Flux operates out of Montreal, located on the traditional territory of the Kanien'keha:ka, a place which has long served as a site of meeting and exchange amongst nations. The Kanien'keha:ka are the keepers of the Eastern Door of the Haudenosaunee Confederacy. In writing about political science and international relations we strive to incorporate diverse voices and bear in mind the forces, including (neo) colonialism, which have shaped the way we understand international relations. We encourage all readers to inform themselves on and actively resist, in the diverse forms that resistance can take, (neo) colonialism in Canada and abroad.

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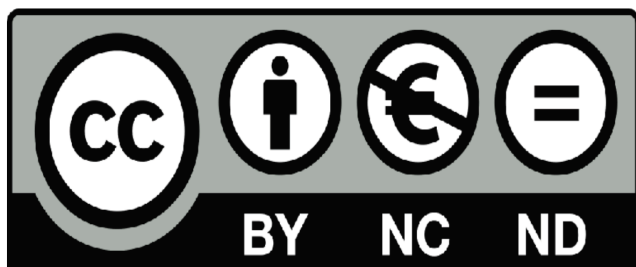
FOREWORD

I am honoured to have overseen the team that made the twelfth edition of Flux: International Relations Review possible. In this issue, our team of writers, editors, designers, and reviewers have worked incredibly hard to produce an exceptional journal.

Flux: Volume XII, Issue I, consists of six original articles showcasing some of the best international relations research produced by McGill's undergraduate students. This volume proudly celebrates one of Flux's most diverse editions yet, covering a breadth of international relations topics ranging from commercial surrogacy in India to reproductive issues in Poland to truth and reconciliation in South Africa.

First, Mackenzie Norton explores the commodification of reproduction and commercial surrogacy in India through the lens of the mobility vs. immobility paradox. Moving to Hungary, Anna Hayes delves into the limits of the European Union's enforcement powers by assessing a case study of the response to democratic backsliding in Hungary. Presian Dragiev's piece, "Birth Control and the Church in Post-Communist Poland," considers linkages between Poland's economic and reproductive issues. In "Tackling Technological Inequalities: How Bridging the Digital Divide Can Enhance Progress in Developing Countries," Lucie Taïeb argues for technology as a force of progress. Mahnoor Syed's "History of Femicide and South Asian Feminists' Perspective" takes us to South Asia to discuss gender-based violence in the region. Finally, Tim Rhydderch looks to reconsider the Role of South Africa's Truth and Reconciliation Commission when discussing its ability to challenge the deeper inequalities of the apartheid regime. These topics, each particularly relevant and informative of future trends and developments in international relations research, shed light upon some of the most pressing social, cultural, economic, and political challenges of the twenty-first century.

This journal would not be possible without the help of our incredible directorial team and all of the dedicated reviewers and designers who contributed to its development, as well as the teams of editors and authors who worked tirelessly amid an ongoing global pandemic to prepare, polish, and elevate these academic pieces.

I would especially like to thank our managing editor, Shira Garbis, for her continued support, vision, and dedication throughout this process. Additionally, Flux's efforts in expanding the inclusivity and diversity of our journal would not have been possible without Isha Shahane, our Director of Team and Reader Engagement. I would also like to thank Jennifer Innes, our library liaison, for providing resources and advice throughout this cycle. Lastly, I would like to thank IRSAM, its members, and the Board of Directors for their continued support.

I hope you find this issue as insightful as I did and that it inspires you to seek out more international relations literature in the future.

Thank you very much for reading.

Best,

Madelyn Evans
Editor-in-Chief of Flux: International Relations Review 2021-2022

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The Mobility vs. Immobility Paradox as Demonstrated Through the Commodification of Reproduction and Commercial Surrogacy

Mackenzie Norton

Edited by Abigail Brewer and Isha Shahane

Authors Note

In this paper, I discuss the issue of international commercial surrogacy, specifically in India, and the mobility vs. immobility paradox that exists when examining this topic. I was drawn to this issue as I am passionate about international gender equality, and felt commercial surrogacy was a topic that encapsulated the unfortunately very common problem of women being left out of conversations regarding their own rights and bodies. I hope this paper allows readers to examine the multifaceted arguments on both sides of this issue. I would like to thank Professor Takamura, whose class I wrote this paper for and whose insightful teaching inspired me to learn more about this issue, as well as my editors, Abigail Brewer and Isha Shahane, whose patience, guidance, and commitment to this piece made it into what you are reading today. I hope you enjoy.

Abstract

Commercial surrogacy is a divisive issue which has strong arguments on both sides. A helpful lens to analyze the topic through is the mobility vs. immobility paradox, which outlines the ways in which commercial surrogacy can be simultaneously liberating and exploitative for women. For the mobility argument, working as a surrogate can provide women with significant compensation, leading to upward mobility. On the other hand, the immobility argument points to the violation of bodily autonomy that surrogacy creates, as well as the potential for economic coercion. This paper examines both sides of this paradox by studying the case of India. Ultimately, a comprehensive solution must reshape the societal problems that push women to feel like offering their bodies for surrogacy is the only path out of poverty.

Introduction

The mobility vs. immobility paradox refers to the contrast between something that can provide autonomy and opportunity while simultaneously being based in exploitation (Takamura 2021). One example of this is commercial surrogacy, which provides both economic opportunity and exploits poor women by commodifying their bodies and reducing their autonomy. Commercial surrogacy is a practice through which a woman agrees to carry a child for another couple who will keep the child after she gives birth, usually in exchange for money (Pande 2010b, 971). This relates to the topic of moral discipline as surrogate mothers are held to an extreme standard and expected to be empathetic and nurturing, yet also a reliable source of labour with no lingering attachment to the child post-birth. Moral discipline describes how constructed moral values that encourage discipline and obedience in women arise in society, expecting them to uphold certain 'morally correct' behaviours (Foucault 1978). Examining this situation through a focus on Indian culture provides a more thorough analysis by examining the effects of gender and cultural norms on the stigma and complexities surrounding the industry of commercial surrogacy. After examining both sides of the mobility vs. immobility paradox it is clear that while both have credibility within their

arguments, the ultimate solution is to increase regulation, ensure that the rights of surrogates are prioritized, and shift towards a system that better supports the rights of the women involved.

This paper discusses commercial surrogacy and the commodification of reproduction generally, but will focus specifically on India. In 2018 India prohibited transnational commercial surrogacy, however, there is no consensus on the positive impact of this law (Rozée, Unisa, and de La Rochebrochard 2020). This paper will largely analyze the mobility vs. immobility paradox that existed within the practice before the ban, however, this debate is still relevant today as many question whether or not a ban on surrogacy is truly the most productive way to help these women. Specifically within the context of moral discipline, the commodification of reproduction and commercial surrogacy is a perfect example of how culture perpetuates the mobility vs. immobility paradox.

Commercial Surrogacy and the Importance of a Cultural Lens

Commercial surrogacy is especially popular in the Global South due to limited regulations and lower prices. This popularization of transnational surrogacy has been labelled as 'fertility tourism' or 'reproductive tourism' due to the fact that

it usually involves wealthy, white couples from Western countries travelling to the Global South and contracting a poorer woman of colour to serve as a surrogate (Bergmann 2011, 281). The industry is legally very complex and regulated within the Western world as "the naturalized definition of genetic lineage in which at least the mother can be determined with certainty becomes complicated" (Bergmann 2011, 283). This challenges legal definitions of kinship, resulting in high levels of state regulation and driving many couples to seek reproductive services abroad. Additionally, while in the United States or Canada commercial surrogacy could cost a couple anywhere from US$30,000 to $100,000 or more, in countries such as India the entire process may only cost US$20,000 (Pande 2010a, 295). As such, many argue that women in developing countries are being exploited and insufficiently remunerated. Moral discipline is a large overarching theme surrounding this issue, as surrogate mothers in developing countries are held to a specific standard, and expected to be "cheap, docile, selfless, and nurturing" (Pande 2010b, 970). While commercial surrogacy for international clients is currently banned in India, for years the country was a hub for this industry.

When examining the impact and morality of commercial surrogacy, it is essential to analyze the issue through a cultural lens. Gender norms as well as specific cultural expectations and perceptions greatly influence the realities and effects of surrogacy on mothers. Failing to acknowledge the role of culture within the commercial surrogacy debate would omit an integral aspect of the issue. Firstly, women often turn to surrogacy because of gender constraints that limit other economic options. However, within India, surrogacy is often looked down upon or viewed as impure labour because "the parallels between commercial surrogacy and sex work in the Indian public imagination make surrogacy a highly stigmatized labor option" (Pande A 2010b, 975). This is because the Indian caste system involves gender norms and stereotypes focused on purity.

This increases sexism and discrimination towards surrogates due to the association between surrogacy, sex, and intimacy, generating the perception that serving as a surrogate makes a woman 'impure.' This is a cycle within the caste system as poorer women — the demographic typically participating in surrogacy — are also stereotyped as being less pure (Khader 2013, 79). Society is patrilineal and women's bodies are expected to provide only for their husbands and their own families (Rozée, Unisa, and de La Rochebrochard 2020). Additionally, surrogacy is often associated with sex work as much of the population is uneducated about the practice and may assume it requires women to be involved in a sexual relationship outside of their marriage (Khader 2013, 79). By participating in a surrogacy program, women risk being viewed as lesser, due to their deviation from traditional gender norms, as childbirth is largely viewed as a "natural non-economic element of women's roles" (Roach Anleu 1990, 67). This blending of the economic and private spheres leads to a blurring of cultural traditions and gender expectations, creating a stigma. Many women are therefore forced to keep their surrogacy a secret, for fear of the cultural shame and moral condemnation that it would elicit.

Racism and prejudicial cultural lenses also impact the perception and treatment of surrogate mothers in developing countries as surrogacy can perpetuate "the image of women of color as poor mothers of their biological children, the image of them as valuing children only to the extent that it is financially lucrative, and the image of them as reproducing excessively" (Khader 2013, 80). This is supported by the intensification thesis, which implies that racial and class oppression worsens the effects of gender oppression (Khader 2013, 68). While gender norms and prejudices play a large role in both the stigma and potential exploitation surrounding surrogate mothers, they also intersect with racial and class lenses. In many cases, especially within India, pregnancy is associated with intimacy and family, and viewed as a private and

sacred act. The widespread misunderstanding of the practice leads many to view surrogacy as selling sex or selling motherhood, two things that Indian culture designates as being strictly for the private, domestic sphere. When examining surrogacy and commodification of intimacy in the context of the immobility vs. mobility paradox, we must analyze both sides of the paradox, as well as the positive and negative effects of these practices on the lives of the women involved.

The Mobility Argument

Despite many of the harmful aspects of the practice, the benefits and positive impacts of commercial surrogacy cannot be ignored. Firstly, commercial surrogacy provides an opportunity for poor women to gain financial stability and help a couple that cannot have children on their own. Surrogacy can give a lifeline to poor women and serve as a survival strategy. In a 2010 study, thirty four out of forty two surrogate mothers interviewed were found to be at or below the poverty line, and the money they would earn from the surrogacy would be nearly equivalent to five years of total family income (Pande 2010b, 974). One woman from this study described the benefits gained from her experience, saying "I built one house with the money I got the first time. I want to do this again and again" (Pande 2010b, 989). Through commercial surrogacy, poor women are given the opportunity to earn a substantial income which can improve their lives. Surrogacy can therefore be viewed as a reproductive choice with economic benefits, given to women who may not have many other options for attaining money (Rozée, Unisa, and de La Rochebrochard 2020).

There are additional benefits offered through surrogacy that aid the economic and social mobility of the women involved. These include leisure activities provided at the hostels they stay in during the process as well as lessons in English and computer usage (Pande 2010b, 982). This creates a sense of community for the mothers and ensures that they

stay healthy while gaining skills that will help them in the future. Additionally, while at first the women are closely monitored, they are gradually encouraged to take control of their own injections, medicines, and schedule, facilitating a sense of independence. The surrogate mothers also often create friendships and bonds with the families they are providing a baby for, sometimes receiving gifts from them or remaining in contact after the birth (Pande 2010b, 986). This contradicts the idea that the women are simply seen as disposable and undervalued by the couples they are providing a child for. Furthermore, a study published in 2020 concluded that most surrogates did not express any issues with giving up the child and it was usually described as a positive experience overall, with the majority saying it was preferable to jobs they had held in the past (Rozée, Unisa, and de La Rochebrochard 2020). There are few other alternative employment options that would provide lower class or uneducated women in the Global South with this much capital, enough to drastically alter their lives through investments such as a home or education for their children (Bagri 2021). Other forms of employment may also pose risks more severe than pregnancy due to unsafe working conditions, and enduring poverty would be an even greater risk (Ramskold 2013, 398). While we can acknowledge that this should not be the case — women should have access to better job opportunities — it is unfortunately the current reality, and commercial surrogacy provides a path towards upward economic mobility. While it may expose women to exploitation, it is likely that surrogacy poses no more of a risk than any alternative job low-income women in the Global South could hold (Bromfield and Rotabi 2014, 127).

Further, assuming surrogate mothers are only victims and not capable of making educated decisions is inaccurate, as "these portrayals effectively deny the agency of the women concerned, with activists claiming to represent the protagonists but not allowing them to speak for themselves" (Bergmann 2011, 284). While many

of the women turning to surrogacy are poor, they are still capable of making informed decisions and monitoring their own bodies. In some ways, surrogates are actually fighting against gender norms by participating in well-paying labour and breaking the traditional view of reproduction. In fact, many women exercise much more agency in deciding to become commercial surrogates, sometimes even choosing to pursue surrogacy against their husbands' wishes (Deomampo 2013, 169). These women are challenging patriarchal systems that say their womb can only belong to their husband by utilizing it to provide for themselves and their children independently. The stories and experiences of many surrogate mothers have revealed "a consciousness of their working conditions and social situation, and some empowerment and benefits of being surrogates" (Rozée, Unisa, and de La Rochebrochard 2020, 9). Ultimately, it can be argued that surrogacy is a conscious choice many women make in order to take advantage of a lucrative economic opportunity and improve their living conditions.

The Immobility Argument

While surrogacy can provide financial opportunity and mobility for poor women, it also exposes them to exploitation and commodification. Firstly, many aspects of the surrogacy process diminish the rights of the surrogate mother or ignore them all together. The surrogacy contract emphasizes the disposability of the surrogate mothers, and is almost always written in English, which most surrogates cannot read (Pande 2010b, 976). This means the very basis of the agreement is often rooted in exploitation or asymmetric levels of knowledge and power between both parties. For example, it is typically written in the contract that the woman has to take on self-responsibility during the pregnancy, meaning that any complications that arise during pregnancy are her own responsibility (Takamura 2021). At the same time, she is legally bound to allow the couple paying her to make decisions about her body and is unable to get an abortion in response to any complications (Pande 2010a). This exposes the exploitative and unequal levels of power between the two parties. While, as previously stated, this could be viewed as a way for women to take agency over their bodies, it also comes with risks and can be overwhelming for many women. This is especially problematic as there are a multitude of health risks associated with pregnancy that surrogate mothers are exposed to. Multiple births are more common when using In Vitro Fertilization (IVF), which can lead to more complications, and many worry about health risks for egg donors such as ovarian hyperstimulation syndrome (Bergmann 2011, 284). Lower quality health care in the Global South as well as less regulation means these women also face higher health risks in general (Khader 2013, 72). There is also concern surrounding the controlling nature of many surrogacy programs, as hostels are often under constant surveillance. Hostels vary widely, and for the women who are not fortunate enough to be in a surrogacy program that provides classes or activities, they may have nothing to do all day. These women are typically kept in shared rooms with limited visitors, are prohibited from engaging in any form of sexual relations with their husbands, and have strictly controlled diets and schedules (Pande 2010b, 982). This feeds into a paternalistic narrative that the mothers must be protected, controlled, and kept 'pure.' An additional issue is the fact that surrogate mothers have no claim to the baby, even if they form an attachment or change their minds after the birth. Many argue that women who agree to be surrogates cannot predict just how difficult this process will be, as forcing them to give up their child is unnatural and can lead to long term psychological distress (Roach Anleu 1990). As in many cases the surrogate mother is the biological mother of the child, it can be argued that commercial surrogacy "denies the natural bond between the mother and the fetus and ignores the maternal love created through pregnancy, therefore degrading women and mothering" (Rozée, Unisa,

and de La Rochebrochard 2020, 2).

Commercial surrogates are also held to impossible standards, often reduced to mere vehicles or "rented wombs" (Roach Anleu 1990, 65). Surrounding culture defines good surrogate mothers as docile, productive, and disciplined — surrogates are expected to be pragmatic labourers and quickly give over the baby after birth, but are simultaneously expected to be kind mothers who treat the process as more than a transaction. This mother-worker contradiction places unrealistic demands on these women, labelling them as both temporary professionals and nurturing mothers (Pande 2010b, 970). In addition, many view the commodification of women's bodies as unnatural and immoral, claiming it determines a woman's value to society through whether she is able to give birth. This could potentially reinforce gender stereotypes, perpetuating the idea that women belong in the domestic sphere rather than engagement in active employment or citizenship (Arneson 1992). Through this practice, women are commodified and are reduced to their ability to produce children.

Lastly, surrogacy is frequently likened to prostitution as women are selling their wombs and therefore their bodies, commodifying themselves. Many feminists have labelled commercial surrogacy as a "form of prostitution and slavery resulting from the economic and patriarchal exploitation of women" (Pande 2010a, 293). This is a divisive statement within feminist discourse, as otherscholars cite the right to bodily autonomy, a similar argument used when discussing prostitution; however, the counterargument references situational coercion. Just like with many women who turn to prostitution, those who choose to become commercial surrogates may have only turned to this option out of hopelessness fueled by poverty, and therefore this 'choice' may really be economic coercion (Cheney 2018, 159).

The process of recruiting surrogate mothers can also be exploitative. The mode of production and profit are put above all else, manipulating poor and often uneducated women in order to best benefit the industry and rich international clients (Bergmann 2011). Many of these women are preyed on and brought into the industry because they are desperate or vulnerable, as "recruitment tactics often tapped into women's anxiety about being bad mothers—mothers who were unable to provide for their children" (Pande 2010b, 975). Indian gender norms expect women to be able to provide for their families, and those who cannot do so may feel guilty and forced to find alternatives, often turning to surrogacy as an accessible option. However, the entire process often does not have the best interests of the women in mind. Additionally, despite being paid significantly less than women in Western countries would be for the same services, surrogate mothers in the Global South are discouraged from negotiating wages and are essentially told to be grateful for the opportunity as they are replaceable. In a 2010 study, one surrogate mother described her experience by saying "This is not work, this is *majboori* [a compulsion]. It's just something we have to do to survive" (Pande 2010b, 988). A large number of women who turn to surrogacy need the money to help their children and feel they have no other choice. Ultimately, while it is possible to view surrogacy through a mobility lens, some of the points that are touted as benefits can very easily become harmful. In many cases, surrogacy is a form of coercion enabled by poverty, as the reproduction of wealthy white people is put above the health and autonomy of poor surrogate mothers of colour.

Solutions

If commercial surrogacy continues, extensive changes and increased regulation are needed. Legal regulation rather than a complete ban may be the best way to protect and help women, as it would still allow them to take advantage of the opportunity for upward mobility. Banning the practice completely is also not a completely sound strategy, as it is likely that a black market would emerge, only exacerbating

the current problems with the lack of rights and protections for surrogate mothers (Bagri 2021). The most realistic path forward would be to ensure the rights of the surrogates become a primary concern within the industry through a variety of reforms and changes in legislation surrounding the practice. First, women participating in surrogacy must be fully informed of their rights, responsibilities, and the extent of the process before being able to consent. This means providing contracts in their native language, granting access to legal counsel if needed, and ensuring there is no form of coercion from outside sources when the contract is signed. Women in the Global South should also not be paid considerably less than women in the Global North for the same service. Creating an enforceable international standard of payment and treatment for surrogates would emphasize the fact that regardless of race or location, everyone should be paid the same amount for providing the same service. Additional monitoring and oversight should be implemented throughout every step of the surrogacy. This would include securing and regulating financial payment to make sure women are getting paid legally, fairly, and in a timely manner. It would also include more oversight on individual surrogacy clinics, to ensure all legislation is being strictly followed and that there is no predatory or coercive behavior involved in the recruiting process. Finally, healthcare must be fully covered for the surrogate in order to remove the burden of self-responsibility. As pregnancy comes with a myriad of health risks, surrogate mothers should be promised that if they have a complication with their health they will be provided with any care needed. This health care coverage should be included within the price of surrogacy, meaning the couple seeking a baby should be also providing for the health of the woman carrying it for them. Ultimately, the practice of commercial surrogacy is exploitative and includes predatory aspects, but it is not a black and white issue. The real solution is to change the system and help developing economies provide better access to education and jobs for women so they do not have to turn to surrogacy. Of course, this is easier said than done — but looking to the future, investment in global gender equality, equal access to education, public health, and sustainable development could pave the way to a world where women no longer have to turn to commercial surrogacy.

Conclusion

Commercial surrogacy is a highly contested industry as it has the potential to provide a path for mobility to poor women while also exploiting their desperation and reducing them to commodities and sources of labour. While in the long-term we should look to shift society away from a reality where women are so desperate that commercial surrogacy feels like their only option, in the short-term we cannot ignore the advantages. This practice has merit and many benefits as it can provide women with life changing economic opportunity. Women who opt to become surrogates cannot be characterized simply as victims, as the situation is multifaceted. Women in the Global South are capable of making their own decisions regarding their bodily autonomy, and need to be provided agency and voice. The paradox of mobility vs. immobility exists beyond the realm of surrogacy, also existing in many of the activities and labour women engage in across the world. It is important not to paint the issue in broad strokes, but to analyze both sides and come to a resolution that best supports and empowers the women involved.

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The Limits of the European Union's Enforcement Powers: a Case Study of the Response to Democratic Backsliding in Hungary

Anna Hayes

Maeve McGuire and Daniel Pines

Authors Note

Abstract

This paper explores the reasons behind the European Union's inability to respond to the trend of democratic backsliding occurring within its member states by looking at Hungary as a case study, and the ongoing process of the consolidation of illiberal democracy headed by the Fidesz party under the leadership of Viktor Orbán. This paper examines the trend of democratic backsliding within the European Union, and the various obstacles the Union faces in its attempts to curb such outcomes. Using Hungary as a case study, the European Union mechanisms for the incentivization and enforcement of democratic norms will be evaluated against the ongoing process of "illiberalization" taking place under the leadership of Viktor Orbán and the Fidesz party.

Background

Beginning in 1958, an economic association of six European states, called the European Economic Community, organized with the aim to secure peace post-World War II through economic cooperation. Since then, the Economic Community has developed into the European Union, an international organization consisting of 26 member states across the European continent. The close economic ties of these countries have become even stronger because of the EU, as the creation of a single currency and market has reduced trade barriers and bound state monetary policy (European Union 2018). However, there are political elements of the union, with the EU consisting of a number of institutional bodies. The judicial branch of the EU is known as the European Court of Justice, which serves as the supreme court of the EU. The institutions involved in decision-making are the European Parliament and the Council of the EU, which jointly adopt legislation, and the European Commission, which proposes legislation and functions as the executive branch of the European Union (European Commission 2005). The European Parliament is meant to be the democratic component of the EU, as it is the only institution in which its representatives are directly elected by the citizens of the member states. These representatives also form seven supra-national political parties organized by ideology.

Separately, the European Council is made up of the heads of state or government of each member state (European Commission 2005). However, these institutions of the EU have limited political authority over member states due to the principle of subsidiary, in which policy areas must be handled at the lowest possible level in which they are effective (Schilling 1994).

Hungary and the European Union's relationship began in the post-Cold War years, when former Soviet states began to look outside of Central and Eastern Europe for partnership. In the early 2000s, a multitude of these former Soviet states applied for membership to the European Union. The 2004 enlargement resulted in the extension of the EU membership to 10 countries from Central and Eastern Europe, including Hungary (Publications Office of the European Union 2007). As a member of the Soviet Union, Hungary was run under a communist regime until 1989. After the destruction of the Soviet Union and to be considered for membership into the European Union, Hungary's political institutions were reformed toward a democratic system (BBC News 2018).

Introduction

In 2010, the Fidesz party, under the leadership of Viktor Orbán, rose to power, winning 53% of the vote and 68% of parliamentary seats (Kelemen

2017, 221). With a two-thirds parliamentary supermajority bolstering the party, Fidesz has been able to consolidate its dominance over the past decade through constitutional amendments. Among other examples, the amendments have stripped the powers of Hungary's once independent court system, silenced independent media, and constructed a new electoral system to reduce opposition and pluralism (Ariès 2019). These reforms have installed an illiberal democratic order within Hungary. Such moves away from democracy have earned Hungary a rating of 69, or 'partly free', according to Freedom House's 2021 rankings of democratic freedom; a classification Hungary alone holds within the EU (2021). Prior to these developments, Hungary had, only a few decades earlier, made substantial progress in its democratic transition in order to adhere to the EU's conditionality guidelines for accession (Ungváry 2014). Since 2004, Hungary has held membership in the European Union, an organization legitimized in part by its commitment to a core set of values based on democracy and the rule of law, as laid out in Article 2 of the Treaty on European Union, or TEU ("Consolidated Version" 2012). Yet these values have been explicitly rejected by Orbán, who has "declared the era of liberal democracy to be over" (Janjevic 2018). Given its normative democratic claim, why has the European Union been unsuccessful in containing the overturning of democratic legislation and institutions by illiberal-minded leaders of member states like Hungary, post-accession? I argue that there are three factors contributing to why the European Union has been unable to respond to the rising threat of democratic dissolution within Hungary. The first factor is that the EU lacks effective legal mechanisms for continuing to hold states accountable to conditionality measures after their membership to the Union has been affirmed. The second are political factors, involving the presence of supra-national political alliances and the unwillingness of states to concede more powers to the EU in an attempt to protect their sovereignty. Lastly, high levels of economic integration between member states serve as bulwarks to the imposition of sanctions on EU members. In combination with each other, these factors severely diminish the options the EU has for dealing with democratic backsliding amongst its members.

Research Methodology

This paper employs secondary literature on the European Union and the case of democratic backsliding in Hungary to identify three facets to the problem of the European Union's inaction towards democratic backsliding among its member states. My research is based on the reading of secondary sources and the consideration of their application to the Hungarian case, which has been useful in determining the legal, political, and economic dimensions to the issue. Specifically, evidence for the legal and political dimensions of EU inaction relies on op-eds, journal articles and academic case studies which document backsliding within Hungry. This body of work has been analyzed for its themes to understand the legal and the political circumstances driving the European Union's inaction. As for the legal factors, op-eds from Serhan and Aríes identify current legal mechanisms that the EU has for punishing member states that transgress the rule of law as ineffective in managing the Hungarian case. Additionally, I use Sedelmeier's assessment of how well those EU member states which were added during the 2004 enlargement have adhered to EU legislation after gaining membership. Specifically, Sedelmeier establishes a substantive link between inadequate pre-accession institutional change and post-accession non-compliance. This insight helps to demonstrate how Hungary's membership status within the EU has enabled the country's non-compliance within EU laws and norms. Literature from Kelemen has helped to identify partisanship as a key factor motivating the European Union's inaction towards the Orbán government through its demonstration of how the European People's Party (EPP) has relied on Orbán's popularity to increase

its representation within the European Parliament. News articles from Thorpe provide further insight into the relationship between the EPP and Orbán, further grounding this argument. I employ Serhan, in combination with secondary literature from Holesch and Kyriazi, which both argue that alliances among member states concerning state sovereignty, particularly between Hungary and Poland, have effectively disarmed the EU's ability to punish non-compliant states. Lastly, my exploration of the economic factors behind the Union's failure to respond to backsliding employs quantitative data demonstrating the levels of economic integration between the EU and Hungary. These data, sourced from the EU budget and from metrics produced by the OEC on Hungarian-EU trade, are used to establish deep levels of economic integration between Hungary and other EU member states. Scholars such as Halmai have argued that the EU's ability to impose sanctions is ineffective, if not counterproductive, in handling democratic backsliding within the European Union: rather than promote democratic change, the use of sanctions may in fact fuel anti-European Union sentiment amongst the sanctioned country's population.

Generally, democratic backsliding describes the "state-led debilitation or elimination of any of the political institutions that sustain an existing democracy" (Bermeo 2016, 5). Such political institutions are numerous, meaning that democratic backsliding encompasses multiple processes and actors (Bermeo 2016, 5). As a result, a discourse has arisen attempting to define democratic backsliding. In this discourse, three arguments attempt to capture the "essence of democratic backsliding" (Gora and de Wilde 2020, 1). Firstly, debates from EU institutions tend to focus on backsliding as the deterioration of the rule of law and judiciary independence. Other scholarship draws attention to declining deliberation between oppositional political parties. The third group emphasizes citizen disengagement in terms of levels and demands for democratic political participation (Gora and de

Wilde 2020). For the purposes of this essay, I will define democratic backsliding through this first perspective. This is the definition used most often by the EU institutions for assessing the extent of democratic backsliding, which is most relevant to my argument surrounding the question of the EU's inaction towards member's violations of democratic principles.

My analysis of the three factors that I attribute to limiting the EU's ability to control democratic backsliding among its members is grounded on a variety of theories on international organizations and democratic backsliding. Two of the theories I will be drawing on offer a rationalist view of international organizations. The first theory I will be discussing is the theory of the rational design of international institutions. This theory posits that states design institutions so that they can use them to advance their individual goals (Koremenos et al. 2001, 762). From this assertion, it may be better understood that states are motivated to join international organizations according to their self-interests. Additionally, the organizational design within international institutions — largely in accordance with individual interests — will be shown to limit the legal recourse that organizations can take against its members. Rationalist theory pursued by Schimmelfennig and Trauner interprets pre-accession compliance to EU conditionality through a rationalist bargaining model, which assumes actors to calculate the "costs and benefits of adopting and implementing new rules" such that EU incentives for adherence to conditionality must outweigh the costs (Schimmelfennig and Trauner 2009, 2). This may be extended to predict outcomes for conditionality post-accession. Although Schimmelfennig and Trauner themselves refute this idea, arguing that there is not evidence that the removal of accession conditionality as an incentive for compliance has had a "dramatic influence on the new member states' compliance," their rationalist bargaining model, as with work from other scholars, does reveal that connecting

this cost and benefit analysis of state actors in the EU to their post-accession conditionality adherence may be useful to my analysis (Schimmelfennig and Trauner 2009, 6). Taking into account the work of Sedelmeier, changes in the incentive structure from pre- to post- accession should lead to changes in compliance to EU rules, unless new incentives are created (Sedelmeier 2008, 807). Hence, I apply both rationalist theories to explain how the desire of states to protect their political and economic interests is related to their limiting of the European Union's powers, which results in the lack of the European Union's response to democratic backsliding in Hungary.

Additionally, Kelemen offers the theoretical framework in his outline of the conditions under which authoritarianism survives within democratic organizations (Kelemen 2017, 214). Kelemen names party politics as one such condition, positing that the presence of the authoritarian state in federal political parties makes the other members of the coalition more likely to defend the state from attempts at democratic accountability from above (Kelemen 2017, 215). Kelemen also suggests the conditions for intervention at the federal level. Federal parties can support opposition parties to decrease the influence of the authoritarian party over local politics or if the authoritarian state's membership begins to be a detriment to the reputation of the party, states in political alliance with the authoritarian leader federal leader will support efforts to punish the state for its violations (Kelemen 2017, 217). I will use this theory in my section on how the presence of partisanship at the European Union level further incapacitates the EU to act against the Orbán government.

Barriers to Enforcing Laws: Limited Legal Toolkit

When member states fall back on their commitments to the EU's democratic principles, the EU struggles to impose sanctions on these states due to its limited options for taking legal action.

Although there are several procedures in place for dealing with states that violate EU democratic principles, these mechanisms are rarely effective in curbing illiberal policy decisions of rogue politicians. In terms of the European Union's legal options for penalizing breaches of EU law, Article 7 of the Treaty of Lisbon allows the EU to "suspend certain rights of a country," such as voting rights in the Council of Europe, if there has been a clear breach of the EU's fundamental values, such as democracy and the rule of law, in that state (Serhan 2020). Yet, when the European Parliament triggered Article 7 in 2018 in response to Hungarian infractions against democracy, Orbán's government went unpunished. The arenas in which it was invoked, namely media policy and regulation, are seen as outside of the EU's competence and should remain a national matter (Ariès 2019). In consequence, the EU's subsidiarity principle, in conjunction with a small range of legal options for the EU to deal with infractions to its law, pigeonholes the EU into inaction.

The other legal tool at the EU's disposal is the Rule of Law Framework which, established in 2014 by the European Commission, acts as an "early warning" for member states experiencing democratic rollbacks and opens a dialogue between the EU and the implicated member state to pre-empt the need to resort to Article 7 (Halmai 2019, 176). The Rule of Law framework unfolds in three contingent steps: the Commission monitors the situation of the concerned member state to determine "whether there is a systemic threat to the rule of law," then offers the member state advice on what to do if such a threat exists, and finally, observes the "response of the member country to the Commission's recommendations" (Halmai 2019, 176). Regardless of these new procedures for handling the trend of democratic deterioration among its members, the EU has not initiated the Rule of Law Framework for Hungary; it rendered these additions to the EU's legal toolkit for handling democratic backsliding useless thus far for imposing penalties on transgressors of EU law (Serhan

2020). Since the EU struggles to overcome the barriers to initiating these procedures, the threat of these legal mechanisms is not credible enough for member states like Hungary, which has faced few consequences for its rollback of the rule of law and its attacks on regime opposition.

An alternative to the aforementioned procedures, lawsuits made by the European Commission against transgressing member states have proved to be equally ineffective in encouraging member states to reconsolidate their democracies. After the European Union took legal action against Hungary through the European Court of Justice for violations of EU legislation, Hungary's government amended internal policies subjected to these infringement proceedings. Nevertheless, since the lawsuit was targeting particular actions taken by Hungary, it did not reverse broader illiberal trends in Hungary, such as systematic attacks on the rule of law (Kelemen 2017, 224). Hence, EU action against states weakening their commitment to democratic values is effective in forcing changes in specific policy that directly violates the rights of democratic citizens but cannot get at the deeper structural changes that pose a real threat to democracy. Krekó and Enyedi have characterized the Hungarian political system as hybrid (Krekó and Enyedi 2018). This label of 'hybrid' refers to the "uneven development of nondemocratic practices across various sectors of society," in which some institutions have been able to maintain a larger degree of independence than others (Krekó and Enyedi 2018, 40). This mixed political system makes targeting the source of the deterioration of the rule of law difficult. Individual lawsuits, even when taken all together, cannot capture the scope and pace of the autocratic measures occurring (Serhan 2020). Moreover, Hungary has largely complied with EU directives and laws in both its pre- and post accession period (Sedelmeier 2012, 24). Orbán's government has been able to circumvent democratic conditionality post-accession by playing by the rules of the EU, even as it deconstructs

its democratic institutional bodies. For instance, when stripping away the judicial independence of Hungary's courts, Orbán used the supermajority his party, Fidesz, had in the national parliament to amend the constitution without breaking laws set out by the union (Ariès 2019). Hence, Fidesz can weaken democratic institutions without breaking the laws that would lead to calls for EU action.

Impact of Membership on Effectiveness of Laws

As states become EU members, the ability of the EU to influence their democratic practices is negatively impacted. The promise of membership in exchange for compliance with EU interests is a powerful tool of the European Union to push potential candidates toward democratization (Halmai 2019, 172). As the European Union prepared to expand its membership to Central and Eastern Europe, the European Council created a list of conditions, called the Copenhagen Criteria, that applicant countries had to meet before they would be considered (Marktler 2006, 344). Namely, the stability of democracy and the presence of market economies are listed as key conditions for EU membership. Thus, as states aspire to join the European Union to have unrestricted access to its markets and trade, they are incentivized to adhere to this pre-accession criteria (Marktler 2006, 343). However, applying Schimmelfennig and Trauner's rationalist bargaining model for conditionality adherence, it appears that once these states are granted membership, the EU loses its bargaining power as it can no longer threaten to withhold membership as a result of non-compliance (Sedelmeier 2012, 20). As a result, governments can reverse "inconvenient institutional changes" made during the pre-accession conditionality process upon gaining membership (Sedelmeier 2012, 21). Even without reversal, EU member states' failures to fully democratize during the pre-accession period may lock in authoritarian tendencies and make it difficult for that country

to make up for its gaps in democratic governance. These spaces of weak democratic oversight within the state provide opportunities for co-option and capture by authoritarian leaders, such as Victor Orbán in Hungary. Again, the choice of member states such as Hungary to adhere to EU legislation aligns with the rationalist bargaining model, as leaders of these states, like Orbán, consider the incentives of compliance and noncompliance and act accordingly. When the EU pressures states with these weak democratic institutions post-accession, the change implemented in response is minimal as states find that the benefits of the status quo, such as unchecked power, outweigh the costs of EU infringement procedures (Sedelmeier 2012, 25).

Many of the EU's institutional bodies, including the European Parliament, the Council of Europe, and the European Commission, support critical reports and legal action against Hungary over their violations of minority rights for immigrants and its 2013 Constitutional Reforms that disabled Hungary's Constitutional Court. Yet the EU has persistently failed to curb Hungary's authoritarian tendencies due to the EU's limits in intervening in the domestic affairs of its members (Kelemen 2015). In accordance with the theory of the rational design of international institutions, members of the European Union have designed the organization to fit their interests, making it difficult for the European Union to act in ways that do not serve them (Koremenos et al. 2001). Furthermore, due to the subsidiary principle, the national parliaments of member states can penalize the EU for overstepping its bounds and impinging on their sovereignty (Bandeoglu 2021). This concern for the protection of state sovereignty means that the enforcement of democratic rules risks triggering the backlash of union members who view the move as outside the legitimate powers of the EU. If the EU pushes for Hungary's compliance with the rule of law, it can also feed into an authoritarian rhetoric about the need for a strong leader to protect the state from outsiders threatening to impede on Hungary's

sovereignty (Halmai 2019, 174). This rhetoric serves to both strengthen the leader partaking in the deconsolidation of democracy and to create Euroscepticism among the public. At the risk of fueling anti-EU sentiment, the European Union withholds from sanctioning these states so that it can continue to negotiate with the states as their supranational body rather than as an outside foreign organization.

Political Barriers: Partisanship

A main bulwark in the way of the EU taking action against the authoritarian shifts of its members' government is the political alliances between the member states. Over the past decade in which Fidesz has held power in Hungary, one contributing factor to the European Union's toleration of democratic backsliding in Hungary is its inclusion within partisan EU politics. While Fidesz was a member of the European People's Party, the EPP, which constitutes the majority in the European Parliament, other members within the coalition feared that sanctioning Hungary for its authoritarian actions would cause the party to lose its dominance within the EP. With a population of 10 million people, Hungary made up a substantial bloc within the European Parliament (Kenealy 2018, 80). The loss of popularity by the European People's Party within Hungary diminishes the representation of the EPP within parliament. As part of a partisan tactic, the EPP continued to support Hungary (Krekó and Enyedi 2018, 45). The EPP has even gone so far as to appoint Fidesz's leaders to key positions within EU institutions (Kelemen 2017). Furthermore, leaders of the EPP were hesitant to critique Hungarian policies despite their own commitments to democratic principles. Even German chancellor Angela Merkel, a devotee of democracy, failed to call for "EU action regarding democratic backsliding in Hungary" (Kelemen 2017, 226). Based on the rational design theory, the design of the European Union is a product of the meshing of the many and sometimes conflicting

interests of its members (Koremenos et al. 2001). The inability of EU leaders to coordinate a unified condemnation of democratic erosion in Hungary is reflective of the EU's broader disaccord that makes it difficult to explicitly denounce backsliding among its members. As the European Parliament's powers were strengthened to respond to pressures by European citizens and political actors to further democratize the EU's institutions, the incentives for the EPP members' continued support of Orbán grew so that the EPP could maintain its majority in a parliament with increasing legislative powers (Kelemen 2015). Thus, partisan concerns over the power distribution within EU institutions limit European political actors and parties, preventing them from taking strong stances against governments instigating democratic erosion out of fear that criticism of these regimes will result in the loss of their political partnership at the supranational level. For instance, the European Parliament's Committee on Civil Liberties, Justice and Home Affairs issue of the 2013 Tavares Report, which functioned as a critique of Hungary's democratic backsliding, was met with backlash from the EPP vice-chair Manfred Weber. In a display of contempt for the EU's attempts at accountability for Fidesz's autocratic maneuvers, Weber called the report a "politically motivated attack on the Orbán government by leftist parties" (Kelemen 2015). The EPP, as the party in power in the EU, effectively shielded Orbán from EU pressures in exchange for the popularity that he brought to their party. Therefore, the European Union faced less pressure from European leaders to punish Hungary for its swing towards authoritarianism because it was a relevant player in European partisan politics.

Nonetheless, tensions that grew between the European People's Party and Orbán, beginning in 2019 when Fidesz was suspended by the EPP for "human rights" violations and "attacks against the EPP leadership," have resulted in Fidesz's withdrawal from the EPP in March 2021 (Thorpe 2021). This conflict between the EPP and Hungary demonstrates that partisanship plays a key role in the EU's decision to cooperate with or sanction dissident EU national governments. As Kelemen predicts with his conditions for federal intervention, partisan politics provides a lens at which to look at the shift in the EPP's attitudes towards Orbán; Fidesz became a "political liability" for the party when Orbán began criticizing leaders within the EPP as a part of his Eurosceptic rhetoric (Kelemen 2017, 231). For example, the very same EPP head, Manfred Weber, that had defended Hungary against criticisms of the European Parliament's Committee on Civil Liberties, Justice and Home Affairs in 2013, became the target of Fidesz's attacks in which he was compared to the Gestapo by a leader of the Fidesz party (Thorpe 2021). Only after the costs of maintaining its relationship with Fidesz began to outweigh the benefits of the greater party representation that Hungary brought with its 12 EPP aligned Members of European Parliament was it that the European People's Party took an oppositional stance against Hungary and its democratic backsliding. Therefore, it can be understood that the European Union's capacity to censure its democratically precarious members is restricted to moments when these states are inopportune in EU party politics.

Political Barriers: Protection of Sovereignty

An additional political dynamic behind the EU's struggle to sanction Hungary is the constraints that individual member states have imposed on the union's ability to act against the Orbán government due to their unwillingness to expand the EU's powers. The autocratic leadership of Hungary and Poland have been able to maintain backsliding despite efforts at the supranational level to control it through the formation of a coalition between the Hungarian Fidesz party and the Polish Law and Justice party, or PiS (Holesch and Kyriazi 2021). A major outcome of this relationship is the mutual assurance of protection that allows these states

to evade the sanctioning mechanisms of the EU (Holesch and Kyriazi 2021, 9). As the imposition of Article 7 of the Treaty of Lisbon requires unanimity of EU member states, the threat of its invocation is ineffective in changing behaviors of illiberal leadership with alliances among the union's members (Sehran 2020). The EU's sanctioning power was further proved to be weak against the Hungarian-Polish coalition when Hungarian and Polish members of the European Parliament threatened to veto the union's €1.8 trillion budget and coronavirus recovery package which aimed to tie "spending to the respect for the rule of law" (Holesch and Kyriazi 2021, 14). Orbán continues his erosion of illiberal democracy without concern about severe repercussions because he understands that Poland functions as a veto player against the implementation of penalties against Hungary for its violations. Likewise, many member states fear that moving towards the unprecedented revocation of an EU member state's rights could be a stepping stone to limiting member states' sovereignty in general. As a result, EU member states have kept the Union weak regarding its capacity to sanction infringements to EU law (Sehran 2020). The hesitancy of EU member states to punish Hungary's reversal of democracy is a result of their fears of what such actions will mean for their own sovereignty.

Economic Barriers: Economic Integration

In addition to political factors, the depth of the EU's economic integration also contributes to the hesitancy of the EU to censure states as they democratically backslide. After the failure of the European Defence Community, the project of political integration has been pushed aside while the development of the common market has moved ahead (Kenealy 2018, 29). Hence, as more states adopt the euro, which Hungary is currently preparing for, it becomes more difficult to untangle the economic ties of EU member states ("Hungary"

2020). When a country infringes EU law, the sanctions that ought to be imposed create negative knock-on consequences for all the EU members to which it is economically connected. The economic integration that have both driven and been the result of the EU's common market policies therefore limits the EU's willingness to sanction individual member states. For example, the restructuring of Hungary's economy that occurred to meet EU requirements for accession was successful in turning Hungary into an economically attractive state with the highest per capita foreign direct investment amongst all the Eastern Bloc countries (Ungváry 2014). As a result, Hungary has created a market for Western Europe's exported goods. In the case of Germany, Hungary's largest importer and exporter, Hungary has increased its import of German goods at a rate of 7.9% annually, rising from 4.67 billion USD in 1995 to 28.9 billion in 2019 ("Hungary" 2019). These trade relationships influence the degree to which the EU responds to breaches in Article 2 of the Treaty on European Union. Due to these high levels of economic integration within the EU, the EU stands to lose out economically from Hungary's withdrawal from the union. The rationalist design theory predicts in this case that because states join the EU to advance their goals, member states will be opposed to taking action against a member state in violation of EU law if it results in economic losses (Koremenos et al. 2001).

Economic Barriers: Economic Sanctions

Despite these points, some argue that the European Union has the potential to effectively punish member states that infringe on the rule of law through the raising of economic sanctions. According to the theoretical framework provided by Marinov and Nili on the effect of economic sanctions on democratization, the empirical evidence in support or in refutation of the effectiveness of economic sanctions in encouraging democratic behavior is inconclusive (Marinov and Nili 2015,

766). However, they present a model for evaluating the effectiveness of sanctions on influencing politics through their impact "on the price of repression, the provision of public goods, and also by affecting loyalty and ideology" (Marinov and Nili 2015, 767). Based on this approach, it is concluded that the success of economic sanctions in encouraging democratic behaviors varies substantially. Hence, both the extent to which sanctions hurt an economy and transform the loyalty and ideology of the public must be explored to evaluate whether economic sanctions are effective tools for curbing democratic backsliding within the EU.

Advocates for the imposition of economic sanctions make the point that the EU already has the measures in place to trigger such sanctions through the Common Provision Regulation, which imposes the conditionality of adherence to the rule of law in exchange for access to the European Structural and Investment Funds (Halmai 2019, 185). Since the EU can bind member states to its common economic policy, the EU has the legal authority to coordinate efforts to economically coerce members who breach the democratic values stated by Article 2 of the TEU into compliance (Bandeoglu 2021). However, once again, compliance to EU legislation, as predicted by the rationalist bargaining model, depends on its incentives (Sedelmeier 2008, 807). Thus, even if the EU does have a legal basis for economic sanctions, a change in the balance of the costs and benefits of adherence, such as suffering economic losses from the sanctions, could lead to noncompliance with this EU law.

Supporters of economic sanctions also attribute the potential of their effectiveness to the fact that as much as the EU relies on new member states to provide markets for its large export economies, new member states depend greatly on EU funding. The EU contributed €6.298 billion to Hungary in 2018 alone. The threat of the loss of this aid may incentivize countries like Hungary to hold back on their democratic dismantling projects ("Hungary" 2020). Additionally, the main importers of

Hungarian goods are other EU member states, with its top importer, Germany, making up 26.9% of its total imports and bringing in the country 32.6 billion USD in revenue in 2019 ("Hungary" 2019). Economic sanctions imposed by the EU would likely be very impactful on the Hungarian economy, and thus provide a strong incentive for Orbán to alter his current trajectory or face domestic backlash as a result of a failing economy. However, while these sanctions may be effective in reducing democratic reversals taking place in Hungary, which is largely dependent on the European Union's aid and markets, these penalties are less likely to impact the larger economies of the EU. The wealthy EU member states have established global trade relationships and could better afford the cost of EU economic sanctions. Since these states are the ones contributing to the economic aid funds of the EU, the threat of withholding aid would have little to no effect on these states' actions (Halmai 2019, 183). Similarly, imposing sanctions on wealthy EU member states and barring them from the common European market would devastate the union as smaller, poorer members depend on these wealthy states for trade. Consequently, the imposition of economic sanctions by the European Union as a mechanism for controlling democratic deconsolidation would have a disproportionate effect on poorer member states and may create a double standard in which wealthier states have virtual immunity from punitive measures imposed upon them, while other, less economically developed members are more severely impacted and, thus, incentivized toward reform. While points can be made that economic sanctions have the capacity for enforcing adherence to democratic principles in Central and Eastern European states like Hungary, these mechanisms are not equally effective at protecting democracy across Europe.

Economic sanctions are further made problematic because they have the potential to hinder the EU's influence over national democratic conditions by fueling anti-EU sentiment. In depriving Hungary

of a market for its exports, Orbán could frame EU sanctions as an attack by an outsider on Hungary's economy (Halmai 2019, 184). Heinkelmann-Wild and Zangl's theory on blame-shifting in multilevel governance systems states that actors' choices regarding whom they shift the blame onto for bad policymaking are shaped by a combination of preferences, in which "policymakers have a strong preference for shifting blame onto policymakers" at other levels of government (Heinkelmann-Wild and Zangl 2019, 954-955). This corroborates Halmai's argument that sanctions present an opportunity for Orbán to criticize the EU by giving the autocrat a government outside of Hungary to position as the enemy of Hungarians and a specific policy decision of the EU to cite as the reason for this. Likewise, these sanctions would isolate already vulnerable populations within these states by generating brutal economic conditions. This economic ostracization has the potential to push these populations even closer towards a strong, central leader like Orbán (Sehran 2020). As populist, anti-democratic sentiment rises in Western Europe, the economic procedures for relegating these forces to the outskirts of politics may not be reliable.

Conclusion

The European Union is highly constrained in its response to democratic backsliding, specifically in the Hungarian case. One factor for this has been that the current legal mechanisms the EU has for countering the establishment of illiberal democratic regimes among its members is ineffective in penalizing the states that infringe on EU democratic principles. Moreover, the EU is hesitant to establish more effective procedures for sanctioning transgressing EU states due to the reluctance of members to give more power to the union's institutions, motivated by fears over the loss of national sovereignty. Alongside these legal barriers, the EU faces political and economic hurdles that control how the EU can respond to such democratic decline. Politically, the EU is subject to the will of its parties and member

states, which have in the case of Hungary overlooked democratic concerns to serve their various interests. Furthermore, as Central and Eastern European member states like Hungary have increased their economic integration into the union, the EU has struggled to sanction these members for their undemocratic practices and breaches to the rule of law as the supranational organization desires to appeal to the economic interests of its community by maintaining the economic union of its members. Whatever the case, the EU's passiveness towards the authoritarian shifts occurring in Hungary calls into question the legitimacy of the Union's claims to its dedication to democratic ideals and the protection of human rights. As the trend of electorally successful populist, illiberal parties continues to spread across Europe, the dichotomies between EU institutions and authoritarian governments will continue to both strain and shape the future of the European project

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Birth Control and the Church in Post-Communist Poland

Presian Dragiev

By Edited by Rory Daly and Jasmine Lam

Authors Note

Abstract

After the end of Communism and the introduction of liberal-democracy in Poland, the Catholic Church pursued influence on sexual and reproductive issues, while neglecting significant socio-economic issues brought about by the transition to a market economy. While many Poles today do not agree with the Church's uncompromising attitude on birth control, they nevertheless continue to identify as Catholic and respect the Church's word. In light of this background, this paper makes the case that Poland's economic and reproductive issues were linked in a way the Catholic Church did not recognize, and how recognition of this link could have accrued more influence to the Church and its political proxies in post-Communist Poland.

After the end of Communism and the introduction of pluralist democracy in Poland, the Catholic Church almost exclusively pursued influence on sexual and reproductive issues, neglecting a myriad of other social and economic causes it could have aligned itself with. This uncompromising and parochial pursuit of authority on reproductive issues has led to the Church becoming increasingly estranged from Polish public opinion, where a majority of Poles do not agree with the Church's rigid condemnation of birth control. With regards to reproductive rights, as with all other issues, Catholic actors in the Polish political scene would like to see a state that is democratic in form, but Christian in content. However, this requires a degree of political predetermination which is simply not compatible with a democratic system of government, because of the way Catholic dominance would prevent non-Catholic viewpoints from entering the political arena (Eberts 1998, 829). For this reason, the Church's perception among Poles has been declining in favour since the 1990s (Millard 1997, 92-94).

Despite this decline in favour, the Church continues to enjoy a high degree of respect and legitimacy in Poland, where a majority of the population identifies as Catholic. Therefore, for the Church to have achieved a greater degree of political and social influence within a pluralistic democratic framework, they should have positioned themselves as defenders of socioeconomic rights

during Poland's transition away from Communism and towards neoliberalism during the 1990s. Such a decision would have helped the Church gain authority on matters of reproductive rights, given that multiple studies show religious women in Poland have largely turned to forms of birth control condemned by the Church due to a sense of economic insecurity (Misthal 2009, 171). To understand why this is the case, it is first necessary to examine both the Church's political choices in Poland following the collapse of Communism, as well as what methods of family planning the Church condemns. This will be followed by an examination of how Poland's transition to a market economy affected its female population's views of birth control. These views largely stem from the testimonies and data garnered by Joanna Misthal, which show the Church's support of the Polish state's anti-family economic policies to be one of the main factors encouraging the use of birth control among Catholic Polish women.

The Catholic Church enjoyed nearly unparalleled legitimacy in Poland during the 1990s because of its pivotal role in the overthrow of the communist regime (Misthal 2009, 163). The Church used this position to establish its authority on a narrow range of moral issues arising from the political transition to a liberal-democratic system. Notably, the Church did not involve itself in broader debates over the many new social issues brought forth by

the economic transition to a market economy (Millard 1997, 85-87). The issues which the Church concerned itself with related mainly to sexuality and reproduction. It was troubled by what it perceived as the emerging challenges to Catholic society that came with new liberal norms. The proliferation of pornography in media, the introduction of new sexual education curriculums in schools and the accessibility of contraceptives, among many other issues, alarmed Catholic officials and their political representatives in Poland. The Church felt attacked by a newly formed coterie of liberals who were pushing against its authority in the aforementioned avenues of Polish society (Millard 88). The most salient political expression of these concerns was in the Church's public opposition to the use and availability of birth control in Polish society.

With the exception of the calendar method, the Church condemns nearly every form of birth control to varying degrees. Contraceptive pills, condoms, IUDs, the withdrawal method, and abortion are all categorically listed as violations of the sanctity of life, according to the Church (Misthal 2009, 162). Abortion was effectively made illegal in Poland in 1993, in a rollback of the Communist era's open and liberal reproductive and sexual policies, which made it relatively easy to get an abortion and access contraceptives. Pope John Paul II famously articulated the Catholic Church's worries when he said "it is being demonstrated in an alarming way by the development of chemical products, intrauterine devices and vaccines which, distributed with the same ease as contraceptives, really act as abortifacients in the very early stages of the development of the life of the new human being" (Misthal 162).

However, such appeals have largely fallen on deaf ears, with a majority of Poles not sharing the Church's views on birth control. Between 1991 and 2007, contraceptive use increased from 19% to 56% in Poland. Furthermore, traditional methods of birth control, such as the calendar method, remained consistently low, and couples refraining from using

birth control method dramatically decreased from 51% to 11% over the same time period (Dannefer and Misthal 2010, 233-235). Poland represents a curious trend of increasing religiosity paired with higher contraceptive use, despite the Church's unambiguous condemnation of contraceptives. Part of the story here is the sense of hypocrisy which many Poles, especially women, see in the Church's lack of support for pro-family economic policies.

Out of the post-communist states, Poland saw one of the harshest reductions in family and maternity benefits. The neoliberal economic program instituted in the early 1990s cut maternity leave, dramatically lowered subsidies for childcare, reduced family cash benefits, and closed or privatized nearly every childcare facility in the country. The state implemented this mass-privatization project in tandem with a rigorous promotion of traditional motherhood roles for women. Their arguments usually expressed the idea that women do not need to work, and as their place is in the home as mothers they do not need additional work benefits (Misthal 2015, 167). For this reason, women's healthcare also took a hit, and thus there were far fewer guarantees of post-childbirth care. Women would now have to pay for birth care services out of pocket, which were free in Poland until recently, and, in contrast, have largely remained free in the rest of Europe (Misthal 168). Of course, the Church supported the Polish state in these efforts.

One initiative that shows the Church's alignment with Poland's socioeconomic policy is the introduction in 1999 of the Profamily Program, based on the Vatican's Family Rights Charter. This project mostly consisted of calls for women to have more children and extolled the virtues of the nuclear family. Unlike in France and Scandinavia, where policymakers accepted that a majority of women would prefer to see work-family reconciliation, the Catholic Church and its political proxies failed to exercise any concrete initiatives, such as improving child care services or paid leave, that would incentivize women to stay at work and simultaneously create

a family'. The Church instead routinely deemed proposed child-service advancements as 'anti-family,' arguing instead for women to adopt full motherhood roles (Misthal 181-182). Predictably, birth rates in Poland have been falling ever lower since 1999 with little visible improvement, unlike in France, where work-family reconciliation policies have partially boosted birthrates (Misthal 163, 182). In a 2007 interview, one Polish woman expressed the widespread sense that the Polish state was deserving of its birth decline: "I think it's great that we're having a demographic crisis because the state doesn't give us any support—no support for women who are pregnant or women with kids. I had my son just before 1989 and it was no problem to have kids back then, even though I was a single mother (Misthal 169)." This woman captured the grievance many others felt during the 1990s — that in spite of the moral victory that came with the defeat of Communism, there was nevertheless a regression in family politics that came with the transition to liberal-democracy. It was this regression to which the Church contributed, both in deed and rhetoric.

Evidence from recent years shows a relationship between female employment and fertility which differs sharply from what the Church expected. More women in the workforce results in greater socioeconomic standing, and thus greater fertility (Misthal 2015, 163, 182). When one considers the widespread testimonies of women claiming they want more than one child, but are held back by economic hardships, this is unsurprising. One of the problems plaguing Polish women most acutely during the 1990s was the lack of protection for pregnant women on the job market, with many claiming to be laid off by employers once pregnant and others attesting to being forced to sign contracts pledging themselves against bearing children. Misthal's field study brings to light the popular belief among Polish women that a second child is a luxury reserved for wealthier women who do not need to lean on social benefits. One woman told surveyors in 2007: "Among my friends the

dominant opinion is that a child is a luxury. If the material situation is normalized enough, then that couple, or that woman, can decide to have a child. Still, the majority of women want at least that one child (Misthal 170-172, 174, 169)." Another woman claimed:

I attend mass every Sunday, and I completed a premarital course… But the Catholic Church is irresponsible when it calls for higher fertility when there are no social provisions for women to be able to do this…. I feel responsible for the well-being of the kids I have; therefore, my decisions regarding childbearing and the kinds of contraceptive methods I use are all my decisions, because I'm responsible for what happens to my children. Since the church takes no responsibility for childcare or the upbringing of my kids, their opinions on this don't much matter to me (Misthal 180).

This sentiment that the Church has no moral authority on the question of women's reproduction because it does not bear any of the burdens of child-rearing is not at all unique.

Such testimonies might be dismissed as coming from mostly non-religious women who are ill-inclined to follow Church doctrine, but another field study undertaken by Misthal and Dennefer investigates increasing use of birth control among self-identified religious women in Gdansk, Poland. A small minority indicated that they exclusively used the calendar method out of respect for Church directives, while the other 80% explained their contraceptive use as a reinterpretation of religious doctrine, often because they have more pressing financial and familial obligations (Dannefer and Misthal 2010, 236). One woman expressed her wish that priests should start having children "so that they gain some experience with supporting a family and bringing up kids, only then would they have more say and credibility, and I would gladly listen to them then (Dannefer and Misthal 238)." "The Church keeps saying that there should be more kids but it helps no one," said one custodian, "so the Church doesn't really play any role in my decision

about kids. It's my personal opinion whether I'm capable of taking care of another child or not. The Church doesn't offer any kind of help, they only tell us to pray. What does that give me (Dannefer and Misthal)?" Apart from a general sense of the Church's empty rhetoric, many women explicitly complain about financial hardship, and others even more specifically about the state's lacklustre commitment to supporting families with financial aid. This was a perfect opportunity for the Church to have at least made a rhetorical stand against the destruction of pro-family economic benefits. There is no Catholic doctrine which unambiguously suggests pro-market policies are, in themselves right; indeed, there is a rich history of Catholics on the side of social-democratic economics in Europe and Latin America which could have served as a precedent. It is clear that the Church's absence in the economic sphere was sorely felt by many mothers and prospective mothers, in a way that discredited its diatribes against birth control, even among religious women most likely to obey Church directives.

The Church's lack of opposition to, and frequent support of the Polish state's anti-family economic policies hollowed its pro-family and anti-birth control rhetoric of meaning. If the Church positioned itself against the pulverization of maternal and child-care benefits brought by the neoliberal economic transition in Poland, it would have likely garnered more credibility and respect to itself on the question of birth control among women. Instead, the Church chose to engage with many of the new social issues arising from the *political* transition away from Communism, without addressing many of the issues relating to the *economic* transition. Partly to blame for this is the Church's aversion to work-family reconciliation methods, and its total insistence on promoting traditional motherhood roles for women. By making some compromise on the question of whether women should be allowed to work, and by extension, supporting such policies as greater child, birthcare services, and

paid leave, the Church's pro-natalist policies would have seen much more success. This was a missed opportunity, especially given that the answers to many policy dilemmas, including those relating to birth control and demographic decline, were mutually complementary.

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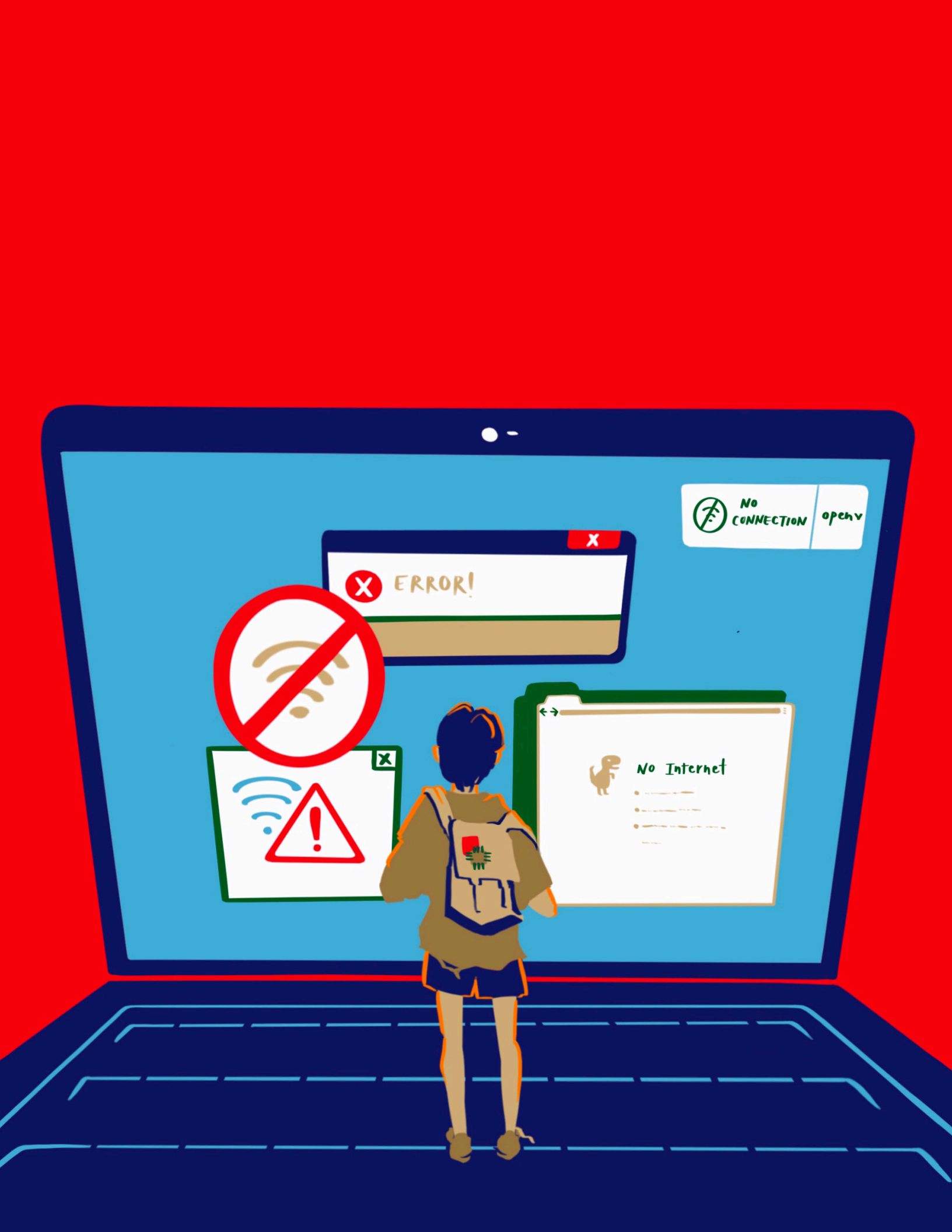
Tackling Technological Inequalities: How Bridging the Digital Divide Can Enhance Progress in Developing Countries

Lucie Taïeb

Edited by Sebastien Villegas and Rory Daly

Authors Note

Abstract

In a year in which many activities have moved online due to the pandemic, digital devices have proven more important than ever, once again emphasizing the crucial role of technology as a force of progress. However, there exists a technological divide that benefits high-income nations, leaving behind developing countries and reinforcing existing gaps in income and resources. As such, the digital divide represents one of the principal challenges to the development of lower-income countries. Corporations, as part of the international community, have the resources and capacities to develop profitable models that bridge the digital divide. Through boosting technological diffusion, access, and usage, firms can improve the educational, health, and economic outcomes of developing countries all while attaining financial gains.

Through focusing on technological diffusion, access, and usage, firms can improve the educational, health, and economic outcomes of developing countries while attaining financial gains. Firstly, firms need to focus their efforts on technological learning, which can provide substantive job creation for citizens of developing states. This acquired knowledge can then reach the global poor through mechanisms such as group investments, ensuring access to technology in developing nations. Examining this proposed process will demonstrate how corporations can use tools such as leapfrogging and innovation to reach these goals. Through bypassing intermediate stages of technology to accelerate development, and by designing products with the needs and circumstances of citizens in the developing world in mind, firms can create devices that are both profitable and easy to implement (UNCTAD 2018, 27; Basu, Banerjee and Sweeny 2013, 64).

How to Diffuse Technology?

Technology diffusion—or when new technologies spread across all users, uses, and geographic regions — is the first step in bridging the technological gap (Stokey 2020, 2). It can be achieved by encouraging technological learning, reversing brain drain, and by fostering a creative environment for businesses. In this paper, technological learning will refer to the process in which a firm acquires and builds knowledge on a new technological capability. In turn, technological capability refers to the use of knowledge to "assimilate, use, adapt, and change existing technologies" (Kim 1997, 86).

Technological learning has allowed companies to transfer research and development (R&D) knowledge to lower-income countries, which then innovate on their own. This process is often part of a company's R&D strategy: to efficiently invest in their human and financial capital, in order to generate long-term rewards. One example of technological diffusion through learning is the case of the South Korean company, Samsung. Through the creation of task forces in the United States and South Korea, Samsung passed foreign knowledge of semiconductors to their own research teams through long hours of demonstrations by Silicon Valley experts. As a result, the Korean engineers were able to imitate, reproduce, and implement the demonstrated practices, indicating successful internalization of the knowledge. Thus the creation of these two collaborative R&D groups resulted in diffusing semiconductor technologies to Korea (Kim 1997, 90-94). This effort also increased Samsung's productivity relative to its peers, allowing it to create a specific model of a semiconductor chip first, and invent the highest of patents relating to that chip design (Kim 95).

Clearly, setting up R&D teams is one of the ways firms can diffuse their know-how. By spreading their knowledge to developing countries, firms can bring considerable improvements to the economic and innovative climate. Similarly, as demonstrated by Samsung, technological learning enables productivity gains and broadens perspectives among innovators in less developed countries. With their newly acquired expertise, individuals are equipped to innovate in the domain of digital devices. Moreover, rather than being purely reliant on partners in developed countries, local firms can attain knowledge and quickly respond to the needs of their domestic population.

Reversing brain drain, the process of highly educated workers returning to work in their home country can also play an important role in bridging the digital divide. Attracting expatriate engineers through a competitive and creative work environment can be crucial to creating a high-skill economy and attaining technological gains. Taiwan is one notable example of this. Taking advantage of many Taiwanese nationals who had received an American education, Taiwanese companies developed their technological capabilities by attracting and retaining this foreign-educated workforce, enabling the country to build up an advanced manufacturing base (Saxenian 2006, 143). This is similar to what South Korea achieved through Samsung's R&D program, as Taiwanese workers were able to diffuse knowledge from their studies in developed nations to their jobs in Taiwan (143-144). Taiwan's universities were also able to teach at higher levels as foreign knowledge flowed in the country (136).

Similar to immigration, bringing expatriates' or foreign entrepreneurs' ideas and innovation to a developing country can stimulate a climate of innovation (Melo 2012, 20). Overseas engineers returning home can also facilitate new relationships, as their simultaneous maintenance of work ties in the developing country and with their former international coworkers creates linkages that would

not otherwise exist (Saxenian 2006, 144). These new links between domestic and international networks could consequently increase technological learning in the developing world.

The spread of technological learning often accompanies and facilitates entrepreneurship (Saxenian 2006, 145). While there are more high-skilled jobs, there is an overall lack of positions to be filled, meaning that many citizens of these developing countries who have graduated with top degrees cannot get a job. For example, Information and Communication Technologies (ICT) graduates are forced to take on low skill jobs to make a living in many places, and as new jobs present higher wages, many will transfer into these new positions. This lack of adequate movement from top schools to jobs causes issues in countries such as South Korea, India, and even Cambodia, where ICT graduates have previously been forced to work as taxi drivers due to the lack of employment opportunities in their sector (UNESCAP 2018, 71). Ultimately, technological diffusion creates these two positive consequences: the inflow of knowledge and skills to developing states, and the creation of jobs as this inflow of knowledge stimulates innovation by entrepreneurs, both serving to boost technological development and bridge the tech gap.

Technology diffusion can prove a holistic solution to developmental inequalities between countries and within societies. In fact, in pursuit of maximizing their profits in the same manner as Samsung or corporations in Taiwan, firms can favor the spread of technologies as a means of development by either operating in developing countries or taking advantage of pre-existing skilled local workforces. However, the diffusion of technology between countries does not mean that the technological gap has been fully vanquished. For that to be the case, and for firms to have a profit incentive, technology must reach the global poor.

How to Access Technology?

Once knowledge is acquired, it needs to

reach local populations to ensure better access to technology. This next step can be achieved successfully by creating collective initiatives and bottom of the pyramid (BoP) ventures. These solutions can also potentially play a role in bridging gender gaps within developing countries.

The high cost of digital devices is a problem still encountered in lower-income countries. This restricts access to education and other information available through digital platforms. It contributes to the broad gap in access to technology which exists between developed and developing nations (Figure 1) (Lishan et al. 2018, 8).

One way to reduce the cost of buying a technological service or device is by pooling resources. This is a system that CEMEX, a multinational cement manufacturing company operating both in and outside of Mexico, has successfully adopted (Prahalad 2005, 147). In 1998, the company launched an experiment called Patrimonio Hoy to help very poor people pay for services to upgrade their homes (Prahalad 148). Customers of the program, which the company calls *socios*, form a group of up to three people and share payment responsibilities. While it is not clear whether this program is sustainable in the long-run,

costly goods. Following the same model, individuals could first acquire a phone, tablet, or computer in groups. Not only would this reduce debt for each individual member, but interacting in a group purchase system would likely see group members understand and trust such a process in the future. Group sharing would also enable individuals to save money on their first device while still assessing its features and usefulness. In the long-term, programs such as socios would factor into more people having access to information and online services; greater trust and understanding in these devices and systems would encourage consumers to be less afraid to seek out these goods in the future.

Group initiatives are not restricted to devices; they also apply to their connected services such as repairs or charging. Installing kiosks in villages, for example, would make services accessible to a broader public. These processes would gain visibility while reducing consumers' costs, thereby assisting with high prices and promoting the goods and related services. This approach has proven successful in India. In 2013, Amul, the country's leading dairy firm, installed refrigeration systems in each village where they operate. This megaproject addressed the increasing demand for dairy products in the country by improving Amul's infrastructure, maintaining its cooperative model, and reducing operation costs and consumer prices in the long-run (Goldberg & Cornell 2013, 8). Similar innovation initiatives use public goods to advantage the population. For instance, the Nairobi-based asset financing platform M-Kopa took advantage of the abundant solar energy in the region and developed solar panels with integrated USB-ports for charging cell phones (Shapshak 2016). Using a 'pay-as-you-go' model, they effectively diffused cheap solar power throughout rural areas. Identifying opportunities that improve a country's infrastructure demonstrates the potential of
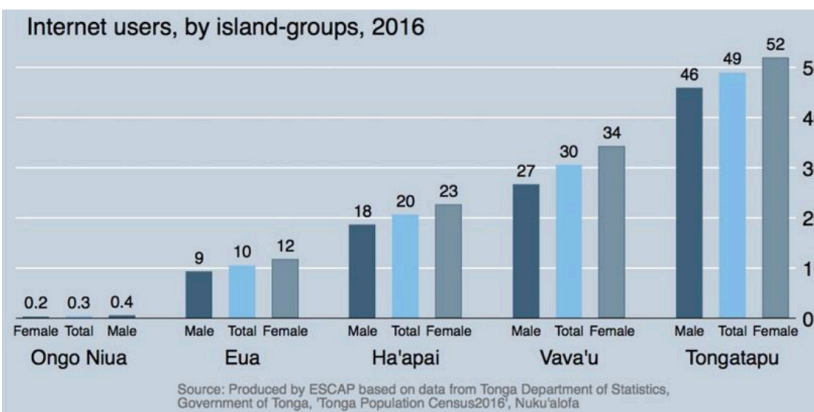

Figure 1: ICT penetration levels by level of development, 2017.

it shows that implementation of group purchase plans is possible (Prahalad 154).

As CEMEX's *socios* system demonstrates, collective responsibility has proven effective in taking the first step towards the consumption of

technology firms to close the digital divide. Pursuing group initiatives enables broader socio-economic sectors to access technology, thereby opening the market, and generating both development and profit in the long-run.

Undertaking BoP ventures has a similar impact: by focusing on an individual or community's economic development, firms facilitate access to basic products and services at reasonable prices in lower-income areas where most of the population cannot afford them. More importantly, new BoP-focused businesses create a dual value by benefiting both buyers and sellers. For instance, BoP ventures often focus on the pay-per-use basis to access internet connection, computers, and cell phones. This translates into the creation of new jobs, the expansion of markets, increased productivity, access to educational tools and knowledge, facilitation of interconnection and networking, etc. (London 2009). This represents a win-win situation for the seller and buyer: the consumer does not have to buy a device but can still benefit from its use while the seller gets increased returns from their investment (Prahalad & Hammond 2002). Therefore, by fostering economic upheaval, BoP ventures can create positive repercussions for all parties: local communities have better access to less-expensive technology and more job opportunities while the company sees its relationships improve and hopes for even more value creation in the future.

In addition to bringing access to the internet, education opportunities and knowledge, better access to technology can bridge a country's internal inequalities. The Polynesian state of Tonga, composed of over 170 islands scattered across the South Pacific ocean, exemplifies domestic disparities within a developing nation. For instance, internet access is highly unequal across the different islands, with the main and largest island, Tongatapu, having the highest percentage of Internet users (Figure 2). While other developed islands within Tonga

enjoy relatively high rates of internet access, the lack of infrastructure along socioeconomic lines makes internet users more the exception than the norm ('Ofa 2018, 18). Only two-thirds of Tonga's Internet users access it from their home, and internet access in public places, including schools, is still limited ('Ofa 20). Moreover, Tonga has exhibited a marked gender divide in its internet users ('Ofa 7). The United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) launched an initiative called the Asia-Pacific Information Superhighway (AP-IS) Master Plan to tackle these domestic divides. By partnering with regional organizations, as well as private sector technology firms, UNESCAP was able to close these gaps in the Asia-Pacific region. In the case of Togo, internet use increased outside Tongatapu and women became the main internet users across the board. By making women play a central role, collective initiatives and BoP ventures can have important effects in closing the gender gap (London 2009). Therefore, technology firms can play a role not only in bridging the global digital divide but also in internal particular divides based on socio-economic, geo-political and gender cleavages.
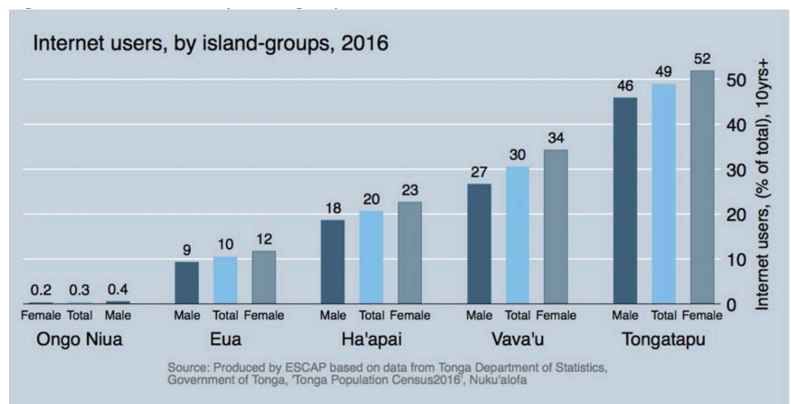

Figure 2: Internet users by island group in 2016 in Tonga

How to Use Technology?

Having access to technology is worthless without understanding how to use it. It is therefore necessary to integrate technological devices that are simple, easy to manipulate, and that target the consumer's needs, while being useful in multiple

situations. Daily integration, frugal innovation, and leapfrogging have proven to be viable methods that facilitate product usage.

The more complex a task is, the harder it is for consumers to use devices effectively. Keeping this barrier in mind, the Kenyan initiative M-PESA launched a mobile service for digital payments, targeted specifically to the unbanked population. Developed by Safaricom, Kenya's leading telecommunications provider and part of the Vodafone group, M-PESA has shown the need to simplify products and tasks to ensure maximum familiarity and use. By allowing users to access the service from its initial versions, a process of trials and errors allowed for integral development of the service after achieving several successful monetary transactions (Hughes & Lonie 2007). While normally such initiatives are carried out by recruiting small training groups through several sessions, this initiative had a relatively lower budget, highlighting the use of frugal innovation. Moreover, new services must take into account the problems and needs of the local population and potential consumers. Firms need to build a product with appropriate features that match the population's expectations and skills without losing quality. Additionally, a thorough assessment of technical issues and the integration of the target population to the creation process are likely to facilitate innovative ways to design new products. Re-designing a product during its initial phases can potentially be more profitable and efficient since it becomes easier to use and reinforces features that are integral to the consumer's experience (Govindarajan & Winter 2015). The easy manipulation of a new digital service can open doors for the use of more complex applications such as Zoom, multiplying the number of times individuals use their tablet or phone.

Building a business through technology is a means to reconcile digital gaps. As shown by the M-PESA banking service, digital devices are increasingly becoming the primary platform for activities. Technology thus appears as a way to solve problems, something also known as 'leapfrogging' (Philling 2018). Despite the limitations of harnessing technological innovation - such as the lack of industrial capacity, absence of a good government, or lack of solid infrastructures - leapfrogging has enabled countries to develop quicker and more efficiently. For instance, the mobile revolution (a phenomenon particularly acute in Africa, a continent with 350 million phone subscribers and counting) has not only benefited the urban population but also the countryside (Etzo & Collender 2010). This new wave of smartphone usage has opened up many doors for further innovation and development in different areas from buying goods online to having access to taxi services (Philling 2018). Another notable example is Zipline, a Rwandan high-tech startup engaged in drone manufacturing, logistics-service providing, and public health consulting. In October 2016, Zipline began using drones to deliver medical supplies to remote health clinics in Rwanda. This partnership with the Government of Rwanda dramatically aided the delivery of essential medical supplies in the country ('Utoikamanu n.d.). The access to a broader range of basic services through the integration of technology into daily activities has created opportunities for improvement in the areas of education, health, economy, employment, and the overall standard of living of target populations. Leapfrogging has therefore proved to bring benefits to developing nations through the integration of technology into business ventures.

Technological devices need to be designed considering the expectations and needs of the poorer communities. By engaging in frugal innovation, technology firms can create services designed and perfected by their own users, increasing their usability and facilitating the adoption of more complex digital applications. If new services and devices are successful, they can lead to leapfrogging and close the digital divide through technology. The objective is therefore to aim for cheap, accessible services and devices that are also viable and scalable.

Conclusion

This paper has demonstrated that the underlying gains of bridging the digital divide are unrivaled for local populations. Furthermore, by helping to achieve this goal, firms too can gain unmissable benefits. Bridging the digital divide can be reached by three consecutive steps. By gaining knowledge through technological learning and enhancing innovation, firms can collectively create job opportunities for expatriates returning to the country. Then, they can both establish collective initiatives and Bottom of Pyramid ventures to ensure wider access to technologies at the lowest cost possible. However, firms must have consumers' needs in mind when creating a device that is easy to use, which can be achieved through frugal innovation and leapfrogging.

By reconciling diffusion, access, and use of technologies, firms impact impoverished populations by ensuring access to basic goods and services in an increasingly digital world. By bridging the digital divide, firms have the potential to alleviate gaps in education, healthcare, and the labour market, creating a long-term positive loop of development. After having understood the considerable impact and profit untapped markets hold, technology firms can put their resources to good use. This is particularly important since few actors in the global arena have financial resources comparable to these firms. This study has highlighted the benefits and incentives of using technology to bridge the digital divide, and compels companies to consider a paradigm shift in assessment of the risks associated in undertaking such initiatives. A look into how firms and international organizations act in partnership could thus be useful in providing the right incentives for firms to act upon the digital divide.

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History of Femicide and South Asian Feminists' Perspective

Mahnoor Syed

Edited by Isha Shahane and Aarim Khan

Authors Note

This paper is one of the products of my on-going pursuit of studying and discussing gender based violence in South Asia. I believe in the process of studying women's experiences of gender-based violence from an othered lens, the personal aspects of their struggle and life story often go unacknowledged. In my writings and work, I hope to decolonize South Asian women's struggles and life stories by deconstructing Orientalist nuances and by highlighting the work of South Asian authors and feminists. My inspiration for this work comes from observing and understanding the struggles and achievements of South Asian women in my own life and beyond. Almost every South Asian woman I know has been through some form of gender-based violence and each experience has had multiple nuances to it. I hope that communities and the larger world will develop understanding and empathy for the struggles that survivors and victims of gender-based violence go through, so that they will no longer feel isolated with the pain. Finally and most importantly, this paper is a small tribute to women who lost their lives to femicide, including Qandeel Baloch, Roop Kanwar, Qurat-ul-Ain and Noor Mukadam amongst many others.

Abstract

Femicide, taking different forms including honour killing and infanticide, in South Asia has remained an important part of discourse around gender-based violence in the region. Much of the research done on femicide, like other forms of gender-based violence in South Asia, has been done by Western researchers. This paper argues that much of the Western work around femicide in South Asia adopts an Orientalist approach which often results in the 'othering' of the experiences and struggles of South Asian women. In order to discuss different aspects of their struggle and experiences, this paper focuses on two cases of femicide in South Asia and the corresponding responses from South Asian feminists. In discussing nuances related to the culture and women's personal lives, the paper focuses on their advocacy and the consequent impact which often goes undiscussed when their suffering is 'othered' and deemed incomprehensible in mainstream discourses.

Introduction

Femicide, the intentional killing of females because of their sex, remains very prevalent in South Asia. Intersection of ethnographic and anthropological studies show that violence against women is common in South Asia due to an amalgamation of religious, cultural, and legal reasons. Some forms of gender-based violence are very specific to South Asian countries, including dowry violence, honour killings, sati, a practice in which widows sacrifice themselves atop their husbands' funeral pyres, and female infanticide. Oftentimes the violence entails intentional murder of women for multiple reasons, including but not limited to the breach of socially constructed notions like 'honour,' lack of economic resources, family disputes, and a lack of dowry. It was estimated that over 2,000 women were killed in Pakistan in the year 2000 alone (Niaz 2003, 179). Moreover, in New Delhi, a study showed that in almost 94% of violent incidents, the victim and the offender were from the same family, and in 9 out of 10 cases, wives were murdered by their husbands (Niaz 179).

The strong presence of the patriarchy in South Asia both enables and perpetuates femicide. In centering cultural aspects that enable certain forms of violence specific to South Asia, this paper will discuss how Western work that addresses gender-based violence in South Asia uses primarily Orientalist and colonial approaches. It will further discuss the importance of incorporating South Asian feminists' perspectives to understand the nuances and personal aspects of femicide in South Asia. The instances of femicide will be discussed on a case-study basis to acknowledge the cultural nuances that play out and the states' reactions to said cases. Specifically, I will focus on Roop Kanwar's sati in Rajasthan, India and Qandeel Baloch's honour killing in Pakistan. In doing so, I will discuss the perspectives of South Asian feminists and their importance, emphasizing the need for decolonizing the study of gender-based violence in South Asia.

Roop Kanwar's Sati

The Hindu practice of sati has been long criticised by the Western world and deemed barbaric and inhumane. Dr. Murali argues that such categorization of sati as barbaric and 'uncivil' in Western academia is a result of power dynamics that are rooted in British colonization (Murali 2021) Under British rule in India, sati was condemned by the British as being an 'uncivil' part of Indian culture. Arguably 'othering' the act, this portrayal

presents sati as a part of an 'inferior culture' that deflects attention from the narratives of victims and demeans the culture at large. Dr. Murali terms this the "colonial gaze," arguing that it reduces gender-based violence into an incomprehensible 'other' (Murali 2021). These are features of an Orientalist approach, whereby cultures are studied and presented primarily through a Western, colonial lens. In order to understand the nuances of the personal experiences of women who endure various forms of gender-based violence such as sati, it is important to examine South Asian cases and the works of South Asian feminists.

Roop Kanwar's sati in particular has remained important for the discourse surrounding femicide in South Asia, both in literature and media. According to John Hawley, men in India glorified sati, viewing the women as courageous and dignified heroes (Hawley 1994, 5). In turn, the idea of a 'good woman' was associated strongly with sacrifice and submission (Hawley 1994, 12). This concept demonstrates that male approval and glorification were some of the factors that contributed to perpetuating the practice of sati. Since India has traditionally been a patriarchal society, the need for male approval remained central to women's domestic lives. In Hindu culture, patriarchal values enabled and perpetuated the subordination of women (Niaz 2003, 173). For example, Manu, the Hindu law-giver, developed a philosophy that shaped the narrative around what it means to be a 'good woman' in South Asia. He posited that such a woman is submissive, sacrificing, and subservient to men, and serves her husband similar to how she worships God (Niaz 174). Manu's philosophy remained particularly important because he created the Manu-smitri, an ancient book of Hindu laws, which includes the intersection of law, religion, and domestic life, and continues to shape Hindu society to this day (Das 2019). Scholars have argued that this notion of a 'good woman' is so deeply internalized by South Asian women that it manifests in voluntary engagement in sati (Niaz 2003, 173).

The reactions to Kanwar's sati show how deeply embedded the practice is in Hindu culture (Shaheed 2011, 141). While there are arguments that she was coerced into engaging in sati, there are also claims that she performed it voluntarily. According to many sources, Kanwar sat on the pyre and held her husband's head in her hands as she performed the act of sati (Hawley 1994, 7). Many interpreted this as a symbolic act of ultimate submission to her husband, representative of the cultural notions of a woman's devotion to her spouse. Those who claim that the sati was Kanwar's decision cite her devotion to the Rani Sati deity, a Rajasthani woman who committed sati on her husband's funeral pyre; they contend that Kanwar visited her shrine frequently (Chatterjea 1999, 82). Kanwar's sati in particular captivated the attention of the public because she belonged to a relatively wealthy Rajput family, a dominant social group in India, often considered quasi-royalty. Similarly, Kanwar's sati spurred discussion because her father was the headmaster of a school and their family was considered well educated (Shaheed 2011, 142). In other words, Kanwar had relatively greater access to social and intellectual capital compared to women from lower castes and social classes. (Shaheed 142). Despite her privileged background, Kanwar's submission to sati shows how the glorification and the cultural standard of being a 'good woman' was deeply internalized as part of Hindu Culture (Shaheed 141).

Moreover, scholars argue that another major reason why women chose to practice sati was that widows' status in India was not considered desirable and sacrificing their lives on their husbands' funeral pyres served as a way to avoid the struggles of widowhood. According to Shaheed, prior to the 20th century, Indian women were almost entirely dependent on their husbands and had to live in strict seclusion, with limited access to resources (Shaheed 2011, 144). Thus, living without a husband implied being cut off from most resources and social capital, making the idea of sati appealing to Indian widows. It is this fear of "living and leading a ghettoed

and cloistered life" that traditionally pushed Indian women to choose to commit sati (Shaheed 144). Additionally, widows were seen as burdens to their in-laws who were obliged to provide for them on account of their lack of resources. As stated by Shaheed, these underlying traditional values and norms show that the practice of sati is still deeply embedded in Hindu culture because families often ignore the circumstances of women's death in exchange for the benefits of immolation (Shaheed 144). Even though it is now illegal, and many widowed women in India actively choose to continue living their lives, sati is still specifically absorbed within the Rajput community as it is seen "as exemplifying the true Rajput identity" (Shaheed 145). The tradition is rooted in the Rajput ideal of ultimate sacrifice, and is perceived as a transformative process. Arguably, Kanwar's Rajput identity and related values of sacrifice, her adherence to Hindu culture, and the standard of being a 'good woman' were factors which led to her submission to sati despite being relatively educated.

Feminist Reaction to Roop Kanwar's Sati

Roop Kanwar's sati is regarded very significant for women's rights groups because it gained a lot of attention from the general public and feminist protestors (Hawley 1994, 8). Feminist writers analyzed the case by uncovering underlying cultural values and nuances that enable extreme cases of gender-based violence like sati. In patriarchal societies internalized misogyny often creates a culture in which widowed and single women are demonized for their sexuality (Shaheed 2011, 144). Furthermore, cultural norms that both perpetuate and enable violence towards women in India also include parents' attitudes. Parents often accept mistreatment of their daughters by their husbands and parents-in-law and encourage their daughters to "adjust at all costs in the marital home" (Shaheed 145). Shaheed cites Kishwar's work where she argues that as a result, "they too are endorsing the

norm that a woman's life is worthless" (Shaheed 145). This attitude manifests in Kanwar's parents' reaction to the sati as they had no complaints about their daughter's death through such a practice (Shaheed 145).

South Asian feminists have noted that Kanwar's sati stood out and gained more attention than other cases. Sugirtharajah discusses that what made the difference was women's concern and activism in reaction to the sati. With a more global reach, Kanwar's case transformed the idea that a woman would be glorified for sati through a quasi-religious lens into a critical political issue whereby Indian women's voices were centered (Sugirtharajah 2001, 11). In commenting on how sati has been discussed and dissected globally, especially by scholars in the Western world, Chatterjea argues that there is a lot of scholarship on the circumstances and implications of Kanwar's sati but hardly any on the moment of her death and the pain she must have felt in the moment she died (Chatterjea 1999, 81). According to Chatterjea, the Orientalist method of failing to represent women's personal lived experiences, including those of pain and suffering, objectifies survivors and victims. With respect to Kanwar, Chatterjea notes that she strove to avoid "remember[ing] and objectify[ing] her like the colonial and mass media accounts did to previous satis" (Chatterjea 81). In addition, she points out that there are few sources of information on how a woman herself might feel when she sees the fire and knows that the flames would engulf her soon (Chatterjea 81). Such impersonal accounts of sati and gender-based violence detach the humanistic element which is arguably critical for the study of gender-based violence in any cultural context. Deeming the pain and suffering of third world women as unknowable or incomprehensible is problematic because it alleviates the responsibility of the Western world to understand the suffering of the 'other' as they experience it. South Asian feminists have long protested the casting of these women's suffering as being "beyond language" or

"beyond representation" as it implies inability and impossibility to understand and empathize (Alam 2020, 18). Thus, studying and describing events like Kanwar's sati through a Western and Orientalist approach takes away many nuances from the narrative and reduces the victims' character down to victims of culture.

Qandeel Baloch's Honour Killing

Another case that reveals the disparity in Western and South Asian feminists' portrayal of violence against women is that of Qandeel Baloch. Baloch was a Pakistani social media celebrity, activist, and model, who used videos and selfies to challenge the moral authority of Islamic clerics in Pakistan as well as to expose the hypocrisies and double standards related to women's sexuality in Pakistani society. Her content was often considered 'vulgar' based on Pakistani standards, and Baloch thus faced backlash very early on in her career. On July 15th 2016, Baloch was suffocated to death by her brother in an 'honour killing.' An honour killing entails the intentional killing of females, most often by male partners, family members, and relatives for violating socially held ideas of 'honour.' The idea of 'honour' is often based upon policing women's bodies to uphold societal perceptions of the values of modesty (Alam 2019, 76). Baloch's death became a benchmark for feminists and activists to advocate against honour killing in Pakistan and to uncover the nuances of femicide and the policing of female sexuality. Baloch's honour killing was sensationalized in the Western world by scholars and media; per an Orientalist approach, Baloch was recognized as a victim of injustice rather than an advocate for social justice and women's rights in Pakistan (Alam 2020, 77). Though describing Baloch as a victim of injustice is not entirely problematic, framing an individual who had made significant contributions to the fight for women's rights solely as a victim of violent misogyny implies that the cultural forces that caused her death are insurmountable. Such an Orientalist view about violence towards South Asian women deflects from the narrative of their advocacy and work towards challenging social norms and authority.

Baloch mindfully curated a certain audience that hypersexualized women and displayed deeply rooted misogyny to articulate matters of politics, sexism, hierarchies, and double standards. In April 2016, Baloch was invited on a talk show to debate with an Islamic cleric, Mufti Qavi, over the 'morality' of her social media striptease offer to the Pakistani cricket team (Alam 2020, 84). Qavi attacked Baloch by citing honour, decency, and modesty, demonstrating how women's sexuality and modesty had become issues concerning the entire community (Alam 84). Later that month, Baloch posted selfies and videos with Qavi in a hotel during the month of Ramadan, demonstrating a degree of physical closeness deemed a violation of values of gender segregation followed by many South Asians in general, let alone Islamic clerics (Alam 84). This shed light on the hypocrisy of many clerics who policed women and their bodies in public but indulged in contradictory activities in private. The structures that make it possible for clerics and other figures of authority to police women's bodies in public and mainstream media are a result of the patriarchal culture that demonizes women's sexuality and considers women's boldness and mobility a threat to the community. One week after Baloch posted these videos, she was found dead in her parents' house in Multan (Alam 86). Similar to Kanwar's sati, Baloch's murder garnered a significant reaction from feminists across Pakistan and led to socio-political changes (Habiba 2018, 247). Three months after her murder, Pakistan's parliament passed legislation approving a new anti-honour killing law, which removed an existing loophole that allowed killers to be freed after the family members pardoned them (Habiba 248).

Feminist Reaction to Qandeel Baloch's Murder

Feminists in Pakistan, through their work, scholarship, and activism, responded to Qandeel Baloch's murder in several ways. It is important to

consider the work of Pakistani feminists to study Baloch's case because the nuances of her life and murder are largely embedded in a cultural context. Habiba highlights that much of the work done around Baloch's murder involves philanthrophic concerns regarding women in South Asia, making the core assumption that honour killings are a product of backward societies (Habiba 2018, 249). Habiba hence uncovers an 'othering' phenomenon, which often leads to an unclear understanding of societal factors that lead to the killing (Habiba 248). She further argues that Western works that associate the phenomenon with a certain culture or religion only present the "half truth" (Habiba 248). In contrast, a more comprehensive understanding would entail insight and attention to detail of the victims' lives, struggles, and acknowledgement of the history of cultural contexts.

Pakistani feminists responded to the murder by trying to shed light on Baloch's life, activism, and advocacy for social justice. On the 8th of March, International Women's Day, women from major cities in Pakistan take part in the annual Aurat March (Women's March) and wear Baloch masks symbolising her pro-feminist advocacy in the Pakistani context (Alam 2020, 77). Alam draws a parallel between Baloch's life and her activism, positing that she was a "do-it-yourself citizen" and a "do-it-yourself activist" (Alam 77). In Pakistan, the mainstream media and social media are largely male-dominated and censored by the state. Baloch's first key act of "do-it-yourself activism" was proclaiming herself Pakistani and worthy of being considered a citizen (Alam 79). By doing so, she attempted to highlight that women who did not live up to restrictive cultural notions of modesty and 'honour' were also worthy of the dignity granted to other Pakistani citizens.

In dissecting the contextual aspects of Baloch's life, activism, and eventual murder, Habiba stresses the importance of understanding different aspects of culture and life stories (Habiba 2018, 249). Baloch often implied that she feared being killed by her family or members of the community and considered settling abroad, but never migrated, choosing to continue speaking about controversial topics in public media (Habiba 249). Habiba emphasizes how just like a jigsaw puzzle, it is important to understand and study different dimensions of cultural context to truly study such a narrative (Habiba 249) This context offered by Habiba reaffirms the point that studying cases of gender-based violence without studying cultural aspects in depth can lead to incomplete understanding in academia, especially when done by Western scholars who do not understand nuances of Baloch's life, the background, and the legacy of Baloch's work in Pakistan (Habiba 249).

Conclusion

In this paper, I discussed femicide in the South Asian context by analyzing the cultural nuances of gender-based violence through the lens of South Asian feminists. I incorporated the two cases of Roop Kanwar's and Qandeel Baloch's femicide as they have overlapping cultural nuances and implications. By discussing these cases from the perspective of South Asian feminists' I have cast aside the orientalist tendency to 'other' these women, instead amplifying the personal and cultural nuances of their lives and cases. I argue that it is essential to understand and study the personal aspects of the suffering of South Asian women. When studied from a non-narrative and 'othering' lens, the understanding is incomplete and deflects from both the advocacy and suffering of these women. Thus, deconstructing the Orientalist view of South Asian women's suffering by understanding their lives and struggles in depth can prove to be a valuable approach in academia.

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An Instrument in State-Building: Reconsidering the Role of South Africa's Truth and Reconciliation Commission

Tim Rhydderch

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Authors Note

"The discourse of history, hardly distinguished from policy, ends up by absorbing the concerns and objectives of the latter." – Ranajit Guha, *The Prose of Counterinsurgency*. In *Culture/Power/History: A Reader in Contemporary Social Theory*, 1994, p.355

Abstract

Femicide, taking different forms including honour killing and infanticide, in South Asia has remained an important part of discourse around gender-based violence in the region. Much of the research done on femicide, like other forms of gender-based violence in South Asia, has been done by Western researchers. This paper argues that much of the Western work around femicide in South Asia adopts an Orientalist approach which often results in the 'othering' of the experiences and struggles of South Asian women. In order to discuss different aspects of their struggle and experiences, this paper focuses on two cases of femicide in South Asia and the corresponding responses from South Asian feminists. In discussing nuances related to the culture and women's personal lives, the paper focuses on their advocacy and the consequent impact which often goes undiscussed when their suffering is 'othered' and deemed incomprehensible in mainstream discourses.

Introduction

In the wake of the devastating apartheid regime, South Africa's 1995 Truth and Reconciliation Commission (TRC) remains one of the world's largest experiments in the ability of 'truth-telling' to promote national reconciliation and justice. Despite its unorthodox measures, it is regarded as "the most ambitious and organised attempt to deal with crimes of a past regime" (Stanley 2001, 525). That said, South Africa's TRC has also faced staunch domestic criticism from multiple ethnic groups (Vora 2004, 317). Some argue that the TRC has failed to provide a framework acknowledging the structural level of violence and inequality experienced by victims of apartheid. The effects of apartheid as an institutional form of racism, pervading the very fabric of South African society and politics for decades, could hardly be forgiven or forgotten by a government-sponsored truth commission — to claim the TRC wholly achieved justice and reconciliation would be naive at best.

Instead, its success should be considered in the context of a negotiated pact that necessitated heavy compromises between the incoming African National Congress (ANC) and apartheid-era National Party. The TRC's amnesty-centric approach pushed the post-apartheid state in a moderate direction,

prioritising stability over transformative change in order to position South Africa as a bulwark of liberal democracy on the African continent. This made the TRC contingent to the past and present of the apartheid state, inevitably corrupting its objectives of truth, justice and reconciliation to the detriment of the 'victims' the TRC was intended to serve. As a result, left-wing activists see the TRC as a manifestation of the anti-apartheid movement's radical roots being abandoned (Bunsee 2003). It will therefore be argued that the effectiveness of the TRC should not solely be measured in outcomes of truth, justice, or reconciliation, nor in terms of material benefit for the victims of apartheid, but a bridge towards a new state that the TRC itself was both constitutive and a resultant of.

There have been many investigations on the topic of the TRC's successes, though this paper seeks to build on the constructivist role it played in re-defining the South African state. The specific issue of whether or not the TRC uncovered 'truths' or achieved 'justice' has been the subject of multiple investigations. As a legal and philosophical theorist at the University of Toronto, Professor Dyzenhaus underscores a tension in the very logic of truth commissions; that 'truth' and 'reconciliation' might

come at the expense of other requisites necessary to preserve a nation's unity amid democratic transition (Dyzenhaus 1999). Whereas some have been optimistic in this regard, Jonathan Allen argues in *The University of Toronto Law Journal* that achieving abstract goals such as truth and justice ought to be secondary to the promotion of national unity in the wider context of South African state-building (Allen 1999). James L. Gibson, Professor of African studies at Washington University, discusses the pre-theoretical difficulty of measuring the success of abstract concepts such as 'reconciliation' quantitatively, especially when its outcomes vary significantly based on factors such as race and ethnicity (Gibson 2006, 82). Multiple papers point to the TRC as a political tool, a symbol for a state eager to continue consolidating its power while also maintaining both domestic stability and its allies in the international system (Mamdani 2002, 33; Cole 2007, 168). In this sense, the dots remain disconnected between the colonial dynamics of South Africa in the 1990s, the explicit function of the TRC as a product of this dynamic, and the impact of its outcome on the characteristics of the post-apartheid state. The line must be drawn between a state that continues to perpetuate apartheid-era inequalities and the process in which it seeks to 'overcome' these inequalities (Bunsee 2003, 2202; Stanley 2001, 527).

By drawing on Pramesh Lalu's previous theoretical work, Professor Douek of McGill University subsequently highlights the unshakeable role of the 'colonial archive' in any narrative of 'truth-telling' — a colonial archive that the TRC embodies as an arm of the state (Douek 2020, 200;Lalu 2000, 68). Thus, the TRC itself can be considered an extension of the very colonial legacy it sought to ameliorate. This framework will illustrate that the concepts of truth, justice and reconciliation championed by the TRC cannot be considered in isolation from the political narrative of compromise in the wider project of post-apartheid democratic state-building. As a result, the TRC will be analysed

as the outcome of a knife's edge calculation between the altruistic yet destabilising values it embodies, and the context of the state from which it emerged.

Revealing the Truth: Risk or Reward?

South Africa's 'experiment' in truth-telling stands out as a pioneer in the realm of truth commissions, particularly considering the magnitude of the atrocities that occurred under the apartheid regime. Imagined as an alternative to war crime bodies like the post-World War II Nuremberg trials, truth commissions such as South Africa's are bodies "charged with the duty of uncovering the truth about certain historical events rather than prosecuting specific defendants" (Cole 2007, 171). It brought out over 21,000 victim statements and more than 7,000 amnesty applications by perpetrators who decided to come forward voluntarily (Stanley 2001, 527). The South African TRC also differed significantly from previous truth commissions, notably in its ability to grant conditional amnesty to human rights perpetrators, but also in being "the most public and publicized truth commission the world had seen, then or now" (Cole 2007, 172). Whereas straightforward criminal trials dissuaded perpetrators from coming forward, it was suggested that "perpetrators in the amnesty hearings, drawn by the 'carrot' of amnesty, came forward of their own volition to confess their crimes" (Cole 2007, 175). In this sense, punishment was secondary to the TRC's goal of both victim and perpetrator being able to "live as equal citizens of the society in question" by confronting harsh truths of the apartheid regime (Dyzenhaus 1999, 313). Following years of human rights violations, the TRC was tasked with creating a "new 'truth', one that was made and owned by the people, not for the people" (Stanley 2001, 528). It is important to note that this was not a policy of blanket amnesty; perpetrators were individually identified, and their cases were evaluated accordingly. If successful, these perpetrators would avoid criminal prosecution. It then followed that the victim would receive material reparations and, most importantly

for the commission, society would be confronted with these truths in the wider pursuit of 'justice' and reconciliation (Mamdani 2002, 33). This approach was largely successful in "bringing out in the open the brutalities of the apartheid era"; following the TRC, it was "no longer possible for the average South African to [...] deny the nature and extent of the gross human rights violations" that had taken place (Vora 2004, 317) .

Atop the intrinsic value of uncovering truths, this approach is widely considered to have facilitated reconciliation among South Africa's population. The idea that "a full inquiry into the past could facilitate rather than deepen already bitter divisions" went against prior patterns that emphasized a 'covering-up' of uncomfortable histories (Dyzenhaus 1999, 311). A truth commission could easily be considered a disproportionate risk to social unity in the context of democracy-building. Yet, South Africa's TRC was firmly rooted in a belief that the "brutal truth of South Africa's traumatic past had to be revealed and acknowledged, no matter how immensely painful the process" (Vora 2004, 306). This approach was supported by a hope that the TRC would "promote national healing and individual catharsis [...] thereby preventing the unsettled business of the past from poisoning social relations in the present" (Allen 1999, 316). Traditional criminal trials were deemed inadequate in not only promoting truth, but also lasting reconciliation, as they expose victims to 'adversarial atmospheres' responsible for uncertain outcomes (Allen 1999, 350). The TRC presupposed that confronting truths would help build reconciliation and social unity in the long term. Surveys of post-TRC sentiment seem to confirm that "the collective memory produced by the truth did indeed contribute to reconciliation" (Gibson 2006, 82). The TRC therefore provided an alternative to work towards a "political culture hostile towards the institutionalisation of cruelty, humiliation and injustice" (Allen 1999, 350). Although it is acknowledged that "few South Africans are likely to receive prompt and ample state

compensation," the fact remains that "they can fully participate in the politics of memory [...] and in due course, reconciliation" (Moran 2009, 109).

Yet, despite the TRC's achievements in these areas, the concepts of 'truth' remain complex and difficult to measure. Reconciliation is a huge demand, especially considering the extent of crimes committed by apartheid leaders that were widely accepted by the various white populations. Some argued that "the TRC opened old wounds without proper support for healing and with a high potential for generating anger and revenge" (Vora 2004, 317). The TRC's 1998 report received mixed reviews across the political spectrum, having notably been "sharply critiqued by leaders of major parties to the constitutional pact — the National Party and the African National Congress" (Mamdani 2002, 34). More importantly, its success was evaluated differently by various domestic racial and ethnic populations, wherein white populations consisting of the English and Afrikaners were more fearful of the possibility for the truth to harm reconciliation. Should it be aimed at them, white populations were certainly fearful of the retaliation that could ensue from the TRC's polemic revelations. On the other hand, racial and ethnic subgroups such as the Xhosa who inhabit South Africa's Eastern peninsula were more convinced of the TRC's positive effect on post-apartheid society (Vora 2004, 317). The ability to measure, or claim to have successfully, achieved reconcialiation is therefore dependent idiosyncratic nature of South African race relations and the particularities of its apartheid regime.

Nevertheless, there are important lessons to be learned from the South African TRC. In confronting its past, interviewing victims and producing an expansive final report, South Africa seems to have made a "successful, relatively peaceful, and quite unexpected transition from the apartheid dictatorship to a reasonably democratic and stable regime" (Gibson 2006, 83). The TRC neither buried the evils of the previous regime, nor did it end in "a pursuit of justice so relentless it turns to revenge"

(Mamdani 2002, 33). Many truth commissions with varying philosophies have been employed with degrees of success; between 1974 and 1994 about fifteen truth commissions were established from Argentina, to Germany and the Philippines (Vora 2004, 303). Whereas some countries such as Chile provided blanket amnesty, others such as Sierra Leone encouraged performances of remorse over actual truth by pressuring "perpetrators to publicly apologize to the community" (Cole 2007, 174). Namibia's cover-up of the Lubango prison massacre, where political hostages were allegedly tortured and executed without trial prior to its democratic transition, remains a "ticking time-bomb, one that might yet blow Namibia's 'democratic miracle' out of the water" (Saul 2003, 334). Approaches such as Namibia's highlight not only the fragility of burying truths in the context of democratic state-building, but also how the 'covering-up' of atrocities can be falsely justified in a narrative of reconciliation.

Reconciling Justice and Social Unity

Beyond the goals of truth and reconciliation, how does 'justice' fit into the equation? The issue of justice can be seen through different lenses, whether it be on an individual or national level, a redistributive or restorative framework, and so forth. The TRC was tasked with promoting justice in a country where the entire "army, police services and the whole of the civil service were committed to the maintenance and defence of an evil system by abhorrent means" (Vora 2004, 304). Given the context and severity of the apartheid system, three key questions arise: 1) what forms did 'justice' take; 2) can the TRC claim to have achieved such justice; and, most importantly to some, 3) for whose benefit was this framework chosen?

In a commission that claimed to acknowledge "crimes against humanity that involved a racial and ethnic cleansing of the bulk of its population" (Mamdani 2002, 34), how was the scope of 'official' victims limited to only 21,000 individuals? Upon closer inspection, it seems the TRC's perspective was indeed one that focused on major political actors, fractures and larger events — glossing over the magnitude that is 'crimes against humanity'. Furthermore, even when a victim was acknowledged, many have argued that these hearings "were highly performative events in terms of their theatrical and dramatic emotional displays" (Cole 2007, 173).

This underlines one of the main drawbacks of the inherently 'individualised' nature of the TRC in terms of achieving material justice for its innumerable victims; the commission was reluctant to take steps beyond formal acknowledgements of victimhood. The TRC could only ever recommend certain steps be taken in their final report, meaning its ability to assure implementation was also limited. By design, a highly individualised TRC did not have to "challenge the structural inequalities which contextualised apartheid" (Stanley 2001, 527). Perpetrators of violence had "no obligation to make any substantive changes" and victims — even when acknowledged — seldom received any compensation (Stanley 2001, 527). The TRC therefore provided a "self-deceptive optimism" (Allen 1999, 350) insofar as entire communities remained materially destitute in the wake of apartheid. They were characterised by poverty, lack of housing, poor education, limited health services and unemployment. The Comission avoided any substantive recommendation of legal reform to dismantle the "institutional legacy of apartheid" (Mamdani 2002, 57). In this limited scope, whether justice was claimed to have been achieved on an individual level in the act of receiving reparations, or on a systemic level through the addressing of the continuing inequalities caused by apartheid, the result is the same: on neither of these levels was justice truly achieved.

This is not to dampen the TRC's achievements, but more so to nuance any one commission's ability to "dissolve years of conflict and power struggles on its own, overnight" (Stanley 2001, 543). As a government-sponsored project, the TRC was brought to life by a coalition that involved the main political proponent, and thus perpetrator of the

apartheid regime — the National Party — which had a dramatic effect on the scope and goals of the TRC's design. This conflict of interest is elucidated explicitly in documents such as the 1992 'Steyn Report'. This report linked the murderous far-right 'Third Force' group with members of the Directorate of Covert Collection (DCC), a covert arm of the apartheid regime's South African Defence Force (SADF) (Douek 2020, 220). The names of these members, assumed to be very senior figures, were only ever orally recounted to then-President F.W. De Klerk and ANC leader Nelson Mandela, and remained outside the scope of the TRC. Though F.W. De Klerk allegedly purged these officers, Douek argues that "these covert operations clearly persisted" (Douek 2020, 221), casting significant doubts onto the comprehensiveness of the TRC's findings.

The exclusion of the Third Force intelligence from the TRC's findings demonstrates how any 'truths' that emerge from a political institution will always be shaped and constrained by the political actors that form its structure. In other words, the establishment of a TRC under the auspices of an existing and dominant power will remain a tool by which that power continues "producing itself as sovereign" (Lalu 2000, 68). We see this also to some extent in the TRC's brokered, moderate and amnesty-centric approach, as well as the lack of substantive change it recommended beyond limited individual reparations. These findings leads some to believe that the TRC was never intended to entirely disrupt the foundations of apartheid in South Africa. These are foundations that many still claim exist today, both materially and psychologically. It is argued that "the people who suffered the most under apartheid continue to suffer under the new ruling power" (Stanley 2001, 538). As one prominent scholar put it, "one cannot hope to retrieve a silenced subject by way of the colonial archive" (Lalu 2000, 68). In light of these facts, the TRC should not be considered to be a revolutionary tool in dismantling the deep material and psychological

roots of apartheid, but rather as a device which was used contextually in the construction of a moderate and democratic South African society.

A Symbol of Compromise

As a fundamentally political institution, the TRC's legacy is as a symbol of compromise; of paving a moderate vision of post-apartheid South Africa in an era begging for deep structural change. What was missing in scope and radicalism from the TRC was intentional, making it not a failure but a tool, wherein "justice becomes the casualty of a political calculation" (Allen 1999, 316). The TRC was tasked with balancing justice and social unity, characterised by the demands of white apartheid leaders who vowed to only allow elections "if amnesty was granted" (Vora 2004, 302). This lays the foundations of a constitution that was born out of a lopsided relationship with oppressive factions, wherein giving amnesty to perpetrators was not a decision made by Black South Africans, but instead decided by political elites, and then repackaged as 'reconciliation'. South Africans were forced to "transcend the divisions and strife of the past," not by their own accord, but through a top-down and elite-driven compromise (Vora 2004, 302). As such, the TRC "slides from the role of legitimating constitutionalism to a creation of a new South African nationalism," a nationalism that "takes the heat off governments and does not encourage significant judicial reform" (Allen 1999, 350). The outcome of the TRC has not been one that force substantive changes to the apartheid underbelly of contemporary South Africa.

The TRC can also be seen in the wider context of negotiations, wherein the ANC "always stood for settlement [...] its predominant position on the question of white settler occupation of the country was always one of accommodation and collaboration with it" (Bunsee 2003, 2202). From this view, the TRC would inevitably be constructed as a political compromise between two factions whose common concerns were the smooth democratic transition

of South Africa and respective accumulations of political clout. Both parties saw that full criminal prosecution "would be threatening to the new democracy" (Allen 1999, 316), and so this moderate path of amnesty was not born out of an altruistic conception of 'restorative justice' and forgiveness, but out of cold, calculated political necessity. It makes sense that there would be a desire to underpin social cohesiveness and individual responsibility "over institutional accountability for apartheid policies" (Stanley 2001, 536), as both sides saw an individualised TRC as the least disruptive to their platforms. That said, as an independent body, the TRC was still controversial and met with resentment by both the ANC and National Party; "the ANC did not like having the very small proportion of its own undertakings deemed unacceptable by the TRC" (Saul 2003, 351). However, it ultimately "remained by the very nature of its mandate a political body like many other truth commissions" (Vora 2004, 305), its power limited to the recommending of policies with little accountability regarding implementation. In the end, "it would be a great mistake to equate political stability with genuine reconciliation" (Vora 2004, 305), wherein the TRC represented the "quintessential element of this compromise" (Bensee 2003, 2202).

Seeing the TRC through the lens of compromise brings us to the question of the ANC's objectives as the main negotiating party. Which direction did the post-apartheid government plan on taking the country, and how is this reflected in the narrative presented by the TRC? As negotiations went on, it became clear that "the ANC did not stand for a thoroughgoing anti-colonial revolution" (Bense 2003, 2202). Consequently, the TRC was never revolutionary in nature. This came as no surprise; the ANC's mandate was mostly moderate and non-racial, distancing itself from its communist and radical affiliations. Its armed struggle sought only "to bring the oppressors to the negotiating table to make the concessions they wanted" (Bensee 2003, 2202).

So, in the context of political moderation, compromise, and the absence of radicalism, narratives of 'truth' and 'revelation' led to the instrumentalization of the TRC as a political device. The TRC offered itself as a tool in establishing a superficial 'blank slate,' under which hid the effects of apartheid that continued to pervade South Africa. Indeed, the TRC itself, as a result of the 1990-1994 negotiations, ignored the way in which the National Party's covert 'Third Force' shaped these negotiations, and how the "legacy of the war for South Africa in general continues to have an important influence on politics and society" (Ellis 1998, 261). Through the TRC's design, both constitutional parties sought to "maintain an agenda that avoids a challenge of the status quo" (Stanley 2001, 536) — particularly the extent to which post-apartheid South Africa was, and continues to be, shaped by covert violence that underlies any sort of 'negotiation'. Questions central to the transitional era, like Chris Hani's assassination as a radical left-wing figure in the ANC, remain both highly salient and disturbingly unanswered today (Douek 2020, 225). Similarly to the TRC, the avoidance of a deep investigation into such a destabilizing act, whilst offering as little 'truth' as deemed sufficient to satisfy its electorate, serves the political purpose of maintaining the stability within post-apartheid South Africa.

However, avoiding a 'challenge' of the status quo went deeper than assuaging political desires; it meant maintaining the socio-economic order of apartheid. The TRC's image of a nation that is 'reborn' — a nation that has overcome its strife and inequalities — is entirely mismatched with the socio-economic reality of many South Africans (Bensee 2003). Nevertheless this 'blank slate' narrative provided a rosy image for the nation and the international community in the context of state-building and democratic transition. South Africa was "bound by the terms of the undemocratically decided interim constitution," with terms that included clauses "protecting private property in a way that

protects big capital and landowners" (Moran 2009, 110). If anything, it is argued that the legacy of the TRC is one that replicates and "consolidates what 'whites' have achieved through initial genocide and exploitation over 390 years of colonial rule" (Moran 2009, 111). The framework of 'truth', 'justice' and 'reconciliation' became an advantageous narrative for those who sought to preserve their apartheid-era economic power; the post-apartheid ANC coalition gave these patterns of exploitation "the sanction of a Black South African government" (Bensee 2003, 2202). This covered up a system in which the ANC was granted formal administrative power, but neither the social nor economic system had changed. The TRC appeared as one of many 'concessions' in a state where "the wealth of the country was retained in the hands of the white capitalist elite" (Moran 2009, 110). In this sense, the nature of the apartheid was not abolished, but simply repackaged through the TRC's narrative of a progress; it "generated a fiction of unity and a shared understanding towards the past, envisaged as reconciliation" (Allen 1999, 349). Thus, on a fundamental level, the TRC can be seen as a successful device in altering history itself, creating a new narrative that further pushed the South African state in the desired direction of its existing powers, and against those who suffered most under apartheid.

The TRC's mixed motives may cast a shadow on the innocent goals of truth, justice and reconciliation, but should the TRC's origins in political compromise entirely detract from its successes in post-apartheid stability? For many, a 'middle-ground' path of compromise was necessary in transitioning from divided apartheid state to stable liberal democracy, making the TRC at the very least a success in that regard. Those who criticised the ANC's negotiation with the oppressors, however virtuous in its ideological motives and deontological principles, would see the "heavens come crashing down" (Allen 1999, 316) in the name of a radical South Africa. Allen regards such an approach as a 'cold comfort', that "so strong an anti-consequentialism

is bound to wreak havoc in politics" (317). So while the ANC might have seemed to have failed its objective in abandoning its radical roots, its politics of compromise may very well have contributed to the stability of South Africa's democracy. While some see this compromise as a missed opportunity for change, it is impossible to find contrafactual evidence that would suggest how things might have unfolded, had the ANC maintained its radical stance. A survey of English and Xhosa ethnic groups points towards this more pragmatic view of the TRC's successes; these two groups "did not consider the short-term effects of the TRC in terms of bringing out the truth and reconciliation to be important for its overall success" (Vora 2004, 319). Instead, in the wider perspective of stability, compromise and state-building "they considered the long-term effect on society to be a major expectation and criterion for its overall success" (319). These surveys suggest that rather than being blind to the political functions and motivations of the TRC, South Africa's population saw beyond the theatrics, and not only understood, but supported the objectives of social unity and democratic stability in the long run.

Conclusion

South Africa's TRC paints a difficult, complex and multidimensional picture of compromise and thus — to some more than others — a mixed portrayal of achievement. Regardless of the TRC's ability to uncover truths, achieve justice and promote reconciliation, it seems the criteria of its success hinges on the vision one has for post-apartheid South Africa. Some see the TRC's values of forgiveness and reconciliation as "a particular kind of amnesia that imperialists like and favour" (Bensee 2003, 2203). They see the TRC as a symbol of compromise that was foisted upon those who suffered most from the apartheid regime; an effort to promote an 'artificial unity' in a system where victims of apartheid have continued to suffer in a socio-economic landscape that remains fundamentally unchanged. On the other hand, the TRC is also acknowledged by many

as a necessary, and ultimately successful, symbol and means towards political compromise in a nation that desperately needed unity in order to facilitate a democratic transition. In this latter case, ideological criticism must be measured against South Africa's remarkable achievements in stabilizing what had been one of the most divisive regimes in modern history. Ultimately, we will never know whether a more radical TRC could have better compensated victims and punished perpetrators. We will certainly never know if this could have been achieved without undermining the relative stability of South Africa's democracy. So, if we see the TRC as a puzzle piece in the eventual construction of a democratic and unified South Africa, then an analysis of success goes far beyond the aims of truth, justice and reconciliation.

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