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The Public Sphere is the London School of Economics and Political Science’s largest international policy studies journal. It is produced by postgraduate students at the Institute of Public Affairs (IPA). The Public Sphere Journal, now in its sixth year, publishes evidence-based research in economic policy, public management, international affairs, development studies and social policy. The journal offers contributors and readers an active space to rethink, critically analyse and address important policy problems. The Public Sphere welcomes submissions that contribute to vibrant debate from advanced students in relevant degree programs, academics and practitioners.
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Dear Reader,

It was another tumultuous year around the globe. From the growing protectionist sentiment in the US to the reinforcement of identity politics across Asia and Europe and the triggering of Article 50 in the UK, the world seems to have struggled between rationality and impulse, between informed decision-making and populist rhetoric. Providing meaningful, rigorous research on policy issues is therefore as crucial as ever. This is why we at The Public Sphere Journal are delighted to present this year’s edition, which sheds light on many timely policy puzzles – from the link between immigration and low-skilled unemployment in France to the ‘China-Africa’ myth and the issue of transitional justice in Serbia. Moreover, as new technologies increasingly take center stage in global policy debates, this year’s journal features a special section where contributing authors share thoughts on the topic of ‘policy-making in the digital age’.

Since its inception in 2013, the PSJ has been a unique platform for graduate students, academics and practitioners around the world to share the research they have conducted on a wide-range of though-provoking issues. Over the years, the journal’s editorial teams have not only worked hard to build which is now the London School of Economics’ largest and most renowned international policy journal, but also to shape a community of engaged students and experts alike. This year, we received a record number of article submissions from public policy institutions across Africa, Asia, Australia, North America, South America and Europe. The expansion of our team to over 20 talented policy students from the Institute of Public Affairs’ flagship Master
of Public Administration programme enabled us to reach new audiences through our growing online presence.

The eleven articles in this year’s edition of The Public Sphere cover a range of topics and regions, and were the strongest in policy relevance, methodology, academic rigour and originality out of this year’s competitive pool of submissions. The following pages will transport you to France, the UK and Germany, where various policy discussions take place around the impact of immigration on the labor market and extreme right voting trends; the potential solutions to the UK’s immigration system; and ways in which immigrant populations can be integrated more fully through the appropriate use of public space. You will then be able to examine the Chinese model of investment in Africa, analyse the link between dependency and basic income in the region of Madhya Pradesh, India, as well as evaluate the way forward for the transitional justice system in Serbia. A critical analysis of Duterte’s war on drugs will give you a deeper insight into the Philippines’ controversial strongman’s vision on drug policy. In this year’s special edition on the topic of “policy making in a digital age”, our authors provide an in-depth and action-oriented discussion of digital economy measurement, mobile banking in China, drug-monitoring policies in the US and ways to address online violence in Argentina.

We would like to thank our authors for their hard work and dedication, editors for their perseverance through the editing process and the LSE’s Institute of Public Affairs for their support in our mission. Thank you for your reading, and enjoy this year’s curated selection of thought-provoking papers.

Felix, Rachel, Théo and Josh
Are immigrants responsible for France's low-skilled youth unemployment?

An attempt at fact-checking populist rhetoric

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Photo modified to black and white
ABSTRACT

This paper attempts to identify the impact of immigration on under-25, low-skilled, native unemployment in France using propensity score matching. Exploiting data from six census tracts between 1975 and 2013, we find that living in a county with a greater share of immigrants lowers the unemployment probability of its most vulnerable natives by 3% to 5.1%. This result is in large part imputable to the only observable difference across the treatment and control counties chosen: the foreign-born share of the population. Linking these results back to populist voting in France provides conflicting results, as natives living in areas more densely populated with immigrants also tend to disproportionately vote for Le Pen, whose core platform opposes immigration. This leads us to argue that voters are either not seeing the benefits from immigration, or they are expressing social rather than economic discontent associated with it. To avoid vital pro-immigration policies fuelling even more populism in the very near future, governments should inform more convincingly on economic impacts and reduce the social frictions associated with immigration.
INTRODUCTION

During the first round of the 2017 French Presidential election, a mere 7.5 million voters qualified the National Front, France’s extreme right-wing populist party, for the second runoff in its history. Headed by Marine Le Pen, the National Front has steadily gained in popularity over the past three decades, scoring ever higher vote shares in the regional, local and European elections—an ascension that could hand her the Presidency on May 7th, 2017.

Young voters have played a dominant role in the populist party’s ascent: 35% of 18-25 year-olds voted for the National Front in the 2015 regional elections—over 7 percentage points higher than the national average (Manenti 2015). While the attractiveness of Le Pen voting has multiple root causes and explanatory factors (Lubbers and Scheepers 2002), France’s youth seems to be particularly swayed by Le Pen’s employment, security and immigration policies, which they cite as the top three reasons for voting National Front (Manenti 2015). In particular, one argument has been repeated with insistence in campaign ads, televised debates, and interviews: immigrants are stealing native jobs, and are the root cause of France’s escalating unemployment rate. Could this be true?

The argument is at least theoretically possible. Indeed, economic predictions are ambiguous due to distributional consequences from immigration. Although as a whole the economy should be better off, immigrants may displace the natives they are most similar to, usually along skill and education lines (Johnson 1980; Borjas 1987; Chiswick 1982). In particular, if immigrants are low-skilled, then natives who stand to lose from immigration are the less educated ones, for whom competition in the labour market has increased. Among these workers, younger natives are even more vulnerable: with limited to no experience, their ability to compete with immigrants is even further hindered.
At first glance, empirics too are on the side of Le Pen. Two stylised facts support her displacement argument. First, the proportion of low-skilled immigrants relative to the native population has been steadily increasing, from 13% in 1975 to 18% in 2007—faster than the total share of immigrants (Ortega and Verdugo 2015). At the same time, the under-25 unemployment rate has constantly risen to reach 24.1% in 2013. Among this jobless youth, 80% do not hold a high-school diploma (OECD 2016).

However, leaping from correlation to causality as Le Pen does would be a fallacy. Instead, many economists have attempted to untangle the empirical veracity from ambiguous theoretical predictions. In line with theory, most studies fail to uncover a significant impact of immigration on aggregate native labour market outcomes, whether wages, employment or unemployment is considered—but also consistent with predictions, some authors have found traces of evidence that vulnerable subpopulations may be impacted differentially. All these findings face the same limitation: the possibility of endogenous immigration flows. This internal validity concern has stimulated methodological innovation, but also rendered results highly dependent on the model used, and hence on the assumptions made. The plethora of literature has therefore spurred a lively debate on the veracity of each other’s assumptions, but reached no consensus on the impact of immigration on native outcomes—much less on that of disproportionately vulnerable ones.

Despite an almost saturated literature, we are able to fill two literature gaps. First, we concentrate on the a priori most at-risk native population: young, low-skilled workers. If there is an adverse effect of immigration on natives, it is likely to be found amongst this category of workers. Second, we employ a novel identification strategy: propensity score matching, which to our knowledge has not been attempted yet in this context. A very specific scope and a novel methodology enable us to maximise our chances of uncovering a causal effect, if there is in fact one.
Our empirical strategy goes as follows. First, we set out to find a control and a treatment unit: two counties that are similar in all regards but immigrant shares of the population. Indre-et-Loire and Loiret satisfy these two conditions best. They are part of the same French region, feature almost identical unemployment rates over our sample period (1975-2013), have similar production structures and population compositions—and yet differ substantially in the share of immigrants in each population: 6.6% in Indre-et-Loire, our control unit, and 10.9% in Loiret, the treatment unit (2013 data). Then, using census data, we match young, low-skilled native individuals from the control county to ones in the treatment, based on observable characteristics, and compare their unemployment probabilities, by census year. We find that living in Loiret is associated with a lower unemployment probability of between 3% and 5.1%. Provided that the propensity score matching assumptions are satisfied, this difference is the causal effect of living in Loiret—an area densely populated in immigrants—on young, low-skilled native unemployment.

For our estimates to represent the causal impact of immigration, the two counties we compare must differ only in the proportion of immigrants that make up their populations. This assumption is rather demanding—but we provide compelling evidence it is not completely implausible. Immigration flows within France can be sought, to some degree, to be exogenous to contemporaneous labour market outcomes, and we find no trace of diverging policies across counties that could explain our results. In fact, young natives are not disproportionately attracted to Loiret, despite beneficial labour market perspectives. While we acknowledge that quantifying the portion of the reduced unemployment probability in Loiret that is imputable to immigration is impossible, we stand by the sign of the estimate. To provide support for these results, we run a battery of robustness checks, both on the matching method used and the counties chosen. All support our finding that immi-
Migration is associated with improved labour market outcomes for the most vulnerable natives.

Linking these results back to populist voting patterns raises an important contradiction: Le Pen voting is higher where immigration is greater, despite positive immigration effects for these voters. This leads us to posit that either such effects are not visible to natives, who cannot observe the counterfactual without immigration and hence vote based on false beliefs, or that the positive immigration effects are dwarfed by social tensions associated with population inflows. Consequentially, we formulate two policy recommendations. The first is the need to express more clearly to laypersons the beneficial effects of immigration. The second is to minimise its potential social costs—for example by reforming its social housing policy, which leads to urban segregation and could be causing these frictions. Only once this is done can the government garner support for welfare-enhancing expansionary migratory policies.

Our analysis still faces a few limitations. First, it does not identify exactly the impact of immigration on natives, but rather of immigration density—panel data would be interesting to attempt to map the marginal impact of an additional immigrant on native outcomes. Also, data at a finer geographical level would enable to test for heterogeneous outcomes amongst low-skilled natives within counties, which could be driving our results and leading to spurious conclusions.

This paper goes as follows. Section 1 presents a targeted literature review, both on the theoretical predictions and empirical attempts at verifying them. Section 2 details the methodology used and presents the propensity score matching results. Section 3 tests the robustness of these findings, before discussing their implications by linking them back to populist voting patterns.
LACK OF CONSENSUS ON THE LABOUR MARKET IMPACTS OF IMMIGRATION

The theoretical impact of immigration on native outcomes is inconclusive: different assumptions lead to widely diverging results. This lack of consensus has spurred plethora of attempts at empirical verification, with a familiar result: the direction and magnitude of these findings are sensitive to the methodology used.

Ambiguous theoretical predictions

Whether inflows of immigrant workers are beneficial, neutral or harmful for natives depends on the assumptions made. However, a necessary condition for immigration to have any effect on its host economy is for immigrant skill compositions to differ from that of natives; otherwise, the inflow of workers will only expand production (Dustmann, Glitz, and Frattini 2008). Therefore, our analysis is set in a situation where immigration causes a low-skilled labour supply shock, as has been the case in France over the past few decades (Ortega and Verdugo 2015).

In a basic economy where capital, low-skilled, and high-skilled labour are used to produce a single good, low-skilled immigration will reduce low-skilled native wages. If capital supply is perfectly elastic, and labour supply is perfectly inelastic, as in Johnson’s (1980) frictional unemployment model, then the reduced cost of labour will stimulate demand from firms, leading every worker to be employed at a lower wage in the long run. Thus, in a ‘flexible’ economy, immigration does not displace low-skilled natives—but it depresses their wages. Immigration is however only expected to adversely impact only its close substitutes; for high-skilled workers, to whom low-skilled immigrants are complements, immigration raises their wages by causing a relative scarcity of workers with their skillset.

4. We define low-skilled as having a high-school completion diploma or less, but definitions vary by authors: Altonji and Card (1991) look at education levels, Card (1990) at occupation, while Borjas (2003) interacts education with experience (Dustmann, Glitz, and Frattini 2008). We use the terms low-skilled and unskilled interchangeably.

5. Johnson (1980) depicts this situation as most accurately representing the U.S. low-skilled labour market.
Predictions change drastically with the assumptions made. Relaxing the perfectly inelastic labour supply assumption means that workers are no longer willing to work for any wage. Most commonly, this is imputable to the existence of government transfers as a complementary source of income. Adding this source of rigidity reinforces the adverse effects of immigration: not only are unskilled wages to be lowered, but low-skilled natives are also displaced, causing voluntary unemployment, as in Johnson’s (1980) induced unemployment model. In fact, unemployment needs not be voluntary. In a third scenario, the structural unemployment model, Johnson (1980) argues that centralised wage setting by governments and union negotiations impede labour markets to adjust to immigration through wage levels. Firms are then legally disallowed to hire low-skilled workers at a wage below the institutionally-set threshold, even though both parties would agree to this transaction. In this scenario, immigration causes natives to be displaced on a one-to-one basis: for every new foreign-born worker employed, one native willing to work is ousted from the labour market.

Therefore, Johnson (1980) predicts that labour market flexibility and adverse impact of immigration for natives work in opposite directions. This relationship also holds for capital markets. When relaxing the assumption that capital supply is perfectly elastic, the gains from reduced unskilled wages no longer accrue solely to high-skilled workers, but also to capital. This can cause an average loss from immigration for workers depending on the redistribution of these rents between capital and high-skilled workers (Dustmann, Glitz, and Frattini 2008). Therefore, reducing the capacity of adaptation of the economy through reduced flexibility in either the labour or the capital market exacerbates low-skilled native losses from low-skilled immigration.

Finally, the basic setup in Johnson (1980) can be augmented by considering a multi-sector economy (Dustmann, Glitz, and Frattini 2008). This first causes ‘factor price insensitivity’ (Leamer
and Levinsohn 1995): reduced low-skilled wages cause the sector that uses this input relatively intensively to expand (as per the Rybczynski theorem). Firms can also react to this wage reduction by adopting production technologies that are more intensive in low-skilled labour. Both these scenarios predict long-run wages to equalise with pre-immigration levels after an initial adjustment period—and again, the faster the economy adapts, the softer the short-run blow for low-skilled natives.

Finally, some authors consider immigrants and natives imperfect substitutes, even at given skill levels (LaLonde and Topel 1991; Ottaviano and Peri 2012). In this case, the lower the degree of substitutability between natives and new immigrants, the greater the adverse impact on past immigrants of that same skill group, but the larger the benefits from immigration to native workers. This assumption has important ramifications in the empirical literature; the extent of substitutability between immigrants and natives within skill cells has been the centre of much of the empirical debate to date.

Theoretical predictions are thus extremely sensitive to the assumptions made. On the aggregate level, the economy may gain or lose as a whole depending on the extent of distributional effects within skill groups. These composition effects, however, are unknown ex-ante. If it is likely that complements to immigrant workers will be better off, it is impossible to predict the extent of this impact, and therefore this unknown gain will be more than offset by losses for the substitutable skill group, whose workers compete directly with immigrants for jobs. Even the prediction that substitutes lose from immigration is uncertain; although wages are likely to drop in the short run, many posit they will make their way back up in the long run.
Empirical identification challenges

These ambiguous theoretical predictions spurred plethora of empirical research. Most of the literature concentrates on the USA, with the first empirical studies exploiting the variation in shares of immigrants across American cities to attempt to uncover the causal effect of immigration on native outcomes (Laddonde and Topel 1991; Goldin 1994). An overwhelming majority of these papers fail to find an adverse impact. However, endogeneity of immigration flows, in the form of reverse causality, threaten the validity of these results: if immigrants are attracted to more prosperous locations, simple OLS regressions will be biased downwards and underestimate the true effect of immigration (Borjas et al. 1997). To address this issue, some authors turn to natural experiments rather than geographical heterogeneity as a source of variation in immigration flows. Card (1990) argues that the exogenous labour supply shock caused by the Mariel boatlift, which led 125,000 Cubans to migrate to Florida in 1980, had no effect on native employment or wages. Hunt (1992) and Friedberg (2001) also exploit natural experiments of large immigration shocks; they too fail to find an adverse effect on natives. Others use instrumental variables, usually instrumenting the endogenous location decisions of new migrants with past immigrant settlements, argued as exogenous if lagged sufficiently (Bartel 1989; Altonji and Card 1991; Pischke and Velling 1997). As with natural experiments, instrumental variables approaches find no evidence of immigration negatively impacting native labour market outcomes.

However, even natural experiments and instrumental variable strategies fail to account for a second endogeneity concern, namely native outflows in response to immigration inflows (Filter 1992). Instead of using spatial variation in immigrant shares, Borjas (2003) exploits differences in immigrant shares within education and experience groups (called the ‘factor proportions ap-
proach’), relying on the assumption that natives and immigrants are perfect substitutes within these cells (Ortega and Verdugo 2014). In order to prove that the assumptions made matter not only theoretically but also empirically, Borjas (2003) finds a substantial negative impact of immigration in the USA; a finding repeated in many subsequent papers (Borjas 1987, 1999, 2003, 2006, 2015; Borjas et al. 1997; Borjas, Grogger, and Hanson 2008)—in sharp contrast with the already vast body of literature (DiNardo and Card 2000).

The factor proportions approach has been the centre of the empirical debate since then. DiNardo (1997) contests the assumption of perfectly elastic substitution from a theoretical standpoint. Empirical verifications are conflicting: Greenwood, Hunt, and Kohli (1997) find a small substitution between unskilled natives and unskilled immigrants, while Ottaviano and Peri (2008) argue that it is large. Meanwhile, DiNardo and Card (2000) dismiss the idea that native outflows in response to immigration are problematic to begin with; they find that the cities immigrants are attracted to, natives are also drawn towards. Card (2001) confirms these results. Overwhelmingly, authors reject the fact that immigration may have a large negative impact on wages, employment, unemployment, or participation rates of natives. If existent at all, these effects are small; this is the conclusion supported by literature reviews (Friedberg and Hunt 1995) and recent meta-analyses (Okkerse 2008).

**Few displacement effects found in European studies**

Acknowledging this methodological divide is crucial to determining a valid identification strategy, but most of the papers surrounding this debate are set in the USA. In Europe, however, centralised wage setting, through both government intervention and unionisation, reduces wage flexibility well under USA lev-
els—greatly undermining the external validity of these studies to our country of interest, France (Angrist and Kugler 2003). But because literature directly applied to the French context is direly lacking, we start by surveying European studies and, in particular, studies with employment as the outcome variable.6

Most studies on European native outcomes find that employment displacement, like wage effects, are small and mostly non-existent. Bauer and Zimmermann (1999) find an elasticity of native unemployment to immigrant share of the labour force of 0.2% across fifteen European Union countries. In a meta-analysis, Longhi, Nijkamp, and Poot (2008) show that a 1% increase in immigrants reduces employment of natives by 0.02%, and Gang, Rivera-Batiz, and Yun (1999) find no negative effect.

At the country level too, there is no evidence of substantial displacement effects due to immigration. Brücker and Jahn (2011) find an elasticity of less than 0.1% for German native unemployment in reaction to immigration, and Gang and Rivera-Batiz (1994) are unable to uncover any effect using cross-sectional data. Mühleisen and Zimmermann (1994) and Winkelmann and Zimmermann (1993) come to the same conclusion using panel data. In Italy, Venturini and Villosio (2002) use Labour Force Survey data from the mid-1990s to analyse the displacement risk of natives (the probability of moving from employment to unemployment). While they find no aggregate effect, they do show that the risk is slightly negative for first-time job seekers. Similarly, Winter-Ebmer and Zweimüller (1999) find a small negative impact on young natives in Austria.

These results confirm the lack of evidence of aggregate negative immigration effects but reinforce the suspicion that this absence could be masking disparities within subpopulations. Despite this suspicion, there is surprisingly little literature that studies vulnerable natives, such as youth or low-skilled groups. LaLonde and Topel (1991) and Smith (2012) do look at the impact of immigration on young natives, but both are in the USA.
and the latter analysis is limited to 16 and 17-year-olds. This leads Kerr and Kerr (2011) to argue that despite the breadth of existing literature on immigration, there remains a significant gap regarding the analysis on the most vulnerable populations.

**Particularities of the French labour market**

Like going from the USA to Europe, transposing European studies to France cannot be done without loss of validity. Gross (2002) argues that French immigration policies are particular in that they are not exclusively dictated by economic cycles, but rather aimed at foreign policy. Labour market rigidities are also exacerbated in France, even by European standards (Siebert 1997). These specificities lead Ortega and Verdugo (2014) to find that immigration is positively correlated with native wages when applying the factor proportions methodology from Borjas (2003) to France—the opposite direction of the original study, carried out in the USA.

Unfortunately, literature on the French labour market impacts of immigration is lacklustre. Hunt (1992) finds no effect of Algerian repatriates on native labour market prospects, but does so by exploiting the arrival of 900,000 Algerian repatriates as a consequence of the Algerian independence in 1962. The internal validity of this strategy is not challenged, but its external validity is. The Algerian independence happened when the unemployment rate was less than 1%, making us highly skeptical of transferring the results directly to the modern context of a double-digit unemployment rate, and hence to a very different capacity of absorption of the labour market.

Gross (2002) also estimates the effect of immigration in France. In a general equilibrium model, she finds that the arrival of immigrants and their families lowered the French unemployment rate permanently in the long run, but only after briefly raising it in the short run. However, the author herself argues
that this effect is likely to mask heterogeneous outcomes across subpopulations and encourages further investigation at the micro level.

Ortega and Verdugo (2015) do look at these subpopulations, and in particular low-skilled native French workers. The authors find a negative wage effect but no employment displacement; however, they omit under-25 year-olds and look only at male construction workers. While unable to inform our research question, this analysis, along with Gross (2002), reinforces our conviction that if there is a negative effect of immigration, it should be nested in low-skilled native outcomes.

In an overly abundant literature, this paper fills two gaps. On the population of interest, it tries to understand whether immigration has adversely impacted low-skilled, under-25-year-old natives in France. If some authors have already attempted to uncover the effects on the low-skilled population, very few have disaggregated even further by age group—despite the youth being most at risk within this already vulnerable unskilled population. We also depart from existing literature by innovating methodologically; to our knowledge, no other study uses propensity score matching to identify these immigration effects.

**PROPENSITY SCORE MATCHING HINTS TOWARDS POSITIVE IMMIGRATION EFFECTS**

In Johnson’s (1980) framework, France’s labour market fluctuates between the induced unemployment and the structural unemployment models (Angrist and Kugler 2003). The theoretical prediction that ensues is that low-skilled immigration will increase unemployment for young, low-skilled French natives. To verify this hypothesis, we use a novel propensity score matching strategy.
Identification strategy and data description

To overcome the endogeneity challenges highlighted by Borjas et al. (1997), we devise a novel approach. The idea is to compare the unemployment probabilities of two very similar young, low-skilled, native men: one that lives in a county with a high immigrant share of the population (treatment), and one that lives in a county where it is low (control). To do so, we compute the probability for each individual of living in the treated county (propensity score) based on a set of observable characteristics $X$. We then match individuals with similar propensity scores and compare whether they are currently employed. Two assumptions are required for this difference to be the causal impact of living in a county with a high density of immigrants—we call this the county effect (Rosenbaum and Rubin 1983):

$$0 < \text{Prob}[T=1|X] < 1$$

(1)

1. Conditional on the set of observable characteristics $X$, there are individuals in both counties that have similar probabilities of living in the treated county.

$$E[Y_1|X,T] = E[Y_1|X,C]$$

(2)

2. Conditional on the set of observable characteristics $X$, the county in which an individual effectively lives is as good as random.

As with studies that compare native populations across cities that have different levels of immigrant shares (such as Altonji and
Card 1991), this methodology exploits geographic variation in immigrant locations. However, by comparing only similar individuals amongst these populations, we increase the plausibility of the counterfactual: had an individual not lived in a county with a high immigrant share, their outcome would have resembled closely that of the individual we compare them to in the untreated county. This method also enables us to consider some general equilibrium effects: Gross (2002) argues that one of the determinants of the impact of immigration on natives is the extent to which immigrants create more or less jobs than they occupy. Because we look at overall differences across two locations and not marginal effects of an additional immigrant on native unemployment, this dimension is also considered to some extent.\(^8\)

Finally, this identification strategy enables us to match on gender, which allows us to include women in our analysis. The rationale comes from D’Amuri and Peri (2014) who argue that immigrant service workers may substitute for native housework, allowing some native women to increase their participation in the labour force. If that is the case, our estimates will include this effect.

For both of these assumptions to be satisfied, conditioning on \(X\) must enable us to control for most observable differences across individuals; quality data is hence necessary. Data come from the French population censuses (1975, 1982, 1990, 1999, 2008, 2013), surveying up to a quarter of the population at a time. This amount of data enables us to confidently make inferences about small subpopulations without risking statistical bias (Aydemir and Borjas 2011; Verdugo 2014). For each surveyed individual, the census provides information on their age, gender, nationality, the county and region they were born in, live in, and work in, their activity status (active, unemployed or inactive), the sector they work in, their socio-professional category, the highest diploma obtained, and their sampling weight.\(^9\)

From there, we generate two datasets. The first contains county-level statistics, and is used to identify treatment and control
units by comparing geographical areas on unemployment rate, youth unemployment rate, immigrant and youth share of the population, and shares of individuals working in each sector—agriculture, industry, construction and services. The second dataset is at the individual level, and is used to run the propensity score matching estimators. We restrict observations to low-skilled, 15- to 24-year-old natives. Low-skilled is defined as less or equal to a high-school completion diploma, and natives are French born but not naturalised individuals. Students are also excluded from the sample, and so are agriculture workers. Immigrant shares of the population are calculated by including all age groups. The rationale is that we suspect young natives to compete with immigrants on skills, not age—therefore, there is no reason to believe that low-skilled native outcomes will vary differently with young immigrant shares than with global immigrant shares.

11. We drop farmers because we are unable to control for an urban or rural residence, making it too difficult to construct a credible counterfactual for these individuals.

**FIGURE 2.1 IMMIGRATION POPULATION SHARE IN FRANCE, BY COUNTY, 2013**

Source: Population census, 2013
Determining valid comparison units

Under assumptions (1) and (2), the matching estimator will only yield the differential impact of living in an area with a higher share of foreign born individuals. To move from this county effect to the impact of immigration per se, we must add a further assumption: the only meaningful difference between the two counties should be the immigrant share—on all other aspects that affect employment opportunities, the two geographical areas must be identical. To make this assumption as believable as possible, we set out not only to find two very similar counties, but also to find counties that have widely diverging immigrant shares. Figure 1 provides a visualisation of the variation of immigrant shares across counties in 2013.

To find two counties that fit our criteria, we first grossly filter through the 96 counties to eliminate non-eligible pairs by running a principal component analysis using our census data (Nardo et al. 2005). Once possible matches are identified, we restrict eligible pairs to counties within the same region. Doing so allows us to control for unobservable regional characteristics that may be differentially affecting employment outcomes of natives. We then identify the most compatible counties using more detailed statistics which are not available in the census (Table 2-1). This leads us to select Indre-et-Loire as the control county, with an immigrant share of 6.6% in 2013, and Loiret as the treatment county, with 10.9% of its population being born abroad. On other observable characteristics, however, the two counties are remarkably similar.

Matching results reveal a positive county effect

We then match individuals in Indre-et-Loire to those in Loiret, based on a set of characteristics X observed in the census data, and compare their unemployment outcomes. To determine
### TABLE 2.1 DESCRIPTIVE STATISTICS OF INDRE-ET-LOIRE AND LOIRET, BY COUNTY, 2013

<table>
<thead>
<tr>
<th>Population</th>
<th>Indre-et-Loire (C)</th>
<th>Loiret (T)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population</td>
<td>600,252</td>
<td>665,587</td>
</tr>
<tr>
<td>Population density</td>
<td>98.0</td>
<td>98.2</td>
</tr>
<tr>
<td>Average population growth (2008-2013)</td>
<td>0.5%</td>
<td>0.5%</td>
</tr>
<tr>
<td>Number of households</td>
<td>271,173</td>
<td>287,050</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Income</th>
<th>Indre-et-Loire (C)</th>
<th>Loiret (T)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Share of fiscal households taxed</td>
<td>58.2%</td>
<td>61.9%</td>
</tr>
<tr>
<td>Median disposable income (euros)</td>
<td>20,403</td>
<td>20,678</td>
</tr>
<tr>
<td>Poverty rate</td>
<td>11.7%</td>
<td>12.6%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Employment</th>
<th>Indre-et-Loire (C)</th>
<th>Loiret (T)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Activity rate for 15-64-year-olds</td>
<td>73.6%</td>
<td>74.6%</td>
</tr>
<tr>
<td>Unemployment rate for 15-64-year-olds</td>
<td>8.9%</td>
<td>9.6%</td>
</tr>
<tr>
<td>Unemployment rate for 15-24-year-olds</td>
<td>22.9%</td>
<td>24.4%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Firms</th>
<th>Indre-et-Loire (C)</th>
<th>Loiret (T)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Share of agriculture</td>
<td>7.8%</td>
<td>7.1%</td>
</tr>
<tr>
<td>Share of industry</td>
<td>5.7%</td>
<td>5.5%</td>
</tr>
<tr>
<td>Share of construction</td>
<td>9.6%</td>
<td>11.1%</td>
</tr>
<tr>
<td>Share of commerce, transportation and services</td>
<td>62.1%</td>
<td>63.8%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Immigration</th>
<th>Indre-et-Loire (C)</th>
<th>Loiret (T)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Share of the population born abroad (1975)</td>
<td>5.1%</td>
<td>8.2%</td>
</tr>
<tr>
<td>Share of the population born abroad (1983)</td>
<td>5.2%</td>
<td>9.2%</td>
</tr>
<tr>
<td>Share of the population born abroad (1990)</td>
<td>5.1%</td>
<td>9.9%</td>
</tr>
<tr>
<td>Share of the population born abroad (1999)</td>
<td>5.1%</td>
<td>9.8%</td>
</tr>
<tr>
<td>Share of the population born abroad (2008)</td>
<td>5.8%</td>
<td>10.3%</td>
</tr>
<tr>
<td>Share of the population born abroad (2013)</td>
<td>6.6%</td>
<td>10.9%</td>
</tr>
</tbody>
</table>

**Source:** Insee, Comparateur de territoires, 2013; Population censuses 1975-2013.

**Note:** (C) stands for control county, (T) for treatment.
the appropriate explanatory variables to include in X, we follow Caliendo and Kopeinig (2008) and restrict our model to covariates that affect both the county in which an individual lives and one's probability of unemployment: age, county of birth, marital status, highest diploma obtained, and gender. Finally, to ensure that our results are not affected by individuals living in Loiret but working in the neighbouring Paris region, we drop individuals who work in a different county than the one in which they live.

We then compute propensity scores for each individual before matching each Loiret (treatment) observation to the observation in Indre-et-Loire (control) that has the closest propensity score. The matching process yields two estimations: the average treatment effect (ATE) and the average treatment effect on the treated (ATT). Each answers a different question, and hence has a different policy implication: conditional on our matching assumptions being satisfied, the ATT gives the effect of living in Loiret on unemployment outcomes for those who effectively live there, while the ATE answers the question ‘How would everyone fare if they lived in Loiret, regardless of whether they actually live in Loiret or Indre-et-Loire?’. Both parameters are of interest, but because we suspect adverse employment impacts on young, low-skilled natives who live in counties with high immigrant share, we give particular attention to the ATT. However, understanding how those currently living in Indre-et-Loire would fare if they moved to Loiret remains of interest, as it informs us of the gains from mobility. Table 2-2 reports the propensity score matching results by treatment effect.

The results are surprising, and in direct contradiction with our theoretical predictions: ceteris paribus, living in Loiret, where the immigrants are more numerous relative to natives, is associated with a lower unemployment probability of between 3.0% and 5.1% for the ATT, and up to 6.2% for the ATE. The sign and significance of these estimates are consistent over time.
and treatment effect. Moreover, the positive employment effect does not seem to be mechanically driven by similar but slightly unequal unemployment rates across the two counties. Indeed, in 2013, both the average and the youth unemployment rates were slightly higher in Loiret than in Indre-et-Loire (respectively 9.6% and 8.9% for the all age groups, 24.4% and 22.9% for the youth); yet the matching estimator for that year is negative and highly significant. Instead, in 2008, Indre-et-Loire had slightly higher unemployment rates (16.6% and 6.2%, against 15.9% and 6% for Loiret); yet the ATT for that year remains significantly negative. These unexpected results call for further robustness checks before they can be used to inform policy.

### RECONCILING IMMIGRATION EFFECTS AND POPULIST VOTING PATTERNS

Robustness checks and a placebo test provide support for the validity of the negative association between unemployment and living in Loiret. We find no reason to believe that this county effect cannot, at least to some extent, be transposed into an immigration impact. Despite some clearly stated caveats, we derive
Robustness checks confirm matching results

Because they are surprising, both in their direction and statistical significance, the matching estimators need to face robustness checks before we can confidently conclude that living in one county over another causally reduces unemployment probabilities across two otherwise similar individuals. A first potential criticism lies in the use of propensity scores. King and Nielsen (2016) argue they are not appropriate for matching, potentially biasing results. To alleviate these concerns, we present two different matching techniques: nearest neighbour and mahalanobis distance matching, using the same data and covariates as used for propensity score matching. The results, reported in Table 3-1, support our previous findings: living in Loiret is associated with a lower probability of unemployment of between 2.3% and 5.1%.19

We now attempt to replicate our results using different treatment and control groups. In an ideal setting, we would vary only one of the two counties used in our main specification; however, there is no suitable match for either of Indre-et-Loire or Loiret other than each other. Therefore, using the same techniques as in Section 2.2, we identify the next best counties: Pas-de-Calais and Nord. Both are in the Nord-Pas-de-Calais region, and Nord has more than twice the share of foreign-born individuals in its population when compared to Pas-de-Calais (respectively 7.3% and 2.7% in 2013). Table 3-2 reports the propensity score matching estimates.20 Again, there is a discernible negative effect associated with living in Pas-de-Calais and in similar magnitudes as observed between Loire and Loiret.

Finally, we run a placebo test that compares two counties that are similar in all respects— including foreign-born shares of the population. Our hope is that living in one or another of these

---

19. The signs and magnitudes are extremely similar to our main specification, although a few estimates are no longer statistically significant.

20. Unfortunately, these two counties are not as similar as Indre-et-Loire and Loiret. Notably, Pas-de-Calais does not benefit from a large capital city like Lille in Nord. However, both counties are in the same region and have closely fluctuating unemployment rates, as shown in Appendix E (online).
‘control’ counties does not differentially affect unemployment outcomes of similar individuals. If there is a difference, then the difference cannot be due to immigration; otherwise, despite our best efforts, the covariates we use to match counties on are insufficient to control for differences across their labour markets. This would violate the assumption that counties differ only in

### TABLE 3.1 OTHER MATCHING TECHNIQUES: INDRE-ET-LOIRE VERSUS LOIRET, 1975-2013

<table>
<thead>
<tr>
<th>Year</th>
<th>((1))</th>
<th>((2))</th>
<th>((3))</th>
<th>((4))</th>
<th>((5))</th>
<th>((6))</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>-0.027***</td>
<td>-0.045***</td>
<td>-0.022</td>
<td>-0.026</td>
<td>-0.030*</td>
<td>-0.048**</td>
</tr>
<tr>
<td></td>
<td>(0.012)</td>
<td>(0.014)</td>
<td>(0.018)</td>
<td>(0.022)</td>
<td>(0.017)</td>
<td>(0.019)</td>
</tr>
<tr>
<td>Observations</td>
<td>6,034</td>
<td>7,501</td>
<td>5,847</td>
<td>4,620</td>
<td>6,455</td>
<td>5,970</td>
</tr>
</tbody>
</table>

### TABLE 3.2 ROBUSTNESS CHECK: PAS-DE-CALAIS VERSUS NORD, 1975-2013

<table>
<thead>
<tr>
<th>Year</th>
<th>((1))</th>
<th>((2))</th>
<th>((3))</th>
<th>((4))</th>
<th>((5))</th>
<th>((6))</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>-0.016*</td>
<td>-0.027**</td>
<td>-0.008</td>
<td>-0.041***</td>
<td>-0.028**</td>
<td>-0.025*</td>
</tr>
<tr>
<td></td>
<td>(0.009)</td>
<td>(0.011)</td>
<td>(0.012)</td>
<td>(0.013)</td>
<td>(0.012)</td>
<td>(0.013)</td>
</tr>
<tr>
<td>ATE</td>
<td>-0.008</td>
<td>-0.027**</td>
<td>-0.007</td>
<td>-0.048***</td>
<td>-0.021</td>
<td>-0.024*</td>
</tr>
<tr>
<td></td>
<td>(0.009)</td>
<td>(0.012)</td>
<td>(0.013)</td>
<td>(0.014)</td>
<td>(0.013)</td>
<td>(0.015)</td>
</tr>
<tr>
<td>Observations</td>
<td>7,581</td>
<td>8,496</td>
<td>6,917</td>
<td>6,492</td>
<td>7,790</td>
<td>7,135</td>
</tr>
</tbody>
</table>

Dependent variable is binary: 1 if unemployed, 0 if employed
Robust standard errors in parentheses

\[*** \ p<0.01, ** \ p<0.05, * \ p<0.1\]
immigrant shares.\textsuperscript{21} While this would not invalidate our results, it would make it difficult to transpose county effects into immigration effects. Unfortunately, we are again unable to vary only either Indre-et-Loire or Loiret. Instead, we identify Morbihan and Finistère, both in the Bretagne region, as placebo counties. They are similar on all observable dimensions, including immigrant shares (3.0\% for Finistère and 3.1\% for Morbihan in 2013), which have never diverged by more than 0.3 percentage points since 1975.\textsuperscript{22} Table 3-3 reports these placebo estimates. The results are overwhelmingly insignificant, which lends credit to the validity of our analysis.

There are however two positive and significant ATT effects, indicative of young, low-skilled natives living in Morbihan having better employment prospects than those in Finistère—despite the two counties not differing by immigrant shares. This is not driven by youth unemployment rates, which in both 1975 and 1999 were higher in Morbihan than in Finistère. Therefore, despite being reassuring, this placebo test is also indicative that the characteristics we control for are not perfectly capturing dif-

\begin{table}[h]
\centering
\begin{tabular}{lcccccc}
\hline
 & (1) & (2) & (3) & (4) & (5) & (6) \\
\hline
1975 & 0.012 & -0.000 & 0.012 & 0.029** & 0.005 & -0.010 \\
 & (0.011) & (0.012) & (0.014) & (0.014) & (0.013) & (0.014) \\
ATT & 0.033** & 0.014 & 0.019 & 0.047*** & 0.015 & -0.005 \\
 & (0.014) & (0.013) & (0.016) & (0.016) & (0.014) & (0.015) \\
Observations & 5,165 & 6,940 & 5,345 & 4,870 & 6,197 & 5,928 \\
\hline
\end{tabular}
\caption{Placebo Test: Finistère Versus Morbihan, 1975-2013}
\end{table}

\textsuperscript{21} On the other hand, statistically insignificant placebo treatment effects would not be proof of our assumption, but merely support for the fact that the covariates used may be sufficient to control for differences between counties.

\textsuperscript{22} Appendix F (online) provides detailed statistics.
ferences across counties and reminds us that we can only control for observables.

**From country effect to immigration impact**

This caveat reinforces the need to question the extent to which the findings that young, unskilled natives in Loiret have lower probabilities of unemployment than their Indre-et-Loire counterparts can be attributed to immigrant share differences and not to other observable or unobservable county differences we have not yet accounted for in our analysis.

**Further similarities between Indre-et-Loire and Loiret**

To this end, controlling for unobserved regional policies common to both counties by choosing ones within the same Centre region is a first step but remains insufficient: employment policies for young natives could still differ within regions. Two arguments show, however, that this is unlikely to be the case.

First, France is a highly centralised state, meaning that counties have virtually no control over economic and social policy design. Their main prerogatives are threefold: schooling, early childhood and paying out government transfers on behalf of the central government (but without determining eligibility criteria). The ‘Youth Assistance Fund’ is one of the very few exceptions: it is a fund aimed at alleviating youth poverty over which each county has discretion in spending. Although both counties spend similar amounts, the composition of spending varies dramatically, which could, in theory, explain some of the matching results. Over 2,500 individuals benefit from the 200,000 euros spent each year by Loiret, but less than 700 people get a portion of the 160,000 euros Indre-et-Loire allocates (Ministry of Social Affairs 2017). Although these differences could differentially attract young natives to Loiret instead of Indre-et-Loire (although
the direction of this effect is undetermined), they are unlikely to directly impact youth employment perspectives. Indeed, only 8% of the funds are spent for training purposes in Indre-et-Loire, a figure that drops to 2% in Loiret. Instead, the fund is overwhelmingly allocated to lifting the youth out of extreme poverty as 79% and 92% of allocations are spent on food and transportation respectively in Indre-et-Loire and Loiret.

There could still be divergences in policies that differentially attract young natives to one or another of the two counties that we are missing and which in turn affect unemployment probabilities. Although these differences are hardly discernible, their implication is testable. If this were the case, we would expect an exodus from the least attractive county of the two, given the low transaction costs such a short migration implies (only 115 kilometres separate the two county capitals from each other). The direction of migration we expect is however unclear. According to Borjas (2006), natives tend to relocate from areas with high immigrant shares to ones where this fraction is lower to benefit from more advantageous economic opportunities. But the empirical veracity of this phenomenon is debated (as highlighted in Section 1.2) and in our estimations, the most advantageous opportunities seem to be in Loiret, where more immigrants live. Although our data is not panel but repeated cross-section, which impedes analysis of the same individuals over time, the census does ask for three different location indicators: where one was born, lives, and works. We use these variables to compute four indicators: the share of young, low-skilled natives living in Indre-et-Loire and working in Loiret (and vice-versa), and the share of those born in Indre-et-Loire but living in Loiret (and vice-versa).

The statistics shown in Figure 3-1 find only a small migration effect from Indre-et-Loire to Loiret. Despite being a more attractive region to work in—from not only an unemployment perspective but also with regards to the Youth Assistance Fund—the
proportion of migrants is small: only 1% of the whole under-25, low-skilled native population living in Loiret was born in Indre-et-Loire, only half a percentage point more than the reverse. This is not enough to warrant suspicion of differential policies within Loiret, especially since this effect could also be exacerbated by the attraction from the Paris region, accessible from Loiret, as highlighted in the agglomeration literature (Rosenthal and Strange 2001).

These results, although only indicative, point towards an absence of differential attractiveness of Loiret, despite improved employment outcomes. Therefore, although we are unable to quantify this phenomenon we argue that a large portion of the county effect estimates in Table 2-2 can confidently be attributed to the variation in immigrant shares across the counties.

**FIGURE 3.1 PROPORTIONS OF YOUNG, LOW-SKILLED NATIVE MIGRANTS, 1975-2013**

Source: Population censuses 1975-2013
Exogeneity of immigration flows

How can Loiret and Indre-et-Loire be so similar and experience such diverging shares of foreign-born populations? To answer this question, we need to assess the causes and determinants of immigration flows. Literature describes three major channels: economic prospects, public housing benefits and ethnic networks (Verdugo 2014).

The fact that immigrants are drawn to more prosperous areas has been discussed at length in the literature (Bartel 1989; Pischke and Velling 1997). If immigrants locate in Loiret rather than Indre-et-Loire for economic reasons, then the assumption that the two counties differ only by immigrant shares will be violated, and we will be overestimating the effect of immigration on native labour market outcomes. However, throughout this paper we have argued that economic perspectives have been seemingly similar across Indre-et-Loire and Loiret: the two counties have experienced similar productive structures and economic outcomes since 1975. Moreover, Jayet and Ukrayinchuk (2007) argue that in France, economic perspectives are only marginal drivers of immigration flows. Therefore, we argue that the endogeneity of immigration flows is weak in the French context.

The public housing channel is derived from the public welfare magnet described by Borjas (1999), for whom immigrants in the USA are attracted to more generous welfare states. In France, very few public transfers are determined at the local level. As argued before, the Youth Assistance Fund is managed at the county level but should not affect immigration flows. At the municipal level however, cities can determine housing policies, which may in turn influence immigration flows (Verdugo 2010). This is supported by the fact that half of non-European immigrants lived in social housing in 1999, compared to only 16% of the French-born population (Verdugo 2014). However, the public housing channel is unlikely to play a role in our analysis: Indre-et-Loire has 781
public housing opportunities for 10,000 people; Loiret has 728. These figures are extremely similar and within the French metropolitan area average (718)—if anything, Loiret has less transfer opportunities than Indre-et-Loire, making it unlikely that immigrants are locating there to profit from social transfers.

The last channel that could explain migrant locations is the past immigrant settlements, or ethnic network channel, and is the channel supported by the most empirical evidence (Chiswick, Lee, and Miller 2002; Bauer, Epstein, and Gang 2002). Through a common language and cultural proximity, living in an area where past immigrants of the same nationality are already present reduces transaction costs and therefore attracts future similar immigrants (Lazear 1999). Empirical verification of this effect is usually set in the USA, but Jayet and Ukrayinchuk (2007) find this channel to be an important determinant in France too. Because we have shown that the other two channels are implausible in our context; and given the breadth of literature verifying the network effect channel, we can safely assume that the difference in immigrant shares between Indre-et-Loire and Loiret is to some degree exogenous to contemporaneous economic conditions and social transfer opportunities—providing support for the assumption that the counties differ only in this regard.

Final validity considerations

Despite robustness checks, placebo test and repeated efforts to show that immigration is the only notable difference between Indre-et-Loire and Loiret, there remains three threats to internal validity of our results. First, our results could be masking heterogeneous treatment effects. Indeed, the county assumption remains difficult to sustain not because of differences across counties, for which we have presented sufficient evidence to argue they are negligible, but because of potential divergences within them.
Jayet and Ukrayinchuk (2007) show that most immigrants are concentrated in a few municipalities. Our analysis at the county level may therefore be concealing differential outcomes across cities within counties, just as an aggregate analysis can mask heterogeneity across age or skill groups.

Second, results could be sensitive to the outcome variable chosen; in particular, immigration could be reducing low-skilled native wages, as found in France by Ortega and Verdugo (2015). This is compatible both with economic theory and with the positive employment effects suggested by our results if the decreased labour cost in the short run lowers unemployment in the long run. However, this would be in direct contradiction with the literature arguing that French and European labour market rigidities imply labour market adjustments to supply shocks through employment instead of wages (Angrist and Kugler 2003; Gross 2002). Moreover, Brücker et al. (2014) warn that models with perfect labour market assumptions are likely to understate the effect on unemployment and overstate the impact on wages. We therefore believe that a wage effect is unlikely to be driving our results.

Third, we could be failing to account for illegal immigration, a recurring counter-argument used by Le Pen voters when presented with immigration statistics contradicting their beliefs. If illegal immigrants locate disproportionately in Indre-et-Loire instead of Loiret, living in an area with larger shares of illegal immigrants could be explaining why Loiret low-skilled workers seem to fare better than their Indre-et-Loire counterparts. However, illegal and legal immigration flows are likely to be closely correlated. Indeed, as we have argued, the latter respond to network effects. If lower transaction costs, due to living close to fellow citizens with whom migrants share a common language and culture, is an important determinant of legal migration location, it is plausible
that this holds as well—if not even more—for undocumented migrants.

With city-level censuses, wage variables, or information on illegal immigrant flows, we could test and alleviate each of these potential issues. As argued, even without such data, the wage and illegal immigration channels are unlikely to be invalidating our results—we are, however, somewhat worried about possible heterogeneous treatment effects. Further research to understand whether these exist for young, low-skilled natives is therefore encouraged.²³

We now briefly assess the external validity of our analysis to inform policy. To what extent can we extrapolate differences in unemployment probabilities within the Centre region to the rest of France? The question of immigration effects on native unemployment is best set in the context of low growth and morose economic horizons—which are also where populist voting is at its highest (Manenti 2015). Centre-Val de Loire²⁴ fulfils these criteria well: it has experienced sluggish growth over the past twenty years, has suffered a recession from 2008 to 2013, and has since then become the eleventh ranking French region in terms of GDP, out of a possible thirteen (Claudel 2017). Moreover, these counties are not extensively rural, which would impede their external validity to other French regions: as Table 2-1 reminds us, only 7-8% of firm activity in Indre-et-Loire and Loiret is in the agricultural sector. Instead, economies are centred around commerce, transportation and services, and both counties contain an important capital city (respectively Tours and Orléans). Finally, the Pas-de-Calais and Nord robustness check (Section 3.1) suggests that our results also hold in counties with much lower immigrant shares of their population (respectively 2.7% and 7.3% in 2013, against 6.6% and 10.9% in our main specification), and in an entirely different French region. Therefore, while they should

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²³. A final risk is that natives could be reacting to immigration by upgrading their skills. However, Ortega and Verdugo (2015) show that there is no empirical evidence of this being the case for low-skilled workers in France.

²⁴. Centre-Val de Loire is the new Centre region after the 2016 territorial reform, and the level to which most official regional statistics have been aggregated by the French statistics office.
be interpreted with caution, our results can serve to inform policies that apply to most struggling regions in France.

**Populist voting patterns and policy implications**

Extrapolating our results implies that French migratory policies should not be restrictive as living in an area where immigrants are numerous is associated with improved employment outcomes, including for the most vulnerable natives. To see how these results relate to National Front voting shares, we turn to analysing populist voting patterns. Della Posta (2013) reminds us of two competing populist voting determinants: competitive threat theory predicts that Le Pen voting will be positively correlated with immigrant shares due to fear of competition from newcomers over jobs or government transfers (Blalock 1957), while intergroup contact theories argue the reverse—learning to cohabit with foreign-born individuals reduces National Front voting with doing so (Allport 1954). Most empirical verifications find support for the competitive threat theory, and rapid verification of recent French election results in Indre-et-Loire and Loiret bring support to this theory (Figure 3-2).

However, although Della Posta (2013) also finds supportive evidence for competitive threat theory at the county level in France, the author argues that this result conceals strong disparities at the municipal level, where intergroup contact theory has greater validity. Therefore, higher immigrant shares at the municipal level are to be associated with lower populist voting, and the correlation works the opposite way at the county level. This is suggestive of heterogeneous voting patterns, which combined with the possibility of heterogeneous economic impacts of immigration (Section 3.3), make access to extensive census data to inform research at the municipal level all the more necessary.
Despite these caveats, taking our results at face value leads to contradictory findings: living in a county with a higher share of foreign-born individuals is associated with improved labour market prospects for young, low-skilled natives, but also with higher voting shares for a party hostile to immigration. Why are natives voting against their best economic interest? We posit two possible explanations. First, natives may be unaware of the labour market benefits brought about by immigration and believe Le Pen’s unsupported claims. Observing the counterfactual without immigration is impossible, especially if adjustment to immigration happens through employment rather than wages, the latter being much more visible than the former. In a new era of “fake news”, whose influence seem to have played a central role in bringing another populist, Donald J. Trump, to power in the USA (Allcott and Gentzkow 2017), the appropriate policy response is to improve the diffusion of economic findings to laypersons, despite high suspicion of economists by these same voters.

FIGURE 3.2 NATIONAL FRONT ELECTORAL SCORES, BY ELECTION TYPE, 2002-2012

25. Only national elections are analysed: during sub-national (regional, departmental, municipal) and supra-national (European) elections, the National Front vote is more likely to serve as a protest vote than an expression of true preferences (Hix and Marsh 2007). National Front scores during these elections may therefore be signs of a despair of politics rather than a true fear of immigration.

Source: Ministry of Interior
There is a second explanation to this contradictory behaviour that leads to more impactful policies. Although labour market outcomes are among the most prominent determinants of Le Pen voting (Lewis-Beck and Mitchell 1993; Le Bras 1986; Mayer and Perrineau 1992; Mayer 1998), immigration can also be accompanied by other social impacts that outweigh its positive employment effects and justify National Front voting (Oesch 2008). Indeed, the National Front electorate could be protesting difficult cohabitation with immigrants rather than direct employment competition, meaning that poor integration of immigrants could explain these voting behaviours (Favell 1998; Beauchemin, Hamel, and Simon 2010). The reasons for such difficulties met by immigrants can range from language and religion barriers to geographical segregation and racism (Schnapper 2007). Whenever the reason, migratory policy cannot rely solely on economic predictions, as immigration brings more challenges than simply accommodating a larger workforce. While economic theory can consider immigrants and natives as perfect substitutes on the labour market, labour markets are not the end of the story.

The appropriate public policy response is hence to tackle these cohabitation frictions, notably by reducing spatial and urban segregation. This can be done, for example, by redesigning public housing opportunities, of which immigrants are disproportionate beneficiaries, across a larger amount of neighbourhoods to avoid ghettoisation (Tissot and Poupeau 2005). Fitoussi, Laurent, and Maurice (2004) advise to (i) reduce distances between different populations, (ii) increase intercommunal solidarity, and (iii) create a national agency to fight urban discriminations.

These are, of course, very general orientations, as we are not qualified to offer precise social policies. However, our careful assessment of the effects of immigration and National Front voting leads us to believe that if there is indeed a problem with immigration, it is social and not economic—and therefore calls for
policies aimed at ameliorating the cohabitation between natives and immigrants. Only when these social costs of immigration are reduced can the clear-cut economic benefits take over, enabling politicians to garner support for policies favourable to more immigration. Such policies are not only economically desirable, but also direly necessary in the context of an ageing population (Bloom, Canning, and Fink 2010). If the underlying problems caused by immigration are not solved, discontent will continue to be expressed in the Le Pen vote, until one day, maybe tomorrow, the National Front will seize power and impose welfare-reducing anti-immigration policies—this time adversely impacting everyone, including young, low-skilled natives.

CONCLUSION

This paper makes two contributions to the literature. First, it attempts a novel identification strategy in a saturated but unsatisfying literature plagued by endogeneity concerns. Second, it assesses the impact of immigration on a category of population we believe particularly vulnerable. Despite being rooted in economic theory, we find no evidence supporting the fear of young, low-skilled native workers being displaced; instead, we show that their unemployment probabilities are lowered by living in a county with a higher share of immigrants. To the question ‘Has immigration adversely impacted low-skilled youth employment opportunities?’, our answer is ‘No—quite the opposite.’

When linking these results back to National Front voting, we find contradicting results. Indeed, greater shares of foreign-born populations are associated with larger National Front electoral shares at the county level, a finding that is inconsistent with results highlighting a positive immigration effect. Two explanations are likely and complementary. Natives may be unaware of the

27. Literally; this paper was due only shortly after the first round of the 2017 French Presidential election—and therefore written before the runoff results known.
economic benefits brought about by immigration, and this benefit may be overshadowed by social tensions arising from high immigration densities. However, data constraints impede us from taking these analyses a step further, at the municipal level, where we suspect heterogeneous immigration and voting effects may be taking place.

Nevertheless, our results have important policy implications. First, a restrictive migratory policy is undesirable from an economic welfare perspective, including for the most vulnerable category of natives. Second, steps should be taken towards explaining the findings that immigration does not displace natives, and efforts should be made to alleviate the social tensions caused by sometimes difficult cohabitation between immigrants and natives. This includes a comprehensive reform of French public housing policies to promote social diversity. Only once these adverse impacts are dealt with can expansionist migratory policies, necessary from both an economic perspective in an ageing economy and a humanitarian standpoint during a refugee crisis, be implemented without causing a surge in populist voting.

REFERENCES


Fitoussi, Jean-Paul, Éloi Laurent, and Joël Maurice. 2004. Ségrégation Urbaine et Intégration Sociale. La Documentation Française.


APPENDICES

APPENDIX A. MAP OF INDRE-ET-LOIRE AND LOIRET

APPENDIX B. UNEMPLOYMENT RATES IN INDRE-ET-LOIRE AND LOIRET, 1983-2013

<table>
<thead>
<tr>
<th>Year</th>
<th>Indre-et-Loire</th>
<th>Loiret</th>
<th>France</th>
<th>General unemployment rate (aged 15-64)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1983</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>6.6%</td>
</tr>
<tr>
<td>1990</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>7.3%</td>
</tr>
<tr>
<td>1999</td>
<td>19.5%</td>
<td>14.8%</td>
<td>20.2%</td>
<td>8.9%</td>
</tr>
<tr>
<td>2008</td>
<td>22.9%</td>
<td>15.9%</td>
<td>18.3%</td>
<td>6.2%</td>
</tr>
<tr>
<td>2013</td>
<td>24.4%</td>
<td>24.4%</td>
<td>24.4%</td>
<td>6.9%</td>
</tr>
</tbody>
</table>

Source: Insee
Note: youth unemployment rates by county are not available before 1999
### APPENDIX C. TREATMENT STATUS DETERMINANTS, 1975-2013

<table>
<thead>
<tr>
<th></th>
<th>(1)</th>
<th>(2)</th>
<th>(3)</th>
<th>(4)</th>
<th>(5)</th>
<th>(6)</th>
</tr>
</thead>
<tbody>
<tr>
<td>County of birth</td>
<td>0.001</td>
<td>0.001</td>
<td>0.005***</td>
<td>0.008***</td>
<td>0.008***</td>
<td>0.011***</td>
</tr>
<tr>
<td></td>
<td>(0.001)</td>
<td>(0.001)</td>
<td>(0.001)</td>
<td>(0.001)</td>
<td>(0.001)</td>
<td>(0.001)</td>
</tr>
<tr>
<td>Age</td>
<td>-0.011</td>
<td>0.006</td>
<td>0.005</td>
<td>-0.011</td>
<td>-0.000</td>
<td>0.009</td>
</tr>
<tr>
<td></td>
<td>(0.013)</td>
<td>(0.011)</td>
<td>(0.013)</td>
<td>(0.014)</td>
<td>(0.012)</td>
<td>(0.012)</td>
</tr>
<tr>
<td>Male</td>
<td>0.046</td>
<td>-0.039</td>
<td>0.025</td>
<td>-0.057</td>
<td>0.035</td>
<td>-0.034</td>
</tr>
<tr>
<td></td>
<td>(0.053)</td>
<td>(0.048)</td>
<td>(0.053)</td>
<td>(0.060)</td>
<td>(0.051)</td>
<td>(0.053)</td>
</tr>
<tr>
<td>Married</td>
<td>0.103*</td>
<td>0.161***</td>
<td>0.087</td>
<td>0.343***</td>
<td>0.371***</td>
<td>0.181*</td>
</tr>
<tr>
<td></td>
<td>(0.058)</td>
<td>(0.054)</td>
<td>(0.070)</td>
<td>(0.104)</td>
<td>(0.105)</td>
<td>(0.109)</td>
</tr>
<tr>
<td>Highest diploma</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>&lt; High school</td>
<td>0.063</td>
<td>0.003</td>
<td>-0.057</td>
<td>-0.122*</td>
<td>-0.234***</td>
<td>-0.165**</td>
</tr>
<tr>
<td></td>
<td>(0.058)</td>
<td>(0.053)</td>
<td>(0.059)</td>
<td>(0.073)</td>
<td>(0.066)</td>
<td>(0.071)</td>
</tr>
<tr>
<td>= High school</td>
<td>-0.127*</td>
<td>0.014</td>
<td>-0.188**</td>
<td>-0.154**</td>
<td>-0.419***</td>
<td>-0.433***</td>
</tr>
<tr>
<td></td>
<td>(0.076)</td>
<td>(0.065)</td>
<td>(0.077)</td>
<td>(0.078)</td>
<td>(0.063)</td>
<td>(0.066)</td>
</tr>
<tr>
<td>Constant</td>
<td>0.271</td>
<td>-0.097</td>
<td>-0.266</td>
<td>0.096</td>
<td>-0.065</td>
<td>-0.553**</td>
</tr>
<tr>
<td></td>
<td>(0.277)</td>
<td>(0.228)</td>
<td>(0.270)</td>
<td>(0.294)</td>
<td>(0.245)</td>
<td>(0.249)</td>
</tr>
</tbody>
</table>

Observations: 6,043, 7,517, 5,855, 4,631, 6,470, 5,991

Dependent variable is the treatment status: 1 for Loiret, 0 for Indre-et-Loire
Baseline category for ‘Diploma’ is ‘No diploma’
Standard errors in parentheses
*** p<0.01, ** p<0.05, * p<0.1

### APPENDIX D. PROPENSITY SCORE DISTRIBUTIONS
FOR INDRE-ET-LOIRE AND LOIRET, 2013

![Propensity Score Distribution Graph](image-url)
APPENDIX E1. DESCRIPTIVE STATISTICS OF PAS-DE-CALAIS AND NORD, 2013

<table>
<thead>
<tr>
<th>Population</th>
<th>Pas-de-Calais (C)</th>
<th>Nord (T)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population</td>
<td>1,465,205</td>
<td>2,595,536</td>
</tr>
<tr>
<td>Population density</td>
<td>219.6</td>
<td>452.0</td>
</tr>
<tr>
<td>Area (km²)</td>
<td>6,671.4</td>
<td>5,742.8</td>
</tr>
<tr>
<td>Average population growth between 2008 and 2013</td>
<td>0.1%</td>
<td>0.2%</td>
</tr>
<tr>
<td>Number of households</td>
<td>601,301</td>
<td>1,076,026</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Income</th>
<th>Pas-de-Calais (C)</th>
<th>Nord (T)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Share of fiscal households taxed</td>
<td>47.4%</td>
<td>52.0%</td>
</tr>
<tr>
<td>Median disposable income by consumption unit (euros)</td>
<td>17,706</td>
<td>18,575</td>
</tr>
<tr>
<td>Poverty rate</td>
<td>20.2%</td>
<td>18.9%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Employment</th>
<th>Pas-de-Calais (C)</th>
<th>Nord (T)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Activity rate for 15-64 year-olds</td>
<td>68.8%</td>
<td>69.5%</td>
</tr>
<tr>
<td>Unemployment rate for 15-64 year-olds</td>
<td>13.4%</td>
<td>13.2%</td>
</tr>
<tr>
<td>Unemployment rate for 15-24 year-olds</td>
<td>36.5%</td>
<td>33.3%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Firms</th>
<th>Pas-de-Calais (C)</th>
<th>Nord (T)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Share of agriculture</td>
<td>7.2%</td>
<td>3.4%</td>
</tr>
<tr>
<td>Share of industry</td>
<td>5.1%</td>
<td>4.8%</td>
</tr>
<tr>
<td>Share of construction</td>
<td>9.9%</td>
<td>9.3%</td>
</tr>
<tr>
<td>Share of commerce, transportation and services</td>
<td>61.2%</td>
<td>66.2%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Immigration</th>
<th>Pas-de-Calais (C)</th>
<th>Nord (T)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Share of the population born abroad (1975)</td>
<td>6.0%</td>
<td>9.1%</td>
</tr>
<tr>
<td>Share of the population born abroad (1983)</td>
<td>5.2%</td>
<td>8.8%</td>
</tr>
<tr>
<td>Share of the population born abroad (1990)</td>
<td>4.5%</td>
<td>8.1%</td>
</tr>
<tr>
<td>Share of the population born abroad (1999)</td>
<td>3.7%</td>
<td>7.6%</td>
</tr>
<tr>
<td>Share of the population born abroad (2008)</td>
<td>3.0%</td>
<td>7.1%</td>
</tr>
<tr>
<td>Share of the population born abroad (2013)</td>
<td>2.7%</td>
<td>7.3%</td>
</tr>
</tbody>
</table>

Source: Insee, Comparateur de territoires, 2013; Population censuses 1975-2013

APPENDIX E2. UNEMPLOYMENT RATES IN PAS-DE-CALAIS AND NORD, 1983-2013

<table>
<thead>
<tr>
<th>Year</th>
<th>Youth unemployment rate (aged 15-24)</th>
<th>General unemployment rate (aged 15-64)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Pas-de-Calais</td>
<td>Nord</td>
</tr>
<tr>
<td>1983</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1990</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1999</td>
<td>34.8%</td>
<td>30.9%</td>
</tr>
<tr>
<td>2008</td>
<td>32.2%</td>
<td>27.9%</td>
</tr>
<tr>
<td>2013</td>
<td>36.5%</td>
<td>33.3%</td>
</tr>
</tbody>
</table>

Source: Insee
### APPENDIX F1 DESCRIPTIVE STATISTICS OF FINISTÈRE AND MORBIHAN, 2013

<table>
<thead>
<tr>
<th></th>
<th>Finistère (C)</th>
<th>Morbihan (P)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population</td>
<td>903,921</td>
<td>737,778</td>
</tr>
<tr>
<td>Population density</td>
<td>134.3</td>
<td>108.1</td>
</tr>
<tr>
<td>Area (km²)</td>
<td>6,733</td>
<td>6,823</td>
</tr>
<tr>
<td>Average population growth between 2008 and 2013</td>
<td>0.3%</td>
<td>0.8%</td>
</tr>
<tr>
<td>Number of households</td>
<td>414,689</td>
<td>333,140</td>
</tr>
<tr>
<td>Income</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Share of fiscal households taxed</td>
<td>55.9%</td>
<td>55.8%</td>
</tr>
<tr>
<td>Median disposable income by consumption unit (euros)</td>
<td>20,267</td>
<td>20,118</td>
</tr>
<tr>
<td>Poverty rate</td>
<td>10.3%</td>
<td>11.1%</td>
</tr>
<tr>
<td>Employment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Activity rate for 15-64-year-olds</td>
<td>71.9%</td>
<td>72.0%</td>
</tr>
<tr>
<td>Unemployment rate for 15-24-year-olds</td>
<td>23.2%</td>
<td>23.8%</td>
</tr>
<tr>
<td>Firms</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Share of agriculture</td>
<td>10.5%</td>
<td>10.3%</td>
</tr>
<tr>
<td>Share of industry</td>
<td>5.7%</td>
<td>5.8%</td>
</tr>
<tr>
<td>Share of construction</td>
<td>9.5%</td>
<td>9.8%</td>
</tr>
<tr>
<td>Share of commerce, transportation and services</td>
<td>59.5%</td>
<td>60.2%</td>
</tr>
<tr>
<td>Immigration</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Share of the population born abroad (1975)</td>
<td>0.9%</td>
<td>0.6%</td>
</tr>
<tr>
<td>Share of the population born abroad (1983)</td>
<td>1.1%</td>
<td>0.8%</td>
</tr>
<tr>
<td>Share of the population born abroad (1990)</td>
<td>1.3%</td>
<td>1.2%</td>
</tr>
<tr>
<td>Share of the population born abroad (1999)</td>
<td>1.8%</td>
<td>1.6%</td>
</tr>
<tr>
<td>Share of the population born abroad (2008)</td>
<td>2.5%</td>
<td>2.7%</td>
</tr>
<tr>
<td>Share of the population born abroad (2013)</td>
<td>3.0%</td>
<td>3.1%</td>
</tr>
</tbody>
</table>

Source: Insee, Comparateur de territoires, 2013; Population censuses 1975-2013

### APPENDIX F2 UNEMPLOYMENT RATES IN MORBIHAN AND FINISTÈRE, 1983-2013

<table>
<thead>
<tr>
<th>Year</th>
<th>Youth unemployment rate (aged 15-24)</th>
<th>General unemployment rate (aged 15-64)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Finistère</td>
<td>Morbihan</td>
</tr>
<tr>
<td>1983</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1990</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1999</td>
<td>18.5%</td>
<td>20%</td>
</tr>
<tr>
<td>2008</td>
<td>17.3%</td>
<td>17.5%</td>
</tr>
<tr>
<td>2013</td>
<td>23.2%</td>
<td>23.8%</td>
</tr>
</tbody>
</table>

Source: Insee
Basic Income and Dependency

Improving social relationships in Madhya Pradesh

Marta Verani
Msc Anthropology and Development Management, Class of 2017
London School of Economics and Political Science
ABSTRACT

The most heated debates over the effectiveness of basic income programs revolve around the question of whether basic income fosters dependency. Critics of social assistance view dependency as an intrinsically negative state to be in, linked to “laziness” and oppression. They argue that basic income programs create dependency between the recipients of the programs and the provided service, and that this would reduce beneficiaries’ incentives to work. This paper contributes to the debate over the effectiveness of basic income programs by specifically analysing their impact on relationships of dependency. Throughout this analysis I will challenge the thesis that basic income fosters dependency by analysing two basic income pilots conducted in Madhya Pradesh, India. This paper finds that the fundamental assumptions underlying the concern that basic income fosters dependency in Madhya Pradesh are flawed. Relations of dependence are already present in the social fabric of rural India, and they are not intrinsically negative but instead represent ways through which people actively improve their position. Therefore, the question of basic income creating dependency is not the primary concern, and a more relevant policy question arises: how does the provision of basic income shape pre-existing relationships of dependency? I will show that basic income can play a transformative role in allowing people to improve their relationships of dependency.
INTRODUCTION

The idea of a basic income (BI) is gaining a lot of traction as a tool for development policy (Hickel, 2017; Standing, 2013, 2017). BI is a form of social assistance in which every citizen receives a regular sum of money from the government or another agency of an amount that is designed to cover his or her basic needs (Davala et al., 2015). It differs from other programs of social assistance, such as conditional cash transfers or food subsidies, because it does not come with any attached conditions of eligibility (Barrientos, 2014).

The call for greater social assistance comes from the acknowledgement that much of the recent economic growth at a global and national level is not inclusive: inequality is on the rise, and the benefits of growth are not trickling down to low-income groups, who are experiencing increased precariousness and food insecurity (Townsend, 2009; Barrientos, 2014; Sinha, Kumar, 2017; Hardoon, 2017). For instance, this is the case in India (Maiti, 2012; Krishna, 2013; Awasthi, Shrivastav, 2017; Bear, 2015), where the trend in past decades has been a ‘jobless growth’ (Joshi, 2010). In this setting, social assistance is considered even more pressing as a way of tackling poverty (Barrientos, 2009; Townsend, 2009).

However, BI is extensively debated around practical issues of implementation, such as the source of funding for BI programs, and around questions of effectiveness (Standing, 2017; Frota, 2017; The Economist, 2016a; Tcherneva, 2012). What has been considered the biggest drawback is that BI could encourage dependency, which is seen as intimately linked to ‘laziness’ (The Economist, 2016b; Financial Express, 2016; Aizenman, 2017). Unconditional cash transfers are feared to benefit the ‘undeserving poor’ i.e. those who are stuck in poverty from lack of effort and not bad luck (Alesina, Giuliano, 2009), and of encouraging those who were previously trying to earn an income to reduce their efforts and live off these cash transfers (Ferguson, 2016; Davala et al., 2015:20; Card
et al., 2007). In response to this concern, experimental pilots have been collecting data to answer empirically the question of whether BI fosters dependency (McFarland, 2017).

This paper inquires into the impact of BI on dependency using as a case study the BI pilots in Madhya Pradesh, India. It will challenge the argument that BI fosters dependency and that it is an intrinsically negative state related to “laziness”. The analysis will build on a deeper understanding of the social and economic life in rural India to show that relationships of dependence are important and effective parts of people’s active strategies of survival and that they are already embedded in the local social fabric independently of BI programs. In this context, the concern over whether BI creates dependency loses relevance. A more interesting policy question arises: how does the provision of a BI shape pre-existing relations of dependency? Following this line of enquiry, which no research to date has addressed, I find that there are very different forms of dependency, that these differences matter, and that BI can play an important role in transforming relationships of dependence for the better.

The structure of the paper is the following: firstly, I discuss anthropological insights to BI, including Ferguson’s (2013, 2015) work, which I will use as the theoretical framework for the discussion; secondly, I discuss the Madhya Pradesh BI pilots and their results; thirdly, I analyse the role that relationships of dependence play in the lives of the inhabitants of rural India; and fourthly, I discuss how these different kinds of relationships of dependence could have been shaped by the introduction of a BI.

THEORETICAL FRAMEWORK

In order to investigate the effects of BI programs on dependency, I use an empirical approach: I investigate the social context of the Madhya Pradesh BI pilots using ethnographies. These are systematic studies of local realities, aimed at understanding their
patterns and meaning, usually carried out by anthropologists and gained through research employing participant observation. Insights from ethnographies, especially anthropologist Ferguson’s (2013, 2015) work, offers an important and empirical basis to discuss the impact of BI programs on dependency, and therefore form the theoretical framework of this paper, which I outline in this chapter. Firstly, I discuss the key assumption of the dependency critique of BI, and secondly I show how some anthropological works challenge them and provide a theoretical framework for this paper’s analysis.

The assumption underlying the concern that BI causes dependency is that dependency is a negative state produced by social assistance and laziness. This view makes BI and social assistance less attractive as policies (Aizenman, 2017; Besley, Coat, 1992; Caputo, 2012), and traditionally restricts cash transfers to a narrow gender and age pattern (Ferguson, 2015). Cash transfers are judged acceptable to those we usually consider as ‘dependent’, such as the elderly, the disabled, children, and single mothers, but not for those who are considered able-bodied breadwinners and should be instead independent subjects (Ferguson, 2015; Molyneux, 2006). Therefore, adult and young males tend to be left out of social assistance (Aizenman, 2017), which has negative effects on their sustenance (Ferguson, 2015). In places where adult and young males are also excluded from employment because of limited employment opportunities, these effects are intensified: males are left without a form of income and also have to shoulder the burden of shame, as they feel that they should have been able to provide an income for themselves and their families (Ferguson, 2013).

This paper challenges these assumptions over the nature of dependency by building on the work of anthropologists who studied these relationships, in particular Ferguson (2013, 2015) and his analysis of debates over BI in South Africa. Ferguson (2013, 2015) shows that dependency is not fostered by development programs but is an ingrained and important characteristic of the social fabric
that predates programs of assistance in their regions of fieldwork. Other scholars had similar findings in their region of fieldwork: Sub-Saharan Africa (Haynes, 2013, Scherz, 2014), Egypt (Elyachar, 2005), Bangladesh (Gardner, 2012), Southeast Asia (Li, 2013), and South America (Bonilla, 2013). Ferguson (2015) also shows that seeking dependency is neither a passive state for people, nor a regressive tendency driven by nostalgia for the past, nor merely a form of oppression, as it is assumed in the debate over BI. It is instead a ‘mode of action’, an active strategy used throughout history to survive the constant struggle for security and survival, spanning from the safety of belonging to a state in times of war, to the security of a wage for miners (Ferguson, 2013:223; Elyachar, 2005). Moreover, dependency is not only prevalent in the third world, but it is also a key feature of Western modes of life, where people benefit from the welfare state, social assistance, and public infrastructure provision.

This paper builds on these anthropological insights to reframe the ‘problem of dependency’ in the debate over BI, to challenge the incorrect assumptions that drive it. In particular, it will go beyond Ferguson (2013) and give greater attention to the different forms that relationships of dependence can take and how they affect people’s lives (Bolt, 2013). It will use an evidence-driven approach to investigate the possibilities that dependency can bring and the role that BI can play in Madhya Pradesh and beyond.

**PILOTING BASIC INCOME GRANTS IN MADHYA PRADESH**

Various pilots have been designed to contribute to heated discussions over BI’s purpose, effectiveness and feasibility both in developed (Finland, USA) and developing countries (Namibia, Kenya, India) (McFarland, 2017; Pechman, Timpane, 1975; Osterkamp, 2013). Two pilots, using randomised control trials, were launched in 2010 to trial BI grants in Madhya Pradesh with
the collaboration of UNICEF and SEWA (Standing, 2013). This chapter discusses the two pilots, and how the reports use their evidence to determine whether BI fosters dependency. Specifically, this chapter analyses their methods and results and points out their assumptions, flaws and gaps.

The first pilot was the Madhya Pradesh Unconditional Cash Transfers (MPUCT), which provided every inhabitant of 8 villages with monthly cash grants and used 12 similar villages as control groups. The second was the Tribal Village Unconditional Cash Transfers (TVUCT), which gave grants to all inhabitants of one village and used another one as a control. The cash grants were provided to about 6,000 individuals and amounted to 200/300 rupees per adult and 100/150 per child, which were calculated to cover basic needs almost at the level of the poverty line (SEWA, 2014).

Data was collected before, during and after the BI trial period. There were four rounds of statistical surveys covering a total of 15,000 individuals, in which the researchers carried out interviews, community level surveys, a hundred in-depth case studies of the recipients, and tracked children’s nutrition as well as their attendance and performance in schools (SEWA, 2014).

It is worth noting the possible biases in these pilots and reports. The monitoring and evaluation were conducted by the same development organisations that ran the pilots and not by independent researchers. Furthermore, the researchers asked the participants to recall their working routines and income from the previous months. Besides elements of human error, it is possible that the interviewees would consciously or unconsciously adjust their answers to what they believed the interviewers – representing a development organisation – would have liked to hear. Moreover, the randomised control trials may have been affected by the Hawthorne effect (Dapuez, 2016): recipients of the cash transfers would adjust their behaviour knowing that their behaviour was watched, and would attempt to improve their situation to increase their chances of future cash transfers. A certain awareness of the
significance of such a program by the recipients is to be expected and was documented in the Namibian pilot (Haarman, 2012). Although these issues might have caused errors of measurement and thus have led to overestimating certain effects, they do not undermine the trends identified by the pilots, which remain valuable objects of study.

The surveys’ result indicated that BI had a significant impact on economic indicators of poverty: the income of many recipient households increased by more than the received cash payment (SEWA, 2014). BI provision gave rise to new patterns of labour: on average people worked more days and fewer hours per day, worked more on their own farms rather than as wage labourers, tended to diversify into a second activity, and it was less likely that child labour would clash with school times.

These changes were attributed to increases in ‘entrepreneurial’ activity enabled by BI’s steady provision of capital, which provided a safety net and thus decreased entrepreneurial risk (Davala et al., 2015). In the reports, entrepreneurship is portrayed as the trigger of all the benefits found, but this idea has not been proven satisfactorily. I will later challenge the assumptions behind the idea that they become ‘self-reliant’ entrepreneurs and that this was the main driver of change in economic indicators.

The pilots’ surveys also found changes in the patterns of migration: in the TVUCT, rates of migration increased for educational purposes and decreased for labour, while in MPUTC they were stable (SEWA, 2014). The report elaborates with assumptions about the benefits of these choices for development, such as increased remittances and employment in rural areas, but does not inquire into why they happen.

The reports also found a significant impact on the borrowing patterns among the recipients of BI. Debts tended to be paid off more frequently, and the take up of medium and big debt decreased while investment in savings and productive assets increased (SEWA, 2014). The reports noted that people started bor-
rowing more from relatives and less from moneylenders; in particular, they state that the incidence of bonded labour decreased. The researchers arrive at this conclusion because the surveys found a decrease in the incidence of ‘working for free to pay off a debt’ – the definition of bonded labour that I will discuss in the next chapter. Thus, they argue that BI resulted in people taking up more benevolent forms of debt, avoiding the ‘risk of dependency’ (SEWA, 2014:35). However, the reports do not consider that people are still taking up debts and thus building different relationships of dependence rather than avoiding them altogether.

BI also had a significant impact on well-being: nutrition, education, health, drinking water and toilet facilities all showed improvement (Davala et al., 2015). Overall, the increase in health and education is considered as, but not proven to be, a way of breaking through inter-generational poverty and therefore avoiding dependency (SEWA, 2014).

The reports used this evidence on changing patterns of labour, debt and well-being as a way of proving that BI does not create dependency (Davala et al., 2015). The reports sought to answer the normative question of whether BI fostered dependency because they assumed that dependency is a negative state. However, there is little enquiry or evidence of what dependency looks like in rural India, of the mechanisms through which BI fosters change, or of whether the achievements of the pilots can be considered as a decrease in dependency. This paper instead delves into these questions.

**INVESTIGATING DEPENDENCY IN RURAL INDIA**

What does it mean to be dependent in rural India? To investigate the nature of dependency, this chapter builds on Ferguson’s (2013, 2015) analysis of South Africa and demonstrates that social relationships of dependence also permeate the social fabric in
rural India. Due to local differences in the views over dependency, with people in India considering it less positively than South Africans and shying away from bold declarations of dependency (Shah, 2013), this paper does not assume that Ferguson's (2015) work applies directly to the Indian context. Therefore, I use Ferguson's (2013, 2015) insights and questions as a point of departure, and find the answers in an empirical investigation of the specific features of social life in rural India.

This chapter thus discusses the nature of dependency in rural India. To do so, it uses ethnographies that detail social and economic relationships in rural India, focusing in particular on the bottom of caste and economy, as those are the intended beneficiaries of social assistance programs (Barrientos, 2009). Firstly, I look at the roots of dependency found in precariousness of living in rural India. Secondly, I examine the forms that these relationships take for poor people, in particular focusing on vertical relationships and debt. Thirdly, I consider the persistence of, and the similarities between, relationships of dependence in the reality above the poverty line.

**The roots of dependency: living through precariousness**

The persistence of dependency, and the inability of people to bargain for better forms of it, are rooted in the precariousness of living at the edge of survival (Scott, 1977; Wood, 2003). Self-sufficiency provides little security against risks and hazards (Srivastava, 2009). Moreover, the lowest castes have mostly been excluded from land ownership after the enclosure period, and those who do own land often do not have enough to make it productive, either because they lack economies of scale, or because they are not able to afford the productive assets to make it so, whether animals or machines (Breman, 1996). The average peasant manages to find work for only 260 days a year due to lack of demand for labour.
(Breman et al., 2009). The external economy rarely offers full time, permanent opportunities, and it is instead a risky environment of casual hire characterised by seasonal rhythm, hazards and shocks (Singh, 2015).

There is an inherent fluctuating rhythm in rural work (Wood, 2003; Scott, 1977). Not only is agricultural work seasonal, requiring manpower only in parts of the year while demand is hardly existent during the “lean season” (Agarwal, 1990), but also other types of work available to rural villagers are seasonal, dictated by the monsoons (Breman, 1996; Breman, 2012). For instance, the brick kiln industry, a very common non-agricultural employer, hires and produces only in the dry season (Guérin, 2009).

This is one of the many hazards that rural people have to deal with; there are others, such as health and education expenses (Basile, 2016), and droughts or famine (Agarwal, 1990). A very common one is social functions, such as marriages and funerals, to which large expenditures are devoted. This arises because people are not just ‘empty stomachs’ and also need to partake in social and community events, and because of increasing pressures to spend from rising consumerism (Fernandez, Gopal, Ruthven, 2016; Basile, 2016; Cavalcante, 2016). Moreover, very little economic mobility is achievable for people at the bottom of the social hierarchy, due to little opportunity to increase skills or attain higher skilled jobs, and to caste-related restrictions that fall upon many of the rural poor (Mosse, 2010; Harris-White, 2016b; Corbridge, 2000). Therefore, marrying into families of higher status is used as a strategy to climb up the social ladder and to gain access to more opportunities for employment and borrowing. This pattern explains why people continue to invest great sums in marriage ceremonies and dowries (Harris-White, 2016a).

There is also the risk of shocks, of unexpected misfortunes that can ruin a family (Chambers, Conway, 1992; Hulme, Shepherd, 2003). For instance, illness or injury – recurrent incidences given the sub-standard work conditions most workers suffer – can
leave a household without a breadwinner and source of income, while increasing the burden of hospital care and medicine expenses (Picherit, 2012; Breman, 1996). When injuries cause disability, or when an illness results in death, the household not only has to cover high expenses, but it is also left without the means to repay the debts taken on to cover them (Breman, 1996).

**Forms of dependency**

In order to manage these insecurities, people rely on horizontal, diagonal and vertical relationships of support and dependence to obtain help, often in the form of loans. People constantly exchange objects, resources, cash and loans between relatives, fictional kin or neighbours of similar condition and caste, laboriously reproducing horizontal ties (Singh, 2015; Harris-White, 2016b; Yadav, 2016). The amount that can be exchanged is limited to the level of affluence within the network, which can sometimes be too low and force people to instead rely on diagonal ties and request loans from moneylenders (who are infamous for their high rates), shopkeepers, or other wealthier members of the community (Singh, 2015). These are diagonal forms of dependence, not in the form of patronage but as contracts between unequal powers (Harris-White, 2016b). A complete track of everyone’s debts, solvency and reliability is shared in the village and drives how much and at what rate people are willing to lend to someone in need (Singh, 2015).

Larger debts are incurred through vertical relationships (Mohapatra, 2009). One of the oldest forms of vertical relationship is patronage (Srivastava, 2009; Singharoy, 2014; Breman et al., 2009:127-8). Patronage relationships were typically organised along caste lines, that would see long-standing intergenerational ties between clients and patrons: the former providing labour, loyalty and political support, the latter providing in-kind help and protection when needed by the client, securing their subsistence (Srivastava, 2009, Singharoy, 2014). Some forms of it are still prac-
ticed, especially in exchange for political support (Sbriccioli, 2016). The most infamous is bonded labour, in which lower caste individuals receive financial aid from a patron and, in exchange, they pledge their labour to pay it off: they are at the patron’s call to work whenever needed and their contribution is calculated in wages below the market value (Srivastava, 2009; Singharoy, 2014; Brass, 1986). These contracts, usually organised along caste lines, can also include the pledge of a family member’s labour, and can even become intergenerational bonds (Singh, 2015; Breman, 1979).

Although this kind of bonded labour is fading, another kind is on the rise, where wage advances for labour are paid to migrant workers (Guérin, 2013; Deshingar et al., 2008; Prakash, 2009). These workers migrate periodically to neighbouring areas of India to work in sectors such as sugar cane or brick production, or in factories in urban areas (Guérin, 2009; Guérin et al., 2009; Breman, 1996). They receive wage advances on their labour during the lean season, which allow them to survive and contribute to large expenses such as marriages and funerals (Breman, 1996). They then work for the contractor for a season, during which they receive a living allowance. At the end, their work is added up on a per piece basis, and their advance and expenses are subtracted (Breman et al., 2009). They receive whatever is owed to them or, if in still debt, they remain bonded to work the following season (Guérin, 2009).

What makes these workers ‘bonded’ are not physical chains but the conditions of precariousness that force them to take on debts, which results in unequal power relations that hinder their efforts to bargain for wages or move elsewhere for employment (Guérin, 2009). Workers have to work off their debts and then wait according to the contractors’ preferred timing to receive withheld wage payments (Breman et al., 2009). Around 80 per cent of migrant labourers are in debt to their contractor and all debtors are bonded labourers (Breman et al, 2009; Singh, 2015). The conditions of work are appalling, with no access to food or shelter, little privacy, and inhumane hours (Breman, 1996). Wages are also very low; for
instance, they have remained frozen in brick production despite the increase in price and profit in the industry (Breman, 2007). The workers nevertheless attempt to resist: they collectively strive and negotiate to increase their advance, and individually engage in strategies to raise their profile, for example by frequently changing workplace where possible, to avoid being labelled as too docile and exploitable (Guérin, 2009). However, given the unequal power relations, they are often unsuccessful (Guérin, 2009).

If this is a common form of labour in the lower castes as the literature testifies (Breman et al., 2009), then why does it seem to have a lower occurrence in the pilot villages, averaging 5% of the workforce? The survey uses the definition of bonded labour as ‘working for free to pay off a debt’ (SEWA Barat, 2014), which, as discussed above, is not precisely what happens in this new form of bonded labour. Moreover, although advance labour is considered a form of bonded labour for the lack of mobility and low wages that characterise it, the local names used to define it are different from the terms used for older forms of patronage which have been used in the surveys (Srivastava, 2009). Furthermore, there is a level of shame attached to bonded labour and the exploitative dependent relationships that come with it, so individuals would tend to downplay their dependency and bonded status (Guérin, 2009). It thus seems likely that some workers engaged in advance labour would not identify themselves as ‘bonded labourers’ per the definition of the survey, and thus would be counted in the ranks of those categorised as ‘wage labourers’ – the occupation of more than 50% of the interviewed in the baseline survey (SEWA, 2014).

**Persistence of dependency above the poverty line**

The SEWA (2014) reports assume that as soon as people are above the poverty line, and have an education and good health, they become ‘free’ to pursue entrepreneurial dreams and to avoid relationships of dependence. However, this ‘freedom’ from de-
pendency is not necessarily a desirable state and relationships of dependency do not disappear when people are above the poverty line. ‘Entrepreneurship’ which SEWA (2014) portrays as the ultimate expression of economic freedom, is often just a means of survival and indeed petty entrepreneurs are neither the most successful nor the most affluent people in the village (Singh, 2015). The most sought after jobs are in government and services, because they provide prestige and job security: a stable and remunerative relationship of dependency with the state, with significant wages and little exploitation (Breman, 1996). These jobs not only require an adequate education, but also the right connections to secure the position (Breman, 1996). Therefore, the government servant-to-be needs to engage with local patrons and powerful politicians in order to gain their support through a form of patronage (Breman, 1996). In this way, they also engage in forms of dependency.

Thus, given the importance of dependency for improving livelihoods and social progression, it is incorrect to think that it is a negative state and synonymous with ‘laziness’ The conditions of vulnerability are oppressive, and people are forced by the vulnerability and precariousness of their circumstances to incur a debt. However, creating relationships of dependence is not necessarily an act of oppression but an exchange, albeit unequal. I have shown that relationships of dependence come in different forms, and that some are better than others: peasants prefer the security of government posts and the leniency of kin, while they consider debts to moneylenders and bonded labour as more disadvantageous (Scott, 1977; Breman, 1996). Therefore, as dependency can be a positive force and permeates the social fabric before the introduction of development projects, the evidence undermines the relevance of the policy concern that BI fosters dependency.
TRANSFORMING DEPENDENCY WITH BASIC INCOME

Given the range of forms of dependency and how they can be more or less beneficial, we now proceed to investigating a more important question for social assistance policy: how does BI shapes social relationships of dependence. In the previous sections, I pointed out gaps in the explanations of the report. I now use ethnographies of rural India to understand the role that a steady flow of cash could play, and to see what this would mean for the rural poor. I thus ‘fill in the blanks’ that the reports leave open, discussing the possible dynamics at play. This method leads mainly to the creation of hypotheses: sometimes my discussion adds nuance to the interpretation of the report; at other times, it points to different directions that have not been investigated and that could be further researched. More than giving precise answers about the impact of the Madhya Pradesh pilots, most of the discussion is aimed at raising possible questions that would need to be asked in future studies to shed light on the impact of BI in rural India.

In the previous chapter, we have seen how people struggle with shocks, hazards and seasonality. Increased liquidity would buffer the smaller shocks, help to smooth consumption throughout the lean season, buffer the smaller hazards, and increase security throughout the year. Likewise, this also stimulates lending and borrowing. This would especially increase borrowing from more ‘benign’ creditors, as shown in the SEWA (2014) report, and decrease borrowing from less lenient non-kin. Building on this change, I will show how a provision of BI seems to increase people’s freedom to choose to establish more advantageous forms of dependency, rather than decreasing the incidence of dependency. I discuss firstly the changes in bonded labour, secondly in assets and migration patterns, and thirdly in skilled jobs.
Transforming bonded labour

Workers who receive advance payments only sporadically engage in collective bargaining (Ghosh, 2001). Their rare negotiations are exclusively aimed at the increase of advance payments, and do not work towards improving labour conditions and wage levels, which are constantly kept under market value (Ghosh, 2001; Lerche, 1995; Walker, 2008; Breman et al., 2009; Guérin, 2009). This is because people urgently need advances in order to cover their costs of survival during the lean season, and in order to have liquidity to pay for functions such as marriages and funerals or for health expenses (Breman et al., 2009). Therefore they have to prioritise wage advances over labour conditions and wage levels (Breman et al., 2009).

The introduction of a BI increased beneficiaries’ liquidity and coverage of those needs, which resulted in decreased instances of bonded labour (SEWA, 2014). Although the report definition only referred to old types of bonded labour, we have seen that new forms of bonded labour are generated by similar dynamics and needs (Sristava, 2009). Therefore it is reasonable to assume that new forms of bonded labour are likely to have experienced a similar decline.

How will this change labour relationships? There is evidence that people who experience a lean season with better financial means do not need advances or loans as urgently. They will thus avoid bonded labour and seek instead employment in the form of casual labour, characterised by better hours, conditions and wages (Breman, 1996). They have higher bargaining power for wages, as they are free to refuse jobs paid under the market wage and to take up better paid roles in other places (Sing, 2015; Rogaly, 1995). The better means provided by BI transfers might not be enough to allow people to avoid bonded labour altogether, but might allow them to choose types of employment that, despite reduced advance, offers
better wages and conditions, including better living quarters, with a roof to live under and privacy to enjoy (Guérin, 2009). It could also allow children and other family members to stay in their home village as their labour will not have to be pledged to obtain a higher advance (Breman, 1996). These patterns are consistent with the results observed in the report: reduced working hours (better labour conditions), reduced children’s labour, and increased income (higher wages).

These better forms of work are all linked to different kinds of relationships of dependence with the job contractors. They still entail dependency: better employment still functions with advances and wages, and casual labour requires the establishment and maintenance of contacts and relationships. However, these are arguably better forms of dependence as they come with higher income, better health, safer conditions, better quality of life and work, and decreased child labour. Interestingly, many of these benefits occur to, or through, male able-bodied workers, who seem to benefit from BI and bring the benefits to the rest of their families. For instance, it can reduce their strain, increase their income, and decrease the chances of their own death, illness or injury, all of which are not only tragic but also expensive to families and a cause of cycles of debt and poverty (Breman, 1979). Therefore ‘charity to able-bodied men’ (Aizenman, 2017) is certainly not worthless. It allows workers, including men, to choose forms of labour that entail less exploitative forms of dependency.

Transforming assets and migration patterns

Increased liquidity enables people to buy more productive assets, such as dairy cattle, small livestock, looms, or tools to work the land (Breman, 1996). This trend was documented in the BI experimental villages reported by SEWA (2014). In an employment-scarce economy, assets are very valuable, especially for peo-
ple previously excluded from work, such as many disabled people and some women (Singh, 2014; Sonpal, Kumar, 2012; Prabha, 2000, Bagchi, 1981), who can thus access new forms of work and income as seen in the report (Davala et al., 2015).

Productive assets for the land, including cattle, tools, and irrigation systems, can also play an important role for obtaining an adequate level of land productivity. Often landowners are unable to put land to use because they cannot afford the assets that would make it productive or the irrigation necessary in dry lands (Singh, 2015; Agarwal, 1990). BI transfers have thus been used towards buying these assets, leading to an increase in agricultural work in the experimental villages, which the reports captured in their surveys as ‘diversification of labour’ (SEWA, 2014). Although the reports interpreted increased agricultural self-production as an ‘entrepreneurial activity’ (Davala et al., 2015), ethnographies highlight the upwards and downwards relations of dependence that landowners form. Self-producing households often need intermediaries to provide capital and seeds for the venture, and to help with access to market for the products (Singh, 2015). Moreover, as land becomes productive, households need to hire contract labourers from the village to help work the land, thus increasing employment opportunities (Breman, 1996). These dynamics are also consistent with the increase in agricultural production, employment, income and working days found by the surveys (SEWA, 2014).

This increase in income and employment allows people to stay in the village rather than migrate, which is consistent with the SEWA (2014) report recording a decreased migration rate of 10 per cent in the tribal village (TVUTC pilot). Beneficiaries might choose to migrate due to higher income from the opportunities described in the paragraph above, or, even when the work is less remunerative, due to advantages of working in the village beyond strict economic ones (Breman, 1996). Ethnographies document that people prefer working in their home village because the work-
ing hours and conditions are better (an increase captured by the surveys), there is access to support networks, they are near to their family, and it provides intimacy and privacy otherwise denied in the working conditions of migratory workers in urban and rural settings (Pitcherit, 2012; Breman et al., 2009). Moreover, staying in one’s village and not being a migrant allows the maintenance of affective and supportive ties with one’s kin and neighbours, while leaving increases the chances of being forgotten (Breman, 1996).

The SEWA (2014) report claims that BI did not affect migration patterns in the villages of the MPUCT pilot. However, the problem with comparing rates without breaking down the data, which is the approach the report followed, is that it is possible that contrasting trends in different strata of population averaged out to a non-significant change. For instance, the pattern discussed above of decreased migration for those who could afford to do it might have been present even in the MPUCT villages and been countered by increased migration of others. This is likely as it is documented that poor people often do not have the means to afford the transport to search for employment outside of the city (Breman, 1996). While sometimes contractors come to pick up their workers in bulk, prospective workers often need to make their way to the urban centre or factory to find employment without assurance of being employed (Breman, 1996). This means that workers need to be able to make an advance payment on their transport costs for daily trips to a neighbouring city, or once a season to further away places (Breman, 1996). In this scenario, a cash transfer will help them to afford the initial capital to search for employment, and have access to more remunerative relationships of dependence with labour contractors in other areas, escaping more exploitative ones in their village or the lack of them altogether. This is consistent with the SEWA (2014) report’s finding that recipients’ income increased by more than the value of the cash transfers.
Therefore, the provision of BI could have different effects on migration patterns depending on the demographics of people’s starting points and desires. Greater liquidity can help cover urgent needs and open up new opportunities, allowing people to pursue and achieve other goals.

These are not descriptions of people becoming free from dependency. Through increased stability, income, and employment people are able to establish relationships that are more useful or appealing to them: better working conditions, more equal relationships with their contractors or middlemen at home, and more attractive opportunities elsewhere. They create relationships of dependence with new labour contractors, or even become labour contractors themselves for a period of time while maintaining their role as employees at other times. The provision of BI is thus an opening of advantageous opportunities that entail preferable forms of dependency.

**Increasing access to better jobs**

Development projects and discourse usually propose education as the way of improving one’s standing on the economic ladder (Davala et al., 2009; Easterly, 2001). SEWA’s (2014) results show that education enrolment and attendance are increasing. The pilots lasted only two years so it is not possible to test whether increased education rates thanks to BI would result in increased numbers of beneficiaries accessing higher paid jobs. The research on education policy tells us that policies increasing education attendance have had mixed results on fostering development, and the results were highly dependent on the opportunities on offer (Easterly, 2001). Crucially, in rural India, there are very limited jobs that require education and are accessible to poor people, especially with caste discrimination in place, and securing one is dependent on one’s connections to patrons and powerful politicians (Krishna, 2013;
Breman et al., 2009). Only a longer-term pilot could investigate the impact of increased education beyond its intrinsic benefit.

There are other higher skilled jobs in the Indian rural and urban labour markets that are more accessible to poorer people. For instance, working in workshops or in high-skilled factory jobs such as diamond cutting do not usually require education, but a period of apprenticeship, and they still grant higher wages, better conditions, and employment security (Breman, 1996). Although most of these jobs favour certain castes and genders, not all are restricted (Breman, 1996). However, gaining an apprenticeship increases expenses for the family that supports the individual: living expenses during an unremunerated apprenticeship (whose duration ranges from a couple of months to several years), the amount of materials that employers claim ‘have been ruined by the apprenticeship while they learn’, and the loss of the income that otherwise would have been earned by the family member were they working instead (Breman, 1996). Families are thus often unable to afford an apprenticeship for their children because of financial reasons (Breman, 1996).

A BI might thus mean that more people can afford to establish relationships of dependence with skilled workers and workshop masters to teach their children. The SEWA (2014) report did not investigate these patterns, but future research might want to inquire into the number of apprenticeships and higher skilled jobs that people are able to take when BI is provided.

Middlemen in the job contractor business are also in a higher paying position, with higher status attached (Guerin, 2009; Pichierit, 2009). Job contractors employ many middlemen in order to ensure a steady flow of labour force in the working season (Breman, 1996). Middlemen come from village areas, are usually males from the same caste of the workers, and have many links with prospective workers that they constantly utilise and reproduce, forming complex relationships of dependence (Bhukuth, Ballet, Guérin,
2007; Picherit, 2009). They also establish relationships of dependence with contractors, and engage in complicated power struggles; for instance, they collaborate with other middlemen behind the backs of the job contractor, and ‘exchange’ workers between themselves to deal with changes in job contractors’ requests (Breman, 1996). Middlemen are paid a percentage of workers’ wages and while they work during the season they earn a supervisor’s wage (Picherit, 2009).

Being a middleman requires the right social network, but also some disposable income: they need to be able to cover travel expenses to get in contact with contractors (Picherit, 2009) and often also to pay or supplement the advances to workers from their own pockets, only later reimbursed by the contractors (Breman, 1996). A BI could thus result in increased numbers of people being able to choose to work as middlemen, as a result of the greater liquidity they have and the lower advances needed by peasants supported by social assistance. Again, this relationship could be further explored through research.

**CONCLUSION**

This paper has shown the limited relevance of the ‘problem of dependency’ regarding BI in rural India. Relationships of dependence predate development projects, and they are not necessarily a negative burden forced on people merely out of oppression, or driven by people’s ‘laziness’. As Ferguson (2015) argues, they are instead an intrinsically valuable part of people’s lives; we have seen that dependency is a way of creating more security, and thus an important strategy for people navigating precarious conditions and vulnerability to poverty and famine. The discussion has gone further than Ferguson’s (2013) in investigating the different types of relationships of dependence.
These differences matter: some relationships are exploitative and oppressive, while some are more advantageous. People prefer the security of government posts and the leniency of kin, as this allows them to increase their livelihood security and enjoy better working conditions. They consider debts to moneylenders and bonded labour as more disadvantageous, as they represent a higher financial burden for their households. However, we have seen how these are still useful relations in which to engage when struggling to survive through a lean season or between hazards.

This paper has therefore addressed the more interesting policy question of how BI shapes these pre-existent relationships of dependence, and whether it could play a role in allowing people to build the more beneficial forms of them in rural India. Some of the analysis discussed simply adds nuance to the mechanisms driving the results of the pilots: people were able to incur more benign forms of debt and were able to buy productive assets for land. Other effects beyond what had been considered by the reports were the improvement of working conditions, a decrease of advance labour, alterations in migration patterns driven by people’s increased ability to choose where to work, and greater access to higher skilled labour.

This analysis has shown that BI could increase people’s ability to form better relationships of dependency. Therefore, I have argued that, contrary to what it is feared by detractors, BI can have a beneficial impact on relationships of dependence. I have highlighted the need for further research that empirically investigates these patterns, their frequency and the extent of their impact on people’s lives. The question posed here can also play a powerful role in prompting analysis on the impact of BI on dependency beyond the Madhya Prasesh context, ultimately enabling the grounding of policy on practical realities and increasing its effectiveness.
REFERENCES


Hardoon, D. (2017). An Economy for the 99%: It’s time to build a human economy that benefits everyone, not just the privileged few. Oxfam


A Points-Based Immigration System for the UK?

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ABSTRACT

As the UK is scheduled to leave the EU in 2019, an issue of increasing contentiousness in the Brexit negotiations is the fate of European migrants and provisions for free movement across EU borders. This paper draws on a variety of academic and media sources to set out the economic migration policy goals of the UK, Canada, and Australia and compares them to determine the best policy choice for a post-Brexit UK. The current ‘hybrid’ points-based system suffers from important draw-backs. This paper argues that a more feasible solution would be to reform the current ‘hybrid’ system by drawing on the advantages of a work-permit system and of the points-based systems. Modifications to the system to incorporate points for job offers and a ‘cap-and-queue’ waiting list system ensure that the supply of skills matches demand without over reliance on business interests, while the ‘cap-and-queue’ allows for control of numbers. Moreover, the transparency of such systems make them easy to understand with low policy adaptation costs.
INTRODUCTION

On the 23rd of June 2016, the UK voted to terminate its membership of the European Union. The end of the relationship signals an important turning point for all areas of policy in the UK as it disentangles its laws and regulations from those of the EU. One of the more contentious and key policy areas in the Brexit campaign has been the issue of regaining control over the UK’s borders and getting immigration numbers ‘under control’. The ‘Leave’ campaign leaders had, in this context, put forth the idea of implementing a points-based immigration system post-Brexit, specifically aimed at newly regulated EU citizens (Cockburn, 2016). More specifically they promised an “Australian-style immigration points system” to regulate the flow of economic migrants entering the UK. This proposal was subsequently rejected by Prime Minister (PM) May (Mason, 2016).

This situation poses the basic question of this policy paper: whether such a points-based system would be an adequate solution for the immigration policy objectives of the United Kingdom. Given the consequences of Brexit, it is important to understand the strengths and weaknesses of points-based immigration systems and whether they correspond to the stated objectives of UK immigration policy. This is particularly true given that there are 3.3 million EU citizens living and working in the UK who will no longer be protected under the freedom of movement rules (ONS, 2015). The shape and severity of any new policy is also likely to affect the status of the 1.2 million British citizens living in the EU (UNDP, 2015).

As such, this paper turns towards the experience of the two countries with the longest history of points-based immigration systems, Australia and Canada, to try and inform the debate about the best policy choice for the post-Brexit UK. The paper will compare the policy objectives of Australia and Canada, as well as the results of such policies on the migration ‘scene’ of the two coun-
tries, in order to determine whether this policy would be suitable in a UK context.

This paper argues that while points-based immigration systems have had moderate success in increasing the skills of workers entering the Canadian and Australian labour markets, it is not the most appropriate policy given the UK’s objectives. The characteristics of European immigration to the UK, and the UK’s strict goal of managing migration through a reduction in numbers, make a pure points-based system an inadequate mechanism to achieve these objectives. Furthermore, such a system incurs costs. Evidence shows that although points-based systems may have worked initially, the success rate of migrants in Canada and Australia’s labour markets has been decreasing, calling the relationship between allocated immigration points and actual economic success into question (Baker & Benjamin, 1994; Bauer et al., 2000). This paper suggests that a better model for the UK would be a revised ‘hybrid’ model combining aspects of a work-permit system and a points-based system.

Migration, in the context of this paper, refers specifically to economic migrants, those that move to seek job opportunities or because they have secured jobs abroad. It intentionally excludes other types of migrants such as refugees, ‘illegal’ migrants, or people that move under family reunification programs. Moreover, policy recommendations will be geared towards regulating the new EU migration flows.

Points-based systems are immigration policies that allow migrants to enter a country on the basis of their ‘match-up’ with a set of predefined criteria such as age, education level, and/or language ability to which are attached numerical scores. If the potential migrant meets a minimum score threshold they are eligible to migrate. Other conditions such as quotas, preferential treatment for migrants with job offers, or allocation based on geographical need, may be added to the basic points system to create a ‘hybrid’ system.
The paper begins with a quick overview of the existing UK migration system and explores the debate about the type of policy to be implemented. This includes a discussion about whether the existing system is already partially points-based or not. The fourth section focuses on the main features of Australia and Canada’s immigration policies. Section five then analyses the success of points-based immigration policies, looking specifically at whether the system increases migrant skills and their labour market success rate. Section six combines the first five sections to evaluate whether a points-based system would be compatible with the migration policy objectives of the UK. It also proposes a new variant of the UK’s ‘hybrid’ policy as a policy solution for migration control post-Brexit.

**METHODOLOGY**

This paper is written as an analysis of existing academic literature on the success of points-based systems in Canada and Australia, with a view to informing the policy choices of the UK. Attention is also given to other common migration management systems. It draws substantially from government publications to explain the characteristics of British, Australian, and Canadian migration. Discussion about the current debate in policy design in the UK draws primarily from news reports and government publications.

The report is limited in scope in the sense that it focuses narrowly on one specific area of immigration: legal migration for work reasons. While this is the most significant proportion of EU migration to the UK, a more complete picture also needs to look at refugee policy and family-reunification policy.
THE BRITISH MIGRATION SYSTEM

Key to evaluating the potential of a points-based immigration system for a post-Brexit UK is understanding the current objectives of immigration policy. It is important to recognise at this point that the UK cannot currently restrict EU migration and as such its policy is geared exclusively towards third countries (Salt & Millar, 2006). The policy set out in the 2008 white paper recognises that “significant gross immigration of highly skilled non-EU nationals may be desirable,” while admitting that “the economic benefits of positive net immigration are small or insignificant”. As such, policy has to be judged “on other criteria, including diversity and social cohesion and the advantages or disadvantages of a growing population” (Economic Affairs Committee, 2008; Salt & Millar, 2006). The primary “economic consideration of UK immigration policy must be to benefit the resident population in the UK,” despite limitations imposed by EU and human rights law, for example (Economic Affairs Committee, 2008). The policy, “rather than serving only the exclusive interests of employers, should reflect a balancing of the interests of resident workers, employers and other groups among UK residents” (Economic Affairs Committee, 2008).

This led the government to introduce a ‘hybrid’ system of immigration to the UK in 2008, with characteristics of both points-based and non-points-based systems. The new system is composed of five tiers (Economic Affairs Committee, 2008; Salt & Millar, 2006):

- Tier 1: Highly Skilled Migrants
- Tier 2: Skilled Migrant Workers
- Tier 3: Low Skilled Workers
- Tier 4: Students
- Tier 5: Youth Mobility and Temporary Workers
Tier 1 and Tier 2 migrants are the focus of this policy paper. Under the existing system, non-EEA migrants must achieve a minimum number of points under criteria such as qualifications, previous earnings, and age (see Appendix 1 (online) for a complete description of Tier 1 and 2 visa regulations) (Economic Affairs Committee, 2008). In addition, migrants do not, in contrast to Australia and Canada, obtain permanent residency automatically, and Tier 2 migrants also require proof of a licensed sponsor (Economic Affairs Committee, 2008). Given the UK’s membership of the EU and adherence to freedom of movement, Tier 3 has been effectively scrapped as demand for low skilled workers is met with inflows from Eastern Europe (Somerville et al., 2009). This will need to be addressed after Brexit, as programs such as the ‘Seasonal Agricultural Worker Program’ and access to low-skilled workers vital to the hospitality and social care sectors will need to be guaranteed under the new migratory system (Somerville et al., 2009).

In addition to the objectives of the policy introduced in 2008, in 2010 the Conservative party promised to reduce net migration to the “tens of thousands” (Select Committee on Home Affairs, 2014). This would be a reduction of migration back to 1980s or 1990s levels (Select Committee on Home Affairs, 2014). However, these objectives were far from met by 2014, with migration levels at 298,000 in September 2014 (see figure 1) (The Migration Observatory, 2015).

Admittedly, one reason for this failure is the inability of the government to control EU migration (The Migration Observatory, 2015). However, even policy aimed towards non-EU migration was of limited impact, with reductions mostly in student numbers, who cannot obtain permanent residency (The Migration Observatory, 2015). Nevertheless, the then PM David Cameron reiterated the promise of getting UK migration under 100,000 when seeking re-election in 2015 (Little, 2015).

Given the existing policy, it appears that the UK is already operating under a partially points-based system. As such, the move
towards an ‘Australian-style’ immigration system as advocated by Vote Leave could be considered as an integration of EEA migration into the existing migration system for non-EEA citizens with minor changes. However, Theresa May has ruled out the expansion of the points-based system, while promising more effective means to limit migration to the UK (Mason, 2016). To justify this claim, she pointed to abuses of the points-based student quotas by immigrants seeking permanent residency in the UK, highlighting specifically the automatic nature of the system (Mason, 2016). Rather, May wants to control access for “every sector and every skill level” by reworking the existing system (McTague, 2017). She has also re-stated the numerical commitment made by David Cameron (McTague, 2017). This provides an interesting contradiction: the rejection of a pure points-based system, but the extension/formulation of the existing ‘hybrid’ points-based system combined with work-permits for EU migrants. This may prove to be unsustainable as bottlenecks already exist in the Tier 2 system through which most EU migrants would apply if the
points-based systems. The failure of the cap and the current bottlenecks in the ‘hybrid’ system suggest that points-based systems may be a viable alternative to the current system.

**POINTS-BASED SYSTEMS IN AUSTRALIA AND CANADA**

The two countries with the longest experience with points-based migration systems, and consequently those from which the most valuable lessons can be learned, are Canada and Australia. Canada was the first country to introduce a points-based system in the late 1960s and Australia followed in 1989 (Murray, 2011). These changes occurred in the context of unprecedented global economic activity and advances in communication and transport that drastically increased the scope, intensity, and consequences of migration on receiving countries (Walsh, 2008). In order to compare the two systems and their outcomes, and to draw out lessons for the UK, it is necessary to first summarise the main characteristics of both systems (a full explanation of the points system of Canada can be found in appendix 2 and of Australia in appendix 3 (online)).

In Canada and in Australia, contrarily to the UK, the points-based migration system has been used to deliver permanent residency to successful migrants (Papademetriou & Sumption, 2011). Migrants to the two countries are considered successful if they have a sufficient number of qualifications and experiences from
a list that includes language skills, work experience, education levels, and age (Papademetriou & Sumption, 2011). This system contrasts with employer-led systems, as in the United States, where an employment offer is a pre-requisite for immigration (Papademetriou & Sumption, 2011). While in both cases the fundamental aim of the policy is to serve the interests of the domestic economy, points-based systems are more heavily focussed on the migrant’s ‘inputs’ (Jasso & Rosenzweig, 2008). The Canadian and Australian systems also serve an additional purpose of population management (Walsh, 2008). They developed their points-based systems such that, with the onset of globalisation, migration controls were to be more tightly linked with state-craft and nation-building; they sought to attract high-skilled knowledge workers, entrepreneurs and investors in a shift from their traditional migratory base of industrial workers of European descent (Walsh, 2008). Through this distinct model of immigration policy, Canada and Australia have attempted to manage the composition of their populations and resolve new (and future) fiscal and structural problems (Walsh, 2008; Ongley & Pearson, 1995).

Thus, in both Canada and Australia there are strong economic and societal rationales behind their choice of immigration policy. They aim to improve economic prospects by encouraging the flow of human capital, and to increase the proportion of skilled migrants (Richardson & Lester, 2004). However, there are several differences to be highlighted in their institutional make-up. In Canada, competence for the points-based system is shared between the federal and regional governments while in Australia the system is centralised (Richardson & Lester, 2004). This leads to important divisions in the Canadian system where the recognition of educational qualifications differs between provinces and territories whereas it is common across Australia (Richardson & Lester, 2004). Immigrants to Australia additionally must wait two years for social services that are immediately accessible to migrants to Canada (Richardson & Lester, 2004). Australia also has an upper
age limit on applicants which is not present in Canadian legislation (Richardson & Lester, 2004). Moreover, immigrants to Canada and Australia display different ‘mixes’ of birthplace (see figure 2) (Richardson & Lester, 2004).

The objectives behind the points-based system of Canada and Australia do appear to be remarkably similar to those of the UK. The one key difference is that Canada and Australia, contrarily to the UK, also use immigration to increase their populations and diversity. All three countries seek to harness the migration of high-skilled individuals who are expected to contribute positively to their economies. All three counties have thus designed and implemented an evaluation system that emphasises the labour market skills of immigrants, in an attempt to gauge their potential success. However, the system is relatively new in the UK, only in place since 2008, and targets only a small portion of immigration due to free EU movement. Thus, to evaluate whether an expansion or continuation of the points-based system in the UK would meet its policy objectives it is necessary to look at the experience of Canada and Australia.

**FIGURE 2 - INFLOW OF MIGRANTS BY COUNTRY OF ORIGIN 2015**

Source: OECD
POUNTS-BASED SYSTEMS: POLICY OBJECTIVES VS. OUTCOMES

In order to assess the viability of a potential points-based system for UK immigration policy post-Brexit, it is necessary to assess the relative successes and failures of the Australian and Canadian systems relative to their policy objectives, but also relative to the UK’s policy objectives.

Does it increase migrant skills?

This section begins by looking at the success of such policies in increasing the average skill level of migrants, given that this is a common objective of all three countries (Murray, 2011; Green & Green, 1999; Walsh, 2008). In all three countries, this emphasis on high-skilled immigrants can be seen through the large number of points awarded for high levels of qualification, past business experience and previous earnings. However, the relationship between these points-based systems and the skills of immigrants applying has been called into question.

There is a tension between the labour market conditions of Canada and Australia and the level of skill of the immigrants they attract. Strong labour unions, high minimum wages, national health insurance systems, generous unemployment insurance and welfare systems are expected to attract less-skilled workers to places like Canada and Australia, compared to more ‘liberal’ labour markets such as the United States, in spite of their skills selection criteria (Antecol et al., 2003). There is a possibility that highly-skilled migrants will prefer more volatile labour markets because they offer a higher ‘return-on-investment’ (Antecol et al., 2003). However, census data tends to indicate that Australian and Canadian immigrants do, on average, have higher levels of English fluency, education, and income than immigrants to the US (Antecol et al., 2003). Yet, it is important to recognise that census data
fails to control for external factors such as the higher proportion of migration to the US originating from Latin America (Antecol et al., 2003).

The UK, sharing many labour market characteristics with Canada and Australia (Soede et al., 2004), would also suffer from this paradox in its points-based system. There is a case to be made that while points-based systems measure observable characteristics such as education, they fail to pick up on unobservable traits such as ambition which may lead highly-skilled migrants to self-select into migrating to countries with a higher ‘rate of return’ to immigration such as the United States (Antecol et al., 2003; Kawano, 2006). Nevertheless, research suggests that migrants to countries such as Canada and Australia do in fact have higher levels of education, on average, than the native-born population (Reitz, 2001; Miller, 1999; Jasso & Rosenzweig, 2008). This contradictory finding highlights that other factors are at play beyond the policy design of a points-based immigrant selection system.

Therefore, it is possible that the skills of migrants to Australia and Canada are independent of their points-based selection schemes. Some of the literature argues that immigration policies based on skills are successful because they alter the national mix of migrants such that they come from countries with, on average, higher education levels, rather than because of the skills-selection process itself (Bauer et al., 2000; Borjas, 1993). Nevertheless, such a narrow understanding of migration, independent of external factors, is limited. Rather, the ability to attract the ‘right migrants’ is less about the selection system and more a function of the interplay of larger economic trends, education systems, research funding, recognition of professional qualifications, and other social factors (Doormernik et al., 2009). A further factor that affects immigration ‘mixes’ independently of the skills based system is geographical location, where, for example, high levels of low-skill (often illegal) immigration to the United States is a result of the border between the US and Mexico (Antecol et al., 2003). Canada and Australia
are relatively isolated countries that share few terrestrial borders. Thus, factors independent of policy affect which immigrants can and choose to migrate to these countries. The UK’s proximity to continental Europe, as well as its past relationship with the EU, will affect the skills of those who migrate to the UK independently of policy, thus reducing the utility of a points-based system in migrant selection.

Are migrants successful in their host country?

Closely linked to whether points-based systems increase the average skill-level of applicants is whether these skills are then used effectively in their host countries. This has important implications for how immigration is perceived within countries and is particularly important for the UK where only 35% of the population feels that migrants have a positive impact on the economy (Ipsos, 2016). Admittedly, the figures in Canada and Australia are not much different at 36% and 33% respectively (Ipsos, 2016). However, contrarily to Australia (44%) and Canada (41%), 49% of Britons feel that there is already too much migration to their country (Ipsos, 2016). Therefore, while support for immigration to Canada and Australia has remained high (Ferrer et al., 2014), a full 75% of Britons feel that immigration to their country should be reduced (Park et al., 2012). Having a policy that favours migrants finding jobs quickly may mitigate these figures and is an important consideration in policy design. Data from the OECD suggests that migrants tend to fare better economically (higher employment rate) in countries where they are perceived to have a better impact; however, the causality is difficult to ascertain (OECD/ European Union, 2015, pp. 85, 222). However, it is also worth noting that attitudes towards immigrants became more negative during and immediately after the financial crisis, suggesting that immigration acceptance might be linked to the overall economic situation of the host country.
rather than migrant employment levels (OECD/ European Union, 2015, p. 222).

The expectation with points-based systems is that the selection of migrants based on labour market characteristics will increase the likelihood that they assimilate into domestic labour markets (Bauer et al., 2000). However, the general situation appears to be that there is a mismatch between the skills of migrants and their success once they start competing on the labour market of their host countries (see appendix 1 (online)) (Papademetriou & Sumption, 2011). The disjuncture between the high skill level of immigrants and their labour market success has also been widening over time (Reitz, 2001; Reitz, 2007a). Although this appears to be less immediately relevant for the UK, given that Tier 2 visas require a job offer before a candidate can migrate (Papademetriou & Sumption, 2011), it must not be discounted yet. Given that 59% of British people feel that immigrants put an important strain on public services, making sure that migrants get jobs and are perceived to do so will be an important component of future immigration policy (Ipsos, 2016).

Canada and Australia both show substantial un- and under-employment of immigrants (Papademetriou & Sumption, 2011). If the skills of the migrants entering the labour force are much higher than the requirements for the jobs they eventually find, these skills are being wasted (Reitz, 2001). The mismatch between the skills of immigrants and their success rates in labour markets is often linked to the fact that traditional points-based migration systems have had very little employer input (Papademetriou & Sumption, 2011). This leads to a lower likelihood of agreement between the relevance of the skills identified by the governments running the schemes, and the actual needs of employers as markets and the economy evolve (Baker & Benjamin, 1994). Moreover, the shift to a ‘knowledge-based’ economy that we are witnessing today has increased the importance of human capital credentials that skills-based systems have a harder time identifying (Reitz, 2001; Reitz,
The design of policy in the UK will have to ensure that it is responsive to economic shifts and will have to carefully consider the fact that many UK industries are dependent on middle-skill EU migration (Allan & Smith, 2017).

The inability to match the skills of migrants to adequate jobs, however, varies between Australia and Canada (Richardson & Lester, 2004). Immigrants to Australia have tended to out-perform their counterparts moving to Canada (Reitz, 2007a). As such, there must also be variations between the two points-based systems to explain the different labour market outcome of migrants. Part of this difference is explained by small variations in the policy designs of Canada and Australia, specifically in their different systems for assessing educational credentials. In earlier iterations of its immigration policy, Canada had made the education assessment optional, which may have led less-skilled migrants to enter the market (Richardson & Lester, 2004). However, despite a change in policy, this trend has continued and can still be explained by looking at the effectiveness of education qualification evaluation. In Australia, the evaluation system is highly centralised, while in Canada the task is divided between the federal and federated governments with no uniform recognition system (Richardson & Lester, 2004). This is linked to further issues of recognition of foreign credentials by employers once immigrants are in the country (Reitz, 2001). Employers and universities can only crudely evaluate foreign credentials and are thus reluctant to offer positions that match the actual skill-level of immigrants (Reitz, 2001). The more stringent conditions in Australia compared to Canada mean that better credential recognition leads to better labour market assimilation (Richardson & Lester, 2004). This has implications for policy design in the UK and will pose important questions about the potential devolution of migration policy and credential recognition to the Scottish, Welsh and Northern Irish governments.
Relatedly, there is often an additional mismatch between where immigrants choose to settle and where their skills are actually needed. In Canada in particular, there has been a significant shift in policy with the intention of a better response to short-term regional labour market shortages and shifting immigration away from the three largest cities (Ferrer et al., 2014). Despite the fact that 60% of migrants to Canada are still processed through the points-based system, competing policy objectives have signalled an increased importance in non-points-based components (Ferrer et al., 2014). There has been a move towards local programs that are developed in partnership with, or exclusively by, the provinces and an increased use of temporary foreign workers with arranged jobs through programs such as the ‘Provincial Nominee Program’ or the ‘Temporary Foreign Worker Program’ (Ferrer et al., 2014). There was a necessary re-balancing between the short-term needs of the Canadian economy and the long-term nature of a points-based policy (Ferrer et al., 2014). This fact is of particular significance to the UK, given that the potential economic decline following Brexit may reduce migration numbers even as the service sector of the economy continues to be reliant on foreign workers (Vargas-Silva, 2016; Allan & Smith, 2017). However, it is also important to recognise that, as evidenced by the crisis in 2008, economic downturn does not necessarily have a significant effect on flows of migration to the UK (Somerville et al., 2009). Econometric analysis shows that policy design has a much more substantial impact (Somerville et al., 2009).

A third factor is that the different countries attract different national-mixes of migrants. Migrants to Australia have tended to have better language skills than their Canadian counterparts simply due to the country from which they migrated (see figure 2) (Richardson & Lester, 2004). Australia has tended to attract higher levels of English speakers than Canada (Richardson & Lester, 2004). This will be a particularly important consideration in policy
design given that the UK attracts many migrants with relatively low English language skills (see figure 3). The assimilation of these migrants might prove an additional challenge to the UK that neither Australia or Canada have had to face.

**FIGURE 3 - INFLOW OF MIGRANTS BY COUNTRY OF ORIGIN, 2015**

Source: OECD

Lastly, the success of migrants within points-based systems is linked to social attitudes towards migration in host countries. The inflow mix of migrants is made all the more important given that they may reflect whether immigrants are a ‘visible’ minority or not (Baker & Benjamin, 1994). The ethnic, racial, or national origins of immigrants increase or decrease the probability of discrimination and ability to assimilate into the labour market (Reitz, 2007). Therefore, shifts in the countries of origin of immigrants to new regions have important implications not only for the skill of immigrants, but for discrimination independently of these skills (Reitz, 2007). Given that the UK will essentially have to regulate an entire class of migrants that was previously allowed free movement, there may be an important shift in the national mix of migrants.
post-Brexit that will impact immigration perception and migrant success, regardless of policy choice.

POLICY RECOMMENDATIONS

The analysis in this paper suggests that while points-based systems have had moderate success in increasing the average skill-level of migrants, this is not only a result independent of policy design, but the policy also does not guarantee labour market success (see amongst others cited in this paper, Green & Green, 1995). This result suggests that a pure points-based immigration system would not meet many of the objectives of UK immigration policy. There is no guarantee it will attract high-skilled migrants and that they will thrive within the British economy. Moreover, given that Canada and Australia have significant incoming flows of family-reunifications from migrants that initially came in through the points-based system (Kawano, 2006), there is little evidence to show it would be a good mechanism for reducing migrant numbers (Ongley & Pearson, 1995; Richardson & Lester, 2004). Lastly, the decision made by Canada and Australia was also affected by factors that do not apply in the British context, such as a desire to increase population size, either to control variations in the labour market for Canada, or to allay concerns over military security in the case of Australia (Ongley & Pearson, 1995; Walsh, 2008). Both countries, moreover, have lower population growth rates than the UK, making immigration an important societal factor that would be counter-productive in Britain (Kawano, 2006). Given the inadequacy of the current system as explained in the first section, and the unsuitability of a pure-points-based system, there are two options open to the UK post-Brexit: a capped work-permit system or an alteration of the current hybrid system.
Work Permits with Strict Caps

The most likely policy solution to be endorsed by PM May is to reform the migration system towards a strict, capped, work-permit system that is dominantly employer-led (Parker & Warrell, 2017). Such a system has been advocated by Conservative leaders such as Lord Hague because of its simplicity – offering work permits to all EU migrants with a job offer in the UK while restricting access to welfare and other social benefits (Parker, 2017). Other proposals take into account the uneven economic output and labour market demand of the UK, with most jobs and migrants concentrated in London (Nomis, 2011; PwC, 2016). This type of solution holds the key advantage that it allows employers to directly select the migrants they need, addressing the issue of success in the labour market before it even arises (Papademetriou & Sumption, 2011). This type of capped system with a regional element ensures that employers get access to the skills they need (Sumption, 2017). Research shows that immigrants who are selected by employers tend to fare better, and even the Canadian and Australian systems grant points for existing job offers to reflect this (Papademetriou & Sumption, 2011). Furthermore, setting a cap is a clear government commitment to reduce migration, which addresses a political issue determinant to the outcome of the Brexit referendum (Sumption, 2017). The current capped system does also have the added advantage that it has reduced numbers of migrants from non-EEA countries, albeit only a small amount (Salt & Dobson, 2013).

However, this sort of capped system also suffers from many drawbacks. Firstly, policy does not evolve in a vacuum and setting strict caps to limit migration, while it may limit the number of workers seeking to enter the UK, fails to address other issues such as the dependence of certain sectors of the economy on low skill EU migrants (Bauer et al., 2000). Secondly, a strict cap system that is reliant on employer selection fails to address the issue of the uti-
lisation and integration of migrants entering the country, which is one of the UK’s objectives. There are concerns that such a scheme could be manipulated by employers to access cheaper, rather than more qualified, workers (Papademetriou & Sumption, 2011). Furthermore, this reliance on employer-selection implies potential manipulation and reduced flexibility in responding to changing economic conditions (Papademetriou & Sumption, 2011). Access to cheap labour can also be damaging for the domestic workforce, as there is little incentive to train local workers if cheaper labour is available, directly contradicting another aim of UK policy (Papademetriou & Sumption, 2011). Thirdly, giving so much power to employers can be potentially dangerous, as policy becomes the result of organised interests pushing for special exemptions rather than a systematic consideration of evidence and government policy priorities (Sumption, 2017). Evidence from systems that give employers a stronger voice has, moreover, been linked to increases in illegal immigration due to poor working conditions for migrants unable to legally change jobs (Basok, 2000). It is highly revealing that as early as 2008 the UK wanted to limit employer input into migration policy design (Economic Affairs Committee, 2008). Lastly, the cap system is also politically difficult to justify and manage. Tough decisions about who to include and exclude are politically unsavoury, especially when they concern large groups such as students (Allan & Smith, 2017). There is a real danger of politicisation and short-term interventionism in such a quota system (Allan & Smith, 2017). Overall, a hard cap is also almost impossible to calculate accurately, and adaptation is slow and limited in scope, which would be very damaging to the UK economy (Murray, 2011). Therefore, this leaves one ideal policy solution for legal migration to the UK post-Brexit.
Modification of the ‘Hybrid’ System

The best solution for UK immigration policy after Brexit is to modify the current ‘hybrid’ system by addressing its failures, and to incorporate the advantages of an employer-led system as outlined above. Firstly, the points-based system is a more powerful signalling tool for government control than a cap system. Points-based systems do a good job at conveying the impression to the public that the government is in control (Papademetriou & Sumption, 2011). At the same time, they ensure a greater degree of flexibility to changing economic conditions than a simple quota system (Papademetriou & Sumption, 2011). Flexibility is even increased compared to pure points-based systems, as the inclusion of employer-selection criteria (such as points for a job offer) ensures better responses to the needs of the market and better utilisation of migrants (Papademetriou & Sumption, 2011; Murray, 2011). The system thus maintains a lot of flexibility, allowing migrants to move between employers whilst prioritising benefits to the UK economy (Papademetriou & Sumption, 2011). Given the salience of the migration issue in the Brexit debate, it is also important to acknowledge that natives in countries with points-based systems are more likely to see immigrants as a benefit to the economy (Bauer et al., 2000). Given that the popularity of the UK government will depend on its ability to restrict and control migration as well as to ensure economic success, factors such as this are non-negligible.

Secondly, points-based systems benefit from clear rules that are easily enforceable and above government manipulation (Papademetriou & Sumption, 2011; Murray, 2011). Moreover, contrarily to PM May’s assertions, they can be efficiently combined with a ‘cap-and-queue’ system as trialled in Australia (Government of Australia, 2017), where successful applicants beyond the cap are placed on waiting lists for acceptance once the scheme re-opens a year later, ensuring both control and fairness (Papademetriou &
Sumption, 2011). This does, however, entail an important review of the current Tier 2 system that is already suffering from blockages. At the same time, only 18% of the EU migrants working in the UK meet the requirements for Tier 2 Visas, with a very high threshold set at £35,000 annual salary in order to be allowed to remain (Vargas-Silva, 2016). Given the dependence of certain sectors on European staff, the criterion should either be lowered in order to facilitate entry of migrants, which may prove unpopular because of the increase in numbers, or alternatively to alter the existing Shortage Occupation List. Rather than abolish the list, as advocated by Murray (2011), an adaptive list such as that of the Australian government could grant extra points to applicants with in-demand skills. Canada’s Resident Labour Market Impact Assessment would also be effective. This would prioritise both certain sectors but also certain regions of the UK while reducing the current UK dependence on middle-skilled EU migration (Sumption, 2017).

Again, a system where points are awarded for migrants moving to areas of labour shortage is a useful combination of the benefits of the points-based system and of a simple quota system (Allan & Smith, 2017). This accords well with the current system, where, unlike in Australia and Canada, the fact that Tier 1 and Tier 2 visas are temporary may make the waiting list system more viable in the UK. This is due to a natural turn-over of migrants over time, as some chose to leave the UK when their visas expire and there is a high threshold for ‘leave to remain’.

Admittedly, there is trade-off between the ability to tailor to nuanced policy goals and a simple, transparent system with more uniform rules that can be more easily managed (Sumption, 2017). However, even in this case the benefits outweigh the costs. Changing the entire system to a work permit or regional visa system would imply huge administrative costs to firms and government, without guaranteeing a reduction in numbers (Migration Watch UK, 2017). Therefore, even though regulation may be more bur-
densome, the familiarity of employers with the current administrative system outweighs those costs. Moreover, a ‘hybrid’ policy system can respond better to the needs of integration and is easier to evaluate based on evidence (Papademetriou & Sumption, 2011). A ‘hybrid’ points-based system is not perfect, but given the UK’s policy objectives and the lessons learned from Canada and Australia, it is the most efficient migration system to respond to those objectives post-Brexit. Of course, a more complete picture that factors in family reunification, asylum policy, and other non-economic migration will also be needed, but given that most EU migration to the UK is for work, the policy proposed above addresses the most pressing issue.

REFERENCES


Cockburn, H., 2016. EU Referendum: Boris and Gove promise tough Australian-Style immigration points system after Brexit. The Independent, 1 June.


Vargas-Silva, C., 2016. EU Migration to and from the UK After Brexit. Intereconomics, 51(5), pp. 251-255.
APPENDICES

APPENDIX 1. BRITISH ECONOMIC MIGRATION POLICY

The information in Tier 1 and Tier 2 visas is reproduced by the author from data available at: https://www.gov.uk/government/collections/working-in-the-uk-modernised-guidance


APPENDIX 2. CANADIAN ECONOMIC MIGRATION POLICY

The information about the Canadian points-based system is reproduced by the author below from the information available at: http://www.cic.gc.ca/english/immigrate/skilled/apply-factors.asp


APPENDIX 3. AUSTRALIAN ECONOMIC MIGRATION POLICY

The information about the Australian points-based system is reproduced by the author below from the information available at: https://www.border.gov.au/Trav/Visa-1/189-#

In addition to the points requirements, immigrants to Australia must also be applying for a job that is on Skilled Occupations List available at: https://www.border.gov.au/Trav/Work/Work/Skills-assessment-and-assessing-authorities/skilled-occupations-lists/SOL
China and Africa

Myths and realities

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ABSTRACT

China’s newfound economic and political ascendancy has attracted considerable attention across governmental, media, and academic channels. This paper seeks to challenge the prevailing narrative of Sino-African relations in the wake of China’s rise, using a juxtaposition of Western and Chinese ideologies to evaluate three key debates related to China’s involvement in Africa. Its emerging global presence along with rapidly expanding political and economic influence has captured the world’s attention. The most prominent example of this preoccupation is how the West has responded to China’s elevated status in the developing world. Beijing’s pivot to Africa has generated a narrative supporting Western prejudices and concerns about shifting hegemony and power. The main casualty of this speculative fog has been the authentic and genuine representation of facts. Unsubstantiated rumours and political assumptions have been employed as a common currency among often-uninformed policymakers to the detriment of objectivity. Section one of the paper addresses the hypothesis that China’s unprecedented economic rise has prompted Beijing to fuel its mushrooming economy through exploitation of Africa’s resources. Section two examines the hypothesis that China predatorily targets countries where political instability and weak law enforcement enable easy access to natural resources. Section three challenges the notion that China’s enhanced commercial presence in Africa is actually a strategic move to colonise territory. Each hypothesis is outlined according to the literature, empirically tested according to the facts, and contextually synthesised according to the data. Ultimately, the essay concludes that none of the three hypotheses withstand rigorous analysis and can therefore be collectively rejected.
INTRODUCTION

The rise of China has attracted considerable attention among politicians, journalists, and within academic circles. With a growing global presence and a rapidly expanding political and economic influence, China’s emergence has captivated the world. These trends have raised a number of questions in the realm of diplomacy and international affairs (Kristof, 1993). Chief among these concerns is how the increasing salience of China can be reconciled with existing narratives of Western leadership and dominance (Jespersen, 1996). Depictions of China as Red Dragon or Yellow Peril have dominated the literature and henceforth propelled a binary image of a country that is customarily treated as unique (Cumings, 2009). The most prominent example of Western fixation upon the rise of China is how policymakers have approached the debate of China’s elevated status in the developing world. In particular, Beijing’s pivot to Africa has generated a variety of hubristic tropes, wherein Western policymakers seem to agree that the tale of China’s involvement in Africa is a story of oppression—invoking images of predator and prey. This representation of Chinese dominance and African submission has permeated the discourse, obscuring the true nature of Sino-African affairs. To the detriment of objectivity, unsubstantiated claims of conquest and victimisation have become the common currency of uninformed policymakers. The main casualty of this speculative fog has been the authentic and genuine representation of facts. To analyse the nature of China’s involvement in Africa, one must foremost dissect subjective interpretations, myths, and metaphors that dominate current media narratives. The purpose of this piece is to examine the validity of Sino-African discourses perpetrated by the West, through a more cautious lens that values empirical data over ill-founded rhetoric.
Outline

In light of the ongoing preoccupation with notions of contemporary Chinese “colonisation”, this paper seeks to challenge the prevailing narrative on Sino-African relations in the wake of China’s rise, through the juxtaposition of Western and Chinese viewpoints. In turn, the paper will evaluate three key debates on Chinese involvement in Africa, and divide this analysis into three main empirical parts. The first section addresses the hypothesis that China’s stellar economic performance has prompted the Asian giant to fuel its mushrooming economy through exploitation of Africa’s sub-terranean riches. Section two scrutinises the hypothesis that the People’s Republic of China (PRC) explicitly targets countries where political instability and weak rule of law enables easy access to natural resources. Finally, the third part analyses the abstraction that China’s enhanced presence in Africa represents a strategic move to politically subjugate people and land colonially. Each hypothesis will be outlined according to the literature, empirically tested according to the facts, and synthesised according to the data. Ultimately, this paper concludes that none of the three hypotheses withstand ample scrutiny, and therefore can be collectively rejected.

DEFINITIONS AND LIMITATIONS

Comparing Western and Chinese influences in Africa is a particularly taxing endeavour and requires the careful application of meaningful indicators and a thorough understanding of scholastic limitations. The variables that customarily serve as indicators of bilateral and multilateral relations, foreign direct investment (FDI) and official development assistance (ODA), ought to be defined to ensure analytical rigour. Primarily, FDI will generally be understood as greenfield investment¹ and brownfield investment.² Generally, greenfield serves as a more appropriate

¹ The development of new production facilities.
² The acquisition of existing production facilities.
parameter to measure FDI accounts for land grabbing and emphasises the actual acquisition of land.

In contrast, China’s aid flows are difficult to trace and frequently form part of a comprehensive development package comprised of several deals. Various Chinese banking institutions—foremost among them China’s Export-Import Bank (EXIM) and the China Development Bank (CDB)—advance loans and grants to projects as diverse as football stadiums, oil refineries, water sanitation or humanitarian emergency relief (Alden et al. 2008; Bräutigam, 2009; Ali and Jafrani, 2012). Although this spectrum is not novel to the ODA industry and resembles Western patterns of aid, few details about the distribution and conditionality of zero-interest and concessional loans have painted an elusive picture of Chinese ODA (Alden et al., 2008; Bräutigam, 2015). Although care has been taken to consult respective exchequers’ databases—as well as relevant data from the African Development Bank (AfDB), the Organisation for Economic Cooperation and Development (OECD) and the United Nations Development Programme (UNDP)—ODA comparisons between Western and Chinese donors must be analysed with a grain of salt. Furthermore, in accordance with Chen et al. (2015), good governance is herein understood as a combination of political stability and the rule of law.

HISTORY OF SINO-AFRICAN RELATIONS

The majority of recent literature on China and Africa posits that contemporary Sino-African relations are the product of China’s economic upswing in the final decades of the 20th century. Pressing topical issues, such as enhanced resource extraction and accusations of expansionism, have enabled scholars and journalists to disregard a long history of Chinese involvement in Africa, and myopically focus on the recent period of Sino-African involvement (Mawdsley, 2008). However, rela-
tions between Africa and the PRC date as far back as the 1955 Asian-Africa Conference. Interestingly, these ties are almost as old as the PRC, and have been marked by recurring and mutually beneficial partnerships (Naidu and Mbazima, 2008; Lee, 2014; Song, 2015).

“The Asian-African Conference was a seminal event in Si-no-African history, for it was [...] in 1955 that Communist China first made its tentative links with the African continent” (Taylor, 2006: 19-20). In 1955, decades before China turned into an economic juggernaut, both China and Africa set the stage for a longer term diplomatic relationship, grounded in mutual economic interest. Subsequent to establishing trade agreements with North African states, particularly Egypt and Morocco, Sino-African diplomacy expanded rapidly throughout the continent (Mawdsley, 2008). The PRC became more involved in Africa and supported a number of liberation movements. During Premier Zhou Enlai’s African Tour (1963-64), the majority of independent African governments entered not only into diplomatic relations with the PRC, but also into ideological partnerships (Taylor, 2006; Mawdsley, 2008). Therefore, long before bilateral economic interests emerged, the developing nations were defined by a high level of ideological proximity due to a joint struggle for economic and political independence. In the face of Western reluctance to support development efforts in independent nations, China chose to finance the critical Tan-Zam Railway (despite its own economic underdevelopment). This project provided the nascent economies of Tanzania and Zambia with a cardinal artery to the Indian Ocean and thus a crucial stream of export-linked income. To this day, the construction of the Tan-Zam Railway remains China’s biggest infrastructural investment in Africa. Beijing’s support for newly independent nations has set an important precedent of third world solidarity for an entire developing continent (Song, 2015).
The 1970s and 1980s, in turn, saw African reciprocation of China’s diplomatic and developmental support in the previous decades (Alden, 2007). Against the backdrop of the Cold War, the PRC was cast as an alternate political ally with an articulated stance against Western imperialism, during a period of forced regional alignment with Soviet and US political regimes. In 1971, amid its strategic dispute with Taiwan, the PRC won a seat in the United Nations with the vital support of African nations. In Taylor’s words: “China was now ranging the entire world against the two Superpowers” and “encouraged links between the developing nations and the industrialised world” (2006: 41). Beijing’s centrality as a counterbalance to the Superpowers thereby elevated both PRC’s role within Africa and Africa’s status as a non-aligned agent in a highly-charged political landscape (Large, 2008a).

In contrast, the recent period of Sino-African relations has witnessed a notable surge in establishing vigorous economic ties to underlie pre-existing ideological affiliations. Deng Xiaoping’s market reforms (1978-1989) transformed China into an economic giant, inspiring Beijing to expand its financial involvement in many emerging economies throughout Africa. Bilateral trade flows act as an apt proxy to illustrate this increased economic investment. In the 1990s, two-way trade grew by 700 per cent, settling at 10 billion USD in 2000. This figure rose five-fold over subsequent years, reaching over 50 billion USD in 2006 (Alden, 2007; Raine, 2009). In 2014, Sino-African trade amounted to well above 220 billion USD, making China Africa’s single largest trading partner (Patey and Chun, 2014).

In sum, China and Africa are connected by a modern history of ideological partnership and diplomatic reciprocity. Although most narratives emphasise the importance of the period starting in the 1970s (Alden et al., 2008), the preceding decades of shared ideological alignment laid the groundwork
EMPIRICAL ANALYSIS

Hypothesis one: Beijing is only interested in Africa’s natural resources in order to sustain the PRC’s economic growth.

With the stated objective of absolute economic development under the auspices of Deng Xiaoping, the PRC has become a net importer of basic resources (Mawdsley, 2008). China’s unprecedented economic growth has fuelled the notion that “[…] China is engaged in a short-term ‘resource grab’ which, […] takes little account of local needs and concerns” (Alden, 2007:5). Namely, this hypothesis contends that the PRC’s funds are ineluctably invested in natural resource extraction, while the secondary and tertiary sectors remain largely ignored (Naidu and Davies, 2006; Alden, 2007; Alden et al., 2008; Economy and Levi, 2014). This is a false assumption due to the overarching body of empirical evidence which states that the bulk of China’s investment projects are in the manufacturing and service industries.

To illustrate, Chen et al.’s 2015 study finds that the bulk of Chinese FDI deals are unrelated to the extraction of natural resources. Instead, the study suggests that approximately 20 per cent of the projects are invested in the primary sector, while another 20 are accounted for by secondary sector investments. The remaining portion, a thumping 60 per cent, flows into the tertiary sector, financing such activities as banking and insurance services, as well as wholesale retailing (Sy et al., 2014; Chen et al., 2015). In contrast, United States investment in the primary sector stands at well above 60 per cent, while the remaining portion is distributed across manufacturing and services industries (So, 2016).
The primary recipients of Chinese FDI are resource-rich countries, as is the case with major US and EU-led investment schemes (Sy, 2014; Dollar, 2016). China’s focus on service industries remains nonetheless true, regardless of a country’s resource wealth. An analytical distinction between investment in (1) oil-rich countries, (2) non-oil resource rich economies, and (3) resource-poor nations, substantiates this trend (Chen et al., 2015).

Although oil-rich Nigeria has become China’s biggest recipient of FDI, almost two thirds of FDI projects in Nigeria go into the service industry, while scarcely a fifth of projects capitalise on the extraction of natural resources. Similarly, oil-exporting Egypt’s share of FDI projects in the primary sector stands at well below 5 per cent. Similar trends of low investment in the primary sector are observed in Angola and Sudan (Chen et al., 2015).

This pattern can be explained across all oil exporting countries by two phenomena. First, oil extraction increases demand for transportation, manufacturing and security, as part of the value chain (Dollar, 2016). Second, external to the value chain, the

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**Figure 1.** Chinese and U.S. FDI distribution across sectors (in per cent)

amalgamation of people around industrial hubs contributes to the growth of textile, consumer, and household goods sectors, which draw on Chinese firms and entrepreneurs (Zafar, 2007).

**Figure 2.** Chinese FDI distribution across sectors in top 4 oil-rich economies (in number of FDI projects)

![Figure 2](image)

**Figure 3.** Chinese FDI distribution across sectors in top 4 non-oil resource intensive economies (in number of projects)

![Figure 3](image)

While the breakdown of sectoral investment varies across states, the existing trends suggest that China possesses an underlying interest in financing secondary and tertiary enterprises. South Africa, Zambia, the DRC and Ghana supply the largest share of mineral resources to the PRC. South Africa’s globally most-sought-after exports are gold, platinum and uranium (Taylor, 2006; Shelton, 2008). Zambia’s and the DRC’s copper endowments are invaluable to China’s manufacturing industry (Lee, 2014) and Ghana provides China with an exceptional supply of timber (Loxley, 1990). South Africa’s diversified economy has attracted investment from a wide array of high-technology businesses and financial institutions (Sy, 2014). Consequently, besides large investments in the manufacturing sector, only 10 per cent of Sino-South African FDI projects are implemented within the raw materials industry (Chen et al., 2015). Even in Zambia, where China maintains its largest share of primary sector ventures, the underlying trend clearly indicates commitment to financing sec-

**Figure 4.** Chinese FDI distribution across sectors in top 4 resource poor economies (in number of projects)

ondary and tertiary investments (Lee, 2014). This sectoral commitment is further substantiated by the distribution of projects in the DRC and Ghana, where less than one in five projects extracts natural resources (Dollar, 2016). Again, this trend can be attributed to spill over effects from resource extraction and private consumption (Zafar, 2007; Dollar, 2016).

This pattern of investment in secondary and tertiary sectors equally holds in resource-poor economies. For instance, despite Ethiopia’s scarce endowment factors, Ethiopia is amongst China’s top five FDI partners. Moreover, other East African economies, such as resource-poor Kenya, Uganda, and Mauritius rank amongst the PRC’s pivotal FDI partners in the service and manufacturing sector. This can largely be credited to East Africa’s need for infrastructural investment, comparatively diversified economies, and geographic proximity to China (Chen et al., 2015).

Overall, these trends warrant rejection of the hypothesis that Chinese engagement in Africa is exclusively substantiated by China’s own economic incentives. While it is true that Chinese and Western investors alike channel the majority of their FDI projects to countries that possess natural resources, a sector-specific analysis reveals that Chinese investors, unlike Western investors, foremost emphasise investment in manufacturing and the services sector. This pattern holds for all three categories of aforementioned aid recipients: (1) oil rich nations, (2) non-oil resource rich states, and (3) resource-poor economies.

**Hypothesis two: On the quest for accessible resources, China explicitly targets countries with poor governance**

Beijing’s foreign policy involvement in Africa—founded upon the principle of non-interference in the political affairs of sovereign states—has spurred widespread criticism (Carmody and Owusu, 2007; Kachiga, 2013; Taylor and Williams, 2014).
The policy allows the PRC to conduct business with whomever, regardless of a state’s regime type, rule of law, or political landscape (Taylor, 2006). In contrast, the West has adopted a self-proclaimed ethic that purports to spread democracy across the developing world and officially refrains from conducting business in weak governance environments (Dollar, 2016). This ideological chasm, between China and the West, has furthered the narrative that Beijing deliberately invests in weak governance environments (Wood, 2004; Mailer, 2005; Large 2008b; French 2014). In a 2012 speech responding to China’s growing involvement in Africa, former U.S. Secretary of State Hillary Clinton stated that “America will stand up for democracy and universal human rights even when it might be easier to look the other way and keep the resources flowing” (cited in French, 2014).

In the eyes of many Western leaders, China’s support of poorly governed states in the form of FDI and ODA remains a contentious issue. Investments in countries like Zimbabwe, Sudan, and Egypt—all of which rank in the bottom third of

**Figure 5. 2014 Chinese and Total FDI Stock by Governance Environment (in per cent)**
the rule of law index (Agrast et al., 2016)—have fuelled disapproval from critics of China’s non-interference policy (MOFCOM, 2014; Dollar, 2016). However, according to Chen et al.’s 2015 study on aggregate China’s FDI and measures of national governance are positively correlated. While the study found clear correlation between Chinese FDI and the rule of law, it established a strong positive link between Chinese investment and political stability (Chen et al., 2015). This is due to the fact that the majority of Chinese FDI enters markets, such as South Africa, Ghana or Botswana, all of which score higher, in terms of rule of law and political stability, than most Western countries (MOFCOM, 2014; Agrast et al., 2016). In fact, by investing in secondary and tertiary sectors, Chinese financing has arguably hedged the risks of volatile commodity markets and consequently encouraged political stability in some countries (Lee, 2014). This trend emerges upon the division of African countries into three main analytical categories—top, middle, and bottom—according to their listings in the rule of law index. Figure 5 indicates that the Chinese presence in poor governance environments is in no way unique when considering the international landscape more broadly. Although China holds slightly more stock in the bottom third countries, the West (among other investors) is present as well. Despite this fact, China and the West both tend to invest in economies that are legally and politically predictable, producing a climate that is conducive to economic success (Dollar, 2016).

To illustrate this point, I analyse the outliers of Chen et al.’s 2015 study and discuss them in the context of the 2016 rule of law index rankings. Within the 2016 ratings, Egypt remains the lowest ranked African country. After the 2013 coup d’État, Egypt spiralled towards authoritarianism, which in turn led to a devastating decline in governance indicators; in particular political stability and the rule of law (Belhadj and Sun,
Consequently, out of the 113 assessed countries, Egypt is ranked 110th (Agrast et al., 2016). In alignment with Western foreign policy agreements to promote democracy via punishment of autocratic regimes, policy experts expected decreasing FDI flows to Egypt (Belhadj and Sun, 2016). On the contrary, however, Western FDI has not only increased cumulatively but also on a year-to-year basis (MOFE, 2016). While Chinese FDI stagnated during this period (MOFCOM, 2014), in recent years Western investment—particularly from the United Kingdom and the U.S.—has risen substantially (MOFE, 2016).

To reiterate, ranking African FDI recipients according to the quality of their governance provides a clearer picture of FDI to Africa overall. Analysing global governance indices with national budget data included suggests that both the PRC’s and Western companies invest the bulk of their funds in environments that are conducive to high returns on investment. Similarly, both Beijing and Western governments largely ignore governance indicators whenever it is economical and politically opportune to “keep the resources flowing” (Clinton, cited in French, 2014).

**Hypothesis three: China’s increased presence in Africa constitutes an attempt to colonise parts of Africa**

China’s economic interests within the African context have galvanised the hypothesis that China’s increased presence is tantamount to a colonising mission (Alden, 2007; Jauch, 2008; Quinn, 2011; Sanusi, 2013; Economy and Levi, 2014; French, 2014). The argument relies on two main claims. On the macro level, it suggests that China ventures to overwhelm and charm African governments by ensuring a continuous flow of FDI and ODA (Bräutigam, 2009). Secondly, it portrays China as an in-
herently state-led entity, with domineering political motivations that overpower other economic incentives (Ribeiro, 2010). This dual claim has lent itself to the dual visualisation of China of as an expansionist giant, and Africa its powerless victim. I argue that such claims are contentious and advance a number of scholastic misinterpretations.

It is true that in recent decades the world has witnessed a surge in Sino-African trade, ODA and FDI. A comparison of countries investing in Africa challenges the notion that China’s presence in Africa forms part of an ulterior stratagem to colonise territory. In 2015 alone, Chinese FDI to Africa accounted for a meagre 3 per cent of the total greenfield flow to Africa (AfDB/OECD/UNDP 2016). Other investors, including bigger EU economics and former colonial powers, were thus responsible for 97 per cent of total greenfield flow to the continent. In
2015, the EU’s contribution of greenfield to Africa rose to 38 per cent, followed by the US which contributed just below 10 per cent (AfDB/OECD/UNDP, 2016). Furthermore, according to multiple studies that include tallies of brownfield investment (Lee, 2014; Sy et al., 2014), the Atlantic powers account for well above 85 per cent of Africa’s FDI stock. Interestingly, even contenders from the developing world have outspent Chinese investment. In 2014, Indian (5 per cent) and South African investment (9 per cent) managed to outpace Chinese investment, with South African FDI three times higher than Chinese FDI (Sy et al., 2014; AfDB/OECD/UNDP, 2016; Dollar, 2016).

This trend seems to hold in the parallel case of ODA (Bräutigam, 2015). As in the case of foreign investment, China remains a marginal development partner to the African continent. In 2014, China’s official aid to Africa stood at 3.3 billion USD, slightly outspending Germany (3 billion USD) and France (2.9 billion USD). The biggest donors, the UK and the U.S., have
continued to up the ante year after year. In 2014, the US spent 9.3 billion USD on ODA and the UK spent 4.3 billion USD. Major multilateral donors have increased spending as well. In 2014, EU institutions funded numerous development, infrastructure and humanitarian programmes worth 6.7 billion USD, and the International Development Association (IDA)\(^6\), a subsidiary of the World Bank Group, granted African governments loans worth 6.4 billion USD (AfDB/OECD/UNDP, 2016).

Broadly speaking, firms that have entered African markets can be divided into state owned enterprises (SOEs) and privately owned enterprises. Most of those who accuse Chinese firms of colonialist tendencies focus on the former category (Dollar, 2016). By definition, SOEs are operated by the state and under direct supervision of the State Council (Lee, 2014). Nonetheless, despite the high degree of control governments have over firms, they are constrained by agreements (such as the Sustainable Development Goals), and regulations (such as the incorporation and training of local labour as well as technology transfers). Pressure from shareholders hinders publicly-listed companies in the West, prompting them to promote economic stability and invest in regional employment (Chintu and Williamson, 2013). Moreover, competition among SOEs, and between SOEs and privately-held corporations exists (Lin et al., 1998). According to Lee (2014), Chinese state capital is responsible for roughly half of Chinese FDI in Africa. The remaining half demonstrates that Chinese investment in Africa is not limited to public investment and government-to-government contracts. On the contrary, Gu (2009) argues that untapped market potential, local entrepreneurial spirit, and economic growth, create “pull factors” that attract small and medium sized Chinese firms. These pull factors operate in parallel to spill over demand generated as a result of SOE investment in the transportation and manufacturing sectors. In 2013, hundreds of SOEs competed

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6. The PRC is a member of the International Development Association (IDA)
against each other and 2,400 privately held corporations in the contest for market shares across the continent (Bräutigam and Zhang, 2013; Lee, 2014). Among the businesses that have entered African markets, SOEs and private firms alike, have sought regional expertise and established joint ventures with African partners. In fact, Sino-African joint ventures have become the most common methods used to penetrate African markets (Taylor and Williams, 2004; Mawdsley, 2008).

China remains a marginal player in Africa despite the rate at which China’s economic influence on the continent has continued to grow. On the micro level, both SOEs and private enterprises operate in direct competition—engaging in a rivalry created by economic pull factors and spillover effect.

Claims that China is planning to colonise Africa are spurious and overblown. In particular, the hallmarks of colonialism—the ideology of a ‘civilising mission’, the accompanying territorial imperative and forging of exclusionary trade relations—are distinctly lacking in China’s Africa policy (Alden, 2007: 27).

In light of this, the hypothesis of a newly emergent colonialism in Africa should be rejected. Representation of China as a colonising entity not only misinterprets existing data, but also ignores the role of private companies within the African economic context.

CONCLUSION

Using contemporary data from national treasuries, the AfDB, the OECD and the UNDP, this paper has empirically tested and discredited three influential interpretations of Sino-African relations. Primarily, while the U.S. invests the bulk of its FDI stock in
the primary sector, China’s focus in Africa is in the tertiary sector. Such is true for oil-rich countries, non-oil-rich resource intense countries, and resource-poor economies alike.

Secondly, accusations that China deliberately targets politically volatile countries to ease access to natural resources do not hold. Data has shown that (comparable to the general influx of funds to Africa) Chinese money is invested in good governance environments that generally apply the rule of law and ensure political stability. Instead, the brief Egyptian case study proves that Western governments do not abide by pledges to withdraw support from oppressive regimes. Thus the West does not possess sufficient grounds to blame China for unethical conduct.

Thirdly, this paper argues that China is not colonising Africa. Although there can be no doubt that the Chinese state is an influential stakeholder in African development via the presence of SOEs, a greater number of private enterprises and joint ventures cloud that influence. Ultimately, China remains a marginal player in Africa and accounts for a minimal share of FDI and ODA relative to other nations. Discussions of contemporary Sino-African relations are often rooted in three influential hypotheses, many of which have found popular support in the literature and none of which hold up to empirical scrutiny. Undoubtedly, the rise of China will continue to propagate many assumptions including those hypotheses outlined above. This essay has therefore sought to evaluate the nature of China’s involvement in Africa and provide a nuanced analysis of Sino-African linkages in an oeuvre that press, academia and politics alike cannot afford to ignore.
REFERENCES


ings.edu/blog/africa-in-focus/2014/07/11/the-u-s-africa-leaders-summit-a-focus-on-
foreign-direct-investment/#ftnt1.

the continent, New York: Routledge.

African Affairs, 103(413), 547-568.

roeconomic, Trade, Investment, and Aid Links’, The World Bank Research Observer,
22, 103-130.
From coexistence to social interaction

Using public squares for refugee integration in Berlin

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This report analyses how public squares in residential urban areas can be used for the integration of refugees and gives recommendations to policymakers on that matter. It does so in the context of the current ‘refugee crisis’, with a focus on Breslauer Platz in Berlin. The promotion of positive social interaction between refugees and the local population in their arrival country is considered a crucial factor for the successful integration of refugees. Public squares offer a great opportunity to increase social interaction and community cohesion.
INTRODUCTION

“Public spaces are the ‘glue’ that holds society together, the places where we meet different people, share experiences, and learn to trust one another” (Holland, Clark, Katz & Peace, 2007:45)

Every year, the Society for the German Language (GfdS) publishes the ‘word of the year’: one which has most shaped public discourse in Germany. In 2015, the chosen word was ‘refugee’ In 2015 alone, nearly 900,000 refugees arrived in Germany. It was also the year when German chancellor Angela Merkel said “Wir schaffen das!” - We can do this! (Council of Europe, 2015) uniting Germans with a positive message for the new challenge and thereby introducing what is being referred to as the “new welcoming culture”. The increased number of refugees arriving in Europe has indeed been identified as one of the major challenges faced by European policymakers presently (Sunderland, 2016). Germany, amongst all European countries, has accepted the most refugees, a large num-

![FIGURE 1 NUMBER OF REFUGEES REGISTERED IN BERLIN - UNTIL AUGUST 2015](image)

Source: Brenner, 2016
ber of which have settled in urban areas (Bundeszentrale für Poli-
tische Bildung, 2017). Figure 1 illustrates the sharp rise in refugees
registered in the country’s capital, Berlin.

The successful integration of these refugees bears many op-
portunities for an aging society like the one Germany has, if it is
done properly. However, just like the majority of European coun-
tries, the fears associated with the arrival of refugees and an ‘inte-
gration failure’ have fuelled the rise of (new) right wing populist
parties. In Germany, there is no doubt that this was the driving
factor behind the rise of the AfD (Alternative for Germany party).
Successful integration requires a variety of actions, from language
courses to housing, schooling and working opportunities, but also
actions such as the promotion of positive social interaction1 be-
tween Germans and newly arriving refugees. Public spaces offer
a great opportunity to increase social interaction and foster com-
munity cohesion (UNESCO, 2017). These interactions can help re-
duce stereotypes among the local population and can also have an
empowering effect on the migrant community by creating a sense
of ownership and belonging (Gebhardt, 2010) (Holland, Clark,
Katz, & Peace, 2007). However, diverse urban public spaces can
be a mixed blessing. They are not conflict-free as the encounters of
people with different lifestyles, values, cultural backgrounds and
interests can also lead to further segregation and marginalisation.
Public spaces can concentrate so called ‘anti-social behaviour’ and
criminality (ibid).

Academics, practitioners and policy makers are starting to
recognise the seismographic effect of public spaces and much has
been written about how better spaces can be created that allow
positive social interactions between people of different back-
grounds. However, there seems to be very little research on how
these approaches and theories can adapt to the specific challenges
of forced migration. This paper aims to contribute to filling this
gap, and to inform policy makers who aim to use public spaces as
instruments of integration in urban communities.2 For this pur-

1. ‘Positive social
interaction’ refers to
everyday processes
by which refugees
and local residents
engage with one
another, helping them
to build networks
and supportive
relationships with
each other (Orton,
2012)

2. Public spaces can
also be parks, roads,
beaches. This paper
however focuses on
the specific relevance
of squares in
residential areas
pose, I focus my analysis on the Breslauer Platz (BP) in Berlin. BP is a square in the south-western district of Friedenau. The former city hall, Rathaus Friedenau (RF), is located in the square and was turned into refugee accommodation in 2016. More than 300 refugees currently reside there.

In this paper, I analyse:
1. How the use of BP by refugees living in the RF and the local population has influenced their relationship; and;
2. Whether the square has fostered social interaction between the two groups.

Moreover, I also distil the specific underlying dynamics of the findings, in order to provide an understanding of how refugees experience public squares in ways that are different to local populations and how this relates to their design and organisation.

Methodology

Guided by Holland et al.’s studies of social interaction in public spaces (2007), I use a mixed methods approach, including: qualitative analysis of literature from urban planning, contemporary social theory, migration studies, on the ground observations, in-person conversations and written interviews.

In the first phase of research, I scrutinised theories on social interaction and gathered knowledge on design-strategies for public spaces using urban design literature, frameworks by practitioners, and case studies from other countries. Demographic data on the local population and refugees was collected through openly available sources of the administration of Berlin and Tempelhof-Schöneberg and through a questionnaire that was sent to the director of RF refugee accommodation. Furthermore, I used first hand observations at BP, geographical data from Google Maps, and assessments of local community organisations to build a comprehensive picture of the physical characteristics of the square and its re-design efforts.
In the second step of my research, I conducted interviews with nine ‘constant observers’ - employees and business owners of the restaurants and shops surrounding BP - to gain a better understanding of how the square is used by different groups, the interactions between refugees and locals, and the atmosphere towards refugees in the area. Due to interviewees’ time constraints I used a semi-structured questionnaire that allowed for short answers, while also giving participants an opportunity to elaborate on their experiences and share anecdotes. I also conducted eight interviews with business owners and employees at Winterfeldplatz square, who served as a control group. Winterfeldplatz is very similar to BP in regards to its design and use, but not in proximity to a refugee shelter. Further information on the selection of the square and control group interview results are found in Appendix B2 (online).

Since many of the interviewees at BP had reported negative sentiments of their older customers towards refugees, I visited the nearby retirement home Evangelisches Seniorenheim Albestraße to further investigate this issue. At the retirement home, I conducted a semi-structured face-to-face interview with the quality manager of the facility and the chairwoman of the Home Advisory Board.

Due to security regulations, language barriers, and time constraints, it was not possible to conduct interviews with refugees. In the last phase of my research, I conducted a face-to-face interview with Orkan Özdemir, the founder of the refugee aid network Friedenau Hilft, and a written interview with the director of RF refugee accommodation. These interviews gave insights into the use of the square by refugees and refugee-focused activities and initiatives by local residents.

Originally, I planned to analyse three different types of spaces – one square in a residential area, one larger square in a more touristic area and one park. The decision to focus on one type only however permitted me to conduct more in depth research. Squares
in residential areas were chosen as the object of analysis because they are the type of space where refugees and locals are most likely to meet on a day to day basis. The findings may still have relevance for other types of public spaces. However, differences concerning the way these spaces are being used and the type of people accessing them need to be considered.

In the following chapter, I will introduce the theories that form the point for departure for this paper. Chapter 3 (‘The case study’) then introduces Friedenau, BP, and the refugee accommodation in RF. Chapter 4 (‘From coexistence to social interaction’) presents the findings of the primary research and analyses them using the theoretical concepts. It aims to give policy makers valuable insights to the specific challenges of the integration of forced migrants into the public sphere. Lastly, Chapter 5 (‘Conclusion and recommendations’) provides a summary of the findings, gives recommendations to policy makers as well as civil society organisations in refugee-receiving communities, and makes suggestions for further research.

PUBLIC SPACES AND STUDIES OF DIFFERENCES

What makes a good public space?

Attention to public spaces and to how they can enhance community building is not novel. In addition to academic studies, many practical frameworks and guides for policy makers have been produced. There is no one-size-fits-all solution, and building a good public space depends on the type of space, its location within a city, and the kind of people who use it. The Project for Public Spaces (PPS), ‘the central hub of the global placemaking movement’ (PPS, 2017), was able to develop a ‘place diagram’ (see Appendix A (online)), which contains the key attributes, intangibles
of a ‘great’ public space and ways to measure them by evaluating more than 1000 spaces around the world. According to the Place Diagram, a ‘great’ public space needs to be visible, easily accessible and serviced by different modes of transport, create an atmosphere of safety and cleanliness, be used by different types of people for different activities and people should use it to socialise with friends and, acquaintances, as well as a place to meet new people (PPS, 2017c). Things that might matter to urban designers, such as the architecture of houses or the shape and size of public squares, do not seem to matter to the people using them. Users of public spaces do not look up to the things surrounding them but care about what is at eyesight (Whyte, 1980). Good quality of sitting space has shown to be a key success factor (Holland, Clark, Katz, & Peace, 2007) (Whyte, 1980). William H. Whyte, a pioneer in the studies of public spaces, also found that if there are more women using a public space, it becomes more attractive to other users (ibid).

Studies of differences

Heterogeneity is an intrinsic feature of the city. Being in the heart of cities, public spaces are at the centre of this heterogeneity as a rich mix of people meet on a day to day basis. Studies of difference have therefore strongly influenced the way spaces are analysed through geographers and urban planners (Finscher & Jacobs, 1998) (Goonewardena, Kipfer, Milgrom, & Schmid, 2008). Views on city design were merged with analysis of cultural and political economy perspectives, aiming to understand how people of different age, gender, ethnicity and, sexuality meet in the public sphere. What these theories share is their conception of identity as a socially produced phenomenon which is temporary and changing (Pratt, 1998) (Massey, 1995). At the centre of their analysis lies the study of power structures, how these are reflected in public spaces, and how they in turn contribute to the formation of identity (Allen
& Pryke, 1994). Based on these, we know that public spaces have a great potential to create social interaction and promote integration as ‘claiming social space and being seen in public becomes a way [for minorities] to legitimate their right to belong in society’ (Holland, Clark, Katz & Peace, 2007: 1). At the same time, theories from social psychology show that people living in ethnically diverse neighbourhoods have a higher tolerance for diversity, are more open to change and give less importance to conservatism and power values4 (Roccas & Brewer, 2002). However, these encounters also bear the risk of conflict, marginalisation and repression of already discriminated groups (Pratt, 1998: 35).

THE CASE STUDY

Friedenau

Friedenau is a district in the South-Western borough Tempelhof Schöneberg. Spreading approximately across 46 km², it is one of the smallest districts of Berlin, but the one with the highest population density of all 96 districts in the city. Friedenau has a low mean age and a large number of residents below 18 years (Bezirksamt Tempelhof Schöneberg 2015). The last Berlin parliamentary election in 2016 showed that the population in Friedenau is situated in the central left part of the political spectrum and that Germany’s new right wing populist party, the AfD received much fewer votes than in other districts (Die Landeswahlleiterin zu Berlin 2016). Özdemir, one of the founders of the local refugee organisation ‘Friedenau Hilft!’ and Borkowska, the director of the RF refugee accommodation, both reported a high motivation among the local population to engage in refugee aid activities (Özdemir, Interview, 14/03/2017) (Borkowska, Interview, 08/04/2017).

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4. Studies were controlling for differences that existed between different groups before the experiment to rule out the risk of reverse causality (Roccas & Brewer, 2002)
Breslauer Platz

The Breslauer Platz (BP) is in an eastern part of Friedenau (red circle in Figure 3) that is considered a high residential area (Bezirksamt Tempelhof Schöneberg 2015). The square is surrounded by cafés, restaurants and few retail stores. It was built in 1875 and has been used for market activities ever since (Rheinstraßen-Initiative, 2009).

Three streets border BP: the Rheinstraße, which is a large two-lane street where cars move with an average speed of 60-70 km/h (Senatsverwaltung für Stadtentwicklung und Umwelt 2013), and the Niedstraße and Lauterstraße streets, which are both extensions of two relatively calm residential streets. The Rathaus Friedenau (RF) which contains the refugee accommodation, is on the northern side of the square.

As can be seen in Figure 3, there is a pavilion in the center of the square, which is under monumental protection and currently contains a kiosk and a Turkish food stand. BP mainly consists of a large stone surface that is used for the market. People have referred
to it as a ‘stone desert’ (Schilde, Interview, 06/03/2017) a ‘dilapidated square’ (Ludwig, 2014) and a ‘dull parking space without vegetation’ (Rheinstraßen-Initiative, 2009). There is little green space in the centre of the square. There are three double benches behind the pavilion, three round benches surrounding trees on the side of the Lauterstraße and one bench on either side of the stairs leading to the entrance of the RF. Additional chairs are provided by cafés and restaurants, but are reserved for guests. Interviewees have criticised the lack of sitting space and bad alignments of benches behind the pavilion (Schilde, Interview, 06/03/2017). An additional impediment is the issue of low maintenance and enforcement of regulations. Trash is being disposed of on the square (Feldt, Interview, 06/03/2017) and cars are parking in non-parking zones (Schilde, personal conversation) (Özdemir, Interview).

In the past, multiple players have worked towards improvements of the situation. After a six year long dialogue between local residents, their neighbourhood associations, business owners and policy makers, an agreement on the redesign of BP was reached in 2011. Some of the benches are the result of the redesign that happened in 2013. In addition, there was an agreement that the Lauterstraße should be closed to traffic in order to increase the size of the square and make it more accessible for pedestrians (SPD, 2015). The resident initiatives also promoted a better use of the pavilion for cultural activities and the installation of a decorative fountain; however, this could not be implemented due to financial constraints (Initiative Breslauer Platz, 2011). Aside from few small improvements, little has changed. In fact, some agreed upon items never came to fruition. The Lauterstraße was never fully closed to traffic but has instead been transformed into a “play street” with a speed limit.
Refugee accommodation at Rathaus Friedenau

The RF (red circle in Figure 3) is the former city hall of Friedenau and used to be in the hands of the district. Because of high costs associated with the maintenance of the building, it was sold in 2015 to the Berlin city real estate company BIM and the Friedenau administration was transferred into the city hall Schöneberg (Dobberke, 2015). Originally, the Berlin tax police were supposed to move into the building. However, at the end of 2015 the Berlin administration decided to turn the building into an emergency refugee shelter, which opened in February 2016 (Borkowska, Interview). At its peak, 400 people lived in RF. At the time of this research, it had 329 inhabitants. In May 2017, the transformation from an emergency shelter into a shared long term accommodation for 300 inhabitants started. It will most likely be completed in April 2018 (Noetzel, 2017). Refugees currently living in RF come from many different countries and fall under the category of ‘particularly vulnerable people.’ 5 193 of the 329 inhabitants of RF are women and 136 are children (Borkowska, Interview). In the small backyard of the city hall (approximately 20x20m), a playground has been setup that is mainly used by the younger children living in the building (Özdemir, Interview).

FROM COEXISTENCE TO SOCIAL INTERACTION

Visibility of diversity – a mixed blessing

In our case study, the existing conditions appear ideal: our local community of interest is not prone to the anti-refugee narratives and is open to refugee-related volunteering activities. The refugee community consists mainly of women and children, who are less frequently the subjects of negative media coverage and whose pres-
ence is said to increase the overall attractiveness of public spaces (see Chapter 2 (‘Public spaces and studies of differences’)) (Project for Public Spaces, 2017c).

Yet, all parts of the qualitative analysis conducted for this paper have demonstrated that the presence of refugees at BP has not been conflict-free. On the contrary, their presence seems to have increased negative sentiments towards refugees, as reported by five out of nine ‘constant observers’. Among the control group, the ‘constant observers’ at the Winterfeldplatz, six of eight interviewees said that refugees were not discussed among customers and only one reported negative sentiments towards refugees. At Winterfeldplatz, the negative sentiments were based on a fear of terrorism, whereas at BP they seemed to be related to first-hand encounters with refugees using BP.

According to the Senate Administration for Health and Social Affairs, no increase in the incidence of criminality was found in any of the areas surrounding refugee accommodations (SPI Stiftung, 2016). In our case however, four out of nine ‘constant observers’ at BP reported negative experiences concerning the behaviour of mostly young refugees. These experiences were also mirrored by the complaints of local residents, discussed by both Özdemir and Borkowska. Common grievances included: conflicts between passing parking cars and children playing, increased noise pollution, a lack of parental observation of younger children, gang building, commercial theft and violence among refugees (Özdemir, Borkowska, Interview).

These observations confirm the findings presented in Chapter 2 (‘Public spaces and studies of differences’): visibility of diversity does not always automatically improve tolerance and remove tensions between different groups. I argue that these tensions result from differences in means, needs, and socialisations of the people using the square and the particular characteristics of BP itself.
Different people, different needs and means

In contrast to other migrant communities, refugees are often more vulnerable (Pressé & Thomson, 2007), which is particularly the case for the women and children living in RF. Furthermore, many refugees have experienced trauma prior to or during the migration process, and therefore choose not to leave the building (Özdemir, Borkowska, Interview). Nevertheless, in the same way that public spaces are especially important in low-income, high density residential environments, (Strydom & Puren, 2013), BP has been key in the RF refugee community’s integration. For the inhabitants of the emergency shelter, the RF and BP form a centre of life (Borkowska, Interview). Refugees often live in clustered accommodation, children have less access to organised sport activities and their space to play is very limited within their homes (Berding, 2012). The square is therefore frequently used by women to socialise with friends and by children to ride bikes, play soccer and take part in other games (Borkowska, Interview).

According to Özdemir, the violent behaviour observed during these activities can be attributed to the traumatising experiences shared by many of the children and adolescents (Özdemir, Interview). The problem of parents not observing their children can be traced back to two factors: firstly, many refugees come from rural areas, where children have grown up in safe surroundings for unsupervised play (Özdemir, Interview). Secondly, the mothers who live in RF are single mothers. Therefore, they carry a large responsibility, which they cannot share with their partners (Borkowska, Interview).

As described in ‘Breslauer Platz’, BP is per se not necessarily a ‘good’ square. Lack of good quality seating, green space, a general uncleanliness and an uninviting appearance limit its use largely to market days. The lack of seating was partly improved by the provision of chairs and tables by the cafés and restaurants. However, these facilities are only used by the local population and not by
refugees. Seven out of nine local observers reported that refugees never or rarely purchased local goods. Two observers explained this through the lack of financial means of refugees.  

The physical separation of refugees sitting on the benches next to RF and local residents sitting outside restaurants and cafés creates a clear image of ‘otherness’, inscribed by the economic disparity of the two groups inhabiting one shared space.

It is also clear that BP is not very suitable for the groups that need it the most - namely, the children living in RF. Özdemir believes it was a wrong decision to choose RF for this specific target group. However, since the refugees did not choose RF as their home, he also thinks that it is a ‘matter of fairness’ to make the best out of the situation (Özdemir, Interview). One measure that would improve the quality of the square for all residents and, the safety of refugee children particularly, while reducing complaints by local residents, is the full closure of the Lauterstraße, and traffic calming measures of the Niedstraße (see Chapter 3.1). Studies have shown that traffic-blocked streets have a higher potential for social integration, when measured in frequency of neighbourhood contacts (Sauter & Hüttenmoser, 2006). The district parliament (BVV) voted for the implementation of both measured in 2016 (Noetzel, 2016). In addition, an embellishment of the empty stone surface is a measure that would likely be welcomed by local residents, refugees, and business owners alike. However, this aesthetic adjustment is limited by the needs of the market stand owners, who need the flat stone surface to put up their stands. The physical transformation of public squares is always limited by legal as well as budgetary constraints and can become a matter of political conflict. Conflicts of interest are inherent to the nature of public spaces that are used by a number of people with contrasting needs (Dangschat, 2011).

As recommended through the ‘masterplan integration’ of the Berlin Senate (Berliner Senat, 2016), the operator of RF, SIN e.V., organised a round table for all residents to deal with the increasing complaints of local residents. At the meeting, individuals could

6. Refugees receive mainly receive contributions in kind. Refugees in shared accommodations receive pocket money that varies between 76 and 135 € per month (Creutzburg, 2016)
voice their concerns and engage in a dialogue with the operator and the residents.

One can only hope that the dialogue and the many social activities organised by local refugee aid organisations (which target specifically the children and adolescents among refugees), will continue to ameliorate the existing situation. Not much more than a year has passed since the refugee accommodation was opened and several interviewees have already reported improvements.

**Positive visibility through social interaction**

For a sustainable integration and community development, a peaceful coexistence of different groups is desirable but not sufficient. What is crucial however is the interaction that takes place between these different groups (Dangschat, 2011). Many of the problems described in the last chapter, can be mitigated through the creation of an inclusive community. A study that is currently conducted by the Robert Bosch Stiftung showed that refugees valued social contacts with Germans more than material support (Robert Bosch Stiftung 2017) (Stiftung, 2017).

However, as highlighted by Dines, Cattell, Gesler, & Curtis (2006: x): “while public spaces might be frequented by a range of different groups, this [does] not necessarily mean that there was any contact between them”. The situation seems to be no different at the BP. All constant observers reported that there is no interaction between refugees and locals at BP. Policy makers and civil society share the responsibility to create settings in which encounters between refugees and locals can happen in a peaceful manner (Robert Bosch Stiftung 2017). The refugee aid organisations of Friedenau are recognising the need to “create a network for refugees in the neighbourhood” (Özdemir, Interview) (Friedenau Hilft!, 2016). The problem about these forms of social interaction is that they only reduce stereotypes among those people who are already relatively open and tolerant. Combined with the negative
dynamics described in the last chapter, this bears a risk of segregation of the local community in pro- and anti-refugee.

A way to prevent this from happening would be to increase the use of the BP for the social activities organised through civil society organisations. The hosting of festivals, markets or sport events at public squares has been valued as particularly relevant for migrant communities (Berding, 2012) (UNESCO, 2017). The organisation of social activities at the square could increase positive visibility for those who are not necessarily involved and would strengthen the quality of the space for other users. In spring 2016, Friedenau Hilft organised a festival, where participants donated food and ate together. It was visited by approximately 500 local residents and 50 refugees (Özdemir, Interview). Many of the constant observers remembered the festival as a moment of social interaction and a positive event for the area. Local residents also gave positive feedback to Friedenau Hilft, highlighting that it “brought life back to the square” (Özdemir, Interview). However, except for the festival and a few informal soccer games, the BP has not been used for any social activities between refugees and locals (Borkowska, Özdemir, Interview).

Much can be learned from organisations in other cities and countries that use festivities to promote social interaction and create positive visibility. What has shown to be most successful is the creation of positive images of multiculturalism and events where refugees can share their stories. As shown by Butcher, Spoonley and Trlin (2006), neighbourhood discrimination often originates from a lack of knowledge about the background and situation of refugees. These activities can also turn around the improvement of the square itself. “Participatory Placemaking” offers a way to react to different needs of a heterogeneous user community and creates a sense of ownership among those involved (Karkukli, 2013) (Bereswill & Götz, 2012).

An increased usability of the BP on non-market days would not only foster social interaction, positive visibility and increased

7. Inspiration can be drawn through the collection of ‘good ideas in integration’ presented at Cities of Migration website, which contains several hundred case studies from countries all over the world (Cities of Migration, 2017)
living quality for inhabitants but also has economic potential for the surrounding businesses (Rheinstraßen-Initiative, 2009). The economic spill-overs of social activities were also mentioned by several ‘constant observers’ at Winterfeldplatz.

CONCLUSIONS AND RECOMMENDATIONS

Take-away for urban policy makers in refugee receiving communities

In this paper, I find that public squares are of special importance for refugees and specifically for their children. Making these squares accessible for locals, migrants and refugees alike should thus become an essential part of integration policies in welcoming communities. Few studies exist on the specific needs of refugees in public spaces and these might differ largely among different refugee populations. Nevertheless, I was able to identify certain characteristics specific to forced migration that influence the way refugees use public squares and that policy makers and practitioners should keep in mind, when designing squares in the context of refugee integration:

- Refugees often have limited financial means
- Refugees often have limited living space in their arrival country
- As a group, refugees often have different demographic characteristics, in terms of age and gender, compared to local communities
- Refugees are often traumatised through experiences in their home countries or during the flight
- The majority of refugees do not speak the local language at the time of arrival
- Some refugees move from rural to urban settings
Many refugees are removed from stabilising family settings.

The case study also confirmed that public squares can be a mixed blessing. Power structures inscribe themselves into spaces. Especially for refugees, who are already a marginalised group, this can limit their access to squares and have disempowering effects. Furthermore, I found that the visibility of cultural diversity can increase negative sentiments towards refugees and thereby divide the local population into pro- and anti-refugee factions. This effect was found although the refugee community analysed consists of women and children only, whose presence is usually considered positive. In the worst case, a vicious cycle can be created where the bad experiences of host communities increase racism which might in turn decrease the use of the square through refugee communities and negatively influence the refugee’s willingness to integrate (Jalkh, 2017) (Dines, Cattell, Gesler, & Curtis, 2006). A better design of squares that takes into account the specific ways refugees use these spaces can only partly help to mitigate these conflicts. One should not forget, that public spaces are areas where people of different beliefs, needs and preferences meet and that it is inherent to the nature of these spaces that conflicts between different users emerge. Policy makers are advised to create settings in which conflicts can be negotiated between equals, with the participation of all users of squares.

Furthermore, my recommendation is to create places that do not just allow for coexistence but create a setting for social interaction. Local civil society carries a special responsibility to actively promote positive interactions between the different groups and to direct volunteering activities at public squares. The facilitation of social activities in public squares can have positive spill overs for residents, and businesses. It can create positive counter images that also reach those members of community that would normally not be in contact with refugees and can thereby counteract a segregation of the society.
Furthermore, it is of utmost importance that there is a turn-around from a needs based, towards a capability approach, where the rights of the arriving population are not only respected, but where they are enabled to become active citizens (UNESCOCAT, 2010). Regarding public squares, this means that policy makers and local neighbourhood initiatives should foster the participation of refugees and migrants in the design and maintenance of places. Much can be learned from the worldwide ‘Placemaking’ movement which shows that much can be done despite financial and bureaucratic constraints. Inclusive ‘Placemaking’ can help to mitigate conflicts arising from different needs of diverse users, lead to social interaction and increases the positive visibility of refugees by showing them as active parts of the society (PPS, 2017b). It gives refugees a feeling of ownership and responsibility (Strydom & Puren, 2013).

Obviously, the power of spaces is limited. It cannot dissolve the macroeconomic factors, social and housing policies, that form the roots of social segregation (Gebhardt, 2010) (Dangschat, 2011). The recommended measures will not remove all conflicts from the public sphere, which would also not be desirable. Integration cannot be achieved over night and it is precisely those social struggles through which societies find and re-define themselves (Nutt, 2014).

Limitations of this paper, external validity and recommendations for further research

I recognise that there are several limitations to my research. Firstly, the informative value of the demographic data used is limited. It says very little about peoples’ beliefs and needs since we cannot assume that people act in the same way conditional on their gender or age group (Dangschat, 2011). The interviews that were conducted with the ‘constant observers’ and people who are in reg-
ular contact with refugees were helpful in this regard but cannot fully solve this problem. Additionally, the assessments of the ‘constant observers’ concerning sentiments towards refugees might be influenced by their own opinion on the topic. People might have also felt pressured to give socially desirable answers which would result in a response bias (Furnham, 1986).

Future research should directly observe movement patterns on the square and people’s opinion should be monitored through surveys. Refugees should be interviewed and surveyed face-to-face. It would be ideal to conduct this research over a longer period of time to create trust in the community and identify changes in interactions, how these correlate with sentiments towards refugees. In order to further understand the role of space design for social interaction and integration of refugees, a third square should be identified, which (in contrast to BP and Winterfeldplatz) should be a “good square” and in proximity to a refugee accommodation.

The extent to which findings can be transferred to other types of public spaces is limited since they are often used for different purposes and by different users. Demographic information on different users of spaces, just like cultural, political and economic settings, should be taken into account on a case to case basis, as they will shape the outcome of policies implemented. Although the findings of this research cannot be representative for all situations in which local communities aim to integrate arriving refugees, I nevertheless hope that my recommendations can be helpful for urban policymakers of refugee welcoming communities outside Friedenau, Berlin and maybe even Germany.
Recommendations for the city administration of Berlin, the municipal administration of Tempelhof-Schöneberg and the local civil society on the organisation of the BP

- Regular open tables for all users of BP that allow the negotiation of conflicts should be organised. Language support for participating refugees should be provided.
- Participatory ‘Placemaking’ that includes low cost, short-term changes should be promoted and refugees should be included in re-design efforts.
- Refugees should be encouraged to participate in cleaning activities organised by neighbourhood initiatives.
- Refugee aid organisations and neighbourhood initiatives should join forces in order to discuss how BP can be used to become a centre for integration activities. Seasonable strategies are needed and the focus should be on refugee children and cultural activities that reflect all cultures present, such as:
  - Market stands where refugees and volunteers can sell food from refugees’ home countries.
  - Story-telling sessions where refugees can share stories about their home countries, their lives before the flight and their experiences made during the flight (depending on the openness of the refugees to talk about these issues).
  - Small scale sport events for children that include both refugee and local children.
  - Cultural festivals – international celebrations can be used as themes.
- Social workers that offer counselling to refugees need to be aware of the experiences with racism, exclusion and discrimination that can take place in public spaces and need to offer special support to victims.

8. I defer from making concrete recommendations on how BP should be re-designed but advise those involved in the re-design to make use of existing frameworks such as the Place Diagram presented in Appendix A and to adjust it to their setting, having in mind the specific needs of different groups using the space.
Business owners should be approached for the development of a 'Welcome to Friedenau' card, which gives refugees reduced prices in selected cafés, restaurants etc.

REFERENCES


APPENDICES

APPENDIX A. FRIEDENAU, BRESLAUER PLATZ AND RATHAUS FRIEDENAU

Source: Project for Public Spaces, 2017
APPENDIX B1. INTERVIEW METHOD AND RESULTS OF INTERVIEWS WITH ‘CONSTANT OBSERVERS’ AT BRESLAUER PLATZ & RATHAUS FRIEDENAU

- Interviews conducted on March 2, 2017
- 9 participants: waitress at Café Breslau, store manager at Netto supermarket, ice cream seller, seller at Turkish snack stand, newsstand seller, seller at Thoben bakery, seller at Thürmann bakery, seller at Rudis store, seller at Subway restaurant
- A semi-structured questionnaire was used that allowed for short answers but also gave interviewees the opportunity to share anecdotal experiences
- As suggested by Steinar (1996) I started with questions that participants could answer easily, in this case questions about customer characteristics, and then proceeded to more difficult and sensitive topics, such as questions related to the refugees.

Anecdotal evidence

**Ice cream seller:**
- There was a big chaos at the beginning. The Breslauer Platz was very loud and the situation was a disaster. But the situation has improved with time
- We made negative experiences mainly with children of 7 to 12 years. They stole and begged. I know that surrounding places like Netto and the Café Lula made the same experiences. Not so long ago there was a one year old child alone in the store. I wanted to first call the police but then contacted the security personnel of the Rathaus Friedenau instead and they got the parents to come.
- In 2016, I called the police because there was a mass-brawl between refugees, with knifes.
The refugees are sitting at the benches and on the stairs in front of the Rathaus Friedenau.

At the beginning the people were very positive towards the refugees. But after all the problems came, the mood turned. Now the situation has calmed down. You see less young men. Mostly children and women.

The festival in the summer 2016 was received very positively.

**Store manager at Netto supermarket:**

- We have had mixed experiences with the mainly young refugees that come here. Both positive as well as negative experiences.
- Some of the kids eat in the store and then leave the rest of the food lying around. They have also stolen food.
- I think the negative sentiment towards the refugees is stronger than the positive one. Because the negative experiences are hard to forget.

**Seller at the Turkish snack stand (in the pavilion)**

- The refugees come to buy from us if they have money. They have problems with the language but besides that I haven’t made any negative experiences. It’s mainly the adolescent refugees that come. I think it is impressive how fast they are learning German.
- I never see any interaction between the refugees and the local people. But the benches in front of the Rathaus Friedenau are used by both, refugees and locals.

**Seller at newsstand:**

- The refugees and the locals don’t get along. The refugees are not welcome among the locals.
The customers talk a lot about the refugees and that they aren’t welcome.

**Seller at Thürmann bakery:**
- The sentiments towards the refugees are not very positive. Especially among the older customers we hear many complaints about the behavior of the refugees. They also make racist comments. But it was more of a topic when the refugee accommodation opened. Now there is less discussion about the topic

**Seller at Rudis store:**
- The refugees mainly buy locks, bowls and folders for applications
- At the beginning there was a gang of 3 to 4 children between the age of 4 and 14 that came to steal. Now they are banned from the store

**APPENDIX B2. INTERVIEW METHOD AND RESULTS OF INTERVIEWS WITH ‘CONSTANT OBSERVERS’ AT WINTERFELDPLATZ (CONTROL SQUARE)**

Selection of Winterfeldplatz as a “control square”:
- The two squares are in the same borough and therefore have users with similar characteristics. Both squares have a retiree home close by;
- Both squares have a similar size. The Winterfeldplatz is slightly larger;
- Both are market squares and their center is a large stone space;
- Both squares have very few benches, both squares have a kiosk and are surrounded by cafes and restaurants;
Both squares are surrounded by streets that are frequented by traffic. The Winterfeldplatz does not have a bordering high street; The aim was to interview the same number of people at both squares. This was however dependent on the amount of cafes, restaurants and shops surrounding the squares and the willingness to talk of the ‘constant observers’. At both squares only two people maximum weren’t open to talk. The “opt out / opt in selection bias is thus assumed to be small; Additional limitation: the types of places where ‘constant observers’ work where slightly different. At Winterfeldplatz there are more restaurants, at Breslauer Platz there are also bakeries and shops.

Selection of Winterfeldplatz as a “control square”

- Interviews conducted on March, 30, 2017 (28 days after interviews at Breslauer Platz)
- 8 participants: AKI Tatsu Sushi place owner, head of service at Amrit indian restaurant, waiter at Berkis Greek Restaurant, waiter at Boussi Falafel, waiter at Café Eckstein, kiosk owner, waiter at Miss Honeypenny Café, waitress at MayWay Café
- Questionnaire of Breslauer Platz interviews was edited slightly:
  - Question on social interaction between refugees and locals was replaced by question on the use of the square in general.
  - Because several interviewees at Breslauer Platz reported violent behavior of refugee children, a question was added on whether people had observed violent behavior at Winterfeldplatz.
Questions about characteristics of customers helped to test for similarity of local population in the two squares. Result: both areas have high amount of families. Winterfeldplatz is in a gay area and has more tourists visiting.

A semi-structured questionnaire was used that allowed for short answers but also gave interviewees the opportunity to share anecdotal experiences.

As suggested by Steinar (1996) I started with questions that participants could answer easily, in this case questions about customer characteristics, and then proceeded to more difficult and sensitive topics, such as questions related to the refugees.

**Anecdotal evidence**

**Head of service at Amrit, Indian restaurant:**
- There are 2-3 refugee families from Syria that come here regularly. They actually live in Wedding but they come all the way here. These families are really nice. I can say I’ve made 100% positive experiences with them.
- It’s a fun area around here. But some time ago there was more going on. Since they built a playground nearby there are less parking spaces available and the business isn’t going very well.
- The square is never used. Nobody even sits on it.
- Here was a big chaos at the beginning. The Breslauer Platz was very loud and the situation was a disaster. But the situation has improved with time.

**Waiter at Berkis Greek restaurant**
- It is a nice square. But if there are no events, it is never used. We also have problems with parking spaces. There aren’t enough and those that are there are always occupied.
Owner of kiosk:

The square is dead. That’s such a pity. There are just no attractions. Once a month there is a bicycle market. I think there should be more of such events that use the square. That brings people and is good for the business.
Transitional Justice in Serbia

Situation and Recommendations

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ABSTRACT

After experiencing mass atrocities and genocide during the 1990s Balkan Wars, Serbia is transforming from a state ravaged by conflict to a state focused on reconstruction and increasing the prosperity of its people. Yet, Serbia’s progress in post-conflict transitional justice has been slow and flawed with respect to war trials, lustration and survivors’ reparations. Its transitional justice efforts are hampered by biased decisions, politicization by government leaders, impunity for war criminals and negative or confused public opinion that perceive efforts for justice as unfairly targeting Serbs as war crime perpetrators. As such, the country must seriously bolster its policies and institutions involved in the transitional justice process: enact lustration and vetting laws, further prosecute former war perpetrators, adhere to victims’ concerns for protection and reparations, continue the search for missing persons more efficiently and support a broader culture of remembrance. Such steps will better facilitate social cohesion in Serbia where people of different ethnicities, religions and backgrounds can live together more democratically and with greater respect for human rights.
EXECUTIVE SUMMARY

Following the 1990s wars of the breakup of Yugoslavia, Serbia faced a decimated population and ravaged society. Reconstruction after the Yugoslav Wars requires transitional justice to acknowledge the past and establish rights for those affected.

Transitional justice is a set of judicial and non-judicial efforts to address and provide compensation for massive human rights abuses during a period of conflict. Such measures involve: prosecutions in court of perpetrators, truth commissions, institutional reform, lustration to vet and remove perpetrators from positions of power in government and memorialization though symbolism. Transitional justice aims to discern the facts and responsible parties for past conflict, attain accountability and redress for victims, recognize victims’ rights, foster social cohesion and improve democratic rule of law (Perovic, 2015).

Most people polled in a study in Serbia feel that it is important for those affected by the conflict to tell their stories and experiences and for truth to be known. Likewise, most thought that higher level officials and those responsible should be punished for war crimes, although some believe it is best to forget and move on from the painful memories (Parmentier, 2013a). In fact, many remain silent because of these memories and feel unable to re-open discussions on the past violence (Obradovic-Wochnik, 2013).

Yet, Serbia’s progress on transitional justice has been flawed, slow and wrought with bias and impunity. In 2015, the Humanitarian Law Centre (HLC) noted that between 2013 and 2015 Serbia “did not make any significant progress towards the establishment of transitional justice processes in relation to the crimes committed during the 1990s” (HLC, 2015: 7). Victims’ redress has not been issued effectively and uniformly. Human rights violations are not acknowledged fully and perpetrators—especially those of high government rank—have only rarely been brought to justice. Meanwhile, domestic and international non-governmen-
tal organizations (NGOs) and individuals assisting in fact-finding often experience harassment and criticism from the government and nationalists (US State Department, 2015). Other shortcomings appear in the handling of missing persons, lack of symbolic memorialization for victims and faulty education system that misrepresents history of the 1990s conflicts with nationalist interpretations in favour of Serbia.

The international community, including the United Nations (UN), International Criminal Tribunal for the Former Yugoslavia (ICTY), European Union (EU) and Council of Europe, has urged Serbia to progress with transitional justice work, to remove impunity and to prosecute perpetrators of wartime crimes effectively and according to international standards of justice (Muiznieks, 2015). Several international conventions affirm an obligation to implement transitional justice, such as the European Convention on Human rights. Ultimately, the Serbian government holds the responsibility for ensuring the protection of human rights post-conflict.

Therefore, this paper proposes several recommendations for Serbia to strengthen its transitional justice processes regarding war trials and lustration laws, victims and survivors’ reparations, and the creation of a culture of remembrance.

**CONTEXT & BACKGROUND**

In 1945, following World War II (WWII), Serbia joined the Socialist Federal Republic of Yugoslavia under Josip Broz Tito. During that time, Serbs, Croats, Bosniaks and Albanians co-existed as neighbours, spoke one another’s languages and intermarried.

Under Slobodan Milosevic’s leadership in the 1980s, the Serbian Republic began to use propaganda to spur Serbian nationalism for a greater Serbia (Pond, 2012). Territories of Yugoslavia soon after demanded sovereignty; Slovenia seceded from Yugo-
slavia and became independent in 1991, with Croatia declaring independence shortly thereafter. This began the wars of 1990 of Serbia against Croatia, Bosnia and Herzegovina, Montenegro, and Kosovo. Thus, ensued the Croatia-Serbia war, Bosnia-Croatia War, and then the Bosnian War in 1992.

**FIGURE 1 MAP OF FORMER YUGOSLAVIA AND ETHNIC GROUPS**

The Serb army and paramilitary groups committed ethnic cleansing and genocide in Srebrenica, Bosnia, where they estab-
lished concentration and rape camps and filled mass graves. The 1995 Srebrenica genocide, in which the Bosnian Serb army and Serbian militants killed 8,000 Muslim men and boys, was the worst atrocity in Europe since WWII. Meanwhile, Croatia also fought an ethnic and religious war against Bosnia. At the same time, Serbia began an ethnic cleaning campaign against Kosovar Albanians (Toma, 2016).

As the conflict in Kosovo escalated, NATO intervened militarily, bombing Kosovo for 11 weeks to halt advances of the Serbian army. Atrocities by Serbs increased in retaliation for NATO bombings (Toma 2016). Revenge attacks against Serbs also ensued by Croats and Kosovars, like the 1995 Croatian Operation Storm.

As a result of the 1990s wars, 140,000 people were killed, 12,000 went missing and 5 million became refugees. Tens of thousands suffered torture and sexual violence (Pond, 2012).

The war ended with the “General Framework Agreement for Peace” (GFA), or the Dayton Agreement in 1995. The international community contributed to rebuilding the territories of Former Yugoslavia. NATO troops maintained peace. The European Union (EU) and Council of Europe (COE) reconstructed infrastructure. The UN rebuilt civil police forces and set up the International Criminal Tribunal for the Former Yugoslavia (ICTY) to try war crimes. The Organization for Security and Cooperation in Europe (OSCE) promoted human rights, elections and democratisation. Over 300 NGOs helped to train and educate the population (Stabback, 2007).

After the war, the post-conflict Balkan states embarked on transitional justice, as the ICTY worked to try perpetrators of war crimes, genocide and crimes against humanity. It famously established the doctrine of command responsibility, to indict mid and high-level government and army officials who gave the orders to commit atrocities. The ICTY provided the first case in which a head of state, Milosevic, was tried for war crimes. As the ICTY is expected to close in December 2017, the newly established UN
Mechanism for International Criminal Tribunals (MICT) will continue the ICTY’s work in investigating and trying war crimes in the Balkans. Additionally, the International Court of Justice (ICJ) ruled that Serbia was the first country to have violated the Genocide convention by failing to use its full power to prevent the Srebrenica genocide\(^1\) (International Court of Justice, 2007:225–226; Ristic 2013).

Embarking on domestic transitional justice in July 2003, the Serbian Parliament formed the Office for War Crimes Prosecution (WCPO) and the War Crimes Chamber (WCC) in the District Court of Belgrade (Ristic, 2017; ICTY, 2017).

The first prime minister of Serbia after the war, Zoran Djindjic, helped to re-establish democracy in Serbia, clean up security networks, fight corruption and set Serbia on the path to European reintegration. Djindjic challenged the Serb nationalist narrative of victimization, which claimed that the Serbs had been oppressed by other ethnic groups under the former Yugoslav government and so were engaged in justifiable conflict for self-defence rather than aggression. The pro-West leader aimed to move the country forward through policies for EU accession, social and economic reforms and adherence to international standards for rule of law. However, he was assassinated two years into his term by members of an organized crime group who were also implicated in previous war crimes and were threatened by his reforms (Pond, 2012: 84).

In 2008, Kosovo declared independence from Serbia and was recognized as a state by major world powers, though not by Serbia or Russia.

In 2013, Serbia joined the Association and Stabilization Agreement (SAA) for EU accession. Its requirements for EU accession include normalizing relations with Kosovo, enacting political and judicial reform and taking further steps towards democratisation.
WAR TRIALS & LUSTRATION

A central pillar of transitional justice in Serbia in the aftermath of the Yugoslav Wars, is trying perpetrators of war crimes, crimes against humanity, and genocide. Internationally, Serbia cooperates with the ICTY and neighbouring states for this purpose. Nationally, the Serbian government works through the WCPO and WCC.

War Cases

Since 1993, the ICTY has been collecting evidence and trying war criminals from Serbia, Bosnia, Croatia, Montenegro and Kosovo; however, it is nearing the end of its mandate. The Serbian Supreme Court upheld the authenticity of ICTY evidence.

At the national level, Serbia set up the National Strategy for Prosecution of War Crimes for the first time in 2015 (Republic of Serbia, 2015). In 2017, the WCC will begin to try the first eight suspects of the 1995 genocide in Srebrenica (US State Department, 2015: 2; Subasic 2016). Yet, these developments come considerably late after facing many delays following the end of the conflict.

Serbian courts and prosecutors lack expertise and trials have been excessively lengthy, leading victims and witnesses to be less inclined to participate (HLC, 2015: 7). Many cases have not even been investigated. For instance, the government made no progress on the case of the murder of three Kosovar bothers taken by the Serb paramilitary group, Scorpion (US Department of State, 2015: 2). In 2015, 2,698 case applications were pending against Serbia (Muiznieks, 2015: 9).

Meanwhile, the WCPO office lacks the capacity to perform its work, with only six prosecutors on wartime cases (compared to Bosnia’s 30). The number of prosecutions by the WCPO are “extremely low” compared to the scale and intensity of the crimes committed in the 1990s (Muiznieks, 2015: 5).
Furthermore, few charges have been brought against people in high military positions or government or political offices during the conflict. Instead, the WCPO mainly targets low-level police and military officers. Only six out of 149 people indicted for war crimes prior to 2013 held high military positions during the war (Muiznieks, 2015: 5). Most of those indicted were foot soldiers, rather than those who gave the orders to carry out the atrocities. This misrepresents acts as if they were committed by individuals rather than by the state, thus denying state responsibility for organized and systematic crimes. For example, the WCPO did not act when the Humanitarian Law Center (HLC) filed a criminal complaint against Dragan Obradovic, who had committed war crimes as part of the Ministry of Interior in 1999 (Dragojlo, 2016). Additionally, Serbian officials and negative public opinion routinely undermine the work of the WCPO. The WCPO experiences verbal attacks by Serbian politicians. For instance, top government officials claimed that WCPO evidence was poor when it accused the current chief of staff of the Serbian army, Klubisa Dikovic, in the Drenica case. Instead, heads of state sanctioned Dikovic and gave him a national honour (Muiznieks, 2015: 5). Additionally, war crimes chamber prosecutors have faced death threats, such as explosives being placed under their cars (Pond, 2012). Ultimately, there is a lack of political will to honestly and meaningfully try former wartime criminals.

Prosecutors fear negative reactions from the public and politicians for indicting former Serbian leaders for wartime crimes. The prosecution of former Serbian leaders is perceived by some as anti-Serbian. Such figures are often hailed as “war heroes” in Serbia for allegedly defending Serbs against oppressive enemies. For instance, Lazarevic was escorted by government ministers and welcomed back to Serbia to cheering crowds after serving two thirds of his 14-year prison sentence for involvement in the killings of 11,000 Kosovar civilians (ICTY, 2015). In fact, sceptics deny the severity of atrocities and question whether perpetrators committed
the crimes for which they are indicted (Lederer, 2017). The ICTY and the media’s publication of evidence, including images and videos of crimes, helped to correct wrong beliefs and misinformation to some extent. Nevertheless, government officials’ demonization of the prosecutors’ work, and negative press or lack of coverage on transitional justice may confuse the public, allow misinformation to spread and undermine effective action for accountability for war crimes.

**Cooperation for war cases**

Serbia has been cooperating to some extent with neighbouring states on prosecuting war crime perpetrators. It has signed regional cooperation pacts for the prosecution of war criminals with Croatia, and Bosnia and Herzegovina. As a result, the amount of war crimes-related information that is exchanged between Serbia and neighbouring countries increased by four times since 2002 (WCPO in Muiznieks, 2015: 4). Cooperation with Croatia has led to convictions related to the Croatian military operation, Storm. Meanwhile, information exchanges with Bosnia and Herzegovina led to the arrests of five Serbs and ten Bosnians in the Strpci case, and eight Serbs in the Kravica case (Muiznieks, 2015).

Although cooperation may lead to arrests, this does not necessarily mean guilty parties will be indicted. Additionally, Serbia does not always comply with Croatia and Bosnia and Herzegovina’s extradition requests for Serb nationals accused of war crime or for war fugitives. For instance, Novak Djukic, the former commander or Republika Srpska army, was sentenced by Bosnia and Herzegovina to a 20-year imprisonment, but Serbia did not extradite him (Muiznieks, 2015: 4). Serbia has failed to comply fully with its cooperation agreements with Bosnia and Herzegovina, and Croatia.
Lustration and Vetting

Currently, there are no lustration laws—the vetting of current and incoming members of government institutions to remove war crime perpetrators—in Serbia, and lustration is rarely discussed in the media (Mehler, 2013). The Serbian Lustration Law of 2003 expired in 2013 and has not been renewed since. In fact, it was never implemented (Toma, 2016; HLC, 2015: 16). Proposed reform for lustration failed to pass after the expiration of the 2003 law.

As a result, the government has hired or promoted officials and individuals that had allegations of large-scale human rights violations during the 1990s (HLC, 2015: 74). According to EU accession Chapter 23, Serbia must screen staff in the War Crimes Investigation Service and Witness Protection unit to determine if they partook in armed conflict in Yugoslavia. However, amendments to Serbia’s Law on Police and the Law on Armed Forces still did not include background screenings of candidates for participation in the Yugoslav army or government during the 1990s wars (HLC, 2015: 74).

One major example: Ljubisa Dikovic was commander of a brigade that committed atrocities in Rudnica. Dossiers showed that he helped to conceal bodies at mass graves in Rudnica. Yet, after this dossier was published, Dikovac was supported by the Serbian prime minister, defence minister, foreign minister and president (HLC, 2015: 75). Similarly, evidence showed that Parliament member, Momi Stojanovic was involved in the killings of at least 350 Kosovo Albanians in the village of Meja, Kosovo. INTERPOL also issued a notice on Stojanovic for this. However, Serbian authorities did not respond. Individuals who committed war crimes remain in office in the Serbian government. Only one official was suspended from office for being under investigation for war crimes in Kosovo.
Truth and Reconciliation

Efforts to establish truth and facts have been weak, or constantly met with resistance. The Yugoslav Truth and Reconciliation Commission, established in 2001 by Serbian President Kostonic, was a failure; in its three-year mandate, it conducted no hearings or trials and published no papers. Set up to be weak from the start, the Commission was given the mandate to find the economic and social causes of the conflict, rather than the facts behind human rights violations. All members of the Commission were ethnic Serbs and provided nationalistic explanations and interpretations for why and how the conflict occurred (Toma 2016).

Rather, the ICTY, with the crucial contribution of NGOs, has been conducting fact-finding. The ICTY made public its database of archival materials, to which states were obligated to send documentation from their archives. These dossiers contain information about the movement of troops and which units were assigned to attack which village and when. There are over 30,000 witnesses who have corroborated this evidence.

Another matter of concern is the case of the remaining undisclosed army and police archives of Serbia, which are believed to hold key incriminating information about the 1990s wars. The Ministry of Interior and of Defence refuse or ignore requests by the Commissioner of Statistics, NGOs, journalists and lawyers to disclose documents related to war crimes and corroborating witness accounts (Ristic, 2016b). Whereas before Serbia insisted that the documents were classified and a matter of national security, today the ministries deny even possessing the requested documents. Similarly, in 2009, the International Court of Justice ruled against the status of genocide in Bosnia and Herzegovina, without asking Serbia to produce key confidential military documents (Milanovic, 2007). Judges and lawyers who saw some permitted “secret” documents were barred from using parts of them in court although they believed that these censored documents contained
incriminating evidence against the Serbian state (Simons, 2007). Given that access to key national evidence has been limited in Serbia, regional solutions for truth-finding may be useful.

In 2007, the former Yugoslav states signed a collaboration agreement for the development of RECOM, a regional initiative for fact-finding and truth telling. RECOM is a proposed intergovernmental committee and extra-judicial body supported by over 2,000 organizations from the former Yugoslavia (Coalition for RECOM, 2017; HLC, 2015: 74). Through a broad consultation process, the Coalition for RECOM drafted the Statute of the Future Commission and began lobbying member states in late 2011 to officially establish RECOM. The EU has supported the RECOM Coalition processes since 2009 and all member countries of RECOM have appointed special representatives to the RECOM Coalition (2017; HLC, 2015: 13). Support for RECOM also comes from the Berlin Process on integration of the Western Balkans into the EU. By 2015, over 580,000 people signed the petition to establish RECOM, including heads of states (Coalition for RECOM, 2017). By the end of 2016, the RECOM Coalition had documented over 630 detention sites of mainly civilians during the war, gathered about 30,000 documents detailing victims’ deaths or disappearances, and identified about 23,000 war victims and how they lost their lives or disappeared (out of 130,000 total victims in the region) (Coalition for RECOM, 2017; HLC, 2017). The collaboration between former war states for fact-findings through RECOM is indeed an ambitious endeavour with great potential and already some results. After the preparatory phases of the RECOM Coalition which were spearheaded by civil society, it will be up to member states to officially establish RECOM as a functioning, independent entity for truth-seeking.
Witness Protection

Witnesses’ testimonies are crucial for the work of transitional justice and for the trials for perpetrators of mass atrocities in Serbia. The Serbian Resolution 1784 (2011) called for the Witness Protection Unit (WPU) to align with international standards, operate with the necessary number of staff members and work free from political influences. However, the WPU of Serbia does not adequately protect witnesses. Further, staff members of the WPU may have ties to past crimes in the 1990s conflicts (ICTJ, 2016). For example, after years of complaints by witnesses, prosecutors, judges, the EU and OSCE, the head of the WPU, Milos Perovic, was fired for alleged ties to war criminals (Ristic, 2014).

Witnesses in Serbia are sometimes intimidated by police, WPU officials, party members and Serb nationalists to dissuade them from testifying (most allegations from witnesses are against Serbian Police who committed crimes during the Kosovo conflict). Potential witnesses and their families have received death threats that discouraged them and other potential witnesses from testifying (Muiznieks, 2015: 6). In noncompliance with the UN and ICTY, Serbia refused to extradite three members of the Serbian Radical Party for blackmailling and bribing witnesses not to testify in the trial against Seselj, the leader of the Serbian Radical Party accused of war crimes. Serbia defended its actions by stating that it only extradites people who are charged with war crimes, genocide or crimes against humanity, and not those charged with other crimes like witness intimidation (Ristic, 2016). This failure to protect witnesses has caused several potential witnesses to drop out of the program (Toma, 2016). Serbia has been criticized over the handling of witness protection by the OSCE, Council of Europe and European Parliament of the EU.
The Witness Protection Unit has asked to be transferred to the Ministry of Justice because its current placement in the Ministry of Interior compromises and endangers its work. The Ministry of Interior is responsible for law enforcement and police affairs in the country. However, it is also charged with protecting witnesses that testify against former (or current) police officers who were involved in war crimes and may still have ties to the ministry (Amnesty International, 2015: 20). As the WPU has not undergone vetting, such officials have reportedly been linked to war crimes or individuals involved in war crimes in this way. In fact, former head of the WPU, Milos Perocic, was removed from office after having been accused by judges, prosecutors, the EU and the OSCE for six years of being linked to war crime suspects (Ristic, 2014). Overall, the WPU’s un-vetted staff and its current location within the Ministry of Interior poses a serious conflict of interest for the protection of witnesses.

Victims Reparations

According to the 2005 UN Basic Principles, victims have the right to prompt and adequate reparation for the harm suffered. The European Parliament also called for EU member states to ensure that victims of these types of crimes receive compensation (European Parliament, 2017; European Union External Action Service 2015). As a state that has entered into the Stabilization and Association Agreement with the EU, Serbia has a duty to respect and comply with current EU human rights standards (Davenport, 2015).

Nationally, the Serbian Law on Rights of Civilian Invalids of War calls for victim compensation, but is inherently discriminatory and leaves out many groups of victims from being eligible for reparations. High standards of proof and statutes of limitations hamper victims’ ability to claim reparations. Courts rarely uphold compensation claims, and when they have done so, the amounts
were much lower than the gravity of crimes and harm suffered (Muiznieks, 2015: 8-9). For instance, the First Basic Court in Belgrade ruled that the government had to pay compensation to six Kosovar Albanians for torture and illegal detention by officials in Serbia’s Ministry of Interior in 1999 of up to $1,500 to $3,400 respectively for each crime, but these amounts were clearly lower than merited by the gravity of the suffering (HLC, 2014: 6).

The present law for reparations is discriminatory because it states that victims have to have been abused by “enemy forces,” meaning people who are of nationalities other than Serbian, in order to receive compensation. This means that all individuals in Serbia, particularly ethnic minorities, who suffered at the hands of Serbian forces are not recognized as victims. At the same time, families whose loved ones are “missing” are forced to declare their loved ones dead in order to obtain reparations. Upon declaring the missing persons as dead, the government ends the search for their bodies.

**Missing Persons**

The EU Commissioner for Enlargement and Neighbourhood Policy has said that reconciliation requires accounting for the nearly 12,000 missing persons (Muiznieks, 2015). According to the European Convention on Human Rights and case law of European Court of Human Rights (both of which Serbia is party to), Serbia has an obligation to resolve pending cases of missing persons.

Serbia expressed commitment to resolving the cases of missing persons in its 2013 initial report on the implementation of the UN Convention on Enforced Disappearances, calling it a humanitarian issue of crucial significance and acknowledging its importance for social cohesion. The Serbian Commission for Missing Persons is charged with overseeing this work. In 2014, Serbia, Montenegro,
Croatia and Bosnia and Herzegovina signed an agreement declaring responsibility for missing persons.

However, there is no systematic human rights based approach by Serbia to address the case of missing persons. Serbian parliamentarians did not pass a bill that would determine the legal status of missing persons.

Most notoriously, there has been no accountability for the bodies discovered and setup of mass graves in Kosovo from ethnic cleansings, like those found in 2014 in Rudnica with 250 bodies. Very little information has been uncovered concerning the mass graves and who is responsible for them. The Commissioner for Information of Public Importance and Personal Data Protection stressed that Serbia needs to open army and police archives to obtain further information. The Ministries of Defence and Interior Affairs have not released such information, claiming that they do not have the specific requested documents. The UN 2015 Committee on Enforced Disappearances, after investigating mass graves in Batajnica, Petrovo Selo, Lake Perucac and Rudnica in Serbia, declared that all state agents with possible relations to the 1990s mass graves must be investigated right away and sanctioned (page 5). No such steps have been taken on the part of the Serbian government.

CULTURE OF REMEMBRANCE

Memorialization

Serbia lacks a culture of remembrance, partly due to the government doing little to commemorate the tragedies, particularly for victims and their families. Serbia’s Declaration of Public Apology for Srebrenica, issued in 2010, omitted the word “genocide” when referencing to the crimes committed there. In July 2015, the
Ministry of Interior banned any public event commemorating the 20th anniversary of the Srebrenica genocide due to “security reasons.” This violated the 2013 Constitutional Court of Serbia ruling that stated that limiting freedom of assembly for security reasons violated the constitution (US Department of State, 2015: 2).

Symbolic commemorations that do exist appear nationalist, celebrating Serbian figures. They commemorate military casualties and celebrate war “heroes.” The only victim commemorative monuments were erected by victims’ families and NGOs.

**Education and Youth**

Finally, transitional justice in Serbia has not appropriately recognized the importance of education and young people in reconciliation. The government directs the Ministry of Education to control the narrative of the conflict. “Ethnically biased” textbooks nurture conflict in Serbia and weaken the case for transitional justice and a culture of remembrance. Textbooks select and distort facts. For instance, textbooks reference Srebrenica only in general terms as a “massive crime” or “massacre” rather than a genocide (HLC, 2015: 18, 78). Serbian textbooks, like Bosnian and Croat textbooks, foster “self-victimization” in which each group claims that its particular ethnicity was oppressed or abused by other neighbouring ethnicities and so they fought to defend themselves (Subotic, 2013). Overall, students learn a distorted version of history that nurtures feelings of superiority for the Serb ethnic and national identity and promotes self-victimization attitudes amongst ethnic Serbs (Stojanovic, 2017).

There have been initiatives to create new educational material. One proposed involving many historians from Eastern Europe in fact-finding in order to present different narratives of the Balkans. However, this proposal was only accepted by Montenegro (Toma, 2016).
Although transitional justice is now being taught more in universities, the concepts of human rights and transitional justice are still not taught in primary or secondary school (HLC 2015: 78). Instead, only NGOs tend to provide this sort of learning, discourse and public debate.

**RECOMMENDATIONS**

**War Crime Prosecution**

The State of Serbia should comply with and fully implement the National Strategy for the Prosecution of War Crimes 2016-2020. In doing so, it should intensify the prosecution of perpetrators of war crimes, irrespective of their ranks.

- The WCPO must be bolstered through hiring a greater number of staff and through increased financing. As there is deep concern about verbal attacks against the WCPO by high-level politicians, the judiciary should assure the independence of this office to protect against negative pressures from politicians seeking to undermine its work;
- The WCPO and Serbian courts must better apply the doctrine of command responsibility from Article 15, paragraph 2 of the International Covenant on Civil and Political Rights and Article 7 paragraph 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms;
- The WCPO and Serbian courts must set up types and levels of sentences with criteria applied to war crimes so that sentences are more fitting with punishment for perpetrators of crimes;
The WCPO and WCC must be made more accessible to people in order to raise awareness about their work and significance. Presently, there is little media interest and public knowledge about developments from the war crimes trials. There is a lot of misinformation in the general public about the courts’ work. Providing information about the WCPO and war crime prosecutions can correct mistaken beliefs by members of the public who may be confused on the issue. The media must be encouraged to report on transitional justice efforts to better inform the public;

Staff of the WCPO and prosecutors should engage in training to increase their capacities, as currently the courts do not always have the necessary expertise on the issues they address.

**Lustration**

A new law on lustration and vetting should be established and passed to determine whether current officials or candidates for public sector and security jobs partook in wartime violations. Beginning with the WCPO, WCC and WCU, all current public servants and potential candidates should undergo background checks to ensure that they do not harbour a history of involvement in human rights abuses or crimes during the 1990s wars and beyond. Those to be found guilty of abuses must be removed from office and action must be taken for further investigation and court proceedings.

**Witnesses**

Witness protection should be enhanced to provide greater witness protection and support. The WPU should adopt measures to more effectively protect witnesses of war crime trials.
The WPO must better conceal witnesses’ identities, preserve the confidentiality of witness records and facilitate identity change if needed. These steps allow for greater security for witnesses from threats and intimidations (Panuvcic et al, 2012: 29);

The WPU should be transferred from the Ministry of Interior to the Ministry of Justice to enable it to perform its work free from political pressures and the conflicts of interest that currently inhibit its work;

The WPU must investigate witness intimidation allegations right away, in accordance with the Council of Europe Committee of Ministers’ recommendations.

Reparations

The state of Serbia should set up a fund for victims’ compensation, and everyone claiming to be a wartime victim should receive appropriate and effective reparations, in alignment with the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. As such, states must ensure that victims have equal access to justice, prompt reparations, and that the reparations are in proportionality with all harm inflicted. New legislation should ensure that all victims have access to reparations by establishing an authority to manage and oversee victim compensation. (HLC, 2015: 6).

Consistent with the recommendations of the UN Committee on Enforced Disappearances in 2015, Serbia should also ensure that all victims of enforced disappearance obtain full reparations without discrimination;
Family members of missing persons should have access to reparations and welfare benefits without having to declare the disappeared person dead.

**Truth Finding and Disappeared people**

The government of Serbia should increase the human and financial capacities and resources of the Commission for Missing Persons to enable it to work more swiftly.

- The army and police archives should be opened up to investigators, NGOs and eventually the public, as they would reveal key information about the mass graves, perpetrators involved and victims, and would facilitate general fact-finding related to war crimes. The government of Serbia must continue regional cooperation efforts with its neighbours for fact-finding and determining circumstances and whereabouts of disappeared persons. It should also take action to re-establish RECOM by supporting the RECOM Coalition.

**Education**

The Ministry of Education should initiate education reform that includes new textbooks, unbiased material, and a curriculum that is informed by education and human rights experts. Primary and secondary education should include education on tolerance and citizen building. Examples of such education models are human rights education, peace education, and democratic citizenship education:

- Human rights education trains students to defend human rights and disseminates information for building a culture of human rights based on human dignity and equality (UN 1997);
Democratic citizenship education promotes democracy, human rights, and rule of law to counter violence, racism, extremism, xenophobia and discrimination (Council of Europe 2017);

- Peace education teaches skills for conflict prevention and peaceful resolution of disagreements (Education for Peace – Bosnia and Herzegovina 2017).

These education models allow students to come together in the classroom to discuss different perspectives by training youth in skills such as dialog, listening, critical thinking and teamwork. Civil society organizations and intergovernmental organizations support the use of these education models especially in post-conflict settings (ICTJ 2016; Education for Peace – Bosnia and Herzegovina 2017).

**Symbolic reparations**

Symbolic reparations, such as memorials and ceremonies, should be set up to commemorate all victims of the wars, particularly civilians.

**Elite leadership**

Political elites in Serbia have a responsibility to support and facilitate transitional justice by respecting and acknowledging the legitimacy of state and international bodies, and judiciaries. Elites and those in power must not impede such processes or misinform the public about them. Likewise, elites, through their rhetoric and actions, must serve as positive examples for the public on respect for rule of law and tolerance for diversity.

- Elite actors, like political leaders, have a duty to utilize non-discriminatory and respectful rhetoric that is sensitive to diversity. They should avoid using exclusionary
language, such as rhetoric based on ethnic identity, so as not to show a preference for or discriminate against certain groups. This would carry over to public discourse, which is presently being dangerously politicized through political leaders’ ethnocentric and nationalistic statements;

Political leadership must refrain from asserting the innocence of individuals who the ICTY and MICT find guilty. Similarly, government leaders must not conduct ceremonies to honour as “war heroes” those individuals found guilty or indicted by the ICTY or MICT. Such acts reinterpret facts, undermine the credibility of the ICTY and MICT and send the wrong message to a polarized public.

CONCLUSION

After mass atrocities, including genocide, during the Balkan Wars of the 1990s, Serbia faces the difficult work of transforming from a country ravaged by conflict to one of social cohesion informed by justice for victims and survivors. However, its efforts to seek out solutions for transitional justice are hampered by biased rhetoric and decisions, politicization by government leaders and negative or confused public opinion. These have contributed to a weak prosecutor’s office and witness protection program. The number of indictments is also unusually low, especially for higher level government and security officials, as political will to bring perpetrators to court is lacking.

To remedy many of these issues, the country must seriously embark on transitional justice and bolster the capacities of judges, prosecutors and courts, as well as other apparatuses charged with facilitating justice, such as the WCPO, WCC, WPU, and the capacities of judges, prosecutors and courts. It must also enact legislation and vetting laws, as well increase the low number of sen-
tenced perpetrators. Meanwhile, the state must address victims’ concerns for protection and reparations, as well as continue the search for missing persons in a more efficient manner. Finally, the government can contribute to a broader culture of remembrance through symbolic memorialization of victims. It can facilitate the path forward for its population through education reform for better social cohesion in which people of different ethnicities, religions and backgrounds may better live together democratically and with respect for human rights.

REFERENCES


In the aftermath of Duterte's war

A public policy perspective

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Philippine president Rodrigo Duterte, who was ushered into power on July 1, 2016, promised an iron fist, which has manifested in an all-out war on drugs (Iyengar, 2016). As of January 2017, a mere six months since Duterte began his term, his bloody war had already resulted in 7,080 casualties. To date 932,237 drug users and 74,916 low-level dealers have surrendered out of fear of being executed. However, with fewer than 50 accredited rehabilitation facilities in the Philippines, the government was not prepared for the deluge of drug users and pushers who have turned themselves in. Rehabilitation has clearly been absent from Duterte’s anti-drug campaign. His drug war has escalated into a highly divisive huma rights issue, with potentially damaging political implications to those who may oppose it. At the same time, it brings to light the glaring inability of the international community to meaningfully respond to the absurdity that is happening in the Philippines amidst very strong calls from organisations such as Human Rights Watch and Amnesty International. While the goal of this paper is to provide policy recommendations with a human rights-based approach, the author acknowledges that these recommendations will only be seriously considered by a government that is open to seeing the drug problem as a holistic public policy issue and not a purely criminal issue.
INTRODUCTION

Duterte's war on drugs

Philippine President Rodrigo Duterte, upon beginning his term on July 1, 2016, wasted no time in waging the all-out war on drugs that was an integral part of his campaign (Iyengar, 2016). He has emboldened the police and vigilante groups to kill drug users and those involved in the drug trade, without regard for due process (Chan, 2016). He has sanctioned a bloody and ruthless war on drugs that has resulted in the death of 7,080 Filipinos (Bueza, 2017). Based on Philippine National Police (PNP) data, which was also referred to by Human Rights Watch in their rule of law report on the Philippines (Kine, 2017), this number includes “2,555 suspected drug personalities killed in police operations as of January 31, 2017; and 3,603 victims in cases of death under investigation and 922 victims in cases where investigation has concluded as of January 9, 2017” (Bueza, 2017).

This all-out war is a grim picture attracting the attention of the international community. Experts predict that similar to other wars on drugs, the Philippines’ war against drugs will also fail. John Collins, executive director of the London School of Economics IDEAS International Drug Policy Project, explained that the war the Philippines has declared is similar to those that took place in the United States and Latin America, which only resulted in arrests and casualties but did not significantly reduce drug presence in these areas (Diola, 2016).
How Bad is the Drug Problem in the Philippines?

According to the Philippines’ Dangerous Drug Board (DDB) 2015 Nationwide Survey, an estimated 1.8 million Filipinos between ages 10-69 are drug users (Gavilan, 2016). According to government sources, 1.8 million Filipinos were either currently using or used illegal drugs more than once from the period of January 1, 2015 to February 5, 2016. Seventy-five percent of the Philippines’ total population (100.98 million) is within the 10-69 age range and according to the DDB, 2.4 percent of those who fall within this age bracket are drug users (Gavilan, 2016). This is roughly only half of the global average, which was at 5.3 percent in 2015 (United Nations Office on Drugs and Crime, 2017).

According to a 2015 report by the Philippines Drug Enforcement Agency (PDEA), around 20.51 percent of the 42,065 ba-
rangays (local communities) in the Philippines had drug-related cases (Carcamo, 2015). However, this must be taken with a grain of salt. According to PDEA Director General Arturo Cacdac Jr., a barangay is tagged as “drug-affected when there is a drug user, pusher, manufacturer, marijuana cultivator, or other personality regardless of the number in the area” which could be artificially inflating this number without contextualising the real situation (Carcamo, 2015). Furthermore, the rate of being drug-affected is heavily concentrated in the capital, Manila, which does not justify drug prevalence as a matter of national priority in the way that the Duterte administration has painted it (Carcamo, 2015).

Duterte himself has been giving inconsistent figures. In his first State of the Nation Address in 2016, he claimed that according to another Philippine drug agency, there were about “3 million drug addicts” in the country “two or three years ago” and possibly 3.7 million now (Rappler, 2016). This is significantly higher than the recent numbers from the DDB.
Is the War on Drugs Working?

First, the Duterte administration has been using the rhetoric that the war has made the streets safer. The PNP reported that the decline in index crime rate in July 2016, after Duterte’s first month in office (down by 31 percent from 17,105 incidents in July 2015 to 11,800 in July 2016) is a direct result of the war on drugs (Punzalan, 2016).

Police reports and public perception significantly differ. According to an April 2017 report of Social Weather Stations (SWS), a major pollster in the Philippines, “respondents reported a 6.3 percent rise in street robberies and break-ins [and] more than half of those polled said they were afraid to venture out at night” (Baldwin and Marshall, 2016). Leo Laroza, a senior SWS researcher, explained that, “People still have this fear when it comes to their neighbourhoods. It has not gone down” (Baldwin and Marshall, 2016).
In addition, if the war on drugs was working, crystal meth (shabu), a common highly addictive substance in the Philippines, should be getting more expensive as less of it becomes available (Baldwin and Marshall, 2016). However, PDEA’s own data shows that it has actually become cheaper in certain areas. In July 2016, a gram of shabu costs between 1,200-11,000 Philippine pesos (USD24-220), and in May 2017, PDEA’s last records showed that one gram costs between 1,000-15,000 Philippine pesos (USD20-300) (Baldwin and Marshall, 2016). The very wide price range reflects the variations in the availability of the drug in different regions of the Philippines but according to PDEA officials, the lowest end of the range applies to Manila, the capital, where the price has indeed come down (from USD 24 to 20) (Baldwin and Marshall, 2016).

“If the prices have fallen in certain areas, it’s an indication that enforcement actions have not been effective” according to Gloria Lai of the International Drug Policy Consortium, an international network of NGOs working on narcotics (Baldwin and Marshall, 2016). For PDEA spokesperson Derrick Carreon, one reason could be that gaps caused by local drug busts were filled by drugs smuggled from abroad (Baldwin and Marshall, 2016).

This is the “uncomfortable truth” about Duterte’s war (Chalmers, 2016). According to PDEA, of the 77 foreign nationals arrested for shabu-related drug offences during the period of January 2015 to mid-August 2016, almost two-thirds were Chinese, Taiwanese or from Hong Kong (Chalmers, 2016). “[China is] the biggest source of [shabu] and of the precursor chemicals used to produce the synthetic drug that [is] being smuggled into the Philippines, according to local drug enforcement officials” (Chalmers, 2016). PDEA spokesman Derrick Carreon admitted that it is safe to say that most of the shabu in the Philippines is actually from China (Chalmers, 2016).
**War on Drugs: War on the Poor**

Human Rights Watch released an alarming report in March 2017 that found that “the Philippine police are falsifying evidence to justify [extrajudicial] killings, and that Duterte and other senior officials in government instigated and incited killings of mostly urban poor in a campaign that could amount to crimes against humanity”.

As asserted in a February 2017 Amnesty International report, the urban poor have been paying the price in this unfair war: “The police and paid killers have built an economy off extrajudicial executions…An industry of murder is thriving, at the expense of the urban poor” (Wells, 2017).

The police were “summarily executing drug suspects with impunity, terrorising poorer communities, and exacerbating the very lawlessness they are tasked with resolving” (Baldwin and Marshall, 2016).

For Duterte, the poor are only collateral damage. “People who have addictions are like monkeys clinging to your back” he said. “Now, if you don’t kill these ones, there will always be people looking for a supply so there will always be the temptation to cook [drugs]” (Lu, 2017). Meanwhile, the upper class is spared from these executions. Those living in exclusive areas in Manila are impenetrable to the police. Duterte has also agreed to meet with high-profile people whose names have been linked to drugs, giving them a chance to plead their case (Franco, 2016). Back in July 2016, only a couple of weeks after Duterte started his term, he met with businessman Peter Lim, one of three alleged major figures in drug trafficking operations in the Philippines. Duterte urged him to go to the country’s investigation bureau to clear his name and personally discuss his case with the justice secretary (ABS-CBN News, 2016).

The drug war is instead targeting mostly poor communities that are paying a high price. Manjit Bhatia, an Australian specialist
in the economics and politics of Asia, argues that Duterte is using the drug problem as a scapegoat to distract the country from his sheer incapacity to create actual policies addressing structural poverty in the Philippines (Bhatia, 2016). Duterte’s use of drugs as a scapegoat is no surprise. Historically, any war on drugs was never about drugs:

“It’s not based on any scientific assessment of the relative risks of these drugs – but it has everything to do with who is associated with these drugs. The first anti-opium laws in the 1870s were directed at Chinese immigrants. The first anti-cocaine laws in the early 1900s were directed at black men in the South. The first anti-marijuana laws, in the Midwest and the Southwest in the 1910s and 20s, were directed at Mexican migrants and Mexican Americans. Today, Latino and especially black communities are still subject to wildly disproportionate drug enforcement and sentencing practices” (DrugPolicy.org, 2017).

International community response—or the lack thereof

The alarming situation in the Philippines and Duterte’s utter disregard of rule of law have been attracting international attention with reports from organisations such as Human Rights Watch and Amnesty International confirming the role of the Philippine police in executing victims of Duterte’s war on drugs, particularly the poor (Human Rights Watch, 2017). At the 36th session of the United Nations Human Rights Council last September 2017, 39 countries “expressed alarm over what they described as a rising ‘climate of impunity’ in the Philippines as drug-related killings continue to rise” (Flores, 2017).

John Fisher, Advocacy Director of Human Rights Watch in Geneva, confirmed that indeed, there has been “a growing chorus of
voices speaking out at the United Nations’ top human rights body to condemn the thousands of killings in the Philippines perpetrated in the name of President Duterte’s so-called war on drugs” (Flores, 2017).

Last October 12, 2017, Duterte did suspend the anti-drug operations of the Philippine police and transferred drug enforcement to PDEA (Kine, 2017). “Duterte implicitly acknowledged the decision was linked to growing domestic and international furor over the drug campaign’s horrific human toll” (Kine, 2017). This, however, did not last very long. Duterte very recently (December 2017) re-activated the police’s primary role in anti-drug operations, which brings the grave situation back to where it started (Kine, 2017). He may have been “emboldened by the unwillingness of either US President Trump or fellow Association of Southeast Asian Nations (ASEAN) leaders to publicly challenge the drug war slaughter during the ASEAN 2017 Summit, which the Philippines hosted in November” (Kine, 2017).

In an interview with Fisher who visited the Philippines last October 2017 to personally observe the country’s situation and meet the victims’ families, he explained four possible ways Duterte may be held accountable by the international community:

- “The general assembly of the United Nations Human Rights Council can expel the Philippines from membership if it regularly violates its international human rights obligations;
- As many states have spoken out against the killings, they may take this into account in their bilateral relations with the Philippines—including their economic relations. The Philippines enjoys zero duties for many of its exports under the European Union’s GSP+ scheme, and the condition for these trade perks is the Philippines’ practice of 27 international conventions, many of which revolve around human rights;
- The UN may launch an independent investigation and;

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1. The GSP allows vulnerable developing countries to pay fewer or no duties on exports to the European Union (EU), giving them vital access to the EU market and contributing to their growth.
If violations are widespread and systematic, they can amount to crimes against humanity. This means those responsible, including at the very top levels, can be held to account before bodies such as the International Criminal Court” (Aquino and del Mundo, 2017).

However, these possible scenarios are still hinged on strong political will from the international community. It does not help that there is a growing global populist agenda pushing back the human rights movement, and the Trump government, whether implicitly or explicitly further emboldens “an increasingly diverse array of governments, from Saudi Arabia and Bahrain to Poland and the Philippines” to disregard the very pillars of the “international human rights regime” (Alston, 2017).

This inability of the international community to hold Duterte to account despite the glaring running down on human rights that he is instigating in the Philippines further highlights the need for a much stronger response from the United Nations to “investigate these killings and to end murderous police operations on urban poor communities” (Kine, 2017).

**CASE STUDIES: A WAR ON DRUGS SIMPLY DOES NOT WORK**

**Colombia**

The drug situation in Colombia, the world’s top producer of cocaine, serves as the Duterte administration’s model in their fight against drugs, but as Colombia learned the hard way, a purely punitive approach simply does not work (Woody, 2017). Colombia has been at the forefront of the global drug war over the last three decades, with drug cartels intricately intertwined with crime gangs and rebel groups (Brodzinsky, 2016). Despite the massive amounts
of money from the United States used to fight the drug trade, current President Juan Manuel Santos compared their experience with riding an exercise bike: It didn’t get them anywhere. In a 2016 drug policy forum in Bogotá, Santos said: “we make a huge effort, we sweat and suddenly I look left, I look right and we are in the same place, the business continues” (Brodzinsky, 2016).

With support from North American and Western European governments, billions have been poured into a brutal campaign to eliminate drugs and to put an end to cartels, but it came at a tremendous cost (Gaviria, 2017). The armed conflict in Colombia has claimed the lives of more than 220,000 people in the past 50 years, and still the war has not been won (Trotta, 2013).

The war on drugs in the Global South, particularly in Latin America, is based on the premise that cocaine and heroin trade is most particularly associated with violence, and that its revenues funds insurgency and terrorism. This, in turn, threatens the security of the Global North (Buxton, 2015). But this only exacerbates the security situation. Colombia and Afghanistan are key examples wherein a prohibitionist approach towards drugs just allows for diversification of funding streams by rebel, criminal, and insurgent groups, and there remain to be structural security problems such as FARC in Colombia, so the casualties were for nothing (Buxton, 2015).

The reduction of coca crops in the 2000s hasn’t been sustainable either (Brodzinsky, 2016). According to the United Nations Office on Drugs and Crime (UNODC), “the area under coca cultivation in Colombia rose 44 percent in 2014 to 69,000 hectares or 175,000 acres” in their latest report, as of 2016 (Brodzinsky, 2016). Colombia’s efforts to disintegrate the drug cartels barely put a dent in what could be referred to as a drug industry, according to Juan Carlos Garzón, an expert on drug policy with the Woodrow Wilson Institute in Washington (Brodzinsky, 2016). The country is even facing rising drug consumption rates —showing that the government overlooked a key component of the issue, the demand side of the
equation. John Collins, a critic of Duterte’s drug war, explained that “the policy prescriptions did not match the realities on the ground” (Brodzinsky, 2016).

In a February 2017 column in The New York Times, former Colombian President César Gaviria sent a very clear message to President Duterte—that the drug problem cannot be solved simply by armed forces and law enforcement agencies, which is Duterte’s primary, if not only, strategy (Gaviria, 2017). According to Gaviria, “throwing more soldiers and police at the drug users is not just a waste of money but also can actually make the problem worse. Locking up non-violent offenders and drug users almost always backfires, [and] instead [strengthens] organised crime” (Gaviria, 2017).

Despite the Duterte administration’s claims that their drug war has contributed to improving national security, Gaviria asserts that Duterte’s iron-fist approach has detrimental consequences. In the case of the Philippines, the consequences are extrajudicial killings, vigilantism and an alarming disregard for rule of law. The experience of Colombia brings to light a perspective that has been ignored for far too long in terms of addressing the drug problem such that, at its core, it is an issue of “public health, human rights and economic development” (Gaviria, 2017).

Duterte’s extreme stance toward drug peddlers and users prevents them from ever having the opportunity to find treatment. Instead, current President Santos proposes a “more human solution to the drug problem that aims to fight the root causes of the problem in all its stages rather than just focusing on enforcement and prohibitionist policies” (Brodzinsky, 2016). Gaviria asserted that they only really made positive impact in Colombia after they recognised the problem as a social issue and not merely a military issue (Gaviria, 2017). Furthermore, the criminalisation of drug users goes against empirical evidence. The effective way to solve the Philippines’ drug problem is to decriminalise consumption and have governments “regulate drugs that are used for medical
and recreational purposes and support alternative sentencing for low-level nonviolent offenders” (Gaviria, 2017).

Colombia was also at the forefront of the UN General Assembly Special Session 2016, which tackled global drug priorities (Santos, 2016). Four issues were prioritised as alternative approaches instead of the historically brutal war on drugs:

- Framing drug policy using a human rights context: “preventing the stigmatisation of drug users, abolishing the death penalty for drug-related offences and obligatory treatments for drug abusers”;
- Ensuring the national autonomy of countries to adopt drug policies considering the realities on the ground;
- Comprehensively approaching: “a public health framework to the treatment of drug consumption focusing on prevention, attention, rehabilitation and re-socialisation of drug abusers, alternatives to prison for drug-related offences, [and] social and economic alternatives to small growers of illegal crops and other vulnerable communities” and;
- Continuing to fight transnational organised crime (Santos, 2016).

**Thailand**

Thailand is another country with an experience similar to the Philippines that has a cautionary tale to offer. Former Thai Prime Minister Thaksin Shinawatra launched his own drug war back in 2003. Similar to Duterte, whose political party is the “super majority” in the House of Representatives, Shinawatra was very popular, and led a one-party administration (Romero, 2016). This gave him a strong mandate to wage a brutal war on drugs (Sombatpoonsiri and Arugay, 2016).

Since the 1950s, Thailand has gained notoriety for being one of the world’s major transfer hubs for narcotics and by the 1990s,
the use of methamphetamines started to alarm the country’s political elites (Sombatpoonsiri and Arugay, 2016). Most of these drugs were produced on the Thailand-Myanmar border by ethnic Burmese rebels who used the drugs to fund their activities, and since the drugs have a low cost, they were largely consumed by the rural working class (Sombatpoonsiri and Arugay, 2016).

A war on drugs was launched in February 2003 to control drug trafficking and deter drug use. But just as the Philippines experiences today, Thailand’s war resulted in “arbitrary killings” with 2,800 extrajudicial killings recorded in the first three months of the war (Human Rights Watch, 2008). The details of how Thailand’s drug war was carried out are disconcertingly similar to the Philippines. Government officials were found to have “blacklists” leading to arrests and, in many instances, extrajudicial killings (Sombatpoonsiri and Arugay, 2016). There was also enormous pressure for the police to show results but those who paid the price were small-time peddlers at the lowest levels of the drug network, instead of the drug lords on top of the food chain (Sombatpoonsiri and Arugay, 2016).

In 2007, an official investigation concluded that more than half of those killed were not related to drugs (Sombatpoonsiri and Arugay, 2016). Furthermore, the war had public health ramifications when HIV prevention and treatment efforts were compromised because of the growing fear of arrest and abuse among those who needed harm reduction services (Sombatpoonsiri and Arugay, 2016). However, despite the bloody consequences of the war, Thaksin, like Duterte, enjoyed fairly high approval ratings (Philippine Daily Inquirer, 2017). As a matter of fact, Thaksin had the support of the Thai population as he cracked down on drugs, until his downfall in 2006. Duterte also shares Thaksin’s views that the war on drugs in Thailand inevitably had “collateral damage” (Sombatpoonsiri and Arugay, 2016).

Despite this war, the drug routes from Myanmar to Thailand reportedly continued to operate because of the patronage of the
Burmese and Thai government bureaucratic and business elites. This end-result is expected to happen when a campaign against drugs targets only the sellers and intermediaries and not the drug lords who are on top of this network (Sombatpoonsiri and Arugay, 2016). Thailand’s efforts to stop the transfer of illicit drugs from Myanmar was concentrated in the northern border and despite police efforts, the drug trade has turned this “poorly delineated border between Myanmar and Thailand into a treacherous killing zone” (Fuller, 2009).

After all, the problem of illegal drug use is not one that can be solved simply by getting rid of those who use them, especially in ways that promote impunity. It is a systemic problem that requires a public policy solution, which looks at the roots of the problem and comes up with unique and targeted solutions.

A PUBLIC POLICY PERSPECTIVE

Caveat

The author acknowledges that with the current state of the Duterte administration, and with the President’s strong popularity, policy recommendations are not a priority for the current administration. At the same time, the political situation in the Philippines has made it extremely difficult to find allies who may be willing to champion these alternative policy solutions. While the international community can intervene, the consequences for Duterte’s government will still be very limited. The following alternative policy recommendations, which are based on empirical evidence and utilise a public health and human rights-based approach, are for the consideration of the succeeding administration.
Background

The assumption that all kinds of drug users are “dangerous and evil” has resulted in government policies that treat drug use as a purely criminal offence, and has made it almost impossible to see “potentially dangerous drugs in the same light as potentially dangerous foods, tobacco, or alcohol”. The goal of public policy on such issues is to “reduce potential harms” (Csete et al., 2016: 1427).

A report from the UN High Commissioner for Human Rights in 2015 stated that, “drug use does not necessarily lead to drug dependence” (Csete et al., 2016: 1427).

The oversimplification of the drug problem results in imprisonment as a primary drug-control intervention. Many countries impose grave sentences for what can actually be considered “minor, non-violent [drug-offences]” (Csete et al., 2016:1427). This has serious, long-term implications; for example, as a result of Thailand’s war on drugs, prison populations have increased and remained high. Seventy percent of its 321,347 prisoners are in jail for drug-related cases. Many of them were charged as teenagers and at present, are still “serving out decades-long sentences for relatively petty offences” (Sattar, 2016).

This results in drug offenders’ overrepresentation in already crowded criminal justice systems. For example, the Quezon City Jail in the Philippines was constructed in 1953 to house 800 inmates, but by the United Nations’ standards, it should house only 278 (Santos, 2016). According to the Bureau of Jail Management and Penology, which is responsible for prison administration in the Philippines, on average, “its detention centres are at 380 percent overcapacity [and] among the most congested jails, the overcapacity reaches levels of more than 2,000 percent” (Santos, 2016). The hunt for small-time drug-users and peddlers, especially in poor communities, has exacerbated an already grave prison overcrowding problem.
According to Penal Reform International, an organisation advocating criminal justice reform, overcrowding is “one of the key contributing factors to poor prison conditions around the world, arguably the biggest single problem facing prison systems, and its consequences can, at worst, be life-threatening [and] at best, prevent prisons from fulfilling their proper function” (Penal Reform International). Overcrowding further weakens the capacity of prison systems to meet basic needs, such as health care and food, and undermines its rehabilitation function (Penal Reform International).

In less than two months since Duterte took office, the prison population in Quezon City Jail already spiked from 3,600 to 4,053 (McKirdy, 2016). Out of that total number, 60 percent of convicts are there for drug-related reasons (McKirdy, 2016). This follows the same pattern as the experience of Thailand and the US with their high incarceration rates.

Rhetorically, some parts of the US government have begun to acknowledge that “incarceration for many drug related offences is not only costly (both in financial and in human terms), but also counterproductive” (Buxton, 2015: 18). From 2001 to 2013, more than half of prisoners serving sentences of more than a year in federal facilities were convicted of drug offences, with 98,200 inmates (51 percent of the federal prison population) imprisoned for possession, trafficking, or other drug-related crimes in 2013 (Buxton, 2015: 18).

Very few countries invest in alternative policy interventions, despite international guidelines that recommend broad measures to solve the issue of drug use. While only a small percentage of drug users will become dependent on drugs, in most countries, these users will virtually have no access to affordable, humane treatment because of the stigma of being drug users (Csete et al., 2016). In most cases, “beatings, forced [labour], and denial of health care and adequate sanitation are offered in the name of treatment [in
compulsory detention centres] that are more like prisons than treatment facilities” (Csete et al., 2016: 1428). In worst-case scenarios, such as what is happening in the Philippines, they could be killed with no regard for due process.

Governments should look at examples of countries that have revisited their prohibitionist approach to drugs and have been at the forefront of humane drug policy alternatives. For example, Portugal and the Czech Republic have decriminalised minor drug offenses, and experienced “significant financial savings, less incarceration, significant public health benefits, and no significant increase in drug use” (Csete et al., 2016: 1429).

In Portugal specifically, HIV infections and deaths related to drugs have decreased, and there was no significant rise in drug use (Transform Drug Policy Foundation, 2014). The example of Portugal reflects that the use of criminal policy has, at best, only a minimal impact in preventing people from using drugs. The country’s drug use level is below the average in Europe, and the use of drugs has declined among those aged 15-24, which is the age group most at risk of beginning drug use (Transform Drug Policy Foundation, 2014).

Today, according to Portugal’s Health Ministry, “only about 25,000 Portuguese citizens use heroin, down from 100,000 when the policy began” (Kristof, 2017). Furthermore, “the number of Portuguese dying from overdoses plunged more than 85 percent before slightly rising again in the aftermath of the European economic crisis of recent years. Even so, Portugal’s drug mortality rate is the lowest in Western Europe — one-tenth the rate of Britain or Denmark and about one-fiftieth for the U.S.” (Kristof, 2017).

However, it is important to note that these reforms occurred not only because of the decriminalisation policy, but also because of an overall move towards “a more health-centred approach to drugs, as well as wider health and social policy changes” (Transform Drug Policy Foundation, 2014). Addressing the problem of
drugs is most certainly very tricky. On one hand, policy-makers are responsible for public health and safety, but just as Colombia learned after decades of their own war on drugs, a purely punitive approach does not work. Instead, evidence compels policy-makers to study and consider alternative and holistic approaches to the problem. International human rights standards still state that countries must go by policies that will result in the least harmful way to address a particular problem (Csete et al., 2016).

Countries like Colombia and Thailand learned, at the cost of thousands of lives, that a punitive drug policy will barely make a dent in the prevalence of drugs. Since 2011 the Global Commission on Drug Policy, of which Colombia’s Gaviria is a founding member, has sought an open and evidence-based approach to solving the global drug problem. Today, the commission proposes the following measures:

- Improvement of public health and safety;
- Strengthening of anti-corruption measures to curtail illicit drug trade;
- Investment in sustainable development and;
- Decriminalisation of consumption and regulation of certain drugs, such as those for medical and recreational uses (Gaviria, 2017).

However, this requires that a government must first and foremost acknowledge that drug use will not necessarily lead to dependence and will require reforming the criminal justice system. These will be great leaps for any government, especially on decriminalisation and the regulation of medical and recreational use of drugs. This will prove to be even more difficult for the administration that follows the aftermath of Duterte’s bloody campaign against drugs.
RECOMMENDATIONS

Community-based rehabilitation

The UNODC recommends community-based rehabilitation, which integrates treatment into the community, for the following reasons:

- Behaviour changes takes place within the community and;
- It empowers local leaders and targets specific populations (UNODC, 2006).

There are fewer than 50 accredited rehabilitation facilities in the Philippines, which were not prepared for the deluge of drug users who have turned themselves in (Paddock, 2016). This sheer number caught the government completely off guard, but the situation is not entirely bleak. The Philippine government has budgeted 3 billion Philippine pesos (over USD 61 million) for drug rehabilitation in 2017 under the Department of Health (DOH), representing about five times the 2016 budget (Diaz, 2016).

How rehabilitation is designed is an entirely different discussion. The UNODC “Community-Based Treatment Good Practice Document” (Vienna, Sept. 2008) presents some evidence-based models for developing countries such as the Philippines (UNODC, 2008). Taking on a comprehensive approach to rehabilitation, the centres should provide:

- Primary detoxification and mental health treatment;
- According to the DDB, the commonly abused substances in the country are “methamphetamine hydrochloride (shabu), cannabis (marijuana), and inhalants (contact cement)” (DDB, 2013). This has important implications in terms of rehabilitation design since shabu is highly addictive, with a high risk of relapse (Rehab International);
Thirty-six percent of people who underwent a shabu rehabilitation program relapsed to drug use within only six months (Brecht et al., 2011). The shorter the time of treatment, the higher the chances that an individual will relapse (Brecht et al., 2011). It is a chronic condition that requires long-term rehabilitation (Brecht et al., 2011). This will be crucial to effective rehabilitation design in the Philippines considering that shabu is the most commonly abused substance in the country.

Individual and group counselling (for the families and the larger community): According to the UNODC Myanmar case study, getting community members involved builds an atmosphere of accountability and helps create a more accepting attitude towards drug use. Because the community and the family are involved, the relapse rates for community-based treatment are also low (UNODC, 2008);

Reintegration of reformed drug users to society, particularly through livelihood and housing assistance. The UNODC recommends including livelihood training and income generating programs in community-based intervention as a way to reintegrate reformed drug users into society. Also recommended by the UNODC is the provision of housing as a reintegration strategy that benefits not only the one being treated, but also has tremendous impact on the family (UNODC, 2008).

The government should also use a gender mainstreaming approach in rehabilitation and its broader drug policy. Gender biases are evident in the way the drug problem is addressed in most countries, especially in Latin America, which has suffered greatly from the drug war (Washington Office on Latin America). Women are highly disadvantaged and vulnerable, and are “often on the bottom rungs—e.g. as couriers or drivers—and might not have information about major traffickers to trade as leverage with pros-
In the aftermath of Duterte’s war, rehabilitation treatment designed specifically for and made available to women is rarely provided. Yet, there is rarely rehabilitation treatment designed specifically for and made available to women. Open Society Foundations recommends that the treatment design should include high-quality and gender-appropriate services for them (Malinowska-Sempruch and Rychkova, 2015). Governments should prioritise providing alternatives for women who have committed minor drug offences instead of immediately putting them behind bars, and protecting women and children from police violence during raids and other similar efforts (Csete et al., 2016). This will require agencies like PDEA to disaggregate their data based on gender so they can better understand the needs of women, and for the DOH to consider women’s needs in rehabilitation—for example pregnant women, women who are primary caregivers in their households, and women with children. More importantly, police forces must not aggravate violence in their operations (Csete et al., 2016).

**Harm reduction**

Harm reduction initiatives are critical in combating the spread of HIV and hepatitis infection through needle-sharing among drug users. If not addressed, this can cause even more health risks to the broader public. Half of those who inject drugs are suspected to be living with hepatitis C. There are also more than 180,000 drug-related deaths every year (International Drug Policy Consortium, 2016). Around 13 percent of people who inject drugs are HIV positive, which is more than 25 times higher than the general population (International Drug Policy Consortium, 2016).

This is becoming reality in the Philippines. According to the UN, the Philippines has one of the fastest growing HIV/AIDS epidemics in the world (Doyle, 2016). “HIV cases have sharply increased from maybe one new infection a day back in 2007 to what we have now, which is more than 24 new cases a day” according to
Teresita Bagasao, country manager for UNAIDS in the Philippines (Doyle, 2016). Because of the fear instigated by Duterte’s drug war, organisations such as Cebu Plus, an HIV care organisation that was previously involved in clean needle programs, are having difficulties continuing their work (Doyle, 2016). “We just hope the government will reconsider the harm reduction program because it is also a way of halting the spread of HIV” states Jerson See, founder and president of Cebu Plus (Doyle, 2016). If the DOH turns a blind eye to this, the war on drugs could be worsening an already alarming HIV epidemic.

An internationally recognised practical response to this problem is harm reduction. In line with the basic principles of public health, governments must prioritise the reduction of the harm from the use of drugs, such as the spread of HIV and hepatitis. Just as governments endeavour to create policies that will reduce the general harm of tobacco, alcohol, and the like without completely prohibiting people from smoking and drinking, governments must also consider the possibility of a drug policy that is not linked to the goal of abstinence that may be unrealistic for some people (Csete et al., 2016). If tobacco, alcohol, and other substances that have negative consequences on health could be regulated in the form of taxation, this option would make sense to be considered for certain kinds of drugs, considering users’ inability to maintain complete abstinence. This is especially crucial in the context of shabu with its highly addictive nature and high relapse rates even after treatment. That this is the most common illicit drug in the Philippines requires better balance between rehabilitation and harm reduction, and decriminalisation.

In cases wherein formal decriminalisation is not an immediate option, health services such as harm reduction for drug users must then be improved and made available in order to give support to minor drug offenders instead of only punishing them, in turn pushing them further to the fringes of society (Csete et al., 2016).
While there has been strong evidence that harm reduction allows drug users to protect themselves without immediately stopping drug use, this must be carefully discussed with the DOH and the law enforcement agencies, as drug use is a very heated issue in the Philippines (Wolfe and Csete, 2015). A serious harm reduction policy must go hand-in-hand with other programmes such as prevention, treatment and rehabilitation, and supply reduction (International Drug Policy Consortium, 2016).

Decriminalisation

“In the Philippines, illegal possession of shabu weighing less than five grams is punishable by imprisonment from 12 years and one day to 20 years; if the quantity is more than 10 grams but less than 50 grams, the penalty is life imprisonment” (Contreras, 2012). The Comprehensive Dangerous Drugs Act (Republic Act 9165) led to more court backlogs since the law prohibited plea bargains, and there were “not enough public lawyers, private lawyers and forensic chemists to testify before the courts on the results of examinations done on confiscated drugs” (Contreras, 2012).

Philippine Regional Trial Court Judge Edward Contreras recommends the following to decongest the courts:
- Plea bargain and probation must be allowed in cases involving youthful offenders, 18 to 30 years old, and those arrested for possession of a “minimal quantity” of drugs;
- The procedure for availing voluntary treatment and rehabilitation must be simplified;
- The harsh penalties for possession of a minimal quantity of drugs must be eliminated by introducing shorter and lighter penalties and fines in consonance with the latest trend in the United States;
Introduce measures for a more effective probation supervision and mandatory drug treatment programs” (Contreras, 2012).

Long-term judicial reform is needed so that possession of illegal drugs in certain amounts will not be considered a drug offence. For a country as conservative as the Philippines this will require not only changes in the justice system, but more importantly a shift of mind-set among the general public. It will also require a considerable amount of work from all sides, such as the government, the media, and health professionals. This will prove to be a difficult task in the aftermath of Duterte’s drug war, but it should be a priority of the next administration. This long-term reform will require:

- The government to have a genuine drug policy that is humane rather than punitive;
- The media to shift the discourse towards evidence-based drug policy;
- Health professionals to advocate a public health perspective and;
- Other influential leaders to speak up against the trauma that this war has caused the Philippines.

**CONCLUSIONS**

While there have been inconsistencies in Duterte’s own statements about the war on drugs, he has already recognised that “the drug problem could not be fixed in the Philippines by a single president in one term” and “having a long coastline to watch over and thousands of islands to guard make it difficult to prevent the entry of illegal drugs” (Macas, 2017).

After all, as Thailand has learned, the illegal drug network extends beyond a country’s border. The Philippines, for example, serves not only as consumer but a transit point, and to be able to
control this drug trade, it must be first acknowledged as a transnational threat. Southeast Asia is a dangerous neighbourhood in terms of drug trade. Unless neighbouring countries collaborate, any serious effort to control drug prevalence in the Philippines will be inadequate (Sombatpoonsiri and Arugay, 2016), especially when the majority of the supply is coming outside of the Philippines, as in the case of the shabu coming from China.

Duterte was correct with one thing—this is not the kind of work that can be accomplished by a single administration. It is a systemic problem that must be carefully unpacked for its public health, social, and economic implications. It will also require actors within and outside government, especially in terms of influencing the public to acknowledge the drug problem not only as a criminal issue but a social one. This is a lesson that has been learned again and again by countries that embarked on bloody wars on drugs, and it seems like the Philippines will only truly, very slowly learn this now, at the cost of thousands of lives that continue to pile up to this day.

REFERENCES


Bhatia, Manjit. (2016) Duterte’s war on drugs in the Philippines can’t hide his policy incompetence. South China Morning Post. [Online], 23 September http://www.scmp.com/comment/insight-opinion/article/2021971/dutertes-war-drugs-philippines-


Penal Reform International. Overcrowding. Available at: https://www.penalreform.org/priorities/prison-conditions/key-facts/overcrowding/.


United Nations Office on Drugs and Crime (2016). Drug Dependence Treatment: Community Based Treatment. UNODC Available at: https://www.unodc.org/docs/treatment/CBTS_AB_24_01_09_accepted.pdf


POLICY MAKING IN THE DIGITAL AGE
INTRODUCTION

The digital economy refers to the global network of economic and social interactions facilitated by digital technology – most notably the Internet. There is evidence to suggest that the digital economy is a significant source of economic activity in many major economies (Figure 1). Despite this, there is an ongoing debate within

Figure 1. Contribution of the digital economy to economic activity

the economics profession between “techno-pessimists” such as Gordon (2012) and “techno optimists” such as Brynjolfsson and McAfee (2014) regarding the significance of the digital revolution for economic growth – the latter believe that technology will play a large role in driving unprecedented growth in the global economy, while the former believe that the boost to productivity growth from the information and communication technology revolution has already been and gone. The digital economy’s lack of visibility in official statistics has made this debate difficult to resolve. There are currently no internationally agreed-upon definitions of the digital economy and digital trade for national accounting purposes. However, such definitions are crucial if policymakers are to account for the significant economic and welfare benefits generated by the digital economy.

IS THE DIGITAL ECONOMY MISMEASURED?

Stiglitz, Sen and Fitoussi (2009) observe that Gross Domestic Product (GDP) is predominantly a measure of market production. With some exceptions, most forms of non market or home production are considered beyond the GDP “production boundary”. A consequence of this exclusion is that GDP declines when private or home-based production is substituted for market production. Bean (2016b) and Coyle (2017) argue that digitisation has facilitated greater substitution of home for market production in recent times. This reflects the rapid growth in digitally disintermediated online travel, employment, banking and other financial services where individuals are encouraged to perform services for themselves with the aid of digital platforms; the development of open source software such as Linux and Apache; the increase in online video sharing and the production of con-

1. Digital economic activity here includes spending on digital skills, digital equipment, software, and intermediate digital goods and services. Because intermediate production is included, it is not strictly comparable to gross value added in GDP, which is measured net of intermediate inputs.
tent for social media, wikis and blogs; and other new phenomena such as self-checkouts at supermarkets.

While GDP statistics may have been overstated in the 20th century due to the shift from home based production activities to market activities, this trend may have reversed to some extent in the 21st century. No comprehensive estimates of this substitution effect currently exist, although estimates of the value of individual examples of the voluntary household production of free digital products, the sharing economy, and digitally disintermediated services performed by customers tend to be relatively modest where available. Nonetheless, taken collectively, these could represent a significant contribution to digital mismeasurement.

To facilitate comparisons of the “real” change in the quantity of production over time, GDP needs to be separated into changes in quantity and price. To isolate these effects, the components of nominal GDP must be deflated using relevant price indexes to obtain estimates of “real” GDP. The process of decomposing output into changes in price and quantity results in a range of known measurement challenges.

First, it is often difficult to separate price movements into “pure” nominal changes and those related to changes in product quality or characteristics. Failing to adjust prices for quality changes will result in upward-bias in price indexes and subsequent under-measurement of real GDP. This is of particular concern in the digital economy context, as computers, smartphones and software have experienced rapid improvements in performance and functionality over recent decades.

Second, real GDP can be underestimated when new products or services are not introduced into the measurement sample in a timely manner. For example, Hausman (2003) found that the United States Bureau of Labor Statistics did not include mobile phones in their price indexes until 15 years after their release.
During this period of omission, the price of mobile phones declined precipitously.

Finally, price indexes can be upwardly biased when different stores sell identical products at different prices. Specifically, when a new outlet enters the market and sells a particular product at a lower price than other retailers, current statistical practices assume this price reduction reflects a real reduction in the quality of service provided, and therefore no net price reduction. This form of bias is referred to as outlet substitution bias, and may have increased in recent years due to the entry of online retailers. Thus, there are compelling reasons to believe that digitisation may be exacerbating these known measurement challenges.

In fact, economists have found evidence that inadequate price adjustments in response to improvements in the quality of Information and Communications Technology (ICT) products (such as computers, communications equipment and software) have led to under-measurement of the digital economy and economic growth (see Byrne, Fernald and Reinsdorf (2016); Ahmad and Schreyer (2016); Syverson (2017); and Groshen et al. (2017)).

For example, Groshen et al. (2017) find that United States (US) real GDP growth was under-measured by 0.23 percentage points in 2000, declining to 0.15 percentage points in 2015, due to these adjustment failures. While the inadequate price adjustment of the limited range of ICT products considered in these papers is not highly significant for GDP growth estimates due largely to the offsetting effects of the investment and import price indexes, they nonetheless have the potential to contribute to substantial mismeasurement of Consumer Price Index (CPI) inflation.

These modest mismeasurement findings may also be a result of not fully accounting for the transformative changes in the quality and functionality of some more recent innovations such as tablets and smartphones. Varian (2017) notes that mobile phones now provide the functionality of cameras, GPS, landline

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2. At the upper-end of the spectrum, Byrne and Corrado (2017) estimate their adjusted ICT price indexes add about 0.22 percentage points to US real GDP growth. While most of the decline in mismeasurement identified by the authors occurred before 2005, the more gradual decline between 2010 and 2015 suggests that weak investment growth post-crisis may also be contributing to the decline in mismeasurement.
telephones, gaming machines, eBook readers, computers, movie players, audio players, maps, password generators, fitness monitors, alarm clocks, web browsers, calculators, recording devices, video cameras and many other functions. The failure to fully adjust the prices of smartphones for these quality improvements will result in the mismeasurement of price indexes. For instance, Byrne, Dunn and Pinto (2016) estimate that mismeasurement of price declines for tablets alone is biasing US labour productivity downward by 0.1 percentage points per year. Byrne and Sichel (2017) also point out that prices for many ICT products, such as industrial robots, electro-medical instruments, and defense and aerospace equipment, remain completely unstudied. Meanwhile, Feldstein (2017) has argued that failing to account for the consumer welfare benefits of new products may be a greater source of digital mismeasurement than inadequate quality adjustment.

Syverson (2017) also suggests that digital mismeasurement alone cannot explain the entire post-2004 labour productivity slowdown in the US (worth approximately $US 9,300 per person in 2015), even if estimates of the consumer welfare benefits of the Internet are taken into account. Using the method of Goolsbee and Klenow (2006), Syverson estimates these consumer welfare benefits at only around $US 3,900 per person in the US in 2015, well short of the per capita cost of the observed labour productivity slowdown. While acknowledging the conceptual differences between GDP and consumer welfare, recent research is challenging this conclusion.

Table 1 reports survey responses from Brynjolfsson, Eggers and Gannamaneni (2017), in which participants were asked how much they would need to be paid to forego access to various free digital services. The median annual consumer surplus from free digital goods studied in the US amounted to a highly significant two thirds of median household disposable income per person in 2016. Despite being subject to hypothetical and selection biases, the numbers suggest that recent changes in GDP per capita
Table 1: Survey-based Estimates of Median Annual Consumer Surplus from Free Digital Goods in 2016 (USD)

<table>
<thead>
<tr>
<th>Service</th>
<th>Surplus (USD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Search engines</td>
<td>$16,629</td>
</tr>
<tr>
<td>E-mail</td>
<td>$6,896</td>
</tr>
<tr>
<td>Digital maps</td>
<td>$2,790</td>
</tr>
<tr>
<td>Online videos</td>
<td>$936</td>
</tr>
<tr>
<td>E-commerce</td>
<td>$771</td>
</tr>
<tr>
<td>Social Media</td>
<td>$188</td>
</tr>
<tr>
<td>Messaging</td>
<td>$145</td>
</tr>
<tr>
<td>Music</td>
<td>$144</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$28,499</strong></td>
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</table>

Official household disposable income per capita $43,469


Note: The most recent official data from Australia suggests that the average number of hours spent online for personal use in a typical week per Internet user was around 10 hours per week in 2014–2015. If one were to value this time based on average hourly earnings data for May 2017, the total would be around A$20,400 (US$15,200) per annum. However, other sources report higher levels of Internet use in Australia. For example, Quiggin (2014) reports estimates of time spent actively engaged in the Internet economy of 3 hours per day, and Roy Morgan Research (2016) report the average Australian aged over 14 spends 19 hours per week using the Internet, 13 hours of which occurs in the home. The higher estimates of Internet use reported by Quiggin and Roy Morgan Research place the value of time use associated with the Internet more in line with the estimates of Brynjolfsson, Eggers and Gannamaneni (2017). For instance, 21 hours of weekly use implies a value of around A$43,300 (US$32,275) and 19 hours per week a value of A$39,200 (US$29,200) per annum. The fact that official ABS data indicates that 15 to 17 year olds are spending 17.8 hours online for personal use on average in a typical week suggests there may be some scope for estimates of the welfare benefits of the Internet based on time-use to increase in future years.
may be significantly understating changes in living standards. The welfare value of the Internet is also evident in data concerning the time people spend online—recent data from Australia suggests that valuing the amount of personal time users spent on the Internet (10 hours per week) using average hourly earnings would result in a total of $US 15,200 per person per annum. There is evidence to suggest that this is a lower bound, as other sources report higher levels of Internet use in Australia, and Australian Bureau of Statistics (ABS) data on the Internet usage of 15-17 year olds (17.8 hours per week) seems to indicate that there may be some scope for estimates based on time-use to increase in the future (Figure 2).

The provision of free digital services in unlimited quantities is a unique (and arguably critical) aspect of the digital economy. However, these same attributes present fundamental measurement challenges for statisticians. Nevertheless, using Nakamura and Soloveichik’s (2015) method of valuing free media based on the value of advertising expenditure, Byrne, Fernald and Reinsdorff (2016) find that free digital services such as Facebook imply

3. At the upper-end of the spectrum, Byrne and Corrado (2017) estimate their adjusted ICT price indexes add about 0.22 percentage points to US real GDP growth. While most of the decline in mismeasurement identified by the authors occurred before 2005, the more gradual decline between 2010 and 2015 suggests that weak investment growth post-crisis may also be contributing to the decline in mismeasurement.

Figure 2. Volume of data downloaded (Australia)

an upward revision to post 2004 US labour productivity growth of only 0.0065 percentage points per annum on average. Bean (2016b) however argues this represents an extreme lower bound for digital mismeasurement related to free digital services. Not all free digital services are subsidised by advertising; for instance, Facebook and Google also earn income from the analysis of user data, and many, such as Wikipedia, are provided completely for free. Modest estimates of growth in the value of free digital services are also difficult to square with the fact that physical data flows have been increasing exponentially, suggesting that the consumption of digital services is actually growing extremely rapidly. For instance, Figure 3 indicates that over the five years

\[ \text{Figure 3. Price indexes for telecommunication services (2002=1.0)} \]

\[ \text{Source: “National Consumer Price Indices (CPIs),” OECD, 2017} \]

\[ \text{Note: The significant differences in price indexes for telecommunication services between countries, something that is also apparent for computer and software price indexes, highlights the need for a more consistent and comparable approach to measuring the digital economy internationally.} \]
through December 2016, the volume of data downloaded in Australia has grown at a staggering average rate of 50 per cent per annum.⁴

So how might “data on data” help improve measurement of digital services for national accounting purposes? The ABS (2017) recommends the “unit value approach” for deflating telecommunications services. For telephone calls, this means price is derived by dividing total revenue received by the number of call minutes. Extending the same treatment to pricing fixed and mobile broadband services would suggest dividing total revenue for these services by data use.⁵ This would imply a rapid decline in the price index for telecommunications services in Australia in recent years. However, as Figure 4 demonstrates, the telecommunications price index was actually increasing between 2002 and 2014. This, in essence, showing that real GDP growth has been understated.

Given the rapid growth in data flows, potential adjustments to the CPI and real rates of growth based on data use could be significant. For example, Bean (2016a) deflated telecommunications services in the United Kingdom (UK) by the growth rate in consumer Internet traffic and found that annual real GDP growth would have been 0.7 percentage points higher on average over the preceding decade.⁶ In a more detailed study, Abdirahman, Coyle, Heys, and Stewart (2017) find upward bias of the UK telecommunications services price index of between 35 and 90 per cent between 2010 and 2015 depending on the method used. The lower bound corresponds to deflating mobile and fixed broadband services using data flows; and the upper bound deflating all telecommunication services using data flows. Coyle and Mitra-Kahn (2017) report that the upper bound methodology would add as much as 1.5 percentage points per annum to UK real GDP growth between 2010 and 2015. While some may argue that deflating all telecommunications services using data usage is overly aggressive and sits uncomfortably with existing statistical

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4. This is consistent with the prediction of Gantz and Reinsel (2012) that digital information should double every two years between 2015 and 2020. Cisco (2017) also predict that Australian consumer Internet traffic will grow at an average compound annual growth rate of 28 per cent between 2016 and 2021, slightly above the global average of 27 per cent.

5. Text messages and phone calls can also be priced on a per bit basis.

6. Van Ark (2016) also reports private data from the US suggesting price declines of 25 per cent per annum for broadband services since the turn of the century. Other ICT services are experiencing similar trends, with cloud services in the US experiencing price declines of 30 per cent per annum on average over the same period.
practices, deflating fixed and mobile broadband services in this manner would materially increase estimates of digital productivity and economic growth.\footnote{In the Australian context, applying the Bean (2016a) methodology to all telecommunications services would require making data usage assumptions for phone calls and text messages. Given that some measures of data use are averaging 15 percentage points a year higher than the data use assumption adopted in the Bean Review (2016a), this could imply higher estimates of growth mismeasurement if all telecommunications services were treated as data services and deflated using data flows. On the other hand, only deflating fixed and mobile broadband services using data flows and incorporating these on a revenue weighted basis into the telecommunications services price index would lead one to expect a lower increment to growth in real GDP. For instance, in the UK, Abdirahman et al. (2017) found fixed and mobile broadband revenues represented around 40 per cent of telecommunications revenue in 2015, implying a 40 per cent revenue weight in the bundle of telecommunications services. However, a reservation regarding this approach is that fixed and mobile broadband services are relatively underweighted in telecommunications services revenues, and over-weighted in terms of data volumes. For example, in the UK in 2015, fixed and mobile broadband services contributed 99.6 per cent of data flows. In the event that fixed line rental charges and other price differences between voice, text and data services are competed away over time, we would expect mismeasurement estimates using the two different approaches to converge over time.}

Digital businesses also make significant investments in intangible assets not fully captured in company and national accounts. Though data is the defining asset of the digital economy, Ahmad and Schreyer (2016) note that the SNA 2008 (System of National Accounts), which includes in GDP investment in intangible assets such as research and development (R&D), database creation, computer software, and literary/artistic originals, only seeks to measure the cost of physically producing and maintaining a database, rather than the inherent

<table>
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<th>Table 2 Price-to-book ratios</th>
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<tr>
<td><strong>Apple</strong></td>
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<td><strong>Amazon</strong></td>
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<td><strong>Microsoft</strong></td>
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<tr>
<td><strong>Tesla Motors</strong></td>
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<td><strong>Google</strong></td>
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<td><strong>Baidu</strong></td>
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<td><strong>Atlassian</strong></td>
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Source: Bloomberg and Yahoo Finance (accessed 05/12/2017)
value of data itself. Indeed, it is likely that the only time the value of a database is fully reflected in GDP is when it is sold as part of a going concern whereby the value is captured as purchased goodwill. However, in many countries, including Australia, even this is not captured in national accounts. For a long time, economists such as Corrado, Hulten, Sichel (2005) have argued that expenditures on services like employee training and the development of firm-specific human capital, strategic planning, improving firm management and organisational processes, and developing brand equity should be included as investment in company and national accounts. This is on the basis that any expenditure that reduces current consumption with a view to generating future benefits should be regarded as investment. The disparity between share market and book valuations for a range of leading international technology companies suggests that unmeasured intangible investments such as these are critically important in the digital economy (Figure 5).

Van Ark et al. (2010) found that between 1995 and 2006, GDP growth rates would be 0.1 to 0.2 percentage points higher in a number of advanced economies if the broader definition of intangible assets proposed by Corrado, Hulten, Sichel (2005) was adopted in national accounts. However, more recently Byrne, Fernald and Reinsdorf (2016) have found that under-measuring intangibles had no impact on US growth rates between 2004 and 2014. This may be due in part to multinational profit-shifting activity related to intangibles. Adjusting for the transfer pricing activity of US multinationals alone, Guvenen et al. (2017) find that US labour productivity growth from 1994 to 2004 is 0.1 percentage points higher per year and 0.25 percentage points per year higher between 2004 and 2008. Beyond 2008 they find no mismeasurement of labour productivity growth which may be attributable to cyclical factors. They find the greatest mismeasurement in industries that undertake significant R&D activities or produce information technologies.

8. Productivity growth from 2006 to 2008 was also almost a percentage point higher after accounting for profit shifting.

9. While no similar exercise has been conducted for Australia, IMF (2014) analysis suggests that the reallocation of multinational profits on the basis of the location of assets and/or payroll costs would increase Australian GDP in a similar manner.
mismeasurement of economic and productivity growth related to intangibles have been small, unmeasured intangible investment arguably still results in the material understatement of the level of investment, GDP and labour productivity.\footnote{In the Australian context Fox and Elnasri (2017) found total Corrado, Hulten and Sichel (2005) defined intangible investment of $A82 billion for Australia in 2012–2013, of which $A47.3 billion at the time was not included in national accounts. While some criticise the Corrado, Hulten and Sichel (2005) methodology as relying on some ‘heroic’ assumptions, work by Bucifal and Bulic (2016) which reduces reliance on arbitrary assumptions actually suggests that the number for intangibles not capitalised in the national accounts for Australia in 2012–2013 could be around $A4 billion higher. Consideration should be given to developing broader measures of intangible investment in the context of developing digital satellite accounts.}

**WHAT ARE THE CONSEQUENCES OF DIGITAL MISEMEASUREMENT FOR POLICY?**

Measurement challenges are making evidence-based digital policymaking more difficult. Important policy debates concerning digital infrastructure, online competition policy, digital trade, taxation, ICT security, opening public data, privacy rights and restrictions to the free flow of information online are currently being conducted largely without the benefit of official statistics. A more comprehensive understanding of data flows, how and where value is created in the digital economy, the value of investment in data, and cross border flows related to digital services and intangibles would provide valuable information to assess the costs and benefits of various policy interventions.

The rapid growth in free digital products and services could be contributing to the weakness in inflation currently observed in many developed economies, making life more difficult for central banks. Mismeasurement may also have important consequences for monetary policy. Jacobs, Perera and Williams (2014) have suggested that Australian CPI inflation could be overstated by up to 1.2 percentage points per annum relative to that derived using a true cost-of-living index due to new products, incomplete quality adjustment and substitution bias. As discussed above, digitisation is potentially exacerbating these sources of bias. If inflation is upwardly biased in unanticipated ways, this could increase the risk of central banks underestimating the degree of excess capacity in their economies, and adopting inappropriately tight monetary policy settings. Blanchard, Cerutti and Summers...
(2015), Ball (2014), and Anzoategui et al. (2016) suggest that this could have adverse long term consequences for growth in potential output and productivity.

The digital economy may also present challenges for fiscal policy. To the extent that home production and free digital products and services are substituting for market production, this translates to a reduction in tax revenue for governments, eroding both consumption and income tax bases. Further, upward bias in measured inflation has consequences for government spending where program funding is indexed to inflation. The Boskin Commission (1996) famously argued that CPI measurement bias in the US could contribute US$148 billion to the deficit by 2006, making it the fourth largest federal government spending program behind social security, health care and defence.

**CONCLUSIONS**

The digital economy is large, rapidly growing and provides significant welfare benefits to consumers in many major economies. Despite this, it lacks visibility in official statistics. While GDP was never intended to be a measure of welfare, policymakers tend to view it as a proxy. Significant welfare benefits generated by the digital economy currently fall outside the GDP production boundary, suggesting that growth in GDP per capita may be becoming a less reliable guide to improvements in living standards. While recent studies suggest mismeasurement of GDP growth related to some ICT products, intangibles and software has been relatively modest, mismeasurement related to digital services could be more substantial and warrants further investigation. Better evidence concerning the substitution towards home production due to digitisation is required, and more regular time use surveys incorporating questions on digital time use would be helpful in this regard. Digital mismeasurement could ultimately be a story of many individually small sources of mismeasurement adding
up to a more significant whole. The poor visibility of the digital economy in official statistics remains a challenge to evidence based digital policymaking, while digital mismeasurement could be sending misleading signals to macroeconomic policymakers.

Core macroeconomic statistics need to adapt more quickly to the changing structure of the digitally enabled global economy. Increasing research effort concerning the measurement of ICT products and services, intangibles, the value of data and data flows, and the substitution of market for digital home production should be priorities, especially given the promise that new digital measurement techniques hold for resolving broader economic measurement challenges. Satellite accounts are appropriate vehicles to experiment and progress incremental reforms. Many countries are already moving in the right direction. The US Department of Commerce (2016) is conducting a three-year review to improve the measurement of cross-border data flows, define the digital economy, and provide initial estimates of the digital economy’s contribution to GDP. The United Kingdom has established the Economic Statistics Centre of Excellence tasked with undertaking research to improve new economy measurement. Given the scale and rapid growth of the digital economy in most developed economies, improving digital measurement will remain important for policy makers globally as well.

REFERENCES


HSBC (2017). Trade in the Internet era: IT could be better. HSBC Global Research, 29 June 2017.


The Boskin Commission – see Advisory commission to study the consumer price index (1996).


INTRODUCTION

The development of China’s financial system ran parallel to its larger market-oriented economic reforms launched in the late 1970s. Many experts argue that this has contributed to the financial inclusion of vulnerable groups on the margins of society. In 2005, China entered the fourth phase in the development of its financial system – ‘increasing economic and social inclusion’ – whereby the government has particularly focused on expanding financial services to sang nong (i.e. rural areas, agriculture and farmers) (ADBI, 2015).1 However, China’s financial sector, led by state controlled commercial banks, has primarily provided financial services to SOEs (State Owned Enterprises) and large corporations. The absence of consumer credit history and ratings adds to banks’ reluctance to lend to individuals. Therefore, China’s financial system still faces difficulty in financing MSMEs, rural households, low-wage workers (especially migrant workers), and the unemployed (e.g. laid-off workers from restructured SOEs and job seekers in urban areas) (CGAP, 2012). For instance, MSMEs and micro-entrepreneurs take up less than 30% of total bank credit (CAFI, 2016). Even when owning a bank account, these segments of the population may not access full range of financial services. Therefore, they often rely on informal networks and strategies to achieve financial sustainability.

1. The three previous phases were: Economic inclusion but stagnation and poverty (1949-1978), inclusive growth but increasing inequalities (1978-1993), slower growth but increasing exclusion (1993-2005) (ADBI, 2015, p. 9)
A study computing data from the World Bank and China’s Ministry of Industry and Information Technology found that only 24.8% of rural residents use the Internet and only 6.14% of rural households transact via mobile technologies (Xiong and Turvey, 2013). However, in a separate and more recent study conducted in 2016 in Hubei and Guizhou provinces, Xiong and Turvey found out that 75% of rural households claim to be using Internet for less than five years, which corresponds to the rise of China’s leading non-bank Internet payment companies, such as WeChat and Alipay (Xiong and Turvey, 2016). China, thus, makes a good fit for financial inclusion through mobile banking.

Drawing on primary research and secondary sources, this paper highlights key areas where the Chinese government could undertake initiatives to ensure that mobile finance foster financial inclusion instead of further marginalising underserved groups. This study finds out that despite a significant rate in the adoption of Internet and mobile banking, disparities between different socio-economic groups in using financial services through mobile banking still exists due to low levels of financial and digital literacy among the most disadvantaged groups. Moreover, mobile finance in China still remains largely unregulated and puts consumers at risk regarding data protection.

**THE RISE OF MOBILE FINANCE IN CHINA: AN OVERVIEW**

Since 2010, China has experienced a rise in the sector of mobile finance, primarily led by the two competitors that are Tencent and Alibaba. In 2011 Tencent, China’s biggest gaming firm, launched WeChat, an instant messaging application. WeChat entered the financial realm in 2013, when Tencent created WeChat Pay, a virtual wallet connected to users’ WeChat account. The new function has offered the possibility to make peer-to-peer
(P2P) money transfers, mobile payments, tax bills, etc. Likewise, Alipay is Alibaba’s payment service created in 2004. Alibaba’s digital payment capabilities have grown alongside its microlending activities. In June 2013, Alibaba added to Alipay, ‘Yu’e Bao’, a market mutual fund pledging 8% return rates. WeChat then launched its own consumer investment fund in January 2014, ‘Licaitong’, offering an annualised return of about 7.34%. Both funds accept very small savings, while providing users with the possibility to make micro-loans, a service they have usually been denied by traditional banking institutions. To use WeChat and Alipay, however, users are required to link their bankcard to their WeChat/Alipay account. WeChat and Alipay currently have 846 million and 400 million monthly active users respectively.

**RISKS AND OPPORTUNITIES OF MOBILE FINANCE**

*Mobile finance holds great promise in bringing financial service to the unbanked poor who are not profitable for commercial banks (Aron, 2017; Allen et al., 2016; Kendall and Voorhies, 2014).* In China, mobile finance has primarily benefited individuals already enrolled in the formal financial system who are looking to open informal businesses. Through the establishment of mutual funds, WeChat and Alipay have expanded possibilities for entrepreneurs running informal businesses to take loans and accumulate personal savings. With regards to other segments of the informal economy, WeChat and Alipay have expanded the set of financial services available to them and created impetus for people to switch from informal saving options (storage of cash in the household, informal saving groups) to formal ones. Whilst the terms of inclusion are set by the formal sector and big high-tech companies (e.g. requirement to hold a formal bank account), mobile finance innovations in China has provided its users better terms compared to those using traditional banking.
system: higher interest rate on saving accounts, lower cost of financial services.

**Mobile finance has had a limited impact on people who lack financial and digital literacy.** Xiong and Turvey have skilfully demonstrated that mobile banking facilitates financial inclusion in rural China with regards to purchases, point of sales, and investment but not for borrowing and loans due to lack of financial literacy. In their study only 10.4% of surveyed households in rural areas had an understanding of financial matters, only 49% understand financial information such as ‘loan interest rate’ and 29% have no prior knowledge of financial products (Xiong and Turvey, 2016). These findings reveal that level of financial literacy remains low in rural areas. Further insights into the digital divide feature in a study on Chinese migrants conducted by Yu et al. The study found that Chinese migrant workers are partially “e-included” due to their lack of “motivational, intellectual, and social access”. According to the authors, lack of information and communication technology (ICT), including mobile, education would be responsible for digital divide in China (Yu et al., 2016).

**Further risks emerge with the new set of financial services offered by dominating tech companies, such as Tencent and Alibaba.** First, it increases surveillance of customers and state’s ability to control its population. WeChat and Alipay’s database are gold mines for social control. China’s Internet giants are collaborating with the government to build an encompassing Social Credit System by 2020. Second, it increases the likelihood of commercial capture. The amount of data produced by WeChat and Alipay consumers can be used from targeted advertising to product development. Third, as much as they satisfy customers’ convenience, monopolies are a threat to consumers’ agency. Their reliance on a single application opens door to manipulation and exploitation. The beginnings of this evolution can be seen in
the recent introduction of fees for P2P transactions by Tencent. WeChat now charges users when they transfer money from their WeChat wallet to their bank account, thus incentivizing them to retain funds in their WeChat wallet.

**POLICY IMPLICATIONS AND RECOMMENDATIONS**

Mobile finance has facilitated financial inclusion in terms of access and quality. However, it has not benefited the different segments of the society evenly in terms of usage. Mobile finance has primarily created economic benefits for the upper tier as it improves micro-entrepreneurs financing channels. Therefore, mobile finance in China has reinforced existing fractures between various economic groups due to unequal levels of financial and digital literacy. This would ultimately make the already marginalised groups harder to reach and will lead to a fragmentation within the economy – those having sufficient financial and digital knowledge to enjoy financial services offered by non-bank commercial actors, while ill-informed groups remain excluded.

1. **Develop educative policies to strengthen financial and digital literacy to support the adoption of mobile finance.**

The fast adoption of mobile finance in China brings about challenges for people to acquire financial and digital knowledge. Further inclusion can be achieved in China if access to financial services is accompanied by educational policies on financial matters. The government could for instance set up a financial education curriculum for elementary, junior and high schools. Achieving a good understanding in financial services and management is a long-term objective, as it requires a change in public behaviour. Therefore, to measure the achievement of these policies, provincial or local governments could undertake regular
financial literacy survey. The results of which would inform governments on the level of knowledge and utilisation of financial products and services.

2. Take advantage of the significant growth in mobile finance to extend formal financial system to unreachable groups.

Data from mobile banking could be used by the financial system to establish the financial identity for MSMEs and individuals and assess their creditworthiness. It would bridge the information gaps between financial services providers and small businesses. This development is already taking place as the Chinese government has granted the right, since 2015, to leading tech companies, such as Alibaba and Tencent to create their own credit rating system (premises of the Social Credit System). Yet, concerns about conflict of interest and uncertainty about the misuse of data by these digital disruptors has led the Chinese government to delay its licenses for these companies to run credit scoring systems. To facilitate the smooth expansion of financial services, the Chinese government should maintain/strengthen its intermediary role, i.e. to better supervise non-banking transactions and to ensure that non-banking actors and the incumbents in banking sector work together in a compliant and transparent way.

3. Develop a supportive regulatory framework to safeguard users’ data protection and avoid commercial and political capture.

The exploitation of financial data should also be embedded in the set-up of supportive regulations. International experiences have demonstrated that mobile banking regulations are challenging traditional banking regulations. The regulatory framework should also focus on the protection of consumers’ data. Since 2016 the government has initiated gradual measures to strength-
en data protection. In 2016, the country’s National Information Security Standardisation Technical Committee presented its draft national standards for the protection of personal information. The Cyber Law, which entered into force in June 2017, makes some provisions for the protection of personal data (Art. 22, 64). However, the law remains primarily concerned with censorship and the control of information as a means of social control. To fully achieve the digital transformation of the country, the Chinese government should introduce a comprehensive legal regime to effectively protect personal information and to enable citizens to hold both Internet companies and government authorities accountable.

4. Raise public awareness in prudential aspects of financial transactions and the risks posed by mobile finance, and ensure preparedness of good financial behaviour in the community.

The Chinese government has to enhance user education to foster security awareness over financial issues. In a survey conducted by the Boston Consulting Group (BCG) in 2013, only 63% of Chinese people considered their credit card data as “moderately or extremely private” against 83% in the UK, while only 50% of surveyed consumers regarded their financial data as “moderately or extremely private” against 87% in the UK. If financial inclusion through mobile finance is to be successful, China will have to ensure that all segments of its highly diversified population are aware of the financial risks of mobile banking, the rights and obligations of consumers, and the availability of complaints and dispute settlement mechanisms. Users vulnerability could be reduced through the delivery of security awareness training and the establishment of an independent authority that would monitor the activities of mobile banking providers, set up guidelines for Internet companies, and impose that required information is disclosed properly to the public. The presence of
consumer groups in the auditing committee of this new authority would guarantee its independence.

REFERENCES


Doland, A. (2016) “What WeChat Teaches About the Future of Social Commerce: China’s all-purpose mobile app scrutinized for what the future of shopping might hold.” Ad-


INTRODUCTION

The number of individuals who have been dying due to opioid overdoses has been steadily increasing in the United States. From 1999 to 2015, the number of overdose deaths involving opioids nearly quadrupled, such that 91 Americans died each day in 2015 (CDC, 2016). The official statistics are not yet available, but provisional figures indicate that the rate of opioid overdose death has continued to increase through 2016 and 2017 (NVSS, 2017). As this policy brief will discuss, there is evidence that the opioid epidemic is linked to prescription opioids, and that high prescription rates may have partially driven the increase in overdose deaths. In response to this evidence, healthcare providers must examine the risk of addiction, overdose, and other adverse health outcomes for each patient and balance these risks with the potential pain relief benefits of prescribing opioids.

Relatively new digital technologies have created new ways to assess these risks and benefits, as well as new ways to identify prescribers and patients with problematic behaviour surrounding prescription opioids. Prescription drug monitoring programs (PDMPs) are state-wide databases that track prescribing behaviour for controlled substances at the individual patients and physicians level. This data can be accessed in real time by physicians, pharmacists, and other appropriate parties to help them provide the most appropriate care for patients as well as to help identify patients who seek opioids from multiple prescribers and even identify physicians that may prescribe excess opioids. PDMPs exist in all states except for Missouri.
the specific legislation regulating their use varies from state to state. There are several best practices that all states should adopt to ensure that PDMPs are used effectively to positively impact health outcomes for patients. This paper focuses on mandatory consultation of PDMP data by prescribers before writing opioid prescriptions as a best practice in PDMP legislation. It includes a discussion regarding the evidence that mandatory consultations reduce the number of opioids that physicians prescribe, and thereby reduce overdose deaths. The paper then makes specific policy recommendations to improve state-level PDMPs by creating wider and more objective criteria for mandatory consultation.

THE PRESCRIPTION OPIOID EPIDEMIC: CONTEXT AND SCOPE

Scope of Opioid Epidemic

Since 2000, more than a half million people have died in the U.S. from drug overdoses (Rudd et al., 2016). The number of annual overdose deaths in the U.S. has now surpassed the number of HIV deaths at the peak of the AIDS epidemic in 1995, indicating the severity of the problem and the urgency to remedy it (Katz, 2017). The age-adjusted drug overdose death rate increased by 250 per cent from 1999 to 2015, from 6.1 per 100,000 in 1999 to 16.3 in 2015 (CDC, 2016). Opioids are a primary driver of this increase in the overall drug overdose death rate, and were involved in over 60 per cent of all overdoses in 2015 (Rudd et al., 2016). The opioid overdose death rate has increased by more than 350 per cent, from 2.9 per 100,000 in 1999 to 10.4 in 2015, although this is likely a conservative estimate since not all records of drug overdose deaths include specific drugs in the re-
Due to the severity of the issue, the Center for Disease Control and Prevention (CDC) has declared the opioid problem a national public health epidemic in the U.S. This epidemic affects people across geographic and social boundaries. Past drug epidemics, especially the cocaine and crack epidemic of the 1980s, were associated with minority populations in urban areas. However, the opioid epidemic has been affecting more White communities in suburban and rural areas than past drug epidemics in America. The highest rates of prescription opioid overdose deaths are among those 24 to 54 years of age, and rates are higher in non-Hispanic Whites and American Indians or Alaskan Natives compared to non-Hispanic Blacks and Hispanics. Although men have historically had higher rates of prescription opioid overdose deaths than women, the gender gap is closing (Rudd et al., 2016).

What Evidence Tells Us about the Prescription Opioid Epidemic

There is mounting public recognition that opioid overdoses are a significant public health concern, and that liberal prescribing practices have contributed to the problem. From 1999 to 2015, more than 183,000 people died in the U.S. from overdoses related to prescription opioids (Rudd et al., 2016), and each day more than 1000 people are treated in emergency departments for not using prescription opioids as directed (CDC, 2016).

There is evidence to suggest that many patients that are prescribed opioids become dependent on them. Estimates of the risk of addiction among those that receive opioid prescriptions range from around 8 per cent in conservative studies, to upwards of 15 to 26 per cent in studies that expand the definition of addiction to include misuse and addiction-related behaviours (Volkow and McLellan, 2016). In a study of patient records from the IMS Lifelink+ database,1 approximately 6 per cent of those that received

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1. The study drew a random 10% sample of patient records from the IMS Lifelink+ database from 2006–2015. This database includes commercial health plan information from a large number of managed care plans and is representative of the U.S. commercially insured population (Shah et al., 2017).
an opioid prescription of at least one day still used prescription opioids one year later. This risk of continued use was higher among those that received longer initial prescriptions. Among a subset of the population that received an initial prescription of more than 8 days (70 per cent of the study population), the risk of continued use in one year was 13.5 per cent; and for the 7.3 per cent of the population that received initial prescriptions of more than 30 days, the risk of continued use in one year reached almost 30 per cent (Shah et al., 2017).

Although correlation does not prove causation, it is also informative to look at how opioid sales have increased during a period when opioid overdose deaths were also on the rise. The number of deaths from opioid overdoses quadrupled between 1999 and 2014 in the U.S., mirroring the increase in prescriptions for opioids (Rudd et al., 2016). This increase in prescriptions occurred despite there being insufficient evidence to support that opioids are the most effective way of treating chronic, non-cancer pain. Multiple federal agencies such as the CDC and the Food and Drug Administration (FDA) have amended their guidelines for prescription opioids in response to this lack of data, and no longer endorse prescribing opioids as the best way to treat chronic non-cancer pain (Dowell et al., 2016).

**POLICY ALTERNATIVES TO ADDRESS THE PRESCRIPTION OPIOID EPIDEMIC**

Public Health Framework

It is useful to refer to a public health framework of primary, secondary, and tertiary responses as a way to classify different policy solutions to the opioid epidemic. Primary strategies in public health attempt to prevent exposure to risk factors that cause adverse health outcomes. For example, in the opioid epidemic this may include strategies to reduce the number of
prescriptions by encouraging physicians to prescribe more conservatively. Secondary strategies in public health look to screen patients for health issues before it causes serious harm. In the opioid epidemic, this means identifying patients with aberrant use behaviour before they experience serious health effects such as an overdose event. Lastly, tertiary strategies in public health involve therapeutic and rehabilitative measures once a diagnosis is firmly established (Kolodny et al., 2015). In the opioid epidemic, tertiary strategies include medically assisted treatment (MAT) for addiction, as well as increasing access to naloxone, a medication that reverses the effects of opioid overdoses.

Primary, secondary, and tertiary strategies can all be effective in reducing the harms associated with the opioid epidemic. However, the policy recommendation below is based on the assumption that primary strategies do more to get to the root cause of the prescription opioid epidemic; while tertiary strategies, although important, only treat individual patients who develop substance use disorders; and hence do not undertake systemic changes that would result in less people becoming addicted in the first place.

**What are PDMPs?**

PDMPs are state-level databases that track the prescription and dispersion of controlled substances, or drugs that have the potential for abuse. Although legislation regulating how often data must be put into the system varies from state to state, most states require that PDMP data is input either every day or within a week. This data can then be accessed via computer by prescribers, dispensers, and regulatory boards, in addition to other parties such as drug courts and medical examiners depending on the state. Some state PDMPs proactively analyse data to search for suspicious prescription patterns, such as providers or dispensers...
that are responsible for the prescription and distribution unexpectedly large amounts of opioids and other controlled substances compared to other facilities. These proactive reports can then be passed along to appropriate parties such as law enforcement, professional licensing bodies, or the prescriber or dispenser depending on the state. PDMPs do several things. Firstly, having access to data about a patient’s lifetime prescription history may help inform healthcare professionals of appropriate treatment options and protect patients from harms caused by over-prescription. Additionally, PDMPs can help identify doctor-shoppers, or patients that seek prescriptions from multiple prescribers either for their own use or for sale on the illegal market. Lastly, it can help identify prescribers with odd prescription patterns, such as those in “pill mills”.

Evidence for Prescription Drug Monitoring Programs

Evidence indicates that establishing a state-wide PDMP is associated with lower prescription rates for opioids. A study from 2001 to 2010 across 24 states found that PDMP implementation is associated with a reduction in the probability of being prescribed an opioid for pain from 5.5 per cent to 3.7 per cent. This is more than a 30 per cent reduction in the rate of prescription for opioids, which was maintained in the second and third year after implementation (Bao et al., 2016). Similarly, in a smaller study of authorized PDMP users in Rhode Island and Connecticut, results indicated that those that used PDMPs were more likely to respond with clinical measures such as referral to other healthcare providers, screening for drug abuse, and revisiting pain and treatment agreements, as compared to non-users of the PDMP, who were more likely to respond with either inaction or by contacting law enforcement (Green et al., 2012).
Along with decreasing the number of prescriptions, there is also evidence that PDMPs are associated with mitigated opioid abuse and misuse trends over time. A study of RADARS Poison Center and Opioid Treatment data from 2003 to 2009 (when PDMPs were still being established in most states) compares outcomes in states with PDMPs to outcomes in states that had not yet established a state-wide database, and finds that PDMPs were associated with slower growth in misuse and abuse trends. States without PDMPs saw an average of 1.9 per cent growth per quarter in Poison Center’s opioid intentional exposures, while states with PDMPs saw an average of only 0.2 per cent growth. Similarly, opioid treatment admissions increased 4.9 per cent per quarter in states without PDMPs, and only 2.6 per cent in states with PDMPs (Reifler et al., 2012).

Although PDMPs in general show promising results, it is important to identify specific best practices that increase the positive impact that PDMPs have in healthcare. The following section breaks down identified best practices and provides evidence that mandatory consultation of PDMP data by prescribers’ helps improve outcomes, as compared to PDMPs without strong mandatory consultation provisions.

**POLICY SUGGESTION: ADOPTING BEST PRACTICES IN PDMP MANDATES**

**Public Health Framework**

The American Pharmacists Association (APA) and the CDC suggest the following best practices in state PDMPs (American Pharmacists Association, 2014; What States Need to Know about PDMPs, 2016):

- universal use mandates;
- streamlining the process to register as a user;
- allowing delegates to access data on behalf of physicians;
proactive reports to users to protect patients at high risk and identify inappropriate prescribing trends;
real-time data;
data-sharing across states;
making active efforts to integrate PDMPs into clinical practice.

Evidence for the Effectiveness of Universal Use Mandates

Of these best practices, universal mandates have particular promise in maximizing the benefits of state-wide PDMPs. PDMP data is only useful when it is utilized, but without mandates that prescribers actually consult the data, most prescribers do not routinely check PDMP data unless they suspect misuse (Kolodny et al., 2015; Rutkow et al., 2015; Young et al., 2017). Studies show that state-level mandates are successful in increasing the number of prescribers that check PDMP data before prescribing, and are successful in influencing prescribing behaviour. A study that compared data from 38 states found that mandatory PDMP review along with pain clinic laws\(^6\) were significantly associated with decreased prescription of opioids and reduced prescription opioid overdose death rates; compared with states with only pain clinic laws or with no legislation in place. In these states, mandatory PDMP review laws and pain clinic laws reduced both the amount of opioids prescribed by 8 per cent and prescription opioid overdose death rates by 12 per cent (Dowell et al., 2016). This evidence supports the idea that more states should pass comprehensive PDMP mandates.

Although nearly all states have mandates in some form, they vary in terms of their strength and criteria for mandatory query. The PDMP Center of Excellence at Brandeis University breaks

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\(^6\) Pain clinic laws regulate the ownership, operation, and practice of clinics providing pain management services where practitioners prescribe opioids or other controlled substances to a large proportion of patients.
down four different types of mandates, from most to least comprehensive (2016):

- States with the most comprehensive mandates require that prescribers consult the state-wide PDMP when initially prescribing any opioid or benzodiazepines\(^7\), with subsequent checks at three-month intervals should the prescriptions continue.

- States with mostly comprehensive mandates may not require initial checks for all opioids and benzodiazepines, and the requirements for subsequent queries may be at intervals greater than three months.

- States with less comprehensive mandates have categorical requirements rather than a universal mandate. Some require query for non-cancer chronic pain prescriptions only or for prescriptions for more than a certain length of time, such as 7 days.

- States with the least comprehensive mandates only require consultation based on subjective criteria, such as the prescriber’s judgement of possible misuse. Mandates that only apply to certain settings such as pain clinics or opioid treatment programs also fall into this category.

**Experience in a Model State: New York**

New York is consistently cited as a model PDMP (Dowell et al., 2016; PDMP Center of Excellence at Brandeis University, 2016; Haffajee et al., 2015). The experience in this early implementer state provides evidence of the efficacy of mandated use of PDMPs and can inform legislative choices in other states.

New York first allowed authorized users to access PDMP data in 2010. In 2012, the state passed new legislation (I-STOP – Internet System for Tracking Over-Prescribing) that mandated that providers consult PDMP data before prescribing opioids, which

\(^7\) Benzodiazepines are a class of anti-anxiety drugs that also have a high potential for abuse and overdose. Although opioids are the focus of this brief, PDMP mandates also apply to benzodiazepines.
went into effect in August 2013. As part of New York’s Public Health Law, practitioners must consult PDMPs when prescribing or dispensing controlled substances in Schedules II to IV with limited exceptions such as prescriptions for a supply of less than five days and those in hospice care. Should a provider fail to comply with this mandate, they can be found guilty of misdemeanor, which is punishable by up to a year’s sentence or a fine not exceeding ten thousand dollars, or both.

Before implementing this mandate, New York’s online PDMP had 3,087 users who averaged about 11,000 reports requested per month. Six months after the mandate was implemented, active users reached 67,779, who averaged about 42,300 requests per day (PDMP Center for Excellence, 2016). A year after implementation, there were notable differences in prescribing behaviour. The number of opioid prescriptions had decreased by 9.5 per cent, along with the number of individual patients with prescriptions. The number of individuals identified as possible ‘doctor shoppers’ - those that receive more than five prescriptions from five different prescribers in a three-month period - decreased by 82 per cent in the first two years. Additionally, prescriptions for buprenorphine increased by 14.6 per cent. Buprenorphine is an opioid partial agonist, which means that it produces some of the same effects as opioids such as euphoria and respiratory depression, but at a weaker level. Unlike a true opioid, the effects of buprenorphine level off at higher doses, which is referred to as a “ceiling effect.” This effect reduces the drug’s potential for misuse, dependency, and abuse, which in turn decreases the amount of harmful side effects in users. Buprenorphine is prescribed to people who suffer from opioid abuse disorder as a way to manage addiction, so the increase in buprenorphine prescriptions after New York implemented mandatory consultation of PDMPs indicates that more patients who abused opioids gained access to medically assisted treatment after the mandate was implemented.

8. The United States began to classify drugs into schedules in 1970, when the FDA released the Controlled Substance Act. A drug’s schedule depends on its accepted medical use and the drug’s potential for abuse. Schedule I drugs have high potential for abuse and no accepted medical use, Schedules II-IV have potential for abuse and accepted medical use, and Schedule V drugs have the least potential for abuse.
CHALLENGES TO IMPLEMENTATION

Policy Suggestion for States: More Comprehensive Mandates for PDMP Consultation

Based on the demonstrated efficacy of PDMP mandates, other states should strengthen the language of their mandates in order to make the criteria for mandatory consultation wider and more objective. In particular, states that have not done so should aim to emulate the following measures from New York’s PDMP legislation: mandatory consultation by prescribers every three months after initial prescription with certain exemptions for emergency care and hospice settings; punitive measures for prescribers and dispensers that fail to comply with mandatory consultation; and training for physician and pharmacists to provide them with adequate information to comply to this mandate.

PDMPs have already been implemented in forty-nine states, and data regarding the prescription history of patients and prescribers is already being recorded. The only cost associated with this policy suggestion is the time that it would take for healthcare providers to access PDMP data before prescribing an opioid.

Challenges with Key Stakeholder: Medical Providers

Medical providers are a key stakeholder in healthcare and PDMP legislation. The policy recommendation suggested above would mandate that they consult PDMP data before prescribing any opioid, which takes time and effort from them. This will especially affect providers that treat pain often, such as those in
pain medicine, surgery, and physical medicine specialties. Additionally, it will affect primary care providers, who account for about half of all opioid prescriptions and have more intense patient interaction than other providers (CDC, 2016).

Some physicians have opposed universal mandates based on arguments that they are a burden to use and negatively impact patient care (Haffajee et al., 2015). They argue that the time it takes to consult PDMP data takes away from valuable patient time, which can be used more effectively if the provider did not have to take time out of the visit to open the PDMP on the computer, search for the patient, and read the patient’s prescription history. Surveys have identified more specific complaints regarding PDMPs including that they are time-consuming to use, the way the data is presented is difficult to understand, and there are barriers to access the data in busy work environments (Rutkow et al., 2015; Young et al., 2017). If states pass legislation mandating that prescribers consult PDMPs, measures should be taken so as to minimize the burden on prescribers and reduce the interruption to their practice that mandates impose. For example, adequate training for providers can help ease difficulties in use, which would ensure that providers do not face undue obstacles to query the system quickly and efficiently. Additionally, authorized third parties may be permitted to query the system rather than physicians. This would allow physicians to request that physicians’ assistants or registered nurses look up a patient’s PDMP data, and would allow the physician to continue their visit uninterrupted, addressing other pressing health issues while waiting for PDMP data to be collected by other office staff.
Responsibility of Providers to Balance Risks and Benefits of Opioids

Healthcare professionals have a responsibility to protect their patient’s health and wellbeing. Professional organizations and governmental agencies have published their own standards surrounding this responsibility as it relates to the opioid epidemic. For example, in a report aimed towards primary care providers, the CDC urges that physicians, “Do no harm. Long-term opioid use has uncertain benefits but known, serious risks.” The report suggests that providers consult PDMP databases for certain risk factors which are strong predictors of prescription opioid overdose before prescribing an opioid to any individual patient in order to more accurately assess the risks and benefits of prescription (CDC, 2017). For instance, if a patient was in need of pain relief, but PDMP data indicated that they had already been prescribed opioids by 4 or more physicians in the past, the provider may choose to prescribe a pain medication with less potential for abuse in response to this information.

Similarly, the APA outlines prescribers’ responsibilities regarding safe opiate use: balancing the legitimate need for pain management and the risks associated with prescription opioids; assessing each patient before prescription; responsibly handling controlled substances and adhering to federal and state regulations; and enacting strategies to prevent abuse and diversion into the illegal market (American Pharmacists Association, 2014). Consulting PDMPs can help physicians fulfill these responsibilities by providing them with more complete information about prescription histories, which can lead to better medical judgement. Also, PDMPs can facilitate identification of individuals responsible for diversion of opioids to the illegal market. The APA has expressed public support for PDMPs, along with the American Medical Association and the Federation of State Medical Boards.

9. Patients with one or more risk factors (4 or more prescribers, 4 or more pharmacies, or dosage of more than 100 morphine milligram equivalents per day) accounted for 55% of all overdose deaths (CDC, 2017)
CONCLUSION: RESPONSIBLE POLICIES IN THE DIGITAL AGE

The digital infrastructure supporting prescription drug monitoring programs is already in place in nearly all states in the U.S., and data is already being collected regarding prescription behaviour for individual patients and prescribers. Targeted policies that increase the use of PDMP data can help ensure that the resources that have already been used to support the implementation of PDMPs have greater positive impact on health outcomes. Evidence suggests that creating a wider and a more objective criterion for mandatory prescriber consultation of PDMP data can help influence prescribing behaviour and decrease opioid overdoses, as it did in New York. These strong mandates are a low-cost solution since they put technology that already exists to better use. This framework of putting existing digital technologies to new, more evidence-based uses can help inform not only PDMP legislation, but also all classes of cost-effective, responsible policies in the digital age.

REFERENCES

CDC (2016, March 23) What States Need to Know about PDMPs.


N. Y. Comp. Codes R. & Regs. Tit. 10 §80

N.Y. Public Health Law §12-B


PDMP Center of Excellence at Brandeis University (2016, May). COE Briefing on PDMP prescriber use mandates: characteristics, current status, and outcomes in selected states.


Almost three-quarters of women internet users have experienced some form of violence online (UN Women, 2015). Online gender-based violence is a human rights issue since it affects equality, women’s integrity, freedom of expression, and access to information, as UN representatives stated (OHCHR, 2015). Non-consensual pornography is a particular form of violence that women suffer online. Defined as the distribution of sexually explicit images without the consent of the person portrayed, this practice can cause loss of professional and educational opportunities, and psychological and physical damage to victims (Franks, 2015, pp. 2-3; WMC, 2016).

Celebrities’ nude photo hacks, high profile cases, and companies such as Facebook receiving more than 50,000 cases relating to non-consensual pornography per month have attracted public attention to this form of online violence, popularly known as “revenge porn” (Franks, 2015, p. 2; Topping, 2016; Hopkins and Solon, 2017). The United Nations Special Rapporteur on violence against women (2015) addressed this practice in one of her reports and encouraged States to implement remedies on this subject. Israel, the Republic of the Philippines, Canada, England, Wales, and Scotland, among other countries, passed legislation on this issue; in the U.S., more than 30 laws on non-consensual pornography were approved at the state level (Franks, 2015, p. 3). Legislative proposals on this issue also arose in Ice-
land, Sweden, Mexico, Chile, and Peru (Tapia, 2014; Bjarnadóttir, 2017; Guerrero, 2017).

At a global level—and mainly within the U.S. context and First Amendment standards—advocates of online freedom raised their voices against some of these legal remedies. These groups argued that vagueness in the drafting of these initiatives could lead to unintended consequences as the criminalization of protected speech, censorship of public interest content, and possible chilling effects (Sydell, 2013; Reisenwitz, 2013; ACLU, 2014).

In this scenario, Argentinian Congress started discussing draft bills on non-consensual pornography. As of August 2017, there are three draft bills on this issue and, in line with the global regulatory trend, these projects seek to make this practice a crime (5201-D-2015; S-2119/16; 3862-D-2017). This policy brief seeks to contribute to this debate providing concrete recommendations that protect both women’s rights and freedom of expression on the internet.

**A COMPREHENSIVE APPROACH TO TACKLE NON-CONSENSUAL PORNOGRAPHY: BUILDING ON HUMAN RIGHTS**

Within a rights-based perspective, policies on non-consensual pornography in Argentina should be developed in line with the Inter-American System of Human Rights, the regional human rights framework that has constitutional status (Argentinian Constitution, Art. 75.22). Building on this, a comprehensive approach should include the following elements:

- **Gender perspective**: the Inter-American framework on violence against women, the “Convention of Belém Do Pará”, signed and ratified by Argentina, urges the State to implement policies to combat and eradicate all type
of gender-based violence (OAS, 1994). Non-consensual pornography disproportionately affects women (Citron and Franks, 2014), so the gendered nature of the problem should be explicit in its policies. Responses on this issue should also seek to empower women within online spaces;

- Freedom of expression standards: solutions should be in line with the high level of protection given by Article 13 of the American Convention of Humans Rights (ACHR). As the Organisation of American States (OAS) Special Rapporteur on Freedom of Expression stated in her report of 2013 (p. 1), this article fully applies to the internet. A comprehensive approach should avoid the false dichotomy between freedom of expression and women’s rights online. As the Convention of Belém do Pará states, violence against women affects women’s right to freely express online;

- Participation and transparency: a comprehensive approach should also include consultation with all relevant actors involved. As the OAS Special Rapporteurship on Freedom of Expression pointed out, responses that could have an impact on human rights online, should be also transparent and subjected to public oversight (2013, p. 26).

THE REGULATORY DEBATE IN ARGENTINA

The current projects propose to amend articles of the Criminal Code to impose imprisonment to the person that, by any means, publishes or distributes non-consensual pornography (5201-D-2015; S-2119/16; 3862-D-2017). This section analyses
the existing proposals in Argentina through the lens of the human rights-based model proposed above.

Gender perspective: criminalization of non-consensual pornography could be seen as a compromise of the State in addressing this type of violence against women. However, in two of the proposals being discussed (5201-D-2015; S-2119/16), the gendered dimension is completely absent. This practice is presented as a privacy issue that affects a “subject” or “person” or “people”. The other proposal increases the penalty if the motive behind is gender-based violence (3862-D-2017, Art. 3), however, it does not present this practice as part of a broader and structural discrimination against women. All in all, the current proposals perform poorly in terms of gender sensitivity;

Freedom of expression standards: protections to freedom of expression within the Inter-American system are broad, but not absolute. However, restrictions should be clearly and precisely defined. The current projects fail to meet these criteria. Two of these legislative proposals use the term “revenge porn” that, following leading scholars such as Mary Anne Franks (2015), could be misleading (5201-D-2015; S-2119/16). Franks explains that perpetrators are not necessarily motivated by vengeance, and questions the “pornographic” component of the definition. In the author’s words, taking a picture or recording a video in the context of a private relationship should not be considered “pornographic” (2015, 2). In addition, these legislative proposals employ vague wording and contain broad provisions against the dissemination of images of “semi-nudity,” or “sensitive information regarding sexual preferences” (5201-D-2015, Art. 1;
S-2119/16, Art. 1; 3862-D-2017, Art. 1) that leave the door open for the criminalization of content that is not necessarily non-consensual pornography. Neither of the projects includes, to avoid possible clashes with freedom of expression, exceptions of public interest content;

Participation and transparency: as with other internet policies in Argentina (Aguerre and Galperín, 2015) — ranging from intermediary liability, net neutrality or intellectual property reform — there is a lack of formal inclusive and multi-actor mechanisms to discuss these bills.

All in all, these projects present several gaps since they lack clarity regarding the practice they seek to punish and its definition. Also, human rights implications — mainly, women’s rights implications — of non-consensual pornography are poorly addressed by these projects.

**ALTERNATIVES TO ADDRESS NON-CONSENSUAL PORNOGRAPHY**

Non-consensual pornography is a complex digital policy topic that requires a comprehensive approach. In addition, there is currently no data regarding the effectiveness of specific criminal laws on this issue. Based on a rights-based approach and the elements presented above, this paper offers the following policy avenues for intervention:

1. **Addressing non-consensual pornography within the existing legal framework**

The national Law 26,485 seeks to prevent, punish and eradicate gender-based violence in Argentina. This legal instrument
offers a general framework for the development of policy measures that could be applied within the digital realm.

- **Gender perspective:** addressing non-consensual pornography within Law 26,485 explicitly recognizes this issue as a gendered problem and as a women’s rights violation. Specifically, online violence could be placed under the umbrella of Article 6.7 that addresses the diffusion of messages or images, through any mean of communication, that promotes or reproduces gender inequality;

- **Freedom of expression standards:** while specific criminal remedies such as the current proposals pose risks to freedom of expression, the current national law on women’s protection provides a framework for Argentina’s government to implement active measures to tackle violence against women without compromising other rights (Law 26,485, 2009, Art. 2);

- **Participation and transparency:** the existing framework is in line with this principle since it establishes the need for cooperation with non-state actors for the development of policies to combat all forms of violence against women (Law 26,485, 2009, Art. 7).

### 2. Public-Private Cooperation

Interventions beyond legal remedies should be explored as an alternative to more traditional and strict regulatory measures. Hence, involving internet intermediaries such as search engines and social media platforms— is key in the development of faster and more effective solutions to combat non-consensual pornography. For example, co-regulatory measures such as the code of conduct on hate speech developed by the European Commission
in collaboration with internet platforms (Hern, 2016) are positive models to follow.

- **Gender perspective**: the gendered nature of non-consensual pornography should inform these joint initiatives. As with the “privacy by design” approach (Cavoukian, 2016), that states that this principle must become integral to design processes and planning, a gender perspective should be proactively incorporated into the entire process of companies’ policies and terms of service crafting;

- **Freedom of expression standards**: the public sector, in cooperation with internet intermediaries, should establish a set of basic guidelines to deal with non-consensual pornography in accordance with Inter-American standards on freedom of expression;

- **Participation and transparency**: the effectiveness of co-regulatory schemes depends on enforcement mechanisms that will make companies’ accountable for their implementation. Also, alliances between companies and civil society groups should be promoted, following experiences such as Twitter teaming up with women’s rights groups (Epstein, 2014).

### 3. Awareness and Capacity Building

A comprehensive approach aims to tackle the roots of the problem. Increasing awareness regarding this phenomenon and building digital literacy capacity will contribute to prevent non-consensual pornography and allow victims to recognize it as a form of violence.
Gender perspective: a gender sensitive approach should link these measures to a broader context of inequality between men and women. The Inter-American framework on violence against women specifically encourages states to develop educational campaigns and to promote awareness on violence against women;

Freedom of expression standards: measures like this do not present conflict with freedom of expression standards. On the contrary, more expression and campaigns on this topic could foster women’s expression and encourage victims to speak up;

Participation and transparency: these measures should be promoted by the State, but bottom up initiatives from civil society and in alliance with non-state actors are also needed and should be fostered.

RECOMMENDATIONS

As previously stated, non-consensual pornography is a complex digital policy issue that requires more than one single solution and more than one single actor involved. A comprehensive approach is needed. In this sense, this brief encourages Argentina’s government to:

Withdraw the current draft bills that seek to criminalize non-consensual pornography. Currently, these projects present potential collisions with online freedom of expression and lack of gender-sensitivity. Non-consensual pornography could be addressed within the current comprehensive legal framework on women’s protection against violence;
Promote a dialogue with the technology companies to develop a set of principles to deal with this phenomenon. A co-regulatory approach based on a code of conduct appears as a faster, and more flexible and effective solution. The accordance with human rights standards and the effectiveness of these solutions rely on making companies’ decisions more transparent and participatory. Oversight and enforcement mechanisms should be implemented alongside these codes of conduct;

Promote education and public awareness campaigns on gender-based violence and digital security in coordination with other public entities under the Executive branch, civil society and internet companies. No self-regulatory solutions can be effective without tackling the roots of this problem.

REFERENCES


Alonso, Paso, Brezzo, Echcosor and Selva, Proposal to modify the Criminal Code to include provisions on the distribution of visual and audiovisual material, or sensitive data and online stalking [Código Penal. Incorporación de los artículos 131 bis, 131 ter y 131 quater, y modificación del artículo 153 bis, sobre difusión de material visual, audiovisual o datos sensibles y acoso virtual]. 3862-D-2017, 2017.


Bergman, Bullrich and Spinozzi. 2015. Criminal Code: Inclusion of the Article 155 on Distribution of Intimate Images or Videos that Violate Privacy [Código Penal: incorporación del artículo 155 bis, sobre delito por difusión de imágenes o videos íntimos que violen la privacidad]. 5201-D-2015, 2015

Riofrio, Mirkin and Durango. 2016. Criminalization of the Publication and/or Dissemination of Non Consent Images of Total or Partial Nudity and/or Videos of Sexual or Erotic Content. [Penalización de la publicación y/o difusión de imágenes no consentidas de desnudez total o parcial y/o videos de contenido sexual o erótico de personas]. s-2119/16, 2016.