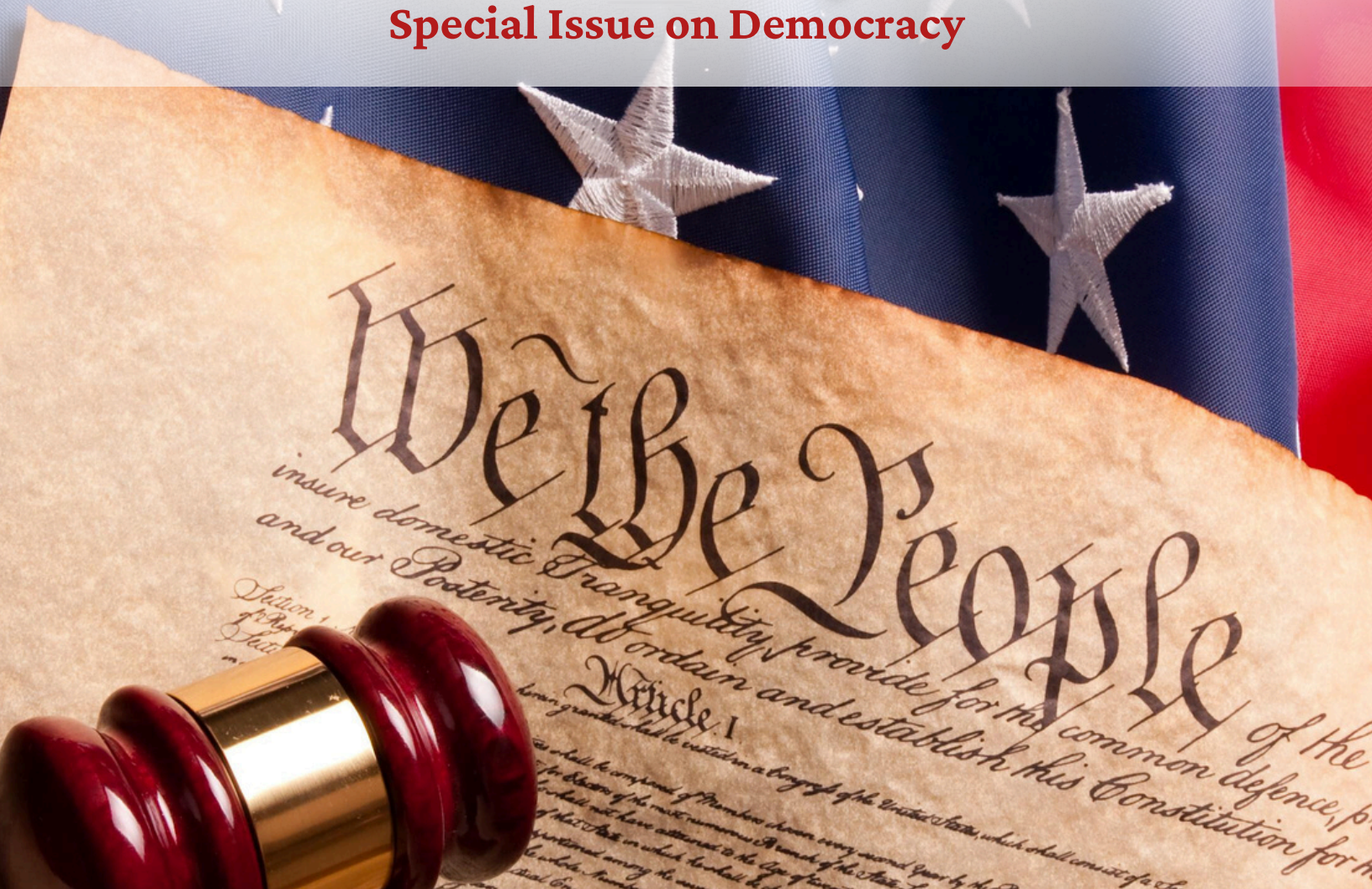


# Cornell Policy Review

Special Issue on Democracy



## Charting the Course: Citizenship, Governance, and the Future of Democracy



Cornell Brooks  
Public Policy

**Inside:** 12 Articles on Domestic and Foreign  
Policy Issues Shaping Our World Today



# Domestic Policy

- Igniting Democracy: America's Burning Need for Civic Education by Alejandro J. Ramos
- Shelby County v. Holder: Eroding Voting Equality and Imposing New Costs by Katelin Wong
- Book Bans, Library Defunding, and Related Policy: A Multiple Streams Analysis by Moriah Isabel Smith
- Unions as Guardians of Democracy: The Urgent Need to Pass the PRO Act Ahead of 2024 Election by Wes McEnany
- Evaluating the Efficacy of New York's Public Matching Funds Program in Addressing "Dark Money" Influence by Kira P. Tretiak
- Democracy or Monopoly: A Choice the United States Seems Unwilling to Make by Mia Barratt



# Foreign Policy

- Shaping our AI Future: A Policy Perspective on Ensuring Innovation and Safeguarding Democracy by Sarah J. Buszka
- Poland and India: Contrasting Two Models of Recovery by Kaila Hall
- The Deportation of Afghan Refugees from Pakistan: Implications for Citizenship and Democracy by Arsham Bari
- Dialogue is a Start: Mali's Military Junta and Citizens Clash Over Jihadist Inclusion by Celia Doherty
- The Rise of Right-Wing Populism in Central and South America: Implications for Governance and Democracy by Alejandro J. Ramos and Jenna Luisa Boccher
- Bukele's Reelection in El Salvador: Juggling Security and Democracy and the New Mirror of Latin American Authoritarianism by Sebastián Restrepo

Views expressed by contributors are their own and not representative of The Cornell Policy Review or Cornell University

## Senior Editorial Team



**Alejandro J. Ramos**  
Editor-in-Chief



**Johanna Van Fleet**  
Managing Editor



**Caled Al-Adsani**  
Content Editor



**Arsh Naseer**  
Communications & Digital  
Manager



# CORNELL POLICY REVIEW

## Citizenship, Democracy, Governance, Oh My!

As Editor in Chief of the Cornell Policy Review, I am thrilled to introduce our inaugural special edition which is focused on democracy, aptly titled: "Charting the Course: Citizenship, Governance, and the Future of Democracy." This edition marks a significant milestone in our commitment to fostering informed dialogue and insightful analysis on the fundamental principles that underpin our societies. I would like to extend my deepest gratitude to Dr. Rachel Beatty Riedl for her enlightening foreword, which sets the stage for the rich discussions and analyses contained within this special edition.

In this edition, we delve into the dynamic interactions between citizenship, governance, and democracy. From examining the evolving nature of citizenship rights and responsibilities to scrutinizing the mechanisms of governance that shape democratic outcomes, each article offers unique perspectives and thought-provoking insights. As we navigate through the complexities of contemporary governance structures and the challenges facing democratic institutions worldwide, it is essential to reflect on the core principles that guide our collective journey toward a more just, equitable, and participatory society. Through rigorous research, thoughtful commentary, and innovative policy proposals, this special edition aims to contribute to the ongoing discourse on democracy and inspire meaningful action in the pursuit of a more inclusive and resilient democratic future.

I extend my heartfelt gratitude to the authors and our staff whose dedication and expertise have brought this edition to fruition. Special thanks to Andrew Bongiovanni, associate editor, for his timely and professional contributions to this publication. Together, let us embark on a journey of exploration, reflection, and advocacy as we navigate the intricacies of citizenship, governance, and democracy.

Thank you for joining us on this vital endeavor!

Alejandro J. Ramos  
Editor-in-Chief  
Cornell Policy Review

**Charting the Course:  
Citizenship, Governance, and the Future of Democracy**

Published by The Cornell Policy Review

Publication Date: July 3, 2024

Editors: Andrew Bongiovanni, CPR Associate Editor and Alejandro J. Ramos

Designer: Alejandro J. Ramos

# | Foreword |



Rachel Beatty Riedl the Peggy J. Koenig '78 Director of the Center on Global Democracy as of July 1, 2024

This information was adapted from the Spring 2024 Brooks School Magazine:

The Cornell Jeb E. Brooks School of Public Policy is launching the Center on Global Democracy in July. This new center will unite leading experts from across the university to address key democratic issues worldwide and will serve as a hub for research and learning aimed at reinforcing democratic institutions and actions.

Colleen Barry, Brooks School dean, emphasized the center's alignment with the school's mission to improve global well-being through new knowledge. Rachel Beatty Riedl, the John S. Knight Professor of International Studies, will be the first director, thanks to a \$5 million endowment from Peggy Koenig, Vice Chair of the Cornell Board of Trustees. Riedl's research has highlighted democratic decline in nearly 40 countries since 1990, even in wealthy, industrialized democracies.

The Center on Global Democracy will connect scholars across diverse disciplines such as political science, sociology, economics, law, global development, communication, psychology, and computer science. The center aims to create a comparative research lab to produce policy recommendations and engage directly with stakeholders.

The center will focus on advancing research, developing new curricula and student engagement opportunities, and interacting with policymakers. Students will be deeply involved, contributing to faculty-led teams and their own projects. Riedl stated that students will learn to apply democratic principles to various global challenges, combining democratic participation with their passions in fields like climate, education, and health.

"Knowledge is power," Riedl said. "By putting learning into practice, students will harness their capacity to serve as global leaders and engaged citizens, prepared to do the greatest good."



# Rachel Beatty Riedl

Peggy J. Koenig '78 Director of the  
Center on Global Democracy

2024. More elections will be held this year than ever before in history. But elections of what kind, and to what end?

Beyond elections, will institutions – such as the courts, regulatory agencies, legislatures – serve as tools of democracy by providing horizontal checks and balances on executive power, or will they contribute to executive aggrandizement and centralization of power in a ruling person or party?

Will people – the citizens – use their time, resources, and capacities to demand democracy? Will citizens coordinate and prioritize ensuring their future liberties and freedoms, good governance, and accountability from those who hold power?

This moment of history compels us to ask these questions. The stakes are very high in democracies new and old, rich and poor. To understand the sources of democratic resilience, and to identify effective strategies of democratic resistance, to understand the interactions between key actors (from domestic unions, civics groups, and corporations, to international lending organizations and regional governance bodies) and institutions, we must leverage the tools of public policy research. That is why it is such an imperative time for Cornell University's Brooks School of Public Policy to establish the Center on Global Democracy, and for our inspiring students to take up this theme in the inaugural special issue of the Cornell Policy Review. This attention to global democracy is exactly what is required to defend it, and ultimately strengthen it.

To understand both the challenge and potential inherent to democracy in contestations over rights and responsibilities, we must start with conceptualizations that are pluralistic and inclusive. The idea of democracy was never simply elections. The idea of democracy is that each of our interests are weighted equally in the conduct of government (Dahl), with safeguards and protections for each other's fundamental human rights. That is a tall task, and it is one that each of the authors here grapple with. How to translate citizens' needs and interests into public policy that makes government work well for them? How to limit economic and political power from becoming exponentially self-reinforcing, generating a ruling class no longer accountable to the will of the people? These questions, and many more, are at the heart of this special issue. The editorial team and authors in the Cornell Policy Review combine rigorous academic scholarship with substantive democratic engagement, and in doing so they give us a model and hope for the future.

## Igniting Democracy: America's Burning Need for Civic Education



Alejandro J. Ramos is an MPA candidate and Brooks Public Policy Fellow at the Cornell Brooks School of Public Policy. His research interests include civics, democracy, media literacy, and education policy. At the time of this special edition's publication, Ramos serves as the President's Administrative Fellow at Sacred Heart University, where he engages with both internal and external policies and examines their impact on the institution.

**I**n an era marked by dynamic societal changes and evolving global landscapes, the role of civic education can guide the formation of responsible, engaged citizens. The United States, renowned for its democratic principles, faces a pressing need to fortify its educational system by incorporating a robust and comprehensive civic education curriculum for K-12 students.

Civic education, at its core, serves as the cornerstone of a thriving democracy. It is the mechanism through which individuals acquire the knowledge, skills, and attitudes essential for active and informed citizenship. Despite its inherent significance, the landscape of civic education in the United States has undergone fluctuations, with sporadic attention and inconsistent integration within the broader educational framework.

Commonly known as "The Nation's Report Card," the results of the latest National Assessment of Educational Progress (NAEP) Civics indicate that only 22 percent of 8th graders are proficient in civics.<sup>1</sup> This is a slight decrease since the subject was last tested in 2018, when only 24 percent graded out as proficient.<sup>2</sup> A civic education curriculum would transcend traditional subject matters, aiming to equip students with the necessary tools to comprehend complex societal structures, engage critically with current events, and participate meaningfully in democratic processes. By cultivating a deeper understanding of civic duties, responsibilities,

and rights, such a curriculum would foster the development of well-informed and engaged citizens capable of contributing positively to society.

I propose naming the framework presented in this article as the "Citizenship Empowerment Framework" (CEF). The Citizenship Empowerment Framework encapsulates the structured approach advocated for the implementation of a comprehensive civic education curriculum in K-12 education. This framework not only delineates the essential components necessary for fostering active and informed citizenship but also serves as a guiding structure for educators and policymakers alike.

This analysis navigates through the historical trajectory of civic education in the United States, shedding light on previous attempts, current challenges, and the imperative for a renewed focus on this foundational aspect of education. It addresses the benefits of a comprehensive civic education curriculum, acknowledges prevalent challenges and barriers, and presents a structured framework for its successful implementation.



## Background and History of Civic Education in the United States

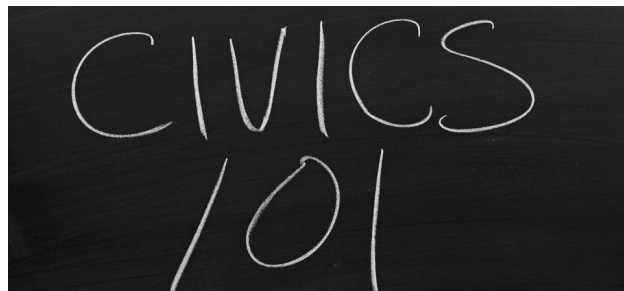
Civic education in the United States has evolved through a complex historical trajectory, reflecting the nation's shifting priorities and educational philosophies. Early American education often emphasized civic virtues, aiming to produce responsible citizens capable of participating in a burgeoning democracy.<sup>3</sup> The late 19th and early 20th centuries witnessed the rise of civic education as a formal part of schooling, with initiatives focusing on patriotism, democracy, and civil responsibility.<sup>4</sup> The mid-20th century saw a surge in civic education efforts amid concerns about civic disengagement and the Cold War context. Programs like the "Citizenship Education Project" aimed to instill democratic values and combat totalitarian ideologies. However, the landscape of civic education faced challenges during periods of social upheaval, with controversies over curricular content, teaching methods, and the role of schools in promoting social change.<sup>5,6</sup>

In recent decades, civic education encountered fluctuations in attention and resources, often marginalized due to shifting educational priorities and standardized testing. While various organizations and initiatives continue to advocate for robust civic education, the field lacks a consistent, nationwide approach. This historical background underscores the ebb and flow of civic education's prominence within the U.S. educational landscape, reflecting broader societal shifts and educational philosophies.

## Importance and Benefits of Implementing a Civic Education Curriculum

The implementation of a comprehensive civic education curriculum in the United States holds importance in fostering informed, engaged, and responsible citizens essential for the preservation of democratic values. At its core, civic education serves as the foundation for nurturing a deep comprehension of governmental structures, democratic processes, and individual civic responsibilities. By instilling this knowledge, students are empowered to make informed decisions, critically analyze societal issues, and actively participate in civic life. Moreover, the curriculum emphasizes vital skills—such as critical thinking, communication, and problem-solving—that equip students to engage constructively in public discourse and collaborate effectively within their communities. This focus on skill development not only enhances individual capacities but also strengthens the collective fabric of society by fostering a culture of civic engagement and responsibility.

*In the United States, civic education is often focused on knowledge of government. Students are taught the many structures of government and the procedures within those structures. Their understanding of civics is evaluated based on whether they can name the three branches of government, their representatives in Congress, and their state governor. By these measurements, the current state of civic education is lacking.<sup>7</sup>*



# | Domestic Policy |

Beyond individual development, a civic education curriculum contributes significantly to the strength of democratic institutions. It nurtures an informed electorate capable of reasoned decision-making and actively participating in governance, thus reinforcing the democratic process.

Additionally, such a curriculum plays a pivotal role in fostering social cohesion by instilling a shared understanding of democratic values and promoting respectful dialogue amidst diverse perspectives. This approach serves to reduce polarization and build bridges within communities, creating a more unified and harmonious societal landscape.<sup>8</sup> Furthermore, in an increasingly interconnected world, civic education prepares students to navigate global challenges by fostering intercultural competence and understanding of global issues, thus enabling them to become responsible global citizens.

The long-term benefits of implementing a nationwide civic education curriculum extend far beyond immediate educational outcomes. It lays the groundwork for generations of individuals committed to upholding democratic principles, fostering a society wherein active, informed, and engaged citizens contribute meaningfully to the well-being and progress of their communities.<sup>9</sup> By prioritizing civic education, the nation invests in its future, ensuring the sustenance of democratic ideals and the resilience of its democratic institutions for generations to come.



## Challenges and Obstacles

The implementation of a comprehensive civic education curriculum in the United States encounters formidable challenges within the educational landscape, impeding its integration and effectiveness. Foremost among these challenges are systemic barriers entrenched within the educational structure and Federalism. The prevailing curricular priorities, largely driven by the emphasis on standardized testing and core subjects, relegate civic education to the periphery. This results in limited time and resources allocated for its development and integration into the curriculum.<sup>10</sup> Equally significant is the issue of teacher preparedness; educators often lack adequate training and resources to deliver comprehensive civic education effectively, impacting the depth and quality of instruction.<sup>11</sup> Addressing these systemic barriers demands a reevaluation of educational priorities and a commitment to equipping educators with the necessary tools and support for effective civic education delivery.

Political and societal constraints present further hurdles. The politicization of educational content, particularly in civic education, poses challenges in developing a curriculum that remains impartial and inclusive of diverse perspectives.<sup>12</sup> Partisan divides often intersect with debates on educational standards, presenting a complex landscape wherein the establishment of a cohesive national curriculum conflicts with the tradition of local control over educational content. This dichotomy necessitates a delicate balance, requiring cooperation across political aisles and stakeholders to develop a curriculum that transcends ideological boundaries.



Resource limitations, both in terms of budgetary constraints and equitable access, pose significant obstacles.<sup>13</sup> Inadequate funding and budgetary allocations for civic education initiatives hamper the development of robust curricular materials, professional development for educators, and innovative teaching methodologies. Moreover, disparities in resources among different school districts exacerbate inequities in the delivery and quality of civic education, disproportionately affecting marginalized or underprivileged student populations. Overcoming these resource challenges necessitates a reevaluation of funding priorities and a commitment to ensuring equitable access to quality civic education for all students.<sup>14</sup>

Furthermore, navigating evolving educational paradigms and technological challenges presents an additional layer of complexity. Integrating technology into civic education, while ensuring accessibility and equity across diverse student populations, remains a significant challenge.<sup>15</sup> Moreover, aligning civic education with rapidly evolving educational landscapes, including the shift toward online learning and hybrid models, demands continuous adaptation and innovation in curriculum development and instructional delivery methods.

Addressing these multifaceted challenges requires a concerted effort from policymakers, educators, and stakeholders. It demands a reorientation of educational priorities, bipartisan support for impartial curriculum development, equitable resource allocation, and an agile approach to adapting civic education to evolving educational paradigms.

### **Proposed Curriculum Framework**

CEF comprises essential components aimed at nurturing informed and engaged citizens. At its core, the curriculum emphasizes three pillars: civic knowledge, skills development, and fostering civic dispositions. This structured approach ensures a robust foundation by imparting comprehensive knowledge about government structures, democratic principles, constitutional rights, and responsibilities. It focuses on cultivating critical thinking, effective communication, problem-solving, and informed decision-making through interactive learning experiences. Complementing these aspects, the curriculum places significant emphasis on fostering civic virtues such as tolerance, empathy, respect for diverse perspectives, and a commitment to community engagement.

In terms of teaching methodologies, the CEF advocates for innovative pedagogical approaches designed to enhance student engagement and practical application. These approaches include experiential learning through simulations, role-playing activities, and real-world applications to immerse students in practical civic experiences. Additionally, project-based learning encourages collaborative initiatives addressing community issues to foster teamwork and civic action, while inquiry-based instruction stimulates curiosity, investigation, and critical analysis of societal issues to develop well-informed perspectives.

Critical to the success of the CEF is its integration into existing educational structures. This involves cross-disciplinary collaboration to reinforce civic education subjects, ensuring inclusivity and adaptability for diverse learners.

# | Domestic Policy |

Professional development programs for educators play a pivotal role, offering ongoing training and support to effectively implement the curriculum and employ innovative teaching methodologies.

Assessment and evaluation methods within the CEF emphasize performance-based assessments focusing on students' practical application of civic knowledge and skills in real-world scenarios. Continuous feedback mechanisms are incorporated to refine and improve the curriculum's effectiveness, ensuring its relevance and responsiveness to the evolving needs of students.

This proposed curriculum framework seeks to holistically address the multifaceted aspects of civic education, placing equal importance on knowledge acquisition, skill development, and fostering civic attitudes. By integrating innovative pedagogical approaches and aligning with existing educational structures, CEF aims to cultivate a generation of informed, engaged, and responsible citizens equipped to actively contribute to the betterment of society.

## Addressing Criticisms and Opposition

Implementing a national civic education curriculum attracts various criticisms and opposition rooted in concerns regarding its impact and practicality within the educational landscape. Critics often raise apprehensions regarding the loss of state and local control, citing worries that a national curriculum might restrict flexibility and responsiveness to regional or community-specific needs. Additionally, there are concerns about the potential politicization of education, with fears that a standardized curriculum could be influenced by political biases or agendas, shaping students' viewpoints toward a particular ideological direction.<sup>16</sup>

The financial implications of instituting a national curriculum, seen as a strain on educational budgets, raise apprehensions among opponents.<sup>17</sup>

However, proponents of a national civic education curriculum offer compelling counterarguments to address these concerns within the proposed framework. Advocates propose a balanced approach that sets national standards while preserving local flexibility, ensuring alignment with diverse community needs and priorities. To counter fears of politicization, proponents emphasize the importance of bipartisan collaboration in curriculum development, advocating for expert panels to ensure accuracy, objectivity, and inclusivity in content creation. Furthermore, proponents argue that the long-term benefits of a comprehensive civic education curriculum outweigh the initial costs, emphasizing strategic resource allocation through public-private partnerships and the reallocation of existing resources to support the initiative.<sup>18</sup>

By offering viable solutions to these criticisms, proponents aim to assuage concerns and underscore the potential benefits of a national civic education curriculum within the framework of the CEF. The emphasis is on striking a balance between national standards and local adaptability, safeguarding against politicization, and ensuring that the allocation of resources aligns with the overarching goal of enhancing civic literacy and engagement among students.



## Recommendations and Conclusions

Throughout this analysis of civic education in the United States, key findings affirm the necessity of cultivating comprehensive civic knowledge, skills, and dispositions among students. The historical exploration, challenges identified, and proposed frameworks underscore the need for a cohesive and inclusive civic education curriculum anchored within the proposed CEF. Policymakers must enact legislation supporting the nationwide implementation of this curriculum, balancing national standards with local adaptability and ensuring sufficient resources.

Educators should advocate for professional development programs to deliver effective civic education, leveraging innovative pedagogical approaches. Collaboration among stakeholders across sectors is crucial to promoting civic engagement among students. A nationwide civic education curriculum transcends academic boundaries, serving as the linchpin for nurturing a cohort of active, informed, and engaged citizens—indispensable for democracy. Its implementation represents an investment not merely in education but in the resilience and vitality of democratic ideals, safeguarding the democratic legacy for generations to come.



### Citations:

1. The Nation's Report Card. 2022. NAEP Report Card: 2022 NAEP Civics Assessment. <https://www.nationsreportcard.gov/highlights/civics/2022/>.
2. Ibid.
3. Center on Education Policy (CEP) at The George Washington University. 2020. "History and Evolution of Public Education in the US." *Department of Education (ed.gov)*. Accessed December 5, 2023. <https://files.eric.ed.gov/fulltext/ED606970.pdf>.
4. Ibid.
5. Gregg, Spencer C.J. 2016. "Crisis in Education -- The Effect of the Cold War on Crisis in Education -- The Effect of the Cold War on the American Education System." *Young Historians Conference*. Portland: Portland State University. 22.
6. CMEI Colloquium Gutman Library, Harvard Graduate School of Education. 2011. *Cold War Debates about Citizenship Education for College Students*. Cambridge, January 27.
7. Hammer, Benjamin. 2022. *What Is Civic Education and Why Is It Important?* April 8. <https://carsey.unh.edu/blog/2022/04/what-is-civic-education-why-its-important>.
8. Ata, Atakan. 2019. "Fostering Students' Civic Skills: Education for Sustainable Democracy." *Georgia Educational Researcher Article 7*.
9. McCartney, Alison Rios Millett, Elizabeth A. Bennion, and Dick Simpson. 2013. *Teaching Civic Engagement: From Student to Active Citizen*. Washington D.C.: American Political Science Association.
10. Jamieson, Kathleen Hall. 2013. "The Challenges Facing Civic Education." *Dædalus: Journal of the American Academy of Arts & Sciences* 65 - 83.
11. Ibid.
12. Finn Jr., Chester E. 2022. Must we battle over civics education? October 20. <https://fordhaminstitute.org/national/commentary/must-we-battle-over-civics-education>.
13. Jamieson, Kathleen Hall. 2013.
14. Ward, Sydney. 2022. Lack of Quality Civic Education in Public Schools in the United States. <https://ballardbrief.byu.edu/issue-briefs/lack-of-quality-civic-education-in-public-schools-in-the-united-states>.
15. Ibid
16. Smith, Carl. 2022. Legislators Fight to Control the Content of Civic Education. February 22. <https://www.governing.com/now/legislators-fight-to-control-the-content-of-civic-education>.
17. Jamieson, Kathleen Hall. 2013.
18. Mantas-Kourounis, Eleni Maria. 2021. *IN THE TRENCHES: THE LOCAL POLITICS OF CIVIC EDUCATION*. PhD Dissertation, Graduate School of Arts and Sciences, COLUMBIA UNIVERSITY, New York City: Columbia University.

## Shelby County v. Holder: Eroding Voting Equality and Imposing New Costs



Katelin Wong is an incoming second-year undergraduate student pursuing a B.S. in Public Policy. She is interested in pro-democracy issues, especially voting rights, election laws, and state constitutional provisions that protect these aspects of democracy. During her time on campus, Wong has been involved with the Roper Center for Public Opinion Research and Cornell Votes. She was also previously a part of a social science research lab.

**A**merican democracy has long relied on the Voting Rights Act of 1965 (VRA) to ensure the equal right to vote across the United States. The law's key provisions include Section 5 and Section 2. Section 5 of the law requires states with a history of discriminatory practices to gain approval from the Department of Justice before changing their voting rules, a system widely known as preclearance.<sup>1</sup> Section 2 ensures that people are allowed to sue if existing laws and procedures infringe on their abilities to exercise constitutionally protected rights.<sup>2</sup> These provisions worked to protect voting for all eligible citizens until its demise from the *Shelby County v. Holder* (2013) Supreme Court ruling that permits these threats to democracy seen in society today. This ruling triggered a snowball effect, leading to the immediate adoption of new restrictive voting laws in “preclearance” states that increased the burden on voters and created new indirect costs from the voter registration process—all contributing to the erosion of U.S. democracy.<sup>3</sup>

### History of Voting Rights Policy in The U.S.

Initially, the right to vote in the late 1700s was strictly limited to one group only: white male landowners.<sup>4</sup> But soon enough, the demands of the people led to the elimination of property qualifications for voting and running for office. However, universal suffrage for white individuals led to voting restrictions being imposed on African Americans who wanted to exercise these rights.<sup>5</sup> Even with the ratification of the 15th Amendment, which aimed to protect the black vote by prohibiting states from denying the right to vote based on race, many states still found loopholes to discriminate.<sup>6</sup> Lengthy residency requirements, poll taxes, literacy requirements, and barriers to registration were all tactics used to reduce the black vote in the South.<sup>7</sup> These discriminatory tactics were the ones the Voting Rights Act

strived to erase when President Johnson signed it into law in 1965.

Voting rights for all was once a concept that garnered bipartisan support in Congress. Even after the passage of the Voting Rights Act in 1965, the Act itself was amended multiple times—in 1970, 1975, 1982, 1992, and 2006.<sup>8</sup> In these amended versions, Congress agreed to add provisions to protect people in language and minority groups; elderly individuals; and people with disabilities.<sup>9</sup> Overall, the Voting Rights Act of 1965 was once able to garner support from both parties, expanding protections to ensure that voting is easily accessible to those who are eligible to vote. However, as the political climate of Congress shifted, this bipartisan spirit dissipated. The extent of this decline was fully realized when the ruling in *Shelby County v. Holder* took full effect.

## **The Effects of Shelby County on Racial Gaps in Voter Turnout**

In *Shelby County v. Holder*, Shelby County, Alabama filed a lawsuit against the United States Attorney General at the time, Eric Holder, arguing that Sections 5 and 4(b) of the Voting Rights Act of 1965 violate the Tenth Amendment and Article Four of the U.S. Constitution.<sup>10</sup> In a 5–4 ruling for Shelby County, the Court eradicated the preclearance formula of the VRA, finding that the formula that determined whether these states required federal review before changing voting procedures was outdated.<sup>11</sup> The gutting of these crucial provisions of the VRA weakened its ability to protect voting equality, triggering several states to adopt voter laws that the federal government would have likely prohibited through the preclearance provision.<sup>12</sup> State policy actions spurred by this ruling have manifested in a growth in the racial disparity in voter turnout by twice as much in the counties that were once subject to preclearance requirements, compared to those that were not.<sup>13</sup> With the White-Black voter turnout gap increasing by 8 percentage points from 2012 to 2022 and the White-Latino turnout gap growing by 4 percentage points over similar time periods, it is evident that the aftermath of the *Shelby* ruling that gutted preclearance disproportionately affected voters of color. In further support of this argument, a recent research report by the Brennan Center for Justice that looked into how the racial turnout gap has evolved since *Shelby* found that the racial voter turnout gap in the 2022 midterm elections was the largest out of any midterm since the 2006 election.<sup>14</sup> However, it is important to note that the problem’s key causes are not limited to just the *Shelby* ruling; voter suppression is also perpetuated by partisan gerrymandering, purging, and voter intimidation.

## **Indirect Costs of Strict Voter ID Laws**

Voter ID laws passed since the *Shelby* ruling have widely been recognized as placing significant burdens on racial minorities who may not possess this form of identification or have the resources to acquire this identification. In a study conducted by Kuk, Hajnal, and Lajevardi on the burden voter identification laws have on minority turnout, the difference in difference analysis indicated that as the population of non-whites in a county increased, the negative impacts of these identification laws increased simultaneously, showing that counties with a 75 percent non-white population declined one-and-a-half times more in states that adopted these strict ID laws.<sup>15</sup> Moreover, voters in states that have implemented these identification laws may have to pay to obtain the proper documents needed to be able to vote. For example, under a law that was passed in 2021, Wyoming voters without a student or government identification card must present proof of identity to get a free state voter ID, which costs 25 dollars in Wyoming.<sup>16</sup> With the cost barriers in place, it is clear that individuals from marginalized and low-income backgrounds will be discouraged from participating in a right that should be guaranteed to them free of cost by the Constitution. These economically disadvantaged individuals often have other, more pressing worries, such as paying their monthly rent, paying for groceries, and keeping the multiple jobs they may require for sustenance. When it costs to cast your ballot, only those who can afford it can make their voices heard. It is important to note, though, that some states, such as Alabama, can provide these documents (i.e., birth certificates) for free when a voter is trying to obtain their free voter ID card, though this is not the case everywhere.<sup>17</sup>

# | Domestic Policy |

## Implications for Democracy

The ability to vote without any barriers is crucial for a healthy, representative democracy. Right now, with the VRA stripped of key provisions that checked the states' powers in passing new changes to election laws, the state of democracy in the United States has slowly eroded with each strict voter law that has been passed since Shelby. More specifically, research has shown that these voter ID laws, which require identification when a voter shows up at the polls, have created cost burdens for minority voters—thus suppressing their diverse perspectives from the ballot box. While states that implement these strict voter laws argue that these measures are necessary to protect election fraud from occurring, these policies are depressing the minority vote.

While voter ID itself in most of these states is free, the documentation that they must present as proof of identity can cost upwards of 20 dollars or more. This may be viewed as a minimal cost for many, but it is certainly not one for those who must utilize all their earnings to pay for necessities. Some states may have agreements with their public health departments to provide the documents for voter ID cards for free, but this is not the case for most states. Above all, no one should have to pay for the rights that are purportedly provided by our state and federal constitutions. These laws continue to perpetuate voter suppression and have severe implications for the creeping rise of authoritarianism and the erosion of representative democracy in the United States.



### Citations:

1. Clayton, Kareem. 2023. "The Voting Rights Act Explained." *Brennan Center for Justice*, July 17. <https://www.brennancenter.org/our-work/research-reports/voting-rights-act-explained>.
2. Ibid.
3. Morris, Kevin, and Peter Miller, Coryn G. 2021. "Racial Turnout Gap Grew in Jurisdictions Previously Covered by the Voting Rights Act." *Brennan Center for Justice*. <https://www.brennancenter.org/our-work/research-reports/racial-turnout-gap-grew-jurisdictions-previously-covered-voting-rights>.
4. Carnegie Corporation of New York. 2019. "Voting Rights: A Short History." *Carnegie Corporation of New York* <https://www.carnegie.org/our-work/article/voting-rights-timeline/>.
5. Mintz, Steven. 2024. "Winning the Vote: A History of Voting Rights." *The Gilder Lehrman Institute of American History*. <https://www.gilderlehrman.org/history-resources/essays/winning-vote-history-voting-rights>.
6. Ibid.
7. Ibid.
8. Garrett, R. Sam. 2023. "The Voting Rights Act: Historical Development and Policy Background." *Congressional Research Service*. <https://crsreports.congress.gov/product/pdf/R/R47520>.
9. Carnegie Corporation of New York. 2019. "Voting Rights: A Short History."
10. *Shelby County v. Holder*, 570 US 529 (2013).
11. Ibid.
12. Brennan Center for Justice. 2023. "Effects of Shelby County v. Holder on the Voting Rights Act." *Brennan Center for Justice*. <https://www.brennancenter.org/our-work/research-reports/effects-shelby-county-v-holder-voting-rights-act>.
13. Gaber, Andrew. 2023. "Pass the John R. Lewis Voting Rights Advancement Act." *Brennan Center for Justice*. <https://www.brennancenter.org/our-work/research-reports/pass-john-r-lewis-voting-rights-advancement-act>.
14. Morris, Kevin & Coryn G. 2024. "Growing Racial Disparities in Voter Turnout, 2008 – 2022." *Brennan Center for Justice*. <https://www.brennancenter.org/our-work/research-reports/growing-racial-disparities-voter-turnout-2008-2022>.
15. Kuk, J., Hajnal, Z., and Lajevardi, N. 2020. "A Disproportionate Burden: Strict Voter Identification Laws and Minority Turnout." *Politics, Groups, Identities* 10(1): 1–9. <https://doi.org/10.1080/21565503.2020.1773280>.
16. *Allen v. Milligan* (Formerly *Merrill v. Milligan*). 2022. *Brennan Center for Justice*. <https://www.brennancenter.org/our-work/court-cases/allen-v-milligan-formerly-merrill-v-milligan>.
17. Alabama Secretary of State. n.d. "How to Get a Free Photo Voter ID Card." <https://www.sos.alabama.gov/alabama-votes/photo-voter-id/obtain-free-photo-voter-id>.

# Book Bans, Library Defunding, and Related Policy: A Multiple Streams Analysis



Moriah Isabel Smith holds an MPA ('23) from the Cornell Brooks School of Public Policy, and a Master of Library & Information Science degree from Simmons University. She is a librarian in Rhode Island, where she is dedicated to engaging with her community and improving residents' everyday lives. Ultimately, she is committed to influencing policy around library resources to ensure that all citizens share in the fruits of our democratic institutions.

**P**ublic libraries are bastions of democracy, serving the public good and treating society's ills when nobody else will. Quintessentially local institutions, they are available to everyone in the community regardless of social status, creed, or political orientation. Throughout the COVID-19 pandemic, libraries offered public services when other doors were closed. Yes, they provide invaluable free access to information, art, and entertainment; however, they offer so much more than that. Libraries are no longer simply book repositories, but community centers, places where people from all walks of life come together. They offer help with tax filing, job searches, and unemployment claims. They are unofficial homeless shelters, providing not just a place to spend the day, but also access to free WiFi, educational programming, and all the other amenities available to the wealthiest library patrons. Recognizing the urgency of the opioid crisis in the United States, some libraries even have staff trained to administer the opioid overdose drug, Narcan. Despite how heavily communities rely on public libraries, many take them for granted, assuming they will always be there when needed. But these libraries do not exist in a vacuum—they require well maintained facilities, cutting-edge technologies, ever-developing physical and digital collections, and staffing.

## The Backstory

Funding public services has often been a tough sell for conservative legislators; however, until just a few years ago, you would be hard-pressed to find one who said they do not support public libraries. In 2021, Senators Bernie Sanders (I-VT), Jack Reed (D-RI), Sheldon Whitehouse (D-RI), and Ron Wyden (D-OR) introduced the Build America's Libraries Act (BALA), which called on Congress to allocate funds to support library infrastructure. These Democratic Senators were soon joined by Representatives Andy Levin (D-MI) and Don Young (R-AK). The BALA called for funding library infrastructure to respond to issues like natural disasters,

broadband capacity, environmental hazards, and accessibility barriers.

While primarily a "liberal" proposal, Republican Representative Don Young's support bridged the partisan aisle, and shed light on the fact that public libraries matter to everyone – or at least that they should. The disconnect here was that this support stopped short of funding, and the BALA did not pass! Legislators can get away with cutting funding, providing the bare minimum, knowing that the librarians and paraprofessionals who staff public libraries will continue to devote themselves—even for a pittance—to provide the best possible service to their communities.

# | Domestic Policy |

Public libraries are a bulwark of a democratic society, and until recently, hardly anyone would suggest getting rid of them altogether. However, the last few years have ushered in a strange cultural landscape, and libraries are now in the political spotlight. Until recently, book bans were largely regarded as things of the past; but over the last couple of years they have gained momentum, reaching a 22-year high in 2023.<sup>2</sup> Librarians have found themselves unwilling targets in an increasingly contentious culture war. The book-ban fervor is centered on LGBTQ+ themes and people of color (e.g., Toni Morrison’s classic, *The Bluest Eye*). Spearheaded by right-wing private interest groups, such as the Florida-based Moms for Liberty, book-banning and library-defunding are gaining traction as GOP-led state governments cater to these potential donor groups. In April of last year, the *New Yorker* published an article entitled “When the Culture Wars Come for the Public Library”:

*Public libraries—once as popular with libertarian autodidacts as leftists—have become targets of the Republican Party...Local-library systems, and local librarians, are being vilified nationwide as peddlers of Marxism and child pornography. Whatever faith there was in public learning and public space is fraying. Though book bans aren’t new, current bids at censorship are often paired with cuts to library budgets.*<sup>3</sup>

This *New Yorker* article, which focuses on a small town in Montana, is just one of many such pieces published over the last couple of years. The state of Montana is of particular note, however, as its library board voted to rescind its longstanding membership in the ALA, citing the organization’s newly appointed “Lesbian Marxist” president as the reason for this dramatic move.<sup>4</sup> The culture wars have been escalating, and it is not just books that are coming under fire. Librarians themselves are

being threatened, harassed, and receiving death threats.

Far-right groups like the Proud Boys have shown up with guns to protest drag-queen story hours<sup>5</sup>; and in the summer of 2023 and early 2024, there were rushes of bomb threats directed at public libraries.<sup>6</sup>

## **The Resolutions**

On April 25, 2023, in honor of National Library Week, Democratic U.S. Representative Jayapal brought Resolution 324 to the House of Representatives. Jayapal introduced this resolution to protect America’s libraries and librarians, after which it was immediately referred to the House Committee on Education and the Workforce.<sup>7</sup> Jayapal had thirty-four cosponsors, all of whom were Democrats. This very partisan agenda item saw no movement after its initial introduction.<sup>8</sup> Resolution 324 was unlikely to get past the House as, again, all of its co-sponsors were Democrats, and Republicans had a House majority. Even in the unlikely event that this bill had passed a House vote, a sizable minority in the Senate would probably have been enough to kill the bill on arrival.

After a year of stagnation, the bill gained new life, as it was repackaged and reintroduced using nearly identical language, this time as Senate Resolution 637. On April 11, 2024 (again, coinciding with National Library Week), Senator Hirono (D-HI) presented the bill, which was immediately referred to the Committee on Health, Education, Labor, and Pension. One small but potentially significant difference between Hirono’s and Jayapal’s resolutions is that Hirono has one independent sponsor: Senator King (I-ME).<sup>9</sup> This could represent a slight shift back toward bipartisan support of libraries.

Presumably, given the current political climate, Representative Jayapal and Senator Hirono know that passing such bills is extremely unlikely.



These resolutions might be, for all intents and purposes, symbolic ones. Attempts to protect libraries on the federal level are unlikely to go very far, considering that the library culture war is playing itself out on local and state levels. The American Library Association was listed as an official supporter of Jayapal’s bill, which by itself should serve to ensure that states like Montana and Texas (which have recently parted ways with the ALA) will do everything in their power to maintain their right to control libraries as they see fit.<sup>10</sup>

### **The Garbage Can**

One could say that Jayapal’s and Hirono’s resolutions were a long time coming. One could also say that they amount to symbolic gestures—manifestations of a host of partisan battles coming to fruition in a moment in time, encapsulated by the neat packaging of congressional resolution. This confluence of disparate issues speaks to the garbage can model, as per Cohen et al. (1972) in which “[a] variety of diverse interests, objectives and ideas all got dumped into a single decision, and what emerged came from the interaction of those ill-assorted objects.”<sup>11</sup> Interestingly, libraries themselves can be likened to garbage cans, as they serve as a catch-all for society’s ills, in the myriad services they offer.

The texts of the resolutions themselves enumerate several unexpected societal issues that librarians face head-on, such as the opioid epidemic, the COVID-19 pandemic, and the housing crisis. After laying out the critical roles that libraries and librarians play in the integrity and functioning of our democracy, the resolutions go on to outline the defunding threats that these institutions and their stewards are facing. They then connect this to the culture war over book bans and library funding, proclaiming that librarians must be

allowed to make decisions about library collections without fear of being censored or punished for performing their essential role of providing information access to the public. Finally, the resolutions call for the protection of libraries and librarians in the wake of “deplorable incidents” targeting library staff throughout the country.<sup>12</sup> This call to protect libraries and librarians ensures funding and the right to organize and unionize, but it is not limited to protecting librarians and their civil rights. The resolutions also point to a need to protect “critical infrastructure,” and the essential right of Americans to freely access information, both of which rely on the work of librarians.<sup>13</sup>

### **The Streams**

H.Res.324 and S.Res.637 relate to larger issues and partisan ideas about how to deal with those issues (e.g., unions, the unhoused, freedom of speech, social services, underserved communities). When viewed through Kingdon’s framework, the proposed bills manifest as the confluence of various and varied streams, wrapped up in neat little packages, the specific size and shape of which could have turned out a number of different ways. They just happened to be most conveniently dressed up in the trappings of library-specific language. H.Res.324 and S.Res.637 are solutions borne of “different streams of thinking, interests, and participants,” which come together to create a solution that depends less on an individual agenda and more on “timing and chance—what was in the can when the decision was made.”<sup>14</sup>



# | Domestic Policy |

The policy stream refers to the experts' continuous discourse around policy options and involves the exploration of different policy possibilities. This stream includes what Kingdon refers to as “policy entrepreneurs,” who are always tweaking talking points and preparing their elevator pitches for a chance to get an item on the agenda.<sup>15</sup> Representative Jayapal and Senator Hirono are just such policy entrepreneurs, using the protection of libraries and library workers as a specific vehicle for advancing more general policy agendas around partisan issues. The recent spotlight on libraries and librarians has raised their political profile, as illustrated by the rapid proliferation of journalism devoted to the subject over the last couple of years. The public discourse and media attention indicate that the issue has entered the political stream, meaning legislators have identified a problem, and a policy solution is on the horizon. The book bans, the defunding, the bomb threats, the armed protests at drag-queen story hours—all have drawn attention to a problem that has been deemed by the three streams to be resolvable. This is how an agenda is chosen: a problem is identified as such, a potential policy solution is selected, and a politician decides to champion this policy solution.<sup>16</sup>

## **The Opposition**

Perhaps Congress is not the right venue for a battle that is largely being fought on the state level. It is on the local and state levels where special interest groups like the Moms for Liberty are getting things done. These groups initially set their sights on controlling what librarians add to their collections. When these efforts are unsuccessful, they employ the scorched-earth technique of defunding libraries altogether.<sup>17</sup> In 2023, the Republican-controlled Missouri House voted to remove libraries from the state's

annual budget, a previously unheard-of action that was met with vocal disapproval from librarians and residents for whom library services are essential to their wellbeing.”<sup>18</sup> Although library censorship efforts are primarily being undertaken in red states, even blue states are not immune. In Rhode Island, for example, a small group of legislators (led by a Republican, but also including seven Democrats) is attempting to criminalize the inclusion of children's and young adult books like “Gender Queer” in library collections, with librarians facing up to two years in prison for providing access to these “obscene” materials.<sup>19</sup>

Right-wing special interest groups are making inroads into local and state politics, convincing communities to vote to defund their local libraries if they refuse to remove books with LGBTQ+ or racial justice themes, but communities and pro-library groups are fighting back. A public library in Virginia is facing closure in the wake of a far-right defunding campaign based, yet again, on the inclusion of books with LGBTQ+ themes. Catalyzed by this threat, a local activist group has organized around a commitment to keeping the library open, standing by the LGBTQ+ community in the face of religious influence over library collections.<sup>20</sup> As a result of their efforts, the library has been funded through 2025.<sup>21</sup>

In his New York Times podcast, Ezra Klein points out that state politics are difficult for voters to stay informed about, and easily influenced by special interest groups. He says that state politics



are harder to follow than federal politics because a lot of information is being channeled through local networks. It is more difficult for a single group to have a national political effect than a local effect, as federal politics involve a lot of players, money, and voters. States are good targets for interest groups because they receive less media coverage. State legislators also need special-interest money desperately, as fundraising is not as easy for them as for federal legislators. Finally, since state legislators do not have the policy staffing, bill-writing resources, or ways of getting informed about key issues, they welcome special interest groups that essentially function as “informational arms” for them.<sup>22</sup>

To save their local libraries, supporters might do best to meet the book-banners and library defunders where they operate—on the local and state political stages. The very fabric of our democracy might depend on such engagement, as the threads start to fray at the edges in communities, towns, and states. Everyone is the same at the public library; when you walk in, you categorically belong—no more and no less than your neighbor. This democratic ideal of public libraries is a more fully realized form of the democratic ideal of the United States. The library system of intellectual freedom and equal opportunity represents the American democratic ethos and reflects the dual values of individual autonomy and collective responsibility. Invest in public libraries and invest in all Americans.



**Citations:**

1. H.R.1581 - 117th Congress (2021-2022). Library of Congress. Accessed June 17, 2024. <https://www.congress.gov/bill/117th-congress/house-bill/1581>.
2. American Library Association. "Book Ban Data." Accessed June 17, 2024. <https://www.ala.org/bbooks/book-ban-data>.
3. Kim, E. Tammy. 2023. "When the Culture Wars Come for the Public Library." *The New Yorker*, April 20. <http://www.newyorker.com/news/dispatch/when-the-culture-wars-come-for-the-public-library>.
4. Yurcaba, Jo. 2023. "Montana State Library Withdraws from National Library Group over President's 'Marxist Lesbian' Comment." *NBCNews.com*, July 13. <http://www.nbcnews.com/nbc-out/out-news/montana-state-library-withdraws-national-library-group-presidents-marx-rcna94130>.
5. Murray, Conor. 2023. "Drag Story Hours Spark Angry Anti-LGBTQ Rallies-Latest in NYC Included Proud Boys." *Forbes*, March 23. <http://www.forbes.com/sites/conormurray/2023/03/21/drag-story-hours-spark-angry-anti-lgbtq-rallies-latest-in-nyc-included-proud-boys/>.
6. Jensen, Kelly. 2024. "Another Round of Public Library Bomb Threats." *Book Riot*, January 11. <https://bookriot.com/minnesota-library-bomb-threats/>.
7. Jeske, Sam. 2023. "Jayapal Introduces Resolution Recognizing Library Workers." Congresswoman Pramila Jayapal, November 1. <https://jayapal.house.gov/2023/04/25/jayapal-introduces-resolution-recognizing-library-workers/>.
8. H.Res.324 - 118th Congress (2023-2024). Library of Congress. Accessed June 17, 2024. <https://www.congress.gov/bill/118th-congress/house-resolution/324>.
9. S.Res.637 - 118th Congress (2023-2024). Library of Congress. Accessed June 17, 2024. <https://www.congress.gov/bill/118th-congress/senate-resolution/637>.
10. Jeske. 2023. "Jayapal Introduces Resolution Recognizing Library Workers."
11. Greer, Scott. 2015. "John W. Kingdon, *Agendas, Alternatives, and Public Policies*." New York, Oxford University Press, 4.
12. S.Res.637 - 118th Congress (2023-2024).
13. Greer. 2015. "John W. Kingdon, *Agendas, Alternatives, and Public Policies*." 4.
14. *Ibid.*
15. Yurcaba, Jo. 2023. "Montana State Library Withdraws from National Library Group over President's 'Marxist Lesbian' Comment."
16. Jensen, Kelly. 2024. "Another Round of Public Library Bomb Threats."
17. Cineas, Fabiola. 2023. "The Rising Republican Movement to Defund Public Libraries." *Vox*, May 5. <http://www.vox.com/politics/2023/5/5/23711417/republicans-want-to-defund-public-libraries-book-ban>.
18. Hays, Gabrielle. 2023. "Missouri House Republicans Want to Defund Libraries. Here's Why." *PBS*, April 13. <https://www.pbs.org/newshour/politics/librarians-say-a-missouri-house-proposal-to-eliminate-library-funding-would-have-devastating-ripple-effects>.
19. Russo, Amy. 2023. "Lawmakers Are Bringing the Book Ban Wars to Rhode Island. Here's How." *The Providence Journal*, May 11. <https://www.providencejournal.com/story/news/local/2023/05/11/banned-books-in-ri-could-expand-under-proposed-bill-aimed-at-school-libraries/70196159007/>.
20. Salam, Erum. 2023. "Virginia Library at Risk after Rightwing Push to Defund It over LGBTQ+ Books." *The Guardian*, September 2. <https://www.theguardian.com/us-news/2023/sep/02/virginia-public-library-defund-republican-lgbtq-books>.
21. "Save Samuels." Accessed June 17, 2024. <https://www.savesamuels.org/>.
22. Klein, E. (Host). "There's Been a Massive Change in Where American Policy Gets Made." *Ezra Klein Podcast* (podcast), December 6, 2022. Accessed June 17, 2024. <https://www.nytimes.com/2022/12/06/opinion/ezra-klein-podcast-jacob-grumbach.html>.

## Unions as Guardians of Democracy: The Urgent Need to Pass the PRO Act Ahead of 2024 Election



Wes McEnany '24 is a second-year Executive MPA candidate at the Cornell Brooks School of Public Policy. He spent 12 years as a union organizer with the Service Employees International Union and the Communication Workers of America. He's currently the Deputy Labor Policy Director of the United States Senate Committee on Health, Education, Labor, and Pensions under Chairman Bernie Sanders (I-VT).

**O**n July 27th, 2022, Vail Kohnert-Young stood up at the 38th United Auto Workers (UAW) Convention and nominated Shawn Fain for President of the UAW. Vail hadn't planned to be the nominator, but the assigned delegate got cold feet in the tension-filled room. Vail came into the union as a Harvard Law student who helped unionize graduate student workers at the storied Ivy League institution with UAW, an industrial-based union that in recent years has seen militant graduate students join in droves.<sup>1</sup> Unhappy with decades of decline, could this once powerful union regain the fighting spirit and channel their legacy, which includes the Flint Sit Down strike in 1938 and having unionized some of the largest firms in the world?

As the pivotal 2024 election approaches amidst widespread fears of continued assaults on democratic norms and institutions, policymakers must recognize the vital role labor unions play in protecting and strengthening democracy.<sup>2</sup> The recent successes of the UAW in adopting a "one member, one vote" system and organizing breakthrough victories and losses in union-resistant Southern states illustrate how a revitalized labor movement can serve as a bulwark against creeping authoritarianism. Realizing unions' full potential as guardians of democracy requires swift passage of the Protecting the Right to Organize (PRO) Act to reverse decades of corporate-backed attacks on workers' collective bargaining rights.<sup>3</sup> With democracy itself on the ballot in 2024, empowering unions must be part of a comprehensive strategy to expand and energize citizen participation in the governance of both workplaces and politics.

### **The UAW's Democratic Renewal**

The UAW's recent internal reforms and external organizing victories demonstrate the resilience and promise of unions as uniquely democratic institutions. In a historic shift, UAW members voted in 2022 to adopt a "one member, one vote" system for electing top union officers, replacing the antiquated and undemocratic delegate model.

This change, which followed a federal investigation into corruption by former UAW leaders, represented a major step forward in union democracy and accountability to rank-and-file members. By aligning union governance more closely with the principle of "one person, one vote" that underpins the concept of democracy, the UAW enhanced its legitimacy as a vehicle for the rising militancy and collective voice of workers.

The UAW's commitment to internal democracy has been matched by external success in organizing new members, particularly in the historically anti-union South. In April of this year, workers at a Volkswagen plant in Chattanooga, Tennessee voted to join the UAW, the first instance of a foreign automaker's U.S. factory being unionized.<sup>5</sup> After running and losing twice in previous union elections, the workers finally won.<sup>6</sup> It is not a coincidence that this victory occurred six months after the historic, successful Stand Up Strike at the Big 3 American automakers caught international headlines, enticed President Biden to be the first sitting President to ever walk a picket line, and most importantly, won massive contractual gains after decades of concessionary contracts. Again this year, the UAW secured a similarly strong contract for workers at Daimler Truck facilities in North Carolina.<sup>7</sup> These victories, achieved despite aggressive corporate and Republican political opposition, and punitive state "right-to-work" laws amid a general climate of hostility to organized labor, underscore unions' enduring appeal as a channel for collective action.

The UAW's progress on democratization and Southern organizing bodes well for the larger project of strengthening unions as a countervailing force against concentrated corporate power and a training ground for democratic citizenship.<sup>8</sup> When unions are invigorated through rank-and-file agency and enabled to grow their membership and influence, they can more effectively advocate for policies that benefit working families, hold corporations, and their private equity and hedge fund handlers accountable, and promote a culture of participation and solidarity. The revival of a democratic, growing UAW shows that even in the face of daunting legal and political challenges, unions remain a potent tool

for restoring faith in collective action and transposing democratic practices from the workplace to the public sphere.<sup>9</sup>

### **Unions Under Attack, Democracy Follows**

The UAW's hard-won gains, and other flashpoint victories for workers at companies like Starbucks, are an exception to the broader trend of union decline and disempowerment over recent decades. Corporate interests and their political allies have waged a relentless campaign to weaken unions through anti-labor policies such as so-called "right-to-work" laws now on the books in a majority of states.<sup>10</sup> By allowing workers to opt out of paying fees to unions while still enjoying the benefits of collective bargaining, these laws aim to starve unions of resources and members.<sup>11</sup> The long-term impacts have been devastating: "right-to-work" states have lower union density, depressed wages, reduced benefits, and more dangerous workplaces.

UAW's recent loss at a Mercedes-Benz in Vance, AL serves as a stark reminder how difficult it is for workers to join unions. Numerous Unfair Labor Practices were filed by the union alleging captive audience meetings, where workers were coerced to listen to union busting consultants and management, and even termination of worker union leaders. In this environment where following the law is merely a suggestion, companies can and do break it with impunity to resist their workers' attempts to unionize. This is harmful to workers everywhere, but it is especially so for democracy and mirrors the threats to, and declines in, democracy in the United States. If workers are not free to voice their opinions and associate in organizations at work, how can we expect that to hold true in our broader civic society and political institutions?

# | Domestic Policy |

Beyond the obvious economic harm to working families, the larger cost of anti-union attacks has been a debilitated labor movement less capable of sustaining a healthy democracy. Ample research shows the strong correlation between union strength and pro-democracy outcomes like higher voter turnout,<sup>12</sup> a more robust social welfare state,<sup>13</sup> and passage of policies that reduce inequality.<sup>14</sup> The decades-long erosion of collective bargaining nationally has exacerbated economic disparities,<sup>15</sup> diminished workers' civic engagement, and created a pronounced power imbalance between corporations and employees in the political system. Failure to build robust unions in the South has manifested in those states remaining the most unequal, poor, stifled with structural racism, and the least democratic. In the post-war period this led CIO Vice President, Alan Haywood to famously remark, "We must organize the South. We must oust the reactionary Southern Democrats and Northern reactionaries who are in our Congress."<sup>16</sup> Think reactionary political forces aren't taking note—think again. Republican Governor Kay Ivey penned an op-ed for the Alabama Chamber of Commerce where she said, "Make no mistake about it: These are out-of-state special interest groups, and their special interests do not include Alabama or the men and women earning a career in Alabama's automotive industry."<sup>17</sup> The crisis of unions and "threat to democracy"<sup>18</sup> has only deepened since the election of Donald Trump and the spread of his authoritarian movement within the Republican Party.<sup>19</sup> While Trump's populist appeals to blue-collar workers helped him flip key Midwestern states in 2016, his administration consistently sided with corporate interests over workers, from appointing a pro-business majority on the National Labor Relations Board to issuing executive orders undermining union rights for federal employees.<sup>20</sup>



Even more troubling was Trump's shameless effort to overturn his 2020 electoral defeat by pressuring state officials, filing baseless lawsuits, and finally inciting a violent attack on the Capitol.<sup>21</sup> Although the attempted insurrection failed, Trump's "Big Lie"<sup>22</sup> of a stolen election has taken root among much of the Republican base, spawning new waves of voter suppression bills, sham "audits" of certified results, and election deniers running for key offices that control voting.

As the 2024 election approaches, democrats are alarmed that the "Big Lie" and its proponents could succeed in subverting a future election.<sup>23</sup> A Trump comeback or the installation of another right-wing demagogue would likely deal further blows to unions, voting rights, and the democratic rule of law. The countermobilization by unions, both to get out the vote and safeguard democracy over the long haul, has taken on existential urgency. Encouragingly, unions are already serving as a grassroots bulwark against authoritarianism, from helping to elect pro-worker, pro-democracy candidates in the 2022 midterms to organizing for racial justice and police accountability. But for labor to reach its full potential as a democratic counterweight, it needs a major assist from the federal government, much as it got during the New Deal period of the 1930s with passage of the Fair Labor Standards Act and National Labor Relations Board leading to rise of labor standards and dramatic unionization in the prevailing decades.

## **The PRO Act: Labor Law Reform to Save Democracy**

The single most important policy change to strengthen unions and democracy would be passage of the PRO Act. This landmark legislation would remove many of the structural disadvantages that have hobbled union organizing for decades, from overturning state "right-to-work" laws, to prohibiting employer interference in union elections, to establishing monetary penalties for companies that break the law. By restoring workers' freedom to form unions and negotiate for better conditions, the PRO Act would help grow union density, especially in regions like the South where labor has struggled to gain a foothold and where the authoritarian far-right is rapidly ascending.

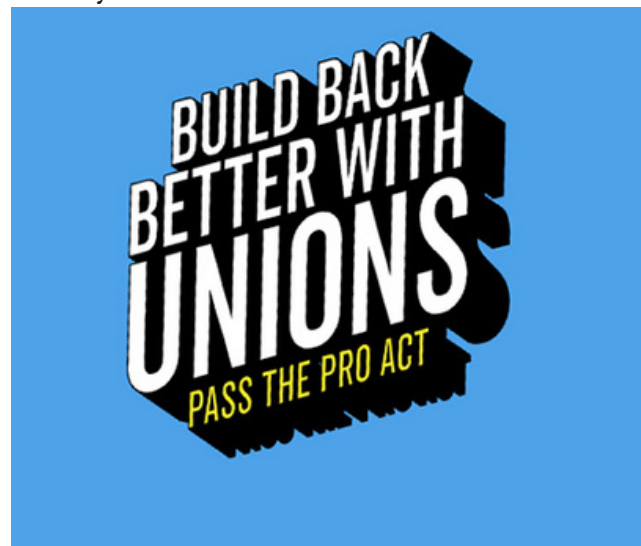
Higher union density would, in turn, fortify democracy against the gathering forces of authoritarianism. As the research cited earlier demonstrates, unions boost voter turnout and other forms of civic participation both among their own members and in the wider communities where they have influence. The PRO Act would enable unions to organize more diverse sectors of the workforce, such as gig workers and incarcerated workers in prison labor programs, expanding labor's reach to marginalized communities that have faced voter suppression. A rejuvenated labor movement would train more workers of all backgrounds in crucial democratic skills like running for office, making collective decisions, and engaging directly with, and debating, issues.

Most crucially, the PRO Act would give unions the necessary influence to go toe-to-toe with corporations and private equity firms to advocate for a robust pro-democracy agenda.

With greater resources and a growing membership, unions could mount more effective campaigns for policies that

simultaneously boost workers' rights and voting rights, from raising the minimum wage, to enacting automatic voter registration, to protecting mail-in voting. Unions could also serve as heavily resourced organizational linchpins for intersectional progressive coalitions that weave together economic justice with demands for racial equity, immigrant rights, climate action, and political reform. Such coalitions, with unions playing a key role, have already achieved important state-level victories like restoring voting rights to formerly incarcerated people in Florida,<sup>24</sup> and passing paid family medical leave in Colorado.<sup>25</sup>

The PRO Act would unshackle unions to realize their potential as a democratizing force at a dangerous historical moment.<sup>26</sup> While democracy defenders must continue pushing for direct electoral reforms to counter voter suppression, disinformation, and election subversion, they also need strong unions as allies in this generational struggle. Unions are uniquely positioned to organize the multiracial working class,<sup>27</sup> connect bread-and-butter economic issues to democratic values, and mobilize members for sustained political engagement beyond a single election cycle. Empowering unions is critical to cultivate the grassroots democratic muscle needed to protect free and fair elections in 2024 and beyond.



# | Domestic Policy |

Dr. Martin Luther King Jr. captured this confluence between labor rights and voting rights when he told striking sanitation workers in Memphis, just days before his assassination, "Let it be known everywhere that along with wages and all of the other securities that you are struggling for, you are also struggling for the right to organize and be recognized."<sup>25</sup> In 2024 and the years ahead, the labor and democratic rights of working people will again rise or fall together. By eliminating the steep barriers workers face in organizing unions, we can create the conditions to win. Passing the PRO Act is urgent, necessitating decisive action.



## Citations:

1. Lawrence, Eric D. 2022. "UAW Delegates, in Departure from Past, Make Nominations for Top Offices." Detroit Free Press, July 28. <https://www.freep.com/story/money/cars/2022/07/28/uaw-2022-convention-nominations/10157617002/>.
2. Potts, Monica. 2024. "Americans Think Democracy Is in Peril in the 2024 Election." ABC News, February 24. <https://abcnews.go.com/538/americans-democracy-peril-2024-election/story?id=106803471>.
3. Jones, Sarah. 2021. "The PRO Act Could Do More Than Revive Unions." New York Magazine, March 13. <https://nymag.com/intelligencer/2021/03/what-is-the-pro-act.html>.
4. Scheiber, Noam. 2023. "From Detroit to Hollywood, New Union Leaders Take a Harder Line." The New York Times, August 16. <https://www.nytimes.com/2023/08/16/business/economy/union-leaders-teamsters-uaw-hollywood.html>.
5. Krisher, Tom and Kristin M. Hall. 2024. "Tennessee Volkswagen Employees Overwhelmingly Vote to Join United Auto Workers Union." AP News. <https://apnews.com/article/volkswagen-union-vote-united-auto-workers-chattanooga-51544590d8a06efddfa2f6ac7db00fbc>.
6. Ibid.
7. Hsu, Andrea. 2024. "UAW Strike at Daimler Truck Averted at 11th Hour." NPR. <https://www.npr.org/2024/04/26/1247632662/daimler-truck-uaw-strike-averted>.
8. Sachs, Benjamin. 2013. "The Unbundled Union: Politics Without Collective Bargaining." The Yale Law Journal 123 (1): 148-207. <https://www.yalelawjournal.org/essay/the-unbundled-union>.
9. Logan, John. 2006. "The Union Avoidance Industry in the United States." British Journal of Industrial Relations 44 (4): 651-75. <https://onlinelibrary.wiley.com/doi/10.1111/j.1467-8543.2006.00518.x>.
10. Stern, Andy. 2013. "Unions & Civic Engagement: How the Assault on Labor Endangers Civil Society." *Daedalus* 142, no. 2: 119-38. [https://doi.org/10.1162/daed\\_a\\_00208](https://doi.org/10.1162/daed_a_00208).
11. Bivens, Josh, et al. 2017. "How Today's Unions Help Working People." Economic Policy Institute, August 24. <https://www.epi.org/publication/how-todays-unions-help-working-people-giving-workers-the-power-to-improve-their-jobs-and-unrig-the-economy/>.
12. Radcliff, Benjamin, and Patricia Davis. 2000. "Labor Organization and Electoral Participation in Industrial Democracies." *American Journal of Political Science* 44 (1): 132-41. <https://www.jstor.org/stable/2669299>.
13. Gupta, Sarita, Stephen Lerner, and Joseph A. McCartin. 2018. "It's Not the 'Future of Work,' It's the Future of Workers That's in Doubt." *American Prospect*, August 31. <https://prospect.org/labor/future-work-future-workers-doubt/>.
14. Wang, Tova. 2020. "Union Impact on Voter Participation—and How to Expand It." June. [https://ash.harvard.edu/wp-content/uploads/2024/02/300871\\_hvd\\_ash\\_union\\_impact\\_v2.pdf](https://ash.harvard.edu/wp-content/uploads/2024/02/300871_hvd_ash_union_impact_v2.pdf).
15. Madland, David. 2021. "Unions and Democracy." Center for American Progress Action Fund, June 3. <https://www.americanprogressaction.org/article/unions-democracy/>.
16. Goldfield, Michael. 2020. *The Southern Key: Class, Race, and Radicalism in the 1930s and 1940s*. New York: Oxford University Press.
17. Ivey, Kay. 2024. "Gov. Ivey: I'm Fighting to Protect Alabama's Auto Jobs Amid UAW Push." *Made in Alabama*, January 10. <https://www.madeinalabama.com/2024/01/gov-ivey-unions-want-to-target-one-of-alabamas-crown-jewel-industries-but-im-standing-up-for-alabamians-and-protecting-our-jobs/>.
18. Epstein, Reid J. "Biden Condemns Trump as Dire Threat to Democracy in a Blistering Speech." The New York Times, January 5, 2024. <https://www.nytimes.com/2024/01/05/us/politics/biden-speech-trump-jan-6.html>.
19. Newhall, Alex. 2024. "Democracy in Peril: Biden and the 2024 Presidential Election." *Chicago Policy Review*, May 28. <https://chicagopolicyreview.org/2024/05/27/democracy-in-peril-biden-and-the-2024-presidential-election/>.
20. McNicholas, Celine, Margaret Poydock, and Lynn Rhinehart. 2019. "Unprecedented: The Trump NLRB's Attack on Workers' Rights." Economic Policy Institute, October 16. <https://www.epi.org/publication/unprecedented-the-trump-nlrbs-attack-on-workers-rights/>.
21. Mayer, Jane. 2021. "The Big Money Behind the Big Lie." The New Yorker, August 2. <https://www.newyorker.com/magazine/2021/08/09/the-big-money-behind-the-big-lie>.
22. Clark, Doug Bock, Alexandra Berzon, and Kirsten Berg. "Building the 'Big Lie': Inside the Creation of Trump's Stolen Election Myth." ProPublica, April 26, 2022. <https://www.propublica.org/article/big-lie-trump-stolen-election-inside-creation>.
23. Gellman, Barton. 2021. "Trump's Next Coup Has Already Begun." The Atlantic, December 9. <https://www.theatlantic.com/magazine/archive/2022/01/january-6-insurrection-trump-coup-2024-election/620843/>.
24. Florida Rights Restoration Coalition. Accessed June 17, 2024. <https://floridarrc.com/>.
25. "Colorado Paid Family and Medical Leave Coalition. 2020. "About Paid Family and Medical Leave for Colorado." <https://cofamli.org/about/>.
26. McNicholas, Poydock, and Rhinehart. 2019. "Unprecedented: The Trump NLRB's Attack on Workers' Rights."
27. Mitchell, Maurice. 2021. "Organizing the Multiracial Working Class." *Organizing the Multiracial Working Class*, February 24. <https://prospect.org/politics/organizing-the-multiracial-working-class/>.
28. King, Martin Luther Jr. 2015. "Martin Luther King, Jr.: All Labor Has Dignity." Martin Luther King, Jr.: All Labor Has Dignity, January 19. <https://truthout.org/articles/martin-luther-king-jr-all-labor-has-dignity/>.



# Evaluating the Efficacy of New York’s Public Matching Funds Program in Addressing “Dark Money” Influence



Kira P. Tretiak '27 is a second-year undergraduate student at Cornell University’s Jeb E. Brooks School of Public Policy. As an executive board member for both Cornell’s Gender Justice Advocacy Coalition and Cornell’s undergraduate chapter of the American Civil Liberties Union, she is devoted to civic engagement and gender justice.

According to former Wisconsin State Senator Jessica King, she lost her reelection campaign because of a single vote she cast—a vote against a bill that would speed up the permitting process for mining companies. Because of this vote, she made an enemy of pro-business interest groups who later rallied against her reelection. One group, the Wisconsin Club for Growth, spent \$919,000 on ads in that one race—more than double the total King spent on her own campaign.<sup>1</sup>

With King out of the Senate, the bill passed its second time around.<sup>2</sup> She attributed her reelection loss and the bill’s subsequent passage to the advertisements dispersed by the Wisconsin Club for Growth and other similar groups.<sup>3</sup> Voters who saw these attack ads against King did not know that they were at least partially funded by the out-of-state company who would benefit most from the mining bill King voted against. A leaked court document reported that the mining company gave \$700,000 to the Wisconsin Club for Growth—information not available at the time of the election.<sup>4</sup> This lack of transparency stems from the organization not disclosing its donors. Funds spent by organizations like the Wisconsin Club for Growth have soared in recent years. The lack of full disclosure for political expenditures is widespread, preventing fair local, state, and federal elections.

## “Dark Money,” Defined

“Dark money” refers to the funds spent by organizations to influence the outcomes of political processes, whether elections, referendums, or legislative agendas, while not disclosing the source of the funds.<sup>5</sup> These funds are most notably spent by 501(c)(4) nonprofit organizations. 501(c)(4) nonprofit organizations are considered social welfare organizations who can engage in political activities.<sup>6</sup> Unlike other types of nonprofit organizations, donations to 501(c)(4)s are not tax deductible.<sup>7</sup>

501(c)(4) organizations use their money to influence political outcomes by funneling money to political organizations and by directly

funding political messaging.<sup>8</sup> Some organizations are purely for “pass-through” purposes, meaning they pass money from donors to political groups, rather than engaging in political advocacy themselves. These groups often have characteristics like few board members and volunteers, sparse websites, and low net assets.<sup>9</sup> Many “dark money” spenders do not fall squarely into this category and use money to fund advertisements supporting a certain candidate or policy directly.

The rise of “dark money” can be attributed to two 2010 court rulings. The Supreme Court case *Citizens United v. FEC* held that the First Amendment right to political spending extends to organizations and individuals.<sup>10</sup>

# | Domestic Policy |

This landmark ruling overturned efforts to curtail campaign spending rules outlined in the Bipartisan Campaign Reform Act (BCRA) eight years prior. BCRA amended existing campaign finance legislation to diminish the influence of special interest groups, setting new limits on the “electioneering communications” of corporations.<sup>11</sup> In *SpeechNow.org v. FEC*, the U.S. Court of Appeals for the District of Columbia ruled that the amount individuals give to organizations like 501(c)(4) nonprofits cannot be limited, reviving the loopholes to funding campaigns that BCRA closed.<sup>12</sup>

These two rulings have made it difficult to reign in political spending and, by extension, the influence of special interest groups. “Dark money” poses a particular threat to democracy because the opacity of this type of spending means groups can influence elections without accountability. For instance, a study of support for the Americans for Job Security Act found that some wealthy donors who publicly support liberal policies use “dark money” organizations to “funnel money into resoundingly conservative cause[s] without fear of discovery.”<sup>13</sup>

Further, 501(c)(4) nonprofits can fund political messaging without clarity about who supports their group.<sup>14</sup> It is difficult to discern the goals of a “dark money” organization by name alone. For example, Americans for Tax Reform is a group whose purpose is opposing all tax increases.<sup>15</sup> Even with research into the mission of these 501(c)(4) nonprofits, the lack of obligatory donor disclosure makes it difficult to know where their values align. Therefore, it is hard to challenge the credibility of political advertisements made by “dark money” groups on behalf of, or against, certain candidates or policies. This lack of accountability threatens

representative elections because voters and candidates can be influenced by political messaging that makes it seem as though there is more support for a certain viewpoint than there truly is—a viewpoint often held by a few secret wealthy donors.

## **New York’s Public Finance Option**

One method to address “dark money” spending is government funding for campaigns, also known as a public campaign financing program. These financing programs provide sourcing to fund campaigns so that candidates can challenge the political messaging paid for by “dark money” groups. These programs are often implemented at the state level where they are most impactful. Compared to federal elections, in state elections like New York assembly elections, less information and spending are required to sway outcomes.<sup>16</sup> Furthermore, “state and local elected offices are capable of directly impacting special interests’ bottom lines” because they have fewer checks on regulatory decisions.<sup>17</sup>

Two types of public campaign financing programs are (1) a “clean elections” program and (2) a “matching funds” program.<sup>18</sup> A clean elections program funds campaigns by giving qualifying candidates a lump sum subsidy, like Vermont’s full grant system which supports candidates running for governor and lieutenant governor.<sup>19</sup> A matching funds program uses public funds to match small donations to campaigns, like New York’s program which matches contributions of up to \$250 made to candidates running for statewide and state legislative positions.<sup>20</sup>



New York's matching funds program is being utilized in its entirety for the first time in the 2024 election cycle.<sup>21</sup> Depending on the amount donated, New York state will match small donations (\$5-\$250) using a ratio that decreases as the quantity donated increases. In the upcoming elections, over 300 candidates will receive public funds from this program. To carry out the program, \$39.5 million has been allocated from the state budget.<sup>22</sup>

New York's matching funds program addresses the issue of "dark money" spending by providing candidates the funding needed to challenge candidates supported by "dark money" interests. While the program does not address the ability of "dark money" organizations to disperse and fund political messaging, it helps level the playing field. Data from public campaign funding programs implemented in Arizona and Maine lend empirical support to the notion that government funds increase competitiveness for challengers in state elections.<sup>23</sup> A matching funds program is especially useful for combating special interest groups because it empowers small donors to contribute their own money, given their donations will be amplified by government spending.<sup>24</sup> The program is estimated to "increase the financial power of small donors sixfold, from 11 percent...to as much as 67 percent."<sup>25</sup> This significant shift in campaign fundraising would curtail the influence large campaign spenders may have by removing the reliance candidates have on major donors to fund their campaign efforts.

New York's matching funds program would also make elections more representative of the public, as opposed to major campaign spenders, by diversifying New Yorkers' ballots. Public campaign financing makes campaigning more



economically viable and accessible by providing resources to populations that have been marginalized in the political process, thereby promoting socioeconomic, gender, and racial diversity in elections.<sup>26</sup> In states where public funding for campaigns has been implemented in the past, racial minorities and women were more likely to become candidates.<sup>27</sup> Therefore, New York's program could make state officials more representative of the state's population.

Critics of programs like New York's public financing option argue that government funds lead to candidates who are more extreme in their policy positions.<sup>28</sup> It is true that public funding can cause increased polarization between candidates because they no longer must shift their policies towards the center to appease donors, meaning they can campaign on more fringe positions.<sup>29</sup> Increased polarization can dampen the benefits of a public campaign financing program by isolating more voters, causing candidates who are less representative of the public to get elected. New York's "matching funds" structure for public campaign funding, however, would minimize the extent that polarization is an issue. Unlike a clean elections program, a matching program requires candidates to appeal to voters to receive small-scale donations for the government to match. If candidates are too fringe, they will not be able to amass sufficient contributions for a successful campaign, thus minimizing the salience of this critique.

# | Domestic Policy |

Critics also argue that New York’s program is costly and ripe for fraud. While true that the program can give hundreds of thousands to an individual candidate—an amount that could be used to help New Yorkers more directly—the overall cost of the program is relatively low. For each New Yorker, funding and implementation of the program costs only around \$2 of taxpayer money.<sup>30</sup> There is, however, a real risk that the funding goes towards fraudulent sources. The program established a Public Campaign Finance Board to monitor the program’s implementation.<sup>31</sup> However, in the 2024 elections, some New York residents have reported that fake donations were being submitted to the government under their names so candidates could claim more public funds.<sup>32</sup> One state assembly candidate, Dao Yin, collected over \$160,000 in public funds from New York’s program—at least some of which was obtained through reports of fake donations. Given the increasing evidence of fraudulent spending, greater oversight must be funded and mandated, including hiring more staff to oversee the program.<sup>33</sup>

## Conclusion

“Dark money” spending endangers fair elections by giving wealthy donors and companies a route to disperse political messaging without clarity about what interests are being represented. To address the damage done to representative elections by rulings in *Citizens United v. FEC* and *SpeechNow.org v. FEC*, New York has implemented a matching funds public financing campaign program. This program uses public funds to enhance equity in the campaigning process. The evidence suggests that the program will help level the playing field for candidates who can challenge “dark money” interests, decreasing their influence.

Still, the program is not without its many critics and its true effectiveness in combating “dark money” remains to be seen. As it stands without federal regulation, it is essential that New York and other states find a lasting solution to address the threat posed by “dark money” spending to fair elections, and by extension, American democracy.

## Citations:

1. Meyer, Theodor. 2014. “In Wisconsin, Dark Money Got a Mining Company What It Wanted” ProPublica. October 14, 2022. <https://www.propublica.org/article/in-wisconsin-dark-money-got-a-mining-company-what-it-wanted>.
2. Ibid.
3. Ibid.
4. Ibid.
5. Campaign Legal Center. 2022. “What Is Dark Money?” Campaign Legal Center. May 9, 2022. <https://campaignlegal.org/update/what-dark-money>.
6. Ballotpedia. n.d. “501(c)(4).” [https://ballotpedia.org/501\(c\)\(4\)#:~:text=501\(c\),\(4\)%20refers,exempt%20from%20federal%20income%20tax](https://ballotpedia.org/501(c)(4)#:~:text=501(c),(4)%20refers,exempt%20from%20federal%20income%20tax).
7. Ibid.
8. Irvin, Renée A. 2023. “How Dark Is It? An Investigation of Dark Money Operations in U.S. Nonprofit Political Advocacy Organizations.” *Nonprofit Policy Forum* 14 (2): 101–29. <https://doi.org/10.1515/npf-2022-0032>.
9. Ibid.
10. “Citizens United v. Federal Election Commission.” 2010. Oyez. <https://www.oyez.org/cases/2008/08-205>.
11. Congress.gov. “H.R.2356 - 107th Congress (2001-2002): Bipartisan Campaign Reform Act of 2002.” March 27, 2002. <https://www.congress.gov/bill/107th-congress/house-bill/2356>.
12. Donnellan, Emily, and Cathy Silak. 2017. “Enhanced Campaign Finance Disclosure and Recusal Rules to Offset the Influence of Dark Money in State Supreme Court Elections.” SSRN Scholarly Paper. Rochester, NY. <https://papers.ssrn.com/abstract=2919101>.
13. Oklobdzija, Stan. 2019. “Public Positions, Private Giving: Dark Money and Political Donors in the Digital Age.” *Research & Politics* 6 (1): 205316801983247. <https://doi.org/10.1177/2053168019832475>.
14. OpenSecrets. n.d. “Dark Money Basics.” <https://www.opensecrets.org/dark-money/basics>.
15. Americans for Tax Reform. n.d. “About Americans for Tax Reform.” <https://dev.ATR.org/about/>.
16. Lee, Chisun, Katherine Valde, Benjamin T Brickner, and Douglas Keith. 2016. “Secret Spending in the States.” Brennan Center for Justice. <https://www.brennancenter.org/our-work/research-reports/secret-spending-states>.
17. Ibid.
18. NCSL. 2023. “Public Financing of Campaigns: Overview.” National Conference of State Legislatures. February 6, 2023. <https://www.ncsl.org/elections-and-campaigns/public-financing-of-campaigns-overview>.
19. Brennan Center for Justice. 2024. “Guide to Public Financing Programs Nationwide.” June 10, 2024. <https://www.brennancenter.org/our-work/research-reports/guide-public-financing-programs-nationwide>.
20. New York State Public Campaign Finance Board. 2022. “Public Campaign Finance Program Overview.” November 9, 2022. <https://pcfb.ny.gov/program-overview>.
21. Whalen, Ryan. 2024. “329 N.Y. Political Candidates Are Certified for Matching Public Campaign Funds.” *Spectrum News* 1. April 9, 2024. <https://spectrumlocalnews.com/nys/capital-region/politics/2024/04/09/329-candidates-are-certified-for-matching-public-campaign-funds>.
22. Geringer-Sameth, Ethan. 2023. “Budget Includes \$39.5 Million for New State Public Campaign Finance System.” *Gotham Gazette*. May 4, 2023. <https://www.gothamgazette.com/state/11987-state-budget-funding-public-campaign-finance-system>.
23. Malhotra, Neil. 2008. “The Impact of Public Financing on Electoral Competition: Evidence from Arizona and Maine.” *State Politics & Policy Quarterly* 8 (3): 263–81. <https://doi.org/10.1177/153244000800800303>.
24. Vandewalker, Ian, Brendan Glavin, and Michael Malbin. 2023. “Analysis Shows Amplification of Small Donors Under New NY State Public Financing Program” Brennan Center for Justice. January 30, 2023. <https://www.brennancenter.org/our-work/research-reports/analysis-shows-amplification-small-donors-under-new-ny-state-public>.
25. Ibid.
26. Murray, Mimi, Adam Skaggs, and Digby Marziani. 2011. “More than Combating Corruption: The Other Benefits of Public Financing.” Brennan Center for Justice. October 7, 2011. <https://www.brennancenter.org/our-work/research-reports/more-combating-corruption-other-benefits-public-financing>.
27. Ibid.
28. Hall, Andrew B. 2014. “How The Public Funding of Elections Increases Candidate Polarization,” August 13, 2014. [https://www.andrewbenjaminhall.com/Hall\\_publicfunding.pdf](https://www.andrewbenjaminhall.com/Hall_publicfunding.pdf).
29. Ibid.
30. Brennan Center for Justice. n.d. “The Truth About the Cost of Public Campaign Funding” [https://www.brennancenter.org/sites/default/files/analysis/Truth\\_Cost\\_Public\\_Financing\\_NY.pdf](https://www.brennancenter.org/sites/default/files/analysis/Truth_Cost_Public_Financing_NY.pdf).
31. New York State Public Campaign Finance Board. n.d. “About the Board.” <https://pcfb.ny.gov/about-public-campaign-finance-board>.
32. Root, Jay, and Bianca Pallaro. 2024. “Fake Donations Helped a Candidate Get \$162,000 From Taxpayers.” *The New York Times*. June 11, 2024.
33. Root and Pallaro. 2024. “Fake Donations Helped a Candidate Get \$162,000 From Taxpayers.”

# Democracy or Monopoly: A Choice the United States Seems Unwilling to Make



Mia Barratt '26 is a third-year BA government student at Cornell University. With a focus on American politics and policy analysis, her studies and work center around democratic politics and aim to bolster anti-trust initiatives, especially with healthcare policy.

**A**s the United States heads towards its 250th year of democracy, government officials and the public alike must consider that the monopolistic problems of its past may be its demise. Since the late 1800s, the United States has repeatedly faced challenges in striking a balance between regulating corporate monopolies' power and incentivizing economic growth. While there have been attempts at solving this problem over the years, none have withstood political and societal changes. These failures, along with long-term tax cuts and monopoly propaganda, have afforded monopolies excessive power, which they use to thwart the public's interests. Thus, monopolies pose the largest threat to American democracy in the current era. Monopolies have corrupted outlets for democracy in all branches of the US government in distinct ways. In the legislative branch, monopolies have donated millions to political campaigns, while simultaneously lobbying legislators. For the judicial branch, monopolistic influence comes via lawsuits, judge shopping, and judge buying. Lastly, influence in the executive branch mirrors the legislative branch, exacerbating the damage to American democracy.

## **History of Monopoly Regulation, Tax Cuts, and Propaganda**

Monopolies are among the most consistent challenges to American democracy, prevalent since the late 1800s. During that period, companies such as U.S. Steel, Standard Oil, and the Vanderbilt Railroad Company controlled their prospective markets nearly unopposed.<sup>1</sup> From this, the Sherman Anti-Trust Act of 1890 was passed, aimed at preventing further consolidation by these monopolies. Then, in 1914, the Federal Trade Commission Act—which created the FTC—and the Clayton Act passed. With later revisions, these three laws have come to form the core of antitrust law and enforcement in the United States.<sup>2,3</sup> However, in 1981, President Ronald Reagan's administration temporarily reversed antitrust laws, ending in 1998 with the Department of Justice bringing a successful lawsuit, with the outcome ordering

Microsoft to be broken up. Despite their breakup of AT&T in 1982, this administration favored monopolies in a way that allowed American corporations global influence and mergers that would not have otherwise occurred.<sup>4</sup>

Moreover, the Reagan Administration is responsible for imposing long-term tax cuts that permitted corporations to gain excessive amounts of money. Because tax codes have remained relatively consistent for the last three decades, Reagan's "trickle-down" economic theory continues to advantage corporations with low tax rates.<sup>5</sup> Similarly, The Trump Administration's 2017 Tax Cuts and Jobs Act further decreased the revenue received from corporate taxes from \$409 billion in the first quarter of 2017 to \$269 billion in the first quarter of 2018, giving monopolies another economic boost.<sup>6</sup>

# | Domestic Policy |

In 1972, prior to the Reagan Administration, the Business Roundtable was formed as an organization comprising CEOs looking to cultivate political influence.<sup>7</sup> In the following years, monopolies realized that rather than trying to keep government and business separate, it would be more effective to involve themselves in politics and government processes.<sup>8</sup> However, these large corporations knew this shift would fuel antitrust sentiment among the public, so they began buying shares of media companies to help them spread misinformation and disinformation about their actions.<sup>9</sup> On its own, control of the media allows monopolies to undermine trust in government and democratic processes.<sup>10</sup> Paired with their political influence, it permits them to peddle propaganda about themselves to both the public and government officials.

All of this has culminated in the proliferation of modern-day monopolies, like Apple, Meta, and Google among others, with ever fewer alternatives. Furthermore, monopoly propaganda has reframed antitrust pursuits from a battle for democracy into a quarrel over consumer harm, under the notion that the economy is naturally competitive.<sup>11</sup> With this change, it has become nearly impossible for the government to regulate monopolies, and exceedingly difficult for the public to see how monopolies threaten U.S. democracy.

## **Monopoly Influence in the Legislative Branch**

The most devastating place where monopolies have corrupted democratic outlets is the legislative branch, as this branch is supposed to be the most responsive to the people and is responsible for proposing legislation. The primary ways that monopolies influence these representatives are campaign donations and lobbying. In return, they typically receive favorable policy and oversight, meaning they face less regulation and fewer consequences for harm they commit.

In the legislative branch, many representatives'

top priority is re-election. As money is integral to this goal, politicians are susceptible to influence by anyone offering funds, enabling corporate monopolies to make large campaign contributions in exchange for legislative action or inaction. This is such a prevalent problem that sites like Open Secrets make it their mission to follow and expose the flow of money in politics.<sup>12</sup> While it may appear that only nonprofits, individual corporations, super PACS, and LLCs are funding these campaigns, it is important to know that these subgroups are specifically designed to enable monopolies and anonymous donors to donate tax-exempt money to campaigns.<sup>13</sup> This funding serves as a way to influence politicians to advocate, write legislation, and vote in alignment with their interests.

On a more apparent level, monopolies can lobby individual legislators, or large groups of representatives to alter their respective legislative processes. Because information is a vital resource for lawmakers and it is difficult to gather sufficiently granular knowledge to inform legislation, lobbyists strive to fill these gaps by providing specialized information. However, this information is often biased, allowing lobbyists to sway lawmakers' opinions and policy positions. Further, monopolies can dedicate large amounts of money to lobbying, meaning they can both defend themselves against potential changes in government policy and offensively change policy in a way that benefits them.<sup>14</sup> As of 2015, corporations alone spent \$2.6 billion annually on lobbying, which is more than the \$2 billion spent to fund both the House of Representatives and Senate.<sup>15</sup> Furthermore, for every dollar spent on lobbying by labor unions and public-interest organizations combined, large corporations and their associations spend thirty-four dollars.<sup>16</sup> Put together, this means that monopolies have far more influence on policies than the public and other organized interests, effectively usurping democratic responsibility to the public.

## Monopoly Influence in the Judicial Branch

While monopolistic influence is detrimental in the legislative branch, it is quite harmful in the judiciary too. Despite the judicial branch generally being seen as the least democratic branch, it is still responsible for setting precedents on statutory and constitutional interpretation and making rulings that have national impacts. The chief ways in which monopolies influence judicial processes are lawsuits, judge shopping, and judge buying practices.

Lawsuits are important means for handling specific cases and setting precedents. Because monopolies have teams of lawyers, they can both deflect cases alleging harm and pursue their own claims at the expense of the people. Furthermore, monopolies can create lawsuits that “silence critics, promoting draconian anti-protest laws, and supporting voter suppression efforts”.<sup>17</sup> One of the primary ways that this is done is through Strategic Lawsuits Against Public Participation, or SLAPPs, which function to prevent Americans from expressing their democratic right to protest. For example, in 2016, Dakota Access Pipeline filed a SLAPP against protesters to prevent protests from spreading.<sup>18</sup> These lawsuits are expensive proceedings, which monopolies can cover the cost of, but the average American often cannot. This means that monopolies win either way; they either drain protesters' resources or win the lawsuit against them outright.<sup>19</sup> This leaves citizens without a way to hold these powerful corporations accountable for their actions, stifling democratic aspirations.

Another common path to manipulating the judicial branch that monopolies take is judge shopping, or the ability for those with power to pick judges sympathetic to their case to get more favorable rulings. While the result of successful judge shopping is often seen as a ruling in favor of the monopoly, it is not necessary.

More often, judge shopping results in a lesser penalty for the monopoly or sections of the ruling supporting certain behaviors they want to continue. This practice is very attractive to monopolies because it saves them time and resources that would otherwise be spent lobbying or bribing individual legislators with campaign funding. Similarly, it can result in national changes that protect them from certain lawsuits in the future.<sup>20</sup> Even though this practice is technically disallowed, single-judge areas and chief judges can result in cases going to specific judges. Because monopolies often span large areas, they have more flexibility in where to file their cases, meaning they have some control over where they go. An example of this occurred this year when business and banking groups, including the Fort Worth Chamber of Commerce, brought suit in Fort Worth, Texas to block a rule from the Consumer Financial Protection Bureau (CFPB) that would lower credit card late fees.<sup>21</sup> While these groups were caught in this case, it can go unnoticed, giving monopolies another way to skirt accountability.

When monopolies are forced to face an unfavorable judge, they can bribe their judges instead. While judges can be bought on all levels, recent news about Clarence Thomas taking numerous vacations funded by several executive billionaires shows that corruption continuously happens without public awareness.



# | Domestic Policy |

While much of this gift-giving violates judicial norms, there is no explicit punishment for it at the Supreme Court level, meaning the judicial branch may never be democratically responsive to Americans.<sup>22</sup> While lavish gifts do not inherently mean that monopoly executives will reap benefits, it may lead to judges and justices being seen more favorably if their company is sued. Regardless, this influence is valuable, as judges, especially Supreme Court justices, have the authority to set precedents and interpret statutory and constitutional law, which can be done so unrelated rulings might inconspicuously contain interpretations that help these corporations, undermining American democracy without the public's knowledge.

## **Monopoly Influence in the Executive Branch**

Because the executive branch mirrors the legislative branch in many ways, with elections and the need for campaign funding, monopolistic influence in the executive branch functions the same. In practice, this means that monopolies lobby executive agencies to alter how they enforce laws.<sup>23</sup> Similarly, monopolies may contribute to a presidential candidate's campaign to influence their actions as president. However, on January 6th, 2021, it was evident that monopolies have the capacity for even more influence in the demise of democracy. The heiress to Publix, which is a grocery quasi-monopoly in Southern Florida, funded at least 5 groups that sponsored the January 6th rally, amounting to over \$3 million in donations during the final months of 2020.<sup>24,25</sup> While some of those contributions may not have been aimed at funding the insurrection, the money she directed through her nonprofits and company channels allowed her to substantially back what amounted to one of the greatest challenges to American democracy in history.

## **Conclusion**

Overall, this monopolistic threat has deteriorated democratic outlets in all branches of American government, leaving Americans without the responsive government the Constitution promised. While the threat now is graver than before, total monopolistic dominance of the government and society is not inevitable. Much of their power stems from Americans failing to see the threat monopolies pose to representative government. A robust antitrust push could reverse the damage done to democratic outlets, while initiatives to keep money out of politics could restore the functionality of representative democracy in the United States. However, this would need to be prefaced by undermining the monopoly propaganda and long-term tax cuts that proffered monopolies this political influence in the first place. While this is increasingly feasible with recent Federal Trade Commission (FTC) efforts spearheaded by Chairperson Lina Khan to regulate monopolies, there needs to be more public pushback against monopolies to advance these efforts. Moreover, with the current potential for a second presidential term for Donald Trump and his repeated promises to deregulate and decrease taxes for monopolies, the threat of corporate monopolies dwarfing the people's voice in, and control of, government is a growing reality that if allowed to persist unencumbered will stifle American democracy.







#### Citations:

1. National Archives Foundation. 2022. "Broken Trust." <https://www.archivesfoundation.org/newsletter/broken-trust/>.
2. Federal Trade Commission. 2013. "The Antitrust Laws." <https://www.ftc.gov/advice-guidance/competition-guidance/guide-antitrust-laws/antitrust-laws>.
3. Stanford University. "History of Antitrust Regulation." [https://cs.stanford.edu/people/eroberts/cs181/projects/corporate-monopolies/government\\_history.html](https://cs.stanford.edu/people/eroberts/cs181/projects/corporate-monopolies/government_history.html).
4. Galambos, Louis. 2004. "The Monopoly Enigma, the Reagan Administration's Antitrust Experiment, and the Global Economy." *Constructing Corporate America*. <https://academic.oup.com/book/32913/chapter-abstract/276851890?redirectedFrom=fulltext>.
5. Mayberry, Josiah. 2023. "Reagan III: Reaganomics, Imperialism, and the Free Market Fantasy." *The Voyager*. <https://uwfvoyager.com/3923/opinion/reagan-iii-reaganomics-imperialism-and-the-free-market-fantasy/>.
6. Wikipedia. "Tax Cuts and Jobs Act." [https://en.wikipedia.org/wiki/Tax\\_Cuts\\_and\\_Jobs\\_Act](https://en.wikipedia.org/wiki/Tax_Cuts_and_Jobs_Act).
7. Drutman, Lee. 2015. "How Corporate Lobbyists Conquered American Democracy." *The Atlantic*. <https://www.theatlantic.com/business/archive/2015/04/how-corporate-lobbyists-conquered-american-democracy/390822/>.
8. Ibid.
9. Bagdikian, Ben. 2014. "Media Monopolies." *Evergreen*. [https://wikis.evergreen.edu/civicitelligence/index.php/Media\\_Monopolies](https://wikis.evergreen.edu/civicitelligence/index.php/Media_Monopolies).
10. Kilbury, Laura, et al. 2023. "These Fossil Fuel Industry Tactics Are Fueling Democratic Backsliding." <https://www.americanprogress.org/article/these-fossil-fuel-industry-tactics-are-fueling-democratic-backsliding/>.
11. Stiglitz, Joseph. 2017. "America Has a Monopoly Problem – and It's Huge." *Roosevelt Institute*. <https://rooseveltinstitute.org/2017/10/26/america-has-a-monopoly-problem-and-its-huge/>.
12. Open Secrets. "Our Vision and Mission: Inform, Empower & Advocate." <https://www.opensecrets.org/about>.
13. Open Secrets. "Follow the Shadow of Dark Money." <https://www.opensecrets.org/dark-money/shadow-infographic>.
14. Drutman, Lee. 2015. "How Corporate Lobbyists Conquered American Democracy."
15. Ibid.
16. Ibid.
17. Kilbury, Laura, et al. 2023. "Fossil Fuel Industry Fueling Democratic Backsliding."
18. Ibid.
19. Reporters Committee for Freedom of the Press. "Understanding Anti-SLAPP Laws." <https://www.rcfp.org/resources/anti-slapp-laws/>.
20. Wheeler, Russell. 2024. "Effort to Curb Judge-Shopping at the Federal Courts Explained." *Brookings*. <https://www.brookings.edu/articles/effort-to-curb-judge-shopping-at-the-federal-courts-explained/>.
21. Godoy, Jody. 2024. "US Regulator Says Trade Groups Judge-Shopped for Credit Fee Lawsuit." *Reuters*. <https://www.reuters.com/legal/us-regulator-says-trade-groups-judge-shopped-credit-fee-lawsuit-2024-03-13/>.
22. Murphy, Brett, and Alex Mierjeski. 2023. "Clarence Thomas' 38 Vacations: The Other Billionaires Who Have Treated the Supreme Court Justice to Luxury Travel." *ProPublica*. <https://www.propublica.org/article/clarence-thomas-other-billionaires-sokol-huizenga-novelly-supreme-court>.
23. Congressional Research Service. 2011. "Lobbying the Executive Branch: Current Practices and Options for Change."
24. Ladle, Joshua. 2019. "The Great Grocery Monopoly in South Florida." *LinkedIn*. <https://www.linkedin.com/pulse/great-grocery-monopoly-south-florida-joshua-ladle/>.
25. Massoglia, Anna. 2023. "Tax Records Reveal More Contributions from Public Heirs to 'Dark Money' Groups Sponsoring Jan. 6 Rally." *Open Secrets*. <https://www.opensecrets.org/news/2023/06/tax-records-reveal-more-contributions-from-public-heirs-to-dark-money-groups-sponsoring-jan-6-rally/>.

## Shaping our AI Future: A Policy Perspective on Ensuring Innovation and Safeguarding Democracy



Sarah J. Buszka is an Executive MPA candidate and Brooks Public Policy Fellow at Cornell University's Jeb E. Brooks School of Public Policy. With over a decade of experience supporting higher education across multiple roles and institutions, she enjoys exploring the intersections of leadership, education, technology, policy, and organizational culture.

In the sphere of ever-evolving technology of the twenty-first century, few concepts have sparked as much intrigue, excitement, and apprehension as artificial intelligence (AI). The transformative capacity of AI is already causing paradigm shifts for technology, government, security, and many more economic sectors, with realized efficiency enhancements and ballooning innovation. However, AI is a dual-use technology that can present significant challenges and risks to the principles of democracy worldwide.

### **Surveillance, Misinformation, and Geopolitical Tensions**

Domestically, one of the primary applications of AI that raises alarm is its role in surveillance.<sup>1,2,3</sup> While governmental and private entities have drawn on AI technologies for extensive surveillance operations in the interests of national security and/or advancing economic objectives since the early 2010's<sup>4,5</sup> public awareness and scrutiny over these practices became international news most notably with Edward Snowden's whistleblowing on the extent of the surveillance conducted by National Security Agency (NSA).<sup>6</sup> While such expeditions can have legitimate aims for security, they open a Pandora's box of potential abuse, encroaching on privacy and civil liberties. At the heart of this issue is the risk of AI being employed to foster a culture of control and even exploitation rather than one of freedom.<sup>7,8</sup> Thus, it is imperative to strike a balance between harnessing the potential of AI surveillance for enhancing security and preventing the potential transgression of civil liberties.

Further complicating this balance is the reality of AI-enabled misinformation and deepfake technologies.<sup>9,10</sup> These sophisticated tools have the capability to distort public discourse, manipulate perceptions, and even influence political decisions—a phenomenon witnessed during the 2016 US elections.<sup>11</sup> In a study conducted by MIT researchers and published in *Science*, fake news is 70% more likely to be retweeted than the truth.<sup>12</sup> According to Richard Painter, “bills are pending in Congress to address the problem, but some of these bills are overbroad and rely on criminal sanctions, exacerbating constitutional problems. No bill addressing deepfakes in elections has passed either house.”<sup>13</sup> In advance of the upcoming 2024 election, the Federal Election Commission (FEC) is still deadlocked on whether to do something about deepfakes.<sup>14</sup> This example of the FEC's inaction underscores the delicate balance and difficult task of finding a way to protect the digital information space from harmful exploitation while ensuring freedoms of speech and expression remain uncompromised.



AI technology is not confined within national borders and its implications on the international stage are equally profound. With AI's proliferation, there are growing concerns that pre-existing geopolitical tensions will be exacerbated by the rise in this technology, potentially paving the way for new arenas of competition, inequality, and exploitation.<sup>15,16,17</sup> A useful perspective through which to examine this concept is the military. The current and future transformation in military AI is prominently positioned within the broader geopolitical rivalry between the United States and China.<sup>18</sup> Ironically, President Vladimir Putin summarized this situation best in 2017 by asserting, “the one who becomes the leader in this [AI] sphere will be the ruler of the world” and warning that, “it would be strongly undesirable if someone wins a monopolist position.”<sup>19</sup> With the US, China, and seemingly the rest of the world rushing to adopt AI technologies and create AI-enabled military systems, the threat to democracy couldn't be higher. Moreover, this international race in AI technology occurs within a vacuum of regulatory control, leading to dual-use AI that poses vast ethical and legal conundrums in addition to disrupting international cooperation and governance.<sup>20</sup> With national regulations and standards that vary widely, the challenge lies in establishing a consensus and crafting a robust, universally accepted legislative matrix for AI development and deployment.

## **Liability and Market Regulation**

Unsurprisingly, the proliferation of Artificial Intelligence (AI) technologies has led to legal and regulatory challenges concerning liability assignment and market dominance<sup>21,22</sup> raising fundamental questions about accountability and responsibility.<sup>23,24,25</sup> Unlike traditional products, AI technologies can operate independently and evolve, making it challenging to trace causality in incidents involving AI-related harms.<sup>26</sup> With multiple stakeholders involved, including hardware manufacturers, software developers, service providers, and end-users, liability attribution is further complicated in the AI ecosystem.<sup>27</sup> In the event of AI-driven errors or accidents, should liability be attributed to the machine itself, the underlying algorithms, the developers, the end-users, or someone else entirely? Recognizing these challenges, the European Union (EU) has proposed revisions to liability frameworks to better accommodate AI technologies, aiming to clarify roles and responsibilities to ensure adequate user protection.<sup>28</sup> We can begin to elucidate AI liability issues by understanding the current legal frameworks and precedents surrounding product liability and negligence to help determine appropriate regulatory responses.<sup>29</sup>

## **Economic Analysis**

From an economic standpoint, liability rules function as mechanisms to internalize harmful externalities and encourage safety measure investment.<sup>30,31</sup> The choice between fault-based (negligence) and strict liability regimes for AI depends on factors such as the inclusion of information costs, levels of activity and innovation, and the types of risks involved.<sup>32</sup> Fault-based liability holds parties responsible for failing to meet the standard of care, but its efficacy in the realm of AI is stymied by the inherent unpredictability and autonomy of AI technologies.<sup>33,34,35</sup>

# | Foreign Policy |

On the other hand, strict liability regimes can potentially erode beneficial AI innovations by shifting the burden entirely to the injurer, potentially reducing activity levels below the socially optimal threshold.<sup>36</sup> Nevertheless, such rules could also incentivize firms to develop risk-mitigating technologies and enhance product design to make them safer, serving as a catalyst for AI technology innovation.<sup>37</sup> Thus, revisiting the pivotal question: who should bear the responsibility—producers or operators of AI technologies? While producers control the safety features of AI products, operators play a significant role in their deployment, maintenance, and oversight. Holding both parties accountable incentivizes them to take appropriate precautions and ensures accountability throughout the AI lifecycle.

Against this economic backdrop, examining how the US government regulates monopolies and natural monopolies provides an avenue to potential regulatory approaches and policy recommendations for addressing market dominance in the AI sector. The primary motivations for US government intervention in AI regulation revolve around preserving competition and preventing monopolistic practices.<sup>38</sup> The legal tradition of natural monopoly regulation has been applied to industries like railways, telecommunications, and utilities where economies of scale make it more efficient to have a single provider rather than competing firms.<sup>39</sup> Some scholars argue that at least certain AI applications exhibit characteristics of natural monopolies due to factors like data network effects, high fixed costs, and low marginal costs of serving additional users.<sup>40,41,42</sup> Historically, the US has regulated natural monopolies through tools like price regulation, non-discrimination requirements, universal service obligations, and structural separations to mitigate harms from monopoly power like high prices, poor service, and exclusion of rivals.<sup>43,44</sup>

These regulatory approaches could potentially be adapted for dominant AI technology providers.

As AI technologies permeate increasingly more sectors of the US economy, ensuring fair competition and guarding against market concentration is necessary and urgent. However, the AI industry is currently led primarily by private companies rather than regulated utilities.<sup>45</sup> The major tech firms (Google, Microsoft, Amazon, Meta, Apple) have unique advantages in data, computing power, and entrenched platforms that cement their dominance and allow them to shape AI development.<sup>46,47</sup> Their monopolistic control over key inputs like data raises concerns beyond just high prices, including bias amplification, systemic risk, and stifling innovation.<sup>48,49</sup> Moreover, the overt influence wielded by these dominant tech firms, coupled with their significant lobbying power, raises concerns about the potential manipulation of regulatory frameworks to serve their own interests, potentially stifling competition and innovation. An example of this threat is the March 2023 open letter calling for a six-month “AI pause,” demanding a temporary AI moratorium signed by technology leaders such as Elon Musk and Steve Wozniak.<sup>50</sup> While regulation can help the economy and business, it also can harm it. The potential costs and compliance burdens associated with regulation raise questions about its impact on market dynamics and technological innovation, as smaller companies may be financially constrained to comply, and risk being outpaced by these tech giants. While AI does share some characteristics with past natural monopolies, its current industry structure led by a few private gatekeepers poses additional challenges. Policymakers can draw lessons from traditional monopoly and natural monopoly regulation while developing new approaches tailored to AI's unique dynamics and societal impacts.<sup>51</sup>



### **Policy Recommendations**

Emerging research suggests that AI can potentially be regulated through a combination of updates to existing antitrust laws, the establishment of new regulatory guidelines specific to AI development and deployment, and disclosure requirements to ensure transparency and accountability in algorithmic decision-making processes.

#### ***Updating Antitrust Laws for Digital Markets***

Several sources highlight the need to adapt and apply existing antitrust laws to address potential anti-competitive effects emerging from the use of AI technologies and algorithmic pricing tools in digital markets:

- U.S. antitrust regulators like the Federal Trade Commission (FTC) and the Department of Justice's Antitrust Division (DOJ) together with the Equal Employment Opportunity Commission and Consumer Financial Protection Bureau, have affirmed their intent to apply antitrust laws to AI-facilitated violations such as collusion, price-fixing, and market allocation.<sup>52</sup>
- There is increasing scrutiny and private litigation alleging antitrust violations by

providers of algorithmic pricing tools and their users.<sup>53</sup>

- Regulators may need to revisit guidelines and enforcement standards around information sharing, benchmarking, and data exchanges considering AI capabilities.<sup>54</sup>

#### ***Establishing AI-Specific Regulatory Guidelines***

The literature also points to the need for new regulatory frameworks and guidelines tailored specifically to the unique challenges posed by AI technologies:

- The UK's Competition and Markets Authority (CMA) is developing guidance on potential antitrust issues and enforcement approaches for the rapidly evolving AI sector.<sup>55</sup>
- There are calls for AI governance frameworks, sectoral risk assessments, and supportive policies to foster responsible AI ecosystems and public-private partnerships.<sup>56,57</sup>

Based on these data, policymakers should apply tools like price regulation, non-discrimination requirements, universal service obligations, and structural separations to dominant AI providers, similar to how natural monopolies like utilities have been regulated.<sup>58,59</sup>

# | Foreign Policy |

To promote data-sharing and interoperability, policymakers should encourage or mandate data sharing, interoperability standards, and non-discrimination requirements for dominant AI providers to level the playing field,<sup>60,61</sup> in addition to supporting digital trade frameworks that facilitate cross-border data flows needed for AI training.<sup>62</sup> Furthermore, policymakers should consider setting up public-private partnerships and enable sectoral AI ecosystems involving companies of varying sizes, research institutions, and the public sector to drive innovation and adoption.<sup>63</sup>

## ***Promoting Transparency and Accountability***

Finally, and perhaps most importantly, to ensure transparency and accountability in algorithmic decision-making, the literature suggests measures like:

- Requirements for AI technologies to have adequate documentation, audit trails, and explainability capabilities to determine root causes of errors or harms.<sup>64,65</sup>
- Disclosure guidelines or "model cards" that provide information on an AI system's intended use, performance characteristics, safety considerations, and limitations.<sup>66</sup>
- Staff training, reporting protocols, and independent oversight mechanisms for AI risk management practices within regulatory agencies themselves.<sup>67</sup>

Thus, a multi-pronged approach is needed to tackle the intertwined challenges of market dominance by major tech firms and anti-competitive behavior stifling innovation to ensure the responsible development of artificial intelligence. This holistic approach must involve updating antitrust enforcement mechanisms while establishing new AI-specific regulations that mandate transparency and accountability for algorithms. In parallel, it necessitates constructive engagement with

dominant AI tech firms to address thorny issues surrounding data sharing, interoperability standards, and open ecosystems while leveraging existing competition laws to promote market diversity. Crucially, effective solutions will require extensive cooperation - fostering public-private partnerships between government and industry alongside international coordination to align AI governance frameworks across borders. Only through this multifaceted strategy of modernized rules, collaborative reform efforts with key players, and robust cooperation spanning sectors and nations can we cultivate an AI landscape that unlocks innovation while upholding ethical principles and fair competition on a global scale.<sup>68</sup>

## ***Conclusion***

In an environment where a handful of large private companies dominate AI research and development, the need for an even-handed playing field is imperative. This is where governmental powers across the globe must step up and leverage legislative tools to prevent undue concentration of AI-infused power. This includes reassessing and modernizing existing antitrust laws and drafting new AI-specific regulations. The end goal? A diverse, healthy market that fosters innovation and assures the safe advancement of AI technologies for the good of society. Developers, legal experts, tech companies, and policy architects are necessary members of this discussion and that of the future implications of AI on society. In summary, the transformational power of AI requires an intentional, comprehensive, and flexible policy response. As we continue moving through the AI evolution, we must incorporate elements of accountability, transparency, and fair competition into every regulatory discussion to safeguard democratic systems and freedoms while optimizing the benefits of AI.

## Citations:

- Colón Vargas, N. 2024. "Exploiting the Margin: How Capitalism Fuels AI at the Expense of Minoritized Groups." *AI and Ethics*. <https://doi.org/10.1007/s43681-024-00502-w>.
- Molnar, P. 2019. "Technology on the Margins: AI and Global Migration from a Human Rights Perspective." *Cambridge International Law Journal* 8 (2): 305–330. <https://heinonline.org/HOL/P?h=hein.journals/cajoicla&i=305>.
- Sharma, M., A. Dixit, and P. Rawat. 2024. "The Use of AI in Surveillance to Identify the Potential Threat of Terrorist Attacks." 2024 IEEE 1st Karachi Section Humanitarian Technology Conference (KHI-HTC), 1–7. <https://doi.org/10.1109/KHI-HTC60760.2024.10482367>.
- Molnar, P. 2019. "Technology on the Margins." 305–330.
- Sharma, M., A. Dixit, and P. Rawat. 2024. "The Use of AI in Surveillance." 1–7.
- Snowden, E.J. 2019. *Permanent Record*. First edition. New York: Metropolitan Books/Henry Holt and Company.
- Colón Vargas, N. 2024. "Exploiting the Margin."
- Molnar, P. 2019. "Technology on the Margins." 305–330.
- Painter, R.W. 2024. "Deepfake 2024: Will Citizens United and Artificial Intelligence Together Destroy Representative Democracy?" *Journal of National Security Law & Policy* 14 (1): 121–149.
- Tomassi, A., A. Falegnami, and E. Romano. 2024. "Mapping Automatic Social Media Information Disorder. The Role of Bots and AI in Spreading Misleading Information in Society." *PLoS ONE* 19 (5): 1–54. <https://doi.org/10.1371/journal.pone.0303183>.
- Painter. 2024. "Deepfake 2024." 121–149.
- Vosoughi, S., D. Roy, and S. Aral. 2018. "The Spread of True and False News Online." *Science* 359 (6380): 1146–1151. <https://doi.org/10.1126/science.aap9559>.
- Painter. 2024. "Deepfake 2024." 121–149.
- ibid.
- Colón Vargas, N. 2024. "Exploiting the Margin."
- Elliot, L., and G. Wearden. 2024. "Geopolitical Tensions and AI Dominate Start of World Economic Forum; Ukraine, Middle East and Taiwan Overshadow Annual Meeting at Davos, with Artificial Intelligence Also High on Agenda." *The Guardian* (London, England), January. <https://go.gale.com/ps/i.do?p=AONE&sw=w&issn=02613077&v=2.1&it=r&id=GALE%7CA779440331&sid=googleScholar&linkaccess=abs>.
- Molnar, P. 2019. "Technology on the Margins." 305–330.
- Glonek, J. 2024. "The Coming Military AI Revolution." *Military Review* 104 (3): 88–99.
- "Putin: Leader in Artificial Intelligence Will Rule World." 2017. *CNBC*, September 4. <https://www.cnbc.com/2017/09/04/putin-leader-in-artificial-intelligence-will-rule-world.html>.
- Glonek, J. 2024. "The Coming Military AI Revolution." 88–99.
- Grynbaum, M.M., and R. Mac. 2023. "The Times Sues OpenAI and Microsoft Over A.I. Use of Copyrighted Work." *The New York Times*, December 27. <https://www.nytimes.com/2023/12/27/business/media/new-york-times-open-ai-microsoft-lawsuit.html>.
- "Pause Giant AI Experiments: An Open Letter." 2023. Future of Life Institute. March. <https://futureoflife.org/open-letter/pause-giant-ai-experiments/>
- Buiten, M., A. de Streeel, and M. Peitz. 2023. "The Law and Economics of AI Liability." *Computer Law & Security Review* 48: 105794. <https://doi.org/10.1016/j.clsr.2023.105794>.
- Buiten, M.C. 2024. "Product Liability for Defective AI." *European Journal of Law and Economics*. <https://doi.org/10.1007/s10657-024-09794-z>.
- Zech, H. 2021. "Liability for AI: Public Policy Considerations." *ERA Forum* 22 (1): 147–158. <https://doi.org/10.1007/s12027-020-00648-0>.
- Davidson, S. 2024. "The Economic Institutions of Artificial Intelligence." *Journal of Institutional Economics* 20: e20. <https://doi.org/10.1017/S1744137423000395>.
- Buiten, M.C. 2024. "Product Liability for Defective AI."
- European Commission. 2021. Proposal for a Regulation of the European Parliament and the Council Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act) and Amending Certain Union Legislative Acts. COM (2021). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021PC0206>.
- Buszka, S.J. 2024. "Navigating Liability and Market Dominance in AI: Implications for US Government Regulation." Unpublished paper, Brooks School of Public Policy, Cornell University.
- Buiten, M., A. de Streeel, and M. Peitz. 2023. "The Law and Economics of AI Liability."
- Davidson, S. 2024. "The Economic Institutions of Artificial Intelligence."
- Buiten, M., A. de Streeel, and M. Peitz. 2023. "The Law and Economics of AI Liability."
- ibid.
- Buiten, M.C. 2024. "Product Liability for Defective AI."
- Zech, H. 2021. "Liability for AI: Public Policy Considerations." 147–158.
- ibid.
- ibid.
- Narechania, T.N. 2021. "Machine Learning as Natural Monopoly." *Iowa Law Review* 107 (4): 1543–1614. <https://heinonline.org/HOL/P?h=hein.journals/ilr107&i=1595>.
- ibid.
- Chakravorti, B. 2024. "What if Regulation Makes the AI Monopoly Worse?" *Foreign Policy*, May 16, 2024. <https://foreignpolicy.com/2024/01/25/ai-regulation-monopoly-chatgpt/>.
- Mulligan, C.E.A., and P. Godsiff. 2023. "Dataism and Data Monopolies in the Era of A.I.: A Research Agenda." arXiv:2307.08049. <https://doi.org/10.48550/arXiv.2307.08049>.
- Narechania, T.N. 2021. 1543–1614.
- Kak, A., S. Glickman, and S. West. 2024. "AI Nationalism(s): Global Industrial Policy Approaches to AI." AI Now Institute. <https://ainowinstitute.org/general/ai-nationalisms-executive-summary>.
- Narechania, T.N. 2021. 1543–1614.
- Kak, A., S. Glickman, and S. West. 2024. "AI Nationalism(s)."
- Lynn, B., M. von Thon, and K. Montoya. 2023. "Report | AI in the Public Interest: Confronting the Monopoly Threat." Open Markets Institute. <https://www.openmarketsinstitute.org/publications/report-ai-in-the-public-interest-confronting-the-monopoly-threat>.
- Mulligan, C.E.A., and P. Godsiff. 2023
- Chakravorti, B. 2024. "What if Regulation Makes the AI Monopoly Worse?"
- Lynn, B., M. von Thon, and K. Montoya. 2023. "AI in the Public Interest."
- "Pause Giant AI Experiments: An Open Letter." 2023.
- Buszka, S.J. 2024. "Navigating Liability and Market Dominance in AI."
- Hoffman Kent, K., and K. Schwartz. 2023. "Antitrust Implications of AI Technology Remain Key Focus of U.S. Regulators." *New York Law Journal*, November 13. <https://www.law.com/newyorklawjournal/2023/11/13/antitrust-implications-of-ai-technology-remain-key-focus-of-u-s-regulators/>.
- Goodman, J.M., M.L. Naranjo, and R.P. Satia. 2024. "AI and Algorithmic Pricing: Current Issues and Compliance Considerations." Morgan, Lewis & Bockius Law Firm, April 29. <https://www.morganlewis.com/pubs/2024/04/ai-and-algorithmic-pricing-current-issues-and-compliance-considerations>.
- Goodman, J.M., M.L. Naranjo, and R.P. Satia. 2024. "AI and Algorithmic Pricing."
- CMA AI Strategic Update. 2024. Competition & Markets Authority. <https://www.gov.uk/government/publications/cma-ai-strategic-update/cma-ai-strategic-update>.
- Coglianesi, C., and A. Lai. 2022. "Antitrust by Algorithm." SSRN Scholarly Paper 3985553. <https://papers.ssrn.com/abstract=3985553>.
- Hoffman Kent, K., and K. Schwartz. 2023. "Antitrust Implications of AI Technology."
- Comunale, M., and A. Manera. 2024. "The Economic Impacts and the Regulation of AI: A Review of the Academic Literature and Policy Actions." IMF Working Paper 2024/65. <https://www.imf.org/en/Publications/WP/Issues/2024/03/22/The-Economic-Impacts-and-the-Regulation-of-AI-A-Review-of-the-Academic-Literature-and-546645>.
- Business Roundtable. n.d. Business Roundtable Policy Recommendations for Responsible Artificial Intelligence. Accessed May 9, 2024. <https://www.businessroundtable.org/policy-perspectives/technology/ai>.
- Comunale, M., and A. Manera. 2024. "The Economic Impacts and the Regulation of AI."
- Lynn, B., M. von Thon, and K. Montoya. 2023. "AI in the Public Interest."
- Business Roundtable. n.d. Business Roundtable Policy Recommendations.
- High-Level Expert Group on AI (AI HLEG). 2019. Policy and Investment Recommendations for Trustworthy Artificial Intelligence. European Commission. <https://digital-strategy.ec.europa.eu/en/library/policy-and-investment-recommendations-trustworthy-artificial-intelligence>.
- Coglianesi, C., and A. Lai. 2022. "Antitrust by Algorithm."
- Hoffman Kent, K., and K. Schwartz. 2023. "Antitrust Implications of AI Technology."
- Coglianesi, C., and A. Lai. 2022.
- ibid.
- Buszka, S.J. 2024.

## Poland and India: Contrasting Two Models of Recovery



Kaila Hall is a senior studying Government and French in the College of Arts & Sciences. This past semester, she researched Eastern European, Asian, and Eastern African opposition movements with Professor Rachel Riedl.

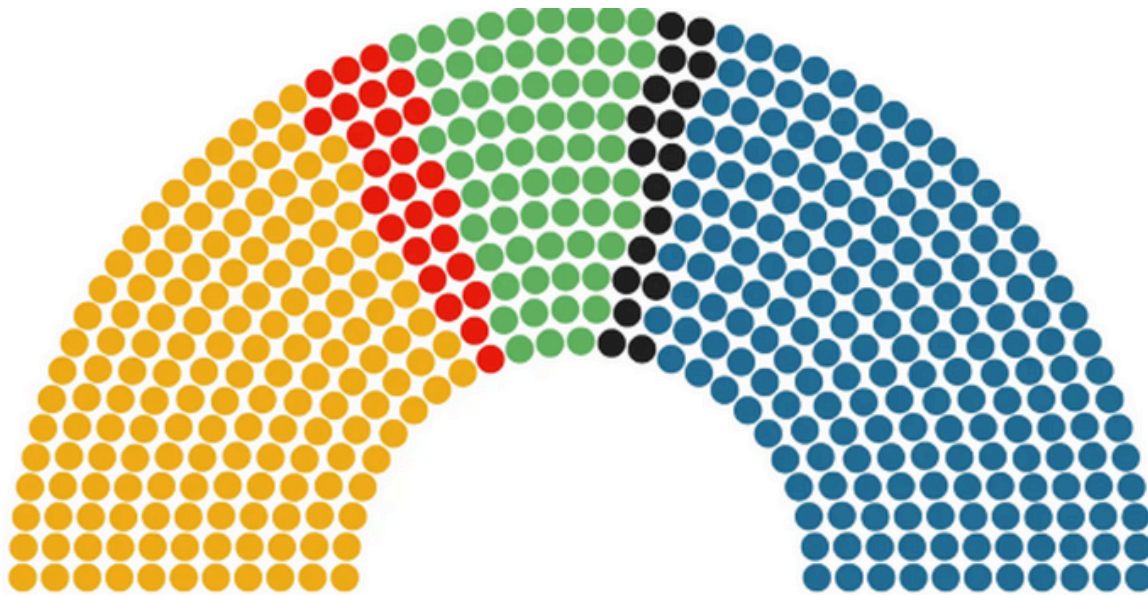
As the world witnesses recent far-right trends, many have sought to pinpoint the strategies that successful opposition movements have implemented to defeat autocratic rule in elections. For example, Poland is increasingly viewed as a successful model of recovery while India possesses a weak opposition coalition. Beginning in 2015, the far-right Polish Law and Justice Party (PiS) began capturing the independent judiciary by court packing after the Parliamentary Elections. These reforms ushered in a period of backsliding, or the use of institutions to restrict rights and participation.<sup>1</sup> Subsequently, the oppositional Civic Coalition (KO) rebuilt itself in the years since and defeated PiS in the most recent elections in October 2023 by vowing to reverse its opponents' policies and mobilizing young voters. However, in India's case, the oppositional Indian National Developmental Inclusive Alliance (INDIA) had failed to gain significant traction in reversing democratic erosion by current Prime Minister Narendra Modi and his Bharatiya Janata Party. Leading up to the 2024 election cycle, Modi's administration implemented the controversial Citizenship Amendment Act,<sup>2</sup> pushed news outlets to fire journalists, and jailed critics and several key political opponents. As expected, Modi's National Democratic Alliance (NDA) coalition defeated the INDIA coalition in the 2024 Election, although by a smaller margin than previously anticipated. Currently, Poland is on track to recover as opposed to India which remains susceptible to anti-democratic rule under Prime Minister Modi for several years to come.

### **Poland, A Success Story**

Democratic backsliding began as the nationalist Law and Justice Party won in the 2015 Elections and began stacking the constitutional court with loyalist judges. Subsequently, they usurped the National Council of the Judiciary which protects the independent judiciary. In the following years, approximately 3,000 new judges were unconstitutionally<sup>3</sup> packed by the Law and Justice-led government. Criticism of these reforms was highly suppressed through new procedural rules and the firing of judges. Thirty percent of Poland's judges today were appointed by the Law and Justice Party. Consequently, this ensured the courts could block challenges to PiS reforms.

Despite the Law and Justice Party's judicial capture, the opposition movement, known as the Civic Coalition, defeated PiS in the recent Polish Parliamentary Elections in October 2023. Poland's National Assembly is a bicameral system<sup>4</sup> that includes the Sejm (parliament), which contains 460 deputies, and the Senate, which contains 100 senators. Members of the Sejm are elected for four-year terms. These elections use party-list proportional representation, meaning each party must win at least five percent of the vote and coalitions must win eight percent of the vote to earn seats. To form a government, a party or coalition must reach a minimum of 231 votes in the Sejm. The Senate is elected on a first-past-the-post system.<sup>5</sup>





Party	Seats won 2023	2019
● Civic Coalition (KO)	157	134
● The Left	26	49
● Third Way (PSL)	65	30
● Confederation	18	11
● Law and Justice (PiS)	194	235

Source: National Election Commission



The Civic Platform (KO) Party is led by former European Council President and current Prime Minister Donald Tusk and comprises a few smaller liberal parties and the center-right party. The 2023 Election results constitute “a major shift from democratic backsliding to a recommitment to EU values and democratic principles, with implications for regional stability and U.S. foreign policy,”<sup>6</sup> according to Robert Benson of the Center for American Progress.

To produce this shift, the Civic Coalition mobilized key demographic groups. By engaging with young voters, polls show that sixty-eight-point eight percent of voters aged under twenty-nine turned out in the 2023 Election- a major surge from forty-six-point four percent at the last parliamentary election in 2019. Additionally, the KO led an online initiative to mobilize voters.

Campaigns such as the #WarsawTrip urged people to move their registration out of densely populated cities like Warsaw, to give their vote more weight in the complex Polish electoral system. Another online campaign urged women to vote against PiS which implemented a near-total ban on abortion in 2020. Upon winning the election, Donald Tusk pledged to restore the independent judiciary, garner a closer relationship with the EU, and pursue his “iron broom” strategy<sup>7</sup> to clean up Poland. Despite the Civic Coalition’s defeat in the April 2024 local government elections, PiS lost five seats in the 2024 European Union Election in June. Evidently, Poland’s opposition movement has thrived, and the country is set to reverse previous damage.

# | Foreign Policy |

## India, A Nation in Flux

Prime Minister Narendra Modi's government has conducted raids on dissident civil society organizations through financial and investigative agencies.<sup>8</sup> Government-run media have spewed disinformation and officials have launched attacks on media outlets in a major crackdown on the press.<sup>9,10</sup> Modi also shut down internet access in contested and Muslim-majority areas such as Kashmir.<sup>11</sup> Most recently, Modi's Bharatiya Janata Party (BJP) has implemented the controversial Citizenship Amendment Act.<sup>12,13</sup> The former president of the opposition Congress Party, Rahul Gandhi, was disqualified in March 2024 from Parliament after a political defamation scandal against Modi.

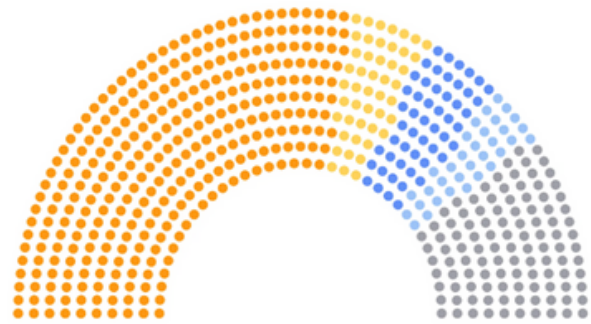
The Indian Parliamentary Elections in 2019 ended with a significant win for the BJP-led National Democratic Alliance, winning 353 of the total 543 official seats, with BJP alone winning 303 seats. The oppositional Indian National Congress Party, the main opposition party, failed to secure ten percent of seats to gain opposition leader status.<sup>14</sup> The Parliament known as Lok Sabha is chosen by direct election. India's Constitution allows for a maximum of 550 members in the House, with 530 members representing the States and 20 representing the Union Territories.<sup>15</sup>

As of 2024, the Indian National Developmental Inclusive Alliance (INDIA) opposition coalition comprises the Indian National Congress Party and 25 other smaller, regional parties. A loosely bound together opposition movement, the INDIA Coalition does not have any specific or unifying policy goals other than ousting Modi. In the past five months, this movement has had key leaders join the BJP and the NDA.

## BJP gained 21 new seats in a major victory

2019 general election result

● BJP 303 ● Other NDA 47 ● Congress 52 ● Other UPA 33 ● Others 108



Note: The poll was cancelled in one constituency, so only 542 seats were elected

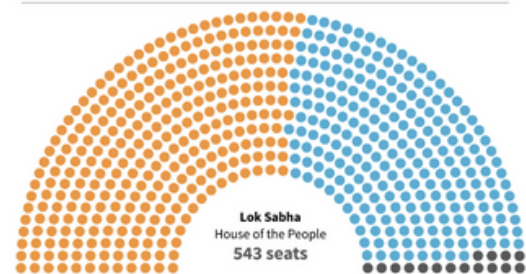
Source: Election Commission of India

BBC

Opinion polls leading up to the 2024 Election suggested that Modi would easily retain a majority in the Lok Sabha. However, a significant upset occurred when the BJP lost sixty-three seats and the Indian National Congress gained forty-seven seats in the June 2024 Election. As a result, the BJP lost its majority in Parliament and the NDA retained its majority, meaning Modi will now have to rely on other NDA coalition parties to pass his policies.<sup>16</sup> Due to the recent election results, Modi is expected to rule with more caution while the INDIA opposition movement has been reinvigorated.

## India's 2024 election results, by alliance

● NDA (National Democratic Alliance)	293
● INDIA (Indian National Developmental Inclusive Alliance)	234
● Others	16



Sources: Election Commission of India, AFP  
India's 2024 election results, by alliance

AFP

## Conclusion

Within the past decade, both Poland and India have experienced trends of democratic backsliding but have each adopted distinct approaches to recovery. As a result of the Civic Coalition's win in the 2023 Election, Poland has recently undergone a turning point for its political stability and reversing democratic erosion by the Law and Justice Party. Prime Minister Donald Tusk has ensured his commitment to restoring democratic rule through his "iron broom" strategy and independent judiciary. The 2024 European Parliament Elections have discernibly reaffirmed Polish confidence in Tusk's style of governance and reforms. While the INDIA coalition gained seats in the 2024 Election, it remains relatively weak and in the minority of the Lok Sabha nonetheless. The question now becomes how will Prime Minister Narendra Modi's Bharatiya Janata Party rule with this momentous defeat. Regardless, both India and Poland demonstrate that there are many effective tactics and approaches towards combatting democratic backsliding, providing seeds other countries can sow to repel rising authoritarianism globally.



### Citations:

1. Dean, James. 2024. "Democratic Decline a Global Phenomenon, Even in Wealthy Nations." Cornell Chronicle, January 17. <https://news.cornell.edu/stories/2024/01/democratic-decline-global-phenomenon-even-wealthy-nations>.
2. Saaliq, Sheikh. 2024. "India's New Citizenship Law Excludes Muslims. Here's What to Know." AP News, March 12. <https://apnews.com/article/india-citizenship-law-modi-muslims-caa-28909f8df0e6d5e0915e065195abef14#>.
3. Schmitz, Rob. 2024. "Poland's Judiciary Was a Tool of Its Government. New Leaders Are Trying to Undo That." NPR, February 26. <https://www.npr.org/2024/02/26/1232834640/poland-courts-judicial-reform-donald-tusk>.
4. Sejm of the Republic of Poland. n.d. "Sejm of the Republic of Poland." <https://www.sejm.gov.pl/english/sejm/sejm.htm>.
5. Atlantic Council. 2023. "Your Primer on the Elections in Poland." Atlantic Council, October 11. <https://www.atlanticcouncil.org/content-series/eye-on-europes-elections/your-primer-on-the-elections-in-poland/>.
6. Benson, Robert. 2023. "Poland's Democratic Resurgence: From Backsliding to Beacon." Center for American Progress, November 14. <http://www.americanprogress.org/article/polands-democratic-resurgence-from-backsliding-to-beacon/>.
7. Minder, Raphael. 2024. "Inside Donald Tusk's Divisive Campaign to Restore Polish Democracy." Financial Times, February 18. <https://www.ft.com/content/e3b10baf-c508-4afi-ad25-8188ef60b174>.
8. Rajvanshi, Astha. "How Narendra Modi's India Uses Raids to Silence Critics." Time, February 16, 2023. <https://time.com/6255425/india-raid-bbc-modi-documentary/>.
9. Ibid.
10. Reporters Without Borders. "Press Freedom Index." Reporters Without Borders: Press Freedom Index, 2024. <https://rsf.org/en/index?year=2022>.
11. Goel, Vindu, Karan Deep Singh, and Sameer Yasir. "India Shut down Kashmir's Internet Access. Now, 'We Cannot Do Anything.'" The New York Times, August 14, 2019. <https://www.nytimes.com/2019/08/14/technology/india-kashmir-internet.html>.
12. BBC. "CAA: India's New Citizenship Law Explained." BBC News, March 12, 2024. <https://www.bbc.com/news/world-asia-india-50670393>.
13. Saaliq, Sheikh. "India's New Citizenship Law Excludes Muslims. Here's What to Know." AP News, March 15, 2024. <https://apnews.com/article/india-citizenship-law-modi-muslims-caa-28909f8df0e6d5e0915e065195abef14#>.
14. Express Web Desk. 2024. "Lok Sabha Elections 2024: Dates, Phases, Key Players and All You Need to Know about next General Elections." The Indian Express, February 8. <http://indianexpress.com/article/when-is-general-elections-2024-dates-phases-key-players-and-all-you-need-to-know-9150641/>.
15. "Lok Sabha | National Portal of India." n.d. <https://www.india.gov.in/my-government/indian-parliament/lok-sabha>.
16. "India Election Results: Modi Claims Victory for Alliance." AP News, June 4, 2024. <https://apnews.com/live/india-election-results-updates>.

## The Deportation of Afghan Refugees from Pakistan: Implications for Citizenship and Democracy



Arsham M. Bari is a second-year Master of Public Administration student at the Brooks School of Public Policy, and a Fulbright Scholar. With four years of experience in development practice in Pakistan, she has worked extensively on gender-based and minority rights, digital literacy, citizen journalism, and civic engagement. Her work aims to influence policy and legal frameworks through research and community engagement.

**O**n October 3, 2023, the Pakistani government ordered all illegal foreign nationals to leave the country voluntarily by the end of the month under the Illegal Foreigners' Repatriation Plan (IFPR)<sup>1</sup>, or face imprisonment or forced deportation. This expulsion is in response to a rise in terrorism in the country; officials reported twenty-four suicide bombings in 2023, claiming Afghan nationals to be responsible for fourteen of them.<sup>2</sup> Although IFPR does not explicitly target Afghan refugees, out of the 4 million foreign nationals in Pakistan, 3.8 million are Afghan refugees, including 1.7 million undocumented ones,<sup>3</sup> effectively making them the main focus of this policy. Under the IFPR, the deportation process was divided into three phases: the first phase targeted illegal foreigners, the second phase focused on Afghan Citizen Card holders, and the third phase will expel the United Nations High Commissioner for Refugees (UNHCR)-issued Proof of Registration holders.<sup>4</sup>

The decision to deport Afghan refugees evoked huge outcry from the international community, including the United States, European countries, human rights organizations, local civil society in Pakistan, and the Taliban government in Afghanistan. Critics argued that the policy violates Pakistan's obligations under the United Nations Convention Against Torture and the principle of non-refoulement, which prohibits forcibly returning people to countries where they risk torture or persecution.<sup>5</sup> Pakistan's government blames the Afghan Taliban for harboring the Tehreek-e-Taliban Pakistan (TTP), the local militant group, which also revoked the ceasefire with the government in 2022.<sup>6</sup> Pakistan's government justified the decision with the need to prioritize state security. As a non-signatory to the 1951 Refugee Convention and under the Foreigners Act, 1946 of Pakistan's constitution,<sup>7</sup> the government claims its policy is legally justified under international law.

More than a half a million Afghan refugees have since returned to Afghanistan through the Spin Boldak and Torkham border.<sup>8</sup> A study by the Pakistan Institute of Development Economics found that only 4 percent of Afghan nationals are willing to voluntarily repatriate. About 29 percent expressed willingness to return if peace is restored in Afghanistan, while the majority—67 percent—stated they are unwilling to go back.<sup>9</sup> Pakistan has hosted Afghan refugees for over forty years; multiple generations of Afghans, including many born and raised in Pakistan, have settled in the country. This sudden, arbitrary policy by a caretaker government, not constitutionally mandated for long-term decisions,<sup>10</sup> puts vulnerable Afghan populations at great economic and humanitarian risk, particularly women, girls, journalists, human rights defenders, artists, and former Afghan officials.

## The Historical Context

The Pakistan-Afghanistan border, known as the Durand Line, spans 2,640 kilometers of mountainous terrain. Many Pashtun tribes live on both sides, sharing language, customs, culture, and businesses. These tribes often hold ID cards from both countries, using whichever card is convenient for their location. Historically, they crossed the border freely for business and even provided refuge to tribe members from across the border during feuds and from law-enforcement agencies.<sup>11</sup>

The Durand Line has been a long-standing conflict between Pakistan and Afghanistan, with Afghan governments refusing to recognize the border established by the British in 1893. Efforts by both states to restrict border movement have largely failed, even during political conflicts. Over the decades, Pakistan imposed restrictions on formal crossing points, limited trade, and dug trenches. In 2017, Pakistan fenced the entire Durand Line to stop TTP militants from entering through Afghanistan, despite strong public backlash from both sides.<sup>12</sup> This move disrupted familial relationships, divided villages, and impacted the local economy. Owing to a history of fluid border movement and open-door policies for Afghan refugees until the late 1980s, coupled with continually changing refugee policies, Pakistan had over 1.7 million undocumented Afghan refugees by 2023.

Since 1979, Pakistan has hosted three influxes of Afghan refugees on a prima facie basis. After the Soviet invasion of Afghanistan, Pakistan hosted over a million Afghan refugees, with the number rising to 3.2 million between 1981 and 1990. In 1992, Pakistan and the UNHCR launched an assisted voluntary return (AVR) program, successfully repatriating about 1.4 million refugees to

Afghanistan in one year. The second major wave of Afghan refugees arrived after the U.S. invasion post-9/11 in 2001.<sup>13</sup> During this time, Pakistan was facing sanctions from the United States and the western countries for testing a nuclear weapon, so the country adopted a prevented refugee policy, with refugees arriving after 1997 subjected to deportation and fines according to the 1946 Foreigners Act. The latest significant influx occurred in 2021, following the Taliban's takeover, bringing over 600,000 Afghan refugees to Pakistan.<sup>14</sup>

## The Legal and Institutional Context

Due to the absence of a national legal refugee framework in Pakistan, the United Nations Human Rights Commissioner (UNHRC) for Pakistan became a crucial partner to the government to provide humanitarian assistance to asylum seekers, assist in repatriation to one's home, or a third country, and conduct a census of the Afghan refugees since 1971. Pakistan has signed multiple agreements with UNHCR including a cooperation agreement in 1993, memorandum of understandings in 2004 and 2006, and a tripartite agreement among Pakistan, Afghanistan & UNHCR in 2007, which was extended until 2021.<sup>15</sup> UNHCR has supported the building of camps situated near major cities, where Afghan refugees were permitted to build local markets, open small businesses, and establish carpet weaving factories.



# | Foreign Policy |

In 1980, Pakistan established the Commissionerate for Afghan Refugees (CAR) under the Ministry of States and Frontier Regions to manage Afghan refugees. Headquartered in Islamabad with provincial branches, CAR oversees Afghan refugee administration, financial management, repatriation, and the supervision of UNHCR-funded projects. Afghan refugees were initially required to register with one of the seven Afghan Islamic factions in Pakistan to receive aid, with registered individuals issued passbooks for family identification and aid distribution. These passbooks, later replaced by digital Proof of Registration (PoR) cards between 2006 and 2007, provided legal status for three years but excluded those arriving post-2005. In 2017, Afghan Citizen Cards (ACC) were issued to Afghans without PoR cards, regardless of their arrival date in Pakistan. Like PoR cards, ACCs provide legal protection against arbitrary arrest, deportation, or detention under the Foreigners Act.

Pakistan does not have any specific law that safeguards the social, political, and economic rights of Afghan refugees in the country.<sup>16</sup> Except for a few judicial precedents, it also does not offer any legal provisions for citizenship to the Afghan refugees, even through marriage. The children of married couples consisting of a Pakistani and a foreign national can apply by-right for Pakistani citizenship.<sup>17</sup>

## **National Security and Repatriation: Legal Justifications in International Law**

Many international organizations including UNHCR, the Human Rights Watch, and Amnesty International criticized the deportation of the Afghan refugees as a

violation of the international law under the customary non-refoulement principle, and Pakistan's obligations as a party to the UN Convention against Torture (CAT). However, Pakistan's government claims that it is within the parameters of its international obligations in deporting the Afghan refugees. As outlined in Article 1 C (1) to (6) of the 1951 Refugee Convention, a refugee ceases to be a refugee under specific conditions. For Afghan refugees, Article 1 C (5) applies, stating that they can no longer enjoy refugee status because the circumstances under which they were recognized as refugees have ended.<sup>18</sup> In October 2023, the Chief Commissionerate for Afghan Refugees (CCAR) issued a government-wide circular stating that PoR and ACC holders are allowed to reside temporarily in Pakistan and can only be repatriated voluntarily.<sup>19</sup> The deportation efforts focus solely on undocumented and illegal foreigners, with Pakistan still hosting over a million Afghan refugees.

Amidst rising national security threats, which resulted in over 700 security officials and civilians killed in terror attacks in 2023, the Pakistani government cites an exception to the principle of non-refoulement (Article 33 of the Refugee Convention and Article 3 of the CAT), allowing repatriation due to national security concerns.<sup>20</sup> As Pakistan is not a party to the 1951 Refugee Convention or the 1967 Protocol Relating to the Status of Refugees,<sup>21</sup> and given that illegal immigration is recognized as an international offense, it is within its legal rights to repatriate illegal refugees. This move aligns with a global trend of nationalist policies, with many countries, including Mexico, the United States, Canada, and E.U countries, closing their borders to illegal immigrants and halting asylum processes for refugees.<sup>22,23</sup>

## **Ethical Considerations in the Afghan Refugee Crisis in Pakistan**

Pakistan has hosted Afghan refugees for over forty years, despite economic turmoil. However, this display of hospitality has not been without political motives to serve Pakistan's domestic and international geopolitical interests. The militarization and politicization of Afghan refugees has resulted in arbitrary, short-term and ambiguous refugee policies. The policies also hinder the development of civil society organizations assisting Afghan refugees. These temporary measures place significant burdens on Afghan refugees, preventing many from renewing expired documents or registering as refugees. Despite being born and raised in Pakistan, they do not qualify for Pakistani citizenship.<sup>24</sup> Moreover, law enforcement crackdowns have caused panic among refugees, prompting those with documentation to leave the country to avoid humiliation and harassment. In Islamabad, police demolished hundreds of illegally constructed mud homes where impoverished Afghans had been residing.<sup>25</sup> Human Rights Watch alleged that Pakistani officials have used coercive measures to compel Afghans to leave the country. They reported incidents of mass detentions, confiscation of property and livestock, and destruction of identity documents, resulting in the expulsion of thousands of Afghan refugees and asylum seekers.<sup>26</sup>

Afghanistan faces an unprecedented humanitarian crisis aggravated by drought, economic collapse, and limited healthcare access. Approximately 875,000 children suffer from severe acute malnutrition;<sup>27</sup> another 3.1 million people, including women and children, are affected by acute malnutrition. Income reductions have affected 80% of

households, making it difficult to meet basic needs. In March 2022, the Taliban had banned the education of girls above the age of twelve.<sup>28</sup> Sending Afghan refugees, especially women and girls, back is not only a humanitarian crisis but also fundamentally a subjugation of their human rights.

## **Policy Recommendations**

- 1.** International humanitarian and refugee agencies, including UNHCR, should advocate for non-signatory states like Pakistan to ratify the 1951 Refugee Convention. This advocacy aims to align the government's refugee policies with international legal standards on refugees and humanitarian principles.
- 2.** Pakistan and the Afghan Taliban government should initiate renewed negotiations aimed at fostering a more constructive relationship. International support and mediation are crucial in facilitating this process.
- 3.** The Commissionerate for Afghan Refugees in Pakistan and the UNHRC should strengthen regional and global cooperation and collaboration to advance responsibility sharing with the Global Compact on Refugees.
- 4.** Afghan nationals in Pakistan require reliable and accessible routes for resettlement in third countries. The United States, United Kingdom, Germany, and Canada should expedite resettlement for Afghans who are particularly at risk, including women and girls, LGBTQ Afghans, human rights activists, and journalists.

# | Foreign Policy |



## Citations:

1. UNHCR and IOM. 2023. "UNHCR-IOM Pakistan Flash Update on Arrest and Detention/Flow Monitoring, 15 Sep to 15 Oct 2023." UNHCR Data Portal. <https://data.unhcr.org/en/documents/details/104132>.
2. Shahzad, Asif. 2023. "Pakistan Orders Illegal Immigrants, Including 1.73 Mln Afghans, to Leave." Reuters. <https://www.reuters.com/world/asia-pacific/pakistan-orders-all-illegal-immigrants-leave-after-suicide-bombings-2023-10-03/>.
3. Hussain, Abid. 2023. "As Pakistan Departs Refugees, Tense Afghanistan Ties Come in Sharp Focus." Al Jazeera. <https://www.aljazeera.com/news/2023/11/7/as-pakistan-departs-refugees-tense-afghanistan-ties-come-in-sharp-focus>.
4. Seiam, Sanaullah. 2024. "Pakistan Must Halt Unlawful Deportation of Afghan Refugees." Amnesty International. <https://www.amnesty.org/en/latest/news/2024/04/pakistan-government-must-halt-deportation-of-afghan-refugees/>.
5. Human Rights Watch. 2023. "Pakistan: Widespread Abuses Force Afghans to Leave." Human Rights Watch. <https://www.hrw.org/news/2023/11/28/pakistan-widespread-abuses-force-afghans-leave>.
6. Shahzad. 2023. "Pakistan orders illegal immigrants, including 1.73 mln Afghans, to leave."
7. Shigri, Afzal A., and Maleeha Lodhi. 2023. "Govt Initiates Nationwide Operation to Deport Illegal Foreign Nationals." Dawn. <https://www.dawn.com/news/1785519>.
8. Ibid.
9. Kakar, Ajmal. n.d. "From Forced Migration to Forced Repatriation." Pakistan Institute of Development Economics. Accessed June 20, 2024. <https://pide.org.pk/research/from-forced-migration-to-forced-repatriation/>.
10. Hussain, Zahid, Afzal A. Shigri, and Maleeha Lodhi. 2023. "Forced Expulsion - Newspaper." Dawn. <https://www.dawn.com/news/1787440/forced-expulsion>.
11. Samim, Sabawoon. 2024. "The Durand Line and the Fence: How Are Communities Managing with Cross-Border Lives?" Afghanistan Analysts Network. <https://www.afghanistan-analysts.org/en/reports/regional-relations/the-durand-line-and-the-fence-how-are-communities-managing-with-cross-border-lives/>.
12. Ibid.
13. Siddikoglu, H., and A. Z. Sagioglu. 2023. "The Responses of Pakistan and Turkey to Refugee Influxes: A Comparative Analysis of Durable Solutions to Protracted Displacements." Journal on Migration and Human Security 11, no. 1: 41-56. <https://doi.org/10.1177/23315024231160764>.
14. Bhatti, Haseeb. 2023. "Another Petition Filed in SC Against Deportation of Afghan Nationals." Dawn. <https://www.dawn.com/news/1793863/another-petition-filed-in-sc-against-deportation-of-afghan-nationals>.
15. Haider, Khadija. "Illegal Foreigners Repatriation Plan & Pakistan's National Security: A Legal Threshold of International Law." SSRN, <https://doi.org/10.2139/ssrn.4833404>.
16. Siddikoglu & Sagioglu. 2023. "The Responses of Pakistan and Turkey to Refugee Influxes." 41-56.
17. Haider, Khadija. "Illegal Foreigners Repatriation Plan & Pakistan's National Security."
18. Ibid.
19. UNHCR and IOM. 2023. "UNHCR-IOM Pakistan Flash Update."
20. Haider, Khadija. "Illegal Foreigners Repatriation Plan & Pakistan's National Security."
21. Siddikoglu & Sagioglu. 2023. "The Responses of Pakistan and Turkey to Refugee Influxes." 41-56.
22. Haider, Khadija. "Illegal Foreigners Repatriation Plan & Pakistan's National Security."
23. Reuters. 2023. "European Countries Tighten Borders." Reuters. <https://www.reuters.com/world/europe/european-countries-tighten-borders-2023-11-24/>.
24. Aljazeera. 2023. "Why are so many Afghans being kicked out of Pakistan? | Start Here." YouTube. <https://www.youtube.com/watch?v=LDveoTmuR0c>.
25. Shigri & Lodhi. 2023. "Govt Initiates Nationwide Operation to Deport Illegal Foreign Nationals."
26. Human Rights Watch. 2023. "Pakistan: Widespread Abuses Force Afghans to Leave."
27. UNCHR. 2023. "Afghanistan Refugee Crisis Explained." USA for UNHCR. <https://www.unrefugees.org/news/afghanistan-refugee-crisis-explained/>.
28. Barakat, Sultan. 2024. "Taliban Ban on Girls' Education Defies Both Worldly and Religious Logic." Al Jazeera. <https://www.aljazeera.com/opinions/2024/4/1/taliban-ban-on-girls-education-defies-both-worldly-and-religious-logic>.



# Dialogue is a Start: Mali's Military Junta and Citizens Clash Over Jihadist Inclusion



Celia Doherty '25 is a senior in the College of Arts and Sciences studying Linguistics and Classics. Complemented by a language background in Turkish and Arabic, her interests include Middle Eastern and African politics with an emphasis on power competition in Africa. Her research focuses on democracy and authoritarianism, examining resistance and opposition coalitions.

“Inter-Malian dialogue” began in Bamako this May, facilitated by Interim President Assimi Goita and the military junta who seized power in August 2021 after back-to-back coups. Opposition groups criticized the process as a “sham.”<sup>1</sup> With the purported aim of “reconciling the sons and daughters of the country and establishing lasting peace,”<sup>2</sup> where did these negotiations fall short, and how might a shift in security policy play out?

Mali's current situation is unsustainable and violent. Civilians face increasing danger from multiple angles. Amidst a crisis of jihadist violence across the Sahel, non-state armed groups, including Jama'a Nusrat ul-Islam wa al-Muslimin (JNIM) and the Islamic State in the Greater Sahara (ISGS), have made great territorial gains in northern Mali and intensified violence in central regions, particularly Mopti. A January 2022 partnership between the Armed Forces of Mali (FAMA) and the Kremlin-associated Wagner Group has contributed to an increase in extrajudicial violence against civilians, with little progress towards the stated goal of pushing out extremists. Drought and extreme weather intensify food insecurity and strain aid systems; as of 2022, 412,000 Malians were internally displaced and in 2023, an estimated 8.8 million people needed humanitarian assistance.<sup>3</sup>

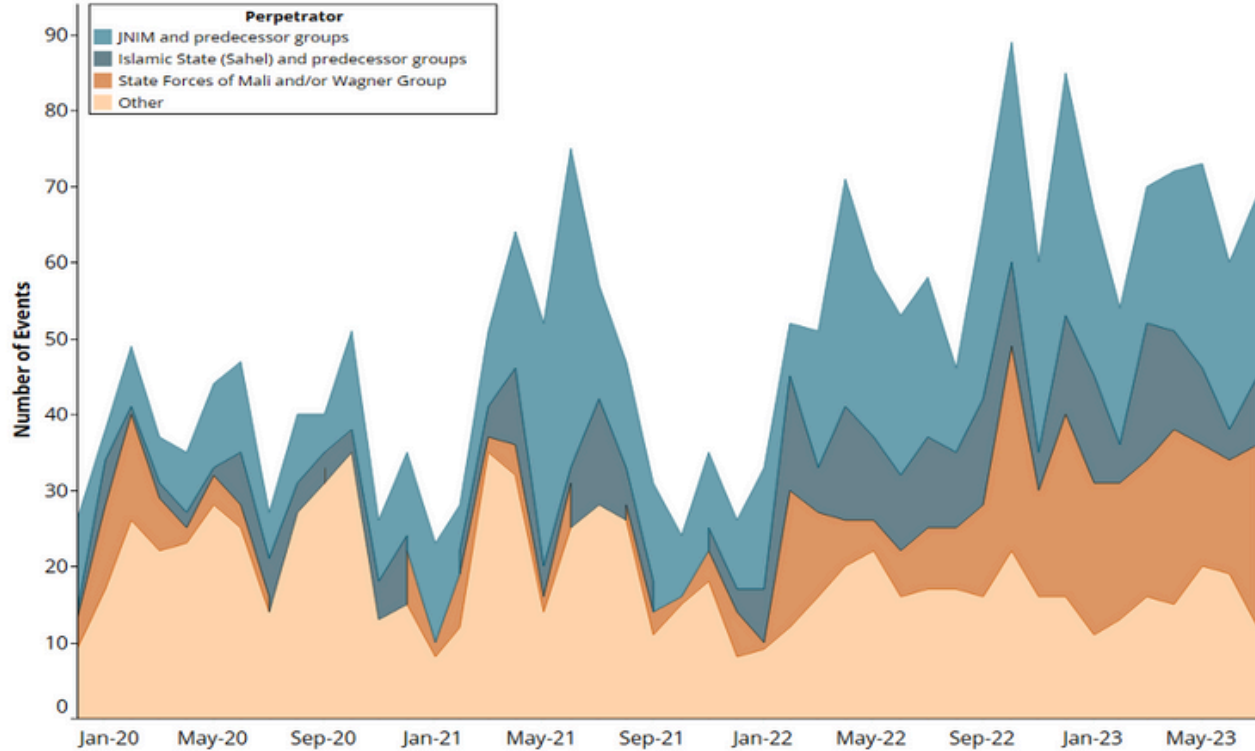
Faced with these mounting issues, national and international bodies have largely stayed the course on militaristic and security-based policies that aim to defeat and contain armed groups. The French-led Operation Barkhane lasted for almost a decade after troops arrived in

2012 to drive back a jihadist insurgency following a military coup. Yet despite many years in the region and an operating budget of almost €600 million annually,<sup>4</sup> French presence failed to provide lasting security and the situation remains at an impasse. Neither the government nor militant groups appear the likely victor. Growing anti-French sentiment stems from claims that the French limited Malian agency and dictated security policy, including discouragement of any negotiations with armed groups.

Even before the military junta demanded the withdrawal of French troops in February 2022, numerous opportunities for dialogue arose. The idea gained traction in 2016 before French pressure sidelined further action.<sup>5</sup> A 2020 prisoner exchange with JNIM created a precedent for channels of communication with jihadist leaders.<sup>6</sup> Aliou Nouhoum Diallo, the former speaker of parliament, has advocated on occasion for informal communication with jihadists as an entry step for state-sponsored dialogue.<sup>7</sup> Notably, leaders from JNIM, who seek to dismantle regional governments they view as puppets of the West, have made statements

## Violence Targeting Civilians in Mali

January 2020 - August 2023



Source: ACLED (2023)<sup>9</sup>

suggesting their openness to the idea.<sup>8</sup> The disconnect between the government’s top-down approach and successful but isolated community-negotiated peace compromises Mali’s territorial integrity and erodes hope of building a framework for democratic governance down the road.

Critics claim the national dialogue was an attempt by Goita to remain in power. Discussions concluded the junta should extend its control for several more years and presented Goita as a potential future candidate. Numerous opposition groups voiced their disapproval. Despite mixed reactions to delays of a promised transition to civilian rule, envisioning elections as a quick-fix antidote to democratic erosion and the security crisis bypasses several critical steps in state building. Holding an election to establish a democracy in name only does not adequately address pressing security issues

and continued government failure to meet the needs of its citizens. Ken Opalo, Associate Professor at Georgetown University’s School of Foreign Service, argues that Mali must focus on the “fundamentals of establishing order and a serious rebuilding of the foundations of democratic self-government.”<sup>10</sup> Once these are in place, introducing elections has greater potential to produce democratic outcomes. The cyclical violence produced by the “defeat and contain” policy has not yielded consistent results and has fractured trust between government and citizens. A pivot towards state-supported dialogue is a beginning, but successful implementation of such a policy rests on the degree to which community leaders and jihadists are involved. Negotiations support solutions to localized conflicts where a more centralized and coercive state can begin to take shape and rehabilitate lost legitimacy.

## **Opportunities for Improved Security and Democratic Foundation**

### ***Legitimize the Government***

Local “survival pacts,” initiated by communities who make large concessions in the name of peace, suggest a willingness by Malians impacted by conflict to negotiate with armed groups.<sup>11</sup> In a December 2020 interview, Moctar Ouane, Mali’s transitional Prime Minister, called dialogue with terrorists “the will of the people of Mali,” underscoring an openness to use dialogue to combat extremism.<sup>12</sup> An influential imam, Mahmoud Dicko, has continued to plead for dialogue with jihadist leaders. However, France’s strong posture against discussions limited Mali’s agency to explore this avenue in the past.<sup>13</sup> French President Emmanuel Macron stated that France would not “carry out joint operations with powers who decide to discuss with groups who...shoot our children.”<sup>14</sup> Adherence to a Western framework fueled anti-incumbent sentiment and de-legitimized the government, seen as too close to a former colonizing power. The former deputy chief of staff during Operation Barkhane acknowledged, “we acted like a big brother who would turn to his little brother and tell him what to do and not do. We’ve been the know-it-all trying to apply templates that weren’t suited to them.”<sup>15</sup> Pursuing negotiations with jihadists may enhance government legitimacy and rebuild their damaged reputation, portraying them as more receptive to the will of the people and autonomous in decision-making free from Western influence.

### ***Stem the flow of extremist recruitment***

Militaristic policies reducing the conflict to the actions of jihadist groups overlook the nuance of the problem; violent groups are

often driven by political, not ideological, demands. A closer look at the motivations behind joining jihadist groups indicates that a military-driven response will remain ineffective as long as root issues persist unresolved. A 2016 Institute for Security Studies report interviewing former members of Malian jihadist organizations observed a variety of motivations for joining, spanning “personal, economic, political, religious, familial, educational, social welfare, ethical [and] influence-based,” concluding that the “idea that young people join armed groups because they adhere to radical religious ideologies is therefore a misconception that could lead to inappropriate responses.”<sup>16</sup> Opalo warns against superimposing globalized ideologies on people fighting over land.<sup>17</sup>

The plethora of political motivations spanning the hierarchy of armed groups proffers an opportunity to resolve local discord, disband armed actors, and undermine the recruitment and retention success of organizations whose membership is not a product of extreme ideology. A militaristic approach to armed groups has not only failed to address political concerns, but has exacerbated them. Civilians are targeted by both militant organizations and FAMA based on perceived alliances or support of various groups, contributing to the 38 percent increase in civilian targeting in 2023.<sup>18</sup> Jihadists often capitalize on discontent with government services, or a lack thereof, when recruiting citizens. A decreased reliance on military action releases funds to strengthen underfunded social services like healthcare and education. This infrastructural weakness deeply impacts Malian youth who lack economic mobility and opportunity, thus becoming a prime demographic for jihadist recruitment. Openness to diplomacy and

dialogue demonstrates a willingness to address local grievances from armed civilian groups or paramilitary forces, confronting perceptions of a disengaged and dispassionate government and weakening a primary recruitment strategy of jihadists.

## ***Increase Civil Society Participation and Engagement***

The top-down approach from the government and the bottom-up approach from local populations both have drawbacks. Malian leaders have sought out Amadou Kouffa, a preacher turned leader of the Katibat Macina militant Islamist group, and Iyad Ag Ghaly, a leader of JNIM, while relying on religious authorities from the High Islamic Council of Mali.<sup>19</sup> Their neglect of traditional community and religious leaders, youth, and others involved in conflict overlooks the regionally specific motivations for high community recruitment into extremist organizations. The 1991 National Conference, hailed by Malians as a triumphant moment for democracy, offers a blueprint for successful dialogue and found success in including a wide range of backgrounds.<sup>20</sup> The 2015 Algiers Accord, a past attempt at negotiation, fell short by failing to engage Malians at the community level. These leaders act as invaluable conduits for persuasion between the state and jihadists.<sup>21</sup> In some regions, particularly in central Mali, communities have taken negotiation into their own hands. Local populations have entered into agreements with jihadist groups to secure small ceasefires, access to farming and fishing, the reopening of schools, food supplies, access to humanitarian assistance, and de-escalation of resource-related conflict.<sup>22</sup> In exchange, violent groups have, in some areas, demanded a return to Sharia law and refused entry to the Malian army. Such tactics, successful in their pragmatism, fail to provide

a broader, long-term solution and compromise the territorial integrity of Mali. A good-faith effort by the government to mirror the successful elements of the bottom-up appeal initiated by their citizens, or simply providing material support to facilitate dialogue, may rebuild a broken trust between politicians and communities. Local leaders believe that their network of contacts and information—a byproduct of their dialogue—would give the government a “head start.”<sup>23</sup> A 2017 survey found that 55.8 percent of Malians supported dialogue with jihadist groups, further affirming the desire on the ground for an altered policy approach.<sup>24</sup> Inviting community leaders to shape a national policy offers a possibility to inspire greater civil society participation and input in the political process, a positive trend to establish democratic foundations.

## **Looking Ahead**

Goita claimed national dialogue was “entirely inclusive,”<sup>25</sup> but the preeminence of short-term military policies, and the exclusion of localized voices and jihadists, limits the potential efficacy of peacebuilding attempts. Negotiation is not a new idea, but its sporadic and narrow implementation by Mali’s authorities has muted any potential payoff. Meanwhile, local agreements continue to form and function, with varying degrees of success. As survival pacts proceed largely unaddressed by the Malian government, trust in a social contract diminishes and provides fodder to the same arguments justifying the last military coup—a deteriorating security situation and an unwillingness to respond adequately to the demands of their citizens. Another coup would threaten to create a power vacuum and further delay hopes of democratization efforts.

A comprehensive overhaul of any military-driven policy is unrealistic; security options remain important in the ongoing counterinsurgency efforts. The outcomes of any negotiations are not guaranteed and indeed, may fail. Short-term efforts paired with enhanced dialogue tactics undoubtedly face obstacles, including questions on capitulation to terrorists and the preservation of the secular nature of Mali's constitution. The risk of conditional aid from international

actors adds complication, but a desire to buffer Mali's developing ties with Russia may incentivize French and US authorities to respect the path chosen by Mali rather than attempt to dictate terms of engagement.<sup>26</sup> Revisiting burgeoning policy around dialogue, backed by popular support, could redefine success in Mali's conflict resolution and state-building efforts, limit further atrocities against civilians, and lay the groundwork for a more engaged citizenry and legitimate governance.



**Citations:**

1. Voice of Africa. "Mali Opposition Rejects Results of 'National Dialogue'." Accessed June 6, 2024. <https://www.voafrika.com/a/mali-opposition-rejects-results-of-national-dialogue-/7608880.html>.
2. Atlas of Wars. 2024. "Inter-Malian Dialogue: A Way to Delay Elections?" *Atlas of Wars* (blog), May 7. <https://www.atlasofwars.com/inter-malian-dialogue-a-way-to-delay-elections/>.
3. U.S. Agency for International Development. 2024. "Mali | Humanitarian Assistance," May 3. <https://www.usaid.gov/humanitarian-assistance/mali>.
4. European Council on Foreign Relations. Accessed June 14, 2024. "Operation Barkhane - Mapping Armed Groups in Mali and the Sahel." [https://ecfr.eu/special/sahel\\_mapping/operation\\_barkhane](https://ecfr.eu/special/sahel_mapping/operation_barkhane).
5. Le Monde. 2020. "Au Mali, Ibrahim Boubacar Keita Assume Un Dialogue Avec Les Jihadistes," February 12. [https://www.lemonde.fr/afrique/article/2020/02/12/sahel-le-president-malien-assume-un-dialogue-avec-les-jihadistes\\_6029246\\_3212.html](https://www.lemonde.fr/afrique/article/2020/02/12/sahel-le-president-malien-assume-un-dialogue-avec-les-jihadistes_6029246_3212.html).
6. BBC News. 2020. "Mali Hostages: Sophie Pétronin and Soumaïla Cissé Freed in Prisoner Swap," October 8. <https://www.bbc.com/news/world-europe-54472504>.
7. War on the Rocks. 2020. "France Should Give Mali Space to Negotiate with Jihadists," April 16. <https://warontherocks.com/2020/04/france-should-give-mali-space-to-negotiate-with-jihadists/>.
8. The New Humanitarian. 2022. "'We Accept to Save Our Lives': How Local Dialogues with Jihadists Took Root in Mali," May 4. <https://www.thenewhumanitarian.org/2022/05/04/we-accept-save-our-lives-how-local-dialogues-jihadists-took-root-mali>.
9. Nsaibia, Héni. 2023. "Fact Sheet: Attacks on Civilians Spike in Mali as Security Deteriorates Across the Sahel." *ACLED* (blog), September 21. <https://acleddata.com/2023/09/21/fact-sheet-attacks-on-civilians-spike-in-mali-as-security-deteriorates-across-the-sahel/>.
10. Opalo, Ken. 2024. "Making Lasting Peace in the Sahel," January 8. [https://www.africanistperspective.com/p/making-lasting-peace-in-the-sahel?utm\\_medium=reader2](https://www.africanistperspective.com/p/making-lasting-peace-in-the-sahel?utm_medium=reader2).
11. The New Humanitarian. 2022. "'We Accept to Save Our Lives'."
12. Dakono, Baba. 2022. *From a Focus on Security to Diplomatic Dialogue: Should a Negotiated Stability Be Considered in the Sahel?* FES Peace and Security Series, no. 45. Dakar-Fann, Senegal: Friedrich-Ebert-Stiftung Peace and Security.
13. Opalo, Ken, and Kim Yi Dionne. Accessed June 5, 2024. "Good Authority: Don't Call It a 'Coup Epidemic' in Africa." *Ufahamu Africa*. <https://www.ufahamuafrika.com/2024/05/04/good-authority-dont-call-it-a-coup-epidemic-in-africa/>.
14. Jeune Afrique. "Mahmoud Dicko: 'Au Mali, Ce n'est Pas à La France d'imposer Ses Solutions'." Accessed June 11, 2024. <https://www.jeuneafrique.com/1187147/politique/mahmoud-dicko-au-mali-ce-nest-pas-a-la-france-dimposer-ses-solutions/>.
15. Harvard International Review. 2023. "How France Failed Mali: The End of Operation Barkhane," January 30. <https://hir.harvard.edu/how-france-failed-mali-the-end-of-operation-barkhane/>.
16. Dakono. 2022. *From a Focus on Security to Diplomatic Dialogue*.
17. Opalo & Dionne. "Good Authority: Don't Call It a 'Coup Epidemic' in Africa."
18. Nsaibia. 2023. "Fact Sheet: Attacks on Civilians Spike in Mali as Security Deteriorates Across the Sahel."
19. Dakono. 2022. *From a Focus on Security to Diplomatic Dialogue*.
20. Conciliation Resources. "Mali's Peace Process: Context, Analysis and Evaluation." Accessed June 11, 2024. <https://www.c-r.org/accord/public-participation/malis-peace-process-context-analysis-and-evaluation>.
21. International Crisis Group. 2024. "Northern Mali: Return to Dialogue," February 20. <https://www.crisisgroup.org/afrika/sahel/mali/314-nord-du-mali-revenir-au-dialogue>.
22. Dakono. 2022. *From a Focus on Security to Diplomatic Dialogue*.
23. The New Humanitarian. 2022. "'We Accept to Save Our Lives'."
24. ReliefWeb. 2020. "Can Dialogue with Violent Extremist Groups Help Bring Stability to Mali?" March 23. <https://reliefweb.int/report/mali/can-dialogue-violent-extremist-groups-help-bring-stability-mali>.
25. France 24. 2024. "Mali National Dialogue Recommends Extending Junta Rule for Several More Years," May 10. <https://www.france24.com/en/afrika/20240510-mali-national-dialogue-recommends-extending-junta-rule-for-several-more-years>.
26. Dakono. 2022. *From a Focus on Security to Diplomatic Dialogue*.

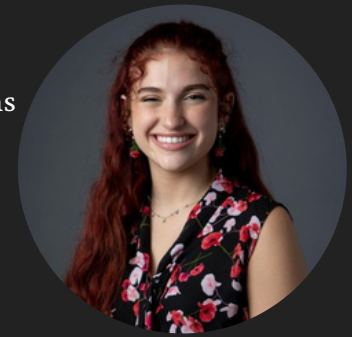
## The Rise of Right-Wing Populism in Central and South America: Implications for Governance and Democracy



Alejandro J. Ramos is an MPA candidate and Brooks Public Policy Fellow at the Cornell Brooks School of Public Policy. His research interests include civics, democracy, and minority voting behaviors. At the time of this special edition's publication, Ramos serves as a Kohut Research Fellow at the Roper Center for Public Opinion Research housed at Cornell. His project at Roper, investigates the voting behaviors of Hispanics in presidential election cycles.

Jenna Luisa Boccher is a fourth-year undergraduate student at the University of Pennsylvania working towards a B.A. in International Relations and Latinx Studies. As a junior researcher at the Ramos Research Institute, she researches the trends of conservatism within the Hispanic population.

Jenna's professional trajectory revolves around facilitating access to housing, healthcare, and education by advocating for inclusive legislation.



---

The specter of right-wing populism (RWP) looms large across the globe, reshaping political landscapes and challenging established norms.<sup>1</sup> In Central and South America, however, this phenomenon appears particularly potent, fueled by a confluence of economic anxieties, social frustrations, and disillusionment with traditional politics. From Jair Bolsonaro's fiery rhetoric in Brazil to Nayib Bukele's unconventional leadership in El Salvador, right-wing populist leaders are capturing the imaginations of voters disenfranchised by stagnant economies, entrenched corruption, and rising inequality. This trend, far from being a transient wave, carries profound implications for the region's democratic trajectory and necessitates a deeper understanding of its root causes and potential consequences.<sup>2</sup>

This analysis delves into the complex tapestry of factors driving the rise of RWP in Central and South America. We begin by unpacking the distinct characteristics of this phenomenon in the region, considering its historical context and diverse manifestations. Following that, we dissect the key economic, social, and political elements feeding into this populist surge, drawing upon recent data and scholarly perspectives. Ultimately, we turn our attention to the multifaceted implications of this trend for governance and democracy, exploring potential threats and opportunities for navigating this critical juncture.

### Defining Right Wing Populism

“A minimalist understanding of right-wing populism classifies it as movements, parties, leaders, and governments who engage in transgressive political performances that oppose ‘elites’ in the name of the ‘people,’ rely

at least in part on unmediated communication between a leader and followers, and spread right-wing ideological messages such as anti-globalism, traditional social values, and ethnic or religious nationalism.”<sup>3</sup>— Anthony Pereira

## **Right-Wing Populism in Argentina, El Salvador, and Mexico - A New Generation Emerges**

The tide of RWP in Central and South America continues to evolve, with a new generation of leaders emerging alongside established figures. This analysis focuses on three emblematic figures—Javier Milei of Argentina, Nayib Bukele of El Salvador, and Andrés Manuel López Obrador (AMLO) of Mexico—to illustrate the distinct yet overlapping characteristics of this phenomenon, particularly considering Milei's recent rise to power.<sup>5,6,7</sup>

### ***Anti-Establishment Iconoclasm***

While different in age and background, these leaders share a core characteristic: a fiery anti-establishment message. Bukele, a millennial outsider, cast himself against the entrenched two-party system. AMLO, a veteran leftist turned populist, railed against the privileged elites. Milei, a self-described "anarcho-capitalist" and economist, stands out with his radical anti-state rhetoric, proposing to slash government spending, eliminate the Central Bank, and privatize key sectors. This extreme anti-establishment stance resonates with voters disillusioned with traditional politics and seeking drastic change.

### ***Economic Discontent and Alternative Narratives***

Economic anxieties play a significant role in their appeal. Bukele promised to revitalize the Salvadoran economy, while AMLO focused on social welfare programs. Milei, however, offers a starkly different approach, advocating for radical economic liberalism and minimal government intervention. This anti-establishment, pro-market narrative resonates with segments of the population dissatisfied with stagnant economies and perceived government inefficiencies.

### ***Nationalism and Social Divisions***

While not explicitly xenophobic, their narratives often carry nationalist undertones. Bukele emphasizes national pride and cultural identity. AMLO champions Mexican exceptionalism and criticizes foreign interference. Milei's brand of nationalism focuses on "Argentine pride" but also carries socially conservative elements, opposing abortion and sex education. These narratives, although nuanced, potentially exacerbate social divisions and anxieties about immigration and cultural change.

### ***Charismatic Leadership and Social Media Savvy***

These leaders utilize social media effectively as a direct communication tool. Bukele and Milei have mastered platforms like Instagram and Twitter to bypass traditional media and connect directly with their supporters. AMLO holds daily press conferences and utilizes social media to engage with his audience. Their charismatic personalities and direct communication style endear them to sections of the population disillusioned with traditional political discourse. The rise of these leaders raises concerns for the future of democracy and individual rights. Bukele's increasingly authoritarian actions are alarming, while AMLO's weakening of independent institutions is worrying. Milei's radical proposals, if implemented, could have significant economic and social repercussions. Understanding the shared characteristics and potential impacts of these diverse figures is crucial for navigating the complex political landscape of the region.

### ***Commonalities Between Leaders***

While these leaders differ in their approaches, they share a common thread of anti-establishment rhetoric, economic discontent, and nationalist narratives amplified by social

# | Foreign Policy |

media. Understanding these shared characteristics and their potential impact on democracy and individual rights is crucial for navigating the complex political landscape of the region, particularly as figures like Milei rise to power.

## Examining the Causes

The rise of RWP has grown intertwined with the Latin American region, consistently fueled by discontent with economic opportunities, social anxieties, weak institutions, and the technology bridge linking RWP globally. The marketing of these fears draws on the rhetoric of left-wing economic ideas and electoral aspects of democracy to create a widely appealing message. The combination of these factors creates a perfect storm for charismatic personalities to entrap wide-ranging coalitions of citizens in voting for RWP leaders.

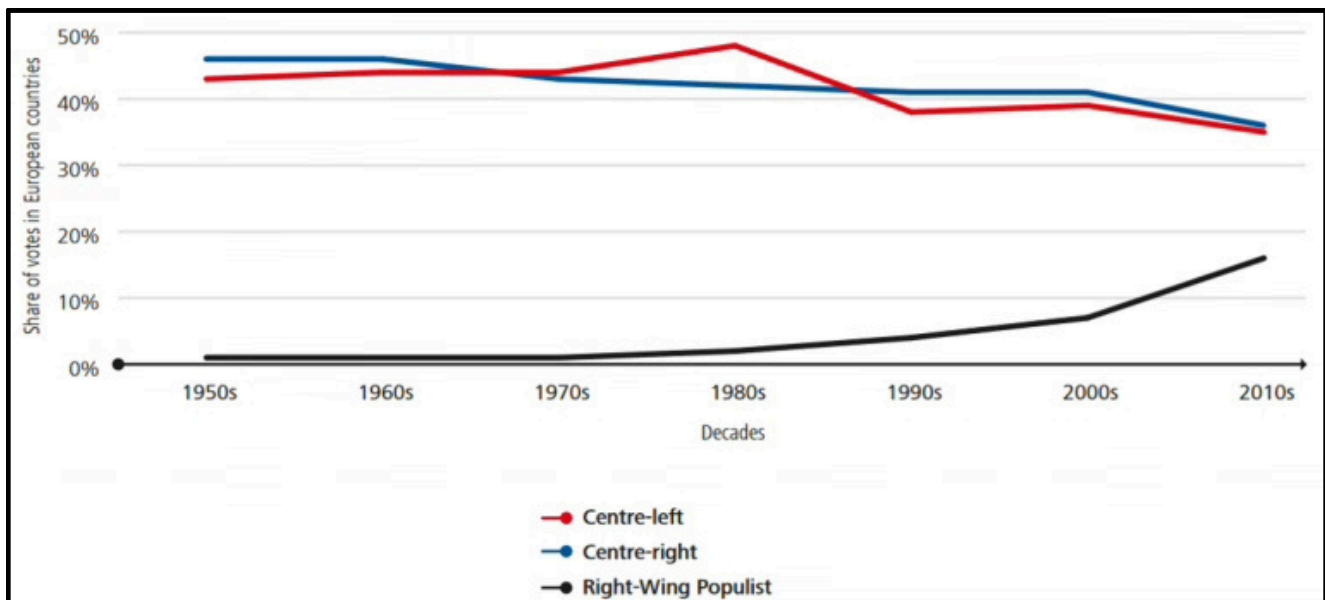
## Economic Factors

The framing of economic instability to gain public trust is a key RWP strategy. Leaders exploit fears and anxieties regarding unemployment, low wages, or income volatility. In Argentina, over 36% of the population lived below the poverty line in 2022, with food prices increasing by nearly 100% that year, creating

desperation that Milei's "shock therapy" policies exploited. His price controls froze utility rates and rent prices temporarily, creating an illusion of economic relief while paving the way for drastic austerity measures.<sup>8</sup> This move consolidates power in Milei's regime in Argentina and allows for him to push for more severe austerity measures such as a mandate that bypasses Congress, strips workers' rights, and severely limits social welfare.

## Social Factors

Like economic instability, social anxieties rooted in fear of losing power and position to marginalized groups are exploited by leaders. These may include perceived threats of multiculturalism, secularism, or gender and sexual equity, creating a harsh binary between "us" and "them." Leaders utilize this nostalgia through emotional governance, continuously threatening one's security with an out-group.<sup>9</sup> They promise to return to the dominant culture and traditional modes of power. This is reflected in the rhetoric on the threat of social justice in Argentina; "Where there is a need, there is a right but they're forgetting that somebody has to pay for that right. Its maximum expression is that aberration called social justice which is unjust





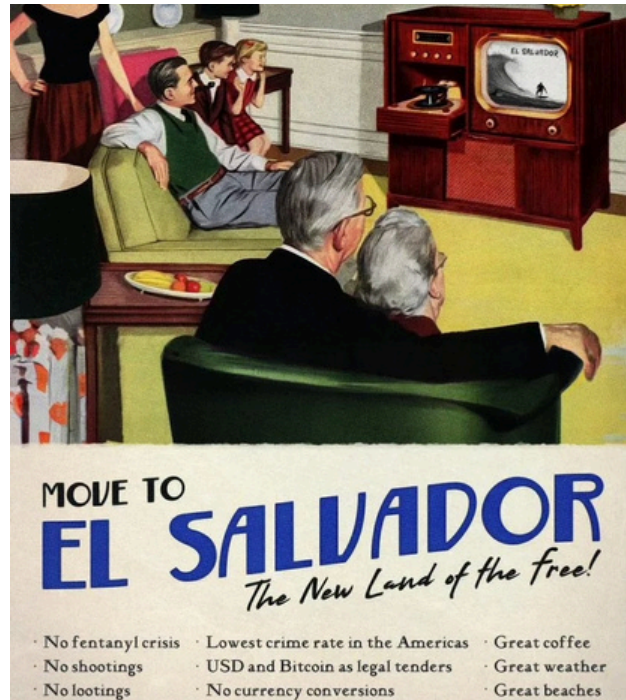
because it implies unequal treatment in the face of the law," Milei declared.<sup>10</sup> His explicit use of transactional justice calls for a mobilization of the nation.

### **Political Disillusionment**

Generalized political disenchantment stemming from a history of corruption, inefficiency, and disconnection between the government and the people allows RWP leaders to frame themselves as anti-elite and individualistic alternatives. The lack of robust checks on power, such as an independent judiciary, free press, and strong legislative bodies, is particularly dangerous as leaders exploit these institutional weaknesses to further their agendas and utilize militaristic power to carry out threats without oversight. By capitalizing on weak institutions during crises, RWP leaders can consolidate power, undermine democratic norms, and govern with impunity, shielded from meaningful oversight or consequences for abuses of power.<sup>11</sup> This unrestrained environment is fertile ground for the rise of authoritarian tendencies under the guise of populist rhetoric. The COVID-19 pandemic heightened this trend, as some leaders assumed expanded powers in exchange for providing security. In El Salvador, President Bukele took advantage of a suspended parliament to enforce a militarized lockdown with near-absolute power. Heavily armed forces supervised compulsory stay-at-home orders, resulting in over 600 illegal detentions.<sup>12</sup> The absence of checks on Bukele's authority enabled widespread human rights violations without proper transparency or accountability mechanisms.

### **Implications and Policy Responses**

The causes and prerequisites of RWP are diverse, but incredibly intertwined, as they all utilize a sense of fear to mobilize the public



towards RWP. Economic anxiety is often based on the fears of social anxieties, which affects trust in the government to secure the dominant culture. RWP carries a tangible effect within societies even if it is voted in for a single term, as it focuses on dismantling democratic institutions, social polarization, and increased human rights violations.

### **Democratic Backsliding**

Populism is as antithetical to democracy because of its focus on anti-pluralism and a singular, centralized leader. Populists' goals supersede democracy's limitations, necessitating the deconstruction of the previous system through cultural and structural overhaul. This results in an extreme police state where opposition is demonized. Populist leaders seek to erode public trust in electoral and democratic integrity, simultaneously discrediting dissent. They change rules like extending term limits, gerrymandering, and introducing voting restrictions to disadvantage the opposition. We see this in Mexico, where President Obrador has launched legislative reforms to cut the budget, staff, and independence of the respected National

# | Foreign Policy |

Electoral Institute (INE) ahead of the 2024 elections, marking a significant turn away from hard-won democratic gains. Despite protests, if Obrador continues disarming the public's means to voice concerns, he could further centralize power.<sup>14</sup>

## ***Social Polarization***

Social polarization is a key strategy for building a strong RWP base, centering on an antagonistic, anti-compromising frontier between establishment and anti-establishment camps. This binary worldview complicates democratic institutions by characterizing the "other" as a threat. By generating new controversies on the political agenda, leaders redefine partisan bounds and electoral stakes. Portraying the fringe emboldens anti-populist sides to protest, further entrenching polarization into a zero-sum game favoring RWP.<sup>15</sup> In Argentina, this is demonstrated through la grieta, or the rift between political factions. The stalemate has enabled Milei to push severe governmental reforms while retaining power. He utilized previous concerns around Kirchner governments to raise issues like big government, abortion, mandatory vaccinations, and climate change—items previously considered decided by consensus.<sup>16</sup> This underscores how polarization has allowed Milei to shift traditional talking points to consolidate his RWP agenda.

## ***Human Rights Abuses***

Building on a weakened democratic state and social polarization, human rights abuses flourish under RWP due to the suspension of judicial oversight and the militarization of domestic policy. RWP favors short-term gains over long-term stability, emboldening leaders to seek unethical means to centralize support, deprive designated "others" of basic rights, and

refuse to tackle root issues. The framing of human rights as an interference with the regime's goals aids in garnering public support. This is exemplified in El Salvador under Bukele's regime; leveraging fears of gang violence, Bukele has suspended due process and habeas corpus, enabling the mass arrest of citizens with alleged gang ties or associations. This abuse of emergency powers has resulted in the detention of thousands in inhumane "super-prisons" without trial, sometimes leading to the deaths of these individuals. This case highlights the dangers of unchecked RWP, where truth is scarce and the people suffer the consequences.<sup>17</sup> Bukele has created a punitive policy that targets gang violence, but in doing so, has suspended the rights and civil liberties of Salvadoran citizens, capitalizing on public fears to consolidate power and deprive the "other" of their basic human rights.

There is no absolute answer to solving the crises that RWP present; that would require country-specific solutions that delve into each leader's domestic and international relations. However, the three target goals of promoting good governance, combating misinformation, and recognizing public grievances provide benchmarks for future politician seeking to reverse the damage RWP has wrought.

## ***Promoting Good Governance***

While the sentiment of populism may already be present within society, right-wing populist leaders are often able to mobilize these sentiments through their ability to exploit the weakness of democratic systems. In addition, democratic leaders often face a deficit of trust and goodwill from the public in their ability to govern effectively. As such, it is preferable to avoid rhetoric and messaging that tie identity politics to partisan agendas in order to evade the traps of RWP.

Without strict in-group definitions, populist leaders will be unable to leverage divisive "us vs. them" language. This would also discourage the incorporation of minority rights, migration, and race as central campaign platforms—as these groups would be understood as a singular citizenry. Instead, a focus on creating a unified national vision can allow the leader to address the structural issues undermining trust in democratic institutions.<sup>18</sup> This could involve strengthening an impartial judiciary, improving communication channels between citizens and government, and expanding social safety net programs. Additionally, parties need to create distinct platforms in order for voters to feel as if there is a feasible choice between candidates and to become more engaged in the electoral process.

Pursuing constitutional reforms that formally include all stakeholders can also demonstrate a commitment to a more inclusive and democratic future. This signals the government's agreement with the diverse range of citizens and provides clear protections for a pluralistic system.<sup>18</sup> Overall, this multi-pronged approach aims to rebuild public trust, empower democratic institutions, and address the root causes that enable RWP to take hold.

### ***Combating Misinformation***

The rise of RWP has been fueled by demagogic leaders leveraging polarizing rhetoric and spreading misinformation. Countering this will require a multi-pronged approach. On the supply side, governments must shore up the independence and credibility of democratic institutions, especially the media. This includes enacting robust protections for press freedom, providing public funding for fact-based journalism, and empowering media oversight bodies. Policymakers should also collaborate

with digital platforms to implement stricter content moderation policies and increase transparency around political ads and algorithmic curation, with penalties for platforms that fail to curb misinformation. On the demand side, investing in media literacy education is crucial. Curricula should equip citizens with critical thinking skills to identify misinformation and verify credible sources. Partnerships with civil society can amplify these efforts within communities. Governments should also work to rebuild public trust by enhancing transparency, cracking down on corruption, and improving responsiveness to citizens' concerns. International cooperation is essential to counter cross-border disinformation campaigns.<sup>19</sup> Sharing best practices and coordinating sanctions on malign foreign actors can create a more resilient global information ecosystem. The goal is to create an environment where citizens can discern fact from fiction, and where purveyors of misinformation are denied the oxygen to thrive—a long-term battle critical to the future of democracy.

### ***Recognizing and Addressing Public Grievances***

The rise of RWP does not occur in a vacuum but rather is symptomatic of deeper systemic failures. Populist leaders exploit well-founded public concerns, capitalizing on the anxieties and frustrations of citizens who feel neglected or betrayed by the political establishment. To effectively counter this, future governments must be willing to directly confront and address the legitimate grievances that have given rise to populist sentiments. This requires a sustained, good-faith effort to improve the everyday lives of citizens through tangible, impactful policy changes. Crucially, this cannot be a top-down, technocratic approach. Governments must seek

# | Foreign Policy |

to uplift and empower grassroots community organizations as a direct conduit between the public and decision-makers.<sup>20</sup> This two-way channel of communication and accountability is essential for rebuilding trust and ensuring policies reflect the real needs of the people.

On the political front, this may also necessitate the inclusion of right-wing populist parties in the electoral process, rather than attempts to exclude or marginalize them. While challenging, this can help undermine the populists' narrative of persecution and isolation from the "corrupt system." Constructive engagement, rather than outright rejection, can gradually erode their anti-establishment appeal. Ultimately, the key is a comprehensive, long-term strategy that combines institutional reforms, grassroots empowerment, and a genuine commitment to improving socioeconomic conditions for all citizens. Only by addressing the underlying drivers of disillusionment can governments hope to build the resilience to withstand the siren call of RWP.

## ***Feasibility***

The feasibility of effectively countering RWP is context-dependent, hinging on factors like the entrenched power of the populist leader, the resilience of democratic institutions, and the strength of civic engagement. As a foundation, leaders must first undo any reforms or institutional capture that enabled abuses under the previous populist regime. However, resource constraints and capacity will shape the scope of possible change. Another challenge is the risk of public backlash; overly rapid or drastic reforms could inadvertently fuel further RWP sentiment or a swing toward left-wing populism, a dynamic common in parts of Latin America. To bolster success, a balanced approach is crucial—shoring up independent,

effective democratic institutions while also investing in public education, social services, and community empowerment. Improving quality of life can help erode the appeal of populist scapegoating. Ultimately, addressing RWP's deep-seated drivers requires a comprehensive, context-specific strategy built on steady, incremental progress and broad civic support. There are no quick fixes, but the alternative is the further erosion of democracy.

## **Conclusion**

The rise of RWP in Central and South America presents a critical juncture for examining the effectiveness and resilience of democratic institutions in the region. This phenomenon, driven by diverse factors such as economic dissatisfaction, social anxieties, and political disenchantment, compels a nuanced understanding and response. While these leaders have successfully harnessed widespread discontent to gain power, their governance also highlights significant challenges and opportunities for democracy. It is essential to critically evaluate both the appeals and the drawbacks of populist policies. Moving forward, fostering open dialogue, enhancing governmental accountability, and ensuring that economic and social policies are inclusive and equitable can help mitigate the risks of populism. Ultimately, a balanced approach that addresses the root causes of populist support while safeguarding democratic principles may provide the most sustainable path forward in these politically dynamic regions.



**Citations:**

1. Grzymala-Busse, Anna, Didi Kuo, Francis Fukuyama, and Michael McFaul. 2020. "Global Populisms and Their Challenges." Freeman Spogli Institute for International Studies. March. <https://fsi.stanford.edu/global-populisms/global-populisms-and-their-challenges>.
2. Casas-Zamora, Kevin. 2023. Look at Latin America. This is How TDemocracies Fail. *New York Times*. April 13. <https://www.nytimes.com/2023/04/13/opinion/international-world/democracy-latin-america.html>.
3. Pereira, Anthony W. 2023. *Right-Wing Populism in Latin America and Beyond*. New York: Routledge.
4. Pereira, Anthony W. 2023. "Understanding Right-Wing Populism (or the Extreme Right)." *Latin American Studies Association Forum*. <https://forum.lasaweb.org/files/vol54-issue4/dossier-3.pdf>.
5. Biller, David, and Daniel Politi. 2023. The lion, the wig and the warrior. Who is Javier Milei, Argentina's president-elect? *The Associated Press*. November 20. <https://apnews.com/article/javier-milei-profile-argentina-election-82488d49cca5ae10d4b911bde530922>.
6. Hassan, Tirana. 2023. El Salvador Events of 2022. <https://www.hrw.org/world-report/2023/country-chapters/el-salvador>.
7. Birke, Sarah. 2021. Mexico's president will continue to damage the country's democracy. *The Economist*. November 8. [https://www.economist.com/the-world-ahead/2021/11/08/mexicos-president-will-continue-to-damage-the-countrys-democracy?ppccampaignID=&ppcadID=&ppcgclid=&utm\\_medium=cpc.adword.pd&utm\\_source=google&ppccampaignID=17210591673&ppcadID=&utm\\_campaign=a.22brand\\_pm](https://www.economist.com/the-world-ahead/2021/11/08/mexicos-president-will-continue-to-damage-the-countrys-democracy?ppccampaignID=&ppcadID=&ppcgclid=&utm_medium=cpc.adword.pd&utm_source=google&ppccampaignID=17210591673&ppcadID=&utm_campaign=a.22brand_pm).
8. Kozul-Wright, Alexander. 2024. "First 100 Days: Milei Falters on Shock Therapy for Argentina's Economy." *Al Jazeera*. March 19. <https://www.aljazeera.com/economy/2024/3/19/first-100-days-milei-falters-on-shock-therapy-for-argentinas-economy>.
9. Kinnvall, Catarina, and Ted Svensson. 2022. "Exploring the Populist 'Mind': Anxiety, Fantasy, And..." *Sage Journals*. February 24. <https://journals.sagepub.com/doi/10.1177/13691481221075925>.
10. Grainger, James. 2023. "Javier Milei and His Beliefs – in His Own Words." *Buenos Aires Times*, August 19. <https://www.batimes.com.ar/news/argentina/javier-milei-and-his-beliefs-in-his-own-words.phtml>.
11. Wolf, Sonja. 2021. "A Populist President Tests El Salvador's Democracy." *University of California Press*, February 1. <https://online.ucpress.edu/currenthistory/article/120/823/64/115918/A-Populist-President-Tests-El-Salvador-s-Democracy>.
12. Ibid.
13. Halikiopoulou, Daphne, and Tim Vlandas. n.d. "Understanding Right-Wing Populism and What to Do about It." Right-wing populism. Accessed April 18, 2024. <https://democracy.fes.de/topics/right-wing-populism>.
14. Fabbro, Rocío. 2023. "López Obrador's Reforms Threaten Mexican Democracy." *Foreign Policy*, March 23. <https://foreignpolicy.com/2023/03/23/lopez-obrador-electoral-reforms-mexico-democracy-ine/>.
15. Kinoshian, Sarah. 2022. "Trolls, Propaganda & Fear Stoke Bukele's Media Machine in El Salvador." *Reuters*, November 29. <https://www.reuters.com/investigates/special-report/el-salvador-politics-media/>.
16. Iglesias, Fernando. 2022. "La Grieta, Un Término Inapropiado Para La Realidad Política Argentina." *LA NACION*, September 15. <https://www.lanacion.com.ar/opinion/la-grieta-un-termino-inapropiado-para-la-realidad-politica-argentina-nid15092022/>.
17. Kinoshian, Sarah. 2022. "Trolls, Propaganda & Fear Stoke Bukele's Media Machine in El Salvador." *Reuters*, November 29. <https://www.reuters.com/investigates/special-report/el-salvador-politics-media/>.
18. Kendall-Taylor, Andrea, and Carisa Nietsch. 2020. "Combating Populism." *Center for a New American Security* (en-US), March 19. <https://www.cnas.org/publications/reports/combating-populism>.
19. Ibid.
20. Ibid.



## Bukele's Reelection in El Salvador: Juggling Security and Democracy and the New Mirror of Latin American Authoritarianism



Sebastián Restrepo is a second-year Ph.D. student in the Department of City and Regional Planning at Cornell University. His research interests are regional development and peacebuilding in conflict and post-conflict regions from both a top-down and a bottom-up approach, focusing especially on Latin America.

*“In five years, the five years that have just passed, our government has always opted for the narrow path as the Bible says; we never took the broad, easy way out. The challenges, therefore, were greater than any of us could have imagined. However, God's mercy was also greater for us, and little by little, we began to create something much more significant. A mirror where all of Latin America now sees itself.”<sup>1</sup>*

Source: World Bank (2024)<sup>4</sup>

This is a section from the inauguration speech that the re-elected President of El Salvador, Nayib Bukele, gave on his presidential investiture on June 1, 2024. El Salvador is the smallest country in Central America, with an area of 8,124 sq. mi. (smaller than the State of New Jersey) and a population of just over 6 million. El Salvador does not even represent 1% of the population or the area of Latin America. However, this country is disrupting discussions about democracy and security in Latin America since Bukele's reelection represents his authoritarian regime and a critical juncture for Latin America. El Salvador is becoming a mirror where all Latin America is starting to see itself. Bukele is recognized throughout the region mainly because of his security results and his high popularity among Salvadorans. During his first presidential term campaign in 2019, one of Bukele's central promises was to reduce violence in El Salvador, disbanding Las Maras, particularly The Mara Salvatrucha (MS-13) and the Mara Barrio 18 (18thStreet Gang), a terrorist organization of criminal gangs<sup>2</sup>. He fulfilled that promise, lowering the homicide rate from the highest in the region to the lowest in the



Americas (view Chart 1.) He accomplished this while also having a popularity rating of 92 %.<sup>3</sup> However, this achievement is accompanied by criticism from academics, the press, and international organizations that Bukele's mandate is no longer democratic and has become an authoritarian regime. Bukele follows a new authoritarian model that several scholars have studied recently.<sup>5,6,7</sup> The resistance to pointing out that Bukele is an authoritarian lies in the fact that his rise to power did not come from military coups. Instead, Bukele is a more sophisticated authoritarian, appearing to be an outsider who seeks to fix the problems of democracy from within, competing and winning elections, and addressing the main problems of the subset of the public he represents.

Human Rights Watch has warned about antidemocratic practices in El Salvador, including the coercion of the Salvadoran Judicial Branch, an extended State of Exception since March 2022 (for more than 25 consecutive times), the implementation of an imprisonment policy antithetical to due process, torture, harassment against journalist and civil society organizations, and poor accountability for human rights violations.<sup>8</sup> Nevertheless, Bukele has delivered what he promised, as demonstrated by the results in security and his high popularity. Thus, it begs the question: why should the criticisms of him be taken as valid if it has not been demonstrated that anything he has done has violated the constitutional framework of El Salvador?

After the inauguration of his second term, Tucker Carlson, a recognized U.S. conservative pundit, interviewed Bukele. In this interview, Bukele mentioned how he achieved a supermajority in Congress, that Congress replaced the Supreme Court Justices and the Attorney General, and that the only institution he still does not control is the Electoral Tribunal. At that moment, Carlson interrupts him and asks: "But you stay within the rules the whole time,"<sup>9</sup> Bukele responds:

*"We have never not respected a single rule. That is also a narrative that they want to produce. They cannot point out a single thing that was done by not respecting the rules that were written by them. Because the rules are written by people, it is not like these rules were, you know, given by God. These rules were written by people, but still we respected all the rules that were written by them."*<sup>10</sup>

Still, Bukele did violate the Salvadoran Constitution. As Jorge Sabasta explains, the Constitution of El Salvador prohibits immediate reelection.<sup>11,12</sup>

Bukele presented himself as a candidate under a legal interpretation that goes against the "spirit of the law," where the restriction of reelection seeks to prevent the perpetuation in power of any person. Beyond agreeing or not with the figure of reelection in a country, it is necessary to respect the existing rules of the game and not to interpret them according to individual benefit. In the words of Philippe C. Schmitter and Terry Lynn Karl:

*"The defining components of democracy are necessarily abstract, and may give rise to a considerable variety of institutions and subtypes of democracy. For democracy to thrive, however, specific procedural norms must be followed and civic rights must be respected. Any polity that fails to impose such restrictions upon itself, that fails to follow the 'rule of law' with regard to its own procedures, should not be considered democratic. These procedures alone do not define democracy, but their presence is indispensable to its persistence. In essence, they are necessary but not sufficient conditions for its existence."*<sup>13</sup>

*James Mahoney and Kathleen Thelen define a "critical juncture" as an opportunity that appears when the restrictions of stable institutions disappear for a period of contingency and an agent decides to change the course of a society's development.<sup>14</sup> Michael Bernhard defines a juncture as "critical" if the effects of those actions echo in the long term, generating path dependency.<sup>15</sup> Bukele's reelection is a critical juncture that started with his cooptation of power and, as a domino effect, will have repercussions throughout Latin America.*

Hillel David Soifer proposed seven steps to identify and describe a critical juncture, and Bukele's reelection fulfilled this characterization.<sup>16</sup> (1) Identification of the permissive condition: Bukele's extraordinarily high popularity in his country was the permissive condition.

# | Foreign Policy |

(2) The identification of productive conditions: In El Salvador's case, it was the change of interpretation of the Constitution.

(3) The critical antecedent: In the case of El Salvador's elections, the critical antecedents may include the renewal on 25 occasions of the State of Exception and the changes in the Congress (where the number of congressmen was reduced from 84 to 60). (4) The outcome: This is evinced by Bukele's (unconstitutional) reelection. (5) The end of the critical juncture: This occurs when Bukele's popularity fades away; this happens when an economic deterioration occurs or when repression is even more extensive than it has been until today. (6) The mechanisms of reproduction: In this case, the mechanism is the continuation of the State of Exception renewal to apply Bukele's policies. (7) Consequences: This would be Salvadoran democracy's continuous deterioration, and a greater intensity in the desire to replicate Bukele's model in other Latin American countries.

Despite the dangers facing democracy in the long run, the temptation for other Latin American countries to copy Bukele's model is as high as his popularity.<sup>17</sup> Several political leaders from countries in the region, such as Chile, Colombia, Panama, Uruguay, and Mexico, have expressed their desire to replicate Bukele's security model.<sup>18</sup> Considering only the security variable, there is no shortage of reasons to emulate Bukele's model in the region, such as the cases of Ecuador and Haiti, where the homicide rate quadrupled in less than two years, reaching more than 40 homicides per 100,000 inhabitants. As Salvador Martí and Daniel Rodríguez synthesize it:

*"Without this more than striking decrease in homicides in the country, Bukele might not have won. The question, however, is the extent to which, at the expense of citizen security, he has*



*been allowed to advance rapidly in a process of institutional, democratic, and human rights deterioration, which has meant the concentration of power in his figure.”<sup>19</sup>*

Bukele's presence in the region interrogates whether it is possible to speak of democracy without minimum security conditions. The challenge of terrorism that Bukele faced was not negligible;<sup>20</sup> no citizen in any part of the world should face the dilemma of choosing peace or democracy. Bukele's challenge now is to build a democratic model that responds to the voices of those who point to him as authoritarian without losing the achievements made regarding security.

To conclude his presidential inauguration speech, Bukele asked, from the presidential balcony, that everyone raise their hand and repeat the following oath: "we swear to defend our Nation project unconditionally, go by the book, without complaining, asking for God's wisdom, so that our country will be blessed again with another miracle. And we swear never to listen to the enemies of the people."<sup>21</sup>



Several questions arise from this oath: Who are the people? Who are the opponents? Who defines who the people are and who the opponents are? How can democracy exist if they swear not to listen to their opponents? The "Bukele effect" seems to generate authoritarian echoes in Latin America with the excuse of having a safer region and hoping to replicate the same image seen in El Salvador's mirror.



#### Citations:

1. Bukele, N. 2024. "Investidura Presidencial [Presidential Investiture]" [Video]. YouTube. <https://www.youtube.com/watch?v=lqEnW-unETo&t=5979s>.
2. Bukele, N. 2022. *Cómo estamos logrando la victoria... [How we are achieving the victory...]* [Video]. YouTube. [https://www.youtube.com/watch?v=i8ATZWmPa\\_Q](https://www.youtube.com/watch?v=i8ATZWmPa_Q).
3. CID Gallup. 2024. Presentamos resultados de nuestra última encuesta realizada en mayo, 2024. Aprobación de la Gestión Presidencial. [We present the results of our latest survey, conducted in May 2024. Approval of Presidential Administration.] [Photograph]. [https://www.instagram.com/p/C8DXTuARfg\\_/](https://www.instagram.com/p/C8DXTuARfg_/).
4. World Bank. 2024. *Homicide Rate in El Salvador, 2000-2023*. <https://www.worldbank.org/>.
5. Snyder, T. 2017. *On Tyranny: Twenty Lessons from the Twentieth Century*. New York: Crown Publishers.
6. Levitsky, S., & Ziblatt, D. 2018. *How Democracies Die*. New York: Crown Publishing.
7. HRW. 2024. *El Salvador*. Human Rights Watch. <https://www.hrw.org/americas/el-salvador>.
8. Ibid.
9. Carlson, Tucker. 2024. Bukele: Seeking God's Wisdom, Taking Down MS-13, Advice to Trump [Video]. YouTube. <https://www.youtube.com/watch?v=U5n8R9lq8SI>.
10. Ibid.
11. Sabasta, J. 2024. *Nueva victoria de Bukele en El Salvador [New Bukele victory in El Salvador]*. *Journal de Ciencias Sociales* 1(22). <https://doi-org.proxy.library.cornell.edu/10.18682/jcs.v1i22.10958>.
12. Const. 1983. *Constitution of the Republic of El Salvador, Articles 78, 88, 152, 154*. July 29th, 1983 (El Salvador).
13. Schmitter, P. C., & Karl, T. 1991. What democracy is.. and is not. *Journal of Democracy* 2(3): 75-88.
14. Mahoney, J., & Thelen, K. (Eds.). 2009. *A Theory of Gradual Institutional Change*. In *Explaining Institutional Change: Ambiguity, Agency, and Power* (pp. 1-37). Cambridge: Cambridge University Press.
15. Bernhard, M. 2015. Chronic Instability and the Limits of Path Dependence. *Perspectives on Politics* 13(4): 976-991. doi:10.1017/S1537592715002261.
16. Soifer, H. D. 2012. The causal logic of critical junctures. *Comparative political studies* 45(12): 1572-1597.
17. Dämmert, L. 2023. "El «modelo bukele» y los desafíos latinoamericanos" [The "Bukele model" and Latin American challenges]. *Nueva Sociedad*, (308), pp. 4-15. Retrieved from <https://www.proquest.com/scholarly-journals/el-modelo-bukele-y-los-desafios-latinoamericanos/docview/2906427267/se-2>.
18. Budasoff, E., & Viñas, S. (Hosts). 2024. *Después de Bukele [After Bukele]*. [Audio podcast episode]. In *Bukele: El señor de los sueños. [Bukele: The lord of dreams.]* Central. Radio Ambulante Studios. <https://centralpodcast.audio/episodio-extra-bukele-segundo-gobierno/>.
19. Martí Puig, S., & Rodríguez Suárez, D. 2024. *Nayib Bukele, seguridad a cambio de democracia [Nayib Bukele, security in exchange for democracy]*. *Más Poder Local* (56): 141-154. <https://doi.org/10.56151/mas poderlocal.231>.
20. Chavez, Y. 2024. Bukele's Formula for Terrorism. *Journal of Strategic Security* 17(1): 76-99. <https://doi.org/10.5038/1944-0472.17.1.2186>.
21. Bukele, N. 2024. "Investidura Presidencial [Presidential Investiture]."



Cornell Brooks  
Public Policy

CORNELL  
POLICY REVIEW

Visit Our Website:

[CornellPolicyReview.com](http://CornellPolicyReview.com)



The Cornell Policy Review is the official public policy journal of the MPA program within the Brooks School of Public Policy at Cornell University. Originally founded in the spring of 1996 as The Current, The Cornell Policy Review is now an online journal run by Masters in Public Administration students who serve as both editors and contributors for the Review. The Review is proud to be affiliated with the Brooks School of Public Policy and Cornell University at large.

The Cornell Policy Review publishes policy analysis essays in the areas of domestic politics, international affairs and development, environmental and energy policy, human rights and social justice, and finance and economic policy. The Review informs its readers through insightful articles, policy analyses, podcasts, interviews, case studies, and original research, providing this information in an accessible, evidence-based, and non-partisan manner.