly strive to expand their movement's footprint. Central to this endeavor is coalition-building, leveraging shared affinities, be they ethnic, racial, or other identity markers. This might also include trade unions or religious organizations. While tapping into society's altruistic and cooperative pulse is beneficial, seasoned entrepreneurs understand the necessity of appealing to self-interest. Finally, incorporating inter-generational ties is critical for forming a large movement.

These mechanisms manifest in concrete ways within civil resistance movements. For instance, social networks often provide tangible benefits like employment opportunities, professional connections, and mutual aid systems that reward participation. Religious organizations may offer both spiritual fulfillment and material support through established community structures. Movement organizers frequently create formal roles and responsibilities that confer status and recognition, from neighborhood coordinators to media spokespersons. Some movements establish alternative institutions that provide services to participants, such as parallel education systems or healthcare networks, making movement participation personally beneficial. These selective incentives become increasingly crucial as movements expand. When a movement grows from hundreds to thousands or millions, the free-rider problem intensifies individuals have a stronger incentive to let others bear the costs of participation while still benefiting from the movement's potential success. Constitutional entrepreneurs must therefore scale their incentive structures proportionally, often by creating hierarchical networks of local organizers who can maintain accountability and distribute benefits at the community level. They might also leverage technology to track participation and contributions, or develop recognition systems that make individual participation more visible and rewarding within larger group contexts. This careful balance of incentives helps maintain cohesion and commitment even as the movement grows beyond face-to-face interactions.

The Serbian resistance, especially the Otpor! movement, adeptly tapped into the nation's rich cultural and musical legacy and resonated with a diverse audience. Under Marshal Tito, despite being a communist regime, Yugoslavia enjoyed a vibrant cultural scene, with magazines like "Jukebox" featuring global rock stars and the official record label, Jugoton, releasing albums by international artists like the Beatles and David Bowie. This cultural openness shaped the youth of the 1980s, like the members of Otpor!, fostering a unique blend of local and global musical tastes.

Otpor! developed sophisticated approaches to entertainment as selective incentives, particularly evident in their 1996-7 student protests and later resistance campaigns. During prolonged confrontations, they transformed potentially dangerous situations into carnival-like gatherings most notably during the "Cordon of the Cordon" standoff, where they established the "Discotheque Blue Cordon," attracting 30,000 participants with a mix of British punk and traditional Balkan music. These events were not merely diversionary. They served multiple strategic purposes: generating media coverage, building solidarity, undermining regime authority through mockery, and preventing violent escalation (Sombatpoonsiri 2011). Through their branch network of approximately 130 local offices, Otpor! adapted these tactics to local conditions using more overt humor where media coverage was available while focusing on door-to-door organizing in regime strongholds (Sombatpoonsiri, 2008).

Evidence shows these approaches foster broader engagement by lowering barriers to participation and sustaining morale through collective joy, while militaristic or labor-intensive methods often discourage mass participation due to high personal risks and resource demands (Popovic and Miller 2015; Chenoweth and Stephan 2011). These creative tactics also resonate with the expressive voting concept in public choice scholarship (Brennan and Lomasky 1997; Brennan and Hamlin 2009), as the psychological rewards of participating in enjoyable, low-risk activities help offset traditionally perceived low returns from individual efforts. The carnival atmosphere served to transcend the apparent reality of confrontation, creating what Sombatpoonsiri (2011) terms a parallel world where political imagination is made possible.

The yardstick for tactical success remains the sustainability and growth of the movement. By 1998-2000, Otpor! had evolved beyond mass demonstrations to a sophisticated blend of marketing-based campaigns, local organizing, and targeted actions, effectively becoming what they termed a youth cult of resistance. Tactics empirically demonstrated to correlate with greater movement size and induce selective incentives to participate include nonviolent tactics, political jiu-jitsu, access to exclusive networks and intelligence, coalition building (especially through clubs, unions, or identity-based movements), and finally humor and entertainment. Notably, Otpor!'s experience suggests that entertainment-based incentives work best as part of a broader tactical repertoire that can be adapted to local political contexts and levels of repression.

2.3 Constitutional Entrepreneurs and Nonviolent Action

Nonviolent action is empirically demonstrated to be the most effective means of regime change (Chenoweth and Stephan 2011; Hayo and Voigt 2013; Butcher et al. 2018; Chenoweth and Schock 2015; Feinberg et al. 2020; Muñoz and Anduiza 2019; Busher et al. 2023; Belgioioso et al. 2021a). However, many campaigns are violent or become violent over time. What tools do constitutional entrepreneurs use to maintain the discipline of nonviolent action? Leaders of civil resistance movements employ three key mechanisms to maintain nonviolent discipline: providing appealing alternatives to violence, leveraging cultural frameworks for nonviolent action, and developing robust systems to manage violent flanks. Recent research demonstrates that these mechanisms are crucial not just as alternatives to violence, but as more effective means of achieving movement objectives (Shuman et al. 2024).

First, leaders who organize entertaining or humorous events provide alternatives to violence that are more appealing and effective at mobilizing broad participation. Experimental studies show that people are more likely to identify with and support nonviolent groups compared to violent ones, especially when they already sympathize with the cause (Dasch et al. 2024). This finding helps explain why successful movements invest heavily in creating engaging nonviolent tactics. When movements offer participants clear benefits, including a sense of empowerment, community belonging, and meaningful ways to express dissent with lower personal risk, they can overcome the selective incentive problems that might otherwise drive some toward violence (Thomas et al. 2022).

In civil resistance campaigns worldwide, constitutional entrepreneurs have deployed rock bands, music festivals, art installations, and illegal acts of humor to subvert the state while maximizing public engagement. One humorous example involves Moroccan cats and the prohibited flags of the Sahrawi Arab Democratic Republic (Bisgaard-Church 2011). In 1975, the Kingdom of Morocco invaded Western Sahara, controlling most of the territory, while the Sahrawi Polisario Front, advocating for the entire region as the Sahrawi Arab Democratic Republic, retained only 20-25% of the land. The 1991 UN-supervised ceasefire and referendum led to a deadlock over voter eligibility and resulted in multiple Sahrawi protests over the years, particularly the intifadas of 1999-2004 and 2005, which faced harsh Moroccan repression. In a creative form of resistance during the protests, Sahrawis released feral cats with attached Sahrawi flags into the streets, leading Moroccan riot police on a comical chase to remove the symbols of dissent. Such tactics not only delegitimize the state but provide forums for citizens to air grievances while prioritizing creativity over violence (Martin et al. 2024).

Second, movements are more successful when they evoke traditional, cultural, or religious rationales for disciplined civil resistance. These appeals often refashion the symbols and stories associated with national identity, combining historical accounts that resurface deep nationalistic pride with calls to action addressing contemporary injustices. Research shows that religious and cultural institutions can provide crucial resources and legitimacy to nonviolent movements while helping maintain tactical discipline (Nepstad 2021b). The most successful movements provide combinations of these methods that generate intergenerational appeal and enhance movement legitimacy (Turner 2023).

In the Philippines, following President Marcos's declaration of martial law in 1972, the Church increasingly opposed him. The assassination of Benigno Aquino in 1983 galvanized Cardinal Sin and bishops to lead a nonviolent pro-democracy movement. The religious grounding of his pleas guarded against the propensity for violence. This movement culminated in the massive people power protests in 1986 that ousted Marcos. Later, in 2001, Cardinal Sin mobilized masses through prayer vigils and demonstrations to remove the corrupt President Estrada. As Cardinal Sin demonstrated, religious conviction can be a powerful motivation for nonviolence that galvanizes the population against the regime (Philpott 2004).

Third, leaders within an organization must develop robust systems for addressing violent flanks when they arise. Research demonstrates that movements with strong organizational structures and centralized leadership are better able to prevent shifts toward violence (Belgioioso et al. 2021b). Successful movements establish clear chains of command for tactical decisions, internal monitoring systems, and rapid response protocols for when violence emerges (Schock and Demetriou 2018). This institutional framework is crucial because contemporary research shows that the presence of violent flanks generally reduces movement success rates (Chenoweth and Schock 2015).

To address violence committed by outsiders or movement members, effective organizations develop specific mechanisms including: creating structured roles for former armed actors, establishing internal mediation processes for tactical disputes, and building systems to monitor and address grievances that might lead to violence (Wallace 2018). Leaders train members in concrete interpersonal interventions, such as de-escalation techniques for confrontational situations and methods to peacefully separate violent actors from crowds. They also establish containment practices like rapid deployment of peace teams to protest hot spots and communication networks to warn of potential violence (Martin 2021).

These organizational structures and training programs generate bottom-up capabilities to prevent and respond to violence while maintaining movement discipline. When violence does occur, leaders must also be prepared to investigate whether opposition forces staged these acts to diminish the movement's credibility, while still taking swift action to prevent escalation (Chenoweth et al. 2017). Research shows that movements that successfully manage these challenges are more likely to achieve their objectives, as maintaining nonviolent discipline enhances both tactical effectiveness and public support (Turner 2023).

These three mechanisms, providing appealing nonviolent alternatives, leveraging cultural frameworks, and developing robust systems to manage violent flanks, help ensure that peaceful movements do not descend into violent and therefore less effective means of resistance. While maintaining nonviolent discipline is challenging, especially within large and decentralized social movements, evidence increasingly shows that these efforts are critical for ensuring movement success and long-term institutional benefits (Ammons 2024). The most effective movements invest in organizational structures and training that make nonviolent resistance not just an alternative to violence but a more appealing and strategic choice for achieving social change.

3. CASE STUDIES

3.1 Estonia: Civil Resistance and Constitutional Success

Estonia's Singing Revolution, waged against the Soviet hegemony, epitomizes the profound interplay between civil resistance and astute constitutional design. It was not just about resisting an oppressive regime; it was a strategic engagement of cultural paradigms, leveraging deeply entrenched norms, traditions, and historical narratives to orchestrate a revolution, as this paper outlined in Section 2.1. Such endeavors are seldom spontaneous. They require entrepreneurial visionaries who can reimagine existing norms and institutional frameworks as potent resistance tools (Nicoara 2018).

Under the Soviet occupation, key markers of Estonian identity—language, songs, flags, and traditional practices—were proscribed (Smidchens 2014). However, even in these stifling circumstances, the Estonians found a beacon: their singing festivals, which had been celebrated since 1869. These festivals, originally established by nationalist entrepreneurs who strategically framed them as celebrations of peasantry law to gain Russian approval, served as foundations for future resistance (Brokaw and Brokaw 2001). Cultural entrepreneurs systematically built upon this tradition, creating parallel social institutions and networks that would later enable mass mobilization (Nicoara 2018). By June 1988, these seemingly innocuous festivals evolved into powerful resistance platforms, showcasing banned songs and celebrating proscribed cultural practices.

The efficacy of Estonia's cultural resurgence stems from its congruence with preexisting cultural norms, invoking a deep-rooted nationalist sentiment. Pre-constitutional entrepreneurs strategically leveraged these festivals, transforming traditional songs into vehicles of resistance. Songs with double meanings passed censorship while conveying nationalist messages, with pieces like "Mu Isamaa on Minu Arm" becoming unofficial national anthems (Brokaw and Brokaw 2001). These entrepreneurs also bridged generational divides by creating rock versions of traditional songs, ensuring broad participation across social groups (Nicoara 2018). As outlined in Section 2.2, the entertainment value of these festivals proved critical for inducing selective incentives for participation. The movement's growth was remarkable. By September 1988, nearly a quarter of Estonia's population attended these gatherings (Brüggemann and Kasekamp 2014).

The nonviolent character of these gatherings emerged through several deliberate mechanisms. Cultural entrepreneurs utilized Estonia's choral traditions to create structured, disciplined mass gatherings. As Lauristin and Vihalemm (2020) observe, the organized structure of choral singing and its associated collective rituals inherently fostered discipline and self-restraint among hundreds of thousands of participants without requiring external enforcement.

The festivals provided a framework for coordinated symbolic resistance that could effectively challenge the regime while avoiding provocative confrontation. A powerful example occurred during the 1985 song festival, when the audience waited quietly through two days of mandatory Russian and Soviet songs before collectively rising to sing in Estonian, swinging their umbrellas in unison (Brokaw and Brokaw 2001). Smidchens (2007) documents how Estonian national narratives had evolved from celebrating warrior heroes to emphasizing nonviolent cultural resistance, creating a nonviolent mold for nationalist expression. As Section 2.3 outlines, this maintenance of nonviolent discipline proved critical for success, as violent action against singing crowds would have delegitimized the regime.

This cultural revival paved the way for a broader political renaissance. From 1988 to 1993, the Estonian electorate was galvanized, reflected in their participation in nine diverse electoral exercises, including national referendum, presidential and local elections (Grofman et al. 1999). The 1991 referendum allowed a significant majority to affirm their desire for Estonia's independence (Raun 1991). By August 20, 1991, Estonia's Declaration of Independence from the Soviet Union was ratified, catalyzing the Constitutional Assembly's inception.

The Estonian case is a clear example of success utilizing constitutional entrepreneurs who ground their movement within reformations of pre-existing cultural traditions, customs, and norms. Second, they induced participation through identity-based persuasion and entertaining acts of resistance. Third, Estonian leadership and the tactics selected avoided the use of violence.

3.2 Algeria: The Obstacles of Civil Resistance

In stark contrast to Estonia's success, Algeria's uprising during the Arab Spring serves as a poignant reminder of the multifaceted challenges civil resistance movements face. Though set against a broader regional wave of political upheavals, Algeria's resistance against President Abdelaziz Bouteflika from 2010 to 2012 bore unique intricacies and hurdles (Zoubir 2022).

As outlined in Section 2.1, pre-constitutional entrepreneurs play a vital role in developing the informal institutions that animate constitutional change. In Algeria, this process faced significant obstacles. Religious institutions, particularly Sufi organizations, which could have served as pre-constitutional entrepreneurs, were effectively co-opted by the regime (Muedini 2012). From being centers of religious teaching and social organization, zawiyas (Sufi buildings) were transformed into instruments of state legitimacy, particularly after the 1990s civil conflict (Fedele 2020).

The transformation of informal institutions and social norms, crucial for the success described in Section 2.1, faced particular challenges given Algeria's complex historical context. Bouteflika's regime managed a delicate balance between the army and civil society's grievances, creating competing informal institutional frameworks that complicated efforts at institutional change (Mortimer 2000). Language conflicts and identity politics reflected more profound struggles over cultural identity and institutional transformation, showing how potential pre-constitutional entrepreneurs struggled to operate in the cultural sphere (Sadek 2015).

As discussed in Section 2.2, successful movements require effective social, human, and physical capital orchestration. However, the Algerian resistance faced significant leadership conundrums as the military-political nexus created a system where conventional collective action was highly constrained, forcing potential opposition movements to develop alternative organizational structures (Ait Kaki 2004). Bouteflika successfully neutralized various power brokers who might have served as effective pre-constitutional entrepreneurs, demonstrating the regime's ability to constrain institutional innovation (Mortimer 2006). This was further complicated because Algeria maintained strong coercive capabilities while having limited connections to Western democratic institutions (Hill 2016). The political system under Bouteflika employed sophisticated strategies to maintain power, creating a context where opposition movements had to calibrate their responses (Szmolka 2006).

The challenge of maintaining nonviolent discipline, central to the framework outlined in Section 2.3, proved particularly difficult in the Algerian context. While the movement attempted to use creative tactics and cultural resources (Bentahar 2021), Algeria's unique political context and security apparatus created constraints on civil society mobilization (Thieux 2020).

Fear and trauma from the civil war period in the 1990s significantly influenced citizens' perceptions of protest tactics and regime legitimacy (Zeraoulia 2020). Studies have shown that areas that experienced intense violence during the 1990s civil war showed different mobilization patterns, with some communities being more hesitant to engage in protest but showing more substantial commitment once mobilized (Kilavuz et al. 2023). The regime's hybrid nature created challenges for sustaining political participation, illustrating how movements must constantly adapt their tactics to maintain momentum in the face of sophisticated state responses (Kuznetsov 2023).

As emphasized in Section 2.2, movements must solve collective action problems and provide selective incentives for participation. In Algeria, the shadow of past violence significantly complicated this task. Research has shown that exposure to state repression can have long-lasting alienating effects on citizens' political attitudes while decreasing their willingness to engage in contentious behavior (Rozenas and

Zhukov 2019). In Algeria, this manifested in complex ways, as historical memory deterred and motivated different segments of the population (Zeraoulia 2020).

The Algerian movement initially failed because it could not effectively ground its grievances and vision within the country's broader customs, values, and traditions, a crucial element discussed in Section 2.1. Historical trauma and fear played vital roles in shaping participation patterns (Wang, 2021; Rozenas and Zhukov 2019), while the movement struggled to maintain consistent nonviolent discipline and faced significant challenges in developing effective leadership structures (Lenze 2021). This pattern persisted until 2019, when the formation of the "Revolution of Smiles" (Hirak) managed to overcome these challenges, successfully mobilizing millions of citizens in united opposition to the ruling system and eventually forcing Bouteflika's resignation (Hamouchene 2022). The Hirak movement demonstrated how a renewed approach to civil resistance could overcome the historical, institutional, and emotional barriers that previously constrained collective action in Algeria.

4. CONCLUSION

As observed in various global movements, the trend towards utilizing nonviolent means to instigate change underscores a shifting paradigm in citizen-led initiatives against governmental authorities. Yet, the intricate link between nonviolent movements and subsequent constitutional reform remains in the shadows of academic exploration. Key to the success of such movements is weaving a societal narrative that resonates with prevailing customs, traditions, and values. Coupled with this is the need for well-structured strategies that galvanize participation by offering varied incentives. Steering clear of violent confrontations and pivoting around competent constitutional entrepreneurship can pave the way for efficacious constitutional inception.

However, drafting a new constitution is no panacea. As historical examinations suggest, not all newly minted constitutions adequately address the foundational political and economic disparities that ignited the revolutionary fervor in the first place (Tullock 1971; Callais and Young 2024). Intriguingly, numerous case studies spotlight constitutional metamorphosis in environments devoid of overt citizen force, even under regimes historically indifferent or even hostile to civil liberties and free expression.

A pivotal takeaway from these case studies is the recognition that while the path to constitutional evolution is fraught with challenges, astute strategic choices can mitigate the odds of failure. The Algerian narrative poignantly encapsulates this—where learnings from prior unsuccessful endeavors fueled a more concerted, eventual success. Importantly, the wisdom from these movements need not always be birthed from adversity. The essence of nonviolent resistance is now a global tapestry, with movements borrowing and adapting successful stratagems from diverse geographical contexts.

As the use of civil resistance increases, scholars researching constitutional political economy are well placed for research. Beyond academic intrigue, these movements offer fertile ground for exploring facets of collective action dynamics, the broader spectrum of public choice, and the intersections of defense and peace economics. However, very little scholarship in these fields is devoted to civil resistance. Doing so enables researchers to understand a growing form of constitutional change. Additionally, it provides an additional mechanism for realizing the constitutional ideals of James Buchanan, namely that through voluntary agreement rather than violent conflict, citizens may generate rules for governing society.

Researching pre-constitutional entrepreneurship fits nicely within the growing field of entangled political economy. This literature examines overlapping relationships between government, business, and society. As demonstrated in this paper, civil resistance movements may interact directly with political institutions to great effect. Additionally, the entangled political economy framework's emphasis on network analysis offers productive tools for examining social movements. Demonstrating the capacity of social movements to alter the foundations of political systems reveals the importance of incorporating entanglement into public choice more broadly.

The growth of populist movements worldwide demonstrates the importance of entertainment and expressive forms for understanding political incentives. The profound changes to political structures witnessed in the 21st century, from identity-based movements, entertaining or bombastic political figures, and increases in political polarization, highlight that much of politics can be understood not by purely economic or highly rational incentives, but by understanding the mechanisms of culture, esteem, entertainment, and social affiliation. Civil resistance movements thrive, for better or worse, on the latter category of human motivations, and this research furthers our understanding of where these powerful incentives may take the world's political systems.

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Border Militarization as an Entrepreneurial Process

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Abstract: In recent decades, American border security officials have increased their use of military hardware, adopted training and tactics originally used by military forces, and increasingly collaborated with military and intelligence personnel. Much of this has occurred during episodic crises, which introduce profit opportunities for political entrepreneurs. These entrepreneurial responses to crises create additional political profit opportunities associated with maintaining and expanding the militarized aspects of border security policy. Some of these opportunities involve applying militarized powers in new arenas, causing mission creep. As political entrepreneurs seize these opportunities, they create new opportunities in turn. This results in a dynamic process of militarization and government growth over time.

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1. INTRODUCTION

For decades, American border policing practices have moved in a militarized direction. From 1980 to 1992, the Immigration and Naturalization Service (INS) acquired 56 helicopters, mostly from the military (Dunn 1996, p. 150). In the 1990s, thousands of new Border Patrol agents were stationed in concentrated areas along the border. They used a new biometric scanning system, motion-detecting sensors, video surveillance systems, high-intensity stadium lighting, and other new hardware to support this fortification of specific border routes (Cornelius 2001). In the 2000s the Border Patrol was placed within the Department of Homeland Security (DHS). They also began using unmanned aerial vehicles (UAVs), or drones, to surveil the border. These various surveillance technologies have been used as part of a border surveillance strategy called "the virtual wall" (Coyne and Goodman 2020a). American officials have adopted "a more militarized border management strategy" (Carter and Poast 2017, p. 245).

The militarization of U.S. border security efforts has involved many changes, big and small. To understand changes within dynamic systems, it is fruitful to examine the entrepreneurs that drive these changes. After all, "the entrepreneur is a central figure in most episodes of social change" (Storr, Haeffele-Balch, and Grube 2015, p. 11). Of course, this process was not driven by entrepreneurs starting new businesses in a free and open market characterized by institutions of property, contract, and consent. Nonetheless, even outside of this institutional framework, entrepreneurs still drive change. Those who act through the political process are still alert to opportunities, they still create new enterprises and combinations of resources, and they therefore still act entrepreneurially. Political entrepreneurs seize profit opportunities created by political institutions. This creates new profit opportunities for other political entrepreneurs. Border security policies therefore change over time, resulting in patterns of militarization that benefit political entrepreneurs. This helps explain the militarization that occurs through time, who benefits from it, and how each instance of militarization creates opportunities for additional militarization. The policies that result from this entrepreneurial process are emergent phenomena rather than objects of choice (Podemska-Mikluch 2014). While individual political entrepreneurs seek changes in particular immigration and border security policies, their entrepreneurial acts together give rise to a process that leads to outcomes above and beyond what they intended. For instance, a defense contractor might lobby for the purchasing of a surveillance system they sell. This would shape the implementation of policy initiatives devised by political entrepreneurs within the border security bureaucracy. Together, these political entrepreneurs act to advance their respective interests, eventually giving rise to a transformative militarization of American border security. The purpose of this paper is to analyze the role of political entrepreneurs, and the institutional context in which they act, in militarizing U.S. border security efforts.

There is an extensive literature in economics and political science on political entrepreneurship (Aligica 2019; Baumol 1990; Boettke and Coyne 2009; Coyne, Sobel, and Dove 2010; DiLorenzo 1988; Duncan and Coyne 2013; Holcombe 2002; Schneider, Teske, and Minton 1995; Wagner 1966). Much of this literature relates closely to research on rent-seeking (Tullock 1967, 1993; Krueger 1974) and on bureaucracy (Tullock 1965, 1992; Niskanen 1968, 1971; Breton and Wintrobe 1975, 1982, 1986). This paper applies insights from this literature to analyze border militarization. While some economists have analyzed border militarization (Coyne and Hall 2018; Coyne and Goodman 2022; Goodman 2024; Bansak, Blanco, and Coon 2022), economists have largely neglected border militarization. Some economists analyze incentives that shape immigration laws (Caplan 2002; Facchini and Steinhardt 2011; Gimpel and Edwards 1999; Shughart et al. 1986a, b). Powell (2012) has analyzed the rent-seeking costs of immigration restrictions generally. Fewer economists have studied the incentives that shape immigration enforcement efforts. Hanson (2006) argues political incentives influence immigration enforcement, largely due to the significant scope for discretion. Makowsky and Stratmann (2014) studied thousands of worksite audits from 1990 to 2000 to examine how legislators influenced immigration enforcement. These papers focus mostly on internal immigration enforcement directed at workplaces rather than the militarization of border security. Moreover, economists typically focused on the role of laborers and employers in rent-seeking efforts to influence immigration policy. Recent research argues that employers have reduced their investments in pro-migration lobbying as globalization created substitutes to hiring immigrant workers (Peters 2017). Given this reduced role of employers in shaping immigration law, it is important to examine rent-seeking by other interest groups. This paper examines rent-seeking and political entrepreneurship by bureaucrats and contractors involved in border policing.

While economists have largely neglected border militarization, there is an extensive literature on border militarization outside economics. Much of it emphasizes policies that began in the 1990s and the deaths that resulted as these policies diverted migrants towards more dangerous routes (Dunn 2009; Chambers et al. 2019; Cornelius 2001; Nevins 2002; Cornelius and Lewis 2007; Huspek 2001; Michalowski 2007). Some research focuses on the influence of the war on drugs on border militarization, as well as the increased use of military hardware and tactics across several decades (Dunn 1996). Historical accounts of the United States Border Patrol show that militarization was present to some degree long before the drug war and the war on terror, the eras we focus on here (see Lytle Hernandez 2010). Other research has emphasized the violent enforcement efforts associated with border militarization (Slack et al. 2016). Parenti (1999) highlights surveillance on the border as well as inter-organizational cooperation between federal agents and local law enforcement. Palafox (2000) examines discourses surrounding border militarization. Carter and Poast (2017) study how economic factors and interstate conflict influence the construction of border walls. Miller (2019a) studies how U.S. border enforcement agencies have expanded their influence around the globe, training police and border security forces in numerous countries. There are some works examining how the incentives of private contractors and public officials contribute to militarization (Golash-Boza 2009; Miller 2019b).

Andreas (2009) focuses on the expressive role of border policing, specifically how border policies are selected to project an image of stability and security. Andreas also highlights the role of political entrepreneurs in the escalation of border policing. This paper builds on his analysis but focuses on how each act of political entrepreneurship creates new entrepreneurial opportunities. This means that once border militarization begins, it is likely to cause a pattern of state action that the initial political entrepreneurs did not design.

The paper proceeds as follows. Section 2 discusses theoretical insights from the literature on political entrepreneurship, as well as their relevance to border militarization. The three sub-sections that constitute Section 3 examine historical evidence that illustrates the entrepreneurial process of border militarization. Section 4 concludes.

2. THEORY

Political entrepreneurs are "individuals who operate in political institutions and who are alert to profit opportunities created by those institutions" (Boettke and Coyne 2009, p. 180). These profit opportunities can be monetary in nature, but also include non-monetary benefits such as prestige, political power, or job security. By discovering and seizing opportunities for political profit, political entrepreneurs drive changes within political institutions, disrupting prior political equilibria (Schneider et al. 1995, Boettke and Coyne 2009). Emphasizing political entrepreneurship therefore illuminates processes of political change, such as the development of militarized border security bureaucracies, in a way that comparative statics cannot.

This approach builds on Israel Kirzner's work on entrepreneurship as alertness to profit opportunities (Kirzner 1973) but examines entrepreneurship in a different context than the market process he focused on. Kirzner emphasized that in a market characterized by institutions of property rights, contract, and consent, profit opportunities would arise that promote greater coordination of plans and redirect scarce resources to more highly valued uses. Attention to entrepreneurship therefore explains the emergence of a tendency towards market equilibrium, with its attendant benefits for human welfare. However, these laudable tendencies to promote human welfare and social coordination are not necessarily present in alternative institutional contexts, such as the political arena. Kirzner (1985/2019) emphasizes that coercive government interventions "introduce pure profit opportunities that would otherwise have been absent, as they simultaneously reduce or possibly eliminate other opportunities for pure profit that might otherwise have existed" (Kirzner 1985/ 2019, p. 438). This process of "superfluous discovery" can lead alert, profit-seeking entrepreneurs to discover opportunities to benefit themselves at the expense of others. For instance, Kirzner notes that "one kind of new 'profit' opportunity created by regulation that is by now well anticipated, though hardly desired of course, involves bribery and corruption of the regulators" (Ibid). By changing the available profit opportunities, political institutions eliminate some opportunities for productive entrepreneurship while creating new opportunities for unproductive and destructive entrepreneurship (Baumol 1990).

Legislators, bureaucrats, lobbyists, activists, and even individuals who work in the private sector can all be political entrepreneurs. Public bureaucracies, such as DHS, contract with private firms to acquire hardware, equipment, and services. This means that private enterprises are "entangled" with the political process, creating political profit opportunities for the owners and employees of these firms (Wagner 2016). As Wagner (2019) explains, "Within an entangled scheme of political economy, what are conventionally described as political and economic entities take the actions and interests of each other into account, as both types of entity exist within the same system of political economy" (Wagner 2019, p. 3). Rather than imagining private firms operating independently of government in some idealized free market with a few interactions, entangled political economy recognizes that private enterprises both compete with and cooperate with public enterprises. Political entrepreneurship can therefore be carried out by individuals conventionally believed to be part of the private sector as well as those in the public sector. In what follows, we consider profit-seeking and political entrepreneurship by both types of actors.

Public officials, such as bureaucrats employed by the INS or DHS, have a range of goals, some public-spirited and some narrowly self-interested. Regardless of their goals, however, they typically prefer having more power and resources rather than less. A greater scope of power enables officials both to exercise discretion for self-interested ends and to take more actions to achieve their public policy goals. A greater scale of resources at their disposal is similarly congenial to officials' diverse aims. Bureaucrats therefore "prefer more power to less, larger budgets to smaller, more employees to fewer" (Higgs 1995, p. 2). Some argue that bureaucrats seek to maximize their budgets (Niskanen 1968, 1971; Tullock 1965). Breton and Wintrobe (1975) argue that bureaucrats should instead be understood as wealth maximizers, and that this only gives rise to budget maximization under some circumstances. Regardless, bureaucrats often seek to expand the power and resources at their disposal.

To expand their power, budgets, and resources, bureaucrats cooperate "with members of Congress, especially the chairmen and ranking minority members of pertinent committees, and their staffs; with lobbyists and representatives of organized interest groups…and with the news media" (Higgs 1995, p. 2). Bureaucrats frequently engage in political entrepreneurship that involves seizing opportunities to expand their power, budgets, and resources. To do so, bureaucrats often devise "new ideas, new initiatives, new policies, or projects leading to what is now often called Schumpeterian competition or entrepreneurship" (Breton and Wintrobe 1986).

Bureaucrats have more opportunities to do this "when an episodic shocking revelation causes public clamor and thereby catalyzes the creation of broad new statutory authority or dramatically heightened enforcement activity" (Higgs 1995, p. 3). During these episodic periods, political entrepreneurs have substantial leeway to expand the scope of government or to devise new institutional and organizational arrangements. Even if we start from an equilibrium arrangement, a crisis is a shock that will shift the equilibrium, leaving social systems in a state of disequilibrium. This disequilibrium means that there are profit opportunities on the table. In this context, political entrepreneurs will introduce new powers, tools, and organizational arrangements when a perceived crisis expands the public's tolerance for new governmental activity. Political entrepreneurs are not the only entrepreneurs who respond to crises. Commercial entrepreneurs in markets and social entrepreneurs in civil society are alert to opportunities arising from crises. For instance, many commercial and social entrepreneurs respond in the wake of natural disasters, playing a key role in community rebound (Storr, Haeffele-Balch, and Grube 2015). But while these commercial and social entrepreneurs largely seize opportunities to cooperate or exchange with others voluntarily, political entrepreneurs tend to claim coercive power over unwilling participants. Their entrepreneurship is therefore more likely to be unproductive or destructive than commercial and social entrepreneurship (Baumol 1990). So while entrepreneurial responses to crises are both inevitable and desirable, political entrepreneurship is more likely to generate negative consequences.

Entrepreneurship does not merely cause a new, static equilibrium. Each act of entrepreneurship alters prevailing conditions, and this disruptive tendency of entrepreneurship generates new profit opportunities (Holcombe 1998; Coyne, Sobel, and Dove 2010). For instance, if more Border Patrol agents are hired and directed to monitor and police the border, then there are profit opportunities related to supplying these new agents with weapons, vehicles, and surveillance technology.

To seize these profit opportunities, private contractors engage in rent-seeking, expending resources to influence government (Krueger 1974; Tullock 1967). While interest groups are important to this process, "political entrepreneurs do not just passively respond to interest-group pressures; they also try to stimulate the demand for their 'services,' i.e., the provision of wealth transfers" (DiLorenzo 1988, p. 66). In other words, political entrepreneurs agitate to expand the scale and scope of rent-seeking activity.

Small, concentrated interest groups that reap concentrated benefits are more likely to engage in this type of rent-seeking behavior (Olson 1965, 1982). However, Wagner (1966) argues that even if pressure groups were formally outlawed, political entrepreneurs would discover other ways to secure political profits. Political profit opportunities arise from the rules of the political game, such as voting rules and collective choice rules (Buchanan and Tullock 1962; Wagner 1966). Wagner argues that altering these rules, not simply prohibiting specific entrepreneurial strategies within them, is the only way to reduce political profits. Many acts of political entrepreneurship adopted during crises do change the rules of the political game, but they do so in a manner that creates *additional* political profit opportunities by expanding the scope of governmental activity (Coyne, Sobel, and Dove 2010; Podemska-Mikluch and Wagner 2010). Often these profit opportunities are available for politically connected private contractors. After new powers, tools, and organizational arrangements are introduced, private contractors will engage in rent-seeking to build connections with political decision-makers and reap profits associated with the new government activity.

While militarization creates profit opportunities for private contractors, they are not the only political entrepreneurs who can seize new profit opportunities from border militarization. Each new power, tool, and organizational arrangement can be used by public officials in multiple contexts. While it might be developed for one purpose, such as drug interdiction, it might be applicable to various other objectives. Applying powers, tools, organizations, and talents to new objectives is useful for officials in several ways. For the bureaucrats who hold these powers, it keeps them relevant. Rather than needing to abandon powers, tools, organizations, or prestige once a problem subsides, they can instead use them to address new goals. Claiming new responsibilities enables bureaucrats to ask legislators for more resources to meet new objectives. Applying militarized powers to new problems also gives bureaucrats more tools to address the new problem. This creates incentives for mission creep.

In addition to entrepreneurship by bureaucrats, entrepreneurship by politicians also encourages mission creep. Politicians may see a power, tool, or team as a useful means to achieve their policy goals. They may also want to appear to address concerns held by voters, or to appear "tough" in addressing an issue that voters care about. The interests of politicians and bureaucrats can then converge, as bureaucrats entrepreneurially compete to satisfy the desires of politicians (Breton and Wintrobe 1982, 1986). As a result of this entrepreneurial process, power introduced for a relatively narrow purpose will often be applied far more broadly.

Thus far, we have largely treated political entrepreneurship as unproductive or destructive. We ground this in the coercive nature of politics. Commercial and social entrepreneurs acting in an institutional environment of property, contract, and consent are liable for harming others, and must therefore find people who will exchange or cooperate with them voluntarily. By contrast, political entrepreneurs typically have power to coerce third parties or may seek to enlist state agents to coerce third parties.

That said, it is also true that political processes provide and produce goods and services that are valued by citizens. A literature on "public entrepreneurship" has emphasized the ability of political entrepreneurs to resolve collective action problems among citizens and thereby produce public goods and desired institutional changes (see Aligica 2019). However, this research has emphasized that these entrepreneurial functions are effective in a *polycentric* institutional setting. In this context, citizens have a substantial degree of opportunities to exercise voice and exit, and more broadly to make choices. This creates opportunities for entrepreneurs to benefit by satisfying citizens. Moreover, public services are often *coproduced* by citizen-consumers, rather than simply delivered by bureaucrats or government contractors. Polycentricity enables this coproduction process. These dynamics are well worth analyzing in the context of many public services. However, border security policies are largely made in a centralized institutional context and set by the national government. While local and state governments also interact with border security and immigration enforcement, this tends to divert their attention away from local citizen-stakeholders and towards national political leaders. In this way, the entrepreneurial process of border militarization tends to undermine functional polycentricity (see Goodman 2024). Entrepreneurs who contribute to border militarization therefore often create changes that end up distorting or jeopardizing more pro-social forms of public entrepreneurship.

The following section offers illustrative historical evidence to show how processes of political entrepreneurship contributed to the militarization of U.S. border security.

3. EVIDENCE FROM U.S. BORDER MILITARIZATION

3.1 Crises as Entrepreneurial Opportunities

Times of perceived crisis and insecurity create new entrepreneurial opportunities for political officials. Citizens, fearing for their livelihood, safety, and well-being, often clamor for officials to act. Even when the public does not directly clamor for action, perceived crises and insecurity provide officials with opportunities that political entrepreneurs can use to justify action by emphasizing the potential threats and risks facing citizens. In the case of border militarization, the "war on drugs" was one of the key crises which created an array of entrepreneurial opportunities.

The origins of border militarization can be traced back to the 1970s and 1980s, when many perceived the sale and consumption of narcotics as a crisis. High-profile incidents "such as the 'epidemic of 'crack babies'' reinforced the fears and catapulted drugs to the forefront of American domestic policy" (Coyne and Hall 2018,p. 108). In this climate, "not only was the American public open to a government response, but many demanded that government 'do something'" (Ibid.).

Officials used the perceived crisis to promote closer collaboration between domestic law enforcement officers and the military. Until this point, collaborations between military personnel and law enforcement officers had been restricted by the Posse Comitatus Act, which responded "to the military presence in the Southern States during the Reconstruction Era" and restricted "the use of the Army in civilian law enforcement" (Hammond 1997, p. 953). In 1956 Congress passed a law explicitly saying that Posse Comitatus restricted domestic activities by the Air Force as well (Hammond 1997, p. 963). The Army and Air Force could not aid domestic law enforcement "except in cases of and under circumstances expressly authorized by the Constitution or an act of Congress" (quoted in Dunn 1996, p. 106).

Legislators "in effect altered the Posse Comitatus statute" by passing "the Defense Authorization Act of 1982 (passed in late 1981)" (Ibid.). This law added "a new chapter to U.S. law regarding the use of the military, entitled 'Military Cooperation with Civilian Law Enforcement Officials'" (Ibid.). As a result, "military personnel were now explicitly allowed to *assist* (not just support) civilian law enforcement agencies in newly specified ways—by operating and maintaining military equipment loaned to federal law enforcement agencies" (Ibid., emphasis in original). The Secretary of Defense was also empowered "to make any military base or research facility available 'to any federal, state, or local civilian law enforcement official for law enforcement purposes'" (Dunn 1996, p. 107). This authorization to share equipment was in section 372 of the law. Moreover, military personnel were authorized "to share with federal, state, and local law enforcement officials any information collected during the normal course of military operations" (Ibid.). The military was also permitted to offer "expert advice" to law enforcement officers, provided that this advice was pertinent to enforcing drug laws (Ibid.; Coyne and Hall 2018, p. 110). While the military could assist law enforcement officers "to maintain and operate loaned military equipment," their authorization to do so "was limited to agencies with the jurisdiction to enforce *drug, customs, and immigration laws*" (Dunn 1996, p. 107, emphasis in original). Specifically, section 374 of the legislation said that:

> the Secretary of Defense, upon request from the head of an agency with jurisdiction to enforce—(1) the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.); (2) any of sections 274 through 278 of the Immigration and Nationality Act (8 U.S.C. 1324-1328); or (3) a law relating to the arrival or departure of merchandise (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401)) into or out of the customs territory of the United States (as defined in general headnote 2 of the Tariff Schedules of the United States (19 U.S.C. 1202)) or any other territory or possession of the United States—may assign personnel of the Department of Defense to operate and maintain or assist in operating and maintaining equipment made available under section 372 of this title with respect to any criminal violation of any such provision of law.[1]

All three of the categories of law discussed in section 374 are enforced at the border, meaning that the law explicitly authorized the Secretary of Defense to offer both equipment and personnel to the Border Patrol. This law set the stage for the militarization of border operations.

The Reagan administration established several task forces throughout the 1980s to facilitate these collaborations between military and law enforcement officers. For instance, in 1982 the administration established a drug interdiction task force called the South Florida Task Force on Organized Crime, headed by Vice President George H. W. Bush. In March 1983, this interagency drug interdiction approach "was extended to the borderlands…when President Reagan created the National Narcotics Border Interdiction System (NNBIS)" (Dunn 1996, p. 109). NNBIS was also headed by Vice President Bush.

In 1986, President Ronald Reagan declared drug trafficking a national security threat. That year, Vice President Bush and Attorney General Edwin Meese built on the NNBIS model to establish Operation Alliance. Operation Alliance "was an ongoing effort to interdict drugs along the border, based on the coordination of local, state, and federal law enforcement agencies, with the military playing a support role" (Dunn 1996, p. 113). These task forces enabled the military to lend aircraft, sea vessels, night vision goggles, and other hardware to law enforcement agencies. They also promoted communication between military and law enforcement agencies, including joint training exercises in the borderlands.

Operation Alliance expanded the power of various law enforcement officers by deputizing them to carry out forms of law enforcement that were previously outside their purview. For instance, "[t]he Customs Service granted not only all Border Patrol agents but also some 600 local and state law enforcement officials in the border area, the authority to enforce contraband laws (Title 19, *U.S. Code*)" while "the DEA granted drug enforcement authority to all Border Patrol and Customs Service agents in the border region (Title 21, *U.S. Code*)" (Dunn 1996, p. 114). The result was that law enforcement officers from multiple agencies increased the scope of their powers, including the power to work around traditional constitutional constraints pertaining to warrantless searches.

Bureaucrats also used Operation Alliance to create new organizational forms within and between their agencies. This included "the establishment of two aviation support center facilities in Texas as well as a Southwest Border Tactical Operations Center in Houston to coordinate the drug interdiction efforts of federal, state, and local agencies" (Dunn 1996, p. 115). Similarly, "at the local level, border-area officials claimed to have established 18 Border Alliance groups and nine anti-air smuggling groups (all of which were joint task forces in different locations along the border)" (Ibid.). Temporary organizations were also sometimes established, such as "interagency task forces of about 75 federal agents [that] conducted 'mobile corridor operations' in which they were sent to a specific section of the border to enhance enforcement efforts for two or three weeks at a time" (Ibid.).

Drug trafficking was not the only perceived crisis occurring during the 1980s. Riots at INS detention centers created an additional, albeit smaller, crisis that prompted further militarization. The Border Patrol Tactical Unit (BORTAC) was founded in 1984 "to serve a civil disturbance function in response to rioting at legacy Immigration and Naturalization Service detention facilities" (CBP 2014). The new organization cultivated a military mindset.

BORTAC's agents model themselves after soldiers, and "BORTAC's Selection and Training Course (BSTC) was designed to mirror aspects of the U.S. Special Operations Forces' selection courses" (CBP 2014). BORTAC is essentially the Border Patrol's equivalent to a Special Weapons and Tactics (SWAT) team.

Throughout the 1990s, the drug war continued. Highly publicized "dramatic images of illegal immigrants rushing across the border" also created a secondary perceived crisis around unauthorized immigration and the insecurity of borders (Andreas 2009, p. 13). The border was also made even more salient by public debates surrounding the North American Free Trade Agreement (NAFTA), which placed U.S.-Mexico relations in the foreground of public conversations. Perceived chaos at the border, as well as the high salience of immigration and border issues, created opportunities for politicians and bureaucrats to further militarize border security.

The Border Patrol hired thousands of additional agents and stationed them at strategic locations such as major cities. These agents were supplied with new surveillance equipment and other military hardware. This strategy disrupted previous migration routes, diverting migrants to more dangerous routes in the desert (Cornelius 2001).

Shortly after, another crisis, the terrorist attacks of September 11th, 2001, created additional entrepreneurial opportunities for border militarization. In response to the attacks, INS officials used "federal immigration laws to detain aliens suspected of having possible ties to terrorism" (U.S. Department of Justice Office of the Inspector General 2003, p. 1). Numerous people were swept up in this process. "Within 2 months of the attacks, law enforcement authorities had detained, at least for questioning, more than 1,200 citizens and aliens nationwide" (Ibid.).

The FBI's investigation of the 9-11 attacks was known as "PENTTBOM." The INS "detained 762 aliens as a result of the PENTTBOM investigation" (DOJ OIG 2003, p. 2). These "special interest" cases involved more secrecy than prior immigration cases. "Immigration hearings, traditionally open to the press and to the public, were closed in the so-called special interest cases" (Dow 2004, p. 22). Hearings were also kept off printed court calendars, clerks withheld information from attorneys regarding their clients' hearings, and stamps that said "Do not disclose contents of this record" were used on the files for these cases (Dow 2004, pp. 22-23).

The Department of Justice (DOJ) worked to limit the power of judges to release these detainees. For instance, "the Justice Department announced that it could now invoke an 'automatic stay' to keep certain people detained even if an immigration judge ordered them released" (Dow 2004, p. 23). Immigration judges were already employed directly by the DOJ rather than serving in the judicial branch. This deviation from separation of powers led Robert Kahn to call immigration judges "bureaucrats in judges' robes" (quoted in Dow 2004, p. 23).

Attorney General John Ashcroft was an alert political entrepreneur who quickly moved to use the crisis to expand law enforcement powers.

> Eight days after the attacks Ashcroft announced a new rule authorizing the INS to detain aliens for forty-eight hours without charging them; previously, it could have legally done so for only twenty-four hours. The new rule also allowed the INS to detain an alien indefinitely—that is, for an undefined "reasonable period of time"—in the event of an "emergency or other extraordinary circumstance." Nancy Chang, an attorney with the Center for Constitutional Rights, called the new forty-eight-hour rule "astounding." But a former Clinton Justice Department official said, "It's inevitable that at times like this that the pent-up agenda of law-enforcement gets put forward" (Ibid.).

These indefinite detention powers were soon codified as part of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, more often referred to as the USA PATRIOT Act (Ibid.).

These expansions of secrecy and detention powers expanded the discretionary power that bureaucrats at the INS, and the DOJ more broadly, had at their disposal. The terrorism crisis created non-pecuniary profit opportunities for bureaucrats to expand their range of permissible actions. In addition, FBI whistleblower Coleen Rowley argued that the PENTTBOM investigations served a public relations function for bureaucrats. "Headquarters encouraged more and more detentions for what seemed to be essentially PR purposes," Rowley contended. She explained that "[f]ield offices were required to report daily the number of detentions in order to supply grist for statements on our progress in fighting terrorism" (quoted in Dow 2004, p. 26).

In addition to expanding the power of existing agencies, the crisis provided opportunities to reorganize existing agencies and create new ones. Legislators voted to pass the Homeland Security Act of 2002 (HSA), which was then signed into law by President George W. Bush on November 25, 2002. The

Homeland Security Act passed the Senate with 90 senators voting for, nine voting against, and one not voting.[2] This law created the Department of Homeland Security (DHS), and established a department within DHS called the Border and Transportation Security (BTS) directorate (Department of Homeland Security Office of Inspector General 2005, p. 1).

However, in 2003 the president introduced a new organizational structure, which would no longer feature BTS. The old duties of the INS were now to be handled by the United States Customs and Immigration Service (USCIS), Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE). USCIS handles applications for work visas, citizenship, and other authorized immigration. CBP handles enforcement on the border itself, including the Border Patrol. ICE handles a broader range of investigative, detention, and law enforcement efforts within the interior of the country. Their presence within DHS means that border security and immigration enforcement are strongly tied to national security and counter- terrorism concerns.

The war on terror also enabled BORTAC to expand their reach. After the September 11th terror attacks, the 9/11 Commission investigated the causes and lead up to the attacks and wrote a lengthy report noting that "9/11 has taught us that terrorism against Americans 'over there' should be regarded just as we regard terrorism against Americans 'over here.' In this same sense the American homeland is the planet" (quoted in Miller 2019a, p. 6). Some international efforts by American border security officials preceded 9/11, but the attacks empowered BORTAC agents to expand these efforts. For instance, BORTAC "supported U.S. military actions such as Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom" (Miller 2019a, p. 4). BORTAC has also operated in countries such as Jordan, Haiti, Colombia, Peru, Panama, Belize, Mexico, Kenya, Costa Rica, Guatemala, Ukraine, Kosovo, Argentina, Ecuador, Armenia, and Honduras (Ibid.).

These types of foreign operations require cooperation with the U.S. State Department, and they also encourage engagement between BORTAC, various branches of the U.S. military, and other federal agencies. During Operation Iraqi Freedom, "BORTAC agents trained the Iraqi border police and its tactical team from 2006 to 2011, serving as advisors and working alongside Iraqi border patrol in the field" (Ibid.). More recently, BORTAC officers worked throughout Central America as part of the Central America Regional Security Initiative, or CARSI (Miller 2019a). When the 9-11 attacks enabled BORTAC to expand their operations abroad, they therefore also increased the entanglement between BORTAC, the military, and national security bureaucracies more generally.

3.2 Contractors and Cronyism

Once new powers, tools, and organizational arrangements are introduced, private contractors are likely to engage in rent-seeking and build connections with political decision-makers to seize associated political profits. The actions of private contractors after the passage of the Homeland Security Act of 2002 illustrate how this process works.

The Homeland Security Act resulted in border security and immigration enforcement occurring under the direction of the Department of Homeland Security (DHS), which answers to the House Homeland Security Committee. Since DHS includes not just border security bureaucracies, but also the U.S. Coast Guard and the Transportation Security Administration (TSA), there are multiple agencies within DHS that can offer contracts to defense contractors. This increases the expected profits associated with lobbying and influencing legislators and staff on the committee.

Private contractors have acted to seize these profit opportunities. As Miller (2019b, p. 4) explains:

> The border-security corporations also make the biggest campaign contributions to members of the strategic House Homeland Security Committee, which handles legislation on border and immigration control. Between 2006 and 2018, Lockheed Martin, General Dynamics, Northrop Grumman, Raytheon, Boeing contributed a total of $6.5 million to members of the committee.

> In the 115th Congress (2017–2018), Northrop Grumman donated $293,324, General Dynamics $150,000 and Lockheed Martin $224,614.

These campaign donations maintain a symbiotic relationship between defense contractors and legislators on the committee, encouraging them to sponsor and vote for legislation that funds the purchase of military hardware. Each donation to a legislator's campaign can be understood as an investment aimed at securing future streams of payments from the federal government. Alert entrepreneurs adjust these investments when they see an unrealized opportunity to seize political profits.

In addition to influencing legislators via campaign donations, firms can also seek influence by lobbying on specific legislation. Consider the Department of Homeland Security Appropriations Act of 2018 (H.R 3355). Representatives of defense contracting firms engaged in extensive lobbying to support this bill and influence its contents. To influence the bill, "representatives of General Dynamics lobbied 44 times, Northrop Grumman 19, Lockheed Martin 41 and Raytheon 28, in addition to a number of other lobbyists representing these firms and other border-security giants including L3 Technologies, IBM and Palantir" (Miller 2019b, p. 4). Eventually, H.R. 3355 was incorporated into the Consolidated Appropriations Act of 2018 (H.R. 1625). In its final form, that bill allocated $55.6 billion to the Department of Homeland Security as a whole, $16.357 to CBP, and $7.452 billion to ICE. Within the CBP budget, the bill allocated $2,281,357,000 to "procurement, construction, and improvements, including procurements to buy marine vessels, aircraft, and unmanned aerial systems" (H.R. 1625). CBP's operations and support budget of more than $11 billion also included provisions for "the purchase and lease of up to 7,500 (6,500 for replacement only) police-type vehicles…[and] the purchase, maintenance, or operation of marine vessels, aircraft, and unmanned aerial systems" (H.R. 1625).

That recent budget bill illustrates how this lobbying works. Miller explains the scale of that lobbying as follows:

> Lobbying on homeland security—of which border militarization is a significant part—has increased significantly in the last 17 years, involving many of the border-security corporations. In total, from 2002 to 2019 there were nearly 20,000 reported lobbying visits related to homeland security. In 2003 Northrop Grumman was the top lobbyist, reporting five lobbying visits where it was one of 385 clients with 637 reported visits. … In 2006, this more than doubled: 724 clients with 1,428 reported visits, led by Lockheed Martin, Accenture, Boeing, Raytheon, and Unisys. And in 2018, there were 677 clients with 2,841 visits listed: including top CBP and ICE contractors Geo Group, L3 Technologies, Accenture, Leidos, Boeing, CoreCivic, and also companies such as Facebook, Microsoft, and Visa (Miller 2019b, p. 4).

Clearly, defense contractors and other firms working in border security expend significant resources on lobbying. Some amount of this lobbying activity may simply be an everyday business expense that is already priced into the plans of defense contractors. However, changes in lobbying activities occur as alert entrepreneurs within legislatures, private defense contracting firms, and lobbying firms discover and seize opportunities to profit by working to adjust federal policies.

There are other ways that defense contractors curry favor with legislators beyond hiring registered lobbyists. "For example, between 2000 and 2005, General Atomics spent around $660,000 on 86 trips for legislators, aides, and their spouses to build support for its business" (Miller 2019b, p. 5). General Atomics has received millions of dollars from DHS and CBP to produce drones (General Atomics 2005, 2009).

Legislators are not the only public officials who influence the purchasing and procurement of military hardware for border security purposes. The employees of agencies such as DHS, CBP, and ICE also play a significant role in requesting, purchasing, and using military hardware. Private contractors build relationships with these bureaucrats to seek profitable contracts with them.

One way to do this is through meetings at conferences and trade shows. Since 2005, a Border Security Expo has been held each year, bringing together leaders from DHS, ICE, CBP, and many of the largest contractors. These meetings provide an opportunity for contractors to advertise their products to bureaucrats through booths in an exposition hall as well as through presentations. The meetings serve to inform bureaucrats about the various products offered by contractors while presenting an opportunity for the development of personal relationships. Miller (2019b, p. 5) explains that "The event currently includes a pre-Expo golf day where Homeland Security and industry executives can meet casually and discuss future prospects and possible contracts." Each expo serves to "encourage a common perspective, language and policy approach. This is backed up by the personal networking at lunches, coffee breaks and dinners that will cement cooperation for years to come" (Ibid.).[3]

Another way a contractor can build relationships with public officials is by hiring a former official. This official knows the norms within the bureau they worked at, and they have a range of social and professional contacts within the public sector that can ease the negotiating process. The resulting "revolving door" creates incentives for bureaucrats to alter their behavior to benefit their prospective future employers, and it also creates incentives for employees of politically connected firms to alter their behavior to please public officials.

Former Secretary of Homeland Security John F. Kelly has taken more than one trip through the revolving door. Until 2016, he was the commander of U.S. Southern Command, or SOUTHCOM, within the Department of Defense. He then worked as an advisor for Dyncorp International, which contracts extensively with the Pentagon. Dyncorp paid him $166,666 (Project on Government Oversight; Office of Government Ethics 2014). Later in 2016 Kelly was nominated as Secretary of Homeland Security where he could influence policies regarding unaccompanied minors who attempt to cross the border. Prior to working at DHS, he had served on the board of directors of DC Capital Partners (Office of Government Ethics 2014). While Kelly was working in the White House, DC Capital Partners "purchased a company that operated one unaccompanied migrant children shelter in Homestead, Florida" (Kates 2019). DC Capital Partners then "folded that company into" Caliburn International, "the operator of the nation's largest shelter for unaccompanied migrant children" (Kates 2019). Kelly now sits on the board of directors of Caliburn International.

This story is not unique. Miller (2019b, p. 70) identified "177 people who have gone through the DHS revolving door and 34 people who have both worked for the House Homeland Security Committee and a lobbying firm." While working in the public sector, each of these individuals had incentives to act in a manner that would endear them to future employers.

Moreover, when they were hired in the private sector, they brought their social ties and knowledge of the public sector. Hiring them may have been an act of entrepreneurship by the firms, who saw a profit opportunity associated with making deals with legislators and bureaucrats. However, they also brought specialized knowledge and human capital related to homeland security issues, so it is difficult to disentangle how much of the revolving door is a result of specialization and how much is an attempt to secure future deals. Despite this ambiguity, there are good reasons to be concerned about the revolving door. Even if they were hired simply for their specialized knowledge of a particular industry or policy issue, personnel who travel through the revolving door are situated in a context where they are especially likely to be alert to opportunities for lucrative political deals. These political deals are carried out at the expense of the broader public.

In the years since the 9/11 attacks, private contractors have acted entrepreneurially to build crony relationships with public officials and receive profitable contracts. This also creates profit opportunities for bureaucrats and legislators. These profit opportunities resulted from a prior act of political entrepreneurship, namely the creation of DHS.

3.3 Mission Creep

After new powers, tools, and organizational arrangements are introduced, bureaucrats and politicians will use them to address matters that are distant from the initial purpose. For bureaucrats, political profits often take the form of increased power, discretion, and budgets. Using one's powers in new arenas can help secure all of these. Each new power creates entrepreneurial opportunities for bureaucrats who will apply it in new ways, what is often called mission creep. Politicians who wish to expand the powers at their disposal can engage in similar entrepreneurship.

BORTAC was originally developed to control riots at INS facilities. This is well within the purview of the INS, as it involves directly policing their own facilities. The scope of BORTAC activity, however, has expanded over time. Much of this has remained policing along the border, related to immigration enforcement, drug interdiction, and stopping human trafficking.

However, the Border Patrol has the authority to conduct stops or searches anywhere within 100 miles of a U.S. border. This includes the coasts, which means that most major coastal cities fall within this border zone. The Border Patrol therefore has jurisdiction within major metropolitan areas, including areas we would not typically consider part of the borderlands (Anthony 2020). One result is that Border Patrol agents can police locations that we would not ordinarily consider arenas for border enforcement.

During the 1992 Los Angeles riots, four hundred BORTAC agents were sent to the city to aid police. They primarily policed Latino neighborhoods. The BORTAC agents "arrested over 1,000 suspected illegal immigrants" (Nagengast 1998, p. 41). BORTAC made 10% of the total arrests that occurred throughout the riots. "More than 700 of the 1,000 individuals detained were immediately deported" (Ibid.). While this was arguably within BORTAC's immigration enforcement mission, it also brought militarized policing and lower due process standards into a matter of metropolitan policing and civil unrest. In 2020, BORTAC operations expanded into the interior of the United States yet again. DHS deployed BORTAC officers to American cities, including Chicago and New York, so they could assist ICE agents in carrying out deportations (Dickerson and Kanno-Youngs 2020). BORTAC is part of CBP, which handles exterior border enforcement rather than immigration enforcement in the interior. Their presence in midwestern cities like Chicago was therefore unusual. Later that year, BORTAC reprised their role policing riots and protests in metropolitan areas such as Portland, Oregon. These BORTAC operations were far removed from immigration, drug interdiction, and border security, and instead focused on crowd control, arresting protesters, and protecting federal property (Levinson and Wilson 2020). Militarized tactics were transferred from border policing to internal policing, in the process raising concerns around federalism, police militarization, and the right to protest.

Similar mission creep has occurred with the use of military hardware. CBP's hardware and militarized tactics have become a fixture at the annual Super Bowl. In 2002, DHS declared the Super Bowl a "national security special event," directing federal agents to secure the event alongside local police (Shelby et al. 2020, p. 313). CBP uses military hardware to assist in these security operations. In 2010, CBP agents flew Blackhawk helicopters to enforce a "thirty-mile no-fly zone…around the stadium" on game day (Miller 2014, p. 13). Border Patrol agents also conducted searches at nearby Amtrak and Greyhound stations, operated surveillance towers, and used devices such as Forward Looking Infrared Radiometers to monitor the area (Miller 2014, pp. 11-19). In 2019, "U.S. Customs and Border Protection's Air and Marine Operations and Office of Field Operations Special Response Team provided air space security before Super Bowl LIII in Atlanta, Georgia" (Shelby et al. 2020, p. 314). CBP carries out these operations in the name of counterterrorism. This empowers them to bring military hardware and tactics from the border into American cities. It also enables a private event to outsource event security to militarized federal police.

CBP's drone program also enables mission creep. CBP purchases drones to engage in border surveillance, often in the name of national security. However, CBP is not the only agency that uses these drones. Flight logs show that CBP used drones to gather information for other federal, state, and local law enforcement agencies over 700 times from 2010 to 2012 (Lynch 2014). More recent logs show that "CBP loaned drones to state and local law enforcement on 15 occasions, and 53 times to federal U.S. agencies, from July 2016 to August 2017" (McKay and Mehrotra 2020). North Dakota police used a CBP drone to surveil protests opposing the Dakota Access pipeline in 2016 (Parrish 2019). In 2020, CBP used drones and other aircraft to surveil Black Lives Matter protests in 15 major American cities. Data from these flights was "fed into a digital network managed by the Homeland Security Department, called 'Big Pipe,' which can be accessed by other federal agencies and local police departments for use in future investigations" (Kanno-Youngs 2020).

Once a tactic, power, or technology is introduced, political entrepreneurs exploit new opportunities to use it. As Jay Stanley of the American Civil Liberties Union explains, "technologies that are sold for one purpose, such as protecting the border or stopping terrorists…often get repurposed for other reasons, such as targeting protesters" (quoted in Parrish 2019).

4. CONCLUSION

In response to perceived crises, political entrepreneurs in both the public sector and the private sector militarized American border security efforts. Each act of political entrepreneurship benefited the political entrepreneur and created profit opportunities for future political entrepreneurs. These include opportunities for private contractors to profit through cronyism and rent seeking, as well as opportunities for public officials to apply powers in new arenas, causing mission creep.

This analysis suggests that new programs and powers related to policing, immigration control, and national security can have long-term effects on activities in both the public sector and the private sector. Policy proposals can be evaluated not just by examining their suitability for short-term public policy objectives, but also in-light of their long-run impacts. Each new program is likely to be wielded to address concerns far removed from its initial policy justification.

Understanding border militarization as an entrepreneurial process also has implications for constitutional political economy. Political entrepreneurs act creatively to secure advantages from the political process. In doing so, they often expand the scope of political power in ways that constitutional designers could not foresee (Devins et al. 2015). Constitutional designers cannot foresee all future crises or the creative ways that entrepreneurs will respond to them. This suggests that constitutional design will be insufficient to solve the "paradox of government," a long-standing question of how government can be simultaneously empowered and constrained. Empowering government to protect the rights of citizens does not mean empowering an impartial referee to enforce well-defined laws. It means empowering self-interested and creative political entrepreneurs. In a dynamic world where crises arise, these entrepreneurs will discover new profit opportunities associated with expanding their own powers. Border militarization is an entrepreneurial process, and it is an illustrative microcosm of the process by which governments grow.

Can anything be done to restrain or stave off this process? Higgs (1987) notes that governmental response to a perceived crisis is shaped by the prevailing ideology in a society. Governments rely on support of the broader public, and the actions that seem profitable to political entrepreneurs are therefore shaped by the ideological beliefs held by the broader public. Moreover, culture and beliefs shape which opportunities will be noticed by alert entrepreneurs (Lavoie 2015). Perhaps promoting ideological commitments to freedom, peace, and bottom-up civil society can help us escape the ongoing process of border militarization and government growth.

During crises, citizens will still clamor for action to address the crisis. But the desire for action need not entail a desire for militaristic action carried out by a central state. In the wake of natural disasters, much of the most promising crisis response comes from bottom-up action within markets and communities. This is still entrepreneurship, but it is commercial and social entrepreneurship rather than political entrepreneurship (Storr, Haeffele-Balch, and Grube 2015). Can people envision similar bottom-up entrepreneurial responses to crises that are understood in terms of security threats? Research on polycentric defense (Coyne and Goodman 2020b; Alshamy et al. 2024), civilian-based defense (Sharp 1990), and analytical anarchism

(Boettke 2005; Boettke and Candela 2020) suggests multiple possible paths to provide security from the bottom-up. Perhaps to resist border militarization, and the growth of the state more generally, we need to open our minds to diverse possibilities of human social cooperation. By envisioning and building alternatives to state-provided security, people may be able to offer paths away from overbearing state power and militarization.

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NOTES

1 The full text of this legislation can be found here: https://www.congress.gov/bill/97th-congress/senate-bill/815/text
2 Information on this roll call vote can be found at https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=107&session=2&vote=002 49
3 For a discussion of similar conferences in the airport security industry, see Podemska-Mikluch and Wagner (2017).

Competition and Shirking in the Provision of Defense

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Abstract: The effective provision of national defense is thought to depend on the willing cooperation of separate military services with unique specialties. In reality, the services have interests that diverge from those of the civilians in charge of them as well as from each other. Solutions to this problem often involve more direct oversight of the services but these solutions have a mixed track record at best. The impediments to and possibilities for an alternative solution can be found in *Bureaucracy* (Tullock 2005), and this paper applies them to the bureaucracies in charge of providing national defense in the United States with an emphasis on the laws and customs that prohibit the services from competing with each other in a variety of military mission sets.

Keywords: Public Choice, Competition, Shirking, National Defense

SECTION 1: INTRODUCTION

> Thus, the man who rises most rapidly will tend to be the one takes advantage of the weaknesses of his superiors (Tullock 2005, p. 58).

The problem of producing effective national defense while controlling costs and waste is a persistent one in the United States. Not only is defense difficult to produce, but those tasked with producing it have their own interests. The difficulty of determining when the agents tasked with producing defense are pursuing their own interests is increased by the fact that the defense produced by each branch of the military has many unique qualities. This means the ability to assess agent performance by comparison to agents producing similar kinds of defense is limited. Finding ways to enable this kind of comparison is exactly the type of reform that Tullock (2005) would have recommended in his work on bureaucracy. This paper explores the impediments to, and possibilities for, this kind of reform.

A layman looking at the Joint Chiefs of Staff might expect the head of each service to bring decades of experience in their warfare area to the table to be expertly combined into a cohesive plan for producing defense. If a ship-fired cruise missile could destroy a target at a lower cost than Army artillery supported by attendant infantry, then the Army would argue for the Navy's assets to be used over their own. A public choice analysis of the Joint Chiefs of Staff would predict something different. Each Chief is a self-interested bureaucrat seeking to maximize their own budget and prestige. Instead of impartial cohesive planning, we would expect the services to try to increase their budget and discretion at the expense of the other services. The Army, for instance, would be expected to argue for destroying a target with artillery and attendant infantry even if the cruise missile were the lower-cost option. Civilian leaders want their military advisors to provide the single correct solution to military problems, but even if a single military solution exists it is unlikely to emerge from the representatives of different services fighting for the same budget.

Scholars of political science and history have produced an extensive literature on exactly this type of behavior among the Joint Chiefs of Staff (Cohen and Gooch 1990; Sapolsky 2000; Zagart 2000; Grissom 2006; Reardon 2012; Weiner 2023). A solution to this problem remains elusive in the political science and historical literature, but the framework provided by *Bureaucracy* (Tullock 2005) explains why a solution is elusive while also potentially providing one. The different services, headed by their respective Chiefs, enjoy considerable independence from their principals because direct monitoring of them is difficult and because they have multiple principals they can play against each other. This prevents the solutions proposed in the political science and history literature from being effective, but using expanded competition between the services as a solution holds promise.

This paper adds to the economics literature on the production of defense (Weida and Gertcher 1987; Brauer and Tuyll 2009; Klingen 2011; Coyne and Mathers 2011; Coyne 2020; Keupp 2021; Silwal et al. 2021). It also adds to the history and political science literature on defense reform (Armacost 1969; Cohen and Gooch 1990; McMaster 1997; Zagart 2000; Reardon 2012; Weiner 2022) as well as to the literature on innovation in the production of defense (Sapolsky 2000; Spinetta 2013; Grissom 2006; Zimmerman et al. 2019). It is an application of the insights found in Tullock (2005) to the particular case of defense bureaucracies and is situated in the literature on polycentricity and polycentric provision of defense (Ostram et al. 1969, Aligica and Tarko 2011, Alshamy et al. 2024).

I proceed as follows. Section 2 provides a brief organizational history of defense provision in the United States. Section 3 outlines Tullock's framework for understanding agent behavior within a bureaucracy and applies it to the agents responsible for producing defense. Section 4 explores the possibility of expanding competition between the services by increasing the similarity of the tasks assigned to them. Section 5 concludes.

SECTION 2: BRIEF ORGANIZATIONAL HISTORY OF DEFENSE IN THE US

Defense in the United States is supplied by individual services specialized in different areas of warfare. The Department of War (the Army), and the Department of the Navy were the early, co-equal executive departments charged with producing defense. They were not organized under a common department of defense, and the heads of both departments interfaced directly with the President and Congress. In 1903, in an attempt to improve the joint provision of defense by the two departments, they voluntarily created the Joint Army and Navy Board. However, the Joint Board was limited to studying only those issues given to it by the heads of the respective departments, had no enforcement authority, did not interface with outside authority, and was ignored whenever its recommendations were perceived to favor one department over the other even if the recommendation was considered militarily sound.

The services persisted in pursuing their own forms of defense with little cooperation between them until World War Two. As President Roosevelt coordinated military affairs with the British, he began to favor the advice of the British Combined Chiefs of Staff because of their more unified recommendations and the extensive staff studies supporting them. Seeing their influence waning, the US military services began cooperatively producing competing studies that supported more unified military advice. This early version of the Joint Chiefs of Staff and their supporting Joint Staff were ad hoc constructs, but served as the basis for the laws and orders that form the current day incarnation of the Joint Chiefs and the organizations and individuals around them. However, after the war ended, the services went back to pursuing their own forms of defense and cooperating with each other very little.

In 1947, in an attempt to better supervise the services and encourage truly joint production of defense, the services were organized under a single National Military Establishment (which later became the Department of Defense) and placed under a Secretary of Defense who served as the President's primary assistant in defense related matters. The position of Secretary of Defense proved too weak to control the Joint Chiefs and verify the accuracy of their technical advice, so in 1949 the National Security Act was amended to formally create the position of Chairman of the Joint Chiefs of Staff to act as an independent military advisor to the Secretary of Defense in his dealings with the Joint Chiefs of Staff. Furthermore, the services would now be required to pass their advice to the President through the Secretary of Defense rather than being able to interact with the President directly. The Defense Reorganization Act of 1958 then removed the Joint Chiefs from the formal operational control of military units, meaning the President and Secretary of Defense no longer interfaced with their functional commands and regional commands through the Joint Chiefs but instead interfaced with them directly. The Defense Reorganization Act of 1986 then gave the Chairman of the Joint Chiefs of staff a Vice Chairman to serve as his assistant and placed the Joint Staff, the staff used by the Joint Chiefs to conduct studies as requested by the services, under the direction of the Chairman.

This brief history records efforts that were both voluntary and compulsory to make military leadership representing different services cooperate in defense planning that would comport with their principal's intent rather than preferences of those military leaders. In keeping with the recommendations found in the history and political science literature more staff, more legal controls, and more overseers have been put in place to keep military leaders in check. Despite this, their independence and pursuit of service interests still undermine their principal's intentions on a regular basis. Rather than applying still more layers of oversight, a change in the incentives these agents face may produce superior results.

SECTION 3: TULLOCK'S FRAMEWORK

Tullock's *Bureaucracy* provides a useful framework for understanding the challenges a principal faces in properly aligning the interests of their agents. In broad terms the more agent interests diverge from the principal's interests, and the more difficult to monitor an agent is, and the less agents depend on the principal for their position, the more the principal will struggle to fulfill their goals using the bureaucracy they are in charge of. The particular challenges that arise in these three categories will now be explored in relation to history of the Joint Chiefs of Staff, followed by the applicability of Tullock's solutions to these challenges.

3.1 Self-Interest

> Doenitz, as head of the German Submarine Forces, vigorously opposed diversion of resources to the surface fleet. When he was promoted to command of the whole Navy, his 'view widened', and he took steps to protect the battleships (Tullock 2005, p. 47).

In Tullock's analysis of bureaucracy it is assumed that agents have interests that diverge from, and sometimes conflict with, the interests of their principals. This divergence can be found in the behavior of the Joint Chiefs of Staff. Each Chief's career was shaped by the service they represented, and maximizing the budget, discretion, and prestige of that service improves the position of that Chief. For instance, when the Joint Chiefs were recommending expanding operations in Vietnam to include an additional 90,000 servicemen at a time when President Johnson wanted to minimize the US footprint there for reasons of electoral politics rather than military strategy, the Commandant of the Marine Corps saw an opportunity to break ranks and offer a plan for only an additional 5,000 Marines, and Johnson went with this plan (McMaster 1997, pp. 270-271).

Furthermore, the Chiefs have service informed preferences over how to provide defense that diverge not just from each other's preferences but also from the preferences of their principals. The Air Force sought to focus the Vietnam War around bombing campaigns to break the will of the North Vietnamese without needing US soldiers on the ground, while the Army argued for a substantial ground presence in South Vietnam to combat the insurgency there and little to no bombing in the North and little to no involvement from the Marines, and the Navy considered Vietnam a distraction from other priorities (McMaster 1997, pp. 42-45). When the Air Force was directed to develop a bombing plan to slow a potential Soviet advance across Europe it instead developed plans for the strategic bombing of targets within the Soviet Union because strategic bombing was the service's preference (Reardon 2012, p. 134). The Army opposed a unified Pacific Command under the Navy in World War Two on the grounds that it would relegate the Army to the status of adjuncts and increase the budget share of the Navy, not because of strictly military considerations. This is especially illuminating given that the Army had at other times argued for unified command as the correct way to conduct military operations (Reardon 2012, pp. 81-85).

This leads naturally to Tullock's discussion of bureaucratic imperialism. Bureaucracies that do not have fixed budgets have a tendency to attempt to absorb the roles and assets of other bureaucracies in order to increase their own budgets and prestige. The Joint Chiefs behave no differently, despite the fact that they are each specialized in some particular type of warfare. The Air Force has sought to control all transport aviation across the services, the Army has sought to control amphibious operations and land-based anti-submarine operations, the Navy has sought the role of strategic bombing, etc… (Reardon 2012, pp. 81-85). A general restriction against this kind of bureaucratic imperialism exists in the roles assigned to each service in Executive Order 9877 and the National Security Act of 1947, but despite the intent to quell this type of behavior contestable roles and missions remain available and so the services continue to exhibit bureaucratic imperialist tendencies.

3.2 High Costs of Monitoring

One of the key insights found in *Bureaucracy* is that even in organizations with high rates of agent obedience to their principals, increasing size will cause the number of orders fulfilled by agents to fall quickly. Tullock imagines an organization with ten levels in its hierarchy and agents obeying 90% of their principal's orders. At the lowest levels of this organization the wishes of the principal are carried out only 35% of the time (Tullock 2005, p. 263). The Joint Chiefs of Staff has been a small organization for its entire history, though it does periodically expand. A president or Congress may be able to monitor such a small number of agents with less difficulty, but in assessing the Chiefs' compliance with their orders they must remember that the Chiefs oversee hundreds of thousands of agents themselves. The Chief of Staff of the Army oversees more than 450,000 active-duty personnel, the Chief of Staff of the Navy oversees more than 330,000 active-duty personnel, the Chief of Staff of the Air Forces oversees more than 320,000 active-duty personnel, the Commandant of the Marine Corps oversees more than 170,000 active-duty personnel, and the Chief of Space Operations oversees over 9,000 active-duty personnel. Even assuming high rates of agent compliance with the orders of their respective Chiefs, the frequency with which their wishes are actually fulfilled must be low. Principals monitoring the Chiefs will therefore have some difficulty determining whether the Chiefs have shirked or whether circumstances beyond their control have resulted in undesirable outcomes.

There is also the difficulty of monitoring the particular type of work the Chiefs do. Tullock notes that mental work is harder to monitor than physical work. A quick inspection may be sufficient to observe whether or not a tire on a car has been replaced but a quick inspection does not reveal the effort that went into a war plan. This combines with Tullock's direct observations about the military in the pages of *Bureaucracy* that it faces little pressure, or need, to be efficient. This is because wars are usually too infrequent to provide a reliable outside test of how much work military leaders have done, and because their civilian principals usually lack experience in military affairs. Additionally, militaries actually only need to be less inefficient than their enemies in order to be successful. Tullock's insights help explain why the Joint Chiefs initially struggled to have President Roosevelt's ear during World War Two. When the US and Britain collaborated on war plans, the Joint Chiefs interacted with their British counterparts, the

Combined Chiefs, and each offered competing ideas on how to prosecute the war. The Joint Chiefs favored more direct and aggressive action, but President Roosevelt opted to listen to the more defensively minded Combined Chiefs because their plans were backed by more staff studies as compared to the plans of the Joint Chiefs (Reardon 2012, pp. 28-29). The lack of mental effort by the Joint Chiefs was not detected by Roosevelt until he was exposed to the Combined Chiefs.

Some of the effort of the Chiefs can be monitored by reading the reports and studies they and their subordinates produce. These are voluminous, and Tullock notes that it is common in a bureaucracy for only a small fraction of the information contained in studies to rise up through the organization (Tullock 2005, pp. 148-152). The information produced by a wargame, for instance, can lead to a report hundreds of pages long. With hundreds of such games being played a year it is unsurprising that the upper levels of the defense bureaucracy often do not read them if for no other reason than the opportunity cost of doing so is very high (Wood 2022). More directly, the Chiefs have simply refused to share logs of their internal deliberations over issues of procurement and strategy with the Secretary of Defense in order to maintain their favorable information asymmetry with those put in charge of monitoring them (Weiner 2022).

Tullock also observed that it is more difficult to monitor agents performing different tasks than it is to monitor agents performing the same task. Agents performing the same task can be compared against one another and their effectiveness can be more easily determined, at least in relative terms. While the Joint Chiefs are all members of the military in charge of producing defense, they differ greatly in both the types of resources they have and the particular tasks they are assigned. Ground operations differ from naval operations, air operations, amphibious operations, and space operations even controlling for margins such as budget and number of personnel. These differences are created, and maintained, by the force of law through Executive Order 9877 and the National Security Act of 1947. The services fight to maintain this separation of duties, and even attempt to extend them. For instance, the Air Force and Army both have legal claims to the use of air assets, though the missions for which they can be used differ. The Air Force and Army collaborated to produce the Pace-Finletter Agreement to require further specialization in the types of defense each service produced, with the agreement forbidding the Army from using fixed wing aircraft while binding the Air Force to reliably provide close air support to troops on the ground with their fixed wing aircraft (Grissom 2006). The more distinct each branch becomes by law or agreement, the more difficult it is to ensure they are performing effectively for simple lack of a reference performance. This kind of difficulty in monitoring then provides more room for the branches to pursue their own self-interest without detection by their principals.

Reforms have long taken the approach of empowering the monitors and managers of the Joint Chiefs, and this is the usual recommendation from history and political science scholarship (Cohen and Gooch 1990; Sapolsky 2000; Zagart 2000; Grissom 2006; Reardon 2012; Weiner 2023). These reforms have added not only new offices but larger staffs and larger budgets for those agents monitoring defense production for the President. Nevertheless, the hoped-for cost-reducing joint military planning has not emerged. The Chairman's research is ignored by the Joint Chiefs unless it mirrors their preferences (Weiner 2022), the services continue to spread budget cuts and increases as evenly as possible (McHugh 2011), protect their pet systems (Dahl 2003), and divide up command between themselves without truly integrating their plans. The First Gulf War, for instance, was more a display of the superiority of American spending and weapons than a display of joint planning. War planning was supposed to be separated from the parochial interests of the Joint Chiefs by being given to an independent Combatant Commander who reported directly to the Secretary of Defense. However, planning for the First Gulf War still broke down along service lines, with the Army and Marines being given their own areas of operations over which they squabbled, and the Air Force being given control of most air efforts in the operation but being constantly undermined by the Army, Navy, and Marines who each had their own priorities for their own air assets or targets they wished to see struck (Wietz 2004).

3.3 Independence and Multiple Sovereigns

Tullock puts subordinates into two categories: courtiers and barons. Courtiers depend entirely on the principal for their power. They do not have sufficient wealth, charisma, or technical expertise to attain significant independence from the principal and can therefore only maintain their positions or rise by furthering the principal's interests. Barons do have sufficient wealth, charisma, or technical expertise to pursue their own interests at the expense of their principal's interest at least some of the time. The Joint Chiefs may appear to be in the position of courtiers as their position depends on presidential appointment. However, the Joint Chiefs hold decades worth of experience, technical knowledge, and connections related to the specialty of their branch and are therefore difficult to replace. This difficulty is reinforced by the fact that alternative sources of those factors are severely limited by formal and informal mechanisms protecting a service's specialty from competing provision by other services. Moreover, friction with the Joint Chiefs can be politically costly. The military as an institution is generally well regarded by the voting public (Rubin 2023), which makes disagreement or hostility with the Chiefs a drain on the President's limited political capital and has ended several presidential attempts at reforming the Department of Defense (Lynn 1985).

Additionally, attempting to rein in the Joint Chiefs is difficult because the President is not the only principal the Chiefs serve. Tullock wrote that agents with multiple principals over them are in a more advantageous situation than agents with only one principal over them. Agents with multiple principals have more degrees of freedom as an action that would be punished by one principal may be rewarded by another, and principals seek to attract agents to support them in their competition with other peer principals. Congress is one such principal the Joint Chiefs may turn to when defying the President. Appointment to the Joint Chiefs requires Senate confirmation, and the Chiefs retain legal authority to speak before Congress. Congressional hearings provide an opportunity for a Chief to reveal information that is damaging either to their rival branches or to the President or both. For instance, when defense budget cuts were being proposed in 1949 the Navy and the Air Force clashed over the roles each service could have in strategic bombing. Provoked by the cancellation of the USS United States, several retired and active-duty admirals as well as the Chief of Naval Operations publicly aired their disagreement with the other Joint Chiefs and the President. Their disagreements were openly voiced in Congressional hearings, they leaked Air Force acquisition information to popular newspapers, and this led to a Congressional inquiry into ethics concerns around the Air Forces acquisition of the B-36 (Naval History and Command Heritage 2024). Though President Truman and Secretary Johnson were ultimately successful in cutting the USS United States, public opposition and the threat of public opposition from the services has repeatedly resulted in unwanted defense budget increases to appease them (Zagart 2000; Weiner 2023). Additionally, Congress has been responsible for helping shape the legislation governing the Joint Chiefs, enshrining norms like their co-equal nature in general and norms like the Navy's role in land based anti-submarine aviation in particular (Reardon 2012, p. 84).

SECTION 4: TULLOCK'S RECOMMENDATIONS

> Even if the results can be readily observed, and even if a particular individual's contributions can be measured, it is not easy to reward or punish any one inferior unless his performance can be compared with that of some of his peers. If two people are doing quite different things, their comparative efficiency cannot be judged in terms of results, since the results cannot be compared. How, for example, would one compare an author and a mechanic? The performance of two authors or two mechanics could be compared, but not the performance of widely heterogeneous tasks (Tullock 2005, p. 207).

As shown, principals face several challenges in monitoring the Joint Chiefs. Tullock's recommendation to reduce monitoring costs and align agent interests with principal interests is straight forward. Agents with similar resources and tasks are easier to monitor, so making as many agents as possible similar along these margins will reduce monitoring costs. At first, this seems inappropriate for the military, but it must be remembered that the different branches are typically called on to co-produce defense. The branches are expected to combine their disparate abilities and methods into a cohesive plan for war. They often fail to do so as they instead pursue their own interests, but they are nevertheless expected to coordinate their efforts. If resources and plans can be coordinated between branches then it stands to reason that similar coordination could happen within a single branch if that branch was also allowed to have the resources and missions of its sister branches. This would foster closer competition between the branches and in the process would reveal inefficiencies and shirking to the monitoring principal.

The fact that service resources and tasks are kept separate by law makes it more difficult to implement Tullock's recommendation, but not impossible. Competition between the services for both new and existing roles shows that this is the case. Competition between the services can occur on a wide variety of margins. Some are more concrete, such as competition over methods of delivering nuclear warheads. Some are more conceptual, such as the competing plans for defeating Japan at the end of World War Two. A blockade by Navy forces could have drained Japan of the resources and will to fight, while a ground invasion by Army forces could have ended the war faster than a blockade but at a higher cost in Allied lives and may have required the use of controversial poison gas. Ultimately, another competing solution in the form of nuclear bombs was delivered by the increasingly independent Army Air Forces at a cost to the United States that was much lower in terms of Allied lives, time, and money (Jeffreys 2024). Competition can occur at the technical and tactical levels up to the grand strategic level of defense production, with resources and control directed by principals away from inefficient suppliers to more efficient suppliers.

As mentioned earlier, the Air Force was given the formal role of achieving air superiority, but it was not given exclusive rights over close air support of troops in contact with the enemy. This role had been performed by fixed-wing aircraft, often working close to the ground. The Pace-Finletter Agreement effectively caused the Army to abandon fixed-wing close air support to the Air Force in exchange for an Air Force agreement to lift all weight restrictions on helicopters the Army could operate and the promise that the Air Force would dedicate some of its budget to providing sufficient close air support to the Army. When the Air Force shirked on this promise to further pursue its preferred mission of strategic bombing, the Army pushed the development of helicopters specialized for close air support. Army competition for this mission then led to the Air Force developing the A-10 Warthog, one of the most successful close air support weapons ever created. The Air Force has kept the A-10 in service, despite a strong desire to spend those funds elsewhere, for fear of losing that mission altogether (Grissom 2006). Competition constrains the parochial interests of the services in those areas where they are not formally protected from each other, and reveals that the services are capable of performing at least some of each other's tasks.

Nuclear weapons development demonstrates this point even more strongly as these weapons were never formally assigned to a single service and so competition to provide them was open to all. According to some political science scholars, this resulted in wasteful duplication of effort between the services (Weiner 2022), but under Tullock's framework we would expect the pursuit of nuclear weapons by each branch to produce more easily assessed efforts, and therefore better efforts. The Air Force initially enjoyed great success with its Minuteman nuclear missiles, and this caused the Navy to cut bureaucratic delays in the development of the submarine-launched Polaris missiles which were completed in 1960 (Sapolsky 2000). The Polaris introduced a type of nuclear weapon that effectively guaranteed the ability of the United States to conduct retaliatory strikes even if the United States itself had been completely destroyed, changing the entire calculus of the Cold War (Morgenstern 1959). Armacost (1969) notes a similar competition between the Air Force and the Army over intermediate-range ballistic missiles causing the development of better missiles more quickly by reducing bureaucratic obstructions and by shifting resources away from less important weapons systems during the latter half of the 1950s. When the Navy developed the Polaris missile system in 1960 as a competitor to the Air Force's Minuteman it discovered a solid rocket fuel with superior properties to the liquid rocket fuel then commonly used by each service. The success of the Polaris system then contributed to the widespread adoption of solid rocket fuels for competing missile systems in both the Army and Air Force (Cape Canaveral Space Force Museum 2024). Not only did this type of competition shift resources away from less important weapons systems and produce higher quality defense, it also forced the services to be more responsive to the demands of their civilian leaders. When nuclear weapons were being considered for tactical rather than strategic use in blunting a Soviet advance across Europe, the Air Force had been strongly opposed because of its preference for strategic bombing deep into enemy territory. The following quote explains the Air Force's ultimate capitulation:

> A veteran of the roles and missions quarrels after WW2, Norstad easily perceived that unless the Air Force paid closer attention to retardation bombing and other non-strategic missions, it would open opportunities for the Army and the Navy to develop their own "tactical" nuclear capabilities and challenge the Air Force's dominant position in atomic warfare (Reardon 2012, p. 134).

This capitulation came in 1951, meaning that not only was the Air Force compelled to provide defense more in line with guidance from the President, it also failed to prevent the successful challenges to its dominant position in atomic warfare that were just discussed.

Assigning agents similar tasks tends to harness the self-interest that produces bureaucratic imperialism in ways that ease the task of the monitoring principal. This can even be true in those areas of defense that are supposed to belong to one service. Despite differences in size, funding, armaments, and mission sets, the Army and the Marine Corps are competing suppliers of infantrymen. Their similarities allow for competitive testing of those margins on which they differ, with battle exposing which service has adopted superior methods. For instance, during the Korean War units from both the Army and the Marine Corps were subjected to the disastrous retreat from the Chosin Reservoir. Army units suffered heavily due to lack of discipline compared to their Marine counterparts, a failure to establish adequate supply dumps and supporting airfields compared to their Marine counterparts, and a failure to adopt successful tactics employed by the Marines such as aggressive patrolling and entrenching each night which were better suited to the unique challenges posed by their unconventional Chinese adversaries (Cohen and Gooch 1990). Both services were also tested during the Vietnam War, with the Army preferring search-and-destroy style missions meant to take the fight to the North Vietnamese and Viet Cong forces, and the Marine Corps preferring operations to secure contested hamlets and populations against communist influence and retaliation. The repeated failures of the Army's approach eventually led the United States to shift more toward the approach favored by the Marines, though by this point American support for the war was dwindling (Brush 1999). In both cases, the Marine Corps was used in roles that belonged to the Army by the letter of the law, but this is what allowed for a higher fidelity test of each service's performance in the task at hand.

SECTION 5: CONCLUSION

Bureaucracy offers many insights into how organizations succeed and fail to carry out the orders of those in charge of them. Comparing managers by how much profit they earned is a reliable way to check their performance in a market, but this mechanism does not apply to much of what the government does, and defense is no exception. An alternative mechanism for discovering inefficient behavior lies in assigning managers the same task and then comparing relative performance, and here the production of defense can benefit from Tullock's insights. The different branches already perform some tasks that are very similar, but most of their tasks are made different by law and agreement rather than the effects of organic specialization. Niskanen (1975) predicted that combining bureaucracies that were previously distinct and competing with each other into a single monopoly provider of those services would have the result of increasing their total budget while controlling for other factors such as output. The strongest confirmatory result he got for this prediction was the joining of the Army and Navy under the Department of Defense.

There is an opportunity, then, to improve the provision of defense by simplifying the monitoring problem. By removing as many restrictions on which branch can produce which type of defense as possible, a principal could expect each branch to experiment with new forms of defense in those areas where they believe their sister branches are operating inefficiently. This may mean forms of defense that are superior in their technical or strategic aspects, or it may mean providing similar forms of defense more cheaply. In practice, this would mean letting the Army conduct strategic bombing campaigns or letting the Air Force operate fleets of blue water ships or letting the Navy conduct ground invasions. This alleviates one of the chief problems that principals who lack technical expertise in the fields their agents operate in have. The technical expertise of the Chiefs would be turned against each other and become less of a source of independence from the President or Congress. Realistically, however, reformers would have to be concerned with the potential for the defense budget to simply rise sharply in response to this suggestion as services gain new mission sets and equipment. If the President, Congress, and voters do not use the information revealed by greater competition between the services to actually shift funds from the less efficient services to the more efficient ones, then it may be preferable to remain under the current system.

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The Fatal Conceit of Foreign Intervention: Evidence from the U.S. Occupation of Iraq

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Abstract: The fatal conceit of foreign intervention refers to the limitation that policymakers within governments face regarding the use of discretionary power to address perceived problems within foreign societies. This paper uses a variety of primary sources on the Iraq War to contribute in showing how the challenges and failures faced by policymakers when seeking to achieve their stated objectives relating to the post-war reconstruction in Iraq illustrates this concept. To achieve this goal, this paper follows Lambert, Coyne, and Goodman (2021) in showing how interveners faced both epistemic and incentive constraints when it comes to the selection of ends, the selection of means, and the realization of ends using the means selected.

1. INTRODUCTION

In 2003, the United States under President George W. Bush initiated operations in Iraq with a goal of overthrowing the regime of Saddam Hussein, of getting rid of any weapons of mass destruction in the country, and of "helping Iraqis achieve a united, stable and free country" (Bush 2003b). In his speech on March 19, 2003, Bush stated that the United States "will pass through this time of peril and carry on the work of peace. We will defend our freedom. We will bring freedom to others and we will prevail" (Ibid.). In the full transcript of Bush's speech, it clarifies that "[t]he United States, with other countries, will work to advance liberty and peace in that region" so that the Iraqi people "can set an example to all the Middle East of a vital and peaceful and self-governing nation" (Bush 2003a).

According to the Costs of War project at Brown University, between 2003 and 2023, about $1.8 trillion was spent on operations in Iraq and Syria[1]. Of that, about $862 billion was spent by the Department of Defense and $62 billion by the State Department (Crawford 2023, p. 5). Despite the significant financial spending, there remains significant doubts as to whether the U.S. achieved its goals. Although the Bush administration promised a quick victory with few civilian and military casualties, the U.S. government is still engaging in conflict in Iraq—albeit at a slower pace—with the Biden administration requesting nearly $400 million for the 2024 fiscal year to counter ISIS operations (Department of Defense Comptroller 2023). Furthermore, rather than Iraq being transformed into a flourishing democracy, evidence from Freedom House's The Freedom in the World Index (see Image 1) and the Democracy Index from the Economist Intelligence Unit (see Image 2) suggest that the amount of political freedom in the country did not significantly change after Hussein was overthrown, while data from the Perceived Corruption Index provided by Transparency International (see Image 3) suggests that public perception of corruption also did not improve to pre-invasion levels until a decade after the U.S. occupation ended.

This paper seeks to contribute to explaining why good intentions on the behalf of planners, primarily in the United States, did not result in good results. To do so, this paper seeks to illustrate the U.S. intervention in Iraq as an example of the "fatal conceit of foreign intervention." Building on F. A. Hayek's (1988) *The Fatal Conceit*, the fatal conceit of foreign intervention is defined as "the use of discretionary power of one government to address perceived problems in foreign societies" (Coyne and Mathers 2010). Highlighting the epistemic and incentive challenges that interveners face, the fatal conceit of foreign intervention is characterized by features such as a reliance on top-down planning, the allocation of scarce resources through bureaucratic political channels, the approach of economic development as a technological issue, and the treatment of societies as simple rather than complex systems (Coyne and Mathers 2010; Lambert, Coyne, and Goodman 2021, p. 286).[2]

To discuss the fatal conceit of foreign intervention as applied in Iraq, this paper will follow the methodology used by Lambert, Coyne, and Goodman (2021) in their application of the fatal conceit of foreign intervention to the U.S. intervention in Afghanistan. In doing so, this paper will primarily rely on primary sources, mostly from the Special Inspector General for Iraq Reconstruction (SIGIR for short)—a former U.S. government agency that was intended to provide independent oversight over reconstruction efforts in Iraq—, but this paper will also use other sources such as *The Iraq Papers* (Ehrenberg et al. 2010). By doing so, this paper will present evidence of the epistemic constraints and the incentive constraints that limited the ability of U.S. interveners to shape Iraqi society. This paper will do so with an appreciation that "[t]he curious task of economics is to demonstrate to men how little they really know about what they imagine they can design" (Hayek 1988, p. 76).

In doing so, this paper would contribute to an extensive literature focused on U.S. military interventions focused on building up institutions in foreign nations, and analyzes the various factors and mechanisms that explain why there is a variation in outcomes (see, for example, Berger et al. 2013; Bueno de Mesquita and Downs 2006; Coyne 2008a; 2011; Coyne and Mathers 2010; Coyne and Pellillo 2011; Denison 2020; Downes 2021; Downes and Monten 2013; Duncan and Coyne 2015; Enterline and Greig 2005; 2008; Lambert, Coyne, and Goodman 2021; Payne 2006; Pickering and Peceny 2006). In addition, this paper will also contribute to a literature exploring the efforts of nation-building in Iraq (Coyne 2022; Dodge 2003, 2013; Monten 2014; Papagianni 2007; Van Buren 2012) through adding an economic analysis of such efforts in Iraq from the view of mainline political economy.

The rest of this paper is organized in the following way. Section 2 provides a theoretical foundation for understanding the fatal conceit as applied to foreign interventionism. Sections 3-5 follow in the footsteps of Lambert, Coyne, and Goodman (2021) by applying this theoretical foundation through the lens of a means-ends framework. More specifically, Section 3 will focus on the fatal conceit applied to problems related to the selection of ends by interveners. Section 4 will focus on selection of means by these interveners to attain given ends. Section 5 will focus on the consequences of the selection of means by interveners to attain their given ends to reshape society. Section 6 concludes the paper.

2. THE FATAL CONCEIT OF FOREIGN INTERVENTION

2.1 The Application of the Fatal Conceit to Foreign Interventionism

The fatal conceit is a critique from F. A. Hayek against those who would argue that it is possible to socially construct rules to achieve a specific outcome. More specifically, it is an argument against the presumption that people can rationally design a specific set of formal and informal institutions, which are the "rules of the game" that can generally affect social outcomes by changing incentives that people face (North 1990, 1991), in order to achieve a specific social outcome. Hayek (1988) emphasized that deliberately organized institutions have some importance for the functioning of society. However, many institutions that help facilitate human cooperation are part of an "extended order," with both the institutions and the extended order arising through purposeful human action while not being the product of explicit human design. In other words, just because deliberately planned institutions—embedded in a more extensive and comprehensive spontaneous order—are important for the functioning of society, it does not follow that the society itself can be deliberately designed.[3] Planners seeking to reshape societies in their own image are assuming that they have knowledge that they cannot possibly obtain.

While Hayek used the concept of the fatal conceit to criticize the rational constructivism which existed in the socialist economic planning of the Soviet Union, Coyne and Mathers (2010) apply this concept to planning that exists in military interventions, and they find five similarities between the two applications of the fatal conceit. The first similarity is that "good intentions do not necessarily lead to good results." While socialism and foreign interventions are often driven by good intentions by the interveners on behalf of the intervened-upon, these good intentions do not always lead to the desired outcomes and, in many cases, lead to more harm than good for the intervened-upon due to the existence of unintended consequences. The second similarity is that there is a "reliance on top-down planning." Both are grounded upon central planning derived from a group of experts who have unique and specialized knowledge in areas such as international development. In both the case of foreign intervention and the case of socialism, this focus on top-down centralized planning often comes with a failure to appreciate the role of emergent institutions.[4] The third similarity is the "view of development as a technological issue." Success in transforming a society is seen by interveners as being largely dependent on the amount of effort and resources invested and on the execution of the centrally-designed plan; this presumes, in turn, that they have both the knowledge to be able to design the plan and the incentives to carry out the plan. The fourth similarity is a "reliance on bureaucracy over markets." Both socialism and foreign interventionism often include a large bureaucratic system that implements the centralized plan from designated experts which, as will later be discussed, leads to individuals operating in these bureaucracies having epistemic and incentive challenges that differ from individuals operating in a market order. The fifth and final similarity that Coyne and Mathers point to is "the primacy of collectivism over individualism." Even if these interventions are done with the stated intention of improving the lives of those who are intervened upon, opportunity for those individuals to resolve their own problems through learning, experimentation, and self-determination is often sacrificed in exchange for the imposed plans of intervening experts.

2.2 The Epistemic Constraint

Throughout the process of foreign intervention, there are two types of constraints that lead one to question whether interveners would always successfully achieve their goals of shaping a society on behalf of others. The first type of constraint that interveners face is epistemic. Regarding the provision of foreign aid, one must consider the fact that interveners are acting in a non-market institutional environment. In the market process, people engage in rational economic calculation to determine which alternate uses of scarce resources are valuable to consumers and which are not. They are guided by money prices to know the relative scarcity of these scarce resources, which helps provide information on how to best utilize their scarce resources (Hayek 1945). Furthermore, monetary profits and losses help indicate which uses of scarce resources are valuable to consumers and which are wasteful (Mises 2012/1920). On the other hand, bureaucrats are left without this monetary standard. Therefore, with the absence of market feedback mechanisms, decisions on the allocation of scarce resources must be based on other factors such as political or social connections; in these cases, market competition is replaced with political competition.

Similarly, policymakers face similar knowledge problems when it comes to the complex set of informal institutions which underpin the formal institutions operating within a given society (see Coyne 2008a; Coyne and Mathers 2010). This is exacerbated by the fact that interveners from a foreign country are further away from the informal institutions of the intervened-upon than interveners that are part of the same nation as the intervened-upon (Boettke, Coyne, and Leeson 2008). Because interveners cannot access the localized, context-specific, and tacit knowledge that underlies these institutions, the result is that they instead turn to top-down, comprehensive plans which abstract from that localized knowledge.[5]

In addition, planners face the simpler challenge of having access to all of the information or data that they see as needed to engage in intervention. The fact that people are constrained both by time and by their brain capacity means that there is only a finite amount of information that they can be aware of or accumulate at any point in time. However, this problem is further exacerbated by the challenges that exist when the data they require to engage in interventions are either imprecise or non-existent altogether. Thus, planners struggle to either receive the knowledge, or even the information, needed to engage in top-down central planning in the form of post-war reconstruction.

2.3 The Incentive Constraint

Even if one would assume that interveners have both the information and the knowledge necessary to engage in top-down centralized planning, there is another constraint that interveners face, which is the constraint of incentives. This can be observed when discussing the incentives and constraints faced by bureaucrats. The competition that exists between different bureaus over scarce resources and influence over reconstruction efforts leads to a variety of consequences that affect efforts at reconstruction. First, bureaus will attempt to receive the largest possible share of resources and the most influence over the reconstruction process as they possibly can, often through signaling their importance relative to other bureaus. Second, this competition over funds and influences leads to each agency pursuing its own agenda, which may clash with the agendas of other agencies and the overall goal of successful economic and social reconstruction. Instead of bureaus working together to achieve the common goals of reconstruction—whether they be security, reducing poverty or increasing economic development, promoting a civil and democratic society, etc.—, agencies are placed at odds with each other. Third, the competition over a limited budget by competing bureaus, combined with the failure of a bureau to spend its entire budget typically leading to reductions in their budget, often lead these agencies to exhaust their budgets, even if it is spent wastefully in a way that is at odds with the stated ideal to minimize cost for the intervener and to maximize benefit for the intervened-upon (Coyne and Pellillo 2011, pp. 639-640). The fact that bureaucrats lack the feedback mechanisms to accurately gauge the effectiveness of allocating scarce resources to its highest-valued uses leads the tendency of bureaus to engage in wasteful behavior to be intensified (Mises 1944).

The challenges that arise from public incentives faced by budget-maximizing bureaucrats are compounded by private incentives that emerge from lobbying or rent-seeking. Because market feedback mechanisms such as profits and losses are unavailable for bureaucrats seeking to find the best utilization or allocation of scarce resources, the political competition that occurs between demanders of rents serves as the next available alternative. Amidst this competition, resources that could have otherwise been used to benefit the intervened-upon are instead being utilized to build, maintain, and take advantage of connections with policymakers to secure lucrative contracts or scarce resources. Furthermore, even more resources can be spent in the interaction between the government and private individuals in the form of rent-extraction (McChesney 1987, 1997). This combination of public and private incentives gives plenty of opportunity for people to engage in unproductive entrepreneurship,[6] which in turn leads to waste, fraud, abuse, and corruption that are at odds with interveners acting on behalf of the intervened-upon.

The incentives that exist between private and public actors in times of peace are intensified in times of war, such as the post-war reconstruction that existed in Iraq, because of the increase in the amount of funds to be sought and expended, the increase in the number of public bureaucrats and private contractors that are supplying and demanding said funds, and an increase in the feeling of urgency to act (Coyne, Michaluk, and Reese 2016, p. 231).

3. SELECTION OF ENDS

3.1 Aligning Policy Goals with the Welfare of the Intervened-Upon

To engage in foreign intervention, the intervener requires a selection of goals, or intended ends or outcomes, to be pursued or achieved. As mentioned in Lambert, Coyne, and Goodman (2021), these interventions often involve some combination of immediate humanitarian assistance, longer-term development, and permanent change towards liberal institutions. Such interventions could be made with an intent to act in the best interest of the intervened-upon. For example, Condoleezza Rice stated the following in a press briefing from April 4, 2003.

> We will help Iraqis build an Iraq that is whole, free and at peace with itself and with its neighbors; an Iraq that is disarmed of all WMD; that no longer supports or harbors terror; that respects the rights of Iraqi people and the rule of law; and that is on the path to democracy (Rice 2003).

This stated intent to intervene in Iraq on behalf of the Iraqis was a position that Bush upheld from his predecessor. In a statement by President Bill Clinton upon signing the Iraqi Liberation Act of 1998 on October 31, he stated that the United States "wants Iraq to rejoin the family of nations as a freedom-loving and law-abiding member", "favors an Iraq that offers its people freedom at home", and "looks forward to a democratically supported regime that would permit us to enter into a dialogue leading to the reintegration of Iraq into normal international life" (U.S. Executive Office of the President, Office of the Press Secretary 1998). This stated objective of acting on behalf of the Iraqis by replacing Saddam Hussein's dictatorship with a pluralist and participatory democracy that upheld the rule of law and respected the rights of Iraq's many ethnic and religious groups also could be seen elsewhere. As mentioned by a statement by Douglas J. Feith to the Senate Committee on Foreign Relation on February 11, 2003,

> If U.S. and other coalition forces take military action in Iraq, they will, after victory, have contributions to make to the country's temporary administration and the welfare of the Iraqi people. It will be necessary to provide humanitarian relief, organize basic services, and work to establish security for the liberated Iraqis (Ehrenberg et al. 2010, p. 170).

More than the provision of basic goods and services, Feith also mentioned in his address that the U.S. intervention in Iraq would also involve a "process of economic and political reconstruction, working to put Iraq on a path to become a prosperous and free country", further stating that "[t]he U.S. government shares with many Iraqis the hope that their country will enjoy the rule of law and other institutions of democracy under a broad-based government that represents the various parts of Iraqi society" (Ibid.). It was also Feith's stated intention that "the United States would have a commitment to leave as soon as possible, for Iraq belongs to the Iraqi people. Iraq does not and will not belong to the United States, the coalition, or to anyone else" (Ibid.).

However, despite the stated intentions of policymakers to act in the best interest of the Iraqis, most of the planning and implementation was done by American planners within bureaucratic agencies, such as the Department of State (DoS), the United States Agency for International Development (USAID), and the Department of Defense (DoD).[7] The ability for these interveners to plan post-war reconstruction in a way that benefited the Iraqis was inhibited by a lack of information among the interveners. For instance, a DoD official, commenting on the lack of information about Iraq's infrastructure and government institutions, which made it difficult to determine what is needed to restore essential services, commented that, "[w]e never had anything more than a PowerPoint briefing… We might have had some financial estimate papers, but it was a lot of back-of-the-envelope, 'what will it take to fix the Ministry of fill-in-the-blank.' It was all guesstimates made on top of suppositions" (SIGIR 2009b, p. 11).

Interveners also faced challenges from limited knowledge of Iraqi culture. For example, Falah Mustafa Bakir provided an example of this lack of local cultural awareness in which “men were searching Iraqi women and entering into private quarters of homes unannounced” (SIGIR 2013, p. 19).[8] Dr. Fuad Hussein further emphasized the damaging results of combining a lack of local knowledge with an insistence of taking total control over key ministries when he stated that “[t]he policy was to control the Ministries of Oil, Interior, and Defense completely, but if you know nothing about the culture you’re trying to control, the result is chaos” (SIGIR 2013, p. 20).

More importantly, the reliance on bureaucracies for planning and implementing post-war reconstruction meant that interveners lacked the ability to access the private valuations of the Iraqi people that they were intervening upon. Lambert, Coyne, and Goodman (2021, p. 288) explain the implications of this observation. At best, this will lead intervening policymakers to plan, to act, and to utilize resources in a way that they believe that individuals in the foreign society would want with the resources the interveners have. At worst, this will lead to intervening policymakers imposing their own hierarchy of values upon the intervened-upon, regardless of the values or plans of the individuals being intervened-upon.

Many officials interviewed in the 2013 SIGIR report highlighted how many projects were constructed without consulting the Iraqis of whether they wanted these projects or not. Ambassador James Jeffrey, for example, noted that “there was never an impression that the Iraqis were included in any decision process” regarding programs or projects (SIGIR 2013, p. 130). Dr. Abdul Basit Turki al-Sae’ed observed that “[s]ome projects were built without asking the Iraqis if it was proper to build such projects” (SIGIR 2013, p. 16). Dr. Dov Zakheim observed that “[w]hat worked were projects that were thought through, were manageable, and had Iraqi buy-in. When we did consult (with the Iraqis), a project usually worked; when we didn’t, it didn’t” (SIGIR 2013, p. 23). Ambassador David Satterfield was “dissatisfied with what appeared to be a disconnect between our projects and Iraqi sense of ownership and buy-in… We were creating white elephants that did not have Iraqi buy-in or training to keep going” (SIGIR 2009b, p. 271).

While shifting policy-ownership from American interveners to Iraqi ones may lead institutions to be more effective due to being more in line with the informal institutions of the society being intervened upon,[9] the same types of epistemic and incentive constraints that U.S. policymakers face are the same types of constraints that Iraqi policymakers would face. This would include the incentives that arise from rent-seeking and rent extractions, the incentive for bureaus to compete over a limited budget, the inability to perfectly access the private valuations of the intervened-upon, and the potential for the objectives and plans of different domestic political authorities to conflict with each other (Coyne and Pellillo 2011, p. 631). Thus, while it may be possible for challenges that arise from intervention to decrease by allowing for “buy-in” by Iraqi politicians and other stakeholders, the basic set of challenges remain.

In addition to instances where the post-war reconstruction of Iraq involved interveners implementing plans that they believed served in the best interests of the Iraqis, the post-war reconstruction in Iraq was filled with examples of U.S. interveners imposing their own ideas and values onto the Iraqis, regardless of whether the Iraqis approved or not. For example, one role of the Iraq Training and Advisory Mission, which comprised of 337 personnel tasked with supporting the Iraqi Ministry of Defense and Ministry of Intelligence in the training of Iraqi police forces, was to “[e]xpose Iraqis to Western values and culture to promote tolerance” (SIGIR 2009c, p. 38). Another example could be seen in disagreements regarding Iraq’s approach to health care. While U.S. experts wanted Iraq to move away from its hospital-based national health care system and towards an emphasis on preventative care delivered at local clinics due to their belief that the latter was necessary to provide health care in rural areas, individuals in the Iraqi medical community resisted this change and urged resources to be utilized to renovate hospitals rather than a new chain of rural clinics: a proposition that was largely ignored as $439 million was spent to build 150 new primary healthcare centers across Iraq and to renovate 17 hospitals (SIGIR 2009b, p. 190).[10] This effort was accomplished by the end of 2007, as a DoS Section 2207 report to Congress on the Iraq Relief and Reconstruction Fund stated that funds were being transferred due to the completion of projects in nationwide hospital and clinic improvements (DoS 2008, pp. 1-41). Yet, the 2013 SIGIR report found the program, the largest single activity in the health sector funded by the Iraq Relief and Reconstruction Fund, to be gravely deficient in its execution (SIGIR 2013, p. 110). Yet another SIGIR report from April 2009, specifically on the project of constructing primary healthcare centers, stated that "the program has cost substantially more than planned, taken much longer to complete, and produced fewer facilities" (SIGIR 2009a, Summary of Report).[11]

Other examples placed U.S. interveners at odds with prominent indigenous Iraqi leaders. For instance, there was opposition among the Iraqis against the Transitional Administrative Law, which sought to enshrine Western federalism in Iraqi law and to delay elections to after the transfer of sovereignty from the Coalition Provisional Authority and the Iraqi Governing Council to a new interim government (SIGIR 2009b, pp. 153-154). The opposition to the U.S.-supported proposal was led by the Grand Ayatollah Ali al-Sistani, the most prominent Shia religious scholar in Iraq at the time of the invasion, who criticized that "the National Assembly will be shackled by a host of restrictions… An unelected body, the Governing Council, in coordination with the occupying authority has imposed a strange law for the administration of the country during the transition period. And what is more dangerous has imposed… a set of principles and processes on the manner in which the permanent constitution is to be written" (Allawi 2007, p. 230). His concern that the Iraqi people would not have their interests represented can also be seen in this fatwa signed by al-Sistani in June, 2003.

> The occupation authorities are not entitled to name the members of the assembly charged with drafting the constitution… There is no guarantee that such a convention will draft a constitution which upholds the Iraqi people's interests and expresses their national identity (Ehrenberg et al. 2010, p. 321).

These quotes above highlight the epistemic challenges that interveners face on enacting policies that are intended to benefit the intervened-upon. However, in addition to the knowledge problems faced by interveners, there are also incentive problems baked within the utilization of bureaucratic means to achieve interventionist ends, as shall be explained below.

3.2 Aligning Policy Goals across Bureaucratic Agencies

In addition to the existence of knowledge problems that the interveners faced, as explained above, the fact that state-led foreign interventionism often occurs through action in multiple bureaucratic agencies leads to the challenge of how to coordinate policy goals within and across these agencies. This coordination had to be done within and across different U.S. agencies, but also across agencies affiliated with different countries involved in post-war reconstruction, including, but not limited to, the United Kingdom, Poland, and of course Iraq itself. Thus, reconstruction in Iraq not only involved a combination of domestic and military bureaucratic agencies, but also those agencies from multiple different countries.

Since reconstruction efforts often involve coordination between multiple, overlapping agencies to be successful, incentives must be aligned so that the plans of different bureaucratic agencies are aligned. However, an economic analysis of bureaucracies (see, for example, Tullock 2005/1965; Niskanen 1968, 1971, 1975) highlights some challenges that bureaucrats face with aligning incentives such that plans between bureaucratic agencies are coordinated. Given the size of each bureaucratic agency involved, it shouldn't be surprising to expect conflicting agendas or activities between bureaucratic agencies that, at least nominally, are on the same page (Coyne 2008b, p. 15). However, the incentive problems to coordination are further exacerbated by conflict caused by the "organizational patriotism" of bureaucratic agencies, in which the belief among bureaucrats that their organization is superior to others leads to conflict between these agencies (Tullock 2005/1965, pp. 46-47). This conflict between many bureaucratic agencies could be seen in different stages of the intervention in Iraq.

The varying of objectives between different agencies could be seen in the planning stage of the intervention and the post-war reconstruction. While planners in the Department of Defense wanted a swift operation that would minimize the military's presence and would lead to a rapid transition to Iraqi control, thus applying Afghanistan as a model to follow, experts in the State Department argued that Iraq needed a longer transitional period with a U.S.-led civil authority governing for several years as Iraq builds up democratic institutions (SIGIR 2009b, p. 8). Further, a recommendation in October 2002 that the Secretary of Defense should be placed in charge of the entire operation led to opposition and debate among interagency planners, leading Lieutenant General George Casey to say that, "[w]e lost, in my view, two months while we fought over who was going to be in charge" (SIGIR 2009b, p. 12). The challenges of fragmented planning, which SIGIR explains through both bureaucratic challenges and to higher-level strategic judgment, could be seen in the following quote below:

> For nearly a year, the NSC [i.e., National Security Council] exercised loose coordination over separate efforts by State and Defense and did not seek the participation of post-conflict experts at USAID. The marked separation between civilian and military preparations, which had existed since late 2001, was followed by further fragmentation within the interagency planning process, which had begun in earnest in August 2002. Even as officials thought they were moving toward an integrated master plan, the building blocks of that plan were being developed in a piecemeal fashion that rendered risks and needs less visible (SIGIR 2009b, p. 16).

The coordination problem that U.S. bureaucratic agencies faced when planning for the invasion of Iraq continued into the postwar reconstruction period. As stated in the SIGIR report from 2013, "[a]lthough the civilian surge provided much-needed personnel for the dispersed capacity-building efforts that began to dominate reconstruction, the coordination of an expanding U.S. Mission-Iraq became much more complicated. As the organization chart for 2007 visually reveals, it was difficult to manage funding and programs (see Image 4)" (SIGIR 2009b, pp. 43-44).

A survey of military commanders regarding their coordination with bureaucrats from other agencies, as another example, stated that that 32% of commanders said that coordination with USAID was poor or very poor, 32% said that coordination with the State Department was poor or very poor, and 24% said coordination with Provincial Reconstruction Teams was poor or very poor (SIGIR 2012c, pp. 12-13). Those who served on earlier deployments often cited a lack of DoS involvement as a reason of this lack of coordination. For example, one person reported a "[l]ack of… willingness of DoS and USAID to get involved" while another argued that "[t]he overall program needs to be better coordinated through the interaction of and the increasing role of the State Department" (SIGIR 2012c, p. 13). While responses also suggested that coordination improved over time, the report also stated that "comments from both military and civilian personnel described persistent structural issues that impeded coordination and even prevented effective communication between agencies" (SIGIR 2012c, p. 11).

The survey from SIGIR mentioned above is not the only example of inter-agency conflict, leading to challenges with coordination. A bipartisan report on the post-invasion situation of Iraq from 2006 stated that, "[t]he coordination of assistance programs by the Defense Department, State Department, United States Agency for International Development, and other agencies has been ineffective. There are no clear lines establishing who is in charge of reconstruction" (Ehrenberg et al. 2010, p. 375). Without clear direction on which agency is responsible for which part of reconstruction, this led to instances of confusion, discoordination, and conflict among the different agencies, as observed by Iraqi officials in the 2013 SIGIR report. For example, Minister Falah Mustafa Bakir stated that, "[t]he biggest problem was that the White House, the Department of Defense, the Department of State, and the CIA were all carrying out different strategies. From the day after the invasion, they were not able to win the peace" (SIGIR 2013, p. 19). Dr. Fuad Hussein also criticized the lack of coordination among U.S. government agencies when he stated that, "[n]ot only was there no coordination between the Department of State, the Pentagon and the CPA, they were fighting each other. I had two advisors—one from the State Department, the other from the Defense Department; they didn't talk to one another" (SIGIR 2009b, p. 20).

The lack of coordination between U.S. bureaucratic agencies also had consequences when it comes to contracting. For example, Ambassador Zalmay Khalilzad's calls for the Department of Defense to replace cost-plus contracts with fixed-cost contracts "exposed interagency weaknesses within the Iraq program's ad hoc structure. Pursuant to a May 2004 presidential order, Defense managed the contracts, while State managed rebuilding policy. Given that the operators within these respective 'stove-pipes'[12] answered to different masters with different agendas, program and project discontinuities and disconnects became *de rigueur*" (SIGIR 2012c, p. x; emphasis original).

In addition to the challenges that U.S. bureaucratic agencies had in coordinating with other U.S. bureaucratic agencies, there were also challenges in coordinating between U.S. bureaucratic agencies and Iraqi bureaucratic agencies. By the time that General David Petraeus arrived in Iraq in 2007, there were eight major coordination bodies for at least 62 agencies and sub-agency offices involved in the U.S.'s post-war reconstruction efforts. As stated by a military colonel, "We have an underdeveloped Iraqi bureaucracy and an overdeveloped U.S. bureaucracy, and the two of them [make] each other [stagnate]" (SIGIR 2009b, p. 307). This, combined with challenges that interveners face when acting on behalf of the intervened-upon as mentioned earlier, leads to projects being built that Iraqis neither needed nor wanted, such as the development of a Police Development Program in 2011, publicly decried by Minister Adnan al-Asadi, who declared that Iraq did not need that program (SIGIR 2013, p. 14).

While better coordination between bureaucratic agencies was a stated goal throughout the post-war reconstruction efforts in Iraq, and while improved coordination was also a stated lesson that was to be learned from experiences in Iraqi post-war reconstruction, the struggle to achieve this coordination—both between U.S. agencies and between U.S. and Iraqi agencies—emphasize the incentive constraints that interveners face in utilizing the bureaucratic process to engage in this effort. As will be seen in the next section, however, the challenge of interagency coordination is not the only challenge of using the bureaucratic process.

4. SELECTION OF MEANS

4.1 Metrics of Success

In his analysis of government bureaucracy, Ludwig von Mises defined bureaucratic management as the "management of affairs which cannot be checked by economic calculation" (1944, p. 48). Since bureaucrats are left without the feedback mechanisms that exist in the market, alternative metrics must be applied if one wants to achieve the goal of intervening through bureaucratic means (Mises 1944, 1998/1949).

In the absence of monetary profits and losses, one mechanism used to determine the success of a bureaucratic agency is the size of its discretionary budget: the amount of money that an agency spends beyond what is necessary to satisfy the demands of legislators (Niskanen 1968, 1971, 1975). Timothy Carney, a former Coordinator for Economic Transition in Iraq, mentioned how spending Iraqi money became an important benchmark in the eyes of U.S. lawmakers, as he said in a SIGIR interview from 2008 that, "[i]f the Iraqis remained unable or unwilling to spend their own capital investment budget, there was certainly no reason for the Congress of the United State to appropriate money for Iraq" (SIGIR 2009b, p. 299). The amount of money allocated to the five major funds involved in Iraqi reconstruction rose to $51.62 billion being appropriated and $49.37 billion being obligated by September of 2012, with the rise of cumulative obligations among each of the five funds[13] indicating that bureaucrats faced a soft budget constraint (SIGIR 2013, p. 57). Since bureaucrats receive resources allocated to them from an overall pool of resources by legislators, and must they compete with other bureaucrats over that pool of financial resources, each bureau is incentivized to produce observable outcomes to show that they are important and in need of the legislators' resources. For example, a rivalry between the Defense and State Departments was partly driven by the rate at which the department spent money on projects (SIGIR 2013, p. 28). As a result, Ambassador Christopher Hill concluded that the State Department "spent too much and took on too much" (Ibid.). Likewise, the same report also stated concern over the use of spending as a metric of success, when it stated that "Washington measured the success of reconstruction by the amount of money obligated and spent, which clashed directly with the need for what Lieutenant General Bostick called 'strategic patience' in a contingency operation" (SIGIR 2013, p. 26).

This focus on spending, combined with insufficient oversight or control over financial resources as will be observed later in the paper, has led to examples of excessive amounts of spending. For example, Parsons Delaware was contracted in May, 2004, with constructing the Khan Bani Sa'ad and Nassiriya correctional facilities, but failed to make sufficient progress on the projects, failed to adhere to the construction schedule, and failed to control costs after having spent $62 million on the projects (SIGIR 2013, p. 102). The Nassiriya prison was completed in 2010 after another $37 million was spent, and the Khan Bani Sa'ad facility remained unfinished (as of the releasing of the SIGIR report) after an additional $7.2 million was spent, leading to a waste of about $40 million. Likewise, Parsons was initially involved in the construction of primary health clinics, but their contract was terminated after $186 million was spent on the program and only six clinics were constructed by March 2006 (SIGIR 2009a, p. 1; SIGIR 2009b, p. 191). Furthermore, provincial response teams (PRTs) operating in Iraq often found themselves using CERP funds to pay for more than the cost of materials in construction. This could be seen, for example, in this quote.

> We're pumping over $1 million just to renovate the [district advisory council] hall… We're building a farmer's market across from the Doura market, and we're spending over a million dollars. It's just a concrete slab and a tin roof. And the contract is $900,000 (SIGIR 2009b, p. 302).

This concern that the measurement of progress placed too much emphasis on the quantity of money spent is also seen, for example, by Tim Zuniga-Brown, the team leader of Rasheed ePRT.[14]

> They are being graded on how many projects are being carried out, how much money is flowing to the districts… They should be graded on how many projects are being turned over to the Iraqis and how much less money they are spending. That would be a better indicator of success… Success is getting Iraqis to deliver their own services using their own funds and their own people (SIGIR 2009b, p. 303).

Other PRT officials argued that the entire concept of the Coalition providing financial assistance to be wholly counterproductive. As one ePRT official stated, "The best thing we could do is cut off CERP money" (Ibid.). This was from the concern that Iraqis were less likely to "spend their money when we're just pumping in ours" (Ibid.).

Another mechanism used to measure success was performance-driven outcomes. A SIGIR report from July 2005 listed several quantitative metrics of success, including Iraqi employment on U.S. government projects, weekly Iraqi crude oil production, monthly Iraqi crude oil export volume and revenues, refined petroleum supplies, monthly national fuel stock levels, electricity output, the number of telecommunication subscribers, and the number of Iraqi security personnel trained (SIGIR 2005, pp. 29-35). Similarly, in reports for the Iraq Relief and Reconstruction Fund, the Department of State tracked spending and performance on various sectors including Security and Law Enforcement; Justice, Public Safety, Infrastructure, and Civil Society; Electric; Oil Infrastructure; Water Resources and Sanitation; Transportation and Telecommunications Projects; Roads, Bridges, and Construction; Health Care; Private Sector Employment Development; and Education, Refugees, Human Rights, Democracy, and Governance. The measuring of metrics can be seen, for example, in the number of battalions that have completed training for the Iraqi Army or the construction of primary health clinics (DoS 2005). Likewise, the USAID's "Vision for Post-

Conflict Iraq" provided specific goals regarding a variety of priorities for immediately after the conflict, 60 days, 6 months, 12 months, and 18 months after the conflict (USAID 2003).[15]

However, even with goals tied with the metric of producing some material outcome, there were still challenges regarding the data underlying said metrics.[16] A SIGIR report from July 2011 stated that "SIGIR found that the data underlying these metrics is not well supported, resulting in output measures of limited usefulness. USF-I [or United States Forces-Iraq] often relies on imprecise testimonial evidence from subject matter experts and local Iraqi contacts as the basis for the data. A USF-I official stated that, because of the imprecise data, the effect and impact of CERP projects are largely unknown" (SIGIR 2011b, p. 108).

Further, as the U.S. effort at reconstruction in Iraq continued, the metrics that interveners used to measure success changed as their goals changed. For example, the United States Embassy Baghdad's Office of Provincial Affairs used the "Stability Development Roadmap" as an assessment model to measure how susceptible Iraqi provinces are to civil unrest. It involved five categories—basic services, government effectiveness, political effectiveness, economic development, and rule of law—and 35 metrics were measured to determine satisfaction for each of the categories (SIGIR 2011b, p. 76). However, there were also instances in which interveners struggled to have measurable metrics of success. The goal of implementing programs to promote a "vibrant civil society" in Iraq—as seen with a program meant to improve government responsiveness to local needs or a program focused on encouraging greater participation among citizens in parliamentary democracy—serves as an example (SIGIR 2013, p. 108). In response to these programs, the SIGIR 2013 report stated the following:

> It is difficult to measure accurately the effects of the USAID programs established to encourage the spread of democratic principles in Iraq. These efforts trained tens of thousands of civil servants on improving government responsiveness and sought to open the eyes of countless citizens to the benefits of living in a free democracy. But no meaningful metrics were established to assess the results of these activities. Perhaps the problem lies in the nature of the program itself: how do you empirically capture the effects of civics training on the ability of a person to be a better citizen? (Ibid.).

An earlier SIGIR report from 2008 stated the following about the data on Iraqi security forces, which highlights the concerns about the impreciseness of the data and about changing metrics:

> The data on Iraqi forces assigned and trained continues to contain inaccuracies, and comparability among DoD's quarterly reports is difficult because of changing metrics and definitions. Inaccuracies in the data persist because Iraq's payroll systems contain improper documentation and reporting of personnel actions and unauthorized employees. They also contained inconsistent information as a result of corrupt and irregular practices. In addition, the usefulness of data on Iraqi police assigned and trained continues to be limited because not all police assigned to the force have been trained. Furthermore, not all those trained—both police and military—are available for duty: some of those reported as assigned have completed their obligation, some are on leave or are absent without leave, and others have been injured or killed. Because reporting metrics and definitions have changed, meaningful trend analysis remains difficult (SIGIR 2008c, p. 164).[17]

Similarly, another SIGIR report from 2008 stated that "[a]lthough the March 2008 Section 9010 report, as well as earlier ones, presents an array of numbers, other information in the 9010 reports and elsewhere indicates (1) uncertainty about the number of Iraqi personnel who are present for duty at any one time; and (2) uncertainty about the capabilities of the police force because the police have greater capacity to recruit than to train— this limits the number of police on the rolls who have been trained" (SIGIR 2008b, p. 5). In short, even if there is no uncertainty regarding the *quantitative* data, there may still be uncertainty regarding the *qualitative* data that can be used to measure the success of post-war reconstruction efforts.

In addition to SIGIR occasionally having difficulties in measuring the outcome of reconstruction efforts, there were other instances in which SIGIR faced difficulty in measuring the cost of said reconstruction efforts. This can be seen, for example, in the development of the Iraq Special Operations Army. While the training of this force was, in part, funded with $237 million of U.S. reconstruction money, because funds used to equip and provide infrastructure for this force could not be accounted for, the total cost of the program remains unknown despite its success in providing a force of 4,100 trained soldiers who played an important role in the Iraq War (SIGIR 2013, p. 98).

The failure in some circumstances to find sufficiently good metrics, or even sufficiently good data, to determine success or failure of output goals can be seen as a technological problem by planners. However, as emphasized by Coyne (2013, pp. 71-79), there is a distinct difference between output production, which can be increased with more inputs, and economic progress—alongside the trial-and-error process of anticipating and responding to changes in consumer demand and availability of inputs—which can only occur with the feedback mechanism provided in markets. Similarly, just because United States personnel could spend millions of dollars in programs intended to build Iraqi civil society and to make Iraq more democratic doesn't mean that liberal political institutions emerged or stuck in the country, or that the external perception of a country's rankings in indicators of the health of said liberal political institutions improved (see Image 1 and Image 2).

4.2 Contracting

In addition to the use of American bureaucrats within government agencies, another means of Iraqi reconstruction was the use of government contractors, which was seen as a way of "outsourcing" work to the private sector. Because of constraints in the ability of individuals within government agencies like the Department of State to engage in post-war reconstruction, some of the work was delegated to about 180,000 private contractors, about half of whom were engaged in some security or other armed function, under the authority of the Coalition Provisional Authority during the Iraqi occupation (Ehrenberg et al. 2010, p. 208). Likewise, a SIGIR report from July 2011 stated that, out of the 69,457 contractors and grantees in Iraq, 62,484 received contracts with the Department of Defense, 4,803 from the Department of State, and 2,065 from the U.S. Agency for International Development (SIGIR 2011c, p. 44). This extensive contracting was summarized by Secretary of State Hillary Clinton in a SIGIR report from April 2011, in which she stated that "both State and USAID have historically been unable to hire enough in-house experts and had to rely too much on contractors" (SIGIR 2011b, p. 51).

One common critique that is seen in many SIGIR reports was the use of cost reimbursement (or cost-plus) contracts, in which "the U.S. government reimburses the contractor for all allowable, allocable, and reasonable contract costs" (SIGIR 2006a, p. 56). While SIGIR argued that "the cost-plus design-build contracts" that were in place in mid-2005 "were inappropriate for the mission and too wasteful" (SIGIR 2013, p. x), attempts to convince the Department of Defense to replace these contracts with fixed-cost contracts, in which "payment is made to the contractor on the basis of pre-established prices" (SIGIR 2006a, p. 56), showed challenges of coordination between bureaucratic agencies as mentioned in a section above. Likewise, a SIGIR report from April 2011 stated that a disadvantage of using contractors in overseas contingency operations was that "[c]ontractor incentives prioritize profit and contractual considerations, not mission success" (SIGIR 2011b, p. 51).

Yet, it is also the case that "[c]ost-reimbursement contracts are typically used in risky situations when the U.S. government is unable to provide sufficient information for offerors to accurately determine a competitive price" (SIGIR 2006a, p. 56). This highlights the issue of contract incompleteness, in which contracts often cannot be designed in a way that details all possible scenarios with desired specificity (Hart 1989; Hart and Moore 1999; Hart, Shleifer, and Vishny 1997; Tirole 1999). This is seen in the form of "undefinitized contract actions," in which "the contract terms, specifications, or price are not agreed upon before performance is begun under the action" (Defense Federal Acquisition Regulation Supplement 2024). Criticism over contract incompleteness could be seen from Dov Zakheim over the use of undefinitized contracts that were still undefinitized more than six months after the start of the reconstruction program, in which he stated that, "[i]f you can't figure it out in six months, you'll not figure it out at all" (SIGIR 2013, p. 23). While it is intended by law for undefinitized contracts to eventually be definitized, erroneous belief that definitization requirements did not apply to Iraq task orders led to millions of dollars in waste (SIGIR 2009b, p. 175). As further emphasized in the "Review of the Use of Definitization Requirements for Contracts Supporting Reconstruction in Iraq", a SIGIR report from July 2006, "[t]he incomplete nature of the content in the contract databases does not support the DFARS [Defense Federal Acquisition Regulation Supplement] requirement for ensuring that definitization occurs in a timely manner, and thus implementing cost control" (SIGIR 2006b, p. ii).

As discussed by Lambert, Coyne and Goodman (2021, p. 298), contract incompleteness, combined with asymmetric information, leads to principal-agent problems, which in turn allow for contractors to act opportunistically (Miller 1992; Williamson 1993). This insight, combined with the insight that the principals are bureaucrats who are largely distant and disconnected from their contractor agents and from Iraqi civilians as well as the insight that bureaucrats operate under a soft budget constraint, leads to a lot of potential for waste in the reconstruction project. This could be seen, for example, when weak contract oversight allowed an Anham, LLC, subcontractor to charge $900 for a control switch valued at $7.05 (a 12,666% markup), $80 for a PVC plumbing elbow valued at $1.41 (a 5,574% markup), $75 for another piece of plumbing equipment valued at $1.41 (a 5,219% markup), $3,000 for one kind of circuit breaker valued at $94.47 (a 3,076% markup), and $4,500 for another kind of circuit breaker valued at $183.30 (a 2,355% markup) (SIGIR 2013, p. 3; see also SIGIR 2011a).

Despite the billions of dollars spent on Iraqi reconstruction, an overreliance on many layers of subcontractors, according to Khudayer al-Khuza'ie, meant that, "by the time you got to the contractor doing the actual work, there was only enough money for one coat of paint that melted away as soon as it rained" (SIGIR 2011c, p. 43). The presence of incentive problems for individuals engaged in post-war reconstruction, both regarding the bureaucrats themselves and contractors or subcontractors engaging with bureaucrats, combine with the epistemic constraints mentioned in previous sections of the paper to result in the consequences that will be discussed in the next section.

5. REALIZATION OF ENDS

5.1 Waste and Fraud

With a lack of property rights, monetary market prices, and pecuniary profits and losses that allow individuals to engage in rational economic calculation in the market process, decisions relating to the allocation of scarce resources were left to a political process in which bureaucrats within and across several agencies competed. However, incentives inherent within bureaucracies, combined with the lack of feedback mechanisms for accountability with regards to the opportunity cost of scarce resources, meant that bureaucrats could engage in massive amounts of spending with limited accountability (Lambert, Coyne, and Goodman 2021, p. 294). For example, a SIGIR audit from July 27, 2010 called "Development Fund for Iraq: Department of Defense Needs To Improve Financial and Management Controls" stated that, "[w]eaknesses in DoD's financial and management controls left it unable to properly account for $8.7 billion of the $9.1 billion in DFI [Development Fund for Iraq] funds it received for reconstruction activities in Iraq" (Coyne 2011, p. 17). In SIGIR's summary of their discoveries in *Hard Lessons*, they reported that "[t]he overuse of cost-plus contracts, high contractor overhead expenses, excessive contractor award fees, and unacceptable program and project delays all contributed to a significant waste of taxpayer dollars" (SIGIR 2009b, p. viii).[18] The 2013 SIGIR report discussed waste as "the product of poor planning and weak controls", fraud as "intentional wrongdoing by persons seeking to enrich themselves", and abuse as the outcome of "bad management" (SIGIR 2013, p. 1). Likewise, one could consider this summary of a 2012 SIGIR report on Iraq reconstruction funds:

> SIGIR audits, inspections, and investigations have found serious weaknesses in the government's controls over Iraq reconstruction funds that put billions of American taxpayer dollars at risk of waste and misappropriation. The precise amount lost to fraud and waste can never be known, but SIGIR believes it is significant…
>
> SIGIR audit reports identified internal control weaknesses such as inadequate reviews of contractors' invoices, insufficient numbers of, or inadequately trained oversight staff, poor inventory controls, high staff turnover, poor recordkeeping, insufficient price competition by subcontractors, and weak oversight of cash disbursements. For example, SIGIR's audit of a DoS contract for Iraqi police training program support found that more than $2.5 billion in U.S. funds was vulnerable to fraud and waste as a result of poor DoS oversight. Another SIGIR audit of a DoD contract for warehousing and distribution services found that the contractor's business systems had not been adequately reviewed. Business system reviews are the government's primary control to ensure that prices paid are reasonable and allowable.
>
> Weaknesses in internal controls open the door to opportunities for fraud and other illegal activities. As of June 30, 2012, SIGIR investigators, working with other agencies' investigators, have developed information used to indict 87 individuals and convict 71 individuals for fraudulent activities including bribery, kick-backs, theft of government funds and property, inflated invoices, delivery of insufficient or inferior goods, and bid rigging (SIGIR 2012a).

SIGIR reports highlighted many instances of government resources being wasted. Iraqi Prime Minister Nuri al-Maliki, for example, recalled how a small school refurbishment project, for which only $10,000 was requested by the administrator, led to U.S. authorities insisting on providing $70,000 (SIGIR 2013, p. 11). He also described a primary healthcare program that ultimately cost $345 million, which was more than 40% over budget, and in which the Basrah Children's Hospital, a flagship project, cost 200% over budget and was four years behind schedule in its production (Ibid.). Former Iraqi Deputy Prime Minister Dr. Ahmed Chalabi provided another example of waste in that "a square meter of concrete should cost 4,000 Iraqi dinar. The United States paid 16,000" (SIGIR 2013, p. 17). In doing so, he also highlighted problems he saw with contracting and with the challenges of American personnel interacting with Iraqis when he said that "[t]he U.S. personnel knew what to do and viewed all Iraqi ideas as useless, but the U.S. approach was wasteful, using design-build contracts to accomplish simple construction projects" (Ibid.). Likewise, a senior official highlighted how, between 2003 and 2007, "[w]e so rapidly went from… the Wild West days to a different kind of waste" (SIGIR 2009b, p. 307).

In addition, SIGIR reports have also provided multiple examples of fraud.[19] SIGIR's *Hard Lessons* reported that, by 2008, "there have been at least 35 convictions resulting from criminal misconduct committed during the U.S. reconstruction project" (SIGIR 2009b, p. 217). The immense amount of money and the immense extent of the reconstruction project meant that millions of dollars could be subject to fraud. For example, Robert Stein Jr., after being confronted by SIGIR auditors for his fraudulent activities, recalled the experience of handling tens of millions of dollars from the CPA Comptroller's vault:

> It's amazing. The vault had pallet upon pallet of hundred dollar bills. This was more cash than Donald Trump had ever seen in his life. When you work around money like that, it becomes 'so what, it's just paper.' The procedures were so lax it was unbelievable. I worked government contracts before in the States, so I know (SIGIR 2009b, pp. 219-220).

SIGIR's *Hard Lessons* reported two of Stein's most flagrant examples of waste, fraud, and abuse. One was the Babylon Police Academy, in which, of the $7.3 million allocated in contracts or grants for the construction of the academy, CPA officials "needlessly expended almost $1.3 million in contract funds for duplicate construction" and for "equipment not needed, not delivered, and overpriced" (SIGIR 2009b, p. 220). Moreover, Stein "could not account for more than $2 million of disbursed grant funds" (Ibid.) and auditors were unable to determine if the remainder was used to meet contract obligations. The second example was the Kerbala Library in which, out of about $2.1 million of total outlays, CPA officials needlessly disbursed more than $1.8 million and, of that amount, about $1.6 million was spent on work that was never done (SIGIR 2009b, pp. 220-221).

The ability of individuals to engage in wasteful or fraudulent spending was strengthened even further by the relative lack of oversight, which was emphasized in many SIGIR reports. For example, weak contract oversight practices, such as the Defense Contract Audit Agency failing to review Anham LLC's cost-estimating system and the Defense Contract Management Agency's approval of Anham's purchasing system despite gaps in documentation, led Anham to be able to egregiously overbill in their contracts, such as charging $900 for a control switch valued at $7.05, charging $80 for a PVC elbow valued at $1.41, and charging $3,000 for a circuit breaker valued at $94.47 (SIGIR 2013, p. 3). Representative Stephen Lynch stated the importance of oversight when he said that, "[w]e did not have that at the beginning… [A] lot of money went out the door" (SIGIR 2013, p. 33). This lack of oversight throughout the contracting process—from the awarding of the contract to monitoring progress and completion—could be attributed to the lacking capacity of those in agencies like the Defense Contract Audit Agency to process the inflow of contracts (Coyne, Michaluk and Reese 2016, p. 233). Given the possibility of disfunctions within the very agencies intended to provide oversight as to prevent disfunction in other agencies, the addition of resources intended to provide more oversight would potentially lead to amplifying structural issues at odds with the stated goal of providing a check to waste, fraud, and abuse (Ibid.).

5.2 Corruption

Corruption was seen by most individuals interviewed by SIGIR as a challenge that inhibited the ability of interveners to implement their plans regarding post-war reconstruction, and a challenge that needed to be overcome, either by the interveners or by the Iraqis themselves. For example, Dr. Ayad Allawi referred to the failure to address corruption early in the reconstruction process as "one of the United States' biggest mistakes" (SIGIR 2013, p. 16). From 2003 to 2008, public perception of corruption in Iraq was on the decline, and it was only in 2021, a decade after the U.S. occupation ended, that the index reached the level it was at in 2003 (see Image 3). More than corruption merely being a siphon of resources that could not otherwise be spent on projects which are more likely to be beneficial for the intervened-upon, Coyne, Sobel, and Dove (2010, p. 341) pointed to the observation that corrupt governments shift resources to maximize the amount of rents received and captured from foreign aid donors, and once these networks are in place, they could have a counterproductive effect to the interveners' stated goal of promoting liberal market and political institutions.

In addition to corruption being a challenge that U.S. interveners tried, and often failed, to overcome, there are some insights from SIGIR that also noted how the intervention in Iraq facilitated a system that allowed for corruption to occur. Dr. Abdul Basit Turki al-Sae'ed, for example, argued that "[t]he U.S. reconstruction program inadvertently fostered a 'triangle of political patronage,' involving political parties, government officials, and sectarian groups. This lethal axis fomented a brew of terrorism and corruption that poisoned the country" (SIGIR 2013, pp. 15-16). This reflects how the Iraqi post-war reconstruction involved exchange and competition through a political bureaucratic process, rather than the market process, to decide how scarce resources are to be allocated among many competing ends. The combination of public incentives within the bureaucracy and private incentives with rent-seeking and contracting led to prevalence of this corruption and unproductive use of time and resources. Furthermore, SIGIR's *Hard*

Lessons quoted from scholars to argue that "'[c]orruption thrives in the environment of post-war reconstruction,' which combines 'large public procurement projects, major funding infusions, and inadequate government economic management'" (SIGIR 2009b, p. 210). As emphasized earlier, this corruption is even more prevalent when one considers the immense amount of funds involved in the intervention, and the lack of oversight over these funds.

In addition, while SIGIR observed that the "State [Department] failed to move aggressively to secure the necessary funding to support a large and effective anticorruption program", it also noted that anti-corruption efforts "lacked metrics and baseline data for assessing the program's impact on reducing corruption" (SIGIR 2013, p. 102). Thus, while corruption was made prevalent due to the incentive problem faced by interveners, the challenges of combatting said corruption was in part due to the lack of information that the interveners also faced. The presence of both types of constraints can help explain how, in spite of attempts to counter this corruption, the public perception throughout most of the U.S. occupation was that corruption was getting worse in their country.

6. CONCLUSION

In conclusion, efforts at post-war reconstruction in Iraq faced many challenges affiliated with the "fatal conceit of foreign intervention." In many cases, interveners faced epistemic (i.e., knowledge) problems that inhibited their ability to know how to act in ways that benefited the Iraqi people. As stated by David Atteberry, "[i]t's so presumptuous to think we have any idea what's going on… We are continually stumbling around in the dark blind. We're worse than the blind because at least the blind know they are blind" (SIGIR 2009b, p. 303). However, in addition, the interveners also faced incentive (i.e., political) problems as they sought to change Iraqi society as if it was a technological problem that required the right plan and enough resources and monitoring for accountability to successfully implement that plan. The first-hand accounts provided within the SIGIR reports and primary documents within *The Iraq Papers* provide a glimpse into an explanation of how these knowledge and incentive constraints contributed to failure.

The epistemic and incentive challenges that interveners in Iraq faced have implications for other examples of military intervention and post-war reconstruction, in that the presence of these challenges shift the cost-benefit analysis of whether an intervener's attempt at reconstruction will be beneficial, either for the intervener or for the intervened-upon. It should be noted that this paper is limited in its attempt to achieve that goal, and likely underestimates the magnitude of constraints faced by the interveners. This is because the window provided by the resources provided by SIGIR was a window that was largely U.S.-centric and limited to a handful of U.S. and Iraqi politicians, military officials, and others involved in implementing Iraqi post-war reconstruction. The nuances, realities, and perspectives of ordinary Iraqi civilians were largely missing from the primary sources utilized for this paper. Nevertheless, the resources provided by SIGIR do provide insight into some of the key patterns and constraints faced by interveners when engaging in foreign interventions. More broadly, an analysis of these primary sources using insights from mainline political economy provides an opportunity to reconsider whether a government in one country can achieve liberal ends of promoting and upholding liberal institutions in foreign societies using the illiberal means of military interventionism, post-war reconstruction, and expert-driven centralized planning.

APPENDIX

Image 1: An Index of Iraqi Political Freedoms and Civil Liberties from 2000 to 2020 (Freedom House 2024)

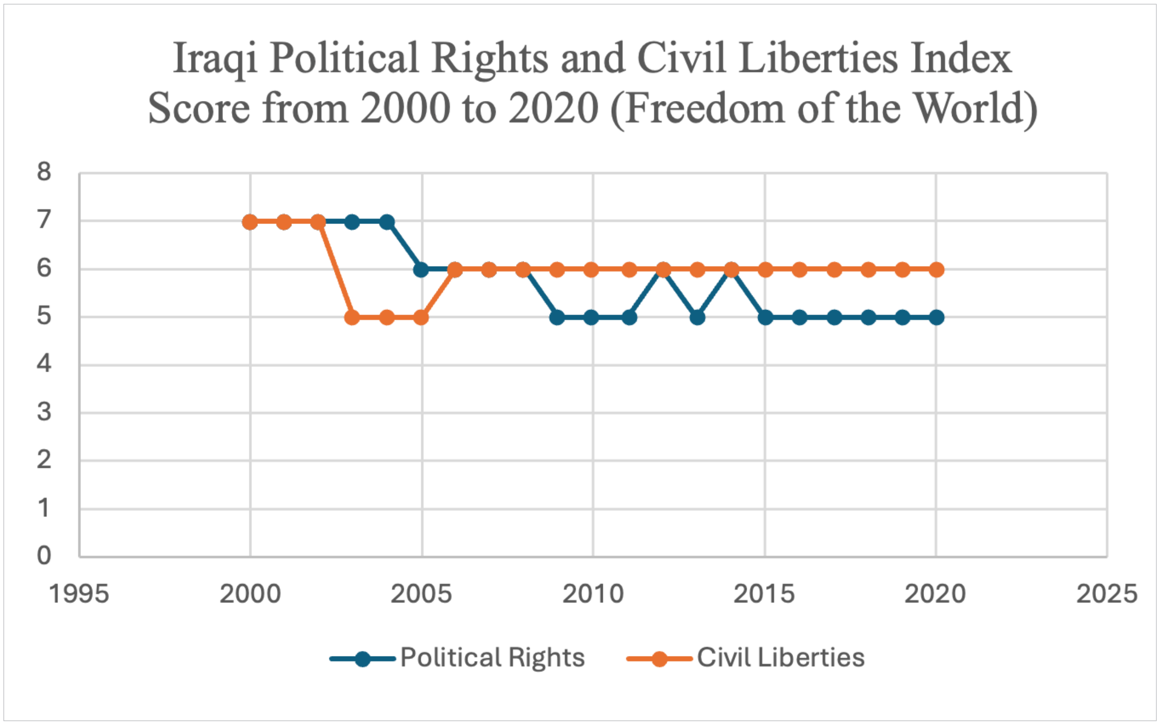


Image 2: Iraq's Democracy Index (Economist Intelligence Unit (2006 - 2023)—processed by Our World in Data)

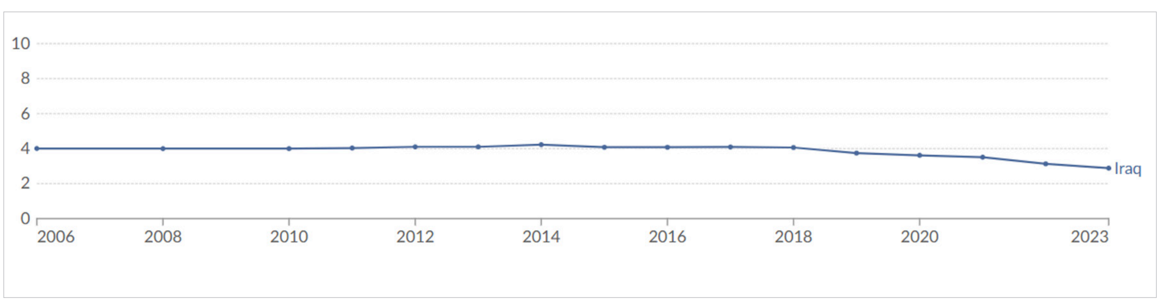


Image 3: Iraq's Corruption Perception Index (Transparency International)[20]

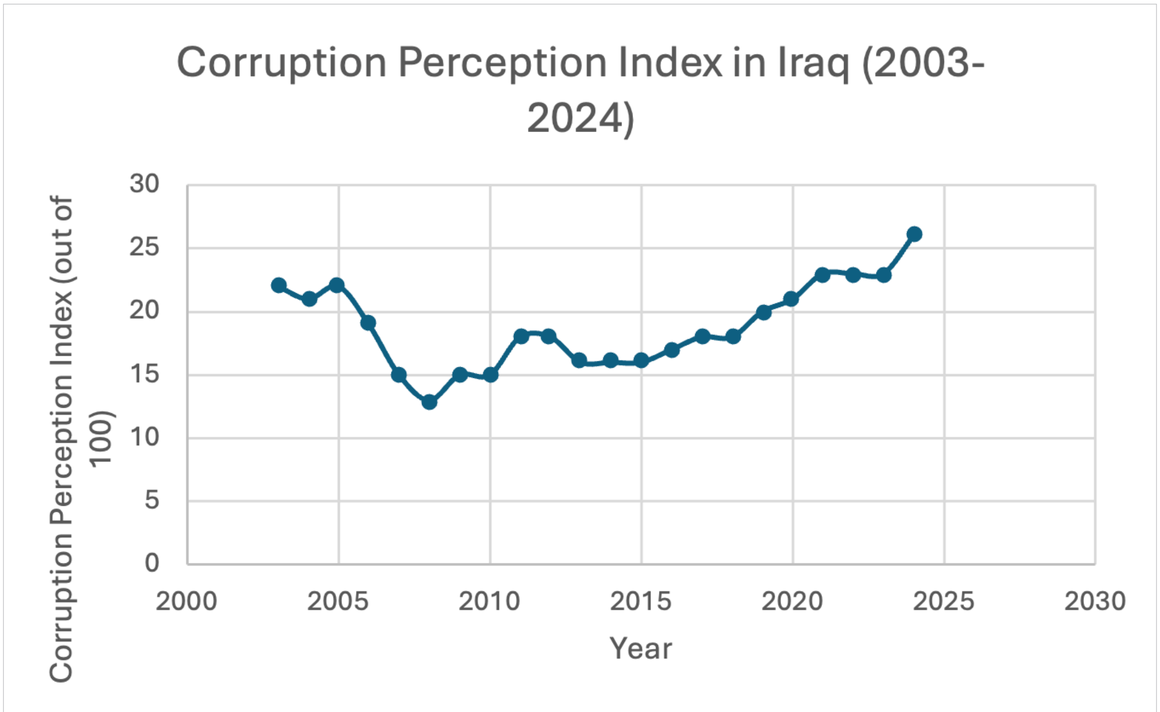
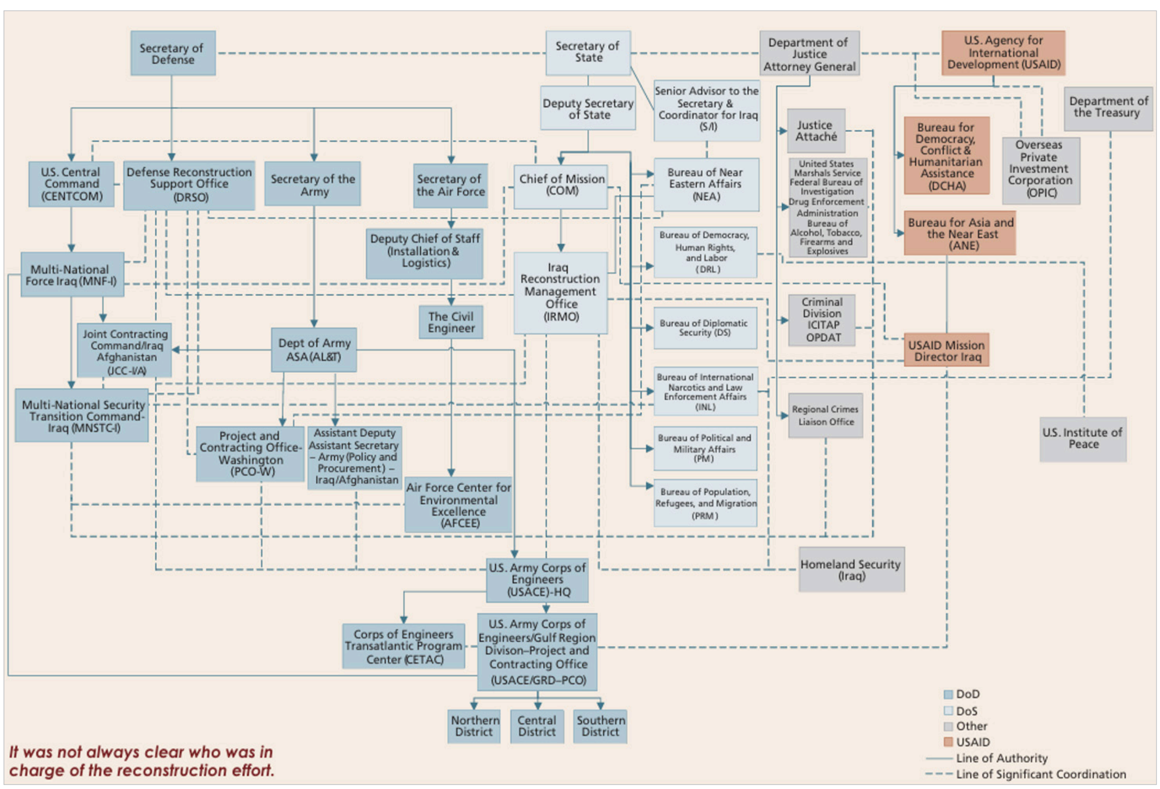


Image 4: U.S. Embassy-Baghdad Organization Chart During 2007 (SIGIR 2013, p. 45)



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NOTES

1 When estimated obligations for future veterans' care through 2050 is considered, the estimated cost of war increases to approximately $2.89 trillion (Crawford 2023, p. 1).

2 This paper is not arguing that every foreign military or humanitarian intervention will fail, nor is it arguing that every attempt at aiding or assisting Iraqis have failed. Rather, the point of this paper is to simply emphasize how these epistemic and incentive constraints provided challenges to interveners—specifically those from the United States—seeking to act on improve the lives of Iraqis.

3 For more on the viability of rational construction in the context of the transferability of institutional capacity, see Fukuyama (2004) as explained, for example, by Coyne and Mathers (2010).

4 As explained by Boettke, Coyne, and Leeson (2008), it may be these exact emergent or informal institutions that are both indigenous and endogenous that may serve as a foundation for the effectiveness of more formal, or exogenous, institutions, whether they be indigenous or foreign to the society receiving said institution.

5 To see a discussion of the U.S. military's overemphasis of top-down planning in its economic reconstruction efforts, see the discussion of its counterinsurgency and stability operations field manuals by Coyne and Pellillo (2011, p. 634).

6 See Baumol (1990) for an explanation of the term, "unproductive entrepreneurship," as compared with "productive" or "destructive" entrepreneurship.

7 There were more than 200 Iraqi exiles involved in the formulation of the State Department's "Future of Iraq" project (SIGIR 2009b, p. 15). However, many of those exiles were out of the country for decades, and thus were likely isolated from the important debates that occurred between indigenous Iraqi politicians and other important leaders. Thus, their ideas were that of a "dissident minority" that did not fully align with the existing political and social realities of ordinary Iraqis (Ehrenberg et al. 2010, pp. 285-286).

8 This is not to imply that interveners can never learn another culture's knowledge, as seen with Minister Bakir giving a contrast between U.S. actions with those of Korean military forces, who did study Kurdish culture and expressions (SIGIR 2013, p. 19). Yet, an understanding of another society's culture is distinctly different from an attempt to change or to influence another society's culture via interventions.

9 Coyne and Pellillo (2011, p. 635) argue that smaller-scale reforms and actions, which make knowledge constraints less binding (although not completely absent), are more likely to be effective than more comprehensive reforms which are larger in scale. For example, one could consider Berman, Shapiro, and Felter (2011), which found that American funds allocated through the Commander's Emergency Response Program (CERP), which included funds allocated to small-scale projects at the discretion of military commanders—who in turn were more often being deployed in forward operating bases where they could more easily communicate with local Iraqis—, were highly effective with achieving the goal of reducing violence.

10 This paper is not making any claim about whether U.S. policymakers were empirically justified in favoring primary healthcare centers over larger physical hospitals. It is also not making any claims about the good or ill intentions of the Iraqi medical experts, as their request could also have been an attempted example of rent-seeking. Still, regardless of good or ill intention, this serves as an example of American interveners seeking to impose their will upon the Iraqis, with American experts surpassing Iraqi experts to impose their vision of healthcare provision on Iraqi civilians.

11 More specifically, the summary of the SIGIR report stated that $345 million was spent on the construction of primary healthcare centers, which was about $102 million more than the amount estimated when the original contract intended to construct the centers was terminated; the healthcare centers were delivered to the Iraqi Ministry of Health years later than planned; and the original number of 150 centers was reduced to 133.

12 The term, "stove-pipe," referred to the ad hoc nature of bureaucrats from different agencies working independently of each other. Donald Rumsfeld noted how the U.S. government relied on "quickly assembled, ad hoc efforts" in trying to coordinate resources between agencies (SIGIR 2013, p. 37).

13 The five funds in question are the IRRF (the Iraq Relief and Reconstruction Fund), the ISFF (the Iraq Security Forces Fund), the ESF (the Economic Support Fund), the CERP (the Commander's Emergency Response Program), and the INCLE (the International Narcotics Control and Law Enforcement Affairs).

14 ePRTs (Embedded Provincial Reconstruction Teams) are "small State Department-led units inserted into U.S. combat brigades in Iraq from 2007 to 2010 to support military counter-insurgency efforts at the local level" (Naland 2011, p. 1)

15 For a brief summary of different agencies providing reports in the early stages of the reconstruction effort providing their metrics of success, see SIGIR (2013, p. 73).

16 It is important to note that insufficient access to data is different from the inability for interveners to possess the context-specific, tacit, and local knowledge beyond any single mind or group of minds. This emphasis on insufficient data is in line with the perception of post-war reconstruction as a technological problem.

17 The problem that SIGIR faced in obtaining the true number of assigned and trained police is further stated in SIGIR (2008a, 2008b, 2012b).

18 Note that SIGIR's references to "waste, fraud, and abuse" have nothing to do with economic efficiency, but instead are focused on "improving mission efficiency and effectiveness" (SIGIR 2013, p. 1). In other words, the issue at hand is not one of efficiency, but of the much lower bar of whether government planners can produce pre-determined outputs that they decided beforehand (Coyne, Michaluk, and Reese 2016, p. 234).

19 It should be noted that fraud was not as extensive of an issue as government waste was. SIGIR's *Hard Lessons* report states that, "[a]lthough SIGIR and other law enforcement agencies have uncovered egregious examples of fraud, the size of the total criminal wrongdoing known to date amounts to a relatively small percentage of the overall reconstruction investment, and the number of individuals involved was relatively low" (SIGIR 2009b, pp. viii-ix).

20 The index scores from the years 2003 to 2011 was originally out of 10, so the scores were multiplied by 10 to be normalized alongside the scores from the years 2012 to 2024.

Competition or Cooperation: The Case of al-Qaeda and the Taliban in Afghanistan 1996-2001

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The Fund for American Studies and The Institute of World Politics

Abstract: al-Qaeda was formed in 1988 in Saudi Arabia during the Soviet invasion of Afghanistan, in which bin Laden was personally fighting with the Afghan mujahideen against the Soviet occupation. The Taliban, a regionally focused Afghan terrorist organization, was formed in 1994. Upon al-Qaeda being forced out of Saudi Arabia and later Sudan, it settled in Afghanistan, where the Taliban were already operating. This paper explores the interactions between these two organizations to understand why they chose to cooperate during this time frame and how this cooperation enhanced the productivity of each organization, relative to the costs of rivalry. Because the Taliban and al-Qaeda decided to cooperate rather than view each other as rivals, they were able to direct resources more effectively towards their organizational goals. This paper will examine the empirical relationship between 1996 and 2001, a period when both groups shared the same territory, and will employ the theory of the firm and cost-benefit analysis to understand why the collusion was successful. The analysis will conclude when the War on Terror begins, which changes regional dynamics with the United States' intervention in Afghanistan and the expulsion of al-Qaeda and the Taliban to Pakistan.

JEL Codes: H41; L31; L13

Keywords: Terrorism, Public Choice, Collusion, Competition

I. INTRODUCTION

This paper seeks to explain why al-Qaeda and the Taliban, who found themselves in the same areas of Afghanistan from 1996-2001, had a high degree of cooperation despite their separate political and practical goals and destructive natures. This paper will offer two unique contributions to address this puzzle: a theoretical framework for understanding their decision to cooperate and a case study illustrating this framework. The thesis is that al-Qaeda and the Taliban rationally and strategically cooperated from 1996-2001 because their goals were compatible at that time and the institutional environment facilitated cooperation; after 2001, the conditions and institutions changed forcing them from Afghanistan and adjusting their goals from offensive pursuit of their missions to a defense posture of fleeing US forces at the start of the War on Terrorism in the wake of the September, 2001 attacks.

The theoretical framework demonstrates why terrorist firms organize and the conditions under which they might cooperate, despite their different agendas and propensity to use violence to achieve their goals. First, similar to the logic of for-profit firms, terrorist groups create 'firms' to achieve goals more effectively than individuals acting alone. Second, terrorist firms respond rationally to incentives, costs, tradeoffs, and competitive pressures in a quasi-market environment. Third, when terrorist groups in proximity compete against or conflict with one another, it leads to zero-sum or potentially negative-sum outcomes for the members of terrorist groups. Fourth, cooperation and collaboration between terrorist groups in proximity can increase operational effectiveness, but there are some tradeoffs with efficiency. Fifth, the decision to compete or cooperate depends on the compatibility of their goals and the institutional environment in which they collaborate. al-Qaeda was formed in 1988 in Saudi Arabia during the Soviet invasion of Afghanistan, in which bin Laden joined the Afghan *mujahideen* fight against the Soviet occupation. The Taliban, a regionally focused Afghan terrorist organization, was formed in 1994 and emerged in Afghanistan, also rooted in a response to the Soviet occupation, led by Mullah Omar. al-Qaeda was formed and led by Osama bin Laden until he died in 2011, a Saudi native and the son of a billionaire. He had a network and resources in Saudi Arabia. Still, he was forced into exile under US-allied pressure and took al-Qaeda to Sudan in 1991, and finally, Afghanistan in 1996, where the Taliban were already operating. The theory of the firm literature offers insights into why al-Qaeda and the Taliban chose to cooperate, despite their differing organizational missions and goals. This provides insight into why and when we might expect terrorist organizations to operate, and whether, under those conditions, terrorism is more effective.

The interactive effects between al-Qaeda and the Taliban from 1996 to 2001 present a unique empirical opportunity to understand why each organization faced incentives that led to cooperative behavior. This has not and will not always be the case for terrorist non-profit firms, many of which emerged in the wake of the War on Terrorism. From a cost-benefit perspective, this allowed each group to further its mission rather than directing internal resources toward "firm" competition and rivalry. This paper presents a case study approach, guided by a theoretical framework, to facilitate the interpretation of events.

In doing so, this paper will fill a gap in the literature on why and when terrorist groups choose to cooperate or defect from cooperation and under what circumstances. A great deal of the literature focuses on terrorist collaboration and its effects (Phillips 2014; Asal et al. 2016; Bapat and Bond 2012; Moghadam 2008b; Jones and Libicki 2008; Karmon 2005), tactical cooperation (Horowitz et al. 2019), and cooperative networks (Cui et al 2024). Some literature explores industrial organization theory (Bradley 2006) and agency theory to understand how terrorists manage their members (Shapiro 2013, 2015). There are gaps in understanding the costs and benefits of group competition versus cooperation, as well as how different terrorist organizations manage these tensions.

The Taliban and al-Qaeda were together in Afghanistan during the third wave of Islamic terrorism (Shugart 2006), ushered in by the Iranian Revolution in 1979 (Enders and Sandler 2000). It was exacerbated in Central Asia by the withdrawal of Soviet troops in their war against the *mujahideen* and fueled in the Middle East by hostility to American support for Israel and pan-Islamic visions of a restored Caliphate that would enforce Sharia law (Shughart 2006; Rowley and Smith 2009). This represents a shift in the motivations of transnational terrorists in the 1960s through the 1980s, which were primarily motivated by nationalism, separatism, Marxism, nihilism, and economic equality (Wilkinson 1986). As conditions change, including regional dynamics, we can expect terrorism to evolve in both the organizational principles of the groups and the tactics they employ, including whether they would choose to collude with other terrorist organizations.

In this case, al-Qaeda, a non-profit "firm", enters the "market", where an existing regional terrorist non-profit, a monopolist, meets a competitor with shared ideologies but different organizational missions and goals. The analysis will conclude when the War on Terror begins, when external pressures force al-Qaeda and the Taliban to hide in Pakistan. Section II provides a theoretical framework for understanding why terrorist firms organize and the conditions for cooperation. Section III details the emergence of both groups to understand their purpose and functions. Section IV examines the interactive effects that ultimately led to durable cooperation from 1996 to 2001, and ties that back to the theoretical framework. Section V concludes.

II. THEORETICAL FRAMEWORK

There is a vast literature on the economics of terrorism, particularly over two decades since the al-Qaeda attacks on September 11, 2001, in particular an emphasis on the microeconomic perspective, which assesses the individual choices of the terror agents (Pape 2003), and the macroeconomic focus which attempts to understand aggregate socioeconomic factors which lead to terrorism (Shughart 2011; Bradley et al. 2023)). The individual agents who join and support terrorist organizations are rational actors (Kydd and Walter 2006) who assess their environments and act based on what they perceive as true, influenced by opportunity costs and cultural beliefs. They seek to achieve defined ends, which include ideological and political goals (Bradley et al., 2023; Crenshaw 1981; Enders and Sandler 2000; Berman 2003; Pape 2003; Wintrobe 2006; Hoffman and McCormick 2004; Anderton and Carter 2005; Berman and Laitin 2005; Caplan 2006; Iannaccone 2006; Shughart 2006, 2011, 2009; Sandler 2015). They face scarcity and engage in cost-benefit (Frey 2004; Enders and Sandler 2011) analysis (Shughart 2011), evaluating their alternatives before acting and assessing changing risks (Enders and Sandler 2006). This section presents five theoretical propositions to enhance understanding of when and how institutional incentives align for cooperation between these non-profit firms.

Proposition 1: Rational terrorists form firms to accomplish their goals because within the firm, they obtain the benefits of the division of labor, specialization, and innovation and entrepreneurship based upon the members' relative comparative advantages. The "firm" allows them to monitor individual activity, reduce shirking and free riding, align internal incentives with organizational goals, and benefit from economies of scale, fostering long-term priorities that require saving and investment. Terrorist firms must consider the relative costs of group participation (Bradley et al. 2023) and decide upon their mission and activities. This firm formation is significant when the terrorist organization is not primarily funded by a state that supports the group through large financial endowments. The theory of the firm, as proposed by Coase (1937), applies to the terrorist non-profit firm, where the entrepreneur directs production.

The modern Islamic wave of terrorism, characterized by al-Qaeda and the Taliban, two distinct terrorist organizations, reflects an emergent order of human violence to satisfy particular ends. Their perceptions of the world and terrorism as a means of achieving their goals cannot be fully understood by outside observers. We have a limited understanding of patterns of behavior that are unlike our own (Hayek 1943). Nevertheless, to the terrorist participants and organizers of al-Qaeda and the Taliban, their activities are a means to an end (Frey 2009) and are emergent phenomena. Individuals respond to changes in their environment and use the group to achieve social and political change.

A terrorist group is deadlier and more lethal than a lone wolf (Alakoc 2015; Kenyon et al. 2021) unless the country has a firm counterterrorism policy that raises the cost of group formation (Phillips 2015). When terrorists form into groups, they can pool resources and talent, better market their services, raise funds, and increase their human capital to achieve goals that are unattainable for a lone wolf. Group-sponsored terrorism presents potentially larger negative externalities for those within the region who are not part of the group and do not share its ideals, particularly when the terrorist firm or firms in the region are effective. It also presents global negative externalities in terms of counter-terrorism policy responses, which existed before 9/11 but have intensified since then, particularly since 9/11, and the unintended consequences (Bradley et al., 2023) that can disrupt the activities of these firms.

Proposition 2: Terrorist organizations operate in a quasi-market scenario. They do not compete for monetary profit, unlike market firms. They respond rationally to incentives and costs, competing with other terrorist firms operating in the same geographical space for territorial supremacy, donor investments, influence over local markets, industries, resources, and the loyalty or fear of citizens. They make employment and recruitment decisions based on their current goals and objectives, and each group has a natural limit to its firm size. Terrorist organizations are risk-averse, avoiding detection and capture by using an organizational cost-benefit analysis to determine how to allocate their scarce resources engaged in the production of terror. The output includes violence such as bombing, killings, shootings, or assassinations. It also includes increasing fear and intimidation through suppression of speech, and daily activities, persecution of women and ethnic or religious groups, destruction of property, ongoing fear and intimidation tactics, as well as propaganda and ideological influence. All this output serves as a means to an end: social change.

Terrorist organizations are not pure firms, and they do not use market prices to direct internal resource allocation and investments. They do not explicitly "sell" attacks, although the attacks have beneficiaries, and there exists both a demand for and supply of terrorism, which may overlap at times. Unlike the activities of market firms, terrorism is a zero-sum or negative-sum game from the perspective of social welfare. Unless an individual "demands" terrorism, they are most likely harmed by its existence, unlike traditional firms. Terrorist organizations win on the margin when they successfully use violence against non-combatants and escalate a sense of fear and dread in anticipation of future attacks. Ratcheting up social fear is the mechanism by which terrorist organizations believe that they can obtain their stated ends; effective terrorism begets the growth of the organization.

The consumers of terrorism are those who have some willingness to pay for terrorist attacks and activities relative to their alternatives. The demand curve for terrorism is downward-sloping, and consumers can expect to respond to changes in the price of terrorism by shifting along their demand curves. Many factors can influence the demand for terrorism, including changes in preferences, ideology, expectations about the future, income, the prices of complementary and substitute goods (Bradley et al. 2023, p. 8), and shifts in political events and international counterterrorism efforts.

There is an upward-sloping supply of terrorism that responds similarly to changes in price. Terrorism is supplied in the form of a command-and-control organization that recruits members according to their marginal contributions and operates like a non-profit. It responds to the forces of supply and demand and must adapt to changing circumstances. Terrorists thus modify their goals and activities; they may partner with or compete against other local terrorist groups. In some cases, they may form cooperative networks (Cui et al. 2024). Moreover, the benefits of the terrorist organization, along with the attacks and other activities or services it produces, may have public good traits (Shughart 2011; Bradley et al. 2023). The benefits of these public goods are shared by anyone who favors the terrorist group (Rathbone and Rowley 2002). Buchanan's (1965) economic theory of clubs offers insight into the structure and behavior of terrorist organizations. He argues that club goods—situated between public and private goods—require economic calculation, making the theory applicable to groups like al-Qaeda or the Taliban, which function as quasi-market non-profits. These organizations offer economic incentives such as salaries and benefits, and require internal resource allocation. Club membership fosters alignment with group goals by providing both material rewards and a sense of belonging, which can substantiate individual commitment to the group's values.

Terrorist organizations are not maximizing profit in the pure sense of managing total revenue minus total cost. They are, however, providing a service that benefits them and others who are not direct participants in the organization. The resources they need have alternative and competing ends, so the terrorist organization acts to maximize benefits and minimize the costs of their production.

Proposition 3: Competition and conflict among different terrorist groups in the same region with similar goals will become zero-sum, possibly negative-sum, undermining their ability to achieve their goals and diverting scarce resources away from obtaining their goals toward fighting off predatory and competitive groups. This may include competing for donor funds and limited financial resources, as well as competing for territorial dominance, recruits (employees), loyalty among citizens, and market share or influence. Traditional non-profit organizations face the same competition over scarce financial resources and may have different ideologies, strategies, or priorities, leading to conflict over which approach or strategy will prevail. The same is true for terrorist organizations.

Terrorist organizations have diverse funding portfolios, which include funds from donors, the sale of legal and illicit goods and services, nefarious circumvention of non-governmental organizations (NGOs), and humanitarian aid (U.S. Department of the Treasury 2024). They could view themselves as competitors in a zero-sum game when they share the same geographical space, desire political control, and compete for the same financial resources, whether from donors or the sale and trafficking of assets. In some cases, they invest in more violence to "outbid" other terrorist groups within the same region for brand differentiation (Conrad and Greene 2015).

When there is more than one terrorist organization in a region, they can become more like price-takers. When they compete against one another, they compete for regional "constituent" loyalty and dominance of local resources and markets. Competing terrorist groups will likely have different missions and organizational goals, but may battle for political power or influence over the same constituents. Thus, this competition may be viewed as a winner-take-all, zero-sum battle.

Proposition 4: In some instances, terrorist organizations have incentives to cooperate, especially when ideologically aligned. Collaboration can increase their operational effectiveness, but it may also lead to inefficiencies associated with monopolies, such as resource misallocation, deadweight loss, reduced output, and stagnation in innovation. These monopoly pathologies, which are harmful in traditional market settings, can produce positive social externalities in the context of terrorism, specifically resulting in fewer or less effective attacks. This inverts the conventional logic of monopoly: whereas monopolists typically benefit from reduced output at society's expense, in the terrorism context, reduced output harms the organization and its supporters while benefiting the broader public.

Terrorist organizations acting as monopolies may behave differently from those competing within a crowded militant landscape. As Harberger (1954) observed, monopolies distort resource allocation and reduce aggregate welfare by restricting output and redistributing income to themselves. Similarly, terrorist "cartels" may have less incentive to innovate, diminishing the efficacy of their operations over time. While monopolies in traditional markets reduce consumer welfare by limiting access to desired goods, terrorist groups provide "services" that benefit only a narrow ideological base. For society at large, these services represent "bads"—manifested as fear, violence, and instability.

Proposition 5: The mission and goals of the terrorist groups and where they are situated will largely determine whether they compete or collude. If the goals are sufficiently aligned, it is in the direct interest of decision-makers in these organizations to cooperate. If goals are mutually exclusive or zero-sum, they will compete with one another. What brings them together is typically the formation and production of terrorism for political and social change, where cooperative behavior results in greater output, mission advancement, or cost and resource sharing.

The environments in which terrorist organizations are most likely to form are those characterized by poor economic, civil, legal, and political institutions (Bradley et al. 2023). Scholars have found that the most significant contributor to terrorist affiliation is a lack of civil liberties, rather than specific qualities of any given region, demographic, race, or ethnicity (Hassan 2001; Krueger et al. 2003; Lee 2011). Dysfunctional legal, economic, religious, and cultural institutions, exacerbated by low levels of economic, human, and political freedom, lower the relative opportunity costs of using terrorism as a mechanism for social change (Bradley et al. 2023). Greater economic freedom reduces the likelihood of terrorist attacks in societies characterized by ethnic tensions (Basuchoudhary and Shughart 2019). Moreover, intense group grievances and low levels of the rule of law are correlated with terrorism (Institute for Economics and Peace 2005).

There are either real or perceived limited outlets for civilians to voice their discontent or achieve economic advantage peacefully, and 'weak' states ruled by power structures—sympathetic to the terrorism cause or otherwise corrupt—enable terrorist organizations to operate within state territory (Pašagić 2020). A healthy domestic economy not only lowers the risk of ethnic violence but—by a statistically significant measure—lessens the chance of ethnic tension culminating in transnational terrorism (Basuchoudhary and Shughart 2019).

Olsen (1993) argues that a functioning and productive society requires a peaceful order, as anarchic violence cannot be rational without incentives to make investments. This anarchic violence approximates life in Afghanistan beginning in the 1970s with civil war and lasting through the 1990s. Afghanistan became a haven for the Taliban and al-Qaeda to make investments in their organizations, and cooperation fueled their firm enterprises.

III. THE EMERGENCE OF AL-QAEDA AND THE TALIBAN

The emergence of both al-Qaeda and the Taliban stems from the Soviet invasion of Afghanistan, both leaders' ties to Afghanistan and Pakistan, as well as ideological alignment. al-Qaeda becomes a radical Islamic transnational terrorist organization, while the Taliban, motivated by similar religious and ideological commitments, is focused on the control of Afghanistan. In this section, both Proposition 1, which states that terrorists form organizations to achieve their objectives, and Proposition 2, which posits that these organizations operate in a quasi-market environment, are evident.

The development of al-Qaeda

For this paper, the history of al-Qaeda, which, until 1996, was longer and more complex than that of the Taliban, is divided into five phases.

Phase One: The emergence of al-Qaeda. During the 1970s, Osama bin Laden, the son of a Saudi billionaire, traveled to Afghanistan, viewing the Soviet invasion as a holy war against atheistic communism. During this time, the Soviet Union forces invaded Afghanistan to prop up Khalq, a faction of the People's Democratic Party of Afghanistan. The Khalq's rule entailed harsh measures against political opponents, religious leaders, and intellectuals, resulting in widespread discontent. Its supporters were mainly rural Pashtuns (Kakar 1995). The reforms, which included rejecting Islamic traditions and canceling farmers' debts, incited powerful landowners and sparked revolts across the country (Goodson 2001). During this time, bin Laden began to gain influence by organizing various *mujahideen* factions, emerging as a significant figure in the resistance against the Soviets. According to Lawrence Wright (2006), bin Laden's message of fighting for a pan-Islamic cause appealed to many who were disillusioned by the tribal infighting among Afghan groups. Moreover, Bergen (2001b) and Wright (2006) both note that bin Laden used his resources to build roads, camps, and hospitals in Afghanistan, helping mujahideen groups. These factions directly benefited from the presence of bin Laden in support of Proposition 1, which suggests that there were early benefits to form into a terrorist firm.

At this time, the United States and other countries provided money and weapons to the Afghan fighters through Pakistan's intelligence service (ISI) through Operation Cyclone (Bergen 2001b), which began under President Carter in 1979 and was extended by Ronald Reagan; it was the most protracted and most expensive covert intelligence program, transferring up to 500 million dollars per year. (www.ict.org). While the U.S. supported the Afghan fighters in hopes they would defeat the Soviets, it did not monitor these groups to see who was leading them (9/11 Commission Report). The funds were directed by the ISI to fundamentalist group Gulbuddin Hekmatyar (Kotarski 2018), rather than to more moderate forces. This emboldened fundamentalist factions early, which matters for the ultimate cooperation between al-Qaeda and the Taliban beginning in 1996.

In 1988, Abdullah Azzam, head of Maktab al-Khidamat (Afghan Service Bureau), wanted volunteer Afghans and Arab Afghan resistance fighters to join al-Qaeda against the Soviets in Afghanistan. bin Laden wanted al-Qaeda to fight both the Soviets in Afghanistan and in other countries that were a threat to Islam (Gunaratuna 2005). Abdullah Azzam, despite some disagreements with bin Laden, helped form al-Qaeda, and later Hamas and Lashkar-e-Taiba (Jaquard 2002), thereby satisfying Proposition 1. With bin Laden's financial wealth and with the help of senior leaders of Egyptian Islamic Jihadist al-Qaeda, al-Qaeda was formed. Its stated goal was to fight against global enemies of Islam (jihad) and restore the Caliphate. In 1989, the Soviets left Afghanistan but still supported the government, and al-Qaeda's tactical goals were, rather than defeat America, to attract support among Muslims and organize to wage a broader jihad (Henzel 2005).

Phase Two: Saudi Discontent. After the Soviets' exit, Osama bin Laden returned to Saudi Arabia from Afghanistan and was celebrated as a jihadist hero. He sought to leverage his newfound influence to challenge the Saudi monarchy while continuing to be involved in his family's construction business. His radical beliefs and popularity emboldened him to try to use al-Qaeda fighters to overthrow the pro-Soviet Yemeni Socialist Party (YSP) in South Yemen; he faced obstruction from the Saudi government. When he sought to prevent Yemen's unification through political assassinations, his efforts were thwarted, exacerbating tensions with the monarchy. In March 1989, Osama led 800 Arab fighters in the Battle of Jalalabad against the Soviet-backed Afghan government, but his poor leadership resulted in heavy losses (9/11 Commission Report).

By 1990, Bin Laden allied with General Shahnawz Tanai, a communist plotting to overthrow Afghan Prime Minister Benazir Bhutto. Despite their ideological differences, bin Laden financed the coup attempt, which ultimately failed. His subsequent efforts to rally support from Pakistan's government for a no-confidence vote against Bhutto were rebuffed. Early on, al-Qaeda can be seen as firm, moving around in search of partnerships.

In August 1990, Saddam Hussein's invasion of Kuwait posed a direct threat to Saudi Arabia. Bin Laden offered to defend Saudi Arabia with fighters, but King Fahd rejected his proposal. Instead, he reached out to the U.S. for military support against Iraqi aggression. Secretary of Defense Dick Cheney agreed to deploy U.S. forces to Saudi Arabia. This decision outraged bin Laden, who perceived the presence of U.S. troops in the Arabian Peninsula as a violation of Islamic law (Bin Laden 1996; Wright 2006; Bergen 2001b). In retaliation, he condemned the Saudi monarchy, invoking Islamic scripture and pressuring Saudi clerics to issue a *fatwa* (a non-binding legal opinion or religious ruling on Islamic law or doctrine issued by an Islamic scholar or expert) against the U.S. troop presence. The Saudi monarchy did not support bin Laden's call for a fatwa against the U.S.

On November 8, 1990, FBI agents raided the home of El Sayyid Nosair in New Jersey, uncovering substantial evidence of terrorist activities linked to al-Qaeda, marking the first known al-Qaeda plot on American soil. This discovery underscored the growing transnational threat posed by bin Laden's network. Propositions 1 and 2 are evident in Phase Two as al-Qaeda grows and develops its mission and brand.

Phase Three: The early Sudan Years. In 1991, Bin Laden's vocal denunciations of the Saudi government led to his exile. At this time, he was also under U.S. surveillance because of his connection to global terrorist activities. The U.S. was monitoring local operatives and intercepting bin Laden's communications, and the Saudi government placed him under house arrest (Council on Foreign Relations 2007). He relocated to Sudan under the urging of a Sudanese leader, Hussan al-Turabi (9/11 Commission Report), where he established several legitimate businesses, including a tannery, farms, and a road construction company. Sudan allowed thousands of former *mujahideen* to immigrate, and bin Laden facilitated the relocation of many fighters to the region.

In Sudan, his investments in infrastructure and agriculture garnered local support. While the U.S. government monitored his activities, it did not take any direct action against bin Laden in Sudan. On December 29, 1992, a bomb exploded at a hotel in Aden, Yemen, previously frequented by U.S. troops before their deployment for a humanitarian mission in Somalia. Although the Americans had left, two Austrian tourists were killed, marking the first al-Qaeda-sponsored terrorist incident. That same year, bin Laden issued a fatwa calling for jihad against the Western "occupation of Islamic lands (9/11 Commission Report, 59).

Phase Four: Specialization and Entrepreneurship. On February 26, 1993, a truck bomb detonated in the parking garage beneath the World Trade Center in New York City, killing six people and injuring over a thousand. Investigators traced the truck to Islamic fundamentalists, leading to the arrest of several al-Qaeda-linked suspects, including Mohammad Salameh and Nidal Ayyad. The attack's mastermind, Ramzi Yousef, avoided capture, but investigators uncovered further plots against U.S. landmarks, including the UN building and the Holland and Lincoln tunnels (Goldman and Jackson 1993). In 1994, following leads from the 1993 bombing investigation, FBI agents stormed a warehouse in New York, apprehending several al-Qaeda terrorists who were assembling explosives (FBI.gov, World Trade Center Bombing 1993). These activities are the operationalization of al-Qaeda's transnational non-profit mission, differentiating it from the Taliban.

In addition, U.S. intelligence believed bin Laden was financing terrorist training camps and cells in various countries (9/11 Commission Report, 60), which fostered specialization and division of labor within the firm, evidence of Propositions 1 and 2. His continued opposition to the Saudi monarchy and support for extremist movements led to the revocation of his citizenship and the freezing of his assets within the country. King Fahd pressured Bin Laden's family to cut off his $7 million annual stipend. The U.S. subsequently declared Sudan a state sponsor of terrorism. As Sudan's Islamist political leader, Hassan al-Turabi, began to lose influence, the Sudanese government sought closer ties with the U.S., which were not established until 2000.

In 1995, Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing, was captured by U.S. operatives in Pakistan. Discontent grew within Sudan over bin Laden's extremism. This led to secret discussions between the Sudanese and Saudi governments regarding Bin Laden's expulsion. However, Saudi Arabia refused to accept him (Wright 2006). bin Laden was frustrated with the Saudi government and wanted to organize a guerrilla campaign to remove U.S. troops from Saudi soil (Wright 2006). At this time, U.S. forces were stationed in Saudi Arabia by invitation.

The culmination of al-Qaeda's efforts and desire to defeat the United States and restore the Caliphate was the transnational attacks on the United States on September 11, 2001. Al-Qaeda, under the management of bin Laden, demonstrated a desire to play the long game. It did not focus primarily on political goals in Pakistan, Sudan, Saudi Arabia, or Afghanistan. They moved around out of necessity, regrouped, and formed new alliances in each location. Al-Qaeda's unique goals were broad and focused on removing the involvement of the United States in the Middle East, restoring the caliphate, and disentangling the US-Israel alliance.

Phase Five: Migration to Afghanistan. In 1996, under mounting international pressure from the United States and Saudi Arabia, Sudan officially expelled bin Laden (Wright 2006; Bergen 2001a). To cultivate closer diplomatic ties with the U.S., Sudan hoped that this move would help alleviate its status as a state sponsor of terrorism, and it relocated to Afghanistan. Bin Laden was forced to liquidate his assets in Sudan and some of his funding, creating financial worries (9/11 Commission Report, 62). He lost some of his resources, and upon his arrival in Jalalabad in the eastern part of Afghanistan with 300 of his Arab fighters, he reinforced his terror network. He forged a crucial alliance with Mullah Mohammed Omar, the founder of the Taliban. This relationship would prove instrumental in al-Qaeda's growth within Afghanistan.

Meanwhile, U.S. President Bill Clinton signed a secret order formally initiating America's covert war against al-Qaeda (9/11 Commission Report 2004). Although definitive evidence directly linking bin Laden to various terrorist attacks was still lacking, Clinton authorized the CIA to employ all necessary means to dismantle the al-Qaeda network. bin Laden remained in the spotlight, raising the costs of firm operation for al-Qaeda and solidifying his position as the primary adversary of the United States. He issued many statements in which he made his grievances about American intervention in the Middle East, specifically in Saudi Arabia, which was the impetus for al-Qaeda's emergence. In a 1996 interview, Bin Laden stated:

> The ordinary man knows that [Saudi Arabia] is the largest oil producer in the world, yet at the same time, he is suffering from taxes and bad services. Now the people understand the speeches of the ulamas in the mosques--that our country has become an American colony. They act decisively with every action to kick the Americans out of Saudi Arabia. What happened in Riyadh and [Dhahran] when 24 Americans were killed in two bombings is clear evidence of the huge anger of the Saudi people against America. The Saudis now know their real enemy is America (*The Washington Post* 8/23/98).

Following the Khobar Towers bombing, the United States convened a grand jury to build a legal case against Osama bin Laden, authorizing his capture or elimination (9/11 Commission Report 2004). In June 1996, Bin Laden issued a Declaration of Jihad against the U.S. (Bergen 2008). al-Qaeda continued to train militants and finance terrorist attacks and develop its transnational agenda, which would culminate in the attacks of September 11, 2001.

The Taliban

The Taliban emerged under the same political circumstances as al-Qaeda during the Afghan Civil War, which refers to a series of conflicts in Afghanistan that followed the Soviet withdrawal in 1989. After the Soviets withdrew, various *mujahideen* factions battled for control of the country, resulting in significant instability and a power vacuum.

Phase One: During the Afghan-Soviet war, the would-be leaders of the Taliban fought for Hezb-e Islami (Khales) and Mohammad Nabi Mohammadi's Harakat-I Ineqelab-ye Islami factions of the *mujahideen* (Australian Government, Department of Immigration and Citizenship 2013). Mullah Omar, the initial leader of the Taliban, was one of the 90,000 forces supported by Operation Cyclone through Pakistan (Price 2012).

Phase Two: (1992-1996): The Afghan civil war. Following the fall of the communist government in 1992, infighting among the mujahideen factions intensified, resulting in widespread violence and the collapse of central authority. In 1992, various Afghan parties reached a power-sharing agreement through the Peshawar Accords. This created the Islamic state of Afghanistan, ruled by the Taliban, which formed in the Pashtun areas (Maley 1998). The word Taliban comes from the Pashto word "students" and was formed from students from the religious schools and madrassas (Qureshi 2014). Proposition 1 is evident in the formation of the Taliban into an organization seeking regional control and producing terrorist "output."

Phase Three: Taliban Ascendancy (1994-1996). During this period, the Taliban emerged as a powerful force, gaining control of extensive areas and ultimately capturing Kabul in 1996, soon after al-Qaeda's arrival (9/11 Commission Report, 65). They were able to control most of Afghanistan's cities and provinces (Qureshi 2014). They ruled with strict Sharia law and disarmed all rival militias that had been roaming the provinces (Matinuddin 2001) and destroyed monuments and religious artifacts to subdue and control the population.

Phase Four: The Taliban-Al-Qaeda Partnership (1996-2001). The Taliban ruled Afghanistan until the U.S.-led invasion in 2001, which occurred after the September 11 attacks. The Taliban had a shorter and swifter evolution than al-Qaeda. It imposed an authoritarian Islamic state over three-quarters of Afghanistan until 2001. The Taliban received support from Pakistan and fought the Northern Alliance in the 1996-2001 war, taking over Kabul in 1996. The Northern Alliance would ultimately defeat the Taliban in 2001 with support from the US, and they fled the country (US Army Center for Military History, Operation Enduring Freedom 2008).

IV. INTERACTIVE EFFECTS: 1996-2001

Al-Qaeda came face to face with the Taliban in 1996 when it was expelled from Sudan and came to Afghanistan. It is during this time that Propositions 3, 4, and 5 are evident.

The ultimate relationship between al-Qaeda and the Taliban can be traced back to the Afghan jihad against the Soviet Union (Mir 2020). The Soviets faced the same problem in invading Afghanistan as the former government had in governing Afghanistan: the strong social and political ties along parochial, tribal lines characterized by dysfunctional economic and political institutions grounded in chaos. Proposition 3 argues that this situation is ripe for violence between these organizations, potentially leading to zero-sum or negative-sum games because fighting each other is high cost, creates social externalities, and raises the cost of doing business or advancing their missions.

At some point before the September 11 attacks, likely soon after they arrived in Afghanistan, bin Laden swore an oath of allegiance *bay'ah* to Taliban leader Mullah Omar (Joscelyn 2021; el-Bay 2021) as the Amir al-Mu'minin, which means "The Commander of the Faithful." al-Qaeda, through bin Laden, offered military support and training as well as financial resources to the Taliban (9/11 Memorial Museum). They were able to do this because of years of specialization and entrepreneurship, aided by bin Laden's ability to grow his firm's output and enhance its skills. This pledge to the Taliban was renewed several times (BBC). This indicates that al-Qaeda relied on the ideological alignment to secure a haven and collaborative benefits from the Taliban. Proposition 4 argues that in this case, there are clearly revealed incentives to cooperate based on shared ideological goals, reducing the risks of potential conflict between the groups that could erupt at any time. However, since the organizations have different missions, aligning them also incurs costs for each firm. The benefit to al-Qaeda is a place to grow and train for the 9/11 attacks. The cost involves deferring to Taliban leadership, which may have constrained activities that would otherwise have been undertaken. The Taliban benefits directly from military training and financial support but does not share al-Qaeda's transnational goals. Moreover, the Taliban were tired of bin Laden being in the spotlight and the attention that it brought to Afghanistan from the United States. The 1996 *fatwa* issued by bin Laden brought pressure on the Taliban from Saudi Arabia. It motivated Mullah Omar to invite bin Laden to move to Kandahar, so that he could be more easily controlled. The Taliban's cooperation with al-Qaeda brought clear costs. However, the benefits of cooperation outweighed those costs despite bin Laden continuing to break his promises to stop giving "inflammatory interviews", such as the one he gave with CNN in 1997 (9/11 Commission Report, 65). This supports Proposition 4, which argues that there are gains to cooperation, but they come at a cost. There is no free lunch for either group. The Taliban is concerned with the rhetoric of bin Laden and the international attention that it brings, which creates operational inefficiencies for the Taliban. It also creates inefficiencies or added costs for al-Qaeda, which now must constrain itself.

The Haqqani network, which is the Taliban militia based in Pakistan's tribal regions, is another regional player that altered the incentives for an alliance between al-Qaeda and the Taliban. Jalaluddin Haqqani has been the head of the Haqqani network and has had a relationship with bin Laden, the leader and one of three heads of al-Qaeda, since its inception in the mid-1980s. The Haqqani network plays a vital role in the successful cooperation of al-Qaeda and the Taliban. The Haqqani network shares the ideological goals of a Sunni Islamist militant organization and also came out of the Afghan Soviet War. Haqqani himself was an associate of Osama bin Laden and one of his mentors during the early years of al-Qaeda's formation (Office of the Director of National Intelligence 2025). This supports Proposition 5, which argues that the goals of both the Taliban and al-Qaeda were sufficiently aligned to bring about cooperation. They both use terrorism to obtain their stated social, ideological, and political goals.

Palestinian journalist Abdel Bari Atwan, who interviewed bin Laden in 1996, argues that bin Laden did Mullah Omar a favor when he introduced the Taliban leader to Jalaluddin Haqqani, who later became a prominent Taliban military commander. Some argue that they remain allied today, partly because of marriage ties among key leaders. (Mir 2020; Reidel 2020). al-Qaeda is opportunistic in its geographical location and partnerships. al-Qaeda became allied with the Taliban beginning in 1996, and that relationship endured beyond 2001. al-Qaeda served as a voice for the global jihad movement, a cause the Taliban also supported. When al-Qaeda entered Afghanistan, it sought an alliance with the Taliban, and the two groups soon formed a partnership. al-Qaeda positioned itself as an organization that would support the Taliban's regional goals within Afghanistan, rather than challenge them. In return, the Taliban provided al-Qaeda with a safe haven: its leadership was welcomed, allowed to operate freely, and given access to training bases and facilities for their families (Sharifi 2016).

After the U.S. intervention in 2001, both the Taliban and al-Qaeda fled together to the hills of Pakistan. Both groups "fit into each other's ideological projects" (Mir 2020; Staniland et al. 2018), allowing them to form a cooperative partnership in which al-Qaeda pledged allegiance to the Taliban and received a haven, while also continuing to pursue its transnational agenda. Jihadism is a subgroup of terrorism that arose out of the Afghan war and the ascendancy of al-Qaeda and has two components. It justifies armed struggles and brutal violence and downplays the spiritual, non-violent side. It adheres to Salafism, a "puritanical" version of Sunni Islam (Neumann 2014, p. 9), which rejects "man-made laws and democracy" (Voortman 2015, p. 5). This Salafi ideology is the guiding doctrine of al-Qaeda and forms its internal group identity. Moreover, it allows al-Qaeda to define its struggle in military terms (Moghadam 2008a). However, despite their jihadist agreements, all was not rosy between the Taliban and al-Qaeda.

The Taliban has incurred costs for its alliance, including internal strife within the Taliban, many of whom were upset by bin Laden's declarations of war and attacks against the United States before the September 11, 2001, attacks (Bacon 2018; Strick et al. 2014). al-Qaeda helped train local Taliban commanders to make improvised explosives; scholars have argued that al-Qaeda acts as a subcontractor for the Taliban, offering expertise in special operations, terrorist attacks, and human capital. During the 1996-2001 period, the Taliban benefited from and relied on funds from al-Qaeda (Bacon 2018), which were necessary for its financial support in those early days.

The alliance allows them to maintain durable cooperation during this period and provides more evidence for Proposition 4, which suggests that financial support and training provided sufficient incentives for cooperation. Moreover, that cooperation did not end when US troops entered Afghanistan in 2001; instead, they fled together to Pakistan.

It was the shared ideological commitments, along with mutual gains from trade and at least nominal shared enemies, that allowed this durable cooperative equilibrium to persist during their shared time in Afghanistan. The relationship is fragile because each of these non-profit firms has its own identity and goals. Shifting regional political or economic events, changing geopolitics, and exogenous variables could at any time have upended this cooperation. Each group expected the payoff from cooperating to outweigh that from competition, which would force them to divert resources to violence and sabotage the other.

In 1998, bin Laden ordered an operation that surpassed all previous ones—coordinated bombings of U.S. embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania, resulting in 224 fatalities. In response, the United States launched cruise missiles at locations suspected to be bin Laden's bases in Afghanistan (FBI.gov, East Africa Embassy Bombing). In 2000, al-Qaeda executed another bombing, this time targeting the USS Cole, an American warship docked in Yemen, which led to the deaths of 17 sailors (FBI.gov, USS Cole Bombing). These actions bring high costs to both groups, costs which spill over onto the Taliban in terms of the attention of US foreign and military policy. In 1999, the UN Security Council adopted the al-Qaeda Taliban Sanctions Committee, which marked the two as terrorist organizations and imposed sanctions on their "funding, travel, and arms shipments" (Council on Foreign Relations). The mounting pressure from the United States and the UN increases the costs of partnership at the time. To reiterate al-Qaeda's loyalty to the Taliban, al-Qaeda forces assassinate Ahmad Shah Massoud, leader of the anti-Taliban Northern Alliance, on September 9, 2001. This also ensures that the Taliban will protect al-Qaeda in the wake of the September 11 attacks (Bergen 2006).

Ultimately, this would impose a twenty-year setback for the Taliban because the United States, after 9/11, launched the War on Terror, part of which included the quick overthrow of the Taliban by US forces in 2001 (9/11 commission report, Falkenrath, 2004, Council on Foreign Relations). Moreover, al-Qaeda has transformed its organizational structure in the wake of bin Laden's death and the War on Terrorism, such that today its organizational structure is entirely different.

5. CONCLUSION

This paper attempts to explain the strategic cooperation between al-Qaeda and the Taliban from 1996 to 2001, despite their differing political aims and organizational missions. Using the theory of the firm as a conceptual lens, the paper proposed five key propositions to understand why terrorist organizations might rationally choose cooperation over competition. The case study of al-Qaeda's entry into Afghanistan and its alignment with the Taliban illustrates the explanatory power of this framework.

First, terrorist groups, like for-profit firms, organize to achieve their goals more effectively than individuals acting alone. Both al-Qaeda and the Taliban emerged in response to foreign invasions and instability, and they evolved into structured entities capable of mobilizing resources, training recruits, and the use of violence. Their firm-like structures allowed them to coordinate violence, logistics, and messaging more efficiently, increasing their operational effectiveness in a chaotic environment. They both saw clear gains from cooperative exchange.

Second, these terrorist firms respond rationally to incentives, costs, tradeoffs, and competitive pressures. al-Qaeda, seeking a stable operational base and local protection, found it rational to cooperate and support the Taliban, who in turn benefited from al-Qaeda's resources, training capabilities, and international networks. Rather than acting purely ideologically, both groups weighed the strategic benefits of cooperation based on their surrounding environment.

Third, when terrorist groups in proximity compete, it often results in zero-sum or negative-sum outcomes and risks conflict, which detracts from the firm's mission. For both the Taliban and al-Qaeda, competition could have weakened their respective capacities to resist common adversaries or maintain territorial control. Cooperation, by contrast, reduced internal rivalry and allowed both groups to focus on external goals.

Fourth, cooperation in such contexts can improve operational effectiveness, even if it comes at some cost to efficiency or autonomy. al-Qaeda subordinated certain aspects of its global ambitions to avoid challenging the Taliban's regional authority. The Taliban tolerated al-Qaeda's transnational agenda, despite the risks it posed, because the partnership enhanced their military strength and international visibility. Each group sacrificed some independence, which allowed them to maintain their distinct missions.

Fifth, whether groups choose to cooperate depends on the compatibility of their goals and the institutional environment. From 1996 to 2001, the Afghan environment was characterized by a political power vacuum, violence and the rise of various informal power structures. After 2001, however, the U.S. invasion disrupted this equilibrium, forcing both groups into a survival mode that altered the cost-benefit calculus of cooperation. The once-aligned incentives fractured under the pressure of external military force and changing strategic priorities.

Together, these five propositions explain not only why al-Qaeda and the Taliban cooperated during this period, but also why such cooperation is not guaranteed in other contexts. Terrorist organizations, while ideologically motivated, are also strategic actors operating under constraints and responding to shifting institutional and competitive dynamics.

This theoretical framework contributes to the broader literature by offering a theoretical framework for understanding terrorist alliances. It also carries normative implications for counterterrorism.

al-Qaeda and the Taliban are non-profit firms which have the same geopolitical roots in the Soviet invasion of Afghanistan and the emergence of the mujahideen resistance. They share Islamic fundamentalist ideology and met at the right time and the right place for opportunistic cooperation, which was durable during the 1996-2001 era. There are potential normative implications arising from applying the theory of the firm to empirical case studies, which could offer guidance for counterterrorism efforts.

The first is that terrorism will always exist so long as individuals value it as an effective means to achieve their ends, and firm cooperation can increase the efficacy of terrorist organizations. There will be costs and benefits to cooperation, and understanding the nature of terrorist non-profit cooperation could inform weaknesses and potential vulnerabilities that could potentially be exploited. The Taliban's cooperation with al-Qaeda imposed costs that would ultimately cause them to lose control of Afghanistan for twenty years.

The second is that there are no generic terrorist groups; they respond to incentives and are products of their environments. Understanding their aligned goals and ideology can inform and perhaps help predict which terrorist groups will choose to cooperate, but this will not always be the case. Counterterrorism policy must account for the strategic rationality of any terrorist group and attempt to anticipate unintended consequences. Suppose counterterrorism policy drives a terrorist group from one region to another. In that case, it will be important to understand their potential new environments to understand better whether they will choose cooperation with any new groups they encounter.

The third is that we should avoid over-generalizing terrorist group behavior. The cooperation between these two groups was not without division and discord, yet it persisted until the Taliban was defeated in 2001 and fled Pakistan. These groups effectively utilized each other to support the advancement of their unique goals, and the collaboration was effective over that period. This was durable because they were not competing directly for regional political control. This has not been the case between al-Qaeda and other terrorist groups, like ISIS, whose rivalry is one of competing for affiliate partnerships (Byman 2015). Using the theory of the firm and the cost-benefit approach can aid our understanding of whether terrorist groups will cooperate or compete. Applying this theoretical framework can provide policy insights into how and when terrorist groups might cooperate and what this implies for altering the incentives they face.[1]

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NOTES

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Private Pigou Goes to War: The Environmental Costs of Warmaking

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Abstract: Following Arthur Pigou, economists have long recognized the environmental costs of private economic activity. The environmental costs of state warmaking, however, are neglected by economists, who discuss national defense as a public good. The standard public good framing includes two tacit presuppositions about state actors. One is that they have the necessary economic knowledge to move society closer to the optimal provision of the good, such that social welfare is increased. Another is that they have the incentive to act on that knowledge. This paper critically considers both assumptions in the context of the neglected environmental costs of state warmaking. We argue that policymakers are typically not in a position to know the full environmental costs of their military activities and that they lack the incentive to take the full environmental costs of their policies into account, as they are largely incurred by others in the present and future.

Keywords: Arthur Pigou, environment, environmental costs, externality, military, national defense, Pigouvian tax, war, warmaking

JEL Codes: H10, H41, H56, Q50

1. RECRUITMENT

What are the environmental costs and consequences of state warmaking? This question is important because warmaking activities affect the physical environment in dramatic, and often irreparable, ways. The environmental consequences of warmaking have expanded through time with advances in modern military technologies. As one scholar noted, “Human technological innovations from one war to the next have not only increased in terms of the level of harm inflicted upon the enemy, but also upon the environment as well” (Hupy 2008, p. 407).

Following Arthur Pigou (1920), economists have long recognized the environmental costs of private economic activity. The environmental costs of state warmaking, however, are neglected by economists, who focus on discussing national defense as a public good. In the standard view, the market underprovides public goods when compared to the theoretically optimal amount due to pricing issues and the free-rider problem. As a result, the state must step in to fill the gap (Samuelson 1954, 1955). This framing includes two tacit presuppositions about state actors. One is that they have the necessary economic knowledge to move society closer to the optimal provision of the good, such that social welfare is increased. Another is that they have the incentive to act on that knowledge.

This paper critically considers these assumptions in the context of the environmental costs of state warmaking. By "warmaking" we mean the broad set of state activities that fall under the purview of "national security," "national defense," and "the military." This includes investments in training and other preparations for war, engaging in war-related activities, and the consequences of these activities.

Our argument is twofold. First, policymakers are not able to know the full environmental costs of their military activities. Government actors are epistemically limited in accurately assessing the environmental costs of warmaking. Some of these costs are known in a broad sense, but difficult to meaningfully quantify; others are unknowable. Even when warmakers intend to cause environmental damage as part of their strategy, they cannot know the full downstream effects. Second, policymakers lack the incentive to take the full environmental costs of their actions into account since those costs are largely incurred by others. It follows that, even if it were possible to accurately quantify war-related environmental costs, policymakers have a weak incentive to take these costs into account due to cost shifting.

Our analysis is grounded in Buchanan's (1949) treatment of alternative framings of public finance. One view, what he called the "organismic view," treats the state as a "fiscal brain" that effortlessly computes and implements the socially optimal policy. An alternative framing—what Buchanan calls the "individualistic view"—conceptualizes the state as being composed of goal-oriented people embedded in specific organizational and institutional environments. These environments influence the types of knowledge generated and the incentive to act upon that knowledge.

Recent scholarship has extended Buchanan's framing to the topic of state warmaking, highlighting the epistemic and incentive constraints on policymakers considering the traditional public good justification for state action (Coyne 2015, 2022; Coyne and Goodman 2020). This serves as an entry point for our economic treatment of the negative environmental effects of warmaking. We seek to understand how warmaking policymakers produce environmental costs and face an incentive to ignore the full consequences of their actions. In doing so, we highlight a category of warmaking costs neglected by economists.

We contribute to two strands of scholarship. First, we contribute to the literature on public choice, beginning with Buchanan (1949). The field of public choice has long focused on the nuances and challenges of the state provision of public goods, which cannot be assumed (Buchanan 1968; Ostrom and Ostrom 1977). Nonetheless, the government provision of national defense remains front and center of what are deemed to be the necessary activities of a well-functioning state. This presumes that the state will do in practice what its proponents want it to do in terms of providing public goods. We question this assumption by highlighting a tension in state public good provision—the production of bads (negative environmental effects) resulting from activities justified on the grounds of solving a market failure (national defense).

Second, we contribute to scholarship tracing the relationship among warmaking and environmental consequences and costs (e.g., Lanier-Graham 1993; Austin and Bruch 2000; Machlis et al. 2011; Lawrence et al. 2015; Kireitseva et al. 2023). To date, this literature is largely written by non-economists with rare exceptions (see Brauer 2009). We explore how economics can contribute to understanding the important issues related to warmaking and the environment.

Now that we have completed our opening recruitment pitch we move on to subsequent sections, which follow Private Pigou, the namesake of Arthur Pigou, through basic training, deployment, and debriefing. The next section, basic training, considers the theoretical issues and tensions in the traditional model of public good provision with a focus on epistemic and incentive issues facing policymakers as they pertain to the environmental costs of warmaking. Section 3, deployment, discusses several categories of environmental costs of state warmaking. Section 4 concludes our mission with a debriefing of the main implications.

2. BASIC TRAINING: THE STATE PROVISION OF GOODS AND BADS

Phase One: Foundations

Writing in the 1920s, Arthur Pigou set the theoretical stage for government interventions to address market failures. He noted that private producers will pursue their private marginal benefits and costs, which may diverge from social marginal benefits and costs. A negative externality will result when the private marginal benefits of an action are greater than the social marginal benefits (and the private marginal costs are less than the social marginal costs). Negative externalities will be overproduced since the private producer does not incur the full costs of their actions. A positive externality, in contrast, occurs where the private marginal benefits are less than the social marginal benefits of an action (and the private marginal costs are greater than the social marginal costs). Positive externalities will be undersupplied compared to a situation where all costs and benefits are internalized. This reasoning set the stage for market failure theory and the possibility of government intervention as a remedy.

The concept of public goods was introduced and formalized in the work of Richard Musgrave (1939, 1941) and Paul Samuelson (1954, 1955). Theoretically, they showed that goods that are both non-rivalrous (i.e., where one person's consumption of a good does not inhibit another person's consumption of the same good) and non-excludable (i.e., where no individual can be prevented from consuming a good) will be under-produced when private actors are left to their own devices. This creates space for Pareto improvements, with the state acting as the conductor orchestrating improvements in social welfare. National defense was one example provided by Samuelson (1955, p. 350), and it has since become economists' textbook example of public goods.

Complications arise when the blackboard model of public goods provision is operationalized through existing political institutions. Buchanan (1949) pointed out the disconnect between the identification of a theoretical market failure and the practical design of policy to address it. In his view, the assumption of a benevolent social planner who maximizes a known social welfare function left an unopened "black box" containing the particulars of the policymaking process. A resulting research program drawing on the fields of public choice and new institutional economics sought to open this box by extending the tools of economics to the study of the policymaking process itself.

What Buchanan (1949) called the "individualistic view" focused on the constraints facing decision-makers embedded in specific institutional environments. Subsequent scholarship focused on the epistemic limitations and incentives facing policymakers, as illustrated by Coase's (1959, pp. 894-5) analysis of the Federal Trade Commission, which noted that,

> Quite apart from the malallocations which are the result of political pressures, an administrative agency which attempts to perform the function normally carried out by the pricing mechanism operates under two handicaps. First of all, it lacks the precise monetary measure of benefit and cost provided by the market. Second, it cannot, by the nature of things, be in possession of all the relevant information possessed by the managers of every business which uses or might use radio frequencies, to say nothing of the preferences of consumers for the various goods and services in the production which radio frequencies could be used.

Given the importance of this "Coasian problem," let us consider these epistemic and incentive issues in more detail.

Phase Two: Epistemic institutionalism

Epistemic institutionalism emphasizes the distinct nature of economic knowledge generated in different institutional settings (Boettke 2018). This focus can be traced back to the socialist calculation debate, during which Mises (1920, 1922, 1949) and Hayek (1948) emphasized that the economic knowledge produced by the entrepreneurial market process cannot exist absent that process. Economic knowledge regarding the best use of scarce resources is the result of ongoing rivalry between private economic actors who compete over scarce resources; this process is guided by the knowledge and feedback provided by monetary prices and profit and loss (Lavoie 1985a,b, 1986; Kirzner 1992). The political allocation of resources replaces the market process with the political process, generating an entirely different type of knowledge regarding how resources should be used (Buchanan 1954; Wagner 2016). In the political process, the valuations of policymakers replace those of private consumers, and top-down control of resource allocations replaces the decentralized and emergent allocations that occur in private markets.

As noted by Lavoie (1985b), the limitations of the state planning of resource allocations extend beyond comprehensive economic planning and also apply to non-comprehensive government planning. While the former refers to government efforts to plan all economic activity outside of markets, the latter refers to government efforts to plan parts of economic activity absent markets. The difference between the two is one of degree and not kind, as planning in both settings suffers from the inability of government planners to rely on economic calculation to determine the best use of scarce resources amongst an array of technologically feasible alternatives. This matters because many government functions, including warmaking, reflect non-comprehensive forms of planning (Coyne and Hall 2019).

This poses three epistemic challenges for the government provision of public goods. The first is that it is assumed that policymakers know *what* good should be produced. There is a difference between general categories of goods and the specifics of the goods demanded by consumers. For example, "security" is a broad category that includes an enormous range of potential goods and services of different types, qualities, and quantities. Individual choosers will value various aspects of security differently, just like their valuations of clothes, food, and housing vary greatly.

Policymakers lack access to the utility functions of consumers in a manner allowing for the determination of specific consumer wants and the aggregation of those wants into any single scale of values that can be enacted through policy. As Buchanan (1959, p. 126) noted:

> Individual preferences, in so far as they enter the [social welfare] construction must be those which appear to the observer rather than those revealed by the behavior of the individuals themselves. In other words, even if the value judgments expressed in the function say that individual preferences are to count, these preferences must be those presumed by the observer rather than those revealed in behavior.

This means that at some point the analyst will need to impose their own valuations regarding the specifics of what constitutes security.

A second challenge is the assumption that policymakers know how to produce public goods in an economically efficient manner to maximize social welfare. If economic efficiency is the goal, it is not enough to know what is to be produced, but also how to produce it to maximize the value of scarce resources. The challenge is that the best use of scarce resources in production is an emergent feature of the market process rather than a pre-determined recipe (Hayek 1948, pp. 92-106; 1978, pp. 179-190; Lavoie 1986; Kirzner 1992).

As Hayek (1948) noted, "the solution to the economic problem is in this respect always a voyage of exploration into the unknown, an attempt to discover new ways of doing things better than they have been done before. This must always remain so as long as there are any economic problems to be solved at all, because all economic problems are created by unforeseen changes which require adaptation" (p. 101). The state provision of public goods necessarily entails shifting at least part of economic decision-making from the market process to the political process, limiting the ability of market competition to serve as a discovery procedure of the best use of scarce resources (Lavoie 1985b).

This matters because public goods theory demands that government, as producer, determine the efficient means of producing a desired output. This calculation includes comparing trade-offs across numerous margins, including the environmental consequences of production. Different technologically feasible production methods will have different environmental consequences. The challenge is that policymakers need to make these judgments absent the market process and the economic knowledge generated through that process.

A third challenge is the assumption that policymakers know that their production of public goods generates benefits net of any associated bads. Assume that national defense is a public good and that government provision of the good generates air pollution. As per the standard textbook example, this pollution would be a negative externality tied to the action of the producer who does not internalize the full costs of their actions. The difference with the textbook case is that in the case of national defense pollution is not a market failure, but rather a government failure. To provide a public good that increases social welfare, policymakers would either have to know how to avoid the negative externality in the first place, or to produce enough net social benefits to outweigh the cost of the bad (pollution).

To understand the epistemic challenge facing policymakers, consider the difficulties with implementing the standard solution to privately produced negative externalities—a Pigouvian tax equal to the size of the externality. As Nye (2008, p. 34) notes, "Absent detailed information about both regulatory distortions and private Coasian transfers, knowing the size of the PEX [Pigou Externality] gives us no clue as to the size of the optimal Pigou tax". One reason is that an accurate accounting of the appropriate Pigouvian tax requires adjusting for other government interventions (regulations and taxes) that contribute to the externality.[1] Another is that even in a world with efficient transfers it is possible, and likely, that externalities would still exist. Finally, even with positive transaction costs, private parties may engage in some Coasian bargains to limit the harmful effects of the externality. If these possibilities are not considered, a Pigouvian tax will be overstated because it will assume the harmful effects of the externality are greater than they actually are (Nye 2008, pp. 32, 34).

Things become more complicated when we move from the realm of privately created negative externalities to government created negative externalities since the state is the ultimate regulator and tax-collecting entity; the state is not going to impose a Pigouvian tax on itself. An alternative to taxation is self-imposed regulations (the state regulating its own behaviors) to limit the negative externality. But regulation does not avoid the same epistemic issues of having to know the optimal regulation that adjusts for all other behaviors (known and unknown).

Phase three: Incentive institutionalism

While epistemic institutionalism focuses on the economic knowledge generated in different institutional settings, incentive institutionalism focuses on the incentives facing choosers in different settings. A large public choice literature explores the incentives facing participants in democratic politics (Rowley and Schneider 2004; Reksulak, Razzolini and Shughart 2014; Congleton, Grofman, and Voigt 2019a,b). This work highlights that there is often a wedge between the preferences of voters and the actions of elected officials and bureaucrats who represent citizens. To understand the foundations of this wedge, consider the challenges with the voting booth serving as an effective mechanism for communicating voter preferences to policymakers and for serving as a disciplinary device for elected officials.

One issue is voter knowledge. Voters tend to be rationally ignorant of policy details because they face a weak incentive to collect available information; the reason is that their single vote has a relatively small impact on electoral outcomes (see Downs 1957; Bohanon and Van Cott 2002; Heckelman 2003; Gelman, Silver and Edlin 2012; Somin 2013; Brennan 2016). This means that voters will tend to lack the incentive to gather information on warmaking policies, including their costs. This weak incentive applies to the initial election of policymakers and to monitoring politicians once in office. The incentive to be informed will be even weaker where the costs of policies do not fall directly on voters, which is also the case with warmaking. For instance, warmaking activities that destroy land or generate pollution in a foreign location impose little direct cost on domestic voters, but significant costs on those living in the target area.

Another limit on voter knowledge is that the effects of policies are long and variable. A policy passed today may generate long and variable costs that only become apparent well into the future. Even if a citizen-voter was interested in gathering relevant information on these costs today, they may be unable to do so since they are not yet observable. Consider the environmental costs of warmaking. Some costs are readily observable—e.g., the destruction of infrastructure due to bombing—but others may only become obvious in the future—e.g., long-term effects of military explosives on ecosystems—if ever. This means that even the most informed voter will only possess part of the relevant information regarding the production of goods and bads associated with warmaking.

A second issue is that the information available to voters is partially endogenous to the political organizations that generate it. Because political organizations produce information about their activities, they have some discretion to strategically frame, filter, and conceal information as it benefits them. This is especially problematic in cases where information production is highly centralized and insulated from oversight and contestation, such as in the case of the national security sector where a classification system allows for the legal concealment of certain national security information (Coyne, Goodman and Hall 2019; Coyne and Hall 2021). This limits the ability of voters, watchdog groups, and others, to be informed about what their government is doing as it pertains to warmaking and the associated environmental costs.

The third issue is the fact that each qualified voter receives one vote limiting their ability to communicate the intensity of their preferences (Tullock 1959). Each vote counts the same whether a voter has a very strong preference for a certain policy or whether they are entirely indifferent and randomly select an option. One citizen may have a strong preference against the environmental costs of warmaking, while another may not care at all; the vote of each citizen counts the same such that the recipient of the vote cannot gauge the relative intensities of the voters' preferences.

The fourth issue is the time gap between elections limits the voters' opportunity to provide feedback. Citizens cast a vote for an elected official based on their perception of conditions at the time of the election. Post-election conditions will change, however, and voters will need to wait for the next election to cast their ballot. Consider that U.S. voters elected George W. Bush president in November 2000. The September 11, 2001, attacks and subsequent "war on terror" began during the first year of his presidency. Most voters did not anticipate these events at the time they cast their vote and would need to wait three years to cast their next vote. In general, voters often need to wait for long time periods to express their concerns that emerged after the prior election, limiting the ballot box as a means of feedback to policymakers.

Finally, citizen voting is limited as a source of feedback due to difficulties with identifying the parties responsible for the environmental costs to taxpayers. State warmaking consists of a massive complex of elected officials, bureaucrats, and private actors (Priest and Arkin 2011). Even if the environmental consequences of warmaking can be determined, and even if the voter cares about these issues, it will often be unclear if a candidate on the ballot is directly responsible. This makes it difficult for even the most interested voter to determine who to vote for or against.

Even under the most well-functioning real-world democracies, the combination of these five factors limits the ability of voters to both communicate their preferences to elected officials and to discipline those officials as it pertains to the environmental costs of warmaking. And keep in mind that these issues pertain to domestic voting. Since state warmaking is often international in nature, related policies will tend to affect both domestic citizens and foreigners, with the latter having even less say in the policies adopted—the foreign targets of a state's warmaking do not get a vote as to whether they should be targeted. This matters for the incentives facing policymakers.

In general, the various frictions in politics mean that there is no clear Coasian solution (Coase 1960; Acemoglu 2003) to the Coasian problem (Coase 1959) of epistemic and incentive limitations facing policymakers. The reason is that the wedge between voters and government actors creates space for narrow opportunism—policies that serve the interests of government actors and special interests. In addition, the imperfections in democratic systems also create commitment problems whereby policymakers today cannot credibly commit to future behaviors because of ineffective enforcement mechanisms (Acemoglu 2003).

The imperfections in domestic politics, combined with the international effects of warmaking, means that policymakers do not incur the full costs of their actions. Return to the case of the polluting factory. The factory operator can shift costs, with part of the cost of production falling on those who do not benefit. This cost shifting means that the operator will produce more bads than they otherwise would when compared to a situation where they internalize the full costs of their actions. The same is the case of state warmaking.

Policymakers incur some direct costs from their decisions (either immediate costs or anticipated costs in the future), but many of the costs of warmaking fall on other people. This means that policymakers will engage in an overproduction of cost-generating warmaking activities as compared to a situation where they fully internalized the full costs of their actions. In other words, state actions to produce a public good justified on the grounds of resolving a market failure will produce an over-supply of bads. This reasoning comports with the findings of Lawrence et al.'s (2015) review of the literature, which finds "little evidence that military strategists consider environmental consequences of military activities when planning or executing military actions related to conflict" (p. 454). Absent the incentive to care about environmental consequences, people will tend to care less and produce more harms compared to a situation where they incur the full costs of their decisions.

Phase four: Graduation

Please join us in congratulating Private Pigou who has successfully completed basic training and is ready to be deployed to the battlefield. The main takeaway of his training is that even in the most effective real-world democratic systems, policymakers face epistemic constraints for knowing what goods to produce and how to produce them efficiently. They also lack full knowledge of the bads, both in terms of the range of costs associated with their policies, their magnitudes, and their distribution. Moreover, political incentives are such that policymakers will overproduce bads since they face weak feedback and discipline, while being able to shift costs onto others, both domestically and abroad. These lessons apply to the production of a wide range of potential bads (see Coyne 2022), including a range of environmental costs.

3. DEPLOYMENT: THE ENVIRONMENTAL COSTS OF WARMAKING

Both preparing Private Pigou for war (e.g., training exercises and the production of military equipment) and sending him to war generate a range of environmental costs. These costs are reflected in the following general categories which are based on the past and present environmental consequences of warmaking. Our discussion of each category appreciates the possibility of three types of intentionality—the first active and intentional and the latter two passive and unintentional (see Lanier-Graham 1993, pp. 11-12).

One possibility is that Private Pigou engages in intentional and direct environmental harm, such as the purposeful destruction of forests or farmland, to weaken the enemy. In this scenario, Private Pigou does not suffer from any knowledge problems regarding the immediate costs of their actions since they deliberately intend to cause environmental harm. When these types of activities are part of the warmaker's toolkit, they will have a strong incentive to use them both because they are viewed as acceptable and because the related costs largely fall on others.

A second possibility is that Private Pigou produces unintended and direct environmental harms caused by the presence of troops and equipment. In this scenario, Private Pigou does not intend to create environmental harms as in the first scenario, but does so as a byproduct of his presence and activities. To varying degrees he may, or may not, have knowledge of the indirect environmental costs of his actions. Either way, he does not internalize the full costs of his actions and will tend to overproduce harms that fall into this category.

Finally, Private Pigou's warmaking activities might generate indirect and unintentional harms. These refer to long and variable environmental costs associated with warmaking activities. The long-term effects of the testing, use, and storage of nuclear or chemical weapons would be an illustration of this last category. As in the previous cases, Private Pigou lacks the incentive to fully consider these costs.

These three possibilities can also be related. For instance, intentional direct (possibility one) environmental destruction may lead to unintended environmental degradation (possibilities two and three) through time. The relevance of each type of intentionality, and the consequences, depends on the context and the warmaking activities undertaken.

Air contamination

Air emissions include substances emitted into the atmosphere by human activities. The maintenance and operation of a military, even if not directly engaged in war, generates significant air emissions. For instance, the United Kingdom's Ministry of Defense accounts for 50% of the UK's central government emissions, and aviation accounts for two-thirds of the Ministry of Defense's fuel consumption (Ministry of Defense 2021). The U.S. Department of Defense is the largest single consumer of energy domestically, among the largest internationally, and is the largest institutional generator of greenhouse gases in the world (Crawford 2019, p. 2).

Empirical analyses suggest that higher expenditures on military activity lead to higher per capita emissions of pollution and greenhouse gases, even after controlling for other factors (Bildirici 2017; Bradford and Stoner 2017; Sana and Neila 2016; Erdogan et al. 2022; Wu et al. 2025; Cutcu et al. 2025; Ngounou et al. 2025). Clark, Jorgenson, and Kentor (2010) find that military expenditure per soldier increases the scale of energy consumption, and that overall energy consumption is positively correlated with the number of military personnel relative to the overall size of the domestic population. Together, these studies suggest that human-made air pollution is an indirect effect, with both immediate and longer-term consequences, of maintaining and operating a large-scale military sector.

Some evidence suggests that war reduces the overall amount of carbon dioxide (CO_2) emissions (Reuveny, Mihalache-O'Keef, and Li 2010; Marrouch and Sayour 2024). One suggested reason is that vehicles and industrial plants that generate pollution are often destroyed during war. Another is that economic activity (e.g., production and transportation of goods) often decreases as people and resources are pulled into the war effort, contributing to an overall reduction in CO_2 emissions (Westing 1980; Tucker 2004). Note, however, that although overall CO_2 emissions may fall, empirical evidence shows that the "intensity" (the amount of CO_2 emissions per unit of economic activity) of CO_2 emissions increases during war. This may be the result of production processes that are less environmentally friendly due to increased war production and an easing of environmental restrictions (Marrouch and Sayour 2024).

Further, even if overall emissions fall during war, warmaking often increases air contamination in specific localities. For example, the operation of heavy military equipment, which tends to rely on petroleum-based fuels, may contribute to increased air pollution in areas where warmaking activities take place. The use of various weapons (chemical, explosive, etc.) may also produce intense local air contamination. Consider the use of herbicides (Agent Orange and Agent Blue) by the U.S. Air Force in South Vietnam as part of Operation Ranch Hand (1962-1971) for the purposes of deforestation (see Buckingham Jr. 1982; Brauer 2009). This affected the health of a significant number of people in targeted areas who either inhaled the toxic substance of Agent Orange (TCDD), or who interacted with the herbicide through skin contact (Young 2009).

Finally, the disposal of war-related waste can lead to localized pollution and immediate bodily harm. During the occupation of Afghanistan and Iraq, for instance, the U.S. Army used open burn pits to dispose of human waste, plastics, electronics, and chemicals. The resulting carcinogens polluted the air while causing health issues for many U.S. soldiers (Woskie et al. 2023). In each of these scenarios, air contamination is an indirect effect of warmaking with both short- and longer-term environmental consequences.

Water contamination

Water contamination refers to the pollution of water bodies due to human activity. Water contamination can be direct and intentional as illustrated by the Gulf War oil spill of 1991. In one of the largest oil spills in human history, Iraqi military forces intentionally dumped an estimated eleven million barrels of crude oil into the Persian Gulf to try to prevent U.S. marines from landing on the coast (Michael 2011). Beyond the immediate effects the spill had long-term effects, well beyond those known or considered by the perpetrators, on the water and environment, adversely affecting both marine and land environments (Mostafawi 2001; Michael 2011; Issa and Vempatti 2018).

Water contamination can unintentionally contribute to a chain of consequences adversely affecting human health. Consider warmaking preparations, which include a variety of military exercises in anticipation of future warmaking. One study of U.S. bombing exercises in Puerto Rico found significant neonatal health effects: "The military exercises have significant negative consequences for early life outcomes—particularly for congenital anomalies. The sudden end of bombing practices is associated with a 5.6–7.9 per thousand (56–79%) decrease in the incidence of congenital anomalies as the main driver for improvements in neonatal health outcomes" (Bobonis, Stabile and Tovar 2020, p. 2). The main channel identified for these adverse health outcomes was water contamination in the impacted area resulting from the bombing exercises. This illustrates how water contamination can occur indirectly and unintentionally, in this case through land-based military activities, as a government engages in domestic warmaking preparations.

The same goes for long-term water contamination caused by warmaking activities. Herbicidal warfare in Vietnam led to long-term water contamination decades later. One recent study found that five decades after the use of herbicides, "Some Air Force bases in Thailand and Vietnam continue to be dioxin contaminated soil and sediment hotspots. As a result of water and wind action, runoff, soil erosion, transport and deposition, these hotspots are spreading beyond airbase perimeter fences and into adjacent lakes, rivers and ponds" (Olson and Morton 2019, p. 4).

Another major source of water contamination is the dumping of weapons and munitions in bodies of water (Hutchinson 2017; Mitchell 2020). Both the Allied and Soviet forces, for instance, dumped chemical munitions and warfare agents in the Baltic Sea after World War II (Glasby 1997). "The largest amount of weapons was dumped in the Baltic Sea and Skagerrak Strait on the order of the British, Soviet and American military administrations in Germany. At least 150,000 tonnes of chemical weapons were dumped into Skagerrak, and about 50,000 chemical munitions containing around 13,000 tonnes of CWA [Chemical Warfare Agents] are known to have been dumped in the Baltic Sea" (Szarejko and Namieśnik 2009, p. 13). These chemicals continue to pose a health risk for the Baltic Sea ecosystem and the surrounding human communities (Beldowski et al. 2016; Briggs et al. 2016; Vanninen et al. 2020).

Soil disturbances

Warmaking affects the properties of soil. Most warmaking activities do not target soil directly, meaning that the harmful effects tend to be indirect and unintentional. The main effects fall into two general categories of disturbances—physical and chemical—with potential second-order effects (Certini, Scalenghe and Woods 2013).

An example of physical disturbances to soil would be the clearing of land with heavy machinery. This can lead to soil compaction, affecting the quality of soil and its ability to support vegetation and animals.

Another example would be the construction of military installments, which involves soil sealing. Soil sealing refers to the covering of soil with construction materials which limit the flow of water (e.g., a concrete foundation). This can adversely affect water infiltration (the ability of soil to absorb water), which can affect vegetation and animals, while contributing to water runoff which may adversely affect surrounding areas. Another example would be the relocation of large numbers of people due to war, since sudden and significant concentrations of people in a single geographic space can lead to land degradation (Certini, Scalenghe, and Woods 2013).

While ground-level effects of warfare (e.g., destruction of vegetation) are readily observable, it is also important to appreciate the unobservable and deeper effects of warmaking on the earth and environment. Hupy and Schaetzl (2006) introduce the concept of "bombturbation" ("turbation" refers to the mixing of soil) to emphasize the unique impact of military explosives on the earth's surface, which differ from other types of disturbances due to the force of explosives and the way they mix with the soil. Bombturbation refers to "the cratering of the soil surface and mixing of the soil by explosive munitions, usually in warfare and other military related activities" (Hupy and Schaetzl 2006, pp. 825-6). The use of war-related explosives produces craters in the earth's surface, potentially disrupting numerous soil layers (humus, top soil, sub soil, weathered rock, and bedrock) in ways that impact the surrounding physical environment and ecosystem (Hupy and Schaetzl 2006). Understanding the full range of consequences is only possible long after the initial deployment of explosives.

The second category is chemical, which refers to human-created interactions between soil and pollutants. An example is the use of Agent Orange by the United States in Vietnam to destroy vegetation to expose the Viet Cong. Agent Orange contains the dioxin TCDD, a highly toxic chemical which can lead to soil contamination with (literal) downstream effects. TCDD "can adhere to leaf surfaces, fine soil particles, organic materials and sediments that can be carried by runoff into downstream waters and deposited in ponds, wetlands and lakes. In this way, TCDD bioaccumulates in aquatic species and can become biomagnified throughout the food chain via mollusks, fish and fowl eaten by other animals and humans" (Olson and Morton 2019, p. 15).

The effects of the chemical pollutants on soil can last for decades after initial contamination. For instance, in 2016 the United States Agency for International Development (USAID) identified 500,000 cubic meters of dioxin contaminated soil at Bien Hoa Air Base in Vietnam (USAID 2023). This base served as a central hub for Agent Orange storage during the Vietnam War.

This reasoning extends beyond Vietnam. In general, military explosives "release chemicals that after eventually causing an immediate acute detrimental effect for living organisms can reside in soil to induce subtler, more enduring effects" (Certini, Scalenghe and Woods 2013, p. 11). These enduring effects will tend to be neglected by policymakers because of a lack of knowledge about their specifics at the time of choice, and because of a lack of incentive to take them into account since the costs are external to the decisionmakers.

Unexploded ordnances

Unexploded ordnance refers to weapons and munitions that have not been detonated. Examples of such weapons include bombs, rockets, landmines, grenades, mortars, and cluster munitions. The intentionality and temporal effects of the warmaking actions resulting in unexploded ordnances vary.

Consider a case where one army places landmines in a geographic space with the intention of preventing other people from entering the area. In this scenario the presence of unexploded ordnances, which purposefully render the land unusable, is direct and intentional. Intentional actions can result in long-term effects, which may be unintended, such as unexploded ordnances remaining for decades after hostilities have ended.

One example of this is the "Zone Rouge," or "Red Zone," in northeastern France. This area was closed off by the French government in the wake of World War I because of a significant number of unexploded ordnances covering the land. Though the war ended more than a century ago, the threat of unexploded ordnance remains today. As McLachlan (2023) notes, “It’s likely *Zone Rouge* will never be fully cleared. It’s been projected that it will take at least 300 years of work to completely clear the battlefields of their dangerous remnants.” Another example is that a large number of unexploded ordnances were intentionally dumped in oceans following the two world wars and continue to pose a significant environmental threat to this day (see Maser and Strehse 2020). In general, “Land mines and other explosive devices left behind in war (such as cluster bombs) present perhaps the worst ongoing environmental threat, as they make using natural resources (such as farm fields) a deadly activity in affected areas” (Clark 2008, p. 4).

The presence of unexploded ordnances can also be the result of purely unintended and indirect effects of warmaking. An example would be unexploded ordnances left behind on military installments once foreign military troops exit (Massarino 2024). This same scenario can occur within the borders of the war-making country once a military installment is no longer in use. This is illustrated by the challenges posed by unexploded ordnances when the government attempts to close domestic military bases within the United States (see MacDonald et al. 2004).

Unexploded ordnances affect both human beings and ecosystems. Well after wars have ended, innocent people are maimed, killed, and psychologically damaged through unintentional interactions with unexploded ordnances (see Frost et al. 2017). The same is the case for ecosystems (Westing 1996; Dudley et al. 2002; Certini, Scalenghe and Woods 2013).

Unexploded ordnances can adversely affect soil and water quality due to the toxic substances in munitions, which affect flora and fauna. Like humans, animals may accidentally detonate unexploded ordnances. They may also be adversely affected by changes in the availability of food and water due to contamination or harm to the environment. These effects are long, variable, and not evident in their scale and scope prior to, and during, warmaking.

Deforestation

Deforestation, which refers to the clearing of trees from land, is one of the most cited environmental consequences of warmaking (see Meaza et al. 2024).[2] The large-scale removal of trees can have a variety of environmental effects including contributing to climate change (due to the loss of tree capacity to absorb carbon dioxide), soil erosion and flooding (due to reductions in rainfall absorption), and harm to animals and plants that rely on the ecosystem that emerged around trees (Harris 2006; Brauer 2009).

In some cases, deforestation is an intentional act of war with the aim of preventing enemies from having access to timber or coverage for concealment. During the Vietnam War the United States Army used “Rome Plows” (named after the Rome Plow Company), modified plows with sharp blades, to remove trees and foliage that could be used by the enemy for concealment (Brauer 2009, p. 48; Starry 2002, pp. 147-8). They also used defoliants, such as Agent Orange and Agent Blue, with the aim of intentionally destroying forest cover to root out the enemy. As noted earlier, these chemical herbicides had widespread and long-lasting ecological and health effects (Westing 1971a, b, 1974, 1976; Yamashita and Trinh 2002; Brauer 2009, pp. 49-58).

In other cases, deforestation is an unintended result of other warmaking activities. One example would be the destruction of trees due to the movement of heavy military equipment or for purposes of establishing military installments. In this scenario the primary intention is not to destroy the trees, as under the prior scenarios, but rather a secondary effect of the primary intention of military movement.

Whether intentional or unintentional, there are immediate and long-term environmental consequences of warmaking on forested land: “This impact occurs for various and varied reasons from simple over-exploitation of the resources for fuel, construction, or other uses, or because in times of conflict the usual processes governing the uses of forest resources break down” (Rotherham 2024, p. 1). The full extent of these costs cannot be known by warmaking policymakers at the moment of choice and largely fall on other people.

Harm to animals

The harm to animals associated with warmaking can be significant. To provide one example, it is estimated that eight million horses, mules, and donkeys used to transport soldiers and war materials died during World War I (McIntyre 2017). Directly and intentionally attacking animals has been part of past military strategies to weaken the enemy. For instance, during the Vietnam War the U.S. military targeted elephants because they were used to transport military supplies (Dudley et al. 2002).

In many cases the harm to animals is indirect and not the primary intention of warmakers. For instance, deforestation, air pollution, water contamination, and soil disturbances related to warmaking activities can all harm animals absent the intention of doing so (Westing 1996; Brauer 2009). The U.S. military's use of herbicides during the Vietnam War to reduce forest cover had immediate effects on animals and long-lasting, unintended, effects on the types of species that could sustain and thrive (Brauer 2009, pp. 58-62). A final example is the use of sonar by the U.S. Navy, which harms cetaceans who rely on sound waves for major life functions. The sonar pings created by U.S. military ships can affect feeding and mating patterns affecting marine animals in the immediate term and their populations through time (Parsons et al. 2008; Goldbogen et al. 2013).

In addition to the direct harm caused to animals, there can also be second order effects on human welfare as illustrated by the effects of nuclear testing on animals and, hence, on the animal products consumed by humans. Nuclear fallout can contaminate soil and the vegetation consumed by animals. In addition to the contaminated vegetation harming animals directly, it can also harm humans who consume meat and milk (Brauer 2009, p. 8). None of these perverse harms on animals and humans are the intended consequence of nuclear testing.

Regarding the general impact of war on animals, one empirical study focused on Africa found that violent conflict is the most consistent indicator of declines in the population of animal species (Daskin and Pringle 2018). This is due to a variety of factors, such as targeting animals as a military strategy, the neglect of animals during war, the increased consumption of animal meat, poaching, and the destruction of conservation infrastructure. A survey reviewing case studies on war and animal conservation notes that beyond the immediate connections between warmaking and animal conservation, there are also indirect effects on animals due to institutional and socioeconomic changes resulting from war (Gaynor et al. 2016).

Examples of institutional factors include changes in domestic government and conservation capabilities, and the potential withdrawal of international support. Socioeconomic changes include things like the increased consumption of animals and natural resources due to displacement and economic hardship and decreases in ecotourism. The specifics of these changes and their impact on animals vary depending on the context, but they highlight the numerous indirect channels through which warmaking can harm animals.

4. DEBRIEFING

Private Pigou has successfully concluded his mission; let us debrief on the main lessons learned. The first is a broad lesson and applies to the general notion of public goods and their provision. The justification for the state provision of public goods is that social welfare will be increased. This assumes that policymakers know what is to be produced and how to produce it, not from a purely technical perspective, but from an economic perspective that incorporates the opportunity cost of scarce resources. There are fundamental epistemic issues with determining the optimal government provision of a good outside of the market context.

Further complicating welfare-enhancing provision is the need to account for the various bads generated by government interventions to produce a potential good. Interventions into complex systems can never do just one thing, making it important to consider these other factors when making claims about increases in social welfare as per standard public goods theory. Efforts to address one supposed market failure—e.g., the provision of public goods—can result in government failures on other margins—e.g., negative externalities. Some of these bads, which span various geographic spaces and populations, are immediate while others will appear in the future.

A second lesson applies specifically to one category of bads—the environmental costs of warmaking. The environmental costs of war will be understated for two reasons. One is that policymakers will lack full knowledge of these costs at the time of choice. The second is that policymakers face a weak incentive to appreciate these costs and their limited knowledge regarding their extent and magnitude. The reason is that policymakers incur, at best, a small portion of the environmental costs of their decisions. This allows them to shift costs to other people, both domestically and abroad. Just as private actors overproduce negative externalities, so will warmaking policymakers.

What can be done? Shifting our focus from privately created negative externalities to government-created ones poses the challenge that the state is the ultimate tax-collecting entity. The result is a "Paradox of Pigou" in cases of government created negative externalities—who will tax the Pigouvian taxman?

An alternative is self-imposed regulations to limit the negative externality. For instance, the United States Department of Defense (DoD) is subject to environmental laws at the federal, state, and local levels. One issue with this solution is the aforementioned knowledge problem—determining the optimal level of pollution outside of the market. Another issue is that there are typically exemptions that weaken the effectiveness of regulations as they pertain to warmaking.

In some instances, this entails the DoD seeking exemptions on a case-by-case basis (see Bearden 2006). In other cases, exemptions are part of the law. For instance, in 2021 President Biden signed an executive order (Executive Order 14057) instructing government to "achieve a carbon pollution-free electricity sector by 2035 and net-zero emissions economy-wide by no later than 2050" (Biden 2021, p. 70935). However, the order contains exemptions for matters of national security, military training, intelligence, and combat.

Given the current structure of the warmaking system, the legacy of Private Pigou remains intact—a legacy of government overproducing war-related environmental costs in the name of producing a public good. There are many benefits and costs to warmaking spanning numerous margins. Our analysis has emphasized some of these costs, and there are many more related to our focus. For instance, we have not discussed the environmental consequences of the loss of human life due to war. As Julian Simon (1989, 1998) argued, people are part of their natural environment and cannot be separated from it. The human propensity for creativity, Simon argued, is crucial for innovating to resolve critical environmental problems. The loss of human life associated with warmaking, therefore, reduces the number of people who might contribute to environmental improvement and the end of wars associated with environmental pressures (Simon 1989). To the extent that people care about and prioritize the associated environmental costs, however, the only solution may be to take steps to limit the root cause—warmaking.[3]

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NOTES

1 Existing scholarship identifies instances where government actions result in negative environmental externalities. For instance, studies show that government-granted subsidies encourage overproduction and overconsumption of fossil fuels, increasing greenhouse gas emissions and air pollution (Arzaghi and Squalli 2023). Agriculture subsidies, like those for the monocropping of corn in the Midwest, often lead to overuse of chemical fertilizers, pesticides, and water resources, leading to soil degradation and water pollution (Williams 2020).

2 For a historical overview of the role of forests in warfare, see Rotherham 2024.

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The American Constitution: The Product of Human Action but not Human Design

GUS DIZEREGA

Abstract: The US constitution has been widely misunderstood because it was compared to traditional political forms, such as republics. James Madison cautioned against this, but was ignored. In fact it arose through voluntary persuasion and compromises creating the first democratic complex adaptive political order. Flawed understandings shaped by European concepts of sovereignty led to bad analysis and history. I prove this by analyzing Lord Acton's analysis of the Civil War. His general perspective is identical to core principles in classical liberalism and traditional American conservatism. They repeat Acton's error to this day.

Keywords: classical liberalism, constitution, democracy, James Madison, John Adams, Lord Acton, Majority rule, public good, republic, spontaneous order, the state, Thomas Jefferson

In 1819 James Madison described why so many philosophers and political analysts misunderstood the U.S. Constitution. This essay explains why he argued so and how the misunderstanding he described became the basis of much classical liberal and American conservative thought:

> Much of the error in expounding the Constitution has its origin in the use made of the species of sovereignty implied in the nature of Government. The specific powers vested in Congress it is said, are sovereign powers, and that as such they carry with them an unlimited discretion as to the means of executing them. It may surely be remarked that a limited government may be limited by its sovereignty as well with respect to the means as to the objects of its powers…
>
> —James Madison to Spencer Roan, 1819

Throughout his life James Madison contended the American Constitution was something new in political history, and relying on European political thought to understand it would not work. I will argue he was right. However, the concepts needed to understand what he and the other Founders created did not then exist, although the first study of them in English appeared in a different context in 1776, when Adam Smith published his *Wealth of Nations*. At the time no one saw any similarity between what Smith described and the new Constitution, not even among those who admired both. Only recently have we developed the theoretical tools to grasp what had really been created.

THE MATTER OF REPUBLICS

Madison and others described the Constitution as establishing a "republic," but what emerged from their work was a republic unlike any that had ever existed. Today many people quote Madison's critical words about democracies in his *Federalist 10* and then intone "This is a republic, not a democracy. Let's keep it that way." Setting aside the fact these people never read Federalist 10, what are we to make of the fact that, like all democracies, American citizens can vote. What is the difference? Had those intoning this fragment from Madison's Federalist 10 actually read it, they would not be making this charge. But first, some background context.

By the time of the American Revolution the term "republic" already had a long history, and had been applied to very different governments. Between the time its early monarchy had been abolished in 509 BCE to the creation of the Empire, nearly 500 years later, classical Rome was described as a republic. Before the republic's establishment Rome had been governed by a king who was elected for life by the Roman Senate. In at least a formal sense, the republic lasted until 27 BCE when Caesar's adopted son became Rome's first emperor. From then on "republics" were contrasted to monarchies and tyrannies in not being systems of one-man rule.

This basic distinction between republics and tyrannies lasted until the time of the American constitution. In 1748 Baron Montesquieu, the most influential political theorist of his time, described republics as governments where "the people, *or a part of the people*, has the sovereign power" (my italics). Elsewhere in *The Spirit of the Laws* he wrote the "nature of a republican government, [is] that either the collective body of the people, or particular families, should be possessed of the supreme power" (Montesquieu 1989).

Montesquieu, explained further:

> When in a republic, the whole people possesses sovereign power, it is a democracy. When this power is in the hands of only a part of the people, it is an aristocracy. In a democracy the people, in certain respects, are the monarch; in others, they are the subject. It cannot reign except by its votes, and the laws which establish the right of voting are therefore fundamental in this form of government.

He also described England as "*a republic that hides under the form of monarchy*" (Montesquieu 1989. Book 2 chapter 2). This was the general political, legal, and philosophical understanding of forms of government when our Founders met to devise a constitution to replace the Articles of Confederation. At the time of the Constitutional Convention the Constitution's framers also looked upon England as a republic, even if a flawed one. Many hoped to incorporate its strengths into the new government.

ENGLISH REPUBLICANISM

The English Revolution's execution of Charles II destroyed the royal absolutism that still existed in France. When his son, James II, returned to the throne and sought to rebuild a powerful monarchy, the peaceful Glorious Revolution exiled him and established the Hanover dynasty, (now called the House of Windsor). The monarchy emerging from the Glorious Revolution was subordinate to Parliament, and Parliament itself was divided between the House of Lords and House of Commons. There was no unified will exercising sovereign power, rather the British sovereign was the collective of the House of Lords, and the House of Commons, each representing one of the two major divisions in English society. Its government was described as balanced between Lords and Commons with the monarch subordinate to it. There was no written constitution.

The English judiciary was independent of Parliamentary control, and English common law comprised the country's larger legal framework. Most legal changes came through precedents as how the law applied to a new case rather than a written text applied to the case. Law was 'discovered', not made. What emerged itself became a precedent for determining the outcome of future cases. Importantly, the law was considered distinct from legislation, although legislation could modify it.

The English constitution was like its common law in that in new situations the constitution's application had to be discovered based on the larger constitutional context, rather than decreed or deduced from a text. Changes were legitimate only within the framework of the whole. As one discussion of Parliament's power put it (Constitutional limits 2025):

> The whole purpose of the Constitution is to protect the Sovereignty of the nation and the wellbeing and security of the People by compelling all who govern to uphold our national Sovereignty under oath. The Constitution exists and provides a positive limit to Parliament's power. It is not codified in a single document but is in part written and comprises many laws and customs.

Superficially Parliament was all powerful as it could change any element within the constitution. But Parliament was itself embedded within the constitution and its acts had to be in keeping with the larger framework within which it was embedded. The British classical liberal Lord Acton explained "The laws of England do not flow from a single principle, they are the result of many influences, they acknowledge authority and tradition, balance one set of interests by another, and aim at serving very various rights, and are determined by many considerations of expediency" (Dahlberg 1874).

Importantly, in England the law did not apply equally to everyone, for the United Kingdom remained a society whose members were defined by different legal orders. The Lords were descendants of those who had conquered England and the Commons represented the descendants of the conquered. At the time of the American Founders both branches of British government needed to agree for new laws. The monarchy disagreed at its peril.

Traditional English republicanism considered the government sovereign. Its most important thinkers distinguished a republic (in their sense) from a monarchy in that it was characterized by the rule of law and the absence of a supreme ruler. The king was not sovereign, the law was. Ideally law was arrived at through the agreement by the basic elements of society as a whole, not through a sovereign will dominant over both government and people. This is why Montesquieu described England as a republic whereas France was a monarchy.

Because societies tended to divide into factions, English republicans argued to prevent tyranny the people and the aristocracy should dominate different parts of the government which required their agreement if anything was to be done. Only in this way could society's most fundamental divisions be kept from seeking to dominate one another. If the balance was disturbed, domination was the great fear, for if one interest came to predominate, the government would be subject to their rule. Oppressing other elements in society would follow.

Michael Oakeshott described this perspective vividly, writing the ship of state has "neither starting-place nor appointed destination...[and where] the enterprise is to keep afloat on an even keel" (1962, p. 12). He explained there were two major understandings of political organization, either an "enterprise association" where the state seeks to impose some universal purpose, or a "civil association" where the laws impose some rules for permissible action but do not require members to choose one action rather than another. Both of Oakeshott's examples emphasize the state as the locus of ultimate power over society and focused on how power is employed.

An ideal republic in the English sense maintained an equilibrium between society's fundamental social orders, keeping the state and its sovereign power subordinate to society, which had no clear will. If it empowered one basic order at the expense of another any shift in this equilibrium threatened to degenerate into despotism or aristocracy. The English republicans' ideal was not equality of citizenship but the rule of law, with individuals subsumed into the social orders within which they belonged.

Due to its emphasis on maintaining an equilibrium between social orders, traditional republicanism did not have a rich conception of the public good because any governmental action potentially threatened that equilibrium. An active government threatened to become a tyrannical government. The "nightwatchman state" is another image for this kind of government.

A BAD FIT

If its flaws could be addressed, most of the Founders were very sympathetic to the English republic. John Adams and Alexander Hamilton were the major American thinkers most influenced by English republican thinking. Hamilton's major writings were his contributions to the *Federalist* in defense of the proposed Constitution, but his personal opinion was more critical because it did not more closely approach the English model. Hamilton's own plan for the new government included a bicameral legislature with an "Assembly" elected for three-year terms and a "Senate" serving for life, the equivalent of the Lords. It also called for a national "Governor" elected for life with veto power. A kind of king.

Adams wrote more explicitly about how the new nation should be organized based on English experience. His prescription for the United States relied on Montesquieu's interpretation of the British Constitution as a mixed regime based on a society of stable orders. Adams believed every society had a "natural aristocracy" that was best isolated in a Senate as a counter-weight to the people, with the best qualities of each counterbalancing the worst. For example, in *A Defence of the Constitutions of Government of the United States*, Adams suggested "the rich, the well-born and the able" be set apart from other men in a senate, thereby preventing them from dominating a lower house. Trying to distinguish this group from Americans as a whole, Adams suggested the natural aristocracy could be identified as including all who could influence the vote of another (Adams 1954, pp. 159, 202; diZerega 2000, pp. 61-74; Foster 2025).

But how could that be done? The mind boggles at trying to conceive how this group of 'natural aristocrats' could be separated from the rest of society, or how elections for 'the people' could take place unaffected by these 'natural aristocrats.' English history institutionalized its division of orders ultimately based on conquest and the privileges the conquerors gave themselves at the expense of everyone else. Inheritance of status created a permanent such order not based on any virtues other than successful reproduction. Adams' attempt to meld English republican principles rooted in conquest into the new nation lacking such an origin and the aristocracy that arose from it proved an insuperable challenge to adopting the English model.

The new American states were culturally and politically very different from Great Britain. First, they had no legally enforced system of social orders, and so no hereditary aristocracy. Aristocracies were rooted in violent conquests establishing the winners as legally privileged. By this time England's aristocrats were far from being local tyrants, but they still had political and legal privileges denied to the bulk of the people. It was this inherited privileged status that identified the House of Lords. No equivalent existed in the 13 states.

Second, the new states were very diverse religiously. In Europe religious wars had killed millions, and the worst of them lasted 30 years and ended only in 1648 with the Treaty of Westphalia that established principles of state sovereignty and religious tolerance among Catholic, Lutheran, and Calvinist denominations, although not others. Crucially, people could privately practice Catholicism, Lutheranism, or Calvinism even though there were also official state religions. Jews were not included but the Netherlands had independently adopted toleration that included them. (Interestingly, John Locke had spent time in exile in the Netherlands, and his experience led him to advocate toleration in England). In part due to Locke's influence, England adopted a limited toleration around the same time, but excluded Catholics and smaller denominations as well. The Puritans' Congregational Church was the state church throughout New England and the Anglican Church the state church in the southern colonies. The middle colonies had a plurality of various Christian denominations, but no state church. Many of the Founders were deists of one sort or another (Stewart 2014). Without established orders or an all-embracing church acceptable to all or most, the most basic building blocks for English republicanism did not exist in the new country. Simply recreating an improved English model was impossible.

What emerged from the Constitutional Convention did not reflect any existing theory of government. Nor was it an effort by the impose control over the less prosperous, as was argued in Charles Beard's *An Economic Interpretation of the Constitution of the United States* (1913). In *We the People: The Economic Origins of the Constitution,* Forrest MacDonald demonstrated the Convention consisted of at least three dozen identifiable economic interests, not a simple dichotomy between landed and mercantile interests (1968). According to MacDonald, the Framers' positions could be better explained by the states they represented than by their private interests.

The final outcomes reflected a series of compromises between representatives of the various states seeking to find a common ground strong enough to win universal support. Its participants were primarily men of business experience rather than intellectuals applying theories of government, but in all cases were well acquainted with the English model and possessed considerable personal political experience. Unlike the English model, they also wanted a written document to describe and shape the new system they hoped to erect to prevent the tyranny Parliament had had exercised over the colonies. Whereas the English constitution arose from limiting royal power, the Constitution was focused on limiting legislative as well as executive power. Once approved by the Convention, the Convention also needed to persuade a majority in each state to adopt it.

In a stroke of rhetorical brilliance, James Madison redefined 'republic' to fit American circumstances. People liked the term republic as a contrast to monarchy, but what did that mean in the American context? No existing term quite fit, although all republics shared a common trait of relying on different groups in society to control the government, rather than having a king. The proposed constitution did the same, but in a completely new way.

The proposed constitution created a republic, he wrote. but a republic different from any that had previously existed. Madison made this clear in *Federalist 10* when he described the difference between a republic and a democracy as *solely* the representation of the citizens by elected representatives. In democracies, like democratic Athens, citizens directly voted on political measures. In republics they voted on representatives who would then vote on political measures. Today we call this "representative democracy" a term that did not then exist. Later, Thomas Jefferson coined the term to describe the new American government when he translated a French book describing the new country into English (Destutt Tracy 1973).[1]

IN THE ABSENCE OF AN ARCHITECT…

While past experience could provide useful insights guiding constitutional structure, the task ahead was new: to create a democratic republic on a scale vastly exceeding anything that had existed in the past, while avoiding the long record of political failures associated with democratic governance. The Constitution's origins were in part based on ideas about English republicanism, on part on the liberal values reflected in the Declaration of Independence, in part on the Founders' extensive practical experience in government and society, and in part on the practical circumstances shaping the outcome. As is probably always the case when a complex solution to a new problem involving a wide variety of people must be devised, no one was completely happy with all the Constitution's provisions, but most believed it was better than the existing Articles of Confederation or 13 independent states.

Given their skepticism about the ability of rational plans to successfully solve serious political problems, American conservatives and classical liberals have long emphasized the Constitution was not the result of adopting an abstract theoretical model, and this absence contributed to its success. Instead it was the outcome of pragmatic men seeking enough common ground to create a new government strong enough to avoid the weaknesses so apparent in the Articles of Confederation while avoiding the risk of tyranny. I agree with this judgment, but this does not diminish theory's role understanding its character.

I will describe the underlying theoretical framework that makes sense of what they created as something far more interesting than a record of compromises. However, the framework theory illuminates emerged 'spontaneously' from the major constraint the Founders faced: not only did they have to agree among themselves, whatever they decided had to be voluntarily accepted by a majority of the voters in any states that would become a part of the new nation.

1776 was not only the year in which the American Revolution broke out, it was also the year in which Adam Smith's *Wealth of Nations* was published. The insights emerging from the Scottish Enlightenment associated with Hume, Smith, and others, proved to be powerful elements in English and colonial thought.

Other Scottish thinkers explored how other kinds of social order emerged in the absence of either a guiding divine will or top-down design. In 1767 Adam Ferguson (1980) had observed society as a whole was, "the result of human action, but not the execution of any human design." Adam Smith famously elaborated this insight (Smith 1776, IV, II, 9, 349):

> Every individual … neither intends to promote the public interest, nor knows how much he is promoting it … he intends only his own security; and by directing that industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention.

Adam Smith's work was sufficiently impressive that Jefferson modified his belief only farmers could provide the foundation for a democratic republic. In 1817 he renounced his earlier view because "the inventions of latter times, by labor serving machines, do as much now for the manufacturer as the earth for the cultivator" (Jefferson to Sampson 1817). The result of the Scots' work illuminated how social order emerged when no one was in charge. In the social world these patterns of coherence arose when people followed simple rules promoting voluntary cooperation. Such rules had to be procedural, explaining how to enter into a voluntary arrangement but not commanding what those arrangements should be.

The constraints facing the Founders led to a remarkably similar outcome oriented to different values. Because the Constitutional Convention could only rely in voluntary persuasion to devise a constitution, and then to win voluntary assent, procedures regarded as fair by all concerned shaped both their interactions and the constitutional rules they developed. They knew it could only be accepted by the country through voluntary agreement within and among the states. *The few times concrete interests limited the scope of abstract procedures fair to all became stumbling blocs for the future, such as special rules for counting slaves as people who were not citizens and the right to bear 'arms'.*

For the most part the Constitution institutionalized simple procedural rules favoring cooperation for determining public policy based on consent rather than command. Anything compatible with those rules was allowed. In the *Federalist*, Madison explained how the public good would emerge independently from the whole having to agree on policies of general benefit to all. It took form as different groups of representatives negotiated among themselves to arrive at general policies all agreed were better than the status quo. *As in a market,* in a democratic republic there was no hierarchy of authority, but rather an uncontrolled pattern emerging from people independently following common rules, each favoring what they thought best, and each at some crucial point having equal political status. Distinct from markets, the purpose of such a political order was to discover and implement policies for the public good, not private advantage.

Another comparison with markets helps clarify the nature of the public good. In economics the concept of 'general equilibrium' describes a perfect coordination of buyers and sellers such that nothing remains unbought at a given price nor does a buyer fail to find something he or she wants at that price. Competition provides the energy to gradually approach equilibrium conditions even as changes often caused by competition constantly disrupt them. The market has a *tendency* to approach general equilibrium even if, due to its constant changes, it is never attained.

The public good is similar. It must be discovered through the attempts by different majorities to pursue desired policies in conditions where other majorities must agree for them to be attained. Political competition in conditions rewarding agreement create a tendency towards serving the public good even if, like market equilibrium, it is always subject to change.

With sovereignty removed from social or governmental organizations with specific interests and located in a complex society with no private majority interest, the Constitutional Convention created the framework within which a complex adaptive political order or, in Hayek's more specific terms, a spontaneous order arose (diZerega 2019). John Kingdon's study *Agendas, Alternatives and Public Policies* documents how this process takes place in the United States (Kingdon 1995).

The idea of a complex adaptive system could not be grasped at the time in European political thinking which was based on the state as a sovereign organization of rule. Madison was well versed in Hume and Smith's work exploring how order arose in the absence of any top-down direction by deity or king, and I suspect this influenced his understanding of the Constitution's inner logic (Browning 2022, p. 162). While writing *The Federalist* he found himself far removed from using any ideas of governmental sovereignty.

Sadly, in subsequent years Madison's urging to abandon traditional political thinking for interpreting the new constitution was ignored. Although the term remained popular as a slogan, the *reasoning* behind the Founders' institutionalizing popular sovereignty was ignored. The *Federalist Papers* were not recognized for what they were: an argument for government not ultimately based on domination. What they had created was forced into European frameworks and theories far removed from American experience, vesting national institutions with a degree of power their creators would have rejected. As Madison warned, relying on European reasoning to understand the Constitution converted "a limited government into an unlimited government" (Madison to Spencer Roan, 1819). For the most part it is no different today by both liberals and conservatives, by left and right alike.

FACTIONS AND MAJORITIES

Madison and all other Founders *agreed* with the traditional criticism of government by majority rule. The basic problem was simply stated and had never been effectively addressed: people tended to divide into different groups Madison and others called factions, and in popular governments majority factions ultimately established majority tyrannies which then provoked such opposition from their victims as to undermine the government by one means or another. Factions differed from the modern term "interest group" in that *by definition* they sought to subordinate others to their own benefit. (All factions were interest groups but not all interest groups in our sense were factions). As Madison explained in Federalist 10, "When a majority is included in a faction, the form of popular government enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens. If a majority be united by common interests, the rights of the minority will be insecure." This had proved a fatal weakness whenever democracies were created.

This democratic tendency towards increasing disorder and ultimate tyranny was why republics based on a balance between different social orders were considered superior to democracies depending on majority rule. Representation English style had proved a useful check on tyranny, but how could this be applied in the new country? Even if one were desired, it was far too large for a democratic government and the English model was not practical.

A *different way of thinking about what constituted a majority* opened a solution to this ancient problem. In sharp contrast to English thought, Madison repudiated any attempt to bind the hands of government through stalemate on the part of *any* established minority. He granted the traditional criticism that "Measures will too often be decided according to their effect, not on national prosperity and happiness, but on the prejudices, interests, and pursuits of the governments and people of individual states" (*Federalist* 46). Requiring more than a majority might occasionally have a good effect but, in *Federalist* 58, Madsion argued on balance the attendant disadvantages outweighed any good it would bring about.

> In all cases where justice or the general good might require new laws to be passed . . . the fundamental principle of free government would be reversed . . . power would be transferred to the minority . . . . an interested minority might take advantage of it to screen themselves from

> equitable sacrifices to the general weal, or, in particular emergencies, to extort unreasonable indulgences. Lastly, it would foster and facilitate the baneful practice of secessions . . . a practice which leads more directly to public convulsions and the ruin of popular governments than any which has yet been displayed among us.

Even if only factions existed, if enough existed there could never be a majority one, as they would be so internally divided as to fragment possible corrupt majorities.

The new nation would be a network of shifting majorities based on the size of districts, the timing of voting, and the different cultures between the various states, all of which had to find common ground out of which policies beneficial to the whole would emerge. Madison believed the compromises that necessarily shaped final decisions would generally be for the good of the country.

SOMETHING NEW UNDER THE SUN

European states emerged from within very hierarchical societies, usually through conquest. Wise conquerors sought to build an enduring popular legitimacy to reinforce their rule, while ultimate power still rested in the government. In England's case, a long series of historical struggles with central power had gradually enlarged those having a voice in controlling the English state, while still keeping it an organ of rule separate from, and superior to, society as a whole. Basically a ruling elite gradually opened itself to more of society, but at this time by very little. At the time of the American Revolution only about 10% of the adult male population could vote.

This was not the case with respect to the colonies that had won their independence from England. The American government was formed through peaceful persuasion that union was wiser than remaining many independent or semi-independent countries. Its final acceptance required a vote by all residents holding the franchise, a popular majority required for each state that joined. Property qualifications existed for most of the newly independent states, but they were permissive and were steadily eroded away. Pennsylvania's 1776 Constitution extended suffrage to all tax-paying male citizens. By 1792 this list had grown with 6 of the original 13 states allowing voting by propertyless citizens, again, so long as they paid taxes. In no sense did the new government rest on conquest or a hierarchy imposed from above, although there was plenty of both for slaves and Indians. But slaves and Indians were excluded from citizenship.

Most previous writing on the subject had held republics needed be small and relatively homogeneous to maximize internal stability, and the proposed union was neither. The new Constitution could never institute majority rule *because there was no unified American majority*. In the future United States, other than slaves, there were no legally differentiated orders. There was also the additional complication of the cultural, economic, and religious differences between the various states. In practice the country consisted of different crosscutting majorities focused on issues varying regionally and internally. Every citizen could vote nationally if they were allowed to vote in their home states. In the original constitution women could also vote in national elections if the states in which they lived allowed it, and some did.

A large country governed by democratic rules and far too large for citizens to meet together was something genuinely new, and in fact it was newer than even its framers imagined it to be. Its structure reflected consent not conquest and equality not hierarchy. What the various states had in common was some significant agreement with the principles of the Declaration of Independence, at least for White men, and for some even more universally. But how could such abstract principles as consent and equality actually be implemented on the world of practical governance?

POLITICS AS A DISCOVERY PROCESS

Good governments served the good of the community. An abstract "general good" existed. But beyond this abstraction, no one could reliably define what it was. To make matters more complicated, citizens identified with their state, often more strongly than with the new nation, and each state had its own public good. Citizens in the independent states would not join a union if they believed they would suffer by doing so. They would also have to benefit from a national public good that benefitted all, but could not be clearly defined in advance.

In addition, most Americans were more attached to their communities and localities than they were to the state government. It was there that political decisions usually had the most immediate impact, particularly with taxes that were best collected before being spent. Even without introducing the inevitable problem of factions, it was obvious, whatever it might be, a genuine public good was a complicated thing to describe, and more so for the nation than for its constituent members who also had to benefit. How might a government serve the public good when no one could describe it?

In addition, nations, like people, often faced choices between short-term benefits at the risk of long-term disappointments and long-term benefits at the cost of short-term disappointments. It was not always obvious which trade-off was wisest and people would disagree about the details. How might both perspectives be incorporated into public policies?

The solution the Framers came up with was to enable *all* of these different dimensions of a public to be incorporated into specific institutions that had to agree in-order for anything to be done. In the House and Senate different aspects of the public as a whole would be represented, and in each, a majority would decide on political decisions it needed to make. Both needed to agree for a policy to be adopted. Every citizen was to have an equal voice in each, but different contexts led to different sets of incentives when coming to a decision as to how to vote.

These different forms of representation were intended to serve the *same* national public *in its different dimensions*. The guiding ideal was consensus, not majority rule, and while universal consensus is impractical, requiring it on the part of different general aspects of the public was possible. Citizens within the new country identified with their sections, their states, and their nation, and had to weigh short term interests against long-term ones (diZerega 2000, p. 80).

This approach was the opposite of the English model, which sought to balance the private interests of the Lords and Commons in such a way as to preserve harmony between them, and so the rule of law. If there was a public good, it was preserving the rule of law. By contrast, the constitution assumed a public interest existed but had to be discovered through every citizen being represented by different aspects that, together, defined the national public. Rather than there being a majority vote on policies, *different majorities selected in different ways,* had to agree for policies to be adopted.

One majority was based on one-person-one-vote, and was represented in the House, elected by district every two years. The Senate represented citizens as members of separate states, and was elected by staggered rules every six years so that it was impossible to elect a new majority all at once. Initially Senators were elected by state legislatures that were in turn elected by their citizens. No new principle was added when later Senators were directly elected by a state's citizens. Finally, the President was elected nationally every four years through a complex system of attending to both popular votes and state identities.

Requiring different majorities to agree for legislation to be passed would reward their working together. The collective impact would come close to being a practical consensus, and so what emerged likely to be a genuine public good for the nation as a whole.

For our Founders the result was a rich conception of the public good that government could serve. The new government's purpose was to promote and enhance the well-being of its citizens, not the power and security of the state or balancing the interests of distinct potentially hostile orders. If a single term could be used to describe what government was to promote, it was "happiness," a term Madison repeatedly used throughout the *Federalist*. More concretely, Jefferson described the public good as creating "canals, roads, schools, etc., and the farmer will see his government supported, his children educated and the face of his country made a paradise by the contributions of the rich alone . . ." (Jefferson to Dupont de Nemours, 1811). This was a true revolution in how governments were conceived, from exercising sovereign power over society to representing society's members as they independently advocated the policies they favored. The only 'higher authority' was the constitution itself, and it consisted almost entirely of procedural rules.

Institutionally, the ultimate control of the government rested with the legislature, which represented different majorities organized to encourage consensus over majority rule. It could impeach the president and Supreme Court judges with super-majorities, and controlled the purse. A popularly elected legislature shaped in this way privileged the ideal of consensus over a balance between different order. This was *the* crucial distinction between the state as sovereign and the population as sovereign.

One referee described 'popular sovereignty' as a "myth," albeit a useful one. I disagree. Popular sovereignty refers to the same freedom of action as applies to people buying and selling within a market. In both cases people meet as equals and seek terms on which they can agree. One involves private exchanges and the other involves determining the larger institutional framework within which those private exchanges are made (along with the rest of life). In one case exchanges are fair when between two parties meeting as equals. In the other decisions are fair when all are involved as equals in some crucial stage in the decision-making process.

In a way unappreciated today, this movement of political power from traditional state institutions to the people went a step farther. As it had developed in England, and inherited by the colonies, trial by jury gave jurors the right to rule on not only innocence or guilt, but also on whether the law should apply in that particular case. Essentially, each jury constituted a temporary legislature evaluating one law in one context, as well as then determining innocence or guilt *if the law was deemed legitimate in that context*. If a law were sufficiently out of harmony with popular sentiment, it would be impossible to be enforced (Amar 1998, pp. 94-8). In this respect every citizen called to jury duty also served as a legislator.

In terms of traditional political thinking, a government was created without a state. The constitution moved sovereignty from formal institutions such as a monarch or a parliament or even a government as a whole, to the voting population as a whole, who were *not* parts of government. This distinguished what the Framers did from all previous governments. In a very real sense, the traditional state was abolished while the rule of law in service to the community as a whole was preserved, and even enhanced. At *no* point were traditional state institutions sovereign. At every point popular sovereignty trumped state power.

POPULAR SOVEREIGNTY AND STATES' RIGHTS

But doesn't my argument come aground on the issue of states' rights? Not in the original meaning of the constitution. In *Federalist 45* Madison described this important issue when discussing the status of the states within the proposed United States:

> We have heard of the impious doctrine in the old world, that the people were made for the kings, not kings for the people. Is the same doctrine to be revived in the new, in another shape—that the solid happiness of the people is to be sacrificed to the views of political institutions of a different form? It is too early for politicians to presume on our forgetting that the public good, the real welfare of the great body of the people, is the supreme object to be pursued and that no form of government whatever has any other value than that as it may be fitted for the attainment of this object.

The Constitution was not adopted by state governments but by vote of all eligible citizens of a state. In a very real sense by doing so they abolished their existing governments and reconstituted them as members of a new nation. That later states were admitted to the union by act of the national government alone also demonstrates states had no legal rights superior to the Constitution. Only citizens did, and the representatives they elected then created nearly every state in the nation.

Some might argue Amendment 10: "The powers not delegated to the United States by the Constitution, nor prohibited to it by the States, are reserved to the States respectively, or to the people" reinstated the idea of state sovereignty. It does not, for the states are required to be republics in the Constitutional sense, and so are as subordinate to their citizens legally as is the national government. Even in this amendment the people are the final authority.

TWO INHERENT TENSIONS

Madison and the other framers knew they had not designed a utopia. The problem of lawless government had not been solved, rather it had been addressed within a different framework they thought preferable to existing political arrangements. The problem of factions sacrificing the good of their community in service to their own interests had not been dissolved, but rather addressed in a new context they believed superior to all that had previously existed. In many ways they were right. To a point.

The constitution was adopted at a time when legitimate political parties did not exist. In his study of the Revolution and its aftermath Gordon Wood described how the Framers thought representatives would be local notables respected in their various communities. On balance, representative institutions would reflect a selection of their districts' most sagacious citizens. Word of mouth and reputation would guide voters' choices.

They were wrong (Wood 1992, pp. 287-323).

When the United States was first created there were no political parties organized to win elections. Very quickly divisions within George Washington's presidency led Jefferson and Madison to form the nucleus of one political party and John Adams and Alexander Hamilton to form another. All involved emphasized creating electoral organizations over depending on reputation and word of mouth because those relying on the latter lost elections. From that time to the present the United States has had full-time political parties organized to win elections.

To once again compare a democratic republic with a market, the problem of political factions seeking their advantage at the cost to others is a special case of a deeper problem in complex human societies. Successful organizations seek to control of their environment to ensure their continued success. A democratic republic, or a market, is like a natural ecosystem where different organisms cooperate and compete to survive and perhaps to prosper, but with one key difference. Lions and deer must deal with the cards they are dealt, to prosper or fail as their capacities and luck dictate. Organizations as 'organisms' within equivalent human orders have an additional alternative. If successful enough, they can seek to change the procedural rules shaping the market or government to be more in their favor, helping preserve their advantage.

Within democratic republics and markets alike, organizations have interests the system within which they exist might undermine, such as losing an election or going bankrupt due to competition. The tension here is not between government and freedom, it is between uncontrolled democratic or market networks and the organizations created to pursue goals within them, such as winning elections or making a profit, who seek to control them.

Political parties consistently make it difficult for new parties to compete and gerrymander districts in order to pick their supporters rather than seeking to appeal to the supporters a neutral district would give them. The same holds for economic organizations who can combine to limit competition and have the additional option of helping political supporters to win office and rewrite the rules in ways advantageous to them. They seek to influence the parties to subordinate the public interest to their private interests. They tend to fit Madison's definition of a faction, as can political parties.

The first political parties soon acted to insulate themselves from competition, such as gerrymandering electoral districts and manipulating the franchise. In states allowing it, the original right to vote by women was successfully attacked by Jeffersonian parties because women tended to vote Federalist. Jefferson's own praise of equality of the franchise between citizens did not matter. It would be over 100 years before women recovered it nationally through constitutional amendment. There have been many such examples since. The problem of organizations seeking to control the contexts that make them possible but also threaten to dissolve them is intrinsic to human life (diZerega 2020, 2019b).

THE UNION'S ACHILLES HEEL

The new union depended on a strong enough public good to sustain a sense of common membership among the constituent states and their populations. Slavery's different importance within different regions was initially not as strong as it later became. In addition, and very importantly, many key Southern leaders themselves disapproved of slavery, but could not figure out how it could be abandoned. The principles behind the Declaration of Independence were generally accepted by political leaders across the new nation. Consequently, compromises between the regions were possible that later were not, such as counting slaves as portions of a man for purposes of determining representation in the House.

Two parallel developments undermined this consensus. First, the spread of abolitionist sentiments in the new country led a majority of the original states to peacefully abolish slavery. All were in the North. Second, the invention of the cotton gin dramatically increased the amount of land amenable to slavery as well as making it far more profitable than had been the case with tobacco. The South's center of gravity began shifting from Virginia to the cotton belt. Their respective cultures increasingly diverged, undermining what they had so far shared in common.

Many problems have confronted American theory and practice because the American system is continually understood in traditional political terms where states are sovereign. James Madison, whom I regard as the most insightful American political theorist, is given little attention, and the connection of what the Framers achieved with the concurrent discoveries about emergent order arising within the Scottish Enlightenment are largely ignored. Today's Supreme Court appears enchanted by the concept of a unitary executive dominating government, as traditional a political model as has ever existed and entirely alien to the Founders and their constitution.

GETTING EVERYTHING WRONG: LORD ACTON ON THE CIVIL WAR

The distinction I have drawn between Madisonian representative democracy and English republicanism is of more than theoretical interest. When applied to understanding the United States, these two perspectives result in two very different interpretations of events. At most, only one can be correct. False frameworks for understanding complex events lead to false interpretations, false predictions, and a frustrating blindness to what does not fit the defective understanding. The British classical liberal Lord Acton deeply understood English republicanism and had none for the American system. Consequently, he provided an excellent example of these failings when analyzing the American Civil War shortly after its conclusion. His essay is a fascinating example of how commitment to a theory can blind its advocates to what clearly does not fit when viewed from outside its blinders.

Acton's arguments are still commonly heard today among classical liberals, American conservatives, and libertarians. Most have accepted Acton's approach as guidelines in their own thinking. What makes Acton's work relevant today are first, they were made long enough ago we can judge how well his predictions panned out, which is impossible regarding contemporary issues. Second, they demonstrate how adherence to a political theory blinds even highly gifted analysis from seeing what later has become blindingly obvious to all.

In his 1866 essay "The Civil War in America" Acton observed there were two competing explanations for the war's outbreak: "Some would say that the fault was with slavery, others would accuse the tyranny of the North."[2] Acton's ultimate conclusion was Northern tyranny was the cause, not Southern slavery, of which he also disapproved. American democracy was the ultimate cause of the Civil War because it provided no protection for minorities threatened by an over-powerful majority will. He concluded if slavery was "to be the criterion which shall determine the significance of the civil war, our verdict ought, I think, to be, that by one part of the nation it was wickedly defended, and by the other as wickedly removed."

Acton admitted at one time the United States had held hope that by adopting political representation, a democracy arose "combining a very advanced civilization with a very extensive territory." No democracy had previously "even attempted to adopt the system of representative government which is the supreme and characteristic invention of the British monarchy." That the Americans seemed to have succeeded meant that "America exercised a power of attraction over Europe of which the great migration is only a subordinate sign."

If America's success persisted, it would "destroy the validity of that defense [and] then the only inducement by which the masses of mankind will be made to tolerate the evils and injustice incident to our system of society will be the short-lived argument of force." However, Acton believed, the Civil War had proved that "these judgments were premature."

Acton accepted the conservative insight that Europe's institutions deserved respect because they had stood the test of time, proving either "necessary or conducive to the general advantage." Consequently, it is better if political rule takes its form through a long historical process of compromise and adjustment between existing groups. Over time England had perfected a complex system not based on any single principle, but rather as the outcome of politically powerful interests' being able to gain protection for themselves from arbitrary will. An English republican, he accepted the conservative view that abstract principles should not trump long-established interests or customary rights.

Acton explained: "All governments in which one principle dominates degenerate by its exaggeration . . . In pure democracies the same course is followed, and the dominion of majority asserts itself more and more extensively and irresistibly." In the United States, where democracy had triumphed, liberty had come to mean "the right to exercise control." The only thing that would prevent America's degeneration, he claimed, is confederacy because in that arrangement political centralization faces an intrinsic barrier. State and central governments protect against one another's encroachment on the citizens' rights. The Northern states unfortunately had adopted the "aggressive, absolute spirit which is the bane of pure democracies." After the South made itself the champion of other values, "the Union was in jeopardy."

Because of the European lens through which he viewed the United States and the Civil War, while Acton quoted Madison on the problem of majority tyranny, he ignored Madison's reasoning why size, complexity, and a complex system of representation could solve this problem: "When a majority is included in a faction, the form of popular government enables it to sacrifice to its ruling passion or interest both the public good and the rights of other citizens. If a majority be united by common interests, the rights of the minority will be insecure."

Acton never grasped Madison's argument that multiple ways of electing representatives by majority vote while requiring their agreement would substantially reduce the abuses arising from factions because something close to a genuine consensus would emerge from the process.

ACTON AND JEFFERSON

To his English republican pragmatism favored by Alexander Hamilton, Acton contrasted Thomas Jefferson's belief in the sovereignty of the people based on the abstract ideal of equality. Supposedly Jefferson favored 'pure democracy.' These two doctrines stood in "an irreconcilable antagonism." Yet Acton failed to understand Jefferson's point of view as he failed to understand Madison's reasoning about representation and majorities. While his essay is filled with quotations from Jefferson praising democracy, he consistently omitted, and I think did not really grasp, the context within which Jefferson made his statements.

Throughout their lives Madison and Jefferson had been close political allies. Together they formed the first political party with a popular base. After both had left office they worked together to found the University of Virginia and remained close until Jefferson's death. In his last letter to Madison, written a few months before his death, Jefferson closed with these words: "To myself you have been a pillar of support through life. Take care of me when dead, and be assured that I shall leave with you my last affections" (1826).

It was within this larger framework that Jefferson praised the democratic principle. Acton quotes Jefferson "Every people may establish what form of government they please; the will of the nation being the only thing essential. I subscribe to the principle that the will of the majority, *honestly expressed*, should give law" (my italics). Jefferson clearly had a more complex view of majority will than simply counting votes. The bulk of Madison's defense of the Constitution's institutionalization of representation was designed to produce a *true* majority will, one distinct from any momentary expression of majority sentiment. Jefferson no more praised straight majoritarianism for the *national* government than did any other Founder, although he did praise New England's very small democratic town governments in preference to Virginia's "large and lubberly" counties, and wished its forms were extended throughout the nation (1810).

To be sure, Jefferson had his utopian moments, and Acton justly tweaked him about his view that the Constitution and laws should be reaffirmed or rewritten every generation. But to stop there was misreading him. Jefferson was well aware a democratic society required a good cultural foundation in order to survive. Further, he recognized such a cultural development would take time. When discussing the revolutions taking place against Spanish rule in South America, Jefferson wrote to John Adams (1818):

> I enter into all your doubts as to the event of the revolutions of South America. They will succeed against Spain. But the dangerous enemy is within their own breasts. Ignorance and superstition will chain their minds and bodies under religious and military despotism. I do believe it would be better for them to obtain freedom by degrees only.

According to Acton however, Jefferson and other American democrats advanced a theory that identifies liberty "with a single right, the right of doing all that you have the actual power to do." People who give all power to majority rule, like people who argue the same for monarchy, "create an idol to which they are ready to sacrifice the safeguards of property, the protection of virtue, and the sanctity of private life." Acton describes a Hobbesian version of a democratic "Leviathan."

Acton contrasted this allegedly Jeffersonian view with the argument that "secures liberty by certain inalterable rights, and founds it on truths which men did not invent and may not abjure." Acton held that such was Hamilton's view and that it is fundamentally incompatible with the Jeffersonian view, arguing "if slavery had never existed, a community divided by principles so opposite as those of Jefferson and Hamilton will be distracted by their antagonism until one of them shall prevail." He emphasized "Absolute power and restrictions on its exercise cannot exist together."

But Jefferson had *written* the Declaration of Independence and had insisted on a Bill of Rights be attached to the Constitution! Jefferson also described John Locke as one of "the three greatest men that have ever lived, without any exception" who, along with Bacon and Newton, had "laid the foundation of those superstructures which have been raised in the Physical and Moral sciences" (1789). Locke's derivation of human rights was foundational to his political thinking and was in no way Hobbesian.

SECESSION AND THE CONSTITUTION

The U.S. claimed to be based on a strong sense of the consent of the governed, both as Americans and as citizens of their states. Given this logic, if the population of a state decided to leave the nation, the principle of government "by consent of the governed" required that they be allowed to leave. How did the nation's Founders view the issue?

After the Louisiana Purchase vastly expanded the size of the country, the question arose whether it had grown so big that secession would inevitably happen. Could a nation of such enormous extent could hold together democratically? Jefferson's views remained consistent with the Founders' (Jefferson 1804):

> I confess I look to this duplication of area for the extending a government so free and economical as ours, as a great achievement to the mass of happiness which is to ensue. Whether we remain in one confederacy, or form into Atlantic and Mississippi confederacies, I believe is not very important to the happiness of either part. Those of the western confederacy will be as much our children & descendants as those of the eastern, and I feel myself as much identified with that country in future time as with this.

As Acton pointed out the right of secession had also been explicitly claimed when Virginia, New York, and Rhode Island had joined the new nation. As Virginia put it, "Powers granted under the Constitution, being derived from the people of the United States, may be resumed by them whensoever the same shall be perverted to their injury or oppression." These terms for joining were repudiated by the national government when Virginia left the Union. What happened?

NATIONALISM

Acton equated Jefferson's views on government with those of Massachusetts Sen. Daniel Webster, who engaged in a famous debate with South Carolina Sen. John C. Calhoun, the South's most insightful political thinker and Vice-President under Andrew Jackson. Calhoun argued states had the right to nullify national laws they opposed. Acton described Webster's views that such a right did not exist because "the Union is not a compact between the States, but a fundamental law no longer subject to their choice, and that each State is bound up with the rest by cords that cannot be legally severed."

Both Calhoun *and* Webster rejected the Founders' thinking about the Constitution. Madison was in complete accord with Jefferson's sentiments, "the real welfare of the great body of the people, is the supreme object to be pursued and that no form of government whatever has any other value than that as it may be fitted for the attainment of this object" (*Federalist* 45). *Both* Webster and Calhoun located sovereignty in a state, not in the people, just in different ones. For many, American nationalism had grown to obscure and even reject the thinking behind the country's founding. In *both* cases, whether nationally for Webster or within their states for Calhoun, the people were not sovereign, the respective collective was. Neither took seriously Madison's warning that European styles of thinking about government could not comprehend the reasoning supporting popular sovereignty as manifesting within the Constitution. Neither considered Madison's claim "We have heard of the impious doctrine in the old world, that the people were made for the kings, not kings for the people. Is the same doctrine to be revived in the new, in another shaper – that the solid happiness of the people is to be sacrificed to the views of political institutions of a different form?" (*Federalist* 45).

Ironically, given subsequent events, Southern efforts to expand slavery had reinforced Americans' identity as a single people. Successful wars of expansion such as the US conducted against Mexico helped strengthen American nationalism, for such wars were discrete events conducted with a unified will where 'we' beat someone else. Even so, nationalism was always in tension with people's identities as citizens of their respective states. To survive the tension a political culture of mutual compromise was essential.

Acton had referred to a measure introduced during our founding that would have done much to ameliorate the tensions dividing the South from the North over tariffs, and was in alignment with Madison's focus on facilitating a genuine national majority through complex systems of representation. Acton described a conversation Jefferson had recorded where George Washington worried about the consequences when an initial constitutional provision

> had been changed in the last days of the convention. He meant the law which required a majority of two-thirds in all those measures which affected differently the interests of the several States. This provision, which would have given protection to minorities, was repealed in consequence of a coalition between the Southern and Eastern States, for the benefit of the slave-owners in the South, and of the commercial and manufacturing interests in the East.

So entirely in keeping with the principles underlying the Constitution, this rejected provision would have prevented the severe conflicts over tariffs that precipitated the Webster and Calhoun debates, that played an important role in obscuring the Founders' thinking.

Issues involving money, such as tariffs, are easy to compromise. However it might not have played so constructive a role over the issue of slavery.

MISREADING "DEMOCRATIC TYRANNY"

Acton's hostility to liberal democracy comes out most strongly in his final paragraph:

> The spurious liberty of the United States is twice cursed, for it deceives those whom it attracts and those whom it repels. By exhibiting the spectacle of a people claiming to be free, but whose love of freedom means hatred for inequality, jealousy of limitations to power, and reliance on the state as an instrument to mould as well as to control society, it calls on its admirers to hate aristocracy and teaches its adversaries to fear the people. The North has used the doctrines of democracy to destroy self-government. The South applied the principle of constitutional federation to cure the evils and to correct the errors of a false interpretation of democracy.

The North's supposed democratic despotism was a figment of Acton's imagination and Confederate propaganda. Consider Sam Houston's plea to his fellow Texans not to leave the Union. Houston (1793-1836) had led Texas's revolt against Mexico, became its first president, later served as a U.S. senator, and was governor when the issue of secession arose. He opposed it:

> What is there that is free that we have not got? Are our rights invaded and no government ready to protect us? No! Are our institutions wrested from us and others foreign to our taste forced upon us? No! Is the right of free speech, a free press, or free suffrage taken from us? Has our property been taken from us and the government failed to interpose? No, none of these! The rights of the States and the rights of individuals are still maintained (1860).

Acton himself observed that during the war "The civil power has never been threatened or weakened by the resistance of a popular commander; differences of social station have not interfered with the organisation of the army; military rank has not disturbed the level surface of ordinary life, the officer and the soldier have been merged in the peaceful citizen." There had even been a contested presidential election during the war, one in which Lincoln had been challenged within his party for renomination and in which the opposing Democratic Party's candidate, George McClellan, advocated peace with the Confederacy. As late as the summer of 1864 Lincoln thought he would lose. Even so, elections were held and Lincoln won with 55% of the vote (Bonekemper 2015, p. 104).

Acton sought to do more than analyze the causes of the Civil War. He used his reasoning to look forward to the future. When contrasting the United States with Europe, he wrote:

> We must bear in mind the one decisive contrast between Europe and America, that there society is cut adrift from the traditions and influence of an ancient civilisation. The nations of Western Europe are so bound to each other by their origin, by their close intercourse, and the similarity of

> social interests and character, that a comprehensive public opinion extends over their boundaries, and sustains in each the habits, ideas, and constitutions which are common to all. The protest of European opinion would react powerfully in favour of those habits and ideas against any European State that should reject them.

In 1914 the "ancient civilization" of Western Europe engaged in one of the bloodiest wars in human history. Around 9 to 11 million military personnel died, with a civilian death total of between 5 to 13 million. Afterwards, despite this example, "European opinion" could not prevent the rise of Nazi Germany and its allies. The Nazis were not an expression of majoritarian politics since they never got more than about 1/3 of the votes in any free election. After an uneasy peace, war broke out again in 1939. Worldwide this was the deadliest conflict in history with between 21 and 25 million military personnel and 50-55 million civilians killed. Much in Europe.

Acton also argued freedom would be in greater danger in the United States than in Europe. While

> in the old world the people produce the remedy [to tyranny], in America they produce the cause of the disease. But Americans enjoy no such protecting influences, and nothing is safe that is not supported by popular favour. The ideas of past generations and of civilised contemporaries are not permitted to share or to limit the absolute authority of the present moment. The revolutionary principle which Jefferson introduced cuts them off from one as completely as the Atlantic separates them from the other. The voice of European civilisation, and the voice of the past alike, come to them from another world. History is filled with records of resistance provoked by the abuse of power. But whereas in the old world the people produce the remedy, in America they produce the cause of the disease.

The subsequent century demonstrated Acton's misdiagnosis. The violations of freedom he correctly saw in Northern prosecution of the war occurred because the North was at war and public opinion was unusually united. In such cases because there is a genuine if momentary hierarchy of opinion, democracies do act like states, as they also do within enormous natural disasters and plagues. Interestingly, and revealingly, it is at such times of unusual unanimity that democracies act most undemocratically. With the return of peace, those abuses rapidly diminished. The Bill of Rights survived *and was strengthened*. Neither privacy nor the right to hold property suffered. Nor did trial by jury. Acton wrote his essay in 1866. I write this critique nearly 160 years later, in 2025, and worries about this nation becoming tyrannical have proven false and worries about oppressing minorities have gradually lost their power. *Until now.*

Because he could not free himself from the European equation of democracy with simple majority rule, Acton did not understand how fundamentally different democratic dynamics were to undemocratic ones. The failure of Acton's prediction of democratic tyranny as well as his confidence Europe could avoid such tyranny should be evaluated by another comment he made in his essay: "Example is of the first importance in politics, because political calculations are so complex that we cannot trust theory, if we cannot support it by experience."

Given as a lecture in 1866, and published in 1907, Acton's essay will go down as one of the most mistaken predictions by a major thinker in the history of the social and historical sciences.

CONCLUSION

A democracy is a *discovery process* seeking general rules for the well-being of society as a whole, as markets are discovery processes within which consumers discover the exchanges they believe will leave them better off than other alternatives would have. They first arose not from conquest but from the need to agree on rules all involved would regard as fair. In democracies every citizen has equal status at one crucial point in the consideration of public policies while the long-involved process of designing policies enables informed input from every interest affected (diZerega 2025; Kingdon 1995).

Democracies are governments or networks of governments, not states, complex adaptive systems Hayek called “spontaneous orders.” Only since Hayek have we had the theoretical tools to grasp what America’s Founders discovered because they could only depend on agreement rather than domination to create a new nation but the creation of the constitution demonstrated that such orders could arise without deliberate design through the working out of the terms for long term agreement over common issues.

Had classical liberal and American conservative thought comprehended what the Framers accomplished rather than forcing it into a misleading English republican framework, our present political situation would be far better than it is.

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NOTES

1 A referee suggested I address the voluminous recent literature of republicanism. I am not doing so because this paper is focused on the constitution and the thinking and contexts that gave birth to it and later led to its deep misunderstanding by conservatives and classical liberals.

2 All quotes by Lord Action (Dalberg-Acton) are from his essay "The Civil War in America."

Publication Trends in *Cosmos + Taxis* 2022-2025

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Abstract: *Cosmos + Taxis* is a uniquely specialized journal that operates at the intersection of economics, philosophy, political science, political sociology and philosophical psychology. All readers will agree that this nexus supports an essential and vibrant part of each discipline, as well as offering special insight into issues of continuing importance in political and constitutional theory, public policy, the theory of knowledge, and the philosophy of science. This article follows the established literature for ranking economics and political science programs to examine publications and downloads from *Cosmos + Taxis* to rank institutions by research productivity in Hayekian studies and complex adaptive systems. This incidentally provides a ranking of Hayek scholars and the geographic distribution of *Cosmos + Taxis*'s readership. Implications for the future of Hayek studies are suggested and discussed.

INTRODUCTION

This paper ranks institutions based on scholarly productivity measured by articles published in *Cosmos + Taxis* from 2022-2025. This has been a period marked by political and economic turmoil and renewed interest in emergent order and robust political economy. In the aftermath of the covid pandemic, policy initiatives invariably favored inflexible design orders that further concentrate power and influence in unaccountable bureaucratic elites.

Cosmos + Taxis annually publishes six double issues numbered from 1+2 to 11+12, often presenting broader and more diverse applications of Hayek's theory of knowledge, spontaneous order, and philosophy of science than would generally be found in any economics journal. The scholarly impact of these articles is indicated by the more than 150,000 downloads since 2019.

Ranking scholars based on solely on journal articles may introduce significant bias which comes from disregarding books and other significant publications on spontaneous order appearing in any other journals or venues. Program rankings are less subject to systematic bias, especially since *Cosmos + Taxis* is the leading—if not the only—journal in this important interdisciplinary area. However, while institutions with graduate programs with faculty specializing in complex emergent orders and related areas appropriately and expectedly rank very high, many other academic institutions either do not offer graduate degrees, and of those that do, few offer any distinctive specialization in spontaneous order.

METHODOLOGY

The literature and methodology ranking academic programs in the social sciences is reviewed by Mulligan (2023). Congleton, Marsella, and Cardazzi (2022) ranked authors and programs publishing in

Constitutional Political Economy, concluding that downloads provided an equally useful impact measure as an alternative to impact factors, the ratio of citations to publications. This finding is especially important for rankings based on *Cosmos + Taxis* articles, because *Cosmos + Taxis* relies on article downloads as its principal impact measure.

This study counted all articles in *Cosmos + Taxis* over the 2022-2025 period, including book reviews, books reviewed, and interpretive articles contributed by guest editors of special issues. Books reviewed in *Cosmos + Taxis* were treated as equivalent to an article. Unweighted rankings attribute one equal point to each appearance of an author or co-author over the period. As a result, in unweighted rankings, co-authored articles are weighted more heavily, with one full point for each co-author and their institution. Weighted rankings attribute one point divided equally among co-authors and their institutions. This allows comparisons of rankings based on the number of appearances as an author or co-author, with rankings weighting sole authorship more highly. From 2022-2025 *Cosmos + Taxis* published or reviewed 295 distinct scholarly artifacts, including articles, reviews, and books reviewed, with 335 authors or coauthors.

RANKING SCHOLARS

Individual scholar rankings are presented in table 1. Both weighted and unweighted rankings are presented. Unweighted rankings weight authors of co-authored and singly-authored artifacts identically. The larger an institution's departments of political science, economics, related social sciences, philosophy, and law school, if any, the stronger represented the institution is likely to be, and the weaker any potential bias from ignoring unreviewed books or scholarship on complex emergent orders published in other journals.

Table 1 shows the top 37 researchers by publications in *Cosmos + Taxis*, including everyone who has published two or more sole authored articles or the equivalent over the three-year period considered.

Table 1: Scholar Ranking

Author		Weighted count	Weighted Rank	Unweighted count	Unweighted Rank
1	Adair-Toteff, Christopher	12	1	12	1
2	diZerega, Gus	6	2	6	2
3	Mulligan, Robert F.	6	2	6	2
4	Block, Walter E.	5.5	3	8	3
5	Alexander, James	5	4	5	4
6	Weimer, Walter B.	5	4	5	4
7	Ikeda, Sanford	4	5	4	5
8	Lombardo, Gary A.	4	5	4	5
9	McQuade, Thomas J.	4	5	4	5
10	Turner, Stephen	3.5	6	4	5
11	Chamberlain, Tyler	3	7	3	6
12	Riano, Nayeli L.	3	7	3	6

Table 1: Scholar Ranking

Author		Weighted count	Weighted Rank	Unweighted count	Unweighted Rank
13	Scheall, Scott	3	7	3	6
14	Novak, Mikayla	2.5	8	3	6
15	Andersson, David Emanuel	2	9	2	7
16	Brewer, Brian	2	9	2	7
17	Bylund, Per L.	2	9	2	7
18	Capaldi, Nicholas	2	9	2	7
19	Coats, W. J.	2	9	2	7
20	Dobuzinskis, Laurent	2	9	2	7
21	Eisenberg, David A.	2	9	2	7
22	Ferlito, Carmelo	2	9	2	7
23	Fuller, Timothy	2	9	2	7
24	Holcombe, Randall G.	2	9	2	7
25	Hudik, Marek	2	9	2	7
26	Koppl, Roger	2	9	2	7
27	Lai, Lawrence W. C.	2	9	2	7
28	Moreno Cassas, Vicente	2	9	2	7
29	Peralta-Greenough, Quinton V.	2	9	2	7
30	Pošvanc, Matúš	2	9	2	7
31	Radner, Isaac	2	9	2	7
32	Rodríguez Burgos, Ojel L.	2	9	2	7
33	Slaboch, Matthew	2	9	2	7
34	Vallier, Kevin	2	9	2	7
35	van de Haar, Edwin	2	9	2	7
36	Vinten, Robert	2	9	2	7
37	Wenzel, Nikolai G.	2	9	2	7

Note: Most frequently published *Cosmos + Taxis* authors from 2022-2025, including 295 artifacts with 335 distinct authors or co-authors.

Table 2 gives the geographic distribution of Cosmos + Taxis downloads for 2022-2025. Individual articles and whole issues of Cosmos + Taxis have been downloaded 154,672 times up to the end of 2022. This number would be impressive for any journal. For articles published since 2022, there have been an additional 56,495 downloads, with approximately half going to the U.S., and the next largest shares to the UK and Canada.

Table 2: Downloads by Country 2022-2025

	Country	Downloads	Pct	Cum pct
	Total	56,495		
1	United States	28,580	50.59%	50.59%
2	United Kingdom	3,705	6.56%	57.15%
3	Canada	3,419	6.05%	63.20%
4	China	1,231	2.18%	65.38%
5	Italy	1,155	2.04%	67.42%
6	Germany	1,107	1.96%	69.38%
7	India	1,089	1.93%	71.31%
8	Brazil	1,038	1.84%	73.15%
9	Spain	984	1.74%	74.89%
10	Netherlands	946	1.67%	76.56%
11	Australia	906	1.60%	78.17%
12	Austria	826	1.46%	79.63%
13	France	729	1.29%	80.92%
14	Ireland	584	1.03%	81.95%
15	Switzerland	517	0.92%	82.87%
16	Türkiye	513	0.91%	83.78%
17	Taiwan	462	0.82%	84.59%
18	Japan	450	0.80%	85.39%
19	Portugal	436	0.77%	86.16%
20	Hong Kong SAR China	427	0.76%	86.92%
21	Poland	396	0.70%	87.62%
22	South Korea	395	0.70%	88.32%
23	Norway	358	0.63%	88.95%
24	Puerto Rico	357	0.63%	89.58%
25	Argentina	356	0.63%	90.21%
26	Czechia	324	0.57%	90.79%

Table 2: Downloads by Country 2022-2025

	Country	Downloads	Pct	Cum pct
27	Sweden	300	0.53%	91.32%
28	Israel	276	0.49%	91.81%
29	South Africa	258	0.46%	92.26%
30	Hungary	245	0.43%	92.70%
31	Uruguay	240	0.42%	93.12%
32	Greece	221	0.39%	93.51%
33	Belgium	212	0.38%	93.89%
34	Chile	210	0.37%	94.26%
35	New Zealand	207	0.37%	94.63%
36	Mexico	194	0.34%	94.97%
37	Colombia	184	0.33%	95.30%
38	Finland	179	0.32%	95.61%
39	Slovakia	156	0.28%	95.89%
40	Ukraine	147	0.26%	96.15%
41	Romania	145	0.26%	96.40%
42	Singapore	141	0.25%	96.65%
43	Peru	140	0.25%	96.90%
44	Malaysia	115	0.20%	97.11%
45	Russia	112	0.20%	97.30%

Cosmos + Taxis downloads continue to grow, with 10,109 in 2019, 39,581 in 2020, 36,281 in 2021, and 68,701 in 2022. These numbers are conservative because they exclude the 23,901 downloads of whole issues. Articles published since 2022 have been downloaded 56,495 times, but note that this total does not include previously published articles which continue to be downloaded in significant volumes.

RANKING PROGRAMS

The real value in ranking publication output is less to rank individual scholars, but departments and institutions. Institutional rankings are presented in Table 3. In the unweighted ranking, co-authored articles receive one point for each author, and because co-authors often come from the same institution, this might be a source of bias. Government and other non-academic institutions are also well represented, including think tanks, non-profit organizations, and private firms.

Table 3: Institution Ranking

	Institution	Weighted count	Weighted rank	Unweighted count	Unweighted rank
1	University of South Florida	15.5	1	16	1
2	George Mason University	7.67	3	13	2
3	Loyola University New Orleans	8	2	11	3
4	University of Pittsburgh	1.38	13	9	4
5	New York University	6.5	4	7	5
6	American Institute for Economic Research	6	5	6	6
7	King's College London	4.5	7	6	6
8	Bilkent University	5	6	5	7
9	Cambridge University	5	6	5	7
10	Pennsylvania State University	5	6	5	7
11	SUNY Buffalo	4	8	5	7
12	Carleton University	4	8	4	8
13	SUNY Purchase	4	8	4	8
14	University College London	4	8	4	8
15	Universität Zürich	3.5	9	4	8
16	Arizona State University	3	10	3	9
17	Catholic University of America	3	10	3	9
18	Georgetown University	3	10	3	9
19	Trinity Western University	3	10	3	9
20	University of Austin	3	10	3	9
21	The University of British Columbia	2	11	3	9
22	Center for Market Education Malaysia	2	11	2	10
23	Colorado College	2	11	2	10
24	Connecticut College	2	11	2	10

Table 3: Institution Ranking

	Institution	Weighted count	Weighted rank	Unweighted count	Unweighted rank
25	Eureka College	2	11	2	10
26	F. A. Hayek Foundation Bratislava	2	11	2	10
27	Florida State University	2	11	2	10
28	Harvard University	2	11	2	10
29	Institute for American Constitutional Thought & Leadership	2	11	2	10
30	National Sun Yat-sen University	2	11	2	10
31	Nipissing University	2	11	2	10
32	Oklahoma State University	2	11	2	10
33	Prague University of Economics & Business	2	11	2	10
34	Rochester Institute of Technology	2	11	2	10
35	Simon Fraser University	2	11	2	10
36	State of Colorado	2	11	2	10
37	Syracuse University	2	11	2	10
38	Texas Tech University	2	11	2	10
39	Trinity College Dublin	2	11	2	10
40	Universidad de las Hespérides	2	11	2	10
41	Universidade Nova de Lisboa	2	11	2	10
42	Università degli Studi di Torino	2	11	2	10
43	University of Chicago	2	11	2	10
44	University of Hong Kong	2	11	2	10
45	University of Kansas	2	11	2	10
46	University of Kent	2	11	2	10
47	University of St Andrews	2	11	2	10
48	University of Texas at Austin	2	11	2	10
49	Georgia State University	1.5	12	2	10
50	Indiana University Bloomington	1.5	12	2	10
51	Queen’s University	1.5	12	2	10
52	University of Arizona	1.5	12	2	10
53	University of Exeter	1.5	12	2	10

The distribution of articles by country is given in Table 4. Fifty-seven percent of scholarly artifacts (169.5/295) originated in the U.S., with sixty-nine percent (202.5/295) from the U.S., the UK, and Canada. The geographic diversity of authors published in *Cosmos + Taxis* is very broad, dominated by North America first and Europe second, particularly the UK.

Table 4: Geographic Distribution

	Country	Weighted count	Weighted rank	Unweighted count	Unweighted rank
1	USA	169.5	1	199	1
2	UK	28	2	30	2
3	Canada	25.5	3	28	3
4	Italy	6	4	7	4
5	Germany	5	5	6	5
6	Turkey	5	5	5	6
7	Czechia	4	6	4	7
8	Israel	4	6	4	7
9	Austria	3.5	7	4	7
10	Spain	3.5	7	4	7
11	Switzerland	3.5	7	4	7
12	China	3	8	3	8
13	Ireland	3	8	3	8
14	Netherlands	3	8	3	8
15	Taiwan	3	8	3	8
16	Sweden	2.5	9	3	8
17	Australia	2	10	2	9
18	France	2	10	2	9
19	Hungary	2	10	2	9
20	Malaysia	2	10	2	9
21	Portugal	2	10	2	9
22	Slovakia	2	10	2	9
23	Greece	1	11	2	9
24	South Africa	1	11	2	9
25	Argentina	1	11	1	10
26	Brazil	1	11	1	10

Table 4: Geographic Distribution

	Country	Weighted count	Weighted rank	Unweighted count	Unweighted rank
27	Cyprus	1	11	1	10
28	Guatemala	1	11	1	10
29	India	1	11	1	10
30	Japan	1	11	1	10
31	Luxembourg	1	11	1	10
32	Norway	1	11	1	10
33	Singapore	1	11	1	10
Totals		295		335	

Table 5 shows the distribution of U.S. and Canadian artifacts by state and province. There appears to be a nearly equal division between red and blue states where most American *Cosmos + Taxis* scholars are located.

Table 5: Distribution by U.S. States and Canadian Provinces

	State/Province	Weighted count	Weighted rank	Unweighted count	Unweighted rank
1	New York	31	1	34	1
2	Florida	20	2	21	2
3	Virginia	13.17	4	19	3
4	Pennsylvania	7.38	9	15	4
5	Texas	14	3	14	5
6	Ontario	11.5	5	12	6
7	Louisiana	8.33	7	12	6
8	British Columbia	8.5	6	10	7
9	District of Columbia	8	8	8	8
10	Massachusetts	6.11	10	7	9
11	Illinois	6	11	6	10
12	New Mexico	6	11	6	10
13	Arizona	5.5	12	6	10
14	Indiana	5	13	6	10
15	Maine	5	13	5	11
16	Kansas	4	14	5	11
17	Colorado	4	14	4	12
18	Connecticut	4	14	4	12
19	Tennessee	3	15	4	12
20	Ohio	3	15	3	13
21	Georgia	2.5	16	3	13
22	Maryland	2	17	3	13
23	California	2	17	2	14
24	Michigan	2	17	2	14
25	Oklahoma	2	17	2	14
26	Quebec	2	17	2	14
27	Oregon	1	18	2	14
28	Alberta	1	18	1	15
29	Hawaii	1	18	1	15
30	Newfoundland	1	18	1	15

Table 5: Distribution by U.S. States and Canadian Provinces

	State/Province	Weighted count	Weighted rank	Unweighted count	Unweighted rank
31	New Hampshire	1	18	1	15
32	Washington	1	18	1	15
33	Alabama	0.5	19	1	15
34	Missouri	0.5	19	1	15
	Grand Total	193		224	

CONCLUSION

Institutional rankings are dominated by research universities—scholars at the University of Southern Florida, George Mason University, and Loyola University of New Orleans are particularly productive. George Mason University produces a large number and quality of Hayek scholars and Hayekian scholarship is clearly held in high regard there. The geographic and institutional diversity is particularly broad. These findings highlight the importance of journals and annual conferences that provide essential feedback, support, and networking opportunities, but also contribute to constituting an intellectual community of interdisciplinary Hayek scholars.

Cosmos + Taxis has published or plans special issues or symposia on Defense and Peace Economics, The Aesthetics of Liberalism, *The Constitution of Liberty* at Sixty-five, George Grant: The Enduring Relevance of *Lament for a Nation*, Liberal Education, *Humanomics: Moral Sentiments and the Wealth of Nations for the Twenty-First Century*, Making Democratic Theory Democratic: Democracy, Law, and Administration after Weber and Kelsen, *Hayekian Systems: Research into the Structure of Social Interaction*, Michael Polanyi, Michael Oakeshott, John Gray, Robert Nozick's *Anarchy, State, and Utopia*, and the work of economist Don Lavoie (1951-2001), Mark Pennington's *Foucault and Liberal Political Economy*, and Tristan Rogers' *Conservatism, Past and Present*. Symposia have also explored Hayekian perspectives on family, information theory, and artificial intelligence, defense economics, and the relationship between liberalism and aesthetics. Not only does *Cosmos + Taxis* engage an extraordinarily broad intellectual community, but it literally offers something to interest—or challenge—virtually everyone. Hayek scholarship is expanding rapidly and being applied to ever widening fields of endeavor. Further growth in the study of complex emergent orders will likely come from innovative scholars who introduce new applications that broaden as well as deepen the application of Hayek's ideas.[1]

APPENDIX: SCHOLARS REPRESENTED BY COUNTRY AND INSTITUTION

Argentina
Universidad Austral Buenos Aires
Crespo, Ricardo F.

Australia
Wearne, Bruce C.
Macquarie University
McIlwain, David

Austria
Austrian Economics Center
Nelson, Scott B.
Diplomatic Academy Vienna
Scheutt, Robert
Universität Graz
Schulz, Stefan
Universität Wien
Olechowski, Thomas

Brazil
Federal University of Bahia
Azize, Rafael Lopes

Canada
Booker, Grahame
Brock University
Chan, Wing-Cheuk
Carleton University
Cordner, Colin
Marriott, Shal
Pender, Casey
Peralta-Greenough, Quinton V.
Institute for the Study of Privacy Issues
Hughes, Mark D.
MacEwan University
McKinnell, Ryan
McGill University
Troy, Gil
Memorial University of Newfoundland
Heystee, B.W.D.
Nipissing University
Koivukoski, Toivo
Thorn, Brian T.
Queen's University
Malamet, Akiva
Pardy, Bruce
Simon Fraser University
Dobuzinskis, Laurent
Trent University
Nicol, Heather N.
Trinity Western University
Chamberlain, Tyler
Université de Montréal
Simon, Jonathan A.
The University of British Columbia
Cockram, Nathan
Hardwick, David
Hodge, Carl Cavanaugh
Irvine, Andrew David
Marsh, Leslie
University of Guelph
Christian, William
University of Ottawa
Robitaille, Christian
University of the Fraser Valley
Dart, Ron
University of Toronto
Peralta-Greenough, Quinton V.

China
Hangzhou City University
Dunn, George A.
University of Hong Kong
Lai, Lawrence W. C.

Cyprus
Krinkin, Kirill

Czechia
CEVRO Institute
Kosec, Jernej
Metropolitan University Prague
Nikodym, Tomáš
Prague University of Economics & Business
Hudik, Marek

France
Aix-Marseille Université
Campagnolo, Gilles
Université de Lille
Semanne, Alexis

Germany
EBS Universität für Wirtschaft und Recht
Raatzsch, Richard
Einstein Forum
Neiman, Susan
Gottfried Wilhelm Leibniz Universität Hannover
Treiber, Hubert
Julius-Maximilians-Universität Würzburg
Frick, Verena
Ruhr-Universität Bochum
Lembcke, Oliver W.
Technische Universität Dresden
de Ghantuz Cubbe, Giovanni

Greece
National & Kapodistrian University Athens
Politis, George
Steiris, George

Guatemala
Universidad Francisco Marroquín
Graf, Eric Clifford

Hungary
Eötvös Lóránd University of Budapest
Lovasz, Adam
Ludovika University of Public Service
Hörcher, Ferenc

India
Galgotias University
Yadav, Vikash

Ireland
Dublin City University
Williams, Kevin
Trinity College Dublin
Brewer, Brian
University College Cork
Dockstader, Jason
University College Dublin
Crowley, Tim

Israel
Bar-Ilan University
Landes, Richard
Haaretz
Meirson, Itay
Herzog College
Perednik, Gustavo D.
Kohelet Policy Forum
Shalev, Avraham Russell

Italy
Università degli Studi di Napoli Federico II
Carrino, Agostino
Università degli Studi di Torino
Becchio, Giandomenica
Lagi, Sara
Università di Pisa
Cubeddu, Raimondo
Menon, Marco
Università IULM Milano
Mingardi, Alberto
Università Roma Tre
Masini, Fabio

Japan
Keio University
Susato, Ryu

Luxemborg
Krecké, Elisabeth

Malaysia
Center for Market Education
Ferlito, Carmelo

Netherlands
van de Haar, Edwin
University of Amsterdam
Schliesser, Eric

Norway
Universitetet i Bergen
Fjelland, Ragnar

Portugal
Universidade Nova de Lisboa
Vinten, Robert

Singapore
National University of Singapore
O'Sullivan, Luke

Slovakia
F.A. Hayek Foundation Bratislava
Pošvanc, Matúš

South Africa
Free Market Foundation
van Staden, Martin
The Rational Standard
Woode-Smith, Nicholas

Spain
Universidad Autónoma de Madrid
Muñoz, Félix-Fernando
Universidad Complutense de Madrid
Cabrillo, Francisco
Universidad de las Hespérides
Wenzel, Nikolai G.

Sweden
Söderbaum, Jakob
Jönköping University
Hedblom, Maria M.
Stockholms Universitet
Stern, Charlotta

Switzerland
Universität Zürich
Hastings, Janna
Martinelli, Emanuele
Sedlakova, Jana

Taiwan
Academia Sinica
Tseng, Roy
National Sun Yat-sen University
Andersson, David Emanuel

Turkey
Bilkent University
Alexander, James

UK
Cambridge University
Deakin, Simon
Skjönsberg, Max
Studebaker, Benjamin
Zeitlin, S.G.
Zeng, Elena Yi-Jia
Cardiff University
Boucher, David
King's College London
Futerman, Alan G.
Karsh, Efraim
Kuchař, Pavel
Lehto, Otto
Lewis, Paul
Oxford University
Young, H. Peyton
UK House of Commons
Letwin, (Sir) Oliver
University College London
Stewart, Iain
West, Robert
Zeitlin, Samuel Garrett
University of East Anglia
Read, Rupert
University of Glasgow
Grant, Robert
University of Hull
Fear, Christopher
University of Kent
Furedi, Frank
Pabst, Adrian
University of Nottingham
Kidd, Ian
University of St Andrews
Rodríguez Burgos, Ojel L.
Duddy, Craig
University of York
Stuart-Buttle, Tim

USA
diZerega, Gus
Lombardo, Gary A.
Lurie, Robert Dean
Phillips, Luke Nathan
Alexander Hamilton Institute for the Study of Western Civilization
Pilon, Juliana Geran
American Enterprise Institute
Rohac, Dalibor
American Institute for Economic Research
Mulligan, Robert F.
Arizona State University
Jonsson, Hjorleifur
Slaboch, Matthew
Assumption University
Geddert, Jeremy
Baylor University
Corey, David D.
Corey, Elizabeth
Bellevue College
Rowse, Eric
Benedictine College
Orlando, Nathan
Boston College
Hanley, Ryan Patrick
Bowdoin College
Franco, Paul
Bowling Green State University
Warmke, Brandon

Catholic University of America
Muller, Jerry Z.
Pakaluk, Catherine R.
Prather, Anika
Claremont Graduate School
Moore, Nathan Matthias
Clark Atlanta University
Oyerinde, Oyebade Kunle
College of the Holy Cross
Schaefer, David Lewis
College of William & Mary
Radcliffe, Elizabeth S.
Colorado College
Fuller, Timothy
Columbia University
Cavallo, Jo Ann
Connecticut College
Coats, W.J.
Covenant College
Bunn, Philip D.
CUNY Hunter College
Lee, Michael
El Haprat
Baratz, Ran
Eureka College
Eisenberg, David A.
Florida Atlantic University
Packard, Mark
Florida State University
Holcombe, Randall G.
Fordham University
Smyth, Nicholas
Fort Hays State University
Hamlin, Darrell A.
Romance, Joseph
George Mason University
Boettke, Peter
Candela, Rosolino A.
Coyne, Christopher J.
Crepelle, Adam
Dekker, Erwin
Goodman, Nathan P.
Lambert, Karras J.
Lemke, Jayme S.
Novak, Mikayla
Georgetown University
Riano, Nayeli L.
Georgia State University
Edmundson, William A.
Hartley, Christie
Grove City College
Sodini, Alexander
Harvard University
Dershowitz, Alan
Symons, Xavier
Indiana University Bloomington
Nichols, David A.
Rojas, Fabios
Indiana University East
Bose, Feler
Indiana University Indianapolis
Pegg, Scott
Institute for American Constitutional Thought & Leadership
Vallier, Kevin
Laurel Ridge Community College
Dyke, Jeremiah
Liberty Fund
Skwire, Sarah
Loyola University New Orleans
Block, Walter E.
Capaldi, Nicholas
Ritter, Dylan
Ludwig von Mises Institute
Gordon, David
Njoya, Wanjiru
Madonna University
Kos, Eric S.
Middle Tennessee State University
Benzecry, Gabriel F.
Smith, Daniel J.
New York University
Callahan, Gene
Harper, David A.
McQuade, Thomas J.
Nientiedt, Daniel
Niskanen Institute
McCabe, Josh
Northwestern University
Bodon, Hermino
Notes on Liberty
Christensen, Brandon
Oklahoma State University
Bylund, Per L.
Patrick Henry College
Bayer, Roberta
Pennsylvania State University
Weimer, Walter B.
Portland State University
Coventry, Angela
Echeverio, Landon
Reliance College Fund
Enright, Marsha Familaro
Rochester Institute of Technology
Burns, Sarah
Hall, Lauren
Sam Houston State University
McIntyre, Kenneth B.
St John's University
Rasmussen, Douglas B.
St Luke's Church & School
Prehn, (Rev) Walter L.
State of Colorado
Radner, Isaac
Stavros Niarchos Foundation Library
Mazur, George
SUNY Buffalo
Landgrebe, Jobst
Rapaport, William J.
Smith, Barry
SUNY Oneonta
Aleo, Trevor
Mason, Sheena Michele
SUNY Purchase
Ikeda, Sanford
Syracuse University
Koppl, Roger
TechFreedom
Kuznicki, Jason
Texas Tech University
Moreno Cassas, Vicente
Tulane University
Van Schoelandt, Chad
University of Arizona
Agrawal, Ritwik
Tarko, Vlad
University of Austin
Scheall, Scott
University of California Santa Cruz
Roth, Paul A.
University of Chicago
De Armas, Frederick A.
Smith, Blake
University of Connecticut
Zellen, Barry S.
University of Florida
McPherson, David
University of Houston
Hines, Andy
University of Illinois Chicago
McCloskey, Deirdre Nansen
University of Kansas
Clark, Jonathan Charles Douglas
Cokelet, Bradford
University of Mary Hardin-Baylor
Jacobs, Michael N.
University of Maryland
Callahan, Pamela
Dhingra, Neil

University of Michigan Dearborn
Little, Daniel
University of New Hampshire
Wible, James R.
University of Pittsburgh
Bustamante, Pedro
Gomez, Marcela
Krisnamurthy, Prashant
Madison, Michael J.
Murtazashvili, Ilia
Murtazashvili, Jennifer
Mylovanov, Tymofiy
Weiss, Martin
University of South Florida
Adair-Toteff, Christopher
Turner, Stephen
University of Tampa
Hall, Abigail R.
University of Tennessee
Eldridge, Richard
University of Texas Austin
Higley, John
Rueda, Beckett
University of Texas Dallas
Turner, Fred
University of Virginia
Motchoulski, Alexander
Virginia Tech
Malczewski, Eric
Wabash College
Snow, Nicholas A.
Washington University St Louis
Watson, Lori
Wellesley College
Imber, Jonathan
Yale University
Jajodia, Ishaan

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NOTES

1 Thanks are due Leslie Marsh for helpful advice in planning this study. The author retains responsibility for any shortcomings.

The Austrian School and Fossil Fuels: An Intertemporal Theory on Land Use

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Independent Scholar

Abstract: In the present article, I propose a counterpoint to environmental economists on the use of fossil fuels for economic purposes. Based on the Austrian school of economics, a theory that seeks to explain the overuse of natural resources through state interventionism is put forth. Its thesis is that the long-term persistence of a land use is improbable to be caused by market conditions, but rather by the exaggerated use of governmental incentives. These incentives tend to exceed the natural economic activities of the market, leading to the overuse of resources. The theory applies to the historical case of the fossil fuel industry.

INTRODUCTION

In recent decades, many political groups that advocate for the environment have been associating the exaggerated use of fossil fuels with the market-based economy. Many environmental economists have sustained this diagnosis with their examination of "externalities". According to this view, with no environmental damage being reflected in the costs of production, the resources of land (including fossil fuels) are used more than is socially preferable.[1]/[2] However, if a detailed analysis is made of the matter, the argument is shown to be incomplete. This article develops an analysis on how the persistence of the fossil fuel industry rests on state interventionism, and how this is unlikely to exist in a free-market economy. Firstly, I ought to formulate a theory about resource utilization that demonstrates this premise. Its inferences rely on the Austrian school of economics. Secondly, I ought to apply the theory to the history of the fossil fuel industry.

THE INTERTEMPORAL THEORY OF THE EXPLOITATION OF LAND

This section intends to include the Austrian school framework into a subject that was never fully applied before. That is, the intertemporal tenacity of the exploitation of resources of nature.

Before I demonstrate this extension, a clarified economic analysis of land is required. On the subject of the factors of production, a common formulation by most economists is a tripartite division: land, labor and capital.

For our purposes, land is the matter of all the material factors of production. "Capital" would be classified as land modified by prior applications of labor. "Land" as referred by most economists, is a primary matter that is not (or is less) modified by labor. This does not imply that there is no difference between the two whatsoever. Instead, it demonstrates that an analysis regarding production has implications on land exploitation.

Given this premises, I can start my formulation: going through the literature of the Austrian school, we can observe the analysis of social cooperation between individuals and their interactions within the market. Friedrich Hayek (1989) discussed the social cooperation in what he called the "extended order." In his analysis, individuals have been improving cooperation by adhering to certain practices that emerged from experimentation and error. These practices came from a decentralized mechanism, where individuals act through consumption, savings, and investments. In the case of consumers, as Ludwig von Mises (1998a) argued, they coordinate the production of certain articles through their needs, meaning that those that do not satisfy their preferences will be left without any monetary expenditure. Thus, investments are only profitable when entrepreneurs allocate the factors of production in accordance with consumer preferences. That is, when they adjust land, capital, and labor to changes occurring in the demand of consumers. Furthermore, savings are also decisive for the subject of cooperation. Because when individuals are saving a certain quantity of money instead of using it for consumption, they indirectly reduce the consumption of factors of production. That means that more resources and labor are available for new investments. The interest rate also naturally lowers as the result of the increase in the supply of funds in banks, leaving money for entrepreneurial activities.

But how does this relate to my argument? Firstly, individual actions in such conditions cannot be constant or always specific. Consumers change preferences; entrepreneurs innovate to contribute for this change, and proportions of consumption and savings suffer modifications according to shifts in how the individual organizes current and future satisfactions. These actions can also differ from one individual to another in this decentralized mechanism. In short, all of this means that the use of land for economic activities may change oftentimes.

Secondly, when the government intervenes, sometimes with specific and delimited political intentions, by granting incentives, it tends to exceed those economic activities and therefore causes excessive exploitation of land. There are three examples that demonstrate this effect for our understanding: subsidies, credit expansion, and legal monopolies.

When it comes to subsidies, the state confiscates money from the decentralized and nonspecific coordination of the market for central planning. This money is transferred from various individuals that could seek different resources to specific and unilateral political decisions in favor of certain uses of land. Additionally, these policies, as Murray Rothbard (2009, p. 942) once noted, "prolong the life of inefficient firms..."[3] since it is an incentive that exceeds market boundaries. And finally, it grants a privilege against rivals, which means that a specific use of land is shielded by governmental expenditure, suppressing possible alternatives.

Conversely, credit expansion, although sometimes seeking general effects on the economy, can cause the overexploitation of land. When the interest rate is artificially lowered, entrepreneurs invest in the additional and unsustainable production of goods. The new funds might show an increase in savings as in an unhampered market, reducing the consumption of factors of production as mentioned. This would leave the additional capital goods and labor to be allocated in higher-order investments—that is, an expansion in the structure of production—and the people would have saved enough to purchase it. But under the government intervention in the credit they are already being urgently demanded, and the entrepreneurs engage in malinvestments, since the proportions of consumption and savings remain unchanged and consumers did not save enough to sustain the newly expanded structures of production. This indicates that upon the revelation of the unviable investments, resources of land are shown to be wasted and therefore overused.[4]

Finally, when it comes to the analysis of monopolies, we can observe a different situation. A monopolist can restrict the quantity he puts for sale to maximize profits. Mises (1998b, p. 356) has also discussed the implications of such decisions:

> Monopoly prices are only prices at which it is more advantageous for the monopolist to restrict the total amount to be sold than to expand his sales to the limit which a competitive market would allow.[5]

In an unhampered market, these above-normal profits would attract other entrepreneurs who are interested in such gains and therefore would remove the power of the monopolist. With legal barriers, however, the monopolist is protected from losing his position. With that being said, even though he sells a lower quantity to obtain monopoly prices, it causes the overexploitation of land in the long run because these profits can prolong firms as well as direct subsidies. A certain use of land is privileged and prolonged for an indefinite period.

In conclusion, those policies show that all kinds of government incentives can lead to excessive exploitation. Regardless of whether it's an incentive on production or not, or if it seeks specific or unspecific effects. In addition to this, we can also logically assume that an exaggerated use of this kind of policies can maximize overexploitation. That is, a persistent use of resources of nature. Moreover, this persistence is incompatible with the market economy, where resource utilization tends to change as mentioned previously.

THE HISTORICAL CASE FOR THE PETROLEUM INDUSTRY AND FOSSIL FUELS IN GENERAL

Regarding the theory, we can observe a historical example: the case of the fossil fuels. This section serves two purposes: to demonstrate a theoretical illustration and, subsequently, to offer a counterpoint to the belief that the industry maintains its position because of market conditions. Dominick T. Armentano (1981) has made an extensive study on the petroleum industry, and this will contribute to a better understanding.

Armentano (1981, pp. 76-77) noted that before 1911 the petroleum industry had moderate laissez-faire (no intervention in the economy), but increasingly thereafter, the conditions started to change, and the government decided to intervene more extensively. In World War I, the industry started to cooperate with the state and then a cartel was formed. This cartel maximized profits for several businessmen and after the war was finished many advocated for its continuation:

> When the war ended, a strong sentiment existed among leading oil-industry leaders for continuing the War Services Committee's policy of cooperation and "supervised competition" toward the petroleum industry. For example, most influential oil spokesmen heartily approved of President Coolidge's Federal Oil Conservation Board, created in 1924, and most endorsed that board's early recommendations for compulsory withholding of resources (...) (Armentano 1981, p. 78).

As we observed on monopoly prices, this practice helped to sustain the operations of these oil firms. The endorsement was the manifestation of their desire to maintain their privileges.

In addition to this, in 1926 the program of Oil Depletion Allowance was adopted as part of the Revenue Act of 1926 (United States 1926). This policy was an extraordinary subsidy for petroleum because of the depletion of resources. Moreover, the Great Depression of 1929 had begun, and the prior inflationary expansion of the credit caused the exaggerated waste of resources of the petroleum industry. Subsequently, oil businessmen decided to seek legal cartelization in the 1930s (Armentano 1981, p. 79).

Notwithstanding, during World War II, cooperation between government and industry had begun analogous to the prior conditions of the first World War. In accordance with the war effort, the oil industry was indirectly and directly subsidized. After the war was ended, part of the Marshall Plan aid for European countries had been indirectly used to subsidize American oil companies. Because, as Armentano

(1981, p. 80) says, "The oil was sold profitably at prices based on the higher Texas crude-oil rates, and not on local market conditions."

Along with the government, the American petroleum industry controlled foreign oil to ensure its hegemony. In the late 1960s, however, this unilateral power had decreased, and OPEC (Organization of the Petroleum Exporting Countries) created a cartel shortly thereafter. In parallel with this, the industry suffered difficulties prior to environmental regulations, representing an exception in contrast to governmental incentives (Armentano 1981, p. 81). But this did not last for long: in the 1970s, several independent refiners began to complain because of the challenges in competing with large corporations. Thus, the state granted subsidies such as entitlements programs. In response, larger refiners endorsed ERDA (Energy Research and Development Administration) subsidies (Armentano 1981, pp. 83-85).

Incentives have continued ever since. In recent years, the International Monetary Fund has estimated approximately 7 trillion dollars for indirect or direct subsidies for fossil fuels globally (IMF 2023). Demonstrating the persistent governmental mechanism of benefits for certain uses of land. Furthermore, persistent historical examples of such incentives are not limited to the petroleum industry; Jeff Johnson (2011) also provided another historical framework on fossil fuel subsidies, including natural gas and coal. This reveals how state interventionism has exceeded the activities of the industry: it was, and still is, likely prolonged, privileged and encouraged to function.

CONCLUSION

The purpose of this article is to provide an Austrian response to environmental economists on the subject of fossil fuels. Based on the relationship between their application of ecological science and the fossil fuel industry, the core cause for the excessive use (in this case relying on their terminology) is better understood as an institutional and governmental failure, challenging their critique towards the "unregulated market."

ENDNOTES

I would like to thank Professor Walter Block for his insightful feedback. I would also like to thank the scholar Luke Blackstone for his suggestions. However, none of these gentlemen are responsible for any errors in this paper.

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NOTES

1 For this contemporary application of the analysis of externalities on fossil fuels, see Arimura and Hibiki (2024). For a better understanding of the main classical view, see A. C. Pigou (1920).

2 While contemporary discussions on fossil fuel overuse have relied on ecological science, this paper does not extend into that field. Instead, it gives an explanation on how some uses of land for economic activities are persistent. The terminology used hereby to describe "overuse" therefore differs from the environmental economists approach, it rests only in the maintenance of a certain activity through time. If based on their approach relying on ecological observations, there is an "excessive use" whatsoever, the analysis of this paper should help to understand the core causes by explaining the persistence of the industry. (And if these causes are mistaken by common interpretations.)

3 We can also observe other perspectives such as Mises (1998a, p. 57), where he demonstrates how subsidies can render undertakings profitable that would be inviable in an unhampered market. Applying to my argument, certain uses of land may be sustained in locations that would have been regarded as unfavorable in different conditions.

4 For a detailed explanation, see Mises (1998a, p. 40). See also Murray N. Rothbard (2024, p. 75) for further applications.

5 Mises believed in the existence of natural monopolies in the free-market economy. In contrast to this view, Rothbard (2009) argues that monopolies would only be permanent with a governmental privilege. See also Xavier Méra (2015) for further discussion. When integrated with my argument, the impossibility of a permanent monopoly in a free market helps us to understand how overexploitation is unlikely to exist in such conditions. Moreover, with the demonstration of Méra that the inelasticity of demand (how much the consumers are not willing to abandon the firm) is not a decisive factor for the formulation of a monopoly price, we conclude that there is more room for the prolongation of firms.

REVIEW

The Myth of Classical Liberalism: How Political Identity Evolves

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University of Toronto

De Marneffe, Peter. *The Myth of Classical Liberalism: How Political Identity Evolves*. Palgrave MacMillan, 2026.

Classical liberalism, according to Peter de Marneffe, has propagated two myths about the historical origins of English liberalism. The first is that liberalism began as a commitment to constitutionally limited government and was predicated on the economic principles of Adam Smith and David Ricardo; the second, stemming from the first, is that Franklin Roosevelt revolutionized the meaning of liberalism in twentieth-century America by associating it with the New Deal (pp. 2-3). Insofar as de Marneffe's thesis is meant as an historical intervention, he simply succeeds—but it is not clear that this is all *The Myth of Classical Liberalism* portends.

On the historical front, de Marneffe explicitly follows Helena Rosenblatt in constructing a "word history of liberalism," though he confines himself to the English and American contexts—others are only mentioned insofar as it is pertinent to the Anglo developments (pp. 5-6). This method serves de Marneffe well in that he can trace the uses of the term liberal to understand its originary usage. This also allows him to eschew the need to perform a more robust history of ideas (pp. 8-10)—though this reveals itself to also be something of a weakness in what his reader is to take from the book.

After the first chapter introduces his overall argument, the second, "Origins," explores the budding of the term 'liberal' within English politics as an import from the Spanish's early nineteenth-century use of *liberales*. De Marneffe argues that nineteenth-century English politicians understood this term to come with its Spanish influence: the *liberales* were pushing back against monarchic corruption and were largely in favour of republican reforms (pp. 13-15). This transferred to the English context where "liberal" came to be associated with various reformist positions against the power of the English Crown: Whigs, Radicals, Repealers, and Reformers (pp. 30-32).

The third chapter, "'Liberalism'," builds on this originary insight. The importation of *liberales* and its republican connotations morphed in England into advocacy for giving more power to "the people" (pp. 37-38). This notion was evidently vague enough that it became contested by the 1880s, which de Marneffe highlights by contrasting the expositions of liberalism's "creed" (pp. 40, 45). Figures such as T. H. Green and R. B. Haldane focused on liberalism as a shared way of life ordered toward equality (pp. 42-43, 44-45), whereas others, such as Herbert Spencer and Edward Dicey, emphasized individual freedom and limited market interference by government (pp. 38-40). Insofar as the *liberales* and early English liberals were all reformers, there was evident disagreement about what the new forms of government and political life would look like.

At this point, de Marneffe's thesis has already been proven. The "libertarian" position of Spencer and Dicey as offered is based on a fallacious history in claiming that their notion of liberalism is the 'original' one (p. 48)—a claim de Marneffe convincingly proves via the argument of the second chapter. This is why de Marneffe refers to it as a myth: it is a story told to justify their version of liberalism, but it is not a historical reality. Thus, the "libertarian" interpretation should not be thought the more genuine liberalism over egalitarian models, as the latter can equally claim to have precedence in the republican spirit imported from the *liberales* (p. 48).

This is hardly, however, the end of the story, as de Marneffe identifies the Spencerian interpretation of liberalism as persisting forcefully into the twentieth-century—particularly in the work of F. A. Hayek. This is the inspiration for the fourth chapter, "Hayek's History," that argues that the Austrian-English economist misunderstands liberalism's origins by claiming it was founded on a Whig vision of limited constitutional government and the economic principles articulated by Adam Smith and David Ricardo (pp. 49-50). This is effectively an updated variation of Spencer's nineteenth-century arguments, and it falls just as easily as its predecessor when compared with the more careful history that de Marneffe provides.

Hayek explicitly acknowledges the inheritance of the term *liberales* from the Spanish but favours reading the history of liberalism as a gradual preference for Smithian economics among the English. He does not, however, provide historical evidence for this claim to defeat or even match that which de Marneffe is able to provide for his analysis. De Marneffe therefore reasonably concludes that this is Hayek's ideological preference being confused for adequate historical evidence (pp. 50-51). The history of liberalism that Hayek offers is therefore inadequate in light of how the ideology was first employed in English politics—Hayek simply misses its republican roots (pp. 53-54).

Chapter Five, "'Liberals' in America," uses this more robust history of liberalism's origin in England to demonstrate that Roosevelt's liberalism of 1930—epitomized in the New Deal—had clear historical precedent (p. 65). De Marneffe notes that Roosevelt's vision of liberalism had much in common with the "new liberalism" present two decades prior in England among figures such as J. A. Hobson and L. T. Hobhouse (pp. 66-67). The myth that Roosevelt somehow revolutionized the meaning of liberalism is therefore reliant on the fallacious history of classical liberals—a point that de Marneffe instructively highlights in reviewing how figures such as Ludwig von Mises and Hayek responded to the New Deal (pp. 70-76).

This historical analysis allows de Marneffe to reinterpret the meaning of "Classical Liberalism," which is also the title of his sixth chapter. In the United States, James Buchanan and Milton Friedman both identified as "classical liberals" and relied heavily on the thought of figures such as Mises and Hayek to support their views (pp. 78-79). It connotes a certain kind of legal order that protects individual freedoms and tries to maximize economic advantage (pp. 81-82), but—as de Marneffe's historical enquiry demonstrates—this is hardly the 'original' position. It is in this sense that using the term "classical" may become confusing, as there is a tendency for this term to be conflated with 'historically originary.' Nevertheless, its currency has been established and de Marneffe simply advocates for carefulness in understanding its meaning in contemporary discourse (pp. 79-80).

De Marneffe closes the book with speculations about how liberalism has gone in and out of fashion within the United States due to its fluid meaning (pp. 83-89). He ends, however, with a soft tone of lament for the state of liberalism's use in contemporary American discourse. He seems to suggest that returning to the original meaning of the term, that he recovers in this book, would offer a path toward greater unity and coordination: "looking back, we can still appreciate what self-identified liberals once accomplished and recognize that most of what is good in American political society comes from what was once known as 'liberalism'" (p. 90).

What de Marneffe impressively achieves—especially given the brevity of the book—is a profound questioning of the mythology used by proponents of classical liberalism. Granted, this is hardly an argument against classical liberalism as such—it only undermines its purported historical precedence. Yet it remains unclear what, if anything, follows normatively from this analysis. A mistaken genealogy does not, on its own, invalidate a political theory, just as a more accurate historical account does not suffice to vindicate an alternative.

De Marneffe successfully demonstrates the contested and turbulent history of liberalism's meaning within the Anglosphere, but his closing reflections reintroduce a unity that his own analysis has called into question. There is, moreover, a risk of a genetic fallacy in suggesting that the republican origins of the term bear determinative weight for its contemporary meaning or application. As an historical exercise, therefore, *The Myth of Classical Liberalism* is essential reading for those interested in the genesis and development of liberalism; but, as a contribution to the normative assessment of liberalism, its conclusions remain underdetermined.

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