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Arcadia University Honors Program

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The Compass is an online scholarly journal edited and produced by students in the Arcadia University Honors Program. It is dedicated to providing a platform for undergraduate research and insight so that it may inspire, intrigue, and inform an audience. The journal’s primary aim is to cultivate a global scholarly community and intellectual curiosity by featuring diverse, multidisciplinary perspectives, accepting articles from subjects including, but not limited to: Anthropology, Art, Biology, Business, Chemistry, Communications, Education, English, Modern Languages, Gender Studies, Sciences, Sociology, International Studies, Law, Mathematics, Philosophy, Psychology, and Religious Studies. The Compass endeavors to build an intellectual collaborative community that promotes the circulation of research and ideas, particularly by challenging and reflecting on current systems, structures, and policies.
The work of Arcadia University student-scholars contained in this volume represents a broad range of interests and styles of analysis all connected by an overarching theme: structured power and self-serving influence over others. Whether it’s the intragender oppression explored in Atwood’s The Handmaid’s Tale, the personal/political underpinnings of interpretative methods used by the highest judges in the land, the symbiotic relationship between neo-liberalism and far-right homogenization, or the feminization of rock personae and performances as means to promote financial gain, each of these essays explores the ways in which individuals and structures work in tandem to shape the experiences and opportunities of millions of citizens - often at the expense of those on the margins.

This power and influence over others is especially timely to interrogate as we see the nature and utility of democracy being discussed with increased intensity, both domestically and globally. There has never been a more important time to engage in conversation across difference, to bridge ideological divides and seek common ground. At the same time, it’s never been more important to be on the lookout for regressive activism designed to claw back individual rights.

With all of this conflict and soul searching afoot, we should acknowledge and appreciate the efforts of these student scholars as they keep us present, awake and aware of how close we are to losing our way.

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The Manifestation of Intra Gender Oppression in Margaret Atwood’s *The Handmaid’s Tale* as Results From Intentional Patriarchal Power Structures

By: Aliyah Browning, Arcadia University

Abstract:
Margaret Atwood’s *The Handmaid’s Tale* has long been studied for its cautionary warnings about sexist ideologies that exist between men and women; seldom has it been analyzed for instances of intra gender oppression. Intra gender oppression, which this thesis seeks to define and highlight through the novel’s context, offers artificial forms of power to those in oppressed classes, enough to attract women themselves to participate in the indoctrination and policing of their own sex. This essay will highlight the ways in which Atwood’s dystopia parallels sexist beliefs held by societies past and present.

Margaret Atwood’s famous faux Latin slogan “Nolite te bastardes carborundorum,” has come to represent equality and opportunity for modern day women across the United States and beyond. While it is not a direct translation, the phrase is loosely known to mean “don’t let the bastards grind you down,” a message that symbolizes hope and resilience for protagonist Offred in Atwood’s novel *The Handmaid’s Tale*. With the looming promise of an ecological disaster that threatens humanity’s existence, Atwood creates a society that tokenizes a woman’s ability to reproduce while simultaneously upholding historic beliefs about women’s inherent inferiority. However, men aren’t the only group guilty of policing women according to sexist ideologies. Through Offred’s experiences as a Handmaid, it is revealed that those who are victims of the system can also help perpetuate it.

As a widely renowned work of fiction, Atwood’s novel features a near-future alternative to what is currently the New England region of the United States known as Gilead. Gilead has drawn attention from individuals in the Science Fiction (SF) field who have studied it as a manifestation of Atwood’s own observations about the world at large. This new regime is characterized by its extreme, right-wing, Christian fundamentalism, that restores a patriarchal form of society which limits the rights of women and restores “the sanctity of the home,” forcing women back into positions of subservience. With radiation and sexually transmitted infections causing a world-wide fertility crisis, Gilead found it necessary to divide women into specific categories of service, with the five most prominent being: Wives, Aunts, Marthas, Handmaids, and Unwomen, listed in the order that Gilead prioritizes them. The novel follows the Handmaid known as Offred, literally ‘Of Fred’—Fred being the prominent male politician whom Offred is considered property of.

Each subset of women serves to further a specific function of society throughout the novel. The wives of Commanders (esteemed politicians) are responsible for the moral and social welfare of their household, while Marthas do all of the cooking and cleaning. Aunts enforce the will of Gilead by raising and indoctrinating Handmaids, whose sole purpose is to reproduce for the wives and Commanders who have been unable to bear children. Unwomen are the lowest class; they have been deemed threats to Gilead’s society by the government (either because of infertility or treason) and spend their remaining life shoveling toxic waste. And while each of these classes are necessary within Gilead’s oppressive regime, they are equally restricted in their freedoms outside of their performed duties.

Many critics have speculated that Atwood bases this class design on modern American society, showing how inequalities between women are often capitalized on. Separating women and defining them by different names helps to create dissent between different groups, who are prioritized and privileged according to their own feminine value. Wives provide

social capital, Aunts provide obedience, Handmaids provide children, and Unwomen provide free labor—each performs a duty for the society which others cannot. Society in general, however, is built for the prosperity of men. Patriarchal by design, men are solely responsible for law making and have forbidden women to read or write and exclude them from any government dealings. But this kind of sex-based exclusion has historical roots. In the United States alone, a woman would not graduate with a bachelor’s degree until 1840, and women were still considered property under the law until the Married Women’s Property Act of 1848 truly separated the legal identity of women from that of their husbands and fathers. Prevented from owning property or pursuing an education, women were historically dependent economically on men and forced to rely on sexist systems for livelihood.

In an interview conducted in 1983, Atwood admits that “every writer writes out of his or her own backyard,” and that is especially true of The Handmaid’s Tale—published two years later, which speculates on how a return to familiar sexist practices would have to be violently and rigidly enforced in a modern society to prevent resistance.

The plausibility of a future Gilead is grounded in the familiarity of certain components in the dystopia, one such familiarity being the mistreatment of women. In Gilead, women are sexually, emotionally, and physically abused at the benefit of the patriarchal society. Although it is predominantly men who are responsible for putting the laws into place that subjugate all women, women also participate in their own oppression by indoctrinating members of their own gender into subservient roles. While it is crucial to acknowledge Gilead’s patriarchal design and the intentional ways women are socially, politically, and physically oppressed by men in Gilead, major scholarship around this novel fails to recognize how Gilead’s class system restores existing forms of oppression against women of lower socio-political classes that are often perpetuated by women themselves. Atwood uses The Handmaid’s Tale to maintain that the foundations of Gilead are already pervasive in our modern societies that value women for their superficial ability to reproduce but believe that a woman’s place is in the household.

Many critics have acknowledged the religious allusions presented throughout The Handmaid’s Tale and the subsequent suggestion that religious texts are an extremely oppressive guideline for many sexist beliefs about women. Gilead’s biblical roots, which are based almost entirely on section 30:1-13 of Genesis, tells the story of Jacob and his wives, Rachel and Leah. While Rachel is infertile, her sister, Leah, produces seven children for Jacob and is widely praised for it. In a fit of jealousy, Rachel turns to an unorthodox method of reproduction, modernly referred to as surrogacy. She asks Jacob to “Behold, my maid Bilhah, go in unto her; that she may bear upon my knees, and I also may obtain children by her,” and, “she gave him Bilhah her Handmaid to wife: and Jacob went in unto her,” resulting in Bilhah bearing two children for Rachel, who claims the children as her own, naming them Dan and Naphtali. What is most notable about this narrative is that Bilhah, the woman serving as a vessel for Rachel’s children, is silent in protest or agreement. It is unclear whether or not she consents to this arrangement and is a willing surrogate; however, Bilhah’s silence may suggest to some readers that she complies with the request that is made of her without complaint, opening this section of biblical history to scrutiny and interpretation.

Bilhah’s silent compliance, Rachel’s obsession with bearing children, and Leah’s faithful fulfillment of the feminine gender role become the prototype for women in Gilead, who are expected to fulfill their responsibilities for the betterment of the entire society. By reducing this religious tale to only a single interpretation, Gilead is able to build a narrative that women have been happily serving men since the creation

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3. “Women’s Oppression.”
of man. If God were willing to give Bilhah a child for Rachel and Jacob, then the practice of surrogacy must be sanctioned by religious principles, and because Gilead claims that religion is the foundation of their new society, they are able to mask the oppression of women as a return to piousness. It is not coincidental that the home of Handmaids is named the Rachel and Leah Re-Education Center. Run by the Aunts, these centers are predominantly responsible for converting women into compliant Handmaids who are willing to accept their duty to Gilead. When women have been led astray from their original purpose in modern times, this center seeks to re-instill Rachel and Leah’s legacy of servitude that rewards women for their devotion and desire to serve men. They are taught to believe that although Bilhah is also forced into this role, she is honored for serving both Rachel and Jacob by producing a child for them to further their family name, thus becoming the center’s idol. Without a voice, Bilhah is unable to protest, which allows the Red Center’s doctrine to lean into the single interpretation that women’s identity is tied to servitude. This frames the acts of rape committed during the Ceremony as a fulfillment of that feminine role and an honorable contribution to society.

The religious allusion that best illustrates the oppressive tendencies of the biblical patriarchy is the “Ceremony,” a euphemism which Gilead employs to describe the organized and sanctioned rape of Handmaids, though Atwood herself does not use the term in the text. In Atwood’s novel, we experience the Ceremony from the perspective of Offred, the Handmaid of a wealthy and important Commander, Fred Waterford. The Ceremony begins with the Commanders reading Genesis 30:1-13, the story previously described. At the conclusion of the passage, the Commander, the Wife, and the Handmaid move into the wife’s bedroom to perform the Ceremony, which Offred describes as the following:

I lie on my back, fully clothed except for the healthy white cotton underwear… Above me, towards the head of the bed, Serena Joy [the wife] is arranged, outspread. Her legs apart, I lied between them. My head on her stomach… her thighs on either side of me. She too is fully clothed. My arms are raised; she holds my hands… This is supposed to signify that we are one flesh… My red skirt is hitched up to my waist, though no higher. Below it the Commander is fucking.

Offred’s experience in the Ceremony acts as a more detailed description of the same experience Bilhah endures in Genesis, as she acts as the surrogate carrier of the Commander’s child on behalf of the Wife.

It is no wonder that this novel has led many to recognize that “the Bible [is] an accomplice in the patriarchal strategy of marginalizing and victimizing women.” It is necessary, then, for Gilead to ascribe a certain level of honor to the duty of a Handmaid, just as God has done to Bilhah, in order to disguise sexual assault and rape within the society and prevent resistance. One way Gilead seeks to further this is by coining the term “biological destiny,” which frames a woman’s ability to reproduce as a necessity. In order to be fully recognized as women, they must produce children at some point. The story of Genesis sets forth this interpretation by portraying women only as mothers, wives, and servants rather than complex individuals who have a purpose outside of serving men. Atwood’s Gilead silences women the same way they were silenced in the Bible, meaning that the patriarchy of Gilead is just a reconstruction of the oppressive biblical patriarchy preceding it. While the biblical version softens the implications of Rachel’s demands, Atwood exposes the reality of forcing a woman into surrogacy.

The levels of powerlessness faced by women are not equal depending on their status within the society’s hierarchy. There is a clear manifestation of the Handmaid’s dual inferiority where they are oppressed both by men because they are women and by Wives and Aunts because they possess a lower social status. The Ceremony takes place in the bedroom of the Wife,

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Offred referring to it as the Wives’ “territory,” a word meaning that the Wife is supposed to have ownership and control over what happens in this domain. While the structure of Gilead is such that a woman could never exercise control over a man, in these spaces the Wives are able to exercise complete control over the Handmaid, as they are like prey who have stumbled into the “territory” of their predators. This control is reflected in the way in which the Handmaids are spread like carcasses across the bed, back and legs down but outspread, eyes focused on the ceiling above, a position that allows full access to their body, leaving Handmaids completely vulnerable to the will of those over them. The Wife sits above the Handmaid in an upright position, a firm grip on their hands. If a Handmaid looks up, they would be able to see the Wife’s face as they sit above them, an indication that Wives have more autonomy over their own bodies and power over the Handmaid’s; however, there is intentional contact between the Wife and Handmaid. While it is necessary for a Commander to penetrate, and therefore touch, the Handmaid during the Ceremony, it appears to be a creative design that wives would hold down the hands of the Handmaid.

Offred’s explanation that the holding of hands is meant to symbolize the unity of the women may be true in a sense that their gender causes them both to be victims of the patriarchy’s oppressive laws, but the pressure of the Wife pushing down on the Handmaid’s hands is a built in reminder that a Handmaid is serving the maternal needs of the Wives as well. If there is a Handmaid present in a Commander’s household, it’s because his wife was barren and the two were unable to have children. If the Handmaid becomes pregnant after the ceremony, it is the Wife who will eventually get to raise and name the child that would result. Eventually, Offred reveals that “Partly I was jealous of her...You can only be jealous of someone who has something you think you ought to have yourself. Nevertheless I was jealous,” which is a universal representation of the intrinsic feeling of separation or otherness that women feel in relation to each other. Part of Offred’s jealousy is also rooted in hatred for Serena Joy, which is warranted in that she is physically abused at the hands of the woman who also forces her into unwanted intercourse for another’s benefit. However, nuance stems from Offred’s apparent discontent in her assigned class. Offred is constantly violated and assaulted because she is a fertile woman, a characteristic she had no control over. She is not afforded the same leniency as the Wives; she is always threatened by the reality that anyone can strike her if she misbehaves because a Handmaid’s cooperation in society is an integral part of the society’s goal of increasing the birth rate in the United States. Compared to the Wives, who are able to raise families and are protected from the sexual violence that Handmaids are subjected to, Offred’s quality of life is low.

However, despite Offred and the other Handmaids being subjected to violence and contempt, the Handmaids are vital to the society as a whole. Handmaids are the only group of women who are guaranteed to have viable ovaries, meaning that they have the ability to reproduce. In a society that proposes women return back to historically domestic roles in order to prevent human extinction, Gilead needs women who can have babies and populate the country. In the same
way the Wives are responsible for the social and political longevity of the country, Handmaids are physically responsible for the continuation of Gilead’s people, which allots them a certain level of importance. Although they are not treated with the respect of someone who is necessary, there is an understanding that without Handmaids, Gilead would not be possible. The Handmaid’s “position of honor,” as described by the Aunts, is envied by the Wives, who are physically unable to fulfill this need for their country, as shown by the necessity of the Handmaid’s presence in their home.

Thus, the Handmaids are subjected to lives of sexual violence at the hands of both men and women who seek to profit from them. Handmaids are taught to fear the Wives early in their indoctrination, as Offred vividly recalls Aunt Lydia’s reminder at the Rachel and Leah center that “It’s not the husbands you have to watch out for… it’s the Wives. You should always try to imagine what they must be feeling. Of course they will resent you. It is only natural.” If the Wives’ resentment is natural, it is because it comes from a place of envy. This is the intentionality this paper references—Gilead managed to create a system where women simultaneously need each other but are bred to dislike and envy another. Distracted by their intra gender disputes and struggles, it becomes easier for the patriarchy to systematically reduce the independence of the female sex as a whole. By allowing certain groups of women more freedom than others, the patriarchy turns the hate and envy of women in lower socio-economic positions to the women in positions of artificial power rather than the men who organized the power structure itself. Both women are victims of Gilead’s patriarchy which was designed to belittle women, but the built in power dynamics of Gilead maintain a certain complacency by allowing intra gender oppression to make certain groups of women feel like they have power over another class. This is a comfort to women in Gilead because it creates the allusion that they are not as deeply subjected to oppressive laws as other women are.

The Aunts are a particular fascinating design of Gilead. Modeled after nuns, Aunts are those who have subscribed to Gilead’s sexist beliefs about a woman’s inferiority and who are sanctioned to commit acts of violence against women in the interest of maintaining order. Aunts are responsible for the indoctrination of Handmaids by teaching the religious propaganda of Gilead, such as the belief that serving as a Handmaid to a Commander is an act of honor. The Aunts seek to foster cooperation and complicity among Handmaids and are responsible for preventing uprisings among the separate facets of women in the belief that they are creating a utopian society that actually protects women from forms of violence. Part of what makes Gilead a dystopian society is that it is a result of this utopian dream. Aunt Lydia, however brutally she acts in the novel, has good intentions by training Handmaids so harshly. She explains that there are multiple kinds of freedom, including “[f]reedom to and freedom from.” The idea is that while women in the novel may not have the freedom to choose their own partners, express their true sexual orientation, or decide whether or not they want to have children, they no longer run the risk of experiencing rejection, loneliness, or purposelessness. The Aunt’s true belief is that Gilead has built a society that protects women from experiencing violent forms of sexual assault as well, but that belief does not consider the Ceremony a form of rape. Nonetheless, Aunt Lydia suggests in this statement that perhaps the Aunts believe they are doing a service for the women forced to be Handmaids. Rather than being beaten into submission by men, at least they have the opportunity to be trained and taught to accept the task they are expected to perform.

Despite these possible good intentions, it is too often in the novel that the Aunts rely on violence to instill collective fear in the Handmaids. The Aunts wear “electric cattle prods slung on thongs from their leather belts” that are intended to be used as weapons to punish Handmaids who misbehave. The cattle prods come to symbolize the constant threat of violence faced by the Handmaids, though the Aunts

13. Atwood, 46.
15. Atwood, 24.
have invented far more creative means of inflicting punishment. One example that seems to have a profound effect on Offred is a memory of her close friend Moira, who faked an illness in an attempt to escape the Rachel and Leah center. When the Aunts discovered her plot

They took her into the room that used to be the Science Lab. It was a room where [no Handmaid] ever went willingly. Afterwards she could not walk for a week, her feet would not fit into her shoes, they were too swollen. It was the feet they’d do, for a first offense. They used steel cables, frayed at the ends. After that the hands. They didn’t care what they did to your feet or your hands, even if it was permanent.  

In this instance, Moira is punished for her attempted escape from the Red Center, revealing that at least some, if not all of the Handmaids are being held against their will by Gilead’s government. Using an electric shock to the feet, which are known to have the most nerve endings in the body, is more correctly identified as torture, especially because these punishments sometimes result in permanent physical disfiguration. Offred’s tone is unemotional; there is no indication that she is surprised by the Aunts’ choice of punishment for Moira, suggesting that torture is a common occurrence in Handmaid centers.

In the previous example of Moira’s feet being shocked, the focus was on Offred’s unemotional and detached tone; however, there is still a lingering sense of fear that Offred experiences as a result of Moira’s pain. When Offred returns to the memory of Moira’s punishment, she recalls “the way they looked after they’d brought her back… They looked like drowned feet, swollen and boneless.” The grotesque description of Moira’s feet, “like lungs,” reveals Offred’s level of uneasiness, probably due to the realization that these forms of torture are sanctioned by Gilead’s officials. Essentially, Handmaids are property of the government, and as property they have no autonomy over their bodies or the ability to protect themselves from the physical and mental abuses meant to indoctrinate them.

While the physical torture experienced by the Handmaids affects their sense of safety and comfort within Gilead’s society, the Aunts rely more heavily on forms of physiological torment to maintain cooperation. While physical punishment is used to make singular examples of the potential consequences for violations, it would be difficult to punish every misdemeanor made by rebellious women, so the Aunts rely on grandeur examples to send messages. Aunt Lydia reminds the Handmaids that, “for our purposes your feet and your hands are not essential,” leading Offred to conclude that Handmaids “are containers, it’s only the in-sides of [their] bodies that are important.” Because the Handmaids are treated as objects and reminded as much during their indoctrination process, they are taught to believe that they could be brutally maimed or disfigured anytime they violate their restrictions, creating a collective fear in the women who are in subservient positions. If Handmaids are afraid to have their feet shocked, their hands burned, or their faces maimed, they are more likely to follow the rules laid forth by Gilead and perform their duty without complaint.

Atwood herself largely answers any speculations about the Aunts’ participation in the dystopian society within the ‘Historical Notes’ section of the novel, where she provides insights on Gilead’s creation and proves that Offred’s experiences were not singular. This section of the novel makes it clear that the Republic of Gilead eventually fell because of the flawed power structure that sought to enforce rigid gender norms for only certain groups of people. This chapter is a transcripted speech delivered at a Gileadean Studies Symposium, which analyzes Offred’s memoir as another primary document from the time period. While this section covers a large variety of Gilead’s components, it pays close attention to women’s experiences under the oppressive regime, including the perspective of those who served as Aunts. The Gilead historian speaking at the conference, Professor James Pieixoto, explains the Aunt’s inclination to indoctrin-
nate and oppress another class of women as follows:

In this connection a few comments upon the crack female control agency known as the ‘Aunts’ is perhaps in order. The opinion from the outset that the best and most cost-effective way to control women for reproductive and other purposes was through women themselves. For this there were many historical precedents; in fact, no empire imposed by force or otherwise has ever been without this feature: control of the indigenous by members of their own group. In the case of Gilead, there were many women willing to serve as Aunts, either because of a genuine belief in what they called ‘traditional values,’ or for the benefits they might thereby acquire. When power is scarce, a little of it is tempting.22

This is, perhaps, the most important insight offered by Atwood concerning her inspiration for the class divide in Gilead. In a society that is patriarchal at its core, meaning women are meant to abide by the male interpretation of how femininity should be performed, it is suggested that women are willing to compromise their own sense of identity (being the shared experience of the female sex, especially under a new oppressive regime) in order to obtain any semblance of autonomy. It could be argued that the Aunts chose a lesser of evils, rather than be subjected to organized rape or be sent to the colonies because they were infertile, they chose to uphold and champion sexist values (or inflict intra gender oppression) in order to protect themselves. Under these circumstances, it is difficult to villainize these women who are subject to the same fear as the Handmaids that they abuse.

The ‘Historical Notes’ Section, which frames Gilead and Offred’s experiences, uses a pseudo-documentary convention to invite readers to accept that the events that have taken place in the narrative as historically accurate by providing evidence to their validity.23 By proving Offred’s experiences actually occurred, Atwood further proves the plausibility of a Gileadean-esque regime in our society’s future. This section helps affirm Atwood’s belief that Gilead is an extrapolation of trends already present in our daily lives. Upon the release of the novel, many critics viewed this as a cautionary tale that lacked familiarity for readers, especially Mary McCarthy, who published a review in the New York Times that claimed Gilead was a “women’s world,” that was only policed by men. She believed that Gilead truly values the duties that women were able to perform, and while she recognized the need society exhibited for women, she seems to ignore the way that women are forced into fulfilling that need. By claiming that there were no overt indicators that the values prominent in Gilead existed in our own modern world, McCarthy dismissed the book’s suggestion that there was a looming threat against women’s autonomy.

In light of recent political developments, time has actually favored Atwood’s interpretation of the future more kindly than McCarthy suggested. Legislation is beginning to sweep the United States, banning women’s access to safe abortions and restricting access to reproductive healthcare, slowly chipping away at any comfort women were afforded after the Roe V. Wade Supreme court ruling in 1973 that initially protected women who wished to have an abortion. While this is not an outwardly alarming development for some, there are certainly parallels between the world we are experiencing today and the world that Atwood has built; the ability for predominantly male lawmakers and legislators to make decisions regarding women’s bodies and reproductive needs, for one. In the novel, a fertile woman is forced to become pregnant and bear a child regardless of her own wishes. Similarly, laws that restrict women’s abilities to abort an unwanted pregnancy forces women into having children regardless of their financial, emotional, or physical ability to do so. I don’t pretend that similarities in government policies suggests that Gilead is imminent, but it would be remiss to dismiss the danger that threatens the sanctity of a woman’s body.

The question that must be considered in regards to Gilead’s existence is one of advantage: who benefits from the power structures established in the novel? Men may be the easiest and most obvious response, but I would challenge that initial conclusion. The truth is, anyone who is given a scrap of authority in an oppressive regime is benefiting in

22. Atwood, 308.
some way from the exploited class. Wives, Aunts, and Commanders all benefit from the existence of the Handmaids, though not equally. That’s why the threat of Gileadean society is far more familiar than many would care to admit: it has always existed in some form. From historical forms of patriarchal societies to future ones, our modern society falls on some spectrum already, enabled by the deceitful nature of power dynamics between existing classes. The structure of Gilead provides even the undesirables with artificial forms of power to pacify them, disguising the scope of the true oppressive beliefs that disenfranchise them and prevent the entirety of the oppressed group from uniting to fight their oppressor. Let us not be deceived by the presence of sexist values in our own societies. Because wherever the seeds of sexism exist, so too does the threat of oppression and degradation.
Bibliography


Backfire: How the Rise of Neoliberalism Facilitated the Rise of The Far-Right

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Intro:
Since the election of President Donald Trump in 2016, it is indisputable that there has been a notable rise in the visibility and activity of the far-right in the United States. According to the Southern Poverty Law Center, there was a 30% increase in the number of operating hate groups across the United States, a number that has coincided with the rise of the Trump campaign and his subsequent election as President of the United States. Therefore, much attention has been drawn to the rise of these movements and thus scholars have sought to seek out and identify the root cause of these movements and what can be done to prevent them.

One of the most compelling and popular explanations for the rise in the far-right is that it has emerged as the result of decades of neoliberalism as the dominant form of economic ideology across the globe. This paper will examine the debate as to the cause of the increase in the far-right, specifically in regard to the role of neoliberalism, and will ultimately argue that neoliberalism acts as a parsimonious explanation for the rise in the far-right and has created the conditions for the rise in far-right groups.

Literature Review:
For the purposes of this article, the operating definition of “far-right” that will be used comes from Arie Perlinder’s definition of what constitutes a far-right ideology in his report, “Challengers from the Sidelines: Understanding America’s Violent Far-Right,” in which he defines the far-right as expressly nationalistic groups, which focus heavily on homogenization within the nation. This definition is useful as it allows for a greater number of individuals to be counted as far-right while maintaining similar views on the most important values within their movement, defined as homogenous nationalism. Thus, organizations such as the Tea Party, the MAGA movement, and the Ku Klux Klan fit these characteristics, whereas groups like the Federalist Society do not.

A leading explanation for the rise in far-right movements across the United States is the cultural and political dominance of the neoliberal ideology. Neoliberalism is the sociopolitical ideology that is primarily characterized by free markets, globalization, massive deregulation, and shifts away from state welfare programs. Since the 1980s, neoliberalism has become the dominant political ideology of much of the developed world and has become the new normal for political discussion. Today, it achieves a hegemonic position as the leading global ideology across both the center-left and the center-right. While the politics of neoliberalism may seem to be initially contradictory to the goals and motivations of the American far-right, many argue that they are not all too dissimilar, and for some, neoliberalism necessarily leads to the rise in the far-right. Scholars studying the link between neoliberalism and the rise of far-right ideologies see a causal relationship between neoliberalism and far-right ideologies, where neoliberalism is a distinct cause for the rise of far-right groups. Those who argue this position argue that the institution of neoliberalism or neoliberal actors intentionally or unintentionally have promoted or empowered American nationalism and far-right movements, which ultimately culminated in the election of President Donald Trump and the rise of far-right sentiments in the United States. Within this debate, scholars argue that neoliberal governance has unintentionally created the conditions for the rise in far-right groups. Scholars argue that its failures, namely market crises and rising

3. Perlinder, Challengers from the Sidelines, 16.
unemployment, created an environment that has facilitated the rise in far-right groups. Further, the far-right has seized on the fears created by its consequences, namely the rise in immigration and market collapse, to gain power. Researchers such as Neil Davidson and Richard Saull argue in their paper, “Neoliberalism and the Far-Right: A Contradictory Embrace,” that neoliberalism has created a unique and historically unprecedented opportunity for far-right groups to gain traction, as it has established how society ought to be organized economically but has failed to resolve how it will organize itself socially.\(^5\) Thus, wedge issues such as environmentalism, LGBTQ rights, and most importantly anti-racism have emerged as the main topics of political discussion, rather than economic issues. Furthermore, since neoliberalism has stripped the working-class of their ability to see capitalism as the problem, alternative scapegoats must be invented to attribute blame. One example of these alternative scapegoats is immigrants, whether illegal or legal. These immigrants occupy the role of the “Intruder” in far-right narratives, coming into the country bringing crime and stealing job opportunities, all while being protected by incompetent government officials. Similar to Davidson and Saull, author Samir Gandesha argues that populist politics of both the far-left and far-right have emerged in opposition to the last four decades of neoliberal policies. Gandesha proposes that while neoliberalism has resulted in a myriad of benefits conferred to millions, it has, in turn also resulted in a series of unintentionally adverse effects, arguing that it “has increased both economic insecurity and cultural anxiety via three features in particular: the creation of surplus peoples, rising global inequality, and threats to identity.”\(^6\)

Another approach that some scholars have taken in identifying the relationship between neoliberalism and the far-right is the argument that neoliberalism is in fact not antithetical to nationalism but rather requires nationalism to maintain itself. In his paper on the rise of neoliberal nationalism, Adam Harmes argues that despite the typical belief within international studies that neoliberalism is necessarily antithetical to nationalism, Harmes proposes that, in fact, neoliberalism is quite compatible with nationalism and that in many cases, nationalism is required to uphold neoliberal values.\(^7\) Harmes argues neoliberalism is more opposed to international institutions that seek to harmonize policies related to the regulation of capital and market failures and that instead it typically is shown to advocate for regulatory sovereignty when dealing with matters concerning international monetary mobility.\(^8\) This is not to say that neoliberalism is entirely against the state, as Harmes proposes that it seeks to lessen the impact of the market in some areas such as market regulation and wealth redistribution and increase its involvement in other areas, such as protecting property, enforcing contracts and creating markets. This is described by Andrew Gamble as a “free economy and a strong state.”\(^9\) However, in the context of international regulatory bodies to which it is opposed, nationalism is required in order to combat them. Thus, it is important for neoliberal actors to promote nationalism within countries as long as it does not conflict with free trade and international capital mobilization. Further, in his essay on the subject, Blake Stewart posits that the far-right’s primary objection to neoliberal cosmopolitanism comes from its pro-immigration and open borders policy, which far-right critics have argued is an intentional attempt at undermining national sovereignty and lowering labor standards and costs on behalf of the global elite. Yet, Stewart argues that, while critical of this cosmopolitan attitude, it is in favor of its economic policies, believing that it can be better reproduced through an authoritarian and chauvinist state, rather than through a cosmopolitan open

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9. Harmes, 64.
Counter to these neoliberal focused explanations for the rise in the contemporary American far-right, some scholars propose that the rise of the far-right had more to do with racial anxieties created by demographic changes, as well as the presidency of Barack Obama. These scholars tend to focus more so on the role of race within American politics, rather than economic anxiety, highlighting the historical and cultural role that race has played in the United States and typically highlight the election of 2016 as a source of mounting racial anxieties and frustrations experienced by white Americans. In their book, *Identity Crisis: The 2016 Presidential Campaign and the Battle for The Meaning of America*, authors John Sides, Michael Tesler, and Lynn Vavreck argue that the rise in the far-right was primarily due to an activation of racial anxieties, due mostly to the rise of Donald Trump and the 2016 Presidential election. They argue racialized economic anxieties, that is, economic anxieties that have to do more with loss of power along racial lines, were slowly building in the U.S. in part due to the shrinking influence of whites in America, as well as the presidency of Barack Obama, with economic anxieties “refracted” by racial anxieties that resulted from a backlash against growing diversity in the country. Similarly, in their chapter for “Trumping the Mainstream: The Conquest of Democratic Politics by the Populist Radical Right,” authors Christopher Sebastian Parker, Sebastian Mayer, and Nicole Buckley argue that the rise of American far-right movements are reactionary, and that while there are economic components, it ultimately has more to do with cultural anxiety among white Americans. As to the cause of this anxiety, the authors highlight a changing cultural environment such as the increased representation of minorities in positions of power, the election of America’s first black president, or white representation in the media. Further, Trump and the contemporary American far-right follow in the footsteps of past reactionary movements, such as the KKK, the Tea Party, and the John Birch society and are thus not uniquely located historically. Ultimately, the first theory provides the greatest explanation for the rise in the American far-right. This is largely due to neoliberalism acting as a parsimonious explanation, with the alternative theories acting as complementary to it. While much of the academic research as to the cause of the increase of the contemporary American far-right falls primarily along racial explanations, they do not preclude neoliberalism as the macro cause of the issue. Additionally, the bulk of the understanding as to alternative explanations falls within the belief that the current movement within America’s far-right is a mere continuation of the reactionary American attitudes, rather than economic anxiety, which is scarcely brought up in the literature. Furthermore, while the dissent among the white working-class towards gains made by minority groups may explain some rise, this can also be largely attributed to the decline of the white working-class identity offered in theory one. Therefore, a mixture between the first two theories will ultimately be analyzed, as they offer the most explanatory potential.

**Analytical Framework:**

In order to analyze the theory on the role of neoliberalism within far-right development, claims and predictions of these theorists need to be broken down into meaningful, operationalized concepts that can be measured over time. In this case, the condition that needs to be evaluated is what the far-right is and how it can be measured. Contemporary political writers have written at great length about how the right has gained considerable ground in contemporary politics, but in practice this is often difficult to measure due to a significant lack of historical ideological polling. Further, the existence of this polling would not necessarily demonstrate a gain in ground by any one particular group, especially as it relates to government. Instead,

14. Herman et al., “Left, Right, But No In-Between.”
it is likely that a better alternative would be analyzing the ideological composition of members of the House of Representatives. Therefore, one way of determining the extent to which far-right movements have gained ground in contemporary political discussion will be examining the composition of ideologies within the House of Representatives and how they have changed over time. This can be done by analyzing historical and contemporary DW-Nominate scores and how they have changed over time and whether those changes line up with certain important historical turning points such as the beginning of modern neoliberalism in the 1980s. DW-Nominate scores are a scoring metric developed by researchers Howard Rosenthal and Keith Poole, which looks at voting behavior of members of Congress in order to create a multiscale left-right spectrum for politicians. This ultimately produces a number between -1 and 1, with 1 being the most far-right and the -1 being the most far-left. As parties move towards the political right on issues, eventually a greater percentage of House members represent beliefs of the far-right. This can already be evidenced by the presence of members such as Steven King and Marjorie Taylor Greene, two open nationalists who have been regularly cited as having ties with white nationalists. Although much attention on the far-right has focused on hate groups such as the KKK, according to the operating definition of far-right that was explained earlier, the far-right does not necessarily encompass exclusively ethno-nationalists. It can even encompass extremely conservative members in Congress. Lastly, the final measurement that will be examined is membership statistics to far-right organizations or hate groups, as well as increases in the total number of hate groups over time.

According to the neoliberal conditions theory, a series of conditions need to be in place for these working-class individuals to be attracted to far-right populism. The first condition that will be examined is increasing immigration, which is argued consistently across most articles as a major motivating factor within the rise of the far-right. The second condition that will be examined is the rate of unemployment and wages following large scale free trade agreements between the United States and other countries such as NAFTA, the beginning of the neoliberal movement in the 1980s, and China’s entrance into the World Trade organization in 2001. Additionally, the overall increase in the U.S Gross Domestic Product since these major events will also be examined and will explore whether or not those gains have been reflected throughout all of society, particularly, if there is a correlation between GDP and average single-family income. This leads into my third condition, rising inequality, which will be measured by examining historical and contemporary inequality indexes, in order to identify changes in inequality over time. Finally, this theory seems to suggest that while typical measures of economic growth may have shown economic gains due to neoliberalism and globalization, perceptions among racial groups towards the economy have shown increased anxieties, particularly among whites due to their eroding position relative to other groups. This, in turn, has led to their move towards the far-right. In order to measure this, polling performed on perceptions of class, identity, and racial equity among various different racial groups and how they have changed over time will be examined as well.

Methods:

In order to examine and evaluate these series of events, I will be employing the process tracing method of analyzing historical case studies and will attempt to evaluate whether the causal mechanisms envisioned by these theories exist and can be demonstrated. This will involve examining the historical events that led to the rise of the contemporary far-right in the United States, and what members of the far-right have cited as a major reason for their rise and evaluating whether these are consistent with the current theories on the rise of the far-right and evaluating gaps in these theories. For example, if a theory suggests that increases in immigration causes a rise in membership to far-right groups, I will examine data for immigration statistics around the expected time period, as well as membership to far-right groups, and attempt to determine whether there was an increase in immigration, as well as if that increase was proportional to the rise in far-right groups that was expected by that theory. If these theories do not adequately

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account for the changes within these statistics, I will attempt to account for the gaps in these theories by accounting for other variables or explain how a lack of evidence to explain the prediction weakens the theory overall.¹⁷

Before delving into the claims surrounding the origin of the far-right’s resurgence, it is important to first ascertain whether it actually has reemerged and when this occurred. Operating under the working definition of “far-right” already provided, it seems as if much of the Republican Party can now be considered as falling under the “far-right,” despite popular imagination associating it with groups such as the KKK. For example, while many members of far-right groups were arrested following their involvement in the Insurrection at the U.S. Capitol, many were unlikely to be involved in hate groups but rather were merely right-leaning members of the Republican Party. It is likely that many who hold far-right views today may not even consider their views far-right. Therefore, to establish the extent of the far-right’s influence within the Republican party DW-Nominate scores of the House of Representatives are illustrative. DW-Nominate scores are given to each member of the House and range from 1 to -1, with 1 being the most conservative, and -1 being the most liberal. This is based entirely on voting records of the House members and can generally be used to establish ideological and political orientation within the membership of the House of Representatives. Since the House of Representatives is a proportional body that reflects the views of the American people and operates within the political mainstream, it will be used to determine the percentage of the Republican party, and the country, that has been moved towards the far-right. Although there is no definition provided for a DW-Nominate score that is considered “far-right,” according to VoteView, a DW-Nominate score of -.25 to .25 is considered “moderate.” For the purposes of this paper, a DW-Nominate score of above a .45 will be used to establish the minimum threshold for what constitutes a “far-right” politician. This range was chosen as it includes every member of the far-right House Freedom Caucus with the exception of Lee Zeldin of New York. Notable individuals in this range includes Marjorie Taylor Greene, Matt Gaetz, and Steve King, all of whom score well above this threshold and are notable for their openly right-wing views and attachments to far-right organizations with scores of .81, .62, and .61 respectively.¹⁸ Thus, individuals who score over this threshold consistently vote towards the extreme end of the conservative spectrum and are often associated with far-right groups and figures. Although this does not ensure that the House member holds far-right positions or beliefs, it does demonstrate that they are more likely than others to hold far-right positions or belief. Therefore, by analyzing the percentage of Republicans over time who fall above this threshold, it can determine the greater propensity for far-right positions and beliefs to become mainstream in politics as well as demonstrate the greater proportion of Americans who support these beliefs.

According to the theory that neoliberalism has created specific material conditions in which unfavorable conditions for white working-class eventually resulted in a social backlash, I will be examining the extent to which these conditions have changed and compare them to the polling on class identity and perceptions of racial equity among various different racial groups since the 1980s. The reason that I will be analyzing unemployment rates and wealth gains following the beginning of neoliberalism in the 1980s is that theorists have consistently argued that these movements have been largely motivated by the disruption caused by neoliberalism unleashing the global market on to ordinary citizens and that the gains created by the system have only affected the few at the top, and thus the working-class has been increasingly attracted to far-right populist rhetoric as a means of combating this situation. Therefore, by measuring the unemployment indexes at certain significant points since the 1980s, such as following the signing of NAFTA, I will be able to test whether these theories have the statistical backing to their claims.

Analysis

The Growth of the Far-Right:

To understand whether or not the American far-right has grown, I will be examining historical data from VoteView, a database run by the University of California Los Angeles, which tracks DW- Nom-

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¹⁸. “UCLA Presents Voteview.com Beta.”
Dw-Nominate scores of every member of Congress throughout recorded history. My timeline will consist of the years 1945 to 2019, and the data is plotted in the table below. Additionally, I will examine the rise in hate groups from 1999 to 2018 and will attempt to establish a correlation between the two datasets.

Prior to 1980, the DW-Nominate score of the Republican party had remained largely stagnant. However, following 1981 to 2019, there is a steep increase in the average DW-Nominate score of the Republican party. The change in percentage of the average DW-Nominate score of Republicans in the House during this period is 59.1%, whereas the change between 1943 and 1979 is -5.1% demonstrating almost no change at all. In the last 4 electoral cycles, the average Republican member of the House has a DW-Nominate score over the .45 threshold for being considered “far-right.”

Figure 1: DW Nominate Scores Average Among House Republicans


From this, several conclusions can be drawn. First of all, it is very likely that there has been a considerable rise in members of the House of Representatives that hold far-right views. The views of the House of Representatives are useful for gauging the general will and consensus of the American people. Although the process of gerrymandering and the lack of an increase in size has gradually eroded this ability, it does remain somewhat representative of the American people and more representative of the current status of political parties within the U.S. Thus, as the average DW-Nominate score of the average House Republican increases, especially to the point above the threshold that can be defined as “far-right” in terms of voting record, it is very likely that this is representative of the general shift in the Republican party towards the far-right. As the average DW-Nominate score of House Republicans increases substantially, the proportion of members who hold far-right views will also increase. This can be seen through a qualitative analysis as the rhetoric of the Republican party has become far more nationalist and right leaning than its predecessors. One example of this is the difference between the Tea Party and the MAGA movement. Secondly, this change only occurred following 1981 and has increased gradually since then. One explanation for this change was the rise of Ronald Reagan and the birth of modern neoliberalism within contemporary American politics. The election of Reagan and the subsequent transformation of the Republican party marked a turning point within the GOP and within American politics with the establishment of the New Right and likely was the cause of this change as many scholars have argued.19 Reagan’s election marked a significant point within American politics as his implementation of neoliberalism caused a significant shift within the political landscape20 and also marked a significant realignment of the Republican party towards an anti-welfare and pro-business party grounded in evangelical values.21 From this point onwards, the Republican Party has moved consistently towards the right. Interestingly, this trend is not visible during the Republican Party’s “Southern Strategy” in the 1960s, which indicates that it was not until the election of Reagan and the rise of neoliberalism that this trend first began. Therefore, it can be concluded that this trend likely resulted from a structural change, such as the adoption of neoliberalism as the dominant economic model in the United States; however, it remains to be seen if this influenced the move towards

20. Jones, Masters of the Universe, 16.
Another indication as to the growth of the far-right is the dramatic rise of hate groups since the 1990s. According to data obtained from the Southern Poverty Law Center, the number of hate groups in the United States has increased by over 400 since 1999 and has shown no signs of slowing down. Although this data does not include figures from as early as the 1980s, what evidence there is indicates that there was a considerable spike around the 2000s and another spike during the campaign and subsequent election of former president Donald Trump. Furthermore, as outlined in the method section, there can be a reasonable inference that the rise of hate groups strongly indicates the overall rise in the far-right within the United States, as an increase in the total number of hate groups evidences a larger demand for alternative forms of politics and the growing power and normalization of white supremacist and nationalist rhetoric within the U.S. Additionally, the Southern Poverty Law Center has also indicated in this report that this record high in the number of these groups correlated mainly with white supremacist and nationalist groups, which were specifically emboldened by the actions of President Trump during his campaign and time in office.

While the rise in hate groups alone demonstrates an increase in activity of the far-right, this rise coupled with the gradual move towards the far-right within the Republican Party demonstrates a continuous growth of the far-right since the 1980s. In this sense, the far-right has expanded through both nontraditional and traditional means of politics simultaneously, with defined starting points. This indicates that this growth was not a natural progression of an already existing trend but rather had some form of definable cause. Below, several explanatory factors will be discussed and examined as they relate to the cause of the far-right, yet all of these factors stem from a larger cause, neoliberalism.

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22. “Hate Groups Reach Record High.”
23. “Hate Groups Reach Record High.”
24. Davidson and Saull, 711.
ter opportunities.\textsuperscript{27} This decline in agricultural production, coupled with a sheer reduction in wages due to a lack of labor and regulatory standards in the agreement, created over 1.3 million lost jobs in the Mexican agricultural sector alone, leading to an unprecedented level of immigration into the United States.\textsuperscript{28} The end result of this has been mass unemployment on both sides, with one report as early as 2005 estimating that NAFTA had caused a loss of over 1 million U.S. jobs, primarily in Texas and California.\textsuperscript{29}

NAFTA was not the only trade policy that affected the U.S. labor market. Since China joined the World Trade Organization in 2001, it has risen to be a major trading partner with the United States. Due to the cheaper cost of manufacturing in China, many U.S. companies have outsourced their labor abroad. This has resulted in a massive trade deficit between the U.S. and China and has led to a loss of around 2.4 million jobs since 2013, or almost two-thirds of all U.S. manufacturing jobs.\textsuperscript{30} The result of these trade policies has been the decimation of the American working class. The job losses described here are not upper management positions but rather jobs formerly occupied by the white working class. Further, with the gradual decay of the American social safety net, as well as a lack of comprehensive healthcare, the mortality rate for the white working class has increased significantly, with many dying due to drug overdoses, liver failure, and smoking related cancer, in what authors Case and Deaton have described as “deaths of despair.”\textsuperscript{31} Thus, the position of the white working class as a dominant force within American politics and society has certainly diminished due to decades of neoliberal policies and has likely led to a significant cultural anxiety surrounding their decay.\textsuperscript{32}

Alongside the decay of the white working class has come the rise of reactionary politics, which, while motivated by this decline, are not entirely economic. The diminishment of the white working class has not just resulted in a loss of numbers and economic importance but also the racial makeup of the working class has become increasingly less white and more diverse. According to the Economic Policy Institute, by the year 2032 the majority of the working class will be composed of people of color.\textsuperscript{33} This demonstrates the phenomena of the erosion between whiteness and gainful employment that Davidson and Saul argued led to a cultural backlash from white Americans and has caused them to move from the left to the far-right as a form of retaliation against the neoliberal cosmopolitan left.\textsuperscript{34} According to the evidence, the second part of this premise seems true as well.

One example of the retaliation of the white working-class tension can easily be reflected in the rhetoric of the modern Republican party that has been primarily shaped by former president Donald Trump. Trump, an unusual candidate for the GOP was a rhetorically populist, self proclaimed open nationalist and an aggressively anti-immigrant candidate that to the surprise of many, swept the Republican convention and later defeated Hillary Clinton to become president of the United States. During his time in office, Trump began a “zero tolerance” immigration policy which separated migrant children from their parents who

\begin{thebibliography}{99}
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\end{thebibliography}
entered illegally,36 began construction on a symbolic border wall, attempted to ban Muslims from entering the United States, and engaged in a protectionist trade war with China. To some, the election of Trump demonstrated a sharp rebuke of the neoliberal policies that have damaged the association of white Americans with their status as working class. While it is undoubtable that Trump specifically appealed to concerns of the white working class, data indicates that these tactics did not actually result in a net gain of white working-class voters. In the 2016 election, Trump gained the same share of white working-class voters that Romney had received in 2012.37 According to one study, “the white working class has constituted a slowly-growing share of GOP voters in recent elections—an impressive finding given that white working-class people are declining as a share of all Americans....”38 This trend has remained constant since 1992; however, the study does suggest that the percentage of the white working class in the Republican party has seemingly plateaued since Trump.39 While Trump had certainly appealed greatly to the white working class, it would be more fair to say he is merely a reflection of a greater trend of the white working class moving increasingly towards the right, and his election into office merely demonstrated how far-right the white working class have become since the 1980s. Thus, it is indisputable that the white working class have consistently been moving away from the progressive left since the 1980s and have moved towards the far-right, evidencing a truth behind Davidson and Saul’s claims.40

**Conclusion:**

The rise of the far-right over the last 40 years has been strongly influenced by a backlash from neoliberal policies that have created social and economic conditions that have adversely affected the white working class, as well as some segments of the white middle class. From massive job losses, increased competition from immigrant labor sources, and deaths of despair, these conditions have led to the breakdown between the relationship between race and class in the United States. This erosion of the association between race and economic stability, coupled with a lack of social safety nets and any substantial remedial efforts to address poverty, have pushed the working class towards the right and has pushed national rhetoric towards the far-right.

38. Carnes and Nicholas, 59.
40. Davidson and Saull, 712.
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Traditionally in Western culture, men have had the privilege of promoting rebellion while women have had to be submissive and socially desirable. This expectation applied to all women but especially women in the rock ‘n’ roll scene. The overwhelming loudness of rock and the typical message of rebellion was connected to the power that men held within society. The combination of loud and fast paced music with the electronic nature of the instruments is what sets rock ‘n’ roll and metal apart from other genres. The attention that rock ‘n’ roll music demands, both from the challenging nature of the music’s messages and the difficulty in ignoring the volume was not rare in the mid-twentieth century in the Western world. Despite already holding power, some men wanted to gain more popularity or wealth by utilizing traditionally feminine presentations. Some artists who participated in establishing the genres of rock ‘n’ roll, glam rock, and hair metal blurred the lines between masculinity and femininity for their own personal gain. To identify how male artists in the 1950s - 1980s walked the line between masculine and feminine, this essay will look at traditionally feminine features, such as hairstyle and gender based physical presentation, as well as specific musical aspects, to show how masculine artists employed traditional feminine presentations.

It is not hard for most Americans to conjure up images of rock stars. Rock ‘n’ roll or rockabilly stars from the 1950s such as Elvis and Little Richard come to mind. Later, towards the 1970s, performers such as David Bowie, T. Rex, and Sir Elton John exploded with glam rock. Even later in the 1980s, metal took a turn towards glam, bringing hair/glam metal and bands such as Twisted Sister, Mötley Crüe, and Kiss into popularity. In their respective genres, these artists were the ones who helped to obfuscate the definition of gender. What comes out of this understanding, though, is that many of these artists purposefully blurred gender barriers not because that is who they truly were or how they would have naturally acted but for their own commercial gain.

The initial artists who rejected gender barriers were not following the social trends of the time but were creating and influencing society’s trends. In the case of Little Richard, as discussed later, feminization was a preservation technique. David Bowie was on the cusp of glam rock and was influenced by the successes of T. Rex, but T. Rex’s motivations for performing the way they did is unclear beyond the wants and whims of its singer, and its roots in psychedelic and art rock. All three genres, psychedelic, art, and glam rock, defined and followed the trends of their respective decades. Similarly, the success of Twisted Sister defined and followed the trends of the 1970s and 1980s in the United States while taking inspiration from heavy metal and glam rock.

Elvis Presley may have popularized rock ‘n’ roll and the feminized rock star, but he did not introduce rock into the music scene. Rock ‘n’ roll has its origins in various places, but mainly in classic country/hillbilly music, rhythm ‘n’ blues, and boogie woogie music. Elvis’ popularity quickly becomes an issue of race when considering the racial culture in the United States in the 1950s as the Civil Rights Movement was just beginning. His popular covers outshone the fathers of rock ‘n’ roll whose songs he sang. Artists such as Chuck Berry, Fats Domino, and Robert Johnson were rock ‘n’ roll stars in their own right, and their overall lack of popularity compared to Elvis had more to do with the color of their skin than their lack of self-feminization. Many, if not all of the fathers of rock ‘n’ roll did not feminize themselves at all. Comparing a video performance of Fats Domino performing “Ain’t That A Shame” in 1956 to a photo-

graph of Little Richard, the differences in appearance are obvious. Compared to Little Richard’s flamboyant style, discussed in more detail in later paragraphs, Fats Domino looks the picture of 1950s masculinity, with slicked back hair and a collared shirt and tie. Elvis was the one to popularize a more feminized style.

Elvis certainly led the pack in creating what the world would come to know as rock music, bringing in influences from blues, gospel, hillbilly, and more. The way he presented himself also generated criticism. During the Cold War, Elvis’ own label compared him to Marilyn Monroe. Instead of finding his movements to represent male virility, critics took his swinging hips to be like those of a risqué female dancer. Unlike some of the artists that will come up later, Elvis did not purposefully make his actions feminine. Raised in the Pentecostal church, Elvis grew up associating movement with music and expressing his emotions freely. Elvis’ success came from a lot of factors, as stated before, but mainly from his covers and ability to sound like his forefathers without sharing their skin tone. Elvis is the king of rock ‘n’ roll, which means that a lot of people followed in his musical and performative footsteps. Seeing the success of Elvis, other artists decided to purposefully distort the gender barriers of the times. Another one of the forerunners of rock ‘n’ roll, “Little” Richard Penniman had specific reasons for pushing against his own masculinity as well as the pervasive masculine stereotypes that dominated rock ‘n’ roll.

Despite starting in the music industry before Elvis, Little Richard did not have much success until Elvis came into the rock ‘n’ roll scene. To help himself find popularity and keep it, Little Richard employed various methods of challenging gender barriers for his own gain. The first way he blurred gender barriers was through his appearance, as Little Richard wore his hair in a pompadour for most of his performances, much like his predecessors Esquerita and Billy Wright. Most black men did, and still do, wear their natural hair and do not do much to it beyond protective measures. The fact that Richard’s hair was sometimes straight and long feminized him in the eyes of some of the black community since manipulating hair was something that women did. Little Richard also wore heavy makeup that added to the perception of him as feminine. He likely got this from his two previously mentioned predecessors but also from the drag community. Little Richard was a drag performer in his youth during the postwar era, when drag became popular entertainment in black communities. Little Richard’s mixing of feminine hair and makeup with masculine suits followed the trend of drag queens who manipulated the traditional gender norms of the time. Little Richard not only utilized the mixed gender presentation because it was something he had seen done before, but because it worked to his advantage in gaining popularity.

The mixed gender presentation worked well for many reasons but the largest was the way it went over with white audiences. Little Richard explained in the 1991 movie Good Rockin’ Tonight why he wore makeup: “By wearing this make-up I could work and play white clubs and the white people didn’t mind the white girls screaming over me. I wasn’t a threat when they saw the eyelashes and the make-up. They was willing to accept me too, ‘cause they figured I

Little Richard was gaining popularity in the 1950s and 60s. His way of making space for himself included a method of effectively de-sexing himself. If Little Richard acted masculine, then the white people he was playing for would find him to be threatening. But if he dressed and acted more feminine, then white people would associate him with the submissive nature of women and allow him to play in their clubs, where Little Richard found his popularity. However, Little Richard did not only mix genders through his appearance, but through his music too.

In “Tutti Frutti,” Little Richard employs a traditional 12-bar blues progression throughout the song. Unlike most traditional blues music, “Tutti Frutti” has a high tempo, which sets it up to be a rock ‘n’ roll song. The powerful explosion of “Wop-bop-a-loo-mop alo-pom-bom-bom” (0:00-0:03) immediately sets “Tutti Frutti” apart from traditional blues music and into rock ‘n’ roll. What is important, for this analysis, about Little Richard’s “breakthrough hit” is his use of falsetto and vocal flourishes. During the chorus, Little Richard utilizes his falsetto (0:39, 1:10, and 1:40), unexpectedly singing well above the range he had before. He uses falsetto again to transition into the break (1:19). Little Richard mixed rock with falsetto, blurring gender lines more. Rock is a way for someone to prove their masculinity, while falsetto “is a form of drag: a vocal masquerade.”

Using falsetto allows Little Richard to make himself more effeminate. One of the best arguments for what makes a song sung by a male singer feminine is the use of falsetto.

While Little Richard identified as gay, and later rejected his sexual orientation, his use of gender-bending outfits and musical styles was for his own gain. He once claimed, after he had rejected his sexuality, that his label had him perform that way so he could play in the white crowds. If his claim is true, that is an example of the recording industry manipulating the consumers to make themselves money. The label beguiled their mostly white audience into accepting performances by a talented black man by having him portray himself in a gender-blurring way. Other artists that followed Penniman made similar spectacles of themselves, so that they could gain fame and fortune.

Decades later, another rock artist who manipulated gender definitions for his own benefit was British artist, David Bowie. Bowie invented Ziggy Stardust – his androgynous alien alter-ego – ten years into his career, after watching Andy Warhol’s Pork and becoming acquainted with the cast. One cast member, trans frontwoman for the Electric Chairs, Jayne County, helped Bowie develop his character and even his songs. County claims that she sent Bowie some of her songs that Bowie used without crediting her or giving her space to perform them with him. Although County allegedly wrote some parts of his songs, her discography did not do nearly as well as Bowie’s did. County’s lack of success was because Ziggy Stardust was just a character. Any love for Ziggy Stardust that the audience had was just as a character and not explicitly in support of David Bowie himself displaying gender nonconformity. Bowie was comfortable within his gender as a cis male, and listeners knew that. Putting a transgender woman as the face of glam rock would not have worked out well as a separation between the on and off-stage identities of the artists allowed consumers to enjoy the performances as performances without having to condemn or support any manipulations of gender. Additionally, despite coming out as gay after the birth of Ziggy Stardust, Bowie did eventually have a wife and two children.

tive standards, regardless of his actual sexual identity, helped to place Bowie within a cis narrative.\(^\text{13}\) Bowie’s actions and creation of Ziggy Stardust were purposeful and made to make him popular.

Bowie’s contemporaries, T. Rex, created glam rock more organically. The lead singer, Marc Bolan, created glam rock by wearing glitter on his face and some women’s clothes. After Bolan’s first performance wearing glitter, a sea of glitter-adorned faces met him at his next one.\(^\text{14}\) Bowie furthered glam rock with Ziggy Stardust. However, it was Bowie’s music that found more popularity. The use of Ziggy Stardust to promote this burgeoning genre, while probably not the sole cause, helped Bowie’s \textit{The Rise and Fall of Ziggy Stardust and the Spiders from Mars} stay 168 weeks on Britain’s top 100, peaking at number 5.\(^\text{15}\) T. Rex’s first glam rock album, \textit{Electric Warrior}, peaked at number one but only spent forty-four weeks on the chart.\(^\text{16}\) It was the purposeful creation of Ziggy Stardust that brought Bowie fame and fortune, even after he switched from his outrageous act to a more subdued one.

Arguably Bowie’s most enduring song off \textit{Ziggy Stardust}, “Starman,” follows an AB song form. The first verse starts at 0:20 and is 13 bars long, followed by an eight-bar pre-chorus. At 0:55 the chorus starts and is eleven bars long before the seven-bar instrumental solo. At 1:40 the second verse starts, following the same format as before. The second chorus starts at 2:14 followed immediately by the final chorus at 2:40. The 23-bar outro starts at 3:08. The AB form is different both from the early rock ‘n’ roll of “Tutti Frutti” (AAB) and the psychedelic music of The Beatles’ “I Am The Walrus” (AABA). While the song does have all the chords of the traditional I-IV-V chord progression, at no point does it follow the trend. Even “I Am The Walrus” has a backwards V-V7-IV-IV7-I chord progression.\(^\text{17}\) “Starman” uses various strings in the form of guitars, a bass, and some orchestral strings that may have been produced electronically. There are also drums to back up the strings. Beyond the orchestral strings, “Starman” breaks away from the psychedelic sounds of “I Am The Walrus.” The instrumentation on “Starman” is cleaner and more whole whereas sounds are sliding all over the place in “Walrus.” This sophistication adds to the glamor of Bowie’s presentation.

Glam rock was all about glamor. Bowie’s and Bolan’s costumes showed the glamor, but so did the music. The music gave listeners, mostly teenagers, an escape from the tripped out psychedelic rock, “the pompous ‘progressive’ rock of the decade before, and ‘the banal bubblegum’ from the hippies of the time.”\(^\text{18}\) Bowie created glam rock out of his own reinvention, which he did for his own personal gain. He also reinvented rock into a new, more glamorous sound. Bands such as Alice Cooper, Van Halen, and Twisted Sister transformed the glamor of glam rock into metal, creating glam/hair metal.

Instead of analyzing one artist within glam metal, this analysis will focus on the glam metal phenomenon and how the bands within the genre blurred the gender lines for their own gain. Unlike glam rock, glam metal artists used their androgyny for pure entertainment rather than the “postmodern irony” of glam rock.\(^\text{19}\) Glam metal was more about embodying the American Dream and showing that upward mobility was possible through music.\(^\text{20}\) This idea resonated

\begin{itemize}
  \item Geffen, \textit{Glitter Up the Dark}, 33.
  \item Hoskyns, \textit{Glam!}, 24.
  \item Hoskyns, \textit{Glam!} 10.
  \item Moore, \textit{Sells Like Teen Spirit}, 106.
\end{itemize}
with the middle-class listeners of traditional metal, but the audience of glam metal shifted because of their on-stage costumes. Bands like Twisted Sister and Kiss took it to the extreme, but even Guns N’ Roses wore makeup on stage. The teased hair, make-up, and feminine clothing of glam metal bands made them look more like the sex workers on Hollywood’s Sunset Strip than metal’s middle-class worker audience. They purposefully became objectified as sexual objects much like women had been. Despite taking “symbolic possession of femininity,” the men of glam metal relied on women to support them, both to pay for things while the men waited for their big break and as audience members after the break came. Glam metal music also followed a different path than traditional metal music.

Glam metal came out of heavy metal, glam rock, and punk. Metal was louder and faster than rock ‘n’ roll, making the performers seem even more masculine, and it was all about volume and distortion and came out of blues rock. While some glam metal music is fast, power ballads such as Guns N’ Roses’s “Sweet Child O’ Mine” are slower. This slower tempo allows more virtuosic playing from Slash, the band’s lead guitarist, whose playing starts in the first second of the song. Bon Jovi’s “Livin’ on a Prayer” has a C-D-G chord progression in the chorus which gives it a more optimistic sound than traditional heavy metal’s C-D-E progression. The slower, more optimistic songs found success in an audience of women and men who were not afraid to show emotion. Power ballads used third person authenticity as they were mainly love songs. The act of expressing emotion was non-masculine, adding to the bands’ performances being feminine.

Rock ‘n’ roll, glam rock, and glam metal artists took part in blurring gender barriers for their own gain. Elvis and T. Rex’s obfuscation of gender barriers was less purposeful but still contributed to changing the definition of masculinity in music. Little Richard feminized himself through his clothes and his music by using falsetto to be able to play in white clubs.

David Bowie purposely reinvented his previous folky image with Ziggy Stardust, promoting androgyny to the extreme, and became the best-known glam rock artist ever. The reinvention of Bowie led to the reinvention of rock music into glam rock, giving the youth of the time something to call their own. Glam metal reinforced metal’s gender stereotypes of men singing loudly and fast about rebellion, while directly refuting hyper-masculine gender stereotypes by relying heavily on women. By feminizing themselves, these artists found success in their respective times and created a symbiotic relationship with the culture that surrounded them. These artists had massive influence on the fans who followed them and on the newer generations of musical artists, allowing them to see the success of men performing gender non-conformity.

23. Moore, 78.


Discography


The Intersection of Judicial Interpretive Methods and Politics in Supreme Court Justices’ Due Process Opinions

By: Julie Castle, Arcadia University

Abstract:

The Supreme Court, a nine seat bench of unelected and lifetime tenured Justices, determines the constitutionality of dozens of cases each year. In this thesis, I research to what extent the political affiliation of the Justices affects the judicial decision making process and, ultimately, case outcomes. Using pattern matching, I evaluate due process opinions from Justice Breyer, Justice O’Connor, and Justice Scalia, all of whom have established constitutional analysis methods, in order to determine if they reasonably adhere to their established method. Due to the highly political nature of due process cases, variance between the expected (adherence to the Justices’ established style) and the observed outcomes (the adherence to or lack of adherence to the established style) can suggest political influence on the Justice in order to get a preferred outcome. Ultimately, I find that there is a significant variance between the three Justices and their adherence to their established constitutional analysis method, suggesting that Justices’ political affiliation can manipulate their decision making methods when it is necessary to achieve their preferred political outcome.

This is an excerpt from a full thesis, and access to the full thesis, resources, methodology, and data collected can be accessed by contacting the author, Julie Castle, at: julie.castle@law.gwu.edu.

I. Introduction:

The purpose of this research is to determine to what extent does the political affiliation of the Justices on the Supreme Court affect judicial decision making and, ultimately, case outcomes. In order to achieve this end goal, I researched what constitutional analysis methods Justices used and which indicators suggested one method in contrast to another. I then chose a group of Justices to analyze and a type of case to analyze.

From the literature surveyed, there are four main sources of meaning in the Constitution: 1) contemporaneous sources (i.e. the text of the Constitution, the structure of the government intended by the Constitution, and the history surrounding the Constitution’s framing and ratification), 2) subsequent events (i.e. doctrinal precedents and legislative and executive practice under the Constitution), 3) non-interpretive considerations (i.e. arguments concerning the consequences of an interpretation of the Constitution, sound social policy, and considerations of politics), and 4) individual bias (i.e. doctrinal and party bias). 1 Scholars have determined four broad categories of constitutional methods of analysis: natural law, Holmesian, formalism, and instrumentalism. 2 Natural law Justices decide based on reasoned legal principles and emphasize precedent and stare decisis, but they also care about the purpose of a provision of the Constitution and the context in which it was made. Holmesian Justices rely heavily on deference to Congress and the executive branch, believing that it is not truly the Court’s job to make policy decisions that are generally designated to either Congress or the executive branch. Formalist Justices emphasize the text of the Constitution, almost exclusively, and are strong defenders of separation of powers. Instrumentalist Justices believe that the judiciary is a co-equal branch of government and there is a responsibility to advance functional and pragmatic social policy through their decisions. 3 Each style of interpretation uses the four sources of meaning, but their importance and weight vary - this is what differentiates their analysis and makes a style distinct.

After researching, I chose three Justices: Justice O’Connor, Justice Scalia, and Justice Breyer. I chose them specifically because they each have a distinctive, and differing, constitutional analysis style – natural law, formalism, and instrumentalism, respectively. This is not to say that they do not engage

2. Id.
3. Id.
in other styles at times, but they are known for their use of these types of analysis, and they use them most frequently. I also chose them for their varied political beliefs. Justice O’Connor is considered a more moderate Republican, Justice Scalia was a staunch Republican, and Justice Breyer is a Democrat. This gives insight into varied political perspectives of Justices.

Finally, I had to choose what type of cases I would explore. Many cases that the Supreme Court adjudicates each year are routine and are not very controversial or produce widespread changes to our lives. Additionally, many cases are not likely to be influenced necessarily by politics - it is just a clarification of the law (it would not be impossible for politics to play a role, but it is less likely). Therefore, I needed to choose a type of case that 1) had enough data points for me to do substantial research on so I could reach a more meaningful conclusion and 2) was controversial and could be highly politicized. Due process cases satisfy these requirements. Both types of due process cases, substantive and procedural, are controversial and invite political opinion when they are on the docket. Substantive due process requires that the government’s deprivation of a person’s life, liberty, or property is justified by sufficient purpose, while procedural due process ensures that the government has followed the proper procedures when it deprives someone of their life, liberty, or property. As Justices, they have a belief about what their role on the Supreme Court means, but they are ultimately humans with political beliefs that influence the way they see the world and how they want the world to look. A case that is inherently political is bound, more than others, to bring out influences of politics.

I theorize that Justice Breyer and Justice O’Connor, representing instrumentalism and natural law styles of constitutional analysis respectively, will adhere to their methods to a reasonable degree, while Justice Scalia, representing formalism, will not adhere to his methods to a reasonable degree. Ultimately, I argue that political affiliation will manipulate the decision making methods of a Justice when it is necessary to achieve their preferred political outcome. I also analyze other potential ramifications based on the observed trends.

II. Methods:

In order to test my hypothesis, I will use pattern matching. Pattern matching is a research methodology where a researcher compares an observed theory to data and evaluates whether the theory is applicable or accurate. One type of pattern matching is rival explanations as patterns. This involves creating multiple rival theoretical propositions that could be the appropriate pattern to match the data. With this method, “The important characteristic of these rival explanations is that each involves a pattern of independent variables that is mutually exclusive: If one explanation is to be valid, the others cannot be.” I will engage with rival explanations as patterns to determine if Justices are manipulating their established constitutional analysis style in order to get an outcome more in line with their political beliefs, or if they are consistent in their style of analysis and judgment. Each type of constitutional analysis is a rival theory, and I have chosen variables that align solely with one type of constitutional analysis – meaning that an indicator’s presence only suggests one theory and two cannot simultaneously be true. The indicators for natural law are an appeal to a general enlightenment principle or Christian principles, strong advocacy of precedent, and originalism. The indicators for Holmesian are extreme deference to the legislature or administrative agencies. The indicators for formalism are textualism, strong advocacy of state’s rights, specific abstraction, and an appeal to traditional values. The indicators for instrumentalism are social policy analysis, community consensus, legislative history, and broad based historical investigation.

After reading ten cases per Justice and analyzing the contents by using the indicators, I will use the raw data to create percentages of how often a Justice

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6. Id.
7. Id.
used each respective style of analysis. This will determine if the Justice is adhering to their established style, the observed pattern, to a reasonable degree. I define a reasonable degree to mean the Justice is using their established style of analysis at least 65% of the time.

If a Justice does consistently adhere, to a reasonable degree, to their established style, this could indicate consistency and stability in their decision making process - probably indicating that the Justice does not allow their political beliefs to alter the way that they analyze constitutional issues. If a Justice does not consistently adhere, to a reasonable degree, to their established style, there could be many explanations, but because of the nature of the cases (highly controversial and politicized), it is more likely than not that there is some influence of politics at play.

III. Data Analysis:

I have used two types of data analysis. The first is the percentage of time using the established constitutional analysis method in each individual opinion of a Justice. From this, each Justice will have a number of opinions that meet the threshold of 65% adherence to their established method out of 10 opinions. This is the micro-level of analysis. The second data analysis will be aggregating all distinct instances in all opinions of a Justice (throughout all 10 opinions assessed) and finding the percentage of time a Justice uses their established constitutional analysis method overall. This is the macro-level of analysis.

For the purposes of this article, the raw data and in-depth specific evaluations of each Justice is omitted, but I will provide a brief summary of my results and how this aligns with my hypothesis. I theorized that Justice Breyer and Justice O’Connor, representing instrumentalism and natural law styles of constitutional analysis respectively, would adhere to their methods to a reasonable degree, while Justice Scalia, representing formalism, would not adhere to his methods to a reasonable degree. After analyzing the data, there is a gradient of adherence. For Justice Breyer, he utilized instrumentalist constitutional analysis methods more than 65% of the time in 5 of the 10 cases I evaluated. Throughout all the cases and throughout all the distinct instances of constitutional analysis indicators, Justice Breyer used an instrumentalist constitutional analysis method 74% of the time. For Justice O’Connor, she utilized natural law constitutional analysis methods more than 65% of the time in 2 of the 10 cases I evaluated. Throughout all the cases and throughout all the distinct instances of constitutional analysis indicators, Justice O’Connor used a natural law constitutional analysis method 45% of the time. For Justice Scalia, he utilized formalist constitutional analysis methods more than 65% of the time in 0 of the 10 cases I evaluated. Throughout all the cases and throughout all the distinct instances of constitutional analysis indicators, Justice Scalia used a formalist constitutional analysis method 20% of the time. Based on these statistics, my hypothesis was partially correct. My reasoning is threefold: 1) Depending how you present the data, Justice Breyer can be seen as adhering to instrumentalism 65% of the time or not. This ambiguity is not lost on me, but under the metrics I imposed, of all the distinct instances, he did employ instrumentalism 74% of the time, which is by and far greater than the adherence observed in either Justice O’Connor or Justice Scalia. This suggests consistency and reliability to me in Justice Breyer’s constitutional analysis methods. This was as I hypothesized. 2) Justice O’Connor did not adhere to natural law 65% of the time, no matter how you present the data. This was not as I hypothesized. 3) Justice Scalia did not adhere to formalism 65% of the time, no matter how you present the data. This was as I hypothesized. Among the many explanations for the wide disparity in adherence, politics is a very reasonable, and I believe persuasive, rationale.

IV. Data Analysis and the Intersection of the Outcomes and Politics:

The overall purpose for this research is to determine to what extent the political affiliation of the Justices on the Supreme Court affects judicial decision making and, ultimately, outcomes. From the research, there is a large variance between Justice Breyer, Justice O’Connor, and Justice Scalia. As a result, I suggest that my overall thesis is accurate, and political affiliation does manipulate the decision making methods of a Justice when it is necessary to achieve their preferred political outcome.

Justice O’Connor and Justice Scalia did not reasonably adhere to their established style. Each of them, but in particular Justice Scalia, has claimed to use a certain kind of constitutional analysis. But, the observed data did not match the expected outcomes. The question, of course, is why. The answer, as this
paper posits, is politics. Justices are humans, and they have their own ideas, preferences, and political affiliations, as everyone does. They are also appointed by the president, who will choose to appoint a Justice that they believe will interpret the law in ways that benefit the political party of the president or fall in line with the beliefs of the political party of the president. An issue arises when a Justice thinks about the law in a particular way but that analysis style does not lead to outcomes that align with what they are “supposed to do.” In the situation at hand, Justice O’Connor and Justice Scalia, chosen to represent natural law and formalism respectively, have been observed barely using their established styles to a reasonable degree in opinions (on the micro-level of analysis) and also to be using instrumentalism the majority of the time overall (on the macro-level of analysis specifically). Instrumentalism is a contentious constitutional analysis method. The method is accused of legitimizing biases in analysis, allowing Justices to do whatever they want to do with the law, and of being judicial activists, which, in its derogatory interpretation, is legislating from the bench. While this is applicable to both Justice O’Connor and Justice Scalia, the two Justices must be analyzed separately because there is a variation between the two of them that is significantly different. I will begin with Justice O’Connor.

Justice O’Connor claims to be a natural law Justice, while she is observed to be just as much an instrumentalist. On the micro-level of analysis, Justice O’Connor meets 65% of natural law in 2 of the 10 opinions and 65% of instrumentalism in 2 of the 10 opinions. On the macro-level of analysis, she uses natural law 45% of the time and instrumentalism 49% of the time. There is no significant difference between how Justice O’Connor used the two constitutional analysis methods. This is still indicative of her using politics to get the outcomes that she wants. As mentioned previously, instrumentalism is known for having a bad name, in general. Justice O’Connor does not claim to be an instrumentalist, but there is just as much evidence to support her being an instrumentalist as her being a natural law Justice. I suggest that she proclaims to be a natural law Justice in order to avoid the negative connotation of judicial activism. However, this creates a disparity between what we expect and what we observe. Justice O’Connor does not want to appear to be political by being an instrumentalist, but when she adheres just as much to instrumentalism as natural law, she appears to be even more political than she originally would, seeming to switch between the two in an effort to manipulate the outcomes of her decisions. While some may argue that this is political, it is tangential. This supports my overall thesis, but it is weaker than the relationship between the observed research on Justice Scalia and politics.

Justice Scalia, arguably, is the most outspoken about his judicial decision making and what constitutional analysis methods should be used. He has said that formalism is the proper method to use, because in order to eliminate bias, laws should focus on hard, fast rules that can be mechanically applied. Additionally, Justice Scalia has forcefully denounced judicial activism, stating that Justices are unelected and should never co-opt the powers of the legislature. He also believes that substantive due process should not exist because the Court should not be able to “create” new rights. Despite how vocal Justice Scalia is about how constitutional analysis should be done and the role of the Court, his actions do not align with his words. On the micro-level of analysis, Justice Scalia did not exceed 65% for formalism in a single opinion. On the macro-level of analysis, Justice Scalia only employed formalism 20% of the time. It is relevant to note that Justice Scalia also employed instrumentalism 53% of the time. This suggests one of two things: 1) formalism is not feasible to use as the entire basis of an argument or 2) Justice Scalia cannot achieve the outcomes he desires through formalism. He wants to achieve a certain outcome based on his political affiliations and formalism does not allow the flexibility and subjectivity that he requires. Nowhere is this seen more than in

9. Id.
Justice Scalia’s *District of Columbia v. Heller* majority opinion. Justice Scalia has repeatedly said that new substantive due process rights cannot and should not be “created” by the Court. This, of course, applies to the fundamental right to marry, the fundamental right to abortion, and many more. However, when the substantive due process right, like the individual right to keep and bear arms, aligns with his political opinion, the way that he decides cases changes and it is constitutionally appropriate to “create” a new right. Justice Scalia has openly criticized instrumentalism, but *District of Columbia v. Heller*, and the other cases surveyed, show that he will still use the method to reach the outcome he desires. His opinion of instrumentalism and his simultaneous use of it reveal how his actions match his accusations.

Finally, I want to acknowledge the place that Justice Breyer has in this discussion. Justice Breyer is the only Justice in this research that reasonably adhered to his established constitutional analysis method. However, instrumentalism, as discussed in relation to Justice O’Connor and Justice Scalia, is known to be more political, more biased, and framed as judicial activism. Does this make every opinion Justice Breyer writes, when based on instrumentalism, inherently political? This is an impossible question to answer. Ultimately, what we do know for sure is that Justice Breyer proclaims to be an instrumentalist. Through my research, he has shown to be exactly that. He does not change his analysis style to reach a particular outcome. This does not mean I am foreclosing the idea that politics can influence Justice Breyer’s decisions, but the way that he decides to craft his opinions and in turn write his opinions is not changed by the outcome he wishes to achieve.

V. Trends and Comparison between Justices:

Now that I have reviewed each of the Justices individually, I will identify general trends/similarities in constitutional analysis methods on the Supreme Court as a collective. The chart below has combined the number of distinct instances of indicators by what constitutional analysis method they indicate and then shows the percentage of the total number of indicators for a particular constitutional analysis method over the total number of all instances in a particular constitutional analysis method over the total number of all instances in 30 opinions evaluated.

<table>
<thead>
<tr>
<th>Constitutional Analysis Method</th>
<th>Total Distinct Instances of All Indicators for the Constitutional Analysis Method in All 30 Opinions</th>
<th>% of All Distinct Instances for the Constitutional Analysis Method in All 30 Opinions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural Law</td>
<td>319</td>
<td>20%</td>
</tr>
<tr>
<td>Holmesian</td>
<td>37</td>
<td>3%</td>
</tr>
<tr>
<td>Formalism</td>
<td>121</td>
<td>11%</td>
</tr>
<tr>
<td>Instrumentalism</td>
<td>660</td>
<td>50%</td>
</tr>
<tr>
<td>Totals</td>
<td>1,137</td>
<td>100%</td>
</tr>
</tbody>
</table>

As seen above, in all opinions, the constitutional analysis method used the most often is instrumentalism. When looking at the observed percentages of instrumentalism by the Justices, this holds true as well, with it being the most used method despite the established style of the Justice (Justice Breyer at 74%, Justice O’Connor at 49%, and Justice Scalia at 53%). Within instrumentalism, social policy analysis is used the most often at 43% of all distinct instances. When we consider what instrumentalism and social policy analysis aims to do, it makes sense that it is the most used method and tool. The purpose is to see how functional and pragmatic a law or regulation is and how that in turn affects the people it applies to, rather than a hard, fast reliance on how things have always been (natural law), deference to experts in a field or Congress (Holmesian), or sole reliance on the words of a text without respect to how it benefits or harms people (formalism). While other constitutional analysis methods have their places and their own appropriate times to be applied, every single case evaluated employed at least one tool of instrumentalism, indicating to me that it is a necessary and authoritative method of constitutional analysis. If we are not concerned with how laws and regulations affect people, then what is the point of governance? It seems as though the Justices, whether they claim instrumentalism or not, see the value in a workable, fair, and just system, which is what instrumentalism aims to achieve through judicial decision making.

Another important trend to take note of is the utilization of natural law. Natural law is the second most used constitutional analysis method at 28% and has the second most used tool, strong advocacy of precedent, at 21%. Within the three Justices’ opinions,
natural law was always the second most used constitutional analysis method (Justice Breyer at 12%, Justice O’Connor at 45%, and Justice Scalia at 26%). An important aspect of the judiciary is consistency. Regularly and faithfully applying and relying on precedent is essential to creating that consistency and also credibility. If courts constantly overruled previous precedents, there would be little stability and it would undermine the authority of each court, leading to an overall distrust of their decisions. But, as we can see through my research, no matter what a Justice establishes as their constitutional analysis method, natural law—particularly advocacy of precedent—has a strong hold on what they will decide. This is an important and promising trend, even with such a small sample size.

**Conclusion:**

While, due to the nature of my analysis and my method, I cannot prove that politics is the reason that Justice O’Connor and Justice Scalia did not adhere to their established constitutional analysis methods, I suggest that politics is the most reasonable assumption to be made, especially because of the cases I chose to analyze. Politics is relevant at the least, superseding at the most. Apolitical is not an accurate representation of the Supreme Court. Another outcome, which was unexpected, was learning how controversial instrumentalism is as a constitutional analysis method while simultaneously learning precisely how important instrumentalism is to the judiciary. Not many Justices, or members of the judiciary in general, admit their penchant for instrumentalism because of this contentiousness. Justice Breyer is an outlier in this situation. But, my research demonstrates its importance to the judicial decision making process. Instrumentalism is fundamentally a human based analysis method. It emphasizes the real effect of the Constitution and legislation, as well as functionality and pragmatism over a mechanical application of the law. These are not misguided metrics. Even those that object to instrumentalism being used, such as Justice Scalia, consistently use it. This reveals a judicial and societal contradiction. We, like the Justices, have a distaste for bias and subjectivity, unless, of course, it swings the pendulum in our favor. It is not erroneous to base judicial decisions on how those decisions affect people, even if this introduces a level of bias into the process. It is clear to me while the term apolitical may be misappropriated, this is not necessarily a deficiency within our judicial system. If introducing biases also means introducing compassion and realism, I argue that those biases are much more beneficial than detrimental.

From here, I suggest further research of a larger scale. Right now, my results are limited to the scope I was capable of casting. I investigated three Justices and thirty cases. I am confident that if this research were replicated on a larger scale that the outcomes would confirm my findings that politics do manipulate a Justice’s constitutional analysis method when necessary to reach a particular outcome. I also encourage those researchers to reconsider the collective assumption that politics and biases are always morally inferior to the alternative. We must remember how much social progress would be designated as judicial activism and political decisions and ask ourselves if these were illogical or unsound decision making processes.

In conclusion, Justices do manipulate their constitutional analysis methods in order to reach their preferred outcomes, and I do believe that politics plays a considerable role in that decision making process. I also believe that nuance is necessary when we continue to investigate my findings. Politics in the judiciary can lead to both positive and negative outcomes. The law is black and white, but humans are gray. It is decidedly true that it is the Supreme Court’s province and duty to say what the law is, but we must also consider the human aspect of the judiciary’s actions. We must also consider the distinct possibilities of what the law should be.