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*The 1994 Agreed Framework with North Korea: A Case of Congressional Opposition to an Executive Agreement and Presidential Foreign Policy*

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## ABOUT THE JOURNAL

The Public Purpose is a peer-reviewed interdisciplinary journal presenting the work of American University graduate students from the Departments of Government; Justice, Law, and Criminology; and Public Administration and Policy. Founded in 2003, The Public Purpose is supported by the SPA Graduate Council with involvement and guidance of Faculty Review Board, consisting of some of American University's most distinguished professors. In addition to an annual print journal, The Public Purpose also manages a public policy blog ([thepublicpurpose.com](http://thepublicpurpose.com)). The journal is entirely student run and currently has a staff of about 20 students.

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## FROM THE EDITORS

Dear Readers,

We are thrilled to present the 15<sup>th</sup> edition of The Public Purpose Journal. The Public Purpose is an academic journal led by graduate students in American University's School of Public Affairs. We strive to publish work that contributes to the literature of our disciplines. These papers reflect outstanding work on the topics of public policy, public administration, government, justice, law, criminology and terrorism studies. As a student-run organization, we are grateful to the Graduate Student Council and the Dean's office for their support.

Our world has seen incredible change over the last year. There are no easy answers and if we have learned anything, it is that we know less than we thought we did. The six papers published here address the pressing issues of healthcare reform, preserving democracy, negotiations with North Korea, preventing radicalism, and pollution in China. We are proud to publish papers that confront some of the most challenging issues of our day.

The dynamic faculty, staff and students at American University are working harder than ever to shape our democracy. We are called to careers in public service, inside and outside of the government. We will continue to push forward, pursuing positive change for our nation and our world. We hope that the papers published here inspire further pursuit of excellence in public service.

Sincerely,



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*Editor in Chief*



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*Managing Print Editor*

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2016-2017

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**DEFENDING DEMOCRACY IN THE WEST:  
THE ROLE OF INTERNATIONAL ORGANIZATIONS AGAINST  
DEMOCRATIC BACKSLIDING**

Jose De Bastos H.

ABSTRACT

*The period of democratic expansion around the world after the end of the Cold War came to a halt in the past decade. Many countries were unable or unwilling to complete their transition from authoritarianism to full democracy and instead remained as hybrid regimes, with some democratic and some autocratic characteristics. This paper focuses on a more recent trend: democratic backsliding. Countries that have gone from democratic to hybrid regimes, mostly due to popular support for illiberal leaders and parties. Specifically, the research focuses on Hungary, and the role of the European Union in trying to avoid such backsliding in one of its members. Despite several legal instruments and economic and political leverage, the EU has not stopped or slowed down the authoritarian path followed by Viktor Órban's government in Hungary, putting one of its founding values in doubt. The paper also looks at the case of Venezuela, and how another regional body, the Organization of American States, has been unable and unwilling to defend democratic principles in that country.*

**INTRODUCTION/BACKGROUND**

There was a general impression that democracy was advancing and consolidating worldwide after the collapse of the Soviet Union and the end of the Cold War. However, years after the fall of the Berlin Wall, Steven Levitsky and Lucan Way (2010) determined that a large number of nations did not complete their evolution from authoritarianism to democracy, and 25 years after the start of the latest democratizing wave, those nations did not seem on their path to democratize. Both scholars coined the term “competitive authoritarian regimes”, as an intermediate stage between full autocracy and democracy, while rejecting the idea that this was only a temporary stage before reaching a democratic status (p. 4). Their theory, together with research from other authors, is mostly centered around the notion of states that abandoned full authoritarianism and did not reach full democracy.

Meanwhile, in the past few years, many countries have started moving in the opposite direction: going from a democratic regime into a hybrid regime. According to Freedom House (2016), 2015 became “the 10th consecutive year of decline in

global freedom”. The Democracy Index of the Economist Intelligence Unit (2016) adds that “an increased sense of personal and societal anxiety and insecurity in the face of diverse perceived risks and threats... is undermining democracy”.

Both reports were written before two shocking electoral results in two of the world’s oldest and most consolidated democracies: the support for a withdrawal of the United Kingdom from the European Union, and the election of businessman Donald Trump as President of the United States.

In the middle of this global environment, two nations are challenging the long-lasting commitment of the European Union to liberal democracy: Hungary and Poland. In recent years, electorates in both countries have given large support to parties that have taken broad control over the government, amending their countries’ constitutions, challenging the judiciaries and limiting the freedom of the media. Despite several legal instruments available within the European Union, its institutions have done little to avoid these and other measures in both countries, which appear to go against the “values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights”, upon which the European Union “is founded on” (“Treaty of the European Union, European Union, 2012”).

The seeming impotence of the European Union presents a challenge to other international institutions and democratic governments throughout the world, most of which have considerably less leverage than the EU to defend and promote democracy. The case of Hungary is not an isolated situation of democratic backsliding, but it is unique in the sense that it has been unfolding for more than five years in the middle of the most powerful and liberal democratic regional organization in the world. This paper will also look into the case of Venezuela, which has been ruled by the same party for the last 18 years with several crises concerning democracy. In this case, the Organization of American States, the regional body of the Americas, has tried to exert influence on this situation unsuccessfully on several occasions.

The main focus of this research is the role of regional and international organizations in the defense of democracy: what, if anything, can these supranational institutions do when democracy is being attacked in one of their member states? How can democratic, non-interventionist organizations help to prevent and discourage democratic backsliding? What is the role of international players when a democracy is attacked from within, not with a military coup d’état, a guerrilla rebellion or a massive electoral fraud, but by a leader elected through a free and fair election? My goal is to analyze what has been done in the recent past, specifically by the European Union and the Organization of American States, and how these institutions are modifying their behaviors and their internal legal instruments to face this relatively new challenge of democratic backsliding.

This research will examine Levitsky and Way’s (2010) theory that Western governments influence democratic transitions around the world through leverage

and linkage. It will try to answer if those same institutional and economic tools have worked when the influence is being used within Western nations. The fact that competitive authoritarian regimes are now found in most regions of the world, and the perception, exemplified in the 2016 reports by Freedom House and the Economist Intelligence Unit, that the trend around the world is not towards democracy but towards a democratic recession, make this project relevant.

While many regional and international organizations have focused their work mostly on economic development, respect for human rights, or political stability, both the European Union and the Organization of American States have democracy promotion as one of their foundational goals. Many of their treaties and institutions are based on the respect of free elections, the rule of law and freedom of the media, which is why I believe it is significant to examine what they have done to defend these values. The results of the investigation should contribute to the growing body of research on democratic backsliding, competitive authoritarian regimes and the role of regional organizations in promoting democracy. The investigation should also work to redirect the focus of the academic research less on evolution towards democracy, and more on the setback towards authoritarianism.

The project also sets out to highlight the limitations democratic institutions have when they are sabotaged from within. If a majority of the population freely and frequently supports a specific party, and this party exerts pressure on institutions that are supposed to be autonomous and independent over a long period of time, there appear to be limited institutional resources inside a country to avoid a democratic backsliding. Thus, the role of other nations and international organizations could and should be to work to stop this “illiberal” trend.

Hungary and Venezuela, just like Poland more recently, seem to be ideal cases for the study of democratic backsliding in countries where the population, freely and fairly, chose leaders who have become a menace to liberal democracy.

## **HYPOTHESIS**

Despite the regional organizations’ expressed intents to be composed only of democratic states, and their treaties specifying ways to avoid democratic backsliding, such theoretical objectives have not been fully realized. At the same time, however, in the current global environment the ideals of democracy and democratic values hold more significance than they did in the past. The democratic ideal, and the self-interest of appearing to be a democracy has forced autocrats to make some adjustments in this direction.

I argue that a lack of normative commitment to democracy by elected leaders, both in Europe and in the Americas, has eroded the influence that international organizations have to avoid democratic backsliding. Two other factors hurt such influence further. One is the continuous electoral support to both those who attack democracy and those who do nothing to defend it which means that the incentives to act against democratic backsliding are almost null. The second is the

complicity that leaders in the region have for their ideological allies who are affecting democratic values. There is a general desire for democracy, but other governments in these regional organizations seem to be satisfied with a minimum threshold of it in these backsliding countries. As long as there are not obvious and symbolic interruptions of democracy, the consensus is to give timid responses without concrete actions, even if the other governments have the leverage to take actions such as imposing serious sanctions.

## CONCEPTUAL FRAMEWORK

### *DEMOCRATIC BACKSLIDING AND COMPETITIVE AUTHORITARIANISM*

Two concepts are central to this project: democratic backsliding and competitive authoritarian regimes. In a recent paper, Nancy Bermeo (2016) outlines what appears to be a growing phenomenon in regimes around the world. According to her, “at its most basic, [democratic backsliding] denotes the state-led debilitation or elimination of any of the political institutions that sustain an existing democracy” (p. 6). The author goes on to divide democratic backsliding into three categories, which are evolutions from the more violent attacks on democracy seen in the past: promissory coups instead of outright coups d’état (p. 6), executive aggrandizement instead of executive coups (or “autogolpes”) (p. 7), and strategic harassment and manipulation in electoral processes instead of election-day fraud (p. 8).

The reason for these new ways to reduce freedoms and democratic values is the strong global influence of the democratic ideal: the international pressures for countries to celebrate elections, have legislative bodies and have institutions for the rule of law. The wave towards democracy initiated after the Cold War, highlighted by Levitsky and Way (2010), generated a need to maintain appearances. “Many autocrats adopted formal democratic institutions (...) With the disappearance of the Soviet threat, the United States and other Western powers stepped up efforts to encourage and defend democracy through a combination of external assistance, military and diplomatic pressure, and unprecedented political conditionality” (p. 17).

The “window dressing” of democracy became not a symbolic gesture toward more developed nations, but a necessity to be on the good side of those with the power and the resources to either help or condemn your administration. But autocrats do not want to leave power, and democracy itself offered them ways to gain it and preserve it. Instead of coups, self-coups or blatant fraud, those wanting to access or remain in power looked for more moderate and gradual ways to meet their goals. “The decline of coups means that de-democratization today tends to be incremental rather than sudden”, says Bermeo (2016, p. 14). She adds “troubled democracies are now more likely to erode rather than to shatter – to decline piece by piece instead of falling to one blow” (p. 14).

In the case of executive aggrandizement, it begins with an elected

president or prime minister, who goes on to “weaken checks on executive power one by one, undertaking a series of institutional changes that hamper the power of opposition forces to challenge executive preferences” (Bermeo, 2016, p. 10). Other state institutions help the executive in this process, all of which may occur with a majoritarian support of the population and following established legal and/or constitutional parameters. This process, according to the author, presents two serious challenges for those who oppose it. Nationally, they lack the “bright spark” of an obvious anti-democratic act that could generate massive mobilization (2016: 14); and internationally, governments or regional bodies have difficulties challenging decisions taken by “democratically elected executives and legislatures” (2016: 16). In the past, when a group of soldiers expelled an elected president from the country and cancelled the right to gather in public spaces, there were evident signals of a break with democracy. This generated anger nationally and internationally and was assumedly rejected by the majority of the country that had voted for the president. However, when elected executives and legislatures modify laws and amend constitutions following the proper channels, the challenge becomes much more complicated.

Such democratic backsliding leads to a gray area, called “competitive authoritarianism” by Levitsky and Way (2010). The authors regard these as regimes in which “formal democratic institutions exist (...) but in which incumbents’ abuse of the state places them at a significant advantage vis-à-vis their opponents. Such regimes are competitive in that opposition parties use democratic institutions to contest seriously for power, but they are not democratic because the playing field is heavily skewed in favor of incumbents” (2010, p. 5).

For instance, the 2014 parliamentary elections presented an opportunity for the Hungarian opposition to remove Prime Minister Viktor Órban and his Fidesz party from power. Despite such opportunity, a plurality of the voters decided to renew their support for the center-right coalition. Before and after the election, however, Órban reformed the constitution, amplifying the advantages for the winner of the elections even if it was by plurality, filling autonomous institutions with party associates, and vacating most of the power from the Constitutional Court (Bozóki, 2011). This Court is a body which would have stopped many of his reforms. He also increased the power of the government over the media, thus presenting a challenge to the opposition in campaigning for votes and publicizing their protests against governmental actions (Bánkuti, Halmai, & Scheppele, 2012).

Another key element of Levitsky and Way’s theory is that competitive authoritarianism is not necessarily a transition stage, meaning that a country can stay in this hybrid phase for long periods of time. Also, although they focus on nations coming out of authoritarianism, the theory does not rule out the possibility that a consolidated democracy moves a step back into competitive authoritarianism.

## LITERATURE REVIEW

## HUNGARY AND THE EUROPEAN UNION

Shortly after the overwhelming victory of Fidesz at the 2010 parliamentary elections in Hungary, many authors took notice of the methods of the Prime Minister Viktor Órban, a known figure in Europe from his first leadership of the country between 1998 and 2002.

The election brought attention for several reasons: an extreme-right party emerged in third place with 16.7% of the vote (Jobbik), Fidesz and its coalition partner, the Christian Democratic People's Party, received over 50% of the vote, and, due to the mixed-electoral system of 176 single-plurality districts and regional and national proportional lists, such a figure turned into a disproportionate representation of more than two-thirds of the members in Parliament. According to Bánkuti, Halmai and Scheppele (2012), the large support for Fidesz was normal politics, after the failing economy under Socialist rule, but "what happened next was a mistake of constitutional design" (p. 138).

In a little more than a year, using its super-majority, Órban and Fidesz undermined every democratic counter-balance they could, in a process that included 12 amendments to the constitution before writing and approving a new one (Bánkuti et al, 2012). According to Bozóki (2011), Órban framed his wide victory as a revolution, and went on to "employ exceptional methods by making claims to exceptional circumstances. As a result, Órban deployed warlike, offensive tactics, pushing legislation through parliament that quickly and systematically rebuilt the entire public legal system" (p. 651).

During its first term with a supermajority, Fidesz gave Parliament the power to designate the judges to the Constitutional Court and filled it with a majority of party allies. They also selected a majority of friendly officers for the Electoral Commission and created a new Media Authority to oversee the work of the media, with "powers to levy hefty fines on all media outlets" (Bánkuti et al., 2012, p. 140). The terms for these and other officials, including the Presidency of a new Judicial Office with the power to promote and sanction judges, were set longer than those of the members of Congress. This gave Fidesz a power and an influence inside the state that could last longer than their electoral majority.

During this period the response from the European Union was "half-hearted and ineffectual, underlining both the lack of adequate legal instruments and the lack of political will to intervene", according to Kelemen and Blauburger (2015, p. 2). Article 2 of the Treaty of the European Union (TEU) states that the "Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities". It also mentions pluralism, non-discrimination, tolerance, justice, solidarity and gender equality as core values. Article 7 of the TEU is pretty straightforward as to what actions must be taken when these values are being violated in a Member State: determine if there is a "serious breach" of the values of

Article 2, determine if the breach persists, and eventually suspend certain rights, including voting rights in the European Council, of the Member State.

Sedelmeier (2014 and 2016) reaches certain conclusions as to why Órban's government was able to deeply reform the Hungarian state without being sanctioned by the European Union. Among them is the fact that Fidesz is a member of the European People's Party (EPP), the alliance of center-right political parties in the continent. This inhibited many of his European party allies, which included German Chancellor Angela Merkel and both the President of the Council and the President of the Commission, from taking action. Other obstacles were the known difficulty of gathering enough votes in the Council to impose sanctions (four-fifths on the first stage and unanimity in the second stage) and the fear that an aborted attempt might only reinforce Órban's position. A weak normative commitment to liberal democracy among some of the governments at the time, and the lack of an available intermediate stage before the punishment of severe sanctions also contributed to the inaction. All of these factors allowed Fidesz's government to reform the state without setting off major alert signals from Brussels.

Wetzel and Orbie (2011) mention an additional difficulty for the task of defending and promoting democracy from the European Union: a lack of definition as to what constitutes a democracy, which inevitably leads to a lack of understanding as to when a democracy is being violated (p. 567).

Recently, the European Union has aimed to solve one of these problems, by creating a new instrument to monitor possible breaches of the rule of law among its member states. The "Rule of Law Framework" within the European Commission, specifically looks to "fill a gap. It is not an alternative to but rather precedes and complements Article 7 TEU mechanisms" (European Commission, 2014).

The Framework consists of three stages: 1) an assessment to recognize if there is a "systemic threat to the rule of law", in which case a dialogue with the Member State will begin; 2) if the situation has not been resolved, a written recommendation to the state in which the Commission "will clearly indicate the reasons for its concerns and recommend that the Member State solves the problems identified within a fixed time limit"; and 3) a follow-up stage, in which the Commission will monitor the situation. If the situation has not been resolved following these steps, there will be the possibility of activating the mechanisms in Article 7.

Sedelmeier (2016) considers that this option "has potential, because it meets the criteria of formalization, publicity and impartiality" (p. 2). Contrary to Article 7, which has never been enforced in its short life, the European Parliament has already called upon the Commission to assess the situation in Hungary using the Rule of Law Framework. Additionally, the Commission assessed and issued its first recommendation under the Framework: to Poland to "take appropriate action" to address a systemic threat to the rule of law in that country.

Beyond the case of Hungary, and the more recent one of Poland, the

European Union has also seen apparent democratic backsliding in Romania. In that situation, after the center-left government of Prime Minister Victor Ponta tried to remove conservative President Traian Basescu from power, a number of actions rapidly taken by the European Parliament and the Commission restored the situation without the necessity of using the formal mechanisms established in the Treaty of the European Union (Iusmen, 2015). Ponta was ultimately persuaded to suspend the removal of the President. “The EU institutions initially exerted social pressure by naming and shaming the Ponta government’s actions and explicitly requesting the reversal of democratic breaches” (Iusmen, 2015, p. 598). Such pressure came both from leaders of the European People’s Party and from the Social Democrats, continental allies of Ponta. The effectiveness of this social pressure in the case of Romania leads Sedelmeier (2014) to argue that “EU pressure can be effective even without Article 7, but only if the conditions for both social pressure and material sanctions are favorable” (p. 118). In the Romanian case, it was key that the Social Democrats, Ponta’s allies in Europe, joined the criticism, and additionally that in 2012, the year of the case, the European People’s Party had 15 heads of government, versus only 5 for the Social Democrats.

#### *VENEZUELA AND THE INTER-AMERICAN DEMOCRATIC CHARTER*

In contrast to the European Union, the Organization of American States (OAS) does not have a large institutional structure, nor the level of political relevance of its European counterpart. It lacks an elected Parliament, a continental cabinet (similar to the Commission), or the voting structure of the European Council. It does have a Secretary General, a position similar to the President of the European Council, and it functions as the major arena for political debate about the Americas.

Also, contrary to the European Union, but in this case for its advantage, the OAS does have a specific treaty that defines democracy and the values that must be respected by all of its members. Signed in 2001, the Inter-American Democratic Charter (IADC) states the “right to democracy” of the peoples of the Americas. It also mentions respect for human rights, fundamental freedoms, periodic free and fair elections, a multi-party system and the separation and independence of the branches of government as “essential elements of representative democracy” (Organization of American States, 2001).

The IADC includes a series of steps to be taken “in the event of an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order in a member state”. It names the Secretary General, or an individual government, as those in charge of raising such an issue and taking it to the Permanent Council (ambassadors from all the member countries) to make an assessment of the situation. If it considers it appropriate, the Council may call for “diplomatic initiatives” to try and restore democratic order. If the Council considers that the diplomatic efforts have been unsuccessful, it will call for a special meeting

of the General Assembly (with the heads of governments), a body which could determine to suspend the member state which had the unconstitutional alteration. The instrument has been invoked several times in its 15 years of existence but only once (after the removal of President Manuel Zelaya in Honduras in 2009) has a member state been suspended.

Despite the fact that it was “conceived particularly to address threats involving alteration of the constitutional democratic order occurring ‘from within’” (García-Sayán, 2012, p. 130) the use of the IADC has mostly focused on another one of its goals, to defend established governments when they suffer attacks from the legislature or the military (McCoy, 2012). Recently, the Secretary General Luis Almagro (2016) has raised alterations of the democratic order in Venezuela, due to the actions of the government, but so far, the request has not received majoritarian support from the Permanent Council, thus not allowing the activation of diplomatic initiatives.

Similar to what occurs in Europe, “party-politics” seems to be a reason for the apparent failure in the OAS to avoid democratic backsliding, in this case in the form of “anti-imperialists governments”. Clashes between several Latin American governments and the U.S. administration (Cooper & Legler, 2006), complicated the situation from the beginning by raising suspicions that every proposal that looked to make the Charter easier to activate was part of a U.S. desire to meddle in Latin American governments (Legler, 2007). These proposals included giving voice to civil society groups in the OAS and creating an autonomous instrument to monitor the respect for democracy in the continent.

#### **METHODOLOGY AND ANALYSIS**

To measure democratic backsliding, I took the “procedural minimum” of democracy stated by Levitsky and Way (2010) of free, fair and competitive elections, full adult suffrage, broad protection of civil liberties including freedom of speech, press and association, the absence of non-elected authorities that limit elected officials, and the existence of a reasonably level playing field between the government and the opposition (p. 6). Wetzel and Orbie (2011), working with a concept of democracy coined by Wolfgang Merkel (2004), add a valuable specificity regarding horizontal accountability: elected authorities are surveyed by relatively autonomous institutions (p. 575).

As described by Levitsky and Way (2010), democratic transitions after the Cold War were successful wherever the “linkage to the West was high” (p. 5). The authors argue that both leverage and linkage were relevant, but the latter seemed to be a determinant factor for a country to complete its transition from autocracy to democracy. Leverage to the West refers to a country’s “vulnerability” to external pressure, while linkage is defined as the “density of ties and cross-border flows among particular countries and the United States, the European Union and Western-dominated multilateral institutions” (2010, p. 42). I will use this idea of

leverage and linkage in the study of the cases of democratic backsliding.

Finally, Sedelmeier's research (2014 & 2016) will help me evaluate how party-politics plays a role in determining whether to enforce sanctions against governments that violate democratic principles, and if informal instruments to exert social pressure could be more useful.

### *HUNGARY AND THE RULE OF LAW FRAMEWORK*

Based on several academic perspectives it appears undeniable that Hungary has suffered from democratic backsliding. Not only has Freedom House categorized it as a country with a negative democratic trend but it has slid backwards based on our concept of democracy. Electoral rules favor the incumbent, the freedom of the media has been hampered and horizontal accountability has been undermined (Bozóki, 2011 and Bánkuti et al. 2012). Such backsliding, with no concrete action from the European Union leads to an initial conclusion: the EU has been unsuccessful in fulfilling its mission to defend democracy within its member states.

Seeing as Hungary is a member of the European Union, it is self-evident that Hungary has high linkage with the EU and that the EU has high leverage within the country. However, Hungary is not as politically vulnerable to its European neighbors as it was before its accession to the regional organization. According to De Ridder and Kochenov (2011), members of the EU were able to exert a larger pressure on countries during the period in which they were candidates to enter the EU. During this time, Eastern and Central European countries knew that they needed to comply with EU treaties in order to have the support of their peers and be accepted. After the accession of Hungary to the EU, the leverage from the EU to Hungary was considerably reduced. The linkage, on the other hand, continues to be very high. Geographic proximity with Europe has not changed, intergovernmental linkage (diplomatic and military ties) has increased with accession, and other linkage indicators such as the flow of people from Western countries into Hungary continue to be high (Hungarian Central Statistical Office, 2016).

According to the MIT's Observatory of Economic Complexity, 84% of Hungary's imports come from other European countries, and 83% of Hungary's exports go to other European countries. The numbers were 81% and 87% respectively when the country entered the EU in 2004, so the change in this respect has been minimal. Russia and China have become larger economic partners since 2004 (from 10.3% to 12.2% in imports and from 2.5% to 5.1% in exports) but not to an important level. Thus, it seems plausible to say that European economic linkage with Hungary has remained on similar levels since the democratic backsliding started to occur.

It appears that Sedelmeier's theory of "party-politics" is a main factor driving the lack of action from the European Union. In contrast to the fast and overwhelming response to the 2012 Romanian political crisis by much of the

European leadership (Iusmen, 2015), the Hungarian crisis has garnered little attention, despite being six years old. The Liberal party in Europe (Alliance of Liberals and Democrats for Europe) attempted in 2015 to demand sanctions against Hungary based on Article 7 but were not supported by the Social Democrats, due to their fear that the initiative would not receive support from the governments of the majoritarian center-right coalition (Sedelmeier, 2016). In fact, the European Parliament voted twice to express concern over the new Hungarian constitution, demanding the activation of the Rule of Law Framework, and the European People's Party voted against in both occasions, despite the votes being non-binding to any sanctions. (European Parliament, 2015)

On the contrary, recent events in Poland have garnered criticism from the Liberals, the Social Democrats and the EPP in the European Parliament, but not from the more conservative and Eurosceptic "European Conservatives and Reformists Group", to which the Polish ruling party PiS belongs (European Parliament, 2016). This reinforces the idea that ideological complicity amongst political parties in different countries is an obstacle for the transnational defense of democratic values. If so, then the existence of autonomous and non-partisan bodies to monitor democratic standards appears to be a potentially valuable alternative solution.

The Rule of Law Framework of the European Commission is an example of such an instrument. Although it is still too early to measure its impact, the Framework has acted promptly against the risks for democracy in Poland, activating two of its three stages due to the persistence of the democratic breaches. If the third stage is reached, it will be up to the Framework to urge the activation of Article 7. This will demand an initial action from the European Parliament, that must consent that there is a risk of a serious breach of the values of the European Union in Poland, and, if approved, the governments gathered at the European Council must decide whether to apply the sanctions established in Article 7. The Framework, however, is under control of the European Commission, a body in which all the members of the EU and the largest political groups are represented and which also has many political ties. For example, its president is the former Prime Minister of Luxembourg and its head of foreign affairs is the former Minister for Foreign Affairs of Italy. The Framework has also not taken specific actions against Hungary yet.

An autonomous body, composed of experts and technocrats, and following specific guidelines as to what represents a democratic breach, could be more useful for a comprehensive monitoring of democracy. Its work would probably be more impartial, with no direct strings to the political parties in the region. Just like the Framework, it could follow a set of steps before making a recommendation to the institutions of the EU.

Ironically, there is such a body in Europe, but not inside the European Union: the Venice Commission, which "provides legal advice" to the members of the Council of Europe, an organization with 47 European members, not related

to the EU. The members of the Venice Commission are “university professors of public and international law, supreme and constitutional judges, member of national parliaments and a number of civil servants” (The Council of Europe). One of the areas of work of the Venice Commission is “democratic institutions and fundamental rights”, and it frequently provides opinions and studies concerning those areas in European countries.

### *VENEZUELA AND THE PRINCIPLE OF NON-INTERVENTION*

The case of the OAS is noticeably different from that of the European Union. Although there are economic and political linkages among its 34 member states, the organization does not have much influence over its members. The toughest sanction it can impose for a democratic breach is a suspension from the organization. Many of its members have shown a complete disregard for the institution in the past decade, creating sub-regional bodies like Unasur in South America, disobeying orders from the Inter-American Human Rights Court, and even skipping payments for the annual budget dues. All this suggests that a suspension from the OAS would not be much feared among its members.

The rise in the price of oil in the early 2000s helped Venezuela break much of the dependency it had with the United States, while still maintaining the commercial relationship between the countries. Moreover, the large amount of resources allowed the Venezuelan government to gain leverage over other countries, mostly small Caribbean nations, through a treaty to sell oil to those nations at low-interest prices (Glickhouse, 2013). At its peak, this treaty, Petrocaribe, had 18 countries. Thus, at any debate in the OAS concerning human rights or democratic backsliding in Venezuela, the governments of Hugo Chávez and Nicolás Maduro had at least other 16 close allies (Cuba is not an active member of the OAS and is a member of Petrocaribe).

The regional political environment was the final piece in an overall favorable situation for the Venezuelan government. Close political allies of Chávez, of the so-called “Bolivarian left”, won the presidency in Bolivia (2006), Nicaragua (2007) and Ecuador (2007), and continue to be in power to this day. In many other Latin American countries, socialists and leftist leaders, historically critical of the United States, also won the presidency. These included Lula Da Silva (2002) and Dilma Rousseff (2011) in Brazil, Néstor Kirchner (2003) and Cristina Fernández de Kirchner (2008) in Argentina, Michelle Bachelet (2006 and 2014) in Chile, and Tabaré Vázquez (2005 and 2015) and José Mujica (2010) in Uruguay. Such a trend allowed the Venezuelan government to have even greater support from the OAS in a variety of situations. In February 2014 for example, protests broke out in the country and over 40 people were killed. The political opposition and human rights organizations criticized harsh repression from police, military and paramilitary forces of the Venezuelan government against peaceful demonstrations. Meanwhile, that March, the OAS passed a resolution showing its solidarity with the victims and the

government of Venezuela, declaring its “respect for the principle of nonintervention”, and expressing “its appreciation, full support and encouragement for the initiatives and the efforts of the democratically elected Government of Venezuela”. Only Panama and the United States raised reservations with the resolution (Organization of American States, 2014).

A very different behavior can be seen from the Inter-American Human Rights Commission. The Commission is an autonomous entity within the Organization of American States, which oversees the situation on human rights in the continent and holds annual conferences with governments and civil society groups. Additionally, regular citizens have access to the Commission to request protections or elevate specific cases of human rights violations. Over the years, the Commission has regularly expressed concerns over different types of violations in Venezuela, while also criticizing different measures in the United States, Brazil, Central America and Cuba, which demonstrates its independence. However, many of its recommendations on Venezuela and other countries are not followed by the governments involved nor have earned the interest of the political representatives of the OAS, due to the organization’s lack of leverage.

### **CONCLUSION**

The theoretical and empirical review of the role of international organizations against democratic backsliding is not an optimistic one. Despite treaties and formal commitments to liberal democracy and democratic values, many democratically elected governments in Europe and the Americas turn a blind eye when democracy is being attacked from within in neighboring nations.

The lessons drawn from the European Union and the Organization of American States show that as long as the overreaches come from friendly executives, the regional bodies will show constraint in fighting against democratic regressions. As long as the governments are elected and formal institutions are maintained, ideological allies will not use the sanctioning instruments at their hand, leaving aside the powers of leverage and linkages that they possess with the democratic aggressors.

On the positive side, as Bermeo (2016) points out, the dominance of a democratic ideal persists, and the likelihood of coups d’état and new outright dictatorships in Europe and the Americas has been noticeably reduced since the end of the Cold War. Unfortunately, such an international environment, and the institutions that have been created, have not worked efficiently to consolidate democracies, leaving numerous competitive authoritarian regimes, including some new ones, as this report suggests.

The attempted and real creation of more autonomous and de-politicized bodies to monitor democratic behaviors is a positive step. It shows an acknowledgement of recent democratic backslidings and the need for new mechanisms to prevent them. These new institutions can provide impartial reports on aggressions from governments of every ideology. They can also pressure

international bodies to take action, taking the responsibility of making this first step from governments in the region, which may fear retribution if they are the first ones to act. With similar attributes to the Rule of Law Framework, former officials and civil society groups presented the idea to the Organization of American States of creating an Office of the Ombudsman for Democracy (Santistevan de Noriega, 2012). This idea, however, did not receive much support.

Of course, even autonomous bodies like these are at risk of being insufficient if the normative commitment to democracy continues to decrease among democratically elected authorities. Órban's government, as part of the European People's Party, one of the two biggest political coalitions in the EU, is the perfect example of several factors working together against liberal democracy: wide electoral support, a legal takeover of the institutions, and a friendly international environment.

This article has focused on institutional ways to avoid democratic backsliding, and the responsibility that leaders in Europe and the Americas have had in the failure to prevent it. Ultimately however, the responsibility also rests on the voters and their will to defend democratic institutions both in their countries and abroad. These supranational institutions, which promote liberal democratic values, were created due to the popular support for leaders who defended such values. If authoritarian leaders, like Órban or Chávez, continue to receive widespread support, the ideals of Europe and the Americas would inevitably change, and its new institutions would not work as watchdogs for democracy, but as the backbones of a new undemocratic era.

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# MANUFACTURING POLLUTION IN CHINA: THE ROLES OF COMPOSITION CHANGE AND TECHNIQUE IMPROVEMENTS

Rui Wang

## ABSTRACT

*Despite rapid economic growth from 2007 to 2010, China has experienced a continuous drop in the emission of three in four manufacturing pollutants. This paper decomposes the change in Chinese manufacturing pollution into scale, composition and technique. The results show that Chinese manufacturing industries achieved pollution abatement by specializing in producing clean goods. The decomposition of Chinese international trade also finds evidence that China satisfies its demand for polluting intensified goods by trading with other countries. This evidence is contrary to the conventional wisdom that China provides dirty goods to developed countries like the US and the EU. It might suggest that China is under the transition from polluting goods supplier to polluting good consumer.*

## INTRODUCTION

Over the last decades, China's economy has expanded dramatically, with the total output increasing from US \$2,729 billion in 2006 to US \$10,866 billion in 2015, representing a GDP growth rate of more than 6 %. According to the data from China Statistical Yearbook (shown in Table 1), China's total manufacturing output expanded 63% from 2007 to 2010, but most of the manufacturing pollutants emission decreased. For example, industry dust emission decreased by 36% from 2007 to 2010.

Improvement of production techniques and switching from producing dirty to clean goods in China's manufacturing sectors might explain this decrease, despite the lack of empirical evidence. In this paper, I explain the potential reasons behind the decrease in manufacturing pollutants in China from 2007 to 2010. To do so, I evaluate the effects of composition change and technique improvement in the emission reduction, and further investigate the compositional change to test the "pollution haven hypothesis" using China's trade data.

In this paper, I replicate the methodology of Levinson (2010, 2014) and Brunel (2016) by decomposing Chinese manufacturing output and international trade into three parts: "technique effect" (the change of pollution emission intensity),

“composition effect” (change of the mix of manufacturing output) and “scale effect” (the change of manufacturing output value). In section two, I provide a brief literature review on studies of industry pollution and Chinese industry pollution reduction. Section three provides a detailed description of decomposing methods for domestic goods, including China-specific data issues. The decomposition results support the dominance of composition effect in China’s manufacturing pollution cleanup. In section four, I turn to international trade. The pollution intensity embodied in China’s exports and imports is calculated separately to examine the pollution haven hypothesis, with pollution intensity embodied in China-US trade and China-EU trade. Sections five and six provide the limitations and conclusions of this paper.

## LITERATURE REVIEW

In environmental economics research, pollution emission can be decomposed into three parts: scale effect, technology effect and composition effect (Copeland & Taylor, 2013; Grossman & Krueger, 1991; Hettige, Lucas, & Wheeler, 1992; Kahn, 2003).

Intuitively, with the increase of production scale, the total pollution would increase. However, if industries begin to adopt more energy efficient techniques or improve the recycle rates of industrial wastes, total pollution would decrease. Therefore, the technique effect could lead to a decrease in manufacturing pollution despite the expanding scale of total manufacturing output and a potential shift towards polluting goods production in its manufacturing industries. Composition effect refers to the change in the mix of goods produced by a country. And countries could achieve cleanup by specializing in producing clean goods.

To study the change of air pollutant emissions in the US, Selden, Forrest and Lockhart (1999) decompose the air pollutant emissions into scale, composition, energy intensity, energy mix, and other technique effects. They find that energy intensity, energy mix, and other technique effects rather than composition change are the main forces behind the US air pollution reduction from 1970 to 1990. After studying the emission of anthropogenic pollutants for 64 countries between 1972 and 1990, Stern (2002) also finds that the technique effect explains more pollution change. For developing countries, Paul and Bhattacharya (2004) decompose energy use in India and find that the energy related to CO2 emissions is more related to the energy technique.

More recently, Levinson (2009, 2015) and Brunel (2016) decompose the industrial air pollution emission for the US and the EU separately. Both of them distinguish composition from technique by categorizing industry output into more than four hundred manufacturing sectors. According to their analyses, technique accounts for more than 70% of reduction in industry pollution for both the US and the EU.

The existing body of research focuses on developed countries rather than

developing countries. One exception is a paper by Zhang, Mu, Ning and Song (2009), which examines energy use in different Chinese industries, and concludes that technique improvements account for most of the energy-use-related CO2 emissions. However, they study the manufacturing pollution indirectly through calculation manufacturing energy consumption. What’s more, in their paper, China’s economy is only divided into four industries, which is particularly problematic for identifying composition change. My paper studies the decomposition of the change in emissions of four major pollutants in China’s 37 manufacturing sectors.

For international trade, Levinson (2009) and Brunel (2016) find little evidence supporting the outsourcing of polluting industries in the US and the EU. For China, however, most researchers find evidence in support of the pollution haven hypothesis (Baek, Koo, et al., 2009; Dean, Lovely, & Wang, 2009; He, 2006; Wei & Bi, 2011). For example, He (2006), in studying sulfur dioxide emission in 29 Chinese provinces, finds Foreign Direct Investment (FDI) increases industry sulfur dioxide emission in China by increasing the economy’s scale and changing the composition.

This paper, by decomposing pollution embodied in the international trade of China, finds that China’s imports becomes more pollution intensified during 2007 to 2010 and it might suggest that polluting industries are moving out of China to other countries.

## DECOMPOSITION OF DOMESTIC INDUSTRY OUTPUT

### METHODS

To decompose the pollution emission for Chinese manufacturing industries, I follow the methodology developed by Levinson (2009) and Brunel (2016). In this way, total pollution can be written as:

$$P_t = \sum P_{it} = V \sum v_i / V^* P_i / v_i = V_i \sum \theta_{it} z_{it} \quad (1)$$

Where  $P$  is total manufacturing pollution of year  $t$ ,  $P_{it}$  refers to pollution from industry  $i$  in year  $t$ ,  $v_i$  is the value of production for industry  $i$  in  $t$  year, and  $z_i$  is the emission intensity of industry  $i$ , which means the pollution associated with one unit of output value is:  $(z_i = p_i / v_i)$ .  $v_i$  is the share value production of industry  $i$  ( $v_i$ ) in total output ( $V$ ). In vector form, Equation (1) becomes:

$$P = V \theta' z \quad (2)$$

Totally differentiating Equation (2), the effects of scale, technique and composition on total pollution become clearer:

$$dP = \theta' z dV + V z' d\theta + V \theta' dz \quad (3)$$

In this way, the total pollution is decomposed into the standard approach

used by environmental economics researchers (Ang & Zhang, 2000; Brunel, 2016; Copeland & Taylor, 2004; Levinson, 2009, 2015; Selden et al., 1999). The scale effect is captured by the first term. The more output produced by the manufacture industries, the more pollution would be emitted, holding composition and technology constant. The second term ( $Vz', d\theta$ ) pulls out the composition effects for total pollution (P). Therefore,  $Vz' d\theta$  represents how pollution will change when the proportion of “clean industries” and “polluting industries” change, holding total industry output and technique constant. The technique effect is the third term “ $V\theta' dz$ ” standing for the pollution intensity or the pollution emitted for every one unit increase of output, holding scale and composition constant.

The total pollution P used in this paper is compiled from manufacturing pollution emission data from the China Statistical Yearbook from 2008-2010 (Yearbook et al., 2008, 2009, 2010, 2011) published by the China Statistical Bureau (CSB). Every year, CSB reports the total emissions of waste air, soot meeting, sulfur dioxide (SO<sub>2</sub>) and industrial dust for domestic manufacturing sectors. Although the pollution data is ready to use, one needs to be careful about its precision. The manufacture pollution data is compiled in two ways, “focus investigation” and “estimation.” The pollution emissions are reported to CSB directly by factories, whose pollution emission accounts for 85 % of all pollution emissions within a region. For the remaining factories, however, the pollution emission is estimated indirectly by computing the total economic indicators and total pollution emissions of the region (Yearbook et al., 2011).

Estimated factories tend to be small in size and have low efficiency (Price et al., 2002), which suggests that reported values of actual pollution might be underestimated, and possibly lead to the overestimation of “technique effect.”

For total output data, I use the annual manufacturing output ( $v_{it}$ ) data from Chinese Statistical Yearbooks. These data are organized in 37 manufacturing sectors based on China Industrial Classification Code (2002).

The industries-specific “pollution intensity” or  $z_i = p_i/v_i$  is calculated using pollution emission data from China Environmental Statistical Yearbook (CESYB) and the annual manufacturing output data from China Statistical Yearbook.

## DATA ISSUES

I collect data from 2007 to 2010 for two reasons. Firstly, during 2007 to 2010, China was experiencing a massive transition in its industries. China’s manufacturing output grew from 251 trillion Chinese yuan to 699 trillion Chinese yuan – more than double over these four years. Implicitly, such an increase of industrial output means more industrial pollution. However, as shown in Table 1, only the emission of waste air increased dramatically, while the emission of other pollutants remained constant, and some even decreased. By examining the role of scale effect, composition effect and technique effect for the emission of different pollutants, future policy suggestions could be made to help reduce China’s

environmental degradation.

Secondly, the availability of data restricts my analysis from 2007 to 2010. Although the data for pollution emission and total output by industry are available before 2007 and after 2010, the definition of “above-designed size” enterprise is different. Before 2007, “above-designed size” enterprises included all state-owned enterprises and private enterprises whose revenue was above 5 million Chinese yuan. However, after 2010, “above-designed size” enterprises are defined as enterprises with revenue above 20 million yuan. The output data are no longer reported after 2011. Only during 2007 to 2010 does the definition of “above-designed size” enterprises remain consistent. Therefore, to keep my analysis consistent, I have used only data from 2007 to 2010.

Due to the choice of data, technique effect is likely to be overestimated, and composition effect is likely to be underestimated for two reasons. The first reason is due to the omission of small enterprises in the raw data. Both the total pollution data and total output data omit small enterprises. For example, the total output data only includes the output of “above-designed size” enterprises, while small enterprises whose revenue is below 5 million yuan are not included in the total manufacturing output.

Also, as mentioned above, the total pollution is only directly included the pollution data of the enterprises whose pollution accounts for 85 % of the total pollution of the region – while the rest are estimated using economic and pollution indicators. In these cases, small enterprises would be excluded from our data. However, in reality, these small enterprises usually adopt outdated techniques and are more polluting than larger enterprises (Wang, Webber, Finlayson, & Barnett, 2008), and my estimation of technique effect would be larger than the real technique effect. Additionally, unlike the analysis of Levinson (2009, 2015) and Brunel (2016), whose manufacturing industry data are available at four SIC and NAICS code and are separated into 450 different categories, my data only divide the manufacturing sector into 37 categories using the China Industry Classification 2002. The aggregation of manufacturing industries would attribute some within industry composition change to the reduction of pollution intensity. For instance, “Perfume Industry,” Explosive Industry” and “Fertilizer Industry” are all categorized as “Chemical Raw Materials and Chemical Product Industry”, and a reduction in pollution intensity in “Chemical Raw Materials and Chemical Product Industry” may not come from improvement of technique but is due to a shift from “dirty” products to “clean” products within the manufacturing sectors. For these two reasons, the technique effect in the research would be overestimated.

Like Levinson (2009, 2015) and Brunel (2016), I use industry-specific PPI from CSB to adjust all the data into the current price, which could avoid over-deflation or under-deflation which are possible using overall PPI since the price for different products changes differently (Levinson, 2009). For example, the PPI for “Communication Device, Computer and Other” decreased by 8 %, while for

“Petroleum processing, Coking and Nuclear Fuel Processing Industry,” the PPI increased by 29 % during 2007 to 2010, during which the overall PPI only increased by 6%.

In next section, I am going to discuss the results of the decomposition of the domestic manufacture production and explain where the reduction comes from, and how the technique effect and composition effect could interact with each other.

RESULT

In this section, I will present the decomposition result of China manufacturing pollution emission. Figure 1 presents the change of SO<sub>2</sub> emission, and Table 1 and Table 2 show the change of emission for all industry pollutants.

Table 1: Change of Pollution and Output

	Pollution Emission Change (million ton/liter)	Pollution Emission Change (2007=100)	Change of Output (Trillion ¥)	"Scale Effect"	Total Cleanup
	(1)	(2)	(3)	(4)	(5)
Waste Air	250180	33.75	40500	62.85	28.75
Soot Meeting	-3.457	-21.77	40500	62.85	84.62
SO <sub>2</sub>	-3.04	-12.88	40500	62.85	75.73
Industry Dust	-4.625	-35.78	40500	62.85	98.63

Source: China Statistic Bureau (<http://www.stats.gov.cn/zjtj/ztsj/hjtjzll>) and China Statistical Yearbook

In Table 1, column (1) presents the total pollution change over the four years. A negative value refers to a reduction of total pollution and a positive means an increase in total pollution. Taking waste air, for example: during 2007 to 2010, the emission of waste air increases by 250180 million liters, while the total emission of soot meeting decreased by 3.457 million ton. Column (2) of Table 1 depicts the change of pollutants emissions in the percentage value of the 2007 year pollution emission. As it shows, the emission for three of the four pollutants decreases by 12% to 35%, while waste air increases by more than 33%.

Column (3) and (4) shows the increase total manufacturing output both in monetary value and in percentage value. During 2007 to 2010, China's total manufacturing output increased by 40500 trillion Chinese yuan, an increase of 63%.

The total cleanup is shown in the last column by subtracting the scale effect by pollution emission change in column (2), which represents the pollution emission avoided due to technique and composition change without the change of total manufacturing output. For waste air, the total cleanup is 28% while the total cleanup for SO<sub>2</sub> is more than 84%.

Figure 1 presents the change of SO<sub>2</sub> emission over the four years. As shown in Figure 1, the total SO<sub>2</sub> emission falls by 13% during 2007 and 2010, while the total manufacturing output increased by 63%. Line (1) presents the change of total industry output or scale effect. The output in 2007 is set as base year ( $V_{2007} = 100$ ).

If both the manufacturing composition ( $d\theta$ ) and production technique ( $dz$ ) remain constant after 2007, the predicted pollution will increase by 63 % as depicted by Line (1). Intuitively, line (1) just says that if the value of manufacturing output increases by 63%, the total manufacturing pollution emission is also expected to increase by 63%. However, such a prediction is different from the real pollution emission, given the downward slope of Line (2).

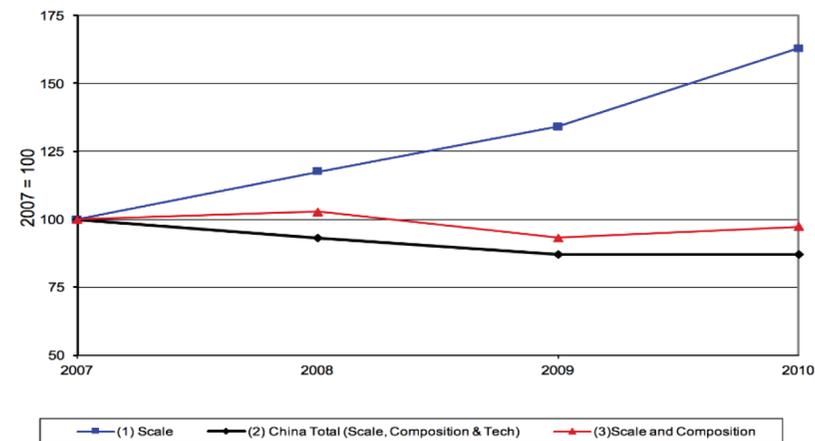


Figure 1: China Manufacturing Output and SO<sub>2</sub>

Source: China Statistic Bureau (<http://www.stats.gov.cn/zjtj/ztsj/hjtjzll>) and China Statistical Yearbook

Line (2) is the real change of SO<sub>2</sub> emission over the four years. Comparing with the SO<sub>2</sub> emission in 2007, the total SO<sub>2</sub> emission decreases by 13% over the four years. Although the reduction is not large, compared with the dramatic increase in scale, a 13% drop other than an increase is encouraging enough for a developing country with fast economic growth. Additionally, the difference between Line (1) and Line (2) is the total cleanup by composition effect and technique effect, which is 75% of SO<sub>2</sub> emissions in 2007.

Line (3) is calculated by holding the production technique at 2007 level, but let scale and composition change over time. Therefore, Line (3) is a combination of scale effect and composition effects. It depicts how SO<sub>2</sub> emission would evolve if manufacturing sectors maintain the technique of 2007. Therefore, technique effect is measured by the difference between Line (3) and Line (2). Technique effect, as a residual, was estimated to cleanup SO<sub>2</sub> emission by 10 % of the total emission in 2007. In other words, 13% of total cleanup is due to technique effect.

The difference between Line (1) and Line (3), therefore, is the composition effect. Line (1) predicts how the SO<sub>2</sub> emission would evolve if there is no composition change, and line (3) predicts how SO<sub>2</sub> emission would change with both scale change and composition change, without the change in technique. Thus, the difference captures how composition contributes to clean up. The composition effect is estimated to cleanup SO<sub>2</sub> emission by 65% of SO<sub>2</sub> emission in 2007, which

accounts for 83% of total SO2 cleanup over the four years.

**Table 2: The Estimation of Technique Cleanup (2007-2010)**

	"Technique Effect"			"Composition Effect"	
	Total Cleanup	Cleanup by Technique	Share of Technique	Cleanup by Composition	Share of Composition
	(1)	(2)	(3)	(4)	(5)
<b>Waste Air</b>	28.75	18.62	64.77	10.48	36.46
<b>Soot Meeting</b>	84.62	14.20	16.78	70.43	83.22
<b>SO<sub>2</sub></b>	75.73	10.13	13.38	65.60	86.62
<b>Industry Dust</b>	98.63	25.27	25.62	73.36	74.38

Source: China Statistic Bureau (<http://www.stats.gov.cn/zjtj/ztsj/hjtjzl/>) and China Statistical Yearbook

Table 2 presents results for all the pollutants. Column (1) shows the total cleanup by subtracting the change of pollution emission predicted by our scale effect, column (5) in Table 1 and the change of real pollution emission column (2) in Table 1. It turns out that industry dust cleanup was almost 100% of industry dust emitted in 2007, with all other pollutants being cleaned up by more than 70%, except waste air, which increased its emission by 36% compared to 2007.

Column (2) in Table 2 is the estimation of technique effect, in which the cleanup from technique effect reduced manufacturing emissions by 10 to 25% compared with pollution emissions in 2007. The share of cleanup from technique effect is presented in column (3), with three pollutants below 30%.

Column (4) and column (5) present the estimation of composition effect. Column (4) is the amount of cleanup due to composition effect, and column (5) is the share of composition cleanup in total cleanup. For example, over the four years, composition effect cleanups wasted air by 10% of the total emissions in 2007, and it accounts for 36% of the total cleanup of waste air. As shown in column (5), the composition effect is responsible for more than 75% cleanup for three of four pollutants.

In this section, the decomposition results show that despite the increase in total manufacturing output, the emission for three of four pollutants is decreasing and the waste air also grows slower than output growth. However, technique effect only accounts for a small fraction of total cleanup, most of which comes from composition change. In the next section, I will look at how the international trade affects China's total manufacturing pollution emission.

## INTERNATIONAL TRADE

### METHODS

For China, composition effect accounts for more than half the amount of cleanup for most manufacturing pollutants. Given the fact that composition changes could come from two sources, I cannot – with the above analysis – distinguish

whether the composition change comes from domestic demand change or international trade change. Domestically, composition changes could be due to a fall in demand for polluting goods and as for the fact that polluting goods consumed by Chinese industries are now imported. In other words, by outsourcing the production of polluting goods to other countries, China decreases its domestic production of polluting goods. From this perspective, the increase of pollutants, such as waste air, could either come from the rise of domestic demand or the rise in international demand for polluting goods. To answer the question of how international consumption affects the pollution emission in China, I decompose the pollution in China's trade.

For import goods,  $P^m$  denotes the pollution that would be emitted in China if these goods are produced domestically. For export goods,  $P^M$  indicates the amount of pollution that could be reduced if the export goods are produced outside China.

$$P^M = \sum_i P_i^M = V^M \sum_i \theta_i^M * z_i \tag{5}$$

Unlike Equation (2), which uses the domestic industry output ( $V$ ), Equation (4) uses the amount of international trade ( $V_M$ ).  $\theta_M$  is the share of imports (exports) for industry  $i$  in total imports (exports), and  $z$  is the domestic pollution intensity for industry  $i$ . Instead of using pollution intensity of the destined country, I use the domestic pollution intensity because my interest lies in the pollution emissions that are avoided by importing goods from other countries, and the amount of pollution emissions that are produced within China due to demand from other countries. Therefore, using domestic technique coefficients help us to focus on the influence of international trade on China manufacturing pollution emission.

It should be noted that the trade data only provides information on the quantity of goods traded across countries and does not tell us how many intermediate goods need to be produced if the import (export) goods are produced in China. For example, if a car is produced domestically instead of being imported, the pollution not only comes from assembling the car, but also comes from the relevant materials required to produce the car such as steel and rubber. These intermediate inputs also contribute to the pollution emission (Levinson, 2009).

To account for the pollution from intermediated inputs, I use Leontief's (1970) total consumption coefficient in an input-output framework to construct the domestic pollution intensity for trade. Taking  $x_i$  as the total output of industry  $i$ ,  $D$  is a direct requirement coefficients matrix, which for this research is a 37 \* 37 matrix from CSB.  $d_{ij}$  represents for every one Chinese yuan's output of industry  $j$ , amount to  $d_{ij}$  Chinese yuan's input from industry  $i$  would be needed.  $y$  is the import (export) value I get from BACI trade data<sup>1</sup> (Gaulier & Zignago, 2010). Equation (6) shows

<sup>1</sup> Since goods in BACI data are categorized using HS6 1992 code at six digits level, I transferred the data into CIC in two steps: first I used the H0 to ISIC Rev 3 concordance from WITS H0 to ISIC Rev 3 table (Available at <http://wits.worldbank.org/data/public/concordance/ConcordanceH0toI3.zip>) to transfer the goods code from HS6 1992 code into ISIC

how to include intermediate goods.

$$x = D_x + y \tag{6}$$

To get the total among of China’s manufacturing output, I rearranged the equation. Matrix  $T = [I - D]^{-1}$  represents the Leontief’s total requirements matrix.  $I$  is the identity matrix. In the matrix of  $T$ ,  $t_{ij}$  captures the total monetary value of output in industry  $i$ , which needs to be devoted to industry  $j$  in order to produce one Chinese yuan’s output of industry  $j$ . Unlike  $x_j$  above, this new  $x_i$  includes the amount of output from industry  $i$  devoted directly to industry  $j$ , but also includes the output of industry  $i$  devoted to other industries which produce intermediate input to produce one Chinese yuan’s output for industry  $j$ .

$$x = [I - D]^{-1}y \tag{7}$$

Substituting  $x$  and  $y$  with pollution intensity  $z$ , Equation (7) is the pollution intensity embodied in trade goods.

$$z^* = z' T = z' [I - C]^{-1} \tag{8}$$

Although the new  $z^*$  is more comprehensive than  $z$ , it, however, tends to overstate the pollution embodied in the import and export goods because some of the intermediate goods are produced in other countries, no matter whether goods are produced within China or not (Levinson, 2009). This problem is solved by constructing a total domestic requirement matrix through multiplying the direct requirements coefficients with the share of goods that are produced domestically, rather than outside for each industry, which is a  $n \times 1$  vector  $d$ .

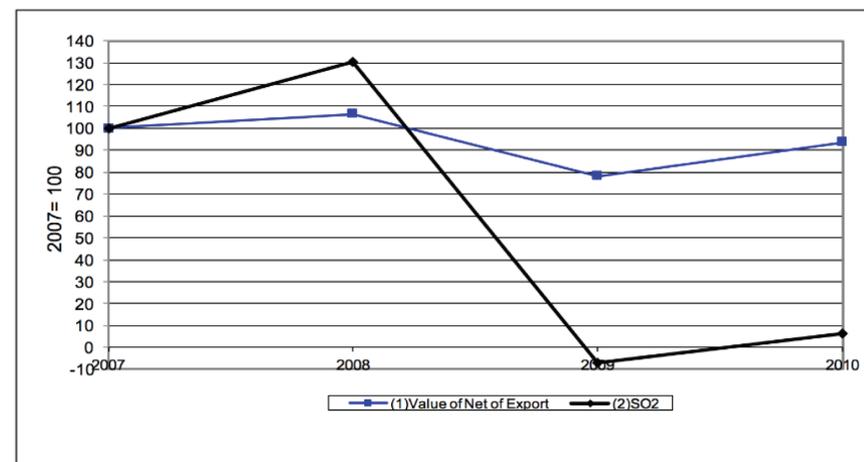
$$z^{**} = z' [I - \text{diag}(d)D] \tag{9}$$

### RESULT FOR TRADE

In this section, I will analyze the manner in which international trade affects manufacturing pollution in China. To understand how China’s trade with the US and the EU affects manufacturing pollution levels, I first look at the net export of China’s international trade and then research the pollution intensity embodied in the goods within the US and the EU trade

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Rev 3 code. Second, I constructed a concordance between ISIC Rev 3 code and CIC code. Finally, I aggregated the trade data into 37 CIC industries and used annual interest rate to exchange the data from US dollar into Chinese yuan, which are deflated using industries specific PPI.



**Figure 2: China’s Trade and SO<sub>2</sub> Emission**

Source: China Statistic Bureau (<http://www.stats.gov.cn/zjtj/ztsj/hjtjzll/>), China Statistical Yearbook, BACI Database ([http://cepii.fr/CEPII/en/bdd\\_modele/presentation.asp?id=1](http://cepii.fr/CEPII/en/bdd_modele/presentation.asp?id=1)).

Figure 2 presents how international trade affects China’s pollution emission. Line (1) denotes the change of the net export value of goods in China by subtracting the total value of import goods using total value of export goods and indexing the total value of import goods in 2007 as 100. In Line (1), the gap between China’s imports and exports was almost constant in my research period (only 2009 saw a significant decrease of 20%). In 2010, the net exports were reduced by 9%.

Line (2) is calculated by subtracting the SO<sub>2</sub> pollution embodied in China’s exports by the SO<sub>2</sub> pollution embodied China’s import and indexing 2007 as 100. Therefore, Line (2) captures the change of pollution generated by international trade, in which a positive value means that the pollution generated within China due to export is larger than the pollution displaced by imports. As shown in Figure 2, in 2009, for the first time, SO<sub>2</sub> pollution embodied in China’s imports was larger than the SO<sub>2</sub> pollution embodied in exports. One explanation for the dramatic change is the global economy crisis. In 2009, the world economy went down quickly and China, as the largest exporter, experienced a drastic decrease in its international trade – and SO<sub>2</sub> intensive goods proved to be the most vulnerable to international trade.

Table 3 shows the change of manufacturing pollution with the trade during 2007-2010. In the table, both the total trade and the emission levels of all four pollutants are decreasing. However, the decrease of emission is significantly larger (more than 40%) than the decrease of the net export (6%). This difference has two sources. It could be that net exports decreased or China was exporting relatively cleaner goods. Since the decrease of net exports is only 6%, the decrease of pollutants emission is most likely because China was exporting relatively cleaner goods. Table 4 provides details about this.

**Table 3: China Trade and Pollution Emission**

Year	Net Export (1)	Net Embodied Waste Air (2)	Net Embodied Soot Meeting (3)	Net Embodied SO2 (4)	Net Embodied Industry Dust (5)
2007	100.00	100.00	100.00	100.00	100.00
2008	106.40	121.05	122.09	130.24	110.68
2009	78.15	34.21	4.42	-6.92	34.39
2010	93.60	55.26	16.30	6.43	47.29
Trend	-6.40	-44.74	-83.70	-93.57	-52.71

Source: China Statistic Bureau (<http://www.stats.gov.cn/zjtj/ztsj/hjtjzl/>) and China Statistical Yearbook

Table 4 presents the change of pollution intensity of SO<sub>2</sub> from 2007 to 2010. Row (1) and row (2) are import and export pollution intensity of SO<sub>2</sub> during 2007 and 2010, respectively. In 2007, the pollution intensity of China's import goods SO<sub>2</sub> was 165.9 kg per thousand yuan, while, in 2010, SO<sub>2</sub> pollution intensity in import goods decreased to 157.5 kg per thousand yuan. On the other hand, the pollution intensity of export goods decreased from 96 kg per thousand yuan to 91 kg per thousand yuan. Both the decrease of SO<sub>2</sub> pollution intensity for import goods and export goods implicates the contributions of manufacturing technology advancement to the reduction of SO<sub>2</sub> pollution. However, the SO<sub>2</sub> pollution intensity of import goods is larger than export goods, which means that the pollution in imports was larger than the pollution embodied in the exports during 2007 to 2010. But since the pollution intensity is decreasing slightly, both Chinese exports and imports become cleaner as well and this may due to the evolve of technology all over the world.

**Table 4: Change in SO<sub>2</sub> Intensity**

	China Import (1)	China Export (2)	Import from EU (3)	Export to EU (4)	Import from US (5)	Export to US (6)
2007 SO2	165.89	96.15	131.49	87.75	141.15	78.42
2010 SO2	157.50	91.45	121.94	79.62	145.98	74.63

Source: China Statistic Bureau (<http://www.stats.gov.cn/zjtj/ztsj/hjtjzl/>), China Statistical Yearbook, BACI Database ([http://cepii.fr/CEPII/en/bdd\\_modele/presentation.asp?id=1](http://cepii.fr/CEPII/en/bdd_modele/presentation.asp?id=1)).

Regarding the prediction that China, as the global factory, is manufacturing polluting goods and exports these goods to other countries, the evidence in Table 4 shows that China is increasingly specializing in clean goods production.

Does the evidence above contradict the pollution haven hypothesis? To answer this question, I look at the trade between China and the EU, and China and the US.

In Table 4, column (5) and column (6) present the pollution intensity embodied in the trade between China and the US. Surprisingly, the pollution intensity of the export goods to the US is smaller than the pollution intensity of the import goods. For example, in 2010, the SO<sub>2</sub> pollution intensity of export goods was 75 kg per thousand Chinese yuan, while the SO<sub>2</sub> pollution intensity of

import goods was 146 kg per thousand Chinese yuan. Import and Export from the EU in column (3) and column (4) show similar results. In other words, with the growth of China's economy, China is demanding more polluting goods but pollution abatement is achieved by importing polluting goods from elsewhere. Other pollutants in Table 5 show similar results.

Also, the pollution intensity pattern shows another interesting fact – China's imports from the US and the EU are cleaner than the general imports from the world. This difference implies that the dirty industries are partly relocated in the EU and US, but countries other than the US and the EU are providing dirtier goods to China. In other words, the developing countries are still the victims of pollution outsourcing.

Table 5 provides all four pollutants: waste air, soot meeting, SO<sub>2</sub> and industry dust. China, instead of serving as a pollution haven for developed countries, is specializing in producing less polluting goods.

**Table 5: Pollution Intensity of 2010**

	Waste Air (Liter/10000 Yuan) (1)	Soot Meeting (kg/10000 Yuan) (2)	SO2 (kg/10000 Yuan) (3)	Industry Dust (kg/10000 Yuan) (4)
China Import	408.62	67.26	157.50	50.62
Import from EU	329.85	53.96	121.94	44.21
Import from US	398.81	64.15	145.98	47.48
China Export	270.94	39.74	91.45	34.10
Export to US	228.05	32.72	74.63	28.52
Export to EU	236.38	34.63	79.62	30.22

Source: China Statistic Bureau (<http://www.stats.gov.cn/zjtj/ztsj/hjtjzl/>), China Statistical Yearbook, BACI Database ([http://cepii.fr/CEPII/en/bdd\\_modele/presentation.asp?id=1](http://cepii.fr/CEPII/en/bdd_modele/presentation.asp?id=1)).

According to the trade detail in 2010, shown in Table 6, the top three Chinese export industries were: Computers and other electronic equipment manufacturing industries, Instrumentation and office machine industries, and Electrical equipment industries. The top three Chinese import industries were: Computers and other electronic equipment manufacturing industries, Oil and gas extraction industries, and Chemical materials and chemical products manufacturing industries. China's exports were machine and equipment products, while its imports were energy and chemical products, which require more emission. Similar patterns exist with regard to trade with the US and the EU. There is no doubt that, from 2007 to 2010, China was importing dirty goods but exporting clean goods, which is more labor-intensive.

In this section, I presented three facts for China's international trade. First, China is the largest exporter of the world, and manufacturing pollution for exports is larger than that for import goods. Second, China's import goods were dirtier than export goods, which signifies that China is under way of reducing manufacturing pollution. Third, I looked at the pollution intensity specifically for the China-EU and China-US trade. The evidence does not support China as the pollution haven for the US and the EU.

**Table 6. Top Three Industries for China Export and Import Activities**

Import From World (1)	Export to World (2)	Import from US (5)	Export to US (6)
1.Computers and electronic equipment manufacturing industries,	1.Computers and electronic equipment manufacturing industries,	1.Instrumentation and office machine industries,	1.Chemical products manufacturing industries,
2.Oil and gas extraction industries,	2.Instrumentation and office machine industries,	2.Computers and electronic equipment manufacturing industries,	2.General equipment manufacturing industries,
3.Chemical products manufacturing industries.	3.Electrical equipment manufacturing industries.	3.Electrical equipment manufacturing industries.	3.Transportation equipment manufacturing industries.

Source: BACI Database ([http://cepii.fr/CEPII/en/bdd\\_modele/presentation.asp?id=1](http://cepii.fr/CEPII/en/bdd_modele/presentation.asp?id=1))

### LIMITATIONS

The analysis in this paper faces limitations in tow aspects. First, Chinese industries data are only available at two digits level, which only enables analysis to be carried out at the level of 37 manufacturing sectors, which could hide composition change within industries and lead to underestimations of the composition effect.

Second, the highly aggregated industries make it impossible to estimate the technique effect directly, for the unobserved composition effect can be attributed to technique effect and leaves some concerns regarding the inaccuracy of indirect estimation of technique effect.

For future research, better quality data which provide more details about industry categories and industries-specific pollution intensity would help to overcome the issues above.

### CONCLUSIONS

In this paper, I decompose China’s pollution emission into scale effect, composition effect and technique effect. China’s manufacturing scale was expanding dramatically from 2007 to 2010, while the pollution emission for three of four pollutants was decreased, except waste air. Surprisingly, most of the cleanup comes from composition effect instead of technique effect. In Levinson’s (2009) paper, he estimated the technique effect contributed to 96% to 88% of SO<sub>2</sub> clean up in the US. And according to Brunel (2016), technique effect accounts for 87% of the US SO<sub>2</sub> cleanup. Comparing with the US and the EU, Chinese manufacturing industries should adopt advanced techniques to conduct emission abatement. It is possible, however, that in recent years China has paid more attention to reducing pollution through improvement of technique; however, this research fails to capture the improvements. According to this study, Chinese manufacturing technology still needs to be updated.

In the second section, I look closely at China’s international trade. For China, pollution generated by exports activities is larger than its international demand. But when looking at the pollution intensity within the trade from 2007 to 2010, I find that the pollution intensity of export was smaller than the import

for China, which is a signal that dirty industries were moving out of China. Then, I studied the pollution intensity in the EU and the US trade with China.

*Disclaimer: The views and opinions expressed in this article are those of the author and do not necessarily reflect the official policy or position of any one else’s.*

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## NEGOTIATING PRESCRIPTION DRUG PRICES TO CONTROL HEALTHCARE COSTS

Paula Acevedo

### ABSTRACT

*Healthcare's market failures need to be addressed while seeking solutions for rising healthcare costs, a significant portion of which is due to prescription drugs. A recent Department of Health and Human Services report, estimates prescription drug spending will continue rising faster than overall health spending, with specialty drugs rising above all other types. Current policy, under the Patient Protection and Affordable Care Act made notable changes to coverage, costs, and care, but left out making changes to the pharmaceutical industry (largely unregulated), only requiring that it pay for some of the law's increased drug coverage. The lack of regulations has led to the sick using more services, at the expense of the healthy. Possible solutions to this problem include: 1) efficiently using treatments already available, leaving resources for investments and preventative care; 2) embracing techniques used by other OECD countries such as health technology assessments, restrictions on patients' eligibility for new drugs, and requiring strict evidence of the value of new drugs; 3) implementing proposed legislation such as The Affordable and Safe Prescription Drug Importation Act, allowing drug importation specifically by wholesalers, licensed U.S. pharmacies, and individuals from FDA-inspected sites from Canadian licensed sellers; and 4) compulsory licensing, giving third parties permission to make, use, or sell a patented invention without the patentee's consent.*

### INTRODUCTION

Health care has a myriad of market failures that arise from moral hazard, adverse selection, information asymmetry and negative externalities. On top of market failures, the U.S. faces rising healthcare costs, and spends more than twice as much per capita on health care as the average developed country (PGP Foundation, 2015). The spending per capita measure exceeds all OECD countries except Norway and the Netherlands (PGP Foundation, 2015). A significant part of the rising healthcare spending is due to prescriptions drugs (OASPE, 2016). While recent legislation has made strides in controlling costs, lawmakers still have a long way to go.

According to a recent report by the Department of Health and Human Services, prescription drug prices, particularly specialty drugs, are expected to continue rising faster than overall health spending (OASPE, 2016). The report

found that of the total \$457 billion spent on prescription drugs last year, \$328 billion (71.9 percent) went to retail drugs and \$128 billion (28.1 percent) was spent on non-retail drugs (OASPE, 2016). Between the years of 2010 to 2014, prescription drug spending increases were due to population growth (10 percent), an increase in prescriptions per person (30 percent), overall economy-wide inflation (30 percent), and changes in the composition of medication prescribed toward higher priced products or price increases for drugs that together drove average price increases over general inflation (30 percent) (OASPE, 2016).

## CURRENT POLICY

Current healthcare policy is mandated under the Patient Protection and Affordable Care Act (PPACA) or commonly referred to as the ACA or Obamacare. The ACA has made notable changes to coverage, costs, and care (HHS, 2017). The coverage changes ended the exclusion of children (under the age of 19) with pre-existing conditions, keeps young adults on their parent's health plan until age 26, ends arbitrary cancellation of coverage, and guarantees the right to appeal a denial of payment. In terms of costs, there are no longer lifetime limits on coverage (for most benefits). The Affordable Care Act requires insurance companies to explain unreasonable rate hikes and ensures premium dollars are spent primarily on health care (not on administrative costs). The final category of changes impacts care, with the ACA covering free eligible preventative care, allowing patients to choose their primary doctors, and allowing patients to seek emergency care at hospitals outside their health plan's network.

Unfortunately, the ACA left out making major changes to the pharmaceutical industry (largely unregulated) but did require it to pay for some of the law's increased drug coverage (Owens, 2016). Per Rep. Henry Waxman (D-CA), the decision to avoid imposing regulations on pharmaceuticals was largely political, to acquire the necessary support for legislation in exchange for favorable provisions (Owens, 2016). The law passed by a very small margin and was made more difficult after the necessary 60 votes were no longer available due to the passing of the late Senator Edward Kennedy (Owens, 2016). Those involved in the negotiation process claim to have done as much as they could to get the bill passed, but failed to address the restriction on the federal government from negotiating with the pharmaceutical industry, because of the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2005 (Frank et. Al., 2008). Public officials should have taken the time to address voters' top health care concerns, one of them being the unaffordability of medications with one-third of Americans experiencing dramatic increases in drug prices (Consumer Reports, 2015). As we saw on the campaign trail, several presidential candidates put forth plans to tackle the affordability of Medicare prescription drugs by negotiating prices (Leonard, 2016).

When Medicare was created in 1965, it was created to cover most needs for the elderly, but at the time prescriptions weren't developed enough to seem

necessary (Gruber, 2013). It wasn't until the 1990s that major advancements were made for common illnesses such as hypertension, depression, peptic ulcers, diabetes, among others (Gruber, 2013). By 2003, Medicare recipients were spending about \$2,500 each on drugs, more than twice what the average American spent on all healthcare in 1965 (Gruber, 2013). Covering these prescription costs for the elderly became a major part of the 1998 and 2002 congressional campaigns, and the 2000 presidential campaign, with Democrats wanting to negotiate the lowest prices and Republicans calling for subsidies to private insurers (Gruber, 2013). The result was Medicare Part D, through the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2005, which created the system Republicans wanted while compromising with Democrats, allowing for government reinsurance or ceding some of the financial risk, to deal with adverse selection problems of very sick, costly patients (Gruber, 2013).

Medicare Part D has been widely criticized over the years for creating a "donut hole" in moderate coverage ranging from \$2,500 to \$5,100 (Gruber, 2013). The "donut hole" is a coverage gap that requires patients to pay for their prescription drugs out-of-pocket after the patient and their drug plan have met their limit (Gruber, 2013). In 2016, the "donut hole" or out-of-pocket expenses for prescription drugs began if a patient's plan limit was \$3,310 and ended once they had spent \$4,850 total in prescription drugs (Q1Group LLC). The ACA did address this problem by requiring drug companies to offer seniors a discount and by taxing drug manufacturers and importers (Owens, 2016). The "donut hole" will gradually be closed over the next decade, with 75 percent of coverage up to the catastrophic limit (or the plan's deductible) being met by 2019, followed by 95 percent after that (Gruber, 2013).

## MARKET FAILURE/SUCCESS

In the absence of government, there wouldn't be as much of an incentive to improve medications and treatments given how expensive the research is and the fact that most new ideas for prescription treatments fail. There also would not be regulations in place to test the safety of new drugs; patients would be in the dark about what they are consuming and whether it is worth taking. Thus, the government largely subsidizes research and development, particularly at universities and government agencies. Patent protections incentivize drug creation but lead to a monopoly. This allows developers to temporarily charge high prices, until the patents expire and generic drugs can be created (McClellan and Rivlin, 2014). The use of generics may result in decreased spending; a 2008 study found that drug spending decreased 22 percent over four years (2003-2007) (McClellan and Rivlin, 2014).

The process of creating a new prescription drug is designed to reduce many levels of information asymmetry in the patent, development, testing, and approval process. There is still very little transparency between how much drugs cost to be produced and the profits that are being generated by sale prices. There is also the

use of direct-to-consumer advertising which targets potential consumers to purchase medications that they may not need or fully understand the side effects for. This causes consumers to go to their doctors and inquire about a specific medication. Doctors have every incentive to prescribe a medication their patient wants because of our current fee-for-service system, resulting in unnecessary medications being prescribed, driving up the demand for health care and higher profits for companies. Patients with more generous insurance coverage are more likely to use new technology, driving up costs and spending, because they lack the incentive to guard against morally hazardous risks. (McClellan and Rivlin, 2014).

Aside from our fee-for-service system, our health care system has other weaknesses, such as the failure to deliver care efficiently across providers and care settings, along with a lack of innovative care at lower-cost treatment sites and wireless services that are not compensated by traditional payment systems (McClellan and Rivlin, 2014). To improve, the government should look at efficiently using the treatments that are already available to leave resources for investments and preventive health care (McClellan and Rivlin, 2014). McClellan and Rivlin (2014) suggest these improvements to send a message of what is considered worthy of additional payments.

### **NON-MARKET (GOVERNMENT) FAILURE/SUCCESS**

In response to healthcare research being a public good, the government provides subsidies, targeted at universities and government research agencies. Government subsidies result in many prescription drug developments that would never happen otherwise, given the price, risk and failures of innovation. A suboptimal level of medications would threaten the health and safety of our country, as is the case with developing countries where demand is low and investments are minimal. The investments made by the government result in greater demand causing price discrimination, a segmented market and creating opportunity for political differences.

With new prescription drugs comes information asymmetry, primarily concerning safety. The information asymmetry is two-tailed, with a null hypotheses (Ho) of zero effect and an alternative hypothesis (Ha) of not safe. Both decisions result in errors with varying political costs. If the alternative hypothesis is rejected, causing a Type I error, the drug is denied market entry, and many potential beneficiaries are denied treatment. On the flip side, there is always the potential that the null hypothesis is rejected, and a drug is approved that ends up being harmful, causing a Type II error, allowing for an unsafe drug to enter the market. The Food and Drug Administration (FDA) avoids Type II errors, unintentionally causing Type I errors in the process, through their use of extra precautions, which can be avoided by using a larger random sample during the testing process. The approval process can be complicated given the non-homogeneity of drugs, many of which appear initially positive, but have side effects that are not immediately observable.

The ACA made improvements to the healthcare system, but failed short of regulating pharmaceuticals, which set their own prices, have no restrictions on profit margins and little transparency on the pricing process, creating information asymmetry between them and their consumers (Owens, 2016).

The result has been the sick using more services, increasing market growth, specifically for specialty drugs with more of the costs falling on patients and the healthy. This is particularly true for patients with health plans through the exchanges, 46 percent of which combine medical and pharmaceutical deductibles, compared to 12 percent of employer plans, per a Milliman analysis sponsored by the Pharmaceutical Research & Manufacturers Association (Owens, 2016). Independent studies have found that insurers shift more drug costs to patients than to hospitals or medical care, which coincidentally is also what the pharmaceutical industry argue insurers do (Owens, 2016).

### **THEORETICALLY PREFERRED POLICY RESPONSE**

As healthcare prices continue to rise with the changing demographics, the U.S. has every incentive to control costs. Soon the country won't be able to afford being the highest per capita drug spender, which is largely due to the fast uptake of new and more expensive drugs compared to other countries, falling victim to the "innovation effect" (Anderson et. al., 2013). The government should be considering using treatments that are already available more efficiently to leave resources for investments and preventive health care (McClellan and Rivlin, 2014).

Given the current system, the government could learn from some examples that have led to cost savings. The Employer Benefit Research Institute (EBRI) found that high-deductible health insurance plans (over \$2,000) decreased health spending by 25 percent compared to the control group in the first year, and by 8 percent in the second year (McClellan and Rivlin, 2014). Insurance plans with higher co-pays also decrease health spending by deterring higher office visits for prescription drugs among retirees in the California Public Employee Retirement System (CalPERS), per a study in the American Economic Review journal from 2000-2003 (McClellan and Rivlin, 2014). While these methods decrease health spending, there is a concern they deter necessary visits, preventative care should have no copays.

A Pareto improving solution for our out of control prescription costs would be to adopt techniques used by other OECD countries, such as health technology assessments and restrictions on patients' eligibility for new drugs, in addition to requiring strict evidence of the value new drugs add (Anderson, 2013). The evidence on the value the drug would make could then be used to assess the value it will bring to the market, and prices would be negotiated accordingly (Chien, 2003). While a new drug may be beneficial, it may not necessarily make a much greater impact on patients' health that warrants a more expensive drug on the market. This would also prevent abuses by drug companies such as Turing Pharmaceuticals, whose CEO Martin Shkreli increased the price of Daraprim, used to treat toxoplasmosis, a rare,

parasitic disease (Russell, 2015). Another notable example is the price increase of EpiPen, an emergency allergy treatment, whose price rose from \$100 to \$600 from 2007 to 2016, as profits for the drug grew over the same period, along with increases in CEO Heather Bresch's salary from \$2.5 million to over \$18 million (Clarke, 2016).

A proposed piece of legislation that gained traction to reduce costs to consumers was The Safe and Affordable Drugs from Canada Act, sponsored by Sens. John McCain (R-AZ) and Amy Klobuchar (Lachman, 2014). The law would have made it legal for U.S. citizens to import prescription drugs from Canada, a practice that some citizens already take part in illegally, due to the price differences. Per a 2012 report, by the International Federation of Health Plans, a month's supply of Cymbalta, used for depression and chronic pain, costs about \$149 in the U.S. compared to \$113 in Canada (Lachman, 2014). The price difference is even greater for a month's supply of Nasonex, an allergy drug valued at \$105 in the U.S. and \$29 in Canada (Lachman, 2014). The problem with drug importation from Canada is that pharmaceuticals would charge Canadians more, or not sell to them at all.

There have been recent efforts to pass drug importation measures through Congress but all have failed. On January 11, 2017, an amendment proposed by Sens. Bernie Sanders (I-Vt) and Amy Klobuchar (D-Minn.) allowing drug importation from Canada by pharmacists, wholesalers, and individuals with a prescription was struck down (Karlin-Smith, 2017). Another proposed amendment that would have allowed drug importation, one by Sen. Lamar Alexander (R-Tenn.) was also unsuccessful (Karlin-Smith, 2017).

In late February, a new drug importation bill was introduced, this time with bicameral support from Sens. Bernie Sanders, Cory Booker, Bob Casey, Martin Heinrich, Angus King and Reps. Elijah Cummings and Lloyd Doggett (Ramsey, 2017). The Affordable and Safe Prescription Drug Importation Act would allow drug importation specifically by wholesalers, licensed U.S. pharmacies, and individuals from FDA-inspected sites from Canadian licensed sellers (Ramsey, 2017). The bill would also allow drug importation from OECD countries after two years, from FDA-certified sellers that would have to pay a fee to fund the program's administrative and enforcement functions (Ramsey, 2017). Whether the Affordable and Safe Prescription Drug Importation Act will pass in a highly-divided Congress with the pending repeal of the ACA remains to be seen.

To address the problem of rare diseases in developing countries, the use of compulsory licensing should be considered. Compulsory licensing is the price of authorizing third parties to make, use, or sell a patented invention without the patentee's consent (Chien, 2003). The concept was discussed in 1790 in the U.S. Senate, in 1851 by the British House of Lords, and in 1853 in Germany by policy makers seeking to "preserve the benefits of patent while minimizing their evil" (Chien, 2003). The 1873 Patent Congress in Vienna, resulted in the creation of the patent, to incentivize innovation, reward inventors, provide property rights

and prevent the public good problem that results from the creation of knowledge (Chien, 2003). Too much protection leads to abuse of monopoly power, blocking the activities of third parties, which can be particularly troublesome during a public health emergency.

Compulsory licensing would allow high priced, patented drugs to be accessible for consumers in developing countries, who typically pay for medications out of pocket, due to the lack of healthcare infrastructure (Chien, 2003). While many argue that patents are necessary to protect innovation, compulsory licenses would still generate revenue through a "reasonable royalty" floor for infringement compensation (Chien, 2003). It would also broaden the distribution and increase the access of patented technologies, allowing for pharmaceutical patent opportunities domestically and abroad (Chien, 2003). With regards to the AIDS crisis, it has allowed for lower drug prices and increased access to patented medications in developing countries (Chien, 2003). Different licenses could be used in the United States and other developing countries to incentivize innovation in those areas.

While we need to protect developers, and incentivize them to continue creating prescription drugs that will battle our current and future diseases, we also need to consider the value they will add to our world. Research is a public good, but for society to reap its benefits, the medications created must address the diseases they are meant to treat and be accessible to those who need it most. Politicians on both sides of the aisle have recognized the need for sensible and affordable healthcare; it's time for officials to also recognize the need for affordable drugs so individuals receive the care they need and the assistance they deserve.

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## THE EFFECT OF CREDIBLE VOICES ON RADICALIZATION PREVENTION

Kelly Mason

### ABSTRACT

*In the years since September 11, 2001, there has been a surge of research inquiries into nearly every aspect of terrorism. This exploration focuses on the prevention aspect, analyzing the medium of credible voices, defined as: a religious official, based in a geographical location where extremism is prevalent, who is actively preaching against the thoughts and behaviors of extremist or terrorist organizations. Very little research on their efficacy has been conducted and this inquiry seeks to bridge the gap between academia and application. This inquiry will be studying credible voices against violent extremism under the paradigm of social movement theory and positing a research outline for future investigations. Using these theories to identify specific tactics undertaken by extremist organizations allows credible voices better and more targeted opportunities to counter the narrative, veering susceptible individuals away from the radicalization process. The target population consists of those in an extremism-prevalent geophysical location who are exposed to both extremist and counter-extremist material. Intensive interviewing techniques permit the research staff to identify particular tactics employed by the extremist movements, permitting more accurate counter-narrative targeting by credible voices. Benefits of this inquiry have long-lasting and far-reaching applications in the United States overall objective to disrupt, dismantle and defeat foreign terrorist organizations. Once credible voices have been verified to prevent radicalization, they can be established in any geographic region where a type of extremism can be identified (through replication studies). They can be used to prevent many varieties of extremist messaging, can collaborate with anyone from local organizations to the Federal Government and even have the potential to develop a global network of credible voices.*

### INTRODUCTION & RESEARCH INQUIRY

Counter terrorism is a growing field of research with nearly endless facets of study and one of the most important areas of specialization for criminal justice research. Following the September 11 attacks, academic research surged, inquiring into nearly every aspect of terrorism, asking questions such as: Why do Muslim extremists specifically target the west? Why do they choose their tactics? How do these organizations maintain themselves? How can we stop attacks from happening? The types of explorations are nearly endless and vast in terms of their scope of interest. The precise question guiding this inquiry is: How can we stop radicalization from occurring in the first place?

I propose that the presence of a credible voice in an environment where terrorism is widespread can prevent the radicalization of susceptible individuals. Credible voices are familiar figures in local communities who exert influence through the internet, video camera messages (and other means) who may have a mass appeal to younger audiences and can serve as vehicles to counter extremist messages (International Centre for Counter-Terrorism (ICCT), 2014). Like the definition of terrorism itself, the conceptualization for credible voices varies among U.S. government agencies. For the purposes of this review, a credible voice is operationalized as: a religious official, based in a geographical location where extremism is prevalent, such as the Middle East, who is actively preaching against the thoughts and behaviors of radical movements. These individuals, groups, or organizations are at the forefront of extremism and terrorism and they are likely to have contact with individuals who have the greatest potential to become radicalized.

Within the government, the use of credible voices falls under the classification of Countering Violent Extremism (CVE) measures. While military actions should be high priority objectives, CVE efforts must attempt to “stem the tide of new extremists” (Borum, *Radicalization into Violent Extremism I*, 2011). Therefore, the unique position of credible voices in a select community allows them a tremendous opportunity to counter an extremist narrative and present other pathways. The key inquiry is to determine whether these figures prevent radicalization in at-risk individuals.

Radicalization is a socialization process by which individuals come to believe that their engagement in or facilitation of non-state violence to achieve social and political change is necessary and justified. This process, called radicalization into violent extremism (RVE), is defined as: the process by which people come to adopt beliefs that justify and compel violence, and how they progress from thinking to action (Borum, *Radicalization into Violent Extremism I*, 2011). Radicalization is one of the first steps towards extremism and terrorism, followed by mobilization, or, taking action. On a related note, many people who become radicalized never mobilize, but those who mobilize are radicalized extremists. The focus of this research is to target those susceptible to radicalization and, therefore, not already mobilized. However, there is potential for credible voices to influence those who are actively engaged; if a radicalized individual is planning to carry out an attack, credible voices may undermine the justification of their violent behaviors. Discrediting the violent ideology may have a prevention effect on those who adhere or sympathize with it.

Credible voices are applicable to any variety of extremist thought, including the more domestic and prominent right and left wing extremism. This research will focus on extremist movements claiming to be of Islamic origin. Al Qaeda, Boko Haram and the Islamic State, some of the most extreme and well known organizations claim to be based in Islamic script and ideology. Furthermore, scholars distinguish between Islam and Islamism (or Jihadism), explaining that Islam is a

religion that in modern practice does not encourage the hatred of non-Muslims and neither mandates nor justifies the killing of civilian non-combatants. Islamism/Jihadism refers not to a religion, but to a totalitarian political ideology driven by strong anti-Western and anti-democratic sentiment. The goal is conquest of the world by all means (Mozaffari, 2007). Militant leaders have been able to use the religion as an effective platform to deliver extremist propaganda. Evidence of this distinction rests in the fact that the vast majority of practicing Muslims do not adhere to violence and proponents of the militant ideology are not religious.

By investigating the presence of credible voices in communities, researchers can measure the potential effect on radicalization prevention. This research outline proposal serves as a basis for counter-terrorism and CVE campaigns: identifying powerful voices in presenting counter extremism narratives, it may not just prevent mobilization, but it could avert the radicalization process entirely for some individuals. Subsequently, similar programs can be implemented in various geographical regions due to the flexible nature of credible voices. Future inquiries can further provide greater validity, generalizability and falsifiability through replication studies.

#### RESEARCH JUSTIFICATION

The research defense for this hypothesis is: credible voices have the extraordinary potential to serve as an inhibitor to extremist activities. Terrorism expert James Forest argues that the United States and its allies must discredit and delegitimize efforts to justify terrorist violence and empower credible voices within the Muslim world. Doing this will publicly identify the contradictions and narrative weaknesses in groups, such as Al Qaeda and the Islamic State, ultimately disrupting the greater Jihadist movement (Forest, 2009).

The most effective credible voices appeal to a broad range of Muslim audiences because of their religious credentials, charisma, use of modern media, perceived independence from foreign government institutions, and lack of association with the US Government. It could be interpreted that some terrorist organizations are formed in response to foreign policy and incursion, therefore, any counter-extremist messages that are perceived to stem from the United States may not be viewed as legitimate, called a discredited messenger (Forest, 2009) However, if there is a local presence providing this counter narrative, validity may remain intact (no perceived connection with an outside entity). This is not to imply that the United States is not effective in CVE measures. To appear legitimate to the target individual's, potential US involvement would have to be concealed to high level security officials. Attractive alternative narratives can contribute to the prevention of radicalization and recruitment if they are delivered to the target audience by trusted sources (ICCT, 2014).

Previously, many religious leaders have publicly criticized Al Qaeda and associates on their employment of violence. Islamic scholar Maulana Hassan Jan

declared the practice of suicide bombing “un-Islamic;” Saudi Arabia’s top cleric Grand Mufti Sheik Abdul Aziz Al-Asheik delivered a speech to deter Saudis from participating in Jihadist activities in Iraq, and Mufti Zainul Abidin issued a fatwa to declare the Taliban “out of Islam” as a result of their failure to follow Islamic teachings (Forest, 2009). Statements and fatwas such as these undermine an extremist group’s perceived legitimacy within the Muslim world and credible voices can amplify the message to a larger audience.

### RELEVANCE TO COUNTER-TERRORISM

Following September 11, the ongoing “war on terrorism” seeks to prevent these tragedies from recurring and has since drastically expanded its scope of targets. There are many individuals and extremist organizations that perceive U.S. foreign incursion as illegitimate because it represents an “outsider” coming in to control and exert their own beliefs. Narratives are much more powerful when coming from a source that is a perceived “insider.” Counterterrorism officials and scholars must acknowledge the value of credible voices because they can have a greater influence over a specific area and may be able to prevent radicalization more effectively. The US can work with these individuals or organizations to develop counter-extremism strategies and reduce the number of radicalized individuals, potentially diminishing the prevalence of terrorist groups.

Furthermore, this is applicable on the domestic front. (The general public tends to focus on Jihadi extremism; international threats overshadow domestic ones in the public eye. Because credible voices are flexible from one ideology to another, they can easily be applied to (homegrown American extremism, ranging from right wing to left wing to single issue organizations. It is a precarious challenge because being a member of domestic groups is not illegal and intervening in legal, yet potentially dangerous acts, is infringing on an individual’s rights. Credible voices can still be utilized to divert radicalization into violent extremism, and potentially defect from the ideology. Additionally, this can be implemented in online forums to prevent self-radicalization. Further research must need to conducted to determine the reliability of this application.

### LITERATURE REVIEW

Very little research is publicly available when researching credible voices and their prevention effects in current literature. Numerous academics mentioned that local sources are the most powerful form of counter-terror and radicalization prevention, but no in-depth research on that effect was conducted. American University Assistant Professor and Terrorism Expert Dr. Tricia Bacon recently stated that much research on credible voices is classified and therefore, not available to the general academic population (T. Bacon, personal communication, December 13, 2016). The available professional literature is concerned with the question of why

someone adopts these beliefs and potential behaviors through different levels of analysis.

Most of what has been written about radicalization is conceptual rather than empirical (Borum, *Radicalization into Violent Extremism I*, 2011) and recognizing this gap in research provides the opportunity to close it. In addition to examining radicalization as a social movement, this article also posits a flexible research blueprint to be used in future inquiries. Before delineating the outline, a brief review of previous research will assist in comprehending the phenomenon. Radicalization is a complex social process and a basic understanding of that process is necessary when theorizing about its prevention. Without a comprehension of the radicalization process and how credible voices are related to it, the effect of credible voices does not have a medium in which to be understood.

An operational definition of “radicalization” poses a challenge itself; numerous different law enforcement agencies and CVE efforts create a definition molded by their own organizational goals and the sociological or psychological aspects they choose to base it on. There are working definitions that focus on violent radicalization, group dynamics while others adhere to an individual learning process. Radicalism can be viewed as set of diverse processes and reviews potential theories best suited for further study of these processes (Borum, *Radicalization into Violent Extremism I*, 2011).

Outside the academic realm, government officials recognize the significance of creating indigenous rejection of extremist ideology. Because credible voices are community-based, their rebuffs and criticisms of terrorist ideologies are viewed as more genuine and can have long term effects on the overall deradicalization process in certain populations. Under Secretary for Civilian Security, Democracy, and Human Rights Sarah Sewell argued for the use of more enduring CVE tactics:

CVE helps build resilience within individuals and communities. CVE is proactive – programs, institutions, and actors working to undermine the attraction of, and recruitment by, violent extremist movements and ideologies that promote violence. ... Tools such as messaging and amplifying credible voices are used to expose the dead-end lies of violent extremism and build positive alternatives such as what a future without violence looks like (Sewell, 2015).

For example, Al-Qaeda seeks to win the “hearts and minds” of the people, like the action the Islamic State is attempting to undertake. Counter-ideology messages promoted by credible voices should highlight the disconnect between fact and ideology and enlist allies within the Muslim world, the credible voices who can “help us achieve our strategic influence objectives” (Forest, 2009).

Credible voices are one of various strategic methods that can be advantageous in diverting the radicalization progression. They are an exceptional resource that need to be utilized more to have a greater effective in combatting extremism. Cohen argues that the United States needs to “drain the swamp” of potential recruits by overwhelming the target populations with alternatives,

opportunities, and choices that are driven and disseminated by local messengers (Cohen, 2009). Not only do the U.S. government and NGO's (Non-Government Organizations) need to network these local entities to divert radicalization away from extremist ideology, but involve these voices and figures in strategic communications efforts.

More recently, the former Deputy Secretary of State Anthony Blinken remarked on the importance of empowering local credible voices to combat violent extremism. The former Deputy Secretary reviews the current policies employed by the United States in the war against extremism and terrorism: training, equipping, and advising local partners; stabilizing and rebuilding liberated areas; stopping the flow of foreign fighters into and out of Iraq and Syria; providing life-saving humanitarian assistance, and more. He stated that winning this war on terror will need to include more than blunt military force. Blinken developed a strategy to prevent and counter violent extremism, governed by five core priorities. The most relevant is that engaging and amplifying local credible voices can expose the true nature of violent extremism. Counter-terrorism officials must empower those who are indigenous, including disillusioned returnees, religious leaders, women, and young people, to successfully dispel extremism and avoid radicalization (Blinken, 2016).

In sum, government officials recognize the utility of credible voices in the fight against extremism and terrorism. However, this sentiment hasn't garnered scholarship on the topic. Even considering the classified nature of credible voices, it doesn't fully explain why there is little academic interest. Using publicly available sources, this inquiry seeks to bridge that gap by establishing the initial link between application and academia and proposing a flexible research outline.

## THEORETICAL BASIS

For the purposes of this research inquiry, I establish my theoretical basis in Social Movement Theory (SMT), one of the most promising theoretical frameworks to understand radicalization processes and violent extremism. A social movement is defined as:

“A set of opinions and beliefs in a population, which represents preferences for changing some elements of the social structure and/or reward distribution of a society” (McCarthy & Zald, 1977).

Terrorism is a form of political violence and insurgency, analyzable with the social movement approach of mobilizing resources, replenishing those lost in the movement, and framing. Applying the social movement definition to the Islamic State (IS), their opinions and beliefs include their false sense of superiority, willingness and encouragement to engage in violence in the name of Allah represents. It desires to govern territory, transforming it into an Islamic State and modeling its social structure after Shari'a law, meaning that IS has to change the

entire social structure of governed territory. The primary task of any organization or movement is to maintain its own survival; this requires maintaining a body of supporters and replenishing those individuals who are lost in the process (McCarthy & Zald, 1977), most commonly through death or defection. New members must be added for the movement to grow and expand its influence.

An applicable subset of SMT is Framing Theory, which focuses on how movements and social collectives construct, produce and disseminate meaning. This is a recursive process in which the movement's leadership attempts to frame messages in ways that will best resonate with the interests, attitudes, and beliefs of its potential constituency. Essentially, this is a process by which the organizational leaders shape messages in ways that will best appeal to the feelings and religious values of its potential recruits. Thus, recruitment, networking and growth is necessary for the movement's survival. As people accept the movement's frame of reference, they increasingly come to identify themselves with the inclusive organization (Dalgaard-Nielsen, 2008). Extremist organizations utilize these principles to spread their messages in hopes of radicalization and recruitment.

In the case of terrorist movements such as the Islamic State (IS), framing is an incredibly powerful tool. Put simply, framing theory suggests that how something is presented to the audience (called “the frame”) influences the choices people make about how to process that information (Chong & Druckman, 2007). Frames are abstractions that work to organize or structure message meaning. If IS disseminates an image of the organization that depicts violence, brutality, and hatred for other religions, it may only reach out to a small population. However, if that message crafts to promote itself as freedom fighters, defending the region from foreign invaders and infidels, it will resonate with a broader audience favorably and appeal to a wider range of consumers. Identifying the specific frames of reference that come with each IS message provides credible voices with a clear target and can utilize this information to design their own counter-narrative.

Application of SMT and Framing to terrorism and CVE research is recent and still very sparse. Donatella Dell Porta is among the first to connect SMT concepts to violent extremism in her research on Italian and German militants (Della Porta, 2006). Additionally, Wiktorowicz conducted an in-depth study of how people came to join the militant Islamist group Al-Muhajiroun and developed a multi-component developmental model for radicalization. Those who became radicalized first revealed an openness to new worldviews (cognitive opening), then came to view religion as a path to find meaning (religious seeking), eventually found the extremist groups' narratives to make sense (frame alignment) and through socialization, ultimately became fully indoctrinated into the movement (Wiktorowicz, 2005). This application of SMT to terrorism research allows CVE organizations and initiatives to identify which component to target and employ credible voices to disrupt the delivery of the extremist message.

An additional concept gleaned from SMT and applied to radicalization is biographical availability. This notion focuses on the individual level of analysis inference to group participation and membership. Biographical availability is defined as: the absence of personal constraints that may increase the costs and risks of movement participation (McCauley, 2016). Individuals with personal constraints such as having a spouse, children, a full-time job, etc., are generally less available to the time-consuming commitments of political activism. Using this information, credible voices can identify those are less susceptible to radicalization, permitting them to hone in on those with a high risk (fewer personal constraints).

Viewing violent extremism within a social movement lens allows a different conceptualization of the problem with several potential insights for understanding the radicalization process (Hanson, 2007). First, it provides the framework of “mobilization potential” to consider the process by which a movement’s members are developed. Second, it offers the notion of “recruitment networks” for navigating the processes by which those networks are molded. Third, it offers the concept of “frame alignment” to explain how the networks shape members’ beliefs and sentiments to align with the interests of the group. Fourth, it points out the importance in understanding radicalization of not only analyzing incentives and grievances, but also how groups identify and remove barriers to participation (Borum, *Radicalization into Violent Extremism I*, 2011). By using SMT to identify these tactics employed by extremist movements, it provides credible voices with a window of opportunity to disrupt the identification process and prevent radicalization more effectively.

SMT can contribute a necessary conceptual paradigm for understanding terrorism and developing specific applications. Cultural perspectives call attention to issues of collective identity that allow for sustained militancy, and movement research recommends alternative conceptions of terrorist networks. Research on movement outcomes suggests broader ways of considering the effectiveness of political violence. In sum, a social movement approach to terrorism has much to contribute, and research on terrorism could have important extensions and implications for social movement theory (Beck, 2008).

Utilizing SMT and Framing Theory to identify terrorist organizational strategies provides a way for the credible voices to counter the violent messages more successfully. Recruitment, networking and growth are critical to the sustainability of terrorist organizations; targeting these pillars of sustainability will upset the survival of the group, ultimately weakening them. Credible voices disturb the movement’s frames of reference and prevent people from identifying with the collective group. Terrorist organizations must be incredibly savvy at disseminating their violent messages to recruit individuals and further obtain their own organizational goals. Disrupting the identification process with the movement renders the messages defunct.

## SAMPLING, DATA & METHODS

### *BASIC HYPOTHESES*

Future exploration of credible voices and radicalization prevention will need to delineate research hypotheses, curtailed to the specifications of the study. Modifiable hypotheses about the conclusions are below:

$H_0$ : The credible voices do not have an effect on radicalization prevention.

$H_A$ : The credible voices do have an effect on radicalization prevention.

If this research fails to reject the null hypothesis, it may call into question the validity of credible voices and could potentially discourage additional academic inquiry. However, if the null hypothesis is rejected, there is a demonstrable effect of the credible voices, providing a foundational basis on which to build similar prevention programs. This calls for further academic replication and reliability measures.

### *SAMPLING & DATA*

The target population of this research inquiry are those in a geographic region where extremist ideology is present, and who are either neutral or quietly sympathize with local extremists. For this type of research, there will be a focus on the communities that relevant actors identify as vulnerable to violent extremism. These are the individuals perceived to be the most at-risk for radicalization. Attempting to find this at-risk population can be both challenging and dangerous. To collect an adequate sample of individuals, the research team should first contact a local credible voice in a predesignated geographical area. Most commonly, in the context of Jihadism, this is as a religious official and/or organization who rebuffs terrorism and other violent means.

This person or congregation of people would then put the research staff in contact with adolescents and young adults they distinguish to be at risk for radicalization. This process of requires spending time within the local community to earn the trust of the people and be viewed as “legitimate.” This endeavor alone is extremely time-consuming and may take months, if not longer, but is critical to have the community cooperate in this undertaking. After the credibility of the research staff is established, snowball sampling would be employed until an adequate sample is obtained. Unfortunately, reaching a representative sample in this inquiry is highly unlikely. The realistic sample size should include at least 50 individuals permitting the use of z-scores in quantitative analysis. To encourage involvement, financial incentives should be offered to both those who recommend others and those who complete full interviews with the staff.

Snowball sampling is the most appropriate method of nonprobability sampling because our target population is incredibly difficult to reach (Bachman

et. al, 2017). The research team would need assistance from the credible voice just to find the initial “snowball.” While recognizing that the first contact may shape the entire sample, there simply is not any other viable recruitment option when attempting to find the target population and reach out to them could mean stumbling across members of extremist group. The potential ramifications could result in harm to the research staff, the participants and the credible voice assisting with the research.

*METHODS*

Due to the nature of this inquiry, it would be classified as qualitative rather than quantitative. Because it would take place in a geographical location where extremism is prevalent, there would be a population of sampling units who have experienced the messaging tactics of both the extremists and the credible voices. The research team would attempt to reach out to those individuals who have not been radicalized, presumably those who the credible voices have veered away from the extremist ideology. This may produce a biased result, as the inquiry does not include those already radicalized, but that is due to the nature of this research. Radicalization prevention is the focus, requiring non-radicalized individuals. These individuals are qualified to speak about this subject matter because it is persistent in their everyday lives and it may have negatively affected them directly, their family members and/or their peers. Because they experienced the brunt of extremism and rebuffed it, they are qualified to speak to the effectiveness of the credible voices countering the radicalization messages.

Once the participants are located, intensive interviewing methods such as semi-structured questions would be employed, safeguarding the subjects with the opportunity to interject information that may not be directly questioned by the researchers. Staff members who have become familiar faces within the community would be conducting the interviews to make the participants more comfortable. Information would be collected until the saturation point is reached, for gaining insight and providing of reliability to the participants’ accounts, thereby lending validity to the overall research study.

When gathering the data from the participants, we would request that the interviews be recorded to easily be reviewed at a later time. If the subjects decline, one member of the staff would conduct the interview and another to take notes. This could have implications on how candid the participants are, even if they agree to the recording, but the relationship with the interviewer should negate this effect. Recording permits the interviewer to engage in active listening, to focus on and ask questions without being distracted by note-taking. Also, because of this qualitative nature, the staff would inquire about the specific details of some activities, rather than the frequency in which those activities occur. Records and jottings will be maintained to demonstrate similar themes throughout the accounts, but will specifically be focused on how the credible voices more significantly influenced the

participants than the extremist messaging.

Additionally, the role of the research staff would be that of a complete observer. I selected this method to reduce the danger to both the research team and the participants involved. When conducting this study in a region with widespread extremism and terrorism, maintaining the safety of everyone involved is the top priority. Taking on any other role (such as participant/observer or covert participant) places the staff in extreme danger because most often, in these regions, the local credible voices are inherent targets to the radical extremists. An advantage of this is that if any danger occurs, we can cancel the study immediately and remove the staff from the area. Furthermore, by remaining a complete observer, the staff does not run the risk of asking suspicious questions and “blowing cover,” the team is able to inquire about any activities without rousing distrust among those being examined.

*CONCEPTUALIZATION & MEASUREMENT*

Concept	Variable	Indicator	Responses
Preventing Radicalization	Visiting extremist or terrorist websites	How often in the past six months have you visited a website featuring extreme religious views? <b>Other possible indicators:</b> How often do you attend events that feature extreme religious views? How often do you engage in activities (such as rallies) that promote extreme religious views?	1. Never 2. Rarely (Once every few months) 3. Occasionally (Once a month) 4. Often (A few times a month) 5. Regularly (once a week) 6. Very frequently (multiple times a week) 7. Daily

Although there are a multitude of indicators that can be posited for measuring radicalization (see above examples), I recommend using extremist websites because it can be regarded as a thorough exposure to radical ideology. A curious individual may become aware of an extremist group through family, peers or local propaganda, and may explore that group’s ideology through their website. Another reason for choosing this medium is because extremist movements will often provide their own justification and source of legitimacy on their website, providing a frame of reference for the audience. Validating the cause allows the spectator to understand and sympathize with their plight (one of the first steps in the radicalization process). The selected indicators do have potential to produce biased results. Indicators may be modified to measure the dependent variable according to the specific nature of future application. To make this more covert, the word “extreme” could be replaced

with something softer, such as “unconventional” as not to condemn the participant.

The responses can be coded on both a nominal and an ordinal scale. On a nominal scale, we can create different categories and record the number of responses for each category (how many participants answer with “Never” or “Regularly” or “Daily”) to record which frequency level is most common. Additionally, on the ordinal scale, we can identify that someone who selects “Very Frequently” is consuming extremist material more often than someone who selects “Rarely;” however, any absolute mathematical distinctions cannot be made between the categories. Classifying responses on both scales provides a greater comprehension of our collected data.

Summed up, the based proposal is: measure the frequency with which the participants view the extremist websites based on participant feedback in conjunction with recording their attitudes toward extremist ideology, followed up with having the credible voice interact with the participants attempting to counter the violent message. Then, after a period of six months, the researchers would then again measure the frequency that the subjects are viewing the extremist material and record their attitudes. If there is a significant decrease in viewing the online material and a change in opinion toward extremism, then the credible voices demonstrate an effect, rejecting the null hypothesis. If there is no change in frequency or opinions then they have no (significant) effect, failing to reject the null hypothesis,

#### TYPE OF NARRATIVES

When determining alternatives to violent extremism, there are multiple pathways that can be presented. Below is a baseline of six different types of counter-narratives relevant to terrorist organizations.

- *Strategic Counter-Narratives*: Valuable for governments wishing to condemn violent extremists and their efforts. While strategic counter-narratives are often a necessary response to a crisis or an attack, these are not necessarily intended on reaching the individuals that are already supporting extremist organizations.
- *Tactical Counter-Narratives*: Emphasize that violence in the long run is often less effective when compared to more peaceful methods, and not useful to an organizations’ overall reputation and objectives. A variety of messengers can utilize this, including governments and community-based organizations.
- *Positive & Alternative Narratives*: Focuses on creating proactive, positive messages, rather than reacting to extremist messaging. Creating alternative narratives provide the audience with an opportunity to adhere to a positive ideology before being exposed to a radicalized version of one.
- *Ethical Counter-Narratives*: Points out that violent action is not a moral

way of achieving aims. They may be useful if the messenger has ethical or moral influence over the target audience. These arguments may not be religious in nature, but rather point out the commonalities between all humans, and call for a better cooperation between all nations and peoples.

- *Ideological & Religious Counter-Narratives*: Beneficial if the messenger has religious authority in the target community (such as Islamic scholars, imams and community-based religious leaders). Governments making religious arguments, especially Western governments, can be counter-productive, and the (credibility of the) messenger is particularly significant in this context.
- *Humor and Sarcasm*: Humor and sarcasm may be useful in delegitimizing the narrative of violent extremists in certain instances. A downfall to consider is that using humor may not reach the intended target audience, and only reinforce the absurdity of terrorism to the general public that already does not support terrorist organizations (ICCT, 2014).

For this research, an amalgamation of Positive & Alternative and Ideological & Religious counter narratives will be employed. The research team should identify credible voices in the region, then select those organizations with this type of message. An example of this type of combination would be a respected, well known religious official who not only argues against a terrorist ideology, but provides positive messages about Islam as a peaceful religion. Someone of this nature would provide opportunities to express grievances and encourage those to become activists rather than terrorists. This is the ideal messenger we would like to examine; however, given the regional parameters, the availability of messengers will shape the research. This leads to the possibility that we may end up examining a credible voice that promotes one of the other types of narratives. Alternatively, the research team could examine which narrative has a greater effect on radicalization prevention, transforming a limitation into an opportunity.

#### POLICY IMPLICATIONS

The effect of credible voices on the prevention of radicalization is classified as applied research because it will have a substantial impact on counter-terrorism policy decisions (Bachman et. al., 2017). Over \$16 billion annually is spent on counter-terrorism efforts (Desilver, 2013); if this research demonstrates that credible voices are effective then funds can be allocated to implement this program to a greater region.

This also has potential implications for military and foreign policy. If the influence of credible voices is an effective preventive measure, then over time, the pool of potential recruits could be drained, leading to reduction in military aid.

Additionally, establishing a global network of credible voices is far more diplomatic than foreign incursions. Global coalitions foster a sense of comradery; amicable worldwide cooperation has enormous benefits for nearly every country affected by extremism. This may not be universally applicable due to state-sponsored terrorism (generally defined as terrorist activities or movements that are actively supported by a country or governing state), but credible voices are designed to be most influential at the micro-level of analysis. State sponsored terrorism, while still a treacherous international threat, cannot be diminished by local religious authorities, as they target the individuals comprised of the group the state supports.

Terrorism prevention and credible voice research has implications on the economic front as well. Short-term impressions of terrorist attacks (committed in other countries) are often minimal in the United States and other developed nations. Market resilience, however, does not necessarily apply to countries that see repeated violence, such as in Egypt, and where much of a national economy depends upon tourism revenue. The decision by the UK and Russia to halt flights to Egypt immediately after the downing of a Russian passenger plane over the Sinai resulted in a high number of hotel and restaurant cancellations in Egypt. These short term losses have had a profound impact on Egypt's struggling economy and could cost the country \$280 million per month due to flight cancellations (Moreau, 2015). More prominently, the wars in Iraq and Syria have devastated these countries' indigenous economies, causing inflation, high unemployment, labor migration, and overwhelming amount of damage to key infrastructure. This trend is likely to continue in both countries until stability is achieved. With the assistance of credible voices in extremism reduction, this economic stability can be achieved.

The implications of this research are more long-term oriented than traditional counter-terrorism or CVE measures, which may not be appealing to policy makers. However, if the research on the prevention tactics of credible voices can be validated and proven reliable, there are significant implications on both domestic and international fronts, including United States National Security Policy, Foreign Policy, international relations and the local economies.

## LIMITATIONS & ETHICS

Engaging in primary data collection from human subjects for such a delicate and controversial matter can produce extraordinarily useful information, but does not come without risk. To conduct this research, everyone from the staff to the participants could be placing themselves in a position of being considered a target. To extremists, a credible voice is a threat. Respected community officials not only question the strong belief that violence is necessary and justifiable, strongly held by terrorist organizations, but actively rally against it and offer alternative narratives. Because of the target population, the team would be in close proximity with those credible voices, theoretically making everyone involved an enemy by association.

Since this research seeks to study if credible voices can prevent radicalization

among those sympathetic to a particular extremist cause, there is the possibility that those sympathizers may not desire to participate due to fear or retaliation from the extremist groups. One way to combat this is to provide both confidentiality and anonymity to those participants, thereby shielding them from potential harm. With those safeguards provided, individuals may feel safe and comfortable, generating more accurate and valid research results.

The inherent nature of qualitative exploration presents systemic limitations as well. Because of the relatively small sample size, generalizability is questionable. However, taking into consideration that the population of radicalized individuals is intrinsically small, sample generalizability may be greater than anticipated. Findings can also be transferred to another setting for replication (such as other geographical locations or an online environment). Furthermore, the sheer volume of data makes analysis and interpretation time consuming for the research staff, naturally making this undertaking long-term.

However, the strengths of qualitative inquiries are much more powerful than the hindrances. Obtained data based on human experience is influential and dramatically more captivating than quantitative data. Subtleties and complexities associated with the research subjects and topic may be unnoticed or disregarded when collecting purely quantitative data. In-depth analysis of the intricacies of credible voices permit a comprehensive understanding and how their message is delivered to susceptible individuals, how those individuals interpret it, and whether it is more dominant than extremist messages or has no effect.

Furthermore, in terms of the content validity of conceptualization and measurement, this type of study makes various assumptions about the subjects involved. It assumes that the participants are not being exposed to extremist messaging in any other form (since we'll be studying in an area where extremism is prevalent, this is highly unlikely); that viewing the extremism material online means that a subject is at a greater risk of becoming radicalized (which is a generalization) and; that the particular credible voice working with us will use tactics to appeal to our subjects (maintaining their interest). These assumptions may interact with the participants in such a way that it has the potential to invalidate any effects the study may find.

## DISCUSSION & CONCLUSION

The benefits of researching the effectiveness of credible voices have long-lasting and far-reaching applications. Once credible voices have been verified to prevent radicalization, they can be established in any geographic region where a type of extremism can be identified. They can collaborate with anyone from local organizations to the U.S. Federal Government, the United Nations, and even have the potential to develop a global network of credible voices. This has important implications for policy as well; government representatives may create their own programs to aid and empower credible voices combatting extremism and terrorism

locally and globally. By targeting the first step toward radical extremism, this initiative takes a proactive approach rather than a reactive one (such as the “war on terror”). Preventative measures, as a whole, are far more effective and focusing resources on this stage of the radicalization process may be able to prevent potential terrorists from engaging in the movement to begin with.

In the words of former Secretary of State John Kerry, “eliminating the terrorists of today with force will not guarantee protection from the terrorists of tomorrow.” No matter how many terrorists are brought to justice, killed in airstrikes, or defect, those organizations will continue to replenish their movements. He states we need to do more to prevent young people from turning to terror in the first place (Blinken, 2016). Credible voices are the resources designed to be effective on this micro-level of analysis. They reach out to people who are susceptible to stop the radicalization process before it begins. Individuals who turn to extremism are family members, peers and acquaintances. National security strategists need to reach out on an individual level to understand this process, identify vulnerable targets, take prevention efforts and divert the radicalization process entirely.

In a recent policy briefing, the Institute for Strategic Dialogue proposed increasing counter-messaging, counter-narrative and alternative narrative activity as well as building the capacity of credible messengers. Four recommendations were made:

- Governments should make significant investments in building the skills and expertise of the most effective counter-messengers, such as credible voices, to build their capacity in technology, production, communications, and local campaigning.
- Governments should use their convening power to bring the private tech sector to the table as their expertise can help the voices of credible messengers.
- Governments should fund centralized information gathering to provide economies of scale and ensure that effective counter-messengers have the information they need to work, such as analytics, audience profiling, and the sharing of good practice in alternative and counter-narratives.
- Government must work multilaterally to pool resources in this area, taking an active role in streamlining the cross-border exchange of expertise and lessons learned in capacity building (Briggs & Feve, 2013).

Countering the narrative of extremist organizations, such as Al-Qaeda and IS, is just as imperative as controlling and diminishing its violence, since both movement’s narratives brings new recruits into its ranks. Interrupting the flow of their network will have damaging effects on the ability of their target audience to identify with the movement. This process of disruption leaves sympathizers unable to associate themselves with the activities of the movement, leading people to shun

extremism.

Working on the community level is key. Community leaders that are informed of potential radicalization and recruitment to violent extremism in their own communities are better partners in efforts to counter violent extremism in those communities. Micro-level analysis and implementation can identify and cater specific needs on an individual basis. Governments can provide the tools and resources for monitoring and countering extremism, assist communities in creating a space for counter-narratives, be open and transparent in their efforts to stand up to terrorist organizations, and address genuine and realistic grievances that may contribute to radicalization and recruitment (ICCT, 2014).

The most powerful aspect of these credible voices is their proactive approach. As long as counter-terrorism measures solely focus on reactive efforts, the problem of radicalization and extremism will never be tackled head on. Reactive methods specialize in the after-effects once radicalization and mobilization have already occurred. Credible voices, however, directly target those processes to prevent them from happening. Government officials from around the world recognize the overwhelming significance of these voices and advocate for establishing them as a network or an NGO. Prevention is as vital as eradication. Long-term strategic planning to counter terrorism must account for, if not emphasize, terrorist radicalization and recruitment (Borum, *Radicalization into Violent Extremism II*, 2011). Despite this, research on the effect of credible voices (proactive measures in general) is incredibly scarce. Academics have only just begun theoretical applications to extremism and this inquiry seeks to fill that gap with SMT and inspire others to do the same.

Credible voices are a very flexible topic, applicable to all types of extremist ideology. I have applied the principles of SMT and Framing theory to Jihadi extremism, utilizing their concepts to identify specialized tactics undertaken by extremist organizations. By doing so, credible voices and similar messengers can refine their own tactics to counter them more effectively. By incorporating the credible voices into a long-term counter-terrorism approach and utilizing them as resources in terrorism-prone regions, we have a greater chance at preventing radicalization and subsequent terrorist attacks.

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## THE PATIENT PROTECTION AND AFFORDABLE CARE ACT: AN ANALYSIS OF OPTIONS

Henry Watson

### ABSTRACT

*This policy memo evaluates several policy options which would strengthen and improve the Affordable Care Act (ACA), without dismantling it. The key problem is that the cost of health insurance has risen dramatically for consumers who rely on the Affordable Insurance Exchanges, while private insurers leave the marketplace. Costs are set to rise by an average of 25% in 2017. Currently, political momentum is in favor of a repeal of the ACA, which would have serious consequences. However, the following options could fix the problems currently associated with the ACA (a general public health insurance option, an expansion of Medicaid and Medicare, Reinsurance and Risk Corridor programs, and increasing the individual mandate tax penalty) without carrying out a harmful repeal. The general public option is ultimately recommended as the most effective way to control the cost of insurance on the Exchanges while keeping government costs at a manageable level and not reducing the insurance rate.*

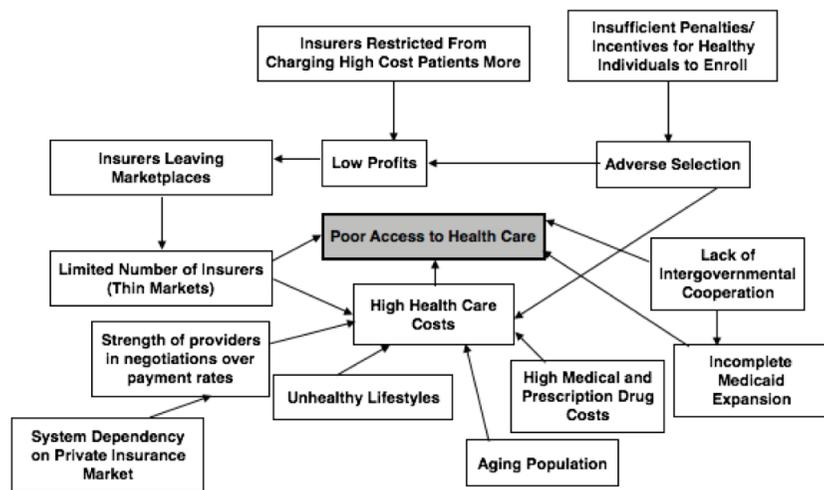
The Patient Protection and Affordable Care Act (ACA) was signed into law in 2010 with the goal of expanding insurance coverage and health care access, while reducing overall costs. The current political debate concerns the 3% of Americans (approximately 10 million people) who receive care and insurance through the Affordable Insurance Exchanges (Grunwald, 2016). Recent market problems on the Exchanges have heightened pressure to either improve the law or repeal it. Too few private insurers are able to manage the financial costs of insuring patients through the ACA Affordable Insurance Exchanges (the Exchanges), leading to their pullout from the program. This action will reduce competition on the Exchanges and likely increase the cost of health care premiums for individuals not covered by their employers; this will affect rural areas most severely. The problem is likely to continue as long as the current model, which is financially unsustainable for private insurers, remains in place.

UnitedHealth Group Inc. announced on April 19, 2016, that they would withdraw from “most” of the 34 states they currently cover, citing expected losses of \$650 million from participation on the exchanges in 2016 (Johnson, 2016). Aetna announced on August 16, 2016 that they will be reducing their coverage from 15 states to 4 states, citing losses of more than \$430 million since January, 2014

(Johnson, 2016). In addition, Humana will reduce coverage from 15 states to 11 states, the small startup Oscar Insurance Corp. will be scaling back, and Cigna has announced that they are losing money on the Exchanges (Humana, 2016; Tracer, 2016; Johnson, 2016). These private insurers (among others) have been unable to make participation on the Exchanges profitable.

Some of the difficulties faced by insurers are caused by key provisions of the ACA itself: insurers cannot charge exchange customers more (or less) than the general marketplace, exchange customers tend to be sicker (and thus more expensive), all non-health care expenses above 20% of premium dollars must be reimbursed to customers, and companies are prohibited from discriminating against high-cost patients (Aaron, 2016). One report from BlueCross BlueShield found that new enrollees after the ACA was passed had monthly costs approximately 12% higher than those who had enrolled prior to 2014 (BlueCross Blue Shield & Blue Health Intelligence, 2016). The individual mandate was intended to bring in enough healthy individuals to counterbalance these provisions and counter adverse selection, but it has not been sufficient in actuality. There were also three risk stabilization programs in place to assist insurers with higher-than-expected costs, but their funding has since been reduced (Mershon, 2016 & Park, 2014).

When insurers pull out, competition/options on the exchanges decrease, and premium costs increase. According to research by the Kaiser Family Foundation, the number of enrollees with only 1 option is expected to rise to 19% in 2017; up from 2% in 2016 (Cox, 2016). Data from prior years shows that less competition is correlated with higher prices for enrollees (Blumberg, 2016). In 2017, the cost of an average plan is expected to rise by an average of 25% and in some states costs will increase significantly more (Pear, 2016). This impacts the government as well as consumers; as premiums increase, the cost of subsidizing care for low-income Americans also rises. Reducing premium prices would lower government costs.



Americans have poor access to health care for a myriad of reasons. Some are fundamental societal flaws, such as unhealthy lifestyles, an aging population, and high costs for medical procedures and prescription drugs. The most important systemic, policy-related cause of poor access to health care, however, is the thin private insurance market. Firstly, adverse selection is present in the health insurance market, meaning high-risk individuals are more willing to purchase insurance coverage. These people are more expensive to cover, and insurers rely on healthier, lower risk individuals to enroll as well to balance the pool of risk. This problem is heightened on the Exchanges, where participants tend to be lower-income and higher-cost than the general population. These high costs lead to a thin market where only a small handful of insurers can afford participation on the Exchanges. Lack of competition further increases premium prices, and consumers also suffer from reduced choice. There is also a thin market of hospitals, who have a strong enough market presence to impose high payment rates on insurers.

Some of the poorest and highest-cost patients in the United States are covered by Medicaid, a government health care program. When health reform was passed, the federal government raised the mandatory minimum Medicaid income eligibility level to 138% of poverty, with the funding coming almost entirely from the federal government (Paradise, 2015). This policy may have helped alleviate the high cost of care on the Exchanges by moving some individuals to a government program. However, the Supreme Court ruling in *National Federation of Independent Business v. Sebelius* (2012) found the enforcement mechanism in violation of the constitution, and made Medicaid expansion voluntary (Mitchell, 2016). The 23 states that did not adopt the expansion had an average uninsured rate of 12.3% in 2015, compared to an uninsured rate of 7.2% in the states that chose to expand the program (Broadus, 2016).

The main effectiveness criterion for the policy is that it slows the rate of increase in the cost of health insurance premiums on the ACA Exchanges to a level in line with expected yearly trends (approximately 2-3% annually) (Claxton et al., 2014). The cost of health care naturally rises year-to-year regardless of factors such as competition and the risk pool, but the rate of increase can and should be pushed far lower (Gabel, 2011). A subsidiary effectiveness criteria is to increase consumer choice on the Exchanges. In 2017, five states will only have one insurer offering coverage (Cox, 2016). A single insurer covering an entire state's Exchange could lead to monopolistic behavior, and also threatens to leave certain areas without any access to coverage. Cost must also be considered: any policy enacted must seek to do so at the lowest cost possible without sacrificing effectiveness.

New policies should maintain protections for individuals with pre-existing conditions. While this current policy may encourage adverse selection and decrease profits, weakening or removing this protection at this point would be inequitable. As a second equity criterion, the new policy should increase or maintain the number of individuals insured. A policy that reduces costs but covers fewer individuals is

not equitable; it would disproportionately impact certain populations who would no longer receive any kind of health care. Exclusionary policies, whether through regulation, or via onerous price increases on specific populations, would not satisfy the equity criterion as stated.

Fully repealing the ACA would have dramatic consequences. Nearly 30 million individuals would become uninsured (resulting in a higher uninsured rate than pre-ACA), and a repeal would likely destabilize the individual insurance market (Solomon, 2016). According to the Urban Institute, repeal “would lead to a near-collapse of the nongroup insurance market” and “[t]o replace the ACA after reconciliation with new policies designed to increase insurance coverage, the federal government would have to raise new taxes, substantially cut spending, or increase the deficit” (Blumberg, 2016). Further, current proposals for replacement would not fit the criteria as stated. Health Savings Accounts (tax-deductible savings vehicles) would provide benefits to the wealthy, but do very little for the low-income Americans who struggle to afford insurance (Park, 2016). And creating high-risk pools (pooling together the sickest, most expensive people into a high-cost, subsidized insurance plan) “would be extremely expensive and likely unsustainable” (Hall & Moore, 2012). Making improvements to the existing system will avoid the stated consequences, ensure that patient protections are not rolled back, and guarantee that everyone currently receiving health insurance will continue to do so. Repealing the Affordable Care Act would be at best an inefficient way to increase the number of individuals receiving affordable health insurance, and at worst a direct impediment to that goal.

House Republicans have proposed the American Health Care Act (AHCA) as a “repeal and replace” measure. The legislation modifies the ACA in several key ways. It eliminates the tax penalties that enforce the individual mandate, replacing it with a new 30% surcharge on premiums for individuals who allow their coverage to lapse. The current income-based subsidies are replaced with age-based refundable tax credits, which will be significantly less generous on average. Another important change is a significant decrease in federal Medicaid spending as part of a transition to a block grant structure for the program. Finally, there are several subsidiary provisions: it funds the Patient and State Stability Fund to help stabilize the insurance market (assumedly through reinsurance/risk-corridor programs), relaxes several regulations, and repeals several taxes that helped pay for the Affordable Care Act. According to a 2017 CBO report, the American Health Care Act will lower government deficits and average premium costs, but also greatly reduce the number of insured Americans, increase the actual cost of insurance for customers, and reduce the quality of insurance plans.

The projected effects of the American Health Care Act are concerning, particularly the significant increase in the number of uninsured Americans. There are four alternative policy options which fall into two categories: government-provided health insurance, and market assistance. These alternatives would not repeal the

Affordable Care Act, and would fulfill the equity criterion of at least maintaining the number of people insured. A **general public option** would be a qualified health plan sold by an independent government corporation through the ACA Marketplaces to mitigate lack of choice and competition on the Exchanges. Consumers would purchase insurance at market price, the only government expense would be existing means-tested subsidies. A Congressional Budget Office report estimated that premium prices for a public option would be 7-8% lower (on average) than private insurance on the Exchanges due to the negotiation of lower provider rates and lower administrative costs (Congressional Budget Office, 2013). States would not have the authority to opt-out of the federal public option. One of the most important benefits of a strong public option is the ability to control the cost of health insurance by setting a price that private insurers must compete against, and introducing strong government leverage over provider rates. Sharp premium increases would be unlikely in a market with a stable public option. A 2009 Urban Institute report argued that “there is little else in health reform that can be counted on to contribute significantly to cost containment in the short term” (Congressional Budget Office, 2013). A public option would supplement, not replace, private insurers in the market. More specifically, it would be expected that private insurers would offer high deductible, low premium plans to skim high-profit healthy consumers (Barbos and Deng, 2015). Also, it would only be available for Americans eligible for care through the Exchanges, limiting the competitive threat to private insurers. The majority of Americans would continue to receive health insurance through their employers, supporting private insurers.

As a variation on a public option, **expanding Medicaid and Medicare** would place more of the poorest, oldest, and sickest Americans into a government insurance plan, dramatically improving the risk pool of the ACA Exchanges. The 32 states that elected to expand Medicaid as part of the ACA have experienced larger gains in health coverage and net budget savings (Cross-Call, 2016). Under this option, the remaining 19 states would be required or strongly incentivized to follow suit. A Medicare expansion would allow those over the age of 55 to “buy in” to the program. They would be limited to a Medicare Advantage plan, which would be in line with ACA requirements and have limited cost-sharing. This plan would be subsidized by general tax revenues to make it a competitive option against Marketplace plans. A more aggressive option is to make Medicare the only option for individuals aged 55 to 64, and subsidize it less. This would be a remedy to market non-response or budget constraints.

A third option is to extend a supply-side subsidy. Specifically, this option would **reinstate and strengthen reinsurance and risk corridors**, temporary programs originally included with the ACA that support insurers. Reinsurance collects funds from all insurers, and then redistributes the money to plans whose costs exceed a certain threshold. Risk corridors collect funds from plans with lower-than-expected costs and pays out to plans with higher-than-expected costs (Cox,

2016). Instituting a similar (but permanent) program to subsidize suppliers would stabilize prices in the marketplace, and cushion the costs of adverse selection. According to the Kaiser Family Foundation, “Premium increases are expected to be higher in 2017 in part due to the end of the reinsurance program” (Cox, 2016).

A final option is to **increase the current tax penalty** so as to better enforce mandatory insurance, addressing adverse selection. The current fee is the greater of \$695 per year per adult, or 2.5% of income, according to Healthcare.gov. This is not a sufficient incentive for many Americans, as it does not approach the cost of a health insurance plan. Increasing the tax penalty for those who do not purchase insurance would push more uninsured healthy people into the marketplace, helping to increase profit for private insurers while also increasing the number of individuals with insurance. This option should be accompanied with a nudge: increased feedback. Consumers who choose not to enroll in any health insurance plan should be made explicitly aware of what their tax penalty is, and what the cost of enrolling in a basic health care plan would be.

	Effect on Individual Non-Group Health Care Premiums	Effect on Consumer Choice	Cost to Government	Protects Individuals with Pre-Existing Conditions?	Effect on Number of Individuals Covered
<b>Status Quo</b>	Increase	Decrease	Moderate	Yes	Decrease
<b>American Health Care Act</b>	Decrease <ul style="list-style-type: none"> <li>• 10% lower premiums in the long-run (2026)</li> <li>• Premium costs would tend to increase for the elderly</li> <li>• Subsidies will be 50% lower on average, leading to higher actual costs for many</li> <li>• Plans would tend to have lower actuarial value</li> </ul>	Neutral <ul style="list-style-type: none"> <li>• On net, the plan would stabilize the health insurance marketplace</li> <li>• Funds the Patient and State Stability Fund</li> </ul>	Negative (surplus) <ul style="list-style-type: none"> <li>• \$337 billion in savings over 20 years</li> <li>• \$1.2 trillion reduction in outlays, \$0.9 trillion reduction in revenue</li> <li>• Result of cutting subsidies and federal Medicaid spending</li> </ul>	Yes	Large decrease <ul style="list-style-type: none"> <li>• 24 million more people uninsured by 2026</li> <li>• 14 million would drop coverage initially due to short-term increases in premiums and the repeal of the individual mandate</li> <li>• 14 million fewer people on Medicaid</li> </ul>
<b>Public Option</b>	Decrease <ul style="list-style-type: none"> <li>• Lower administrative costs</li> <li>• Negotiation of better provider rates than private insurers</li> <li>• 7-8% lower premiums (CBO)</li> <li>• Pressures private insurers to offer lower costs</li> </ul>	Small increase <ul style="list-style-type: none"> <li>• Consumers will now have the public option</li> <li>• Private insurers are unlikely to rejoin the marketplace in large numbers</li> </ul>	Low/None <ul style="list-style-type: none"> <li>• Small initial start-up costs</li> <li>• Public option operates at no cost to government</li> <li>• Reduces cost of government subsidies by reducing premium prices (estimated at \$39 billion in savings by the CBO)</li> </ul>	Yes	Increase <ul style="list-style-type: none"> <li>• Lower premiums would increase demand</li> <li>• Individual mandate and Medicaid expansion would remain in place</li> </ul>

<b>Medicaid/Medicare Expansion</b>	<p>Large decrease</p> <ul style="list-style-type: none"> <li>• Dramatic decrease in the number of low-income and 55+ patients in the Exchange risk pool</li> </ul>	<p>Small Increase</p> <ul style="list-style-type: none"> <li>• Lower-risk market may encourage private insurers to return to the Exchanges</li> </ul>	<p>Large</p> <ul style="list-style-type: none"> <li>• Government would be responsible for an, older high-cost group with no younger individuals to balance risk</li> </ul>	Yes	<p>Large Increase</p> <ul style="list-style-type: none"> <li>• Lower premiums would increase demand</li> </ul>
<b>Reinsurance/Risk Corridors</b>	<p>Decrease</p> <ul style="list-style-type: none"> <li>• In 2016, reinsurance payments reduced premiums by 4 - 6 percent</li> </ul>	<p>Modest increase</p> <ul style="list-style-type: none"> <li>• Reasonable to assume that some private insurers would re-enter the market</li> </ul>	<p>Negative (Surplus)</p> <ul style="list-style-type: none"> <li>• Revenue neutral; funds are drawn from the collective pool of private insurers</li> <li>• Subsidy payments would decrease alongside premium prices</li> </ul>	Yes	<p>Modest Increase</p> <ul style="list-style-type: none"> <li>• Lower premiums would increase demand</li> </ul>
<b>Increased Penalty</b>	<p>Modest decrease</p> <ul style="list-style-type: none"> <li>• Incentivizes more individuals to purchase coverage</li> <li>• 54.5% of the uninsured are under the age of 35, and only 28.1% are over the age of 45</li> <li>• However, 25% of the uninsured are below poverty, and only 11% are over 500% FPL</li> </ul>	<p>Modest increase</p> <ul style="list-style-type: none"> <li>• Reasonable to assume that some private insurers would be attracted to a market with an increased number of consumers</li> </ul>	<p>Negative (Surplus)</p> <p>It is reasonable to expect a balance between the increased revenue from a higher penalty and the decreased number of people accepting to pay the penalty. The small surplus would come from less expensive subsidy payments as rates decrease.</p>	Yes	<p>Increase</p> <ul style="list-style-type: none"> <li>• Highly dependent on the size of the penalty increase</li> <li>• Sufficiently large penalty could drive enrollment close to 100%</li> </ul>

Leaving the status quo in place would likely increase the average cost of health care premiums and decrease consumer choice as insurers continue to struggle to make profit, and more insurers leave the marketplaces. This would ultimately decrease the number of individuals with health insurance as more and more individuals find health care to be unaffordable. This option would come at some additional cost to the government because as premiums rise, so must subsidies.

The American Health Care Act (AHCA) cannot be found to be acceptable under the criteria set forth in this analysis. While premiums would likely decrease by about 10% by 2026, subsidies would decrease by an average of approximately 50%, meaning the cost of care would increase for millions of Americans (Leibluft, 2017). The increase in the cost of insurance under the new legislation would be largest for the elderly, the poor, and persons living in high-cost states. Premiums for a 64-year-old would be 20-25% higher under the AHCA before the reduction in subsidies is considered (CBO, 2017). The quality of care would also be reduced, with lower actuarial values (the percentage of essential health benefits covered by the plan) leading to higher deductibles (CBO, 2017). Finally, this new legislation would insure 24 million fewer Americans than the status quo. Covering fewer people so as to reduce premiums and government outlays is a serious equity concern.

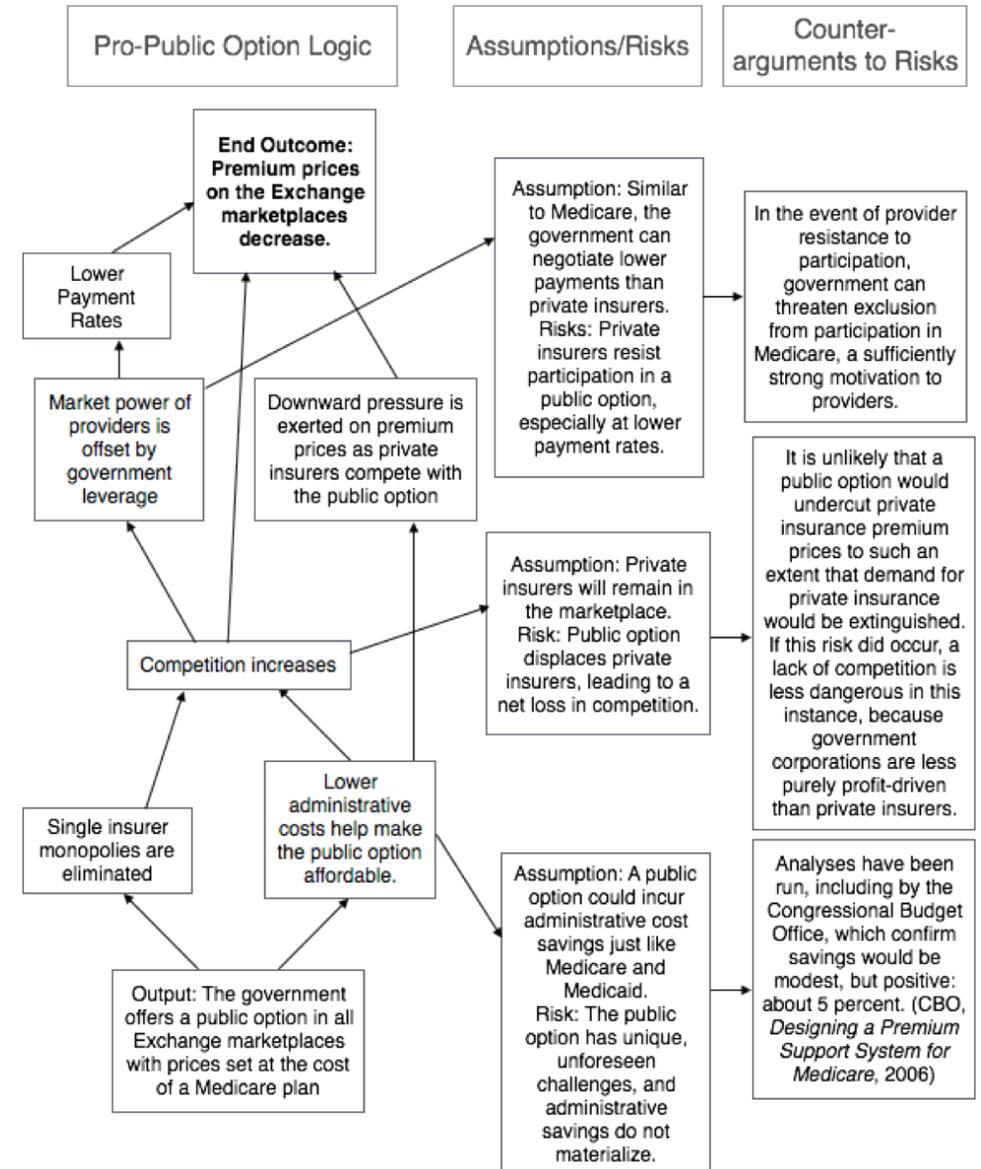
An expansion of the Medicaid and Medicare programs would almost certainly be highly expensive and quite complicated, but could yield dramatic results. Expanding the Medicaid program in the remaining states could take millions more low-income people off of the Exchange marketplaces. Allowing those over the age of 55 to buy in to Medicare would remove a large number of elderly individuals from the Exchange marketplaces, resulting in dramatically lower premiums on the Exchanges and increased enrollment. This is an expensive proposal because the government would have to offer a price for the buy in that is highly competitive with the rates of private insurers on the Exchanges, without the benefit of having young, healthy individuals in the risk pool. People between the ages of 55 and 64 account for 19% of total health spending, and 13% of the population (“How do health expenditures vary”, 2016). This makes them only about 24% less expensive (per capita) than the 65+ group, and more than twice as expensive as the under 55 group. The policy is similar to high-risk pools, where expensive patients are pooled together and subsidized. Such a policy has been criticized as being inefficient, highly expensive, and unsustainable (Park, 2016). These costs could be offset by lower administrative costs and lower payment rates to health care providers, but only to a certain extent (Van de Water, 2009).

The market-based alternatives have the benefit of minimal government cost and simple implementation, but would likely have smaller impacts. The reinsurance plan would help to keep prices from rising further, and encourage more insurer participation on the Exchanges due to greater stability. However, the impact on the price of premiums and number of insured Americans would likely be modest, as systemic causes would not be addressed. Reinsurance can be thought of as a way to

stabilize the market, rather than dramatically improve it.

Raising the individual mandate penalty would increase the number of insured Americans, potentially close to full coverage if the penalty is large enough. However, this policy relies heavily on the questionable assumption that there are enough uninsured healthy individuals who could be persuaded to purchase health insurance with a larger penalty. According to data from the Census Current Population Survey, individuals under the age of 34 make up 51.39% of the uninsured population, which is high but not overwhelming. Discouragingly for this particular policy option, only 9.1% of the population is still uninsured, and 52.93% of this population is below 200% of poverty (Barnett & Vornovitsky, 2016).

**The general public option is the preferred policy alternative.** The Medicaid/Medicare expansion is the option likely to have the largest effect on the Exchange's premium prices. However, its costs and implementation challenges are severe. Instituting the Medicaid expansion nationwide remains a good option which could be implemented alongside a public option. Long-term costs for the public option would be low as it would be a self-sufficient enterprise, and government subsidy payments would decrease along with premium prices (Berenson, 2009). The Congressional Budget Office estimates that, if a public option was introduced, government expenditures on Exchange subsidies would decrease by roughly \$39 billion between 2016 and 2023, and the savings would be accompanied by a \$117 billion increase in revenues caused by some individuals switching to the public option from an employer-provided plan (Congressional Budget Office, 2013). If a public option is instituted, the government would have a check on premium growth rates. A public option can afford to offer lower premiums due to lower administrative costs and the ability to negotiate lower provider payment rates, due to the very significant leverage available to the federal government, such as requiring participation from Medicare providers (Berenson, 2009). Consumer choice would be supported with an option that is stable, permanent, and backed by the federal government, and all existing ACA patient protections would remain in effect. The logic model below summarizes how the public option would lower premiums on the Exchanges by addressing the problems of thin markets and the market power of providers.



The challenges of implementing a public option should be carefully considered. A public option faces significant resource and organizational capacity issues, but these issues are not insurmountable. The potential interest in the public option would come from Americans who are either currently uninsured, or who are insured, but not through their employer or the government. In 2015, about 16.3% of Americans received health insurance through independent direct purchase (non-employer, non-government), and an additional 9.1% were uninsured (Barnett & Vornovitsky, 2016). This 25.4% of Americans can be thought of as a high limit for a public option, and the actual percentage would likely be far lower as many individuals would still purchase private plans or choose to remain uninsured. Also in 2015, 37.1% of Americans received health care through some government plan at some point during the year (Barnett & Vornovitsky, 2016). This shows that administering public programs of this size is not unprecedented for the American government. Financial resources could still be a concern as implementation would require significant start-up capital. The Department of Health and Human Services (HHS) is a seemingly natural fit to manage the public option, as they already administer Medicare, Medicaid, CHIP, and parts of the ACA; their mission statement being “to enhance the health and well-being of Americans by providing for effective health and human services” (U.S. Department of Health and Human Services, 2014). However, adding the administration of the public option to their responsibilities may overburden the department, and there are benefits to keeping a semi-profit-based government corporation independent of existing government agencies. Creation of a new, independent administrative body with guidance from experienced HHS officials may be necessary. The federal government should also carefully analyze and learn from the mistakes of the unsuccessful healthcare.gov rollout.

Another implementation problem to consider is coordination issues. Current programs similar to a public option (Medicare, Medicaid, ACA Exchanges) require some level of cooperation with state governments both in terms of administration and funding. It could be a significant challenge to set up the public option nationwide with state governments as critical partners. States have not shown a propensity to work well with the federal government in the past, specifically with regards to the Affordable Care Act. Currently, 19 states have not expanded Medicaid, despite the fact that doing so has resulted in net savings for many state budgets (Cross-Call, 2016a). Only 17 states and the District of Columbia opened state-based ACA marketplaces (Kaiser Family Foundation, 2016). If states were allowed to opt out of participation in the public option, it would greatly hinder the policy’s success. A possible solution would be to operate the program completely at the federal level, but this would further exacerbate resource and organizational capacity issues.

Finally, a public option would appear to have almost no political momentum at the present time. Republicans have made campaign promises to repeal the ACA entirely, despite the serious consequences, and a public option

proposal will almost certainly face the same opposition from small-government advocates and health care lobbyists that it did in 2009. Regardless of political challenges, it remains the most advisable option. Political framing should focus on the benefits to rural Americans, the potential for reducing government spending in the long-run, the limited impact on private insurers, and lowering payment rates through stronger negotiation and deal-making (rather than regulation). If political feasibility becomes an insurmountable challenge, the recommended alternative would be Reinsurance and Risk Corridors. Even in the case of a full repeal, this alternative policy option could still be an effective stabilizer, and prevent a disastrous breakdown of the nongroup insurance market. Private insurers could become a political ally if this option was selected, and Republican lawmakers have shown some openness to stabilizing the marketplace, despite previously criticizing such policies as ‘industry bailouts’ (Demko, 2016).

Premium prices on the ACA Exchanges are set to rise by an average of 25% in 2017. Insurers are pulling out, leaving limited competition and even monopolies in some states. A public option is the most effective way to lower the rate of increase in premium prices, stabilize the marketplace, ensure coverage for all Americans, and do so within reasonable cost limits. Repealing the ACA would be an enormous step backwards which would dramatically raise the uninsured rate. The other alternatives listed (Medicare/Medicaid expansion, Reinsurance/Risk Corridors, and Penalty Increase) would all make an impact. But the preferred option, per the stated criteria, is the general public option.

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## **THE 1994 AGREED FRAMEWORK WITH NORTH KOREA: A CASE OF CONGRESSIONAL OPPOSITION TO AN EXECUTIVE AGREEMENT AND PRESIDENTIAL FOREIGN POLICY**

James Lagasse

### ABSTRACT

*American Presidents have increasingly used executive agreements to negotiate deals with other countries instead of formal treaties. Executive agreements conveniently require much less congressional approval than a formal treaty, but also may not be as binding for future administrations. President Clinton made such an agreement in the form of the Agreed Framework with North Korea in 1994 to halt a potential North Korean nuclear weapons program in exchange for the US providing aid and light water reactors to North Korea. As an executive agreement, Congress could not directly block the deal, but opponents of the deal in Congress still found ways to create problems for the agreement throughout Clinton's presidency. This paper examines the relationship between Congress and the Presidency regarding executive agreements and Congress' ability to disrupt the agreement through the case of congressional opposition to the 1994 Agreed Framework with North Korea.*

### INTRODUCTION

In 1994, the United States and the Democratic People's Republic of Korea (DPRK or North Korea) signed the "Agreed Framework" to freeze much of North Korea's nuclear program and begin international inspections in exchange for international aid to North Korea. At the time of its signing, the Agreed Framework was considered a victory for diplomacy that averted a potential war, but the deal had many ardent critics in the US, especially in Congress. Opponents of the framework in Congress frequently challenged President Clinton through various legislative avenues, seeking to derail or alter the agreement (Hathaway & Tama, 2004).

In the US, foreign policy is usually thought of as being dominated by the executive branch. Throughout the twentieth century, the presidency has increasingly seemed to wield unilateral authority in international relations and foreign affairs, while Congress seems to generally sit on the sidelines (Seo, 2015). However, Congress is far from toothless in matters of foreign policy, and contrary to Arthur Vandenberg's famous speech, politics often does not stop "at the water's edge" (Arthur Vandenberg, <http://www.senate.gov/>).

President Clinton negotiated the Agreed Framework without involving

Congress, but the legislative branch did not resign itself to a spectator role. Republicans in Congress used their powers over budget and oversight to try to cripple the agreement in its implementation or add new conditions that would require the President to renegotiate with North Korea. Additionally, critics could use Congress as a platform to appeal to public opinion. Protecting the Agreed Framework from Congressional attacks became a regular fight for President Clinton, and he increasingly found himself on the defensive throughout his presidency (Lee & Miles, 2004). The disputes between President Clinton and his Congressional opponents serve as an example of Congress' role in US foreign policy. The interactions between Congress and the Presidency over the Agreed Framework with North Korea shed light on how Congress pushes its own foreign agenda and Congress' role in shaping international executive agreements, which seem to give the Presidency more control in foreign policy.

### **EXECUTIVE AGREEMENTS IN US FOREIGN POLICY**

Although the US Constitution explicitly requires a two-thirds majority approval from the Senate to ratify a treaty, there are many types of international agreements that are not formal treaties, and the president is relatively free to negotiate such deals under his/her executive authority. There is no mention of executive agreements in the Constitution, but presidents have used them in some form since the early years of American government. Nowadays hundreds of executive agreements are created each year with little or no congressional input in their formation, and President Clinton's negotiation of the Agreed Framework is an example of such agreements (Margolis, 1998). This expansion of unilateral executive action developed mainly as a practical measure to increase government efficiency not a plot to grab power for the presidency. It is much easier to negotiate with one person and his/her advisors than with a 535-member body of differing views and goals (Caruson & Farrar-Myers, 2007). However, Congress has not been completely removed from the picture when it comes to foreign policy and non-treaty agreements. Congress can inject itself into international agreements that have been made by the executive branch through its constitutional powers of budget and oversight.

The President may negotiate and form international agreements alone, but the actual implementation of the agreements will usually require regular funding and possible domestic action, which falls within the realm of Congress. In some ways, the separation of powers in the US government allows for Congress to have a larger role in influencing foreign policy and international agreements than the legislative bodies of other countries. Bringing an international agreement before Congress allows senators and representatives who strongly disagree with the president to make their own demands and try to attach added conditions to the agreement's implementation, which may force the President to renegotiate the agreement or potentially render it so unworkable that the agreement must be scrapped entirely

(Lee & Miles, 2004). Foreign governments are sometimes frustrated by the fact that the US President must separately acquire congressional approval after a negotiated agreement is signed and finalized. Officials from other countries often do not fully understand the American political system, and it can add excessive strain to international negotiations (G. Adams, personal communication, April 5, 2016). The Agreed Framework faced many attempts from congressional dissenters to use legislative mechanisms to change the agreement or delay its implementation, which rapidly became an exceedingly irritating problem for both President Clinton and the North Korean state that signed the Agreed Framework with the US.

### **THE 1994 AGREED FRAMEWORK**

In March 1993, North Korea announced its intention to formally withdraw from the Nuclear Non-Proliferation Treaty (NPT) after the International Atomic Energy Agency (IAEA) demanded access for further inspections beyond North Korea's officially declared facilities. The announcement created fear of a nuclear crisis on the Korean Peninsula, provoking US-North Korea negotiations overseen by the United Nations Security Council. The negotiations between the two countries became incredibly tumultuous and frantic over the next year and a half. The negotiations appeared to break down, and the North Korean delegation infamously threatened that the South Korean capital of Seoul would turn into a "sea of fire" (Ha & Hwang, 2015, p. 10). Hope for a peaceful agreement was crucially saved when an emergency visit by former President Jimmy Carter to North Korea in June 1994 broke the diplomatic deadlock, but the sudden death of North Korean leader Kim Il Sung the following month complicated matters. The two sides managed to reach a rough outline for an agreement on North Korea's nuclear program in August 1994, and the US and North Korea formally signed the Agreed Framework in Geneva, Switzerland on October 21, 1994 (Ha & Hwang, 2015) (Roehrig & Wessel, 2011).

North Korea agreed to freeze its alleged nuclear weapons program and return to the NPT and comply with IAEA inspections. Additionally, North Korea would cease construction of the heavy water reactors at Yongbyon and Taechon, which could potentially be used to create weapons grade plutonium, and place its 8,000 existing fuel rods into sealed storage (Roehrig & Wessel, 2011). In exchange, the US would provide two smaller light water reactors and international financing for their construction as well as annual shipments of 500,000 tons of fuel oil to offset lost energy production until the light water reactors were constructed. The US also tentatively agreed to ease economic sanctions and pursue normalization of diplomatic relations with North Korea, which some hoped might be the beginning of less hostile relations between the two countries in the post-Cold War era (Manning, 1998).

The US, Japan, and the Republic of Korea (ROK or South Korea) established the Korean Peninsula Energy Development Organization (KEDO) to fund and oversee the construction of the light water reactors and the oil shipments

to North Korea. South Korea agreed to assume most of the costs for the construction of the light water reactors, which would begin in 1996, and Japan pledged substantial funding for the reactor project as well. Although the US initially pledged fewer funds than the other two countries, KEDO was still heavily dependent on US funding, particularly for supplying the scheduled oil shipments. Strong US support was crucial for ensuring that the promises and conditions of the Agreed Framework were upheld (Ha & Hwang, 2015).

## CONGRESSIONAL POLITICS AND THE AGREED FRAMEWORK

The Agreed Framework with North Korea quickly became a very polarizing subject in US politics. Supporters hailed the Agreed Framework as a major diplomatic achievement for the Clinton Administration that prevented the threat of a nuclear North Korea. However, the Agreed Framework found many outspoken critics among the rival Republican Party who believed that President Clinton had given up too much in deal and should have pursued tougher sanctions against North Korea instead of supplying aid to an oppressive and untrustworthy dictatorship (Ha & Hwang, 2015). The agreement's congressional opponents sought to press for a stricter deal or disrupt the agreement completely using their legislative authority.

President Clinton was not constitutionally bound to seek congressional approval for the Agreed Framework because it was an executive agreement. In fact, the President did not interact with Congress at all in forming the agreement, and met little resistance in the Democratic-controlled Congress for the Agreed Framework (Seo, 2015). Opponents of the negotiations did achieve a small legislative victory with the passage of an amendment by Senator Bob Dole to the Foreign Operations Appropriations bill before the signing of the Agreed Framework in August 1994. The amendment made aid to North Korea conditional on presidential certification that North Korea had stopped its nuclear weapons program, but the amendment had little effect on the negotiations or the agreement. The amendment did not practically restrict the Clinton Administration in any real way in crafting the Agreed Framework, and President Clinton essentially ignored the amendment (Lee & Miles, 2004). Congressional opponents were largely unable to force the President's hand during the negotiation and signing of the Agreed Framework.

The political situation in the US changed dramatically with the 1994 congressional election. A few weeks after the Agreed Framework had been signed in Geneva, the Republican Party took control of both the House of Representatives and the Senate. The sweeping Republican election victory ushered many conservative representatives and senators into Congress who were staunchly opposed to the policies of the Democratic President, including the Agreed Framework (Seo, 2015). The Clinton Administration was suddenly on much more uncertain ground with the Agreed Framework domestically.

The new Republican-controlled Congress' most significant challenge to the

Agreed Framework was over funding. Although, President Clinton did not need to consult Congress in the establishing the agreement, US funding for KEDO to implement the agreement fell under the authority of Congress' power of the purse. US funding for KEDO was already behind from the beginning since KEDO did not exist when the relevant appropriations bill for 1995 was passed so there was no allocated funding for the organization. President Clinton had to reprogram funding for the Department of Defense to cover the first oil shipment to North Korea to the chagrin of Congress (Lee & Miles, 2004).

In 1996, Republicans in Congress attempted to cut the \$25 million requested for KEDO down to \$13 million, but President Clinton adamantly pledged to veto any appropriations bill that was short of the full requested amount, and divisions among between moderate and conservative Republicans in the Senate enabled Senate Democrats to secure the full \$25 million for KEDO (Seo, 2015).

Funding for KEDO became an annual battle with Congress for the Clinton Administration with each new appropriations bill. Over time, the President had less political capital to pressure Congress to approve funding for KEDO. From 1997-2000, the Clinton Administration accepted compromises in which Congress approved substantially less funding for KEDO than requested, but President Clinton made up the deficit in funding by reprogramming funding from elsewhere using section 614 of the Foreign Assistance Act of 1961, which allows the President to relocate funding to foreign aid in matters of national security (Lee & Miles, 2004). The lengthy arguments between Congress and the President delayed US funding for KEDO, whose problems were only further exacerbated by unexpected increases in the cost of operations and Japan and South Korea delaying their funding because of their own disputes with North Korea. With Congress' intransigence, the Clinton Administration could not secure enough funding to meet the new costs and turned to other countries for help but still fell short, requiring KEDO to borrow money. Oil shipments to North Korea were often delayed, as was construction of the promised light water reactors. In 1998, oil shipments were temporarily halted because KEDO used its available funds to pay off its debt (Ha & Hwang, 2015). The delays and budget shortfalls stressed the already tenuous situation with North Korea, leading to anger and frustration (and possibly provocative military exercises) from North Korea that strained the Agreed Framework (Ha & Hwang, 2015). Congressional Republicans never managed to stop the President from acquiring funding for KEDO, but their opposition in appropriations battles did prevent KEDO from receiving crucial funding, which significantly weakened the Agreed Framework as the US could not fulfill its commitments per the agreement.

In addition to challenges on funding, congressional Republicans tried to disrupt the Agreed Framework with legislative oversight by insisting on adding stricter or expanded measures to the deal or asserting that North Korea was secretly continuing its nuclear program. Many critics of the agreement accused North Korea of cheating from almost the moment the deal was signed. North Korea's secretive

reputation and often belligerent behavior helped Republican arguments against North Korea's untrustworthiness in adhering to the agreement. Republicans in Congress seized on intelligence reports that suggested North Korea was working on a nuclear program even though the Agreed Framework only stipulated that North Korea cease its nuclear weapons program and the construction of heavy water reactors (Hathaway & Tama, 2004). A New York Times report stating that US intelligence noticed high levels of activity at a North Korean bunker prompted Congress to threaten to block funding until the site was inspected in 1998. The threat forced the Clinton Administration to begin months of negotiations in which North Korea eventually agreed to allow US inspections of the site in exchange for food aid. Inspections of the site found no evidence of a nuclear program, but many Republicans criticized the concessions of aid that the Administration offered in the negotiations (Hathaway & Tama, 2004).

Congressional Republicans also attempted to add conditions related to ballistic missiles and pressure the President to expand the scope of the Agreed Framework. North Korea's surprise test-firing of a missile that flew over Japan in 1998 created public concern about the danger of a North Korean attack and led Congress to criticize the Clinton Administration's negotiations with North Korea for not addressing North Korea's ballistic missile program. Congress formed a commission headed by former Secretary of Defense Donald Rumsfeld to review North Korea's missile capabilities. The Rumsfeld Commission concluded that North Korea could have intercontinental ballistic missiles in five years contrary to the official CIA estimates that North Korea would not have such capabilities by at least 2010. Using the Rumsfeld Commission report, Congress passed legislation requiring President Clinton to appoint a North Korea policy coordinator and intensified criticism for lack of action on North Korea's ballistic missile program. After the appointment of William Perry as coordinator, the Clinton Administration again returned to the negotiating table with North Korea on another matter beyond the original scope of the Agreed Framework. The two countries reached a quick agreement, leading to North Korea announcing that it would suspend missile tests. The US also agreed to partially lift economic sanctions (Hathaway & Tama, 2004). Congressional efforts to add oversight and their own demands to negotiations with North Korea may not have weakened the Agreed Framework itself as much as threats to funding, but they certainly enabled Congress to impose its foreign policy goals regarding North Korea onto the Clinton Administration, changing the focus of the US agenda for North Korea and, in many ways, creating added difficulties for the international agreement.

Congressional challenges to the Clinton Administration over North Korea only intensified over the course of Clinton's presidency. Congressional opponents did not manage to break up the Agreed Framework, but trying to adhere to the minimum promises of the agreement became a struggle for the President. President Clinton ultimately backed off from his plans to build on the deal; most economic

sanctions were not lifted, normal diplomatic relations were not established, and the President put aside plans to personally visit North Korea (Hathaway & Tama, 2004). The Agreed Framework itself survived the entirety of Clinton's tenure as president (albeit weakened) despite congressional efforts, but after Clinton left office, President George W. Bush scrapped the Agreed Framework and its promises in 2002 amid accusations that North Korea had secretly continued to develop its nuclear weapons program (Gusterson, 2008).

## CONCLUSION

In the US, the President does have an inherent advantage over Congress when it comes to foreign policy, but Congress is not left without any recourse, and the case of the Agreed Framework demonstrates that fact. Though unable to defund KEDO, Congress made certain that its disapproval was felt through delayed appropriations measures and underfunding that forced the President to shift funds and significantly disrupted the implementation of the agreement. Congress was also able to successfully pressure the President to act on its concerns regarding North Korea's trustworthiness and force the Administration to further negotiate several additional points to preserve the original agreement. Congress ultimately did not have enough power to end the Agreed Framework, but Congress critically weakened the implementation of the agreement and stopped the Agreed Framework from becoming a stepping stone to greater diplomatic progress with North Korea as per President Clinton's foreign policy goals. The President can exercise some degree of unilateral authority in foreign policy through executive agreements, but Congress can use funding, oversight, and public opinion to shape certain aspects of international agreements in the implementation stage and partially achieve its own foreign policy goals even in the face of Presidential resistance.

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