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THE CONSTITUTIVE EXPRESSION BEHIND THE SILENCE ABOUT THE MEANING OF "TAISHAN"

James Li*

Abstract: Maxine Kingston's award-winning books written in the 1970s provide more insight on why Chinese immigrants have always tended to have a higher volume of social capital, enabling generations of Chinese immigrants and their children tending to exceed expectations in socio-economic achievements. Maxine Kingston's books, along with historical and cultural evidence, provide more texture to the notion that early Chinese immigrants had some idea that Taishan was the epicenter of Yuan empire power infrastructure at the more southern half of south China. The name "Taishan" was preferred in 1914 because it carries more prestige than the name "Xinning". However, because of the Yuan empire's bad record in inter-ethnic relation, there was a public silence about the "High Office Mountain" meaning as an expression of valuing ethnic harmony. This investigation further enforces the notion in the primary article The Reverberations of the Yuehuahu Anti-subordination Voices that the judiciary is not competent at resolving cultural conflicts.

Keywords: Constitutional Jurisprudence; Cultural Experience; Chinese American Constitutional Experiences; Constitutional Law; Law and Society; Dissenting Opinions in Obergefell v. Hodges

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INTRODUCTION

"[W]e can choose to bend our ears toward silence, and we can learn how to make silences speak. This is one way of laying claim to the future."

Karen Tani[1]

Based on social science research insights, the reported sociological conditions of Chinese immigrant communities in America over the years indicate that Chinese immigrants to America have always enjoyed high volumes of social capital.[2] The apparent high volumes despite vast majority of Chinese immigrants have faced a language-based structural disadvantage[3] indicate that there have been some extra fountains of social capital available to Chinese immigrants, likely with an uniquely Chinese cultural grounding, as social science research made a correlation between ethnic backgrounds and volumes of social capital at least 7 decades ago.[4] *The*

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[1] Foreword: *Curation, Narration, Erasure: Power and Possibility at The U.S. Supreme Court,* 138 Harvard Law Review 1, 95 (2024).

[2] "[S]ocial capital refers to connections among individuals—social networks and the norms of reciprocity and trustworthiness that arise among them [that has effects similar to physical capital and human capital]." Robert D. Putnam, *Bowling Alone 19 (Simon & Schuster, 2000)*. To avoid unnecessary verbiage, an abbreviation will be used after identifying the abbreviation with (" ") hereinafter. Good sociological outcomes are associated with high volumes of social capital. *See, e.g.,* an Italian American community's experience of positive indicator of heart attack incident being attributed to dense social networks within it, Putnam, supra note 1, at 329. A very good indicator of the fact that Chinese Americans today enjoy high volume of social capital is the fact that Chinese Americans enjoy the highest life expectancy in America, despite of the fact that Chinese Americans, as a demographic classification, do not having the highest level of education. *See* Darwin A. Baluran & Evelyn J. Patterson, *Examining Ethnic Variation in Life Expectancy Among Asians in the United States, 2012-2016*, 58 Demography 1613, 1643 tbl 2 (2021). A good indicator that at the very beginning of Chinese immigration to America, Chinese immigrants enjoyed high volumes of social capital is the fact that *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886), happened within 4 decades after the first large group of Chinese migration, when all Chinese immigrants faced structural race-based discrimination on top of the apparent language handicap, *see* citation in the next footnote. *See* Sucheng Chan, *Asian Americans: An Interpretive History* 25, 95 (Twayne, 1991) ("Chan").

[3] *Cf.* Peter Kwong & Dusanka Miscevic, *Chinese America* 144-45(The New Press, 2005) (early Chinese immigrants relying entirely on self-help on finance and dispute resolution).

[4] *See* Putnam, at 294, 329 (relating to Scandinavian-Americans and Italian-Americans, respectively, both associated with high scores in social science index developed by social scientists).

Reverberations of Yuehuahu Anti-subordination Voices ("*The Reverberations*") [5] argues that some of the extra fountains of social capital have come from the downstream recycling beneficial sociological, cultural and behavioral effects of the cultural experiences of hearing circulating folklores (and their more entertaining echoes) in relation to aspects of the Yuan empire's[6] apparent honorable ending in Guangdong because those cultural experiences, even experienced occasionally, tend to steer the experiencing individuals toward healthy, family-conscious, community-conscious choices, even for individuals cynical about what they have heard because of the effects of the schemas primed through evaluating the information, resulting in normative messages to people affected by those choices, even for people who have never heard any part of the circulating folklores.[7]

The Reverberations argues that because the structural disadvantage arising from English not being a first language has been so palpably felt, Chinese immigrants have been able to grasp without the need for any formal education the connection between their ability to overcome disadvantages and availability of relatives with ability to help them to tap into available resources.[8] Both the experiences with the availability of

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[5] Forthcoming at a Catholic university law review [an assumption based on Catholic communities' known opposition to same-sex marriage]. It is apparently the first article to introduce the topic, i.e., Chinese immigrants from Guangdong to America having enjoyed a unique set of cultural experiences tending to facilitate social capital production. *See The Reverberations*, Part II, B., C. As such, it contains empirical claims supportable only through deduction of other fields of knowledge, such as known aspects of Chinese cultural history and research findings in mind science, behavioral science and sociological research. *See id.*, Part II, A.B. Unfortunately, much empirical evidence was screened out to meet the space limitation for a law review article. *See, e.g.*, https://www.uclalawreview.org/ucla-law-review-submission-guidelines-for-scholars/ (UCLA Law Review preferring a 25,000-word limit on articles). A copy of the original article with the same title and over 50,000 words is on file at [a Catholic university law review]. This article addresses further a point about a piece of empirical evidence of popular folklore circulating presented in the initial published article. More future spin-off articles will address more screened-out evidence.
The word "Yuehuahu" is a coined word for the purpose of facilitating discourse of a set of cultural experiences unfamiliar to American academia. *See The Reverberations*, Part II, A.2.c. The word signifies the blending of three ethnic groups giving rise to the historical developments which were the underlying force for the cultural experiences. "Yue" in the past, about 2000 years ago, referred generally to people south of Yangzi River. *See* Patricia Buckley Ebrey, *The Cambridge History of China 40* (Cambridge University Press, 2006) ("Ebrey", in the text, "*Cambridge China*"). "Hua" means "Chinese". *See* English-Chinese Chinese-English Dictionary ("E-C-C-E-D"), 711 (Szechwan Language Publishing, 2021). "Hua" generally referred to people living between the Yellow River and the Yangzi River, and had apparently been adopted as the ethnic identity for a majority of people in the Pearl River delta region. *Cf.* Xiaojian Zhang, Remaking Chinese America: Immigration, Family, and Community, 1940-1965 101 (Rutgers University Press, 2002) (Chinese Americans using the word "Hua" to express ethnic identify in the 1930s). "Hu" generally referred to people living north of the Yellow River. Professor Wang's article, *Ming foreign relations: Southeast Asia*, provides, an example of how the "Hu" was used 600 years ago, the first Ming emperor's use of the word "hu" to describe people in the north of his empire, certainly referring mostly to Mongolians. The Cambridge History of China, Vol. 8, 312 (Cambridge University Press 1988) ("CHOC"). "Yuehua" was the name of a high school, apparently coined to refer to the blending of ethnic "Yue" group and ethnic "Hua" group. *See* the text accompanying footnotes 89 below. The word "Yuehuahu" was coined through attaching "hu" to reflect the notion of ethnic blending, culturally and genealogically. *See The Reverberations*, Part II, A.2.c.

[6] Ebrey, 172, 190 (The Yuan dynasty lasting from A.D. 1271 to A.D. 1368). In this article, "empire" refers to a geographic region under effective direct rule.

[7] *See The Reverberations*, Part II, B. See the table at footnote 14 below on the more specific mechanism.

[8] *See The Reverberations*, Part III, A.2.

willing relatives and the experiences with available resources might have been enhanced by the recycling beneficial effects of the circulating folklores and their more entertaining echoes.[9] Because relatives had almost always come[10] about through hetero-sexual marriages, there was a strong empirical basis for Chinese immigrants to fear that deprivileging hetero-normality would undermine quality of life because much of the intangible capital available to them and individuals in the community appeared to have arisen from the culture of honoring one's ancestors which tends to steer one to making healthy choices and be available to help ones' relatives who face challenges.[11] As a result, Chinese immigrant communities found the concept of same-sex marriage very troubling, to the extent that they would openly protest against it, even being fully aware of the potential negative publicity.[12] *The Reverberations* argues that hearing the circulating folklores about aspects of the Yuan empire's apparent honorable ending in Guangdong[13] has contributed to the empirical basis.[14]

While modern mind science and behavioral science researches have provided significant purchase to the idea that exposure to cultural and sociological information affects behavioral choices,[15] the foundational empirical sub-claim of circulating folklores still requires significant leaps of faith about informed speculation.[16] A second article, *Some Plausible Printed Echoes of the Cultural Reverberations of the Yuehuahu*

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[9] *See id*.

[10] The past tens is used here because same-sex marriage has been legal since *Obergefell v. Hodges*, 576 U.S. 644 (2015), there has likely been significant change in this particular aspect of sociological experiences.

[11] *See The Reverberations*, Part III, A.2.

[12] *See id.*

[13] *The Reverberations* argues that such folklores existed through the undisputed historical finding that a vibrant strand of Chinese literary culture of creating details to known skeletal historical information existed at least by Ming dynasty, most vividly demonstrated by the novel *The Romance of Three Kingdoms* and its subsequent and ongoing popularity. *See id.,* Part II, A.3.b.(2).

[14] *The Reverberations* argues that the process occurs through the following mechanism,

1.	Trying to be smart about the folklores tending to trigger the ideas of ethnic-mixing/ancestor-honoring, ethnic harmony, and collective action synergy. *Id.*, Part II, B.1.
2.	The ideas triggered tending to steer individuals to make healthy, family-conscious, community-conscious behavioral choices. *Id.*, Part II, B.2., first paragraph.
3.	Observers or benefiters of the behavioral choices receiving normative messages from the choices tending to make similar behavioral choices. *Id.*, Part II, B.2., first paragraph. *Id.*, Part II, B.2., first paragraph.
4.	Healthy, family-conscious, community-conscious behavioral choices tending to facilitate social capital production. *Id.*, Part II, B.2., second paragraph.
5.	Seeing connection between ancestor-honoring acts and higher qualities of life resulting from high volumes of social capital. *Id.*, Part II, B.2., third paragraph.

[15] *See e.g*., behavioral science insight in *Nudge*, by Richard H. Thaler and Cass R. Sunstein (Penguin Books, 2009) ("Nudge"); Jerry Kang, *Trojan Horses of Race*, 118 HARV. L. REV. 1489, 1514-1516 (2005) ("*Trojan*") (what is primed in mental processing affects behavioral choices).

[16] In order to meet the 25,000 word limitation for most law review, *see, e.g*., UCLA Law Review word limit mention in footnote 5 above, only the most significant and least controversial empirical evidence on different aspects was included in the mosaic of widespread circulation in *The Reverberations*. Unlike visual mosaics which can be seen at various public places, such as mosaic of a flower on ground tiles in a park, a conceptual mosaic could require much background information about available pieces of information to recognize. Every piece of background information in turn requires a leap of faith in its accuracy.

Anti-subordination Voices in an American Literary Classic ("*Some Echoes*"),[17] makes the leaps smaller by pointing out that the modern American literary classic *The Woman Warrior*[18] contains echoes of two aspects of the Yuan empire's apparent honorable ending in Guangdong, the peaceful dynastic transition—irrefutably happened because of known historical account—and winning popular support while ruling over Guangdong—inferable from known historical facts.[19] Because *The Woman Warrior* provides one instance of a Chinese immigrant, Mrs. Kingston's mother, telling stories about aspects of the apparent honorable ending, the notion of robust circulation of the stories affecting many individuals still requires significant--though smaller than that from the initial article—leap of faith on informed speculation. This article hopes to make the leap still smaller by further textualizing an important—though not an indispensable--piece of circumstantial evidence of community circulation over 100 years ago, under the limiting condition of not being able to identify an erstwhile exiting book designed for popular public consumption based on those aspects.[20]

The Reverberations argues that the choice of the name "Taishan" in 1914 indicates a vibrant cultural memory by the people of the western Pearl River delta region[21] around that time that Taishan, the Chinese county providing more Chinese immigrants to America than another other county,[22] had been an important place to the Yuan empire and developments in Taishan contributed to the Yuan empire's apparent honorable ending in Guangdong.[23] The readers were implicitly asked to take an empirical leap of faith on the basis of informed speculation on the ground of little cultural evidence that people in Taishan more than a hundred years ago had the awareness that the word "Tai" had high status connotation.[24] *Some Echoes* made the leap smaller by presenting a satellite photo of Taishan showing its coast has features similar to Singapore, a place known to be important to sea trade and the British empire.[25]

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[17] Forthcoming in [a likely Asian-American journal, a mere assumption on the basis a journal's usual scope of coverage].

[18] Maxine Hong Kingston, *The Woman Warrior, Memoirs of a Girlhood among Ghosts*, (Alfred A Knopf, 1976) ("Warrior" for footnote reference; in the text, "*The Woman Warrior*").

[19] *See Some Echoes*, Part II, B.

[20] Passage of time, war, and social upheavals tended to destroy physical proofs of past cultural experiences. For example, a mention about a movie based on the popular Vietnamese poem-novel *The Tales of Kieu* in list about movies proves past popularity, even though the movie has not been found. *See* Nguyen Du, *The Song of Kieu, A New Lament* (Timothy Allen trans., Penguin Classics, 2019) ("Allen"), x, footnote.

[21] It is the sub-region, comprising the counties of Taishan, Kaiping, Xinhui, and Enping, providing vast majority of early Chinese immigrants. *See* Chan, 6.

[22] *See* Kwong, 19-20.

[23] *See The Reverberations*, Part II, A.3.a.

[24] *See id.,* footnote 38 (citing a position during the Qing dynasty (1644-1912), Ebrey, 220, 266, with the authority similar to a regional government department, carrying the word "Tai" as a part of the official title). The readers were implicitly invited to assume that people outside of the official or educated circles knew about the "high office" shade of the meaning of the word "Tai". *The Reverberations* makes the point that "Tai" was a part of the official name of a branch of the central government during the Yuan dynasty, thus in earlier time having officialdom meaning higher than just at the regional level. *See id.,* Part I, 3rd paragraph, sentences 2-4.

[25] *See Some Echoes*, Part I, A.2.b.

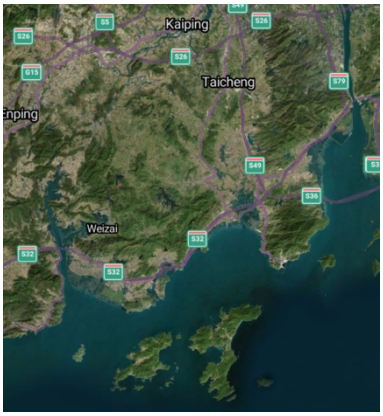


Image A, satellite photo of Taishan.



Image B, a satellite photo of Singapore.

This article hopes to make the leap smaller still through, on the basis of more historical and cultural information, making the case why the name "Taishan" had a higher level of positive constitutive information[26] than the name "Xinning" and why being silent about it was a community-conscious choice consistent with the cultural values[27] enabling the Guangdong exceptionalism during the Yuan dynasty, a dark time in inter-ethnic relation for most of the time for most people in China[28]. This article proceeds on that project in three parts. Part I identifies the value to the project of better understanding Chinese American sociological experiences at a satisfactory explanation of why there has been pervasive silence at places expected to provide a reliable explanation for the preference for the name "Taishan" over one hundred years ago. The second part makes the case that the silence was in fact a constitutive expression by the Taishan elite for embracing the value of ethnic harmony and that constitutive expression was widely approved. The third part evaluates on implications for the notion that Chinese immigrants have always enjoyed high volumes of social capital and the implication about judicial competence at resolving cultural conflicts.

I. A NAGGING ISSUE IN THE TAISHAN-HU-GUANG MOSAIC

A significant empirical issue with the "Taishan" component of the Taishan-Hu-Guang mosaic[29] arises from the fact that while an English-language website dedicated to promote tourism to Taishan and/or enable people of Chinese descent living in

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[26] *See* Kenneth Burke, *Philosophy of Literary Form* vii-xi (Vintage Books, 1957) ("Burke") (verbal expression often informs about the expresser's value).

[27] *See* Burke, vii (non-verbal expression often also informs about the actor's value).

[28] There is significant historical and cultural evidence that overtime, there had been significant progress, with an imperial faction substantially aligned with Guangdong exceptionalism being in complete control of the national government by 1341. *See The Reverberations*, Part II, A.2.b.(1).; *see also* CHOC, Vol.7, 58.

[29] *See* Part I, A.3. below for the constitutive value of the coined word "Taishan-Hu-Guang".

different parts of the world to have a better understanding of Taishan[30] does not provide an explanation for the plausible origin or cultural meaning of the phrase "Taishan",[31] a Chinese national television program on county-level Chinese geography asserted that the name came about on the basis of Taishan being surrounded by mountains and the Chinese idiom for expressing a quantity of mountain.[32] In order to achieve the dual purpose of identifying the nagging empirical issue this article intends to address and familiarizing the readers unfamiliar with the topic, this part proceeds first with a review of the Taishan-Hu-Guang mosaic and why it is significant for insights about Chinese American sociological experiences, especially about those of early Chinese immigrants to America, followed by a description of how the modern American literary classic *The Woman Warrior* significantly enhances the mosaic, and then followed by a description of the frustration with finding a website or a book about Taishan able to directly support the epistemic and constitutive value attributed to the "Taishan" component of the Taishan-Hu-Guang mosaic.

A. The Taishan-Hu-Guang Mosaic of Robust Circulation of Folklores about Aspects of Yuan Empire's Apparent Honorable Ending in Guangdong

The Taishan-Hu-Guang mosaic is a coined expression to represent the idea of a century-old sociological experience formed through looking at 6 reported events in the early half of last century through culturally-inflected lenses.[33] The idea is that the Yuan empire's presence in Guangdong was an exceptional one for the Yuan empire, resulting in favorable cultural memory of it by the people in the Pearl River delta region, such that people would talk about aspects of the Yuan-era Guangdong imperial faction favorably in gatherings of individuals, similar to Americans occasionally talking about English history during the era giving rise to the Magna Carta.[34] To enable the reader a better understanding of this article's contribution to a better understanding of Chinese American experiences with American constitutional law, the sub-part begins by describing the Yuan empire's apparent honorable ending in Guangdong and five apparent aspects in connection with it, then explore the path through which those aspects might have inspired the name "Taishan", then how the adoption of that name in 1914 informs people in the 21st century about the cultural information people in southwestern Pearl River delta region at the beginning of the 20th century were exposed to in relation to the idea of Guangdong exceptionalism during the Yuan dynasty, and concludes by discussing an economic force facilitating the name "Taishan" and its original cultural meaning to pass down for centuries.

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[30] It is the ancestry home county of former Washington State governor, Gary Locke, and former Governor General (apparently an honorable title) of Canada. *See* english.taishan.com, opening page.

[31] *See* english.taishan.com*/history/index.htm*,

[32] *See Chinese Locations through the Camera, Episode 81 - Guangdong, Taishan, at* 3:48, https://www.youtube.com/watch?v=OCFf0dt1TU8.

[33] *See* Part I, A.3. below for the 6 events.

[34] *See, e.g.,* Jill Lepore, *THESE TRUTHS, a History of the United States* 83-84 (W.W. Norton & Company, Inc., 2018) ("Lepore") (Benjamin Franklin alluding to the Magna Carta and English history in response to questions in British parliament).

1. Five Apparent Aspects of the Yuan Empire's Apparent Honorable Ending in Guangdong

The Yuan empire was an offshoot of the Mongol empire, and it was an empire ruling a region covering the entire present-day China.[35] Although it was an expansive empire with the capital based in present day Beijing,[36] it lasted less than 100 years before it was overthrown by peasant revolts.[37] That violent ending came about because during its time, the inter-ethnic relation was a dark one, though becoming less dark over time, with the Han ethnic group, the majority of the population in the empire, and people of all ethnicities in China south of the Yangzi River officially classified as people with the lowest social status.[38] Guangdong was apparently an exceptional region in the Yuan empire in both political influence in the empire and inter-ethnic policy as a result of being far away from the politics and power struggle in the central government in the Beijing region and being isolated from other parts of China by a large mountain range.[39] As a result, the Yuan empire apparently ended peacefully and with honor in Guangdong,[40] as the Guangdong officialdom was apparently entirely absorbed by the new dynasty,[41] entrusted with many critical tasks in connection to national rebuilding after the dynastic changing war,[42] contributing to the first Ming emperor's remarkable success.[43] Five aspects of the Yuan empire in Guangdong relevant to this article's thesis are discussed below for a richer texture of historical background information. To state succinctly, because of Guangdong was strategically important to the Yuan empire, it became increasingly influential within the Yuan empire, in large part as a result of sustained enlightened ethnic policies, motivated in part by the need to provide a safe environment for a big part of the central imperial governing structure being hosted in the land area known today as City of Taishan,[44] and also in large part of being influenced by a strand of the neo-Confucian ethics that valued practical achievements.

a. Guangdong Being Strategically Important to the Yuan Empire

Two developments after the founding of the Yuan empire made Guangdong strategically important to the Yuan empire. The first was the Yuan empire's failure to conquer the kingdoms of Annam and Champa, located roughly corresponding to present northern part and central part of present-day Vietnam, though both kingdoms accepted tributary status to the Yuan empire.[45] That development would make Guangdong strategically important because the Pearl River delta and Annam and

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[35] Ebrey, 169-173.
[36] Ebrey, 172.
[37] Ebrey, 190-91.
[38] *See The Reverberations*, Part II, A.2.b.(2).(a)., 3rd paragraph.
[39] *See Some Echoes*, Part I, A.2.b., first paragraph.
[40] *See id.*, Part I, A.2.b.(1).(b)., 2nd paragraph.
[41] *See id.*, Part I, A.2.b.(1).(b)., third and fourth paragraphs.
[42] *See id.*, Part I, A.2.b.(1).(b)., fifth paragraph.
[43] *See id.*, Part II, A.2.b.
[44] In Chinese American history books, it is described as Taishan County, the official name known to Chinese immigrants to America from 1914 to at least 1949. *See, e.g.*, Kwong, 19.
[45] *See* CHOC, Vol. 6, 485, 487. Annam was the old name for a state roughly modern northern Vietnam, *see* Christopher Goscha, Vietnam, a New History xxi (Basic Books, 2016) ("Goscha") (map of Annam); Champa, an old state at roughly modern central Vietnam, *see id.*, 28 (describing Cham states as south to Annam coast).

Champa had been connected to each other for centuries by existing sea technology,[46] and control of Guangdong meant the empire to project influence, even power, into the kingdoms.[47] In addition to features similar to Singapore, Taishan coast also resembles Pearl Harbor in having a sea turbulence-resistant bay.

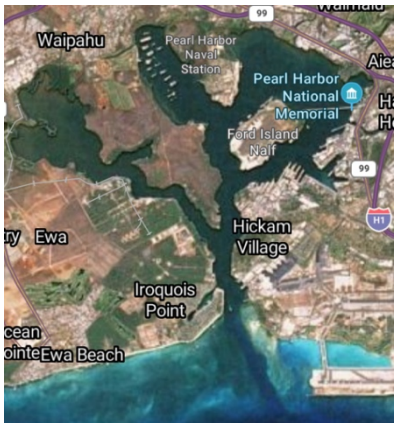


Image C, a satellite photo of Pearl Harbor; *compare with* image A above.

The second was that the relation between the Yuan empire and Chaghadai khanate in central Asia deteriorated, resulting in the traditional trade route with the Arab world being cult off.[48] As a result, the Yuan empire would need to rely on sea routes to trade with the Arab world, and all trade routes would have to pass a large body of water with the Guangdong coast being the closest mainland area.[49] A map of an important trade route is shown below,



Image D[50]

[46] *See* Goscha, 16-17; John King Fairbank, *China, A New History* 191-192 (The Belknap Press of Harvard University Press, 1992) ("Fairbank").
[47] *See Some Echoes*, Part II, A.2.b., third paragraph.
[48] *See* CHOC, Vol. 6, 424-425, 442-443.
[49] *See Some Echoes*, Part II, A.2.b., third paragraph.
[50] It is from a screenshot based on *China History, Episode 73 ("CH E73")*, at 7:24, https://www.youtube.com/watch?v=oWLKZXBA-L4&list=PLOrf2h5ONlwUTW9etWK4b3xQiz8LdgkKS&index=7[3]. The trade route map depicts route between the Pearl River delta region, typically symbolized by the biggest city in the region, Guangzhou, and Vietnam, with destination to other parts of the world. It is highly likely that the port at Taishan was more important to Sino-Vietnamese trade because the port at Guangzhou was at the inside tip of the Pearl River delta.

Along with strategic importance, comes political influence, enhanced further by taxing sea trade as a stable and significant source of revenue for governing[51] and weakening of the central government as a result of factional struggles and repeated succession crises.

b. The Guangdong Imperial Faction Being Increasingly Influential in the Yuan Empire

Perhaps, the greatest contribution the Yuan empire made to the world was a dramatically increased global trade as a result of its policies encouraging international trade and gaining revenue through taxing the international trade.[52] As trading by sea was the most cost-effective, and much of the sea trade would have to either stop at Guangdong seaports for supplies and loading up or down cargoes or pass the water effectively under Guangdong's naval force's control, *see, e.g.*, image D above, Guangdong would likely channel revenue to the central government several times as much as any landlocked region of similar size.[53] That kind of financial contribution to the central government would naturally increase its influence.

Moreover, during the mid-third of the Yuan dynasty, the central government would suffer from a series of succession crises, along with fractional struggles coming with them.[54] That development tended to enable Guangdong to be more administratively independent from the central government and become more influential in relative terms. Furthermore, the Yuan dynasty after Khubilai Khan coincided with the beginning of Little Ice Age,[55] which outlasted the Yuan dynasty by almost 500 years.[56] That meant the Guangdong imperial faction had opportunities to host winter vacations for important individuals from the central government, developing personal relations with important individuals from the central government and further increasing its influence over the central government in the process.[57] Conditions for influence in central government would be meaningful if the regional government itself had support of the governed and was not dragged down by regional problems resulting from bad policies.

c. The Ethnic Policies in Guangdong Being Significantly More Enlightened

Perhaps the most important aspect of Guangdong exceptionalism was that the Guangdong imperial faction apparently quickly evolved over the conquest mentality and began to adopt significantly more enlightened ethnic policy in order to ensure its long-term survival. As Guangdong was isolated from the rest of Yuan empire by a large mountain range, far away from Mongolia, the Guangdong imperial faction had to

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[51] *Cf.* CH E73, at 26:45 (2% of tax revenue for the Yuan empire comes from taxing trade at Chuanzhou, a port in nearby Fukien province, alone).

[52] China History devotes an entire episode about sea trade expansion under the Yuan dynasty. *See* CH E73.

[53] Note about the 2 % of tax revenue for the Yuan empire coming from the port Chuanzhou alone in footnote 50 above.

[54] *See Some Echoes*, Part I, A.2.b., first paragraph, 9th sentence and accompanying footnote.

[55] *See The Effects of the Little Ice Age (c. 1300-1850)*, https://www.science.smith.edu/climatelit/the-effects-of-the-little-ice-age/#:~:text=Evidence%20of%20cooling%20[c] ("*Ice Age Effects*").

[56] *See* Ebrey, 190 (The Yuan dynasty lasting 1368).

[57] *See Ther Reverberations*, Part II, A.2.b.(2).(b).

embrace inter-ethnic marriages in order to maintain an ethnic-Mongolian-identity minority significantly enough to maintain ethnic minority rule for a region with both ethnic diversity and economic diversity.[58] As neither the Chinese nor Mongolian notion of ancestor-honoring culture had much of patrilineal bias, it would not make sense for Guangdong Mongolians with ethnically-mixed children—and more compellingly for the later ethnically-mixed Guangdong Mongolians—to continue or accept gratuitous ethnic oppression policies, customs and practices.[59] Once evolving over the conquest mentality, it would adopt enlightened policies that would translate into support for the regional population, especially in light of the certainty that expanded sea trades would expand the regional economy.

d. Taishan Hosting a Part of a Very Important Part of the Central Imperial Governing Infrastructure for the Yuan Empire

While Guangdong was strategically important to the Yuan empire, Taishan was a particularly important location because it was strategically located between the Pearl River delta region and the Red River delta region, two population centers populated by ethnically and culturally close peoples.[60] Significantly for its strategic value, it has natural barriers all around it,[61] with a coast line having features similar to the Singapore coast,[62] with the added advantage of a bay with a large fresh water river flowing into it.[63] Taishan's strategic value meant that there was a large military installation in Taishan.[64] Since the two large islands off the coast of Taishan provided a ready exit strategy in case of uncontrollable rebellion, and that value was complemented by safety for ships staying provided by halfmoon shape bay with two islands providing significant breakage against sea turbulence, it would also make sense for Taishan to host a supra-regional imperial structure.[65] A big branch of the Yuan empire's central government, Yushitai, [66] literally meaning The High Office of Imperial Representative,[67] had a branch for southern China named Giang-nan Hsing Yushitai.[68] The name and Taishan's unique strategic geography indicate that Taishan would host at least a sub-office if not the main office of the Giang-nan Hsing Yushitai.[69] While enlightened ethnic policies laid down an important foundation for success, practical approaches to meet the challenges of governing were also critical to success. In the process of evolving over the conquest mentality, the Guangdong imperial faction

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[58] *See Some Echoes*, Part I, A.2.b., first paragraph, 5th-8th sentences and accompanying footnotes.
[59] *See Some Echoes*, Part I, A.2.b.,(2)., 2nd-4th sentences and accompanying footnotes.
[60] *See Some Echoes*, Part I, A.2.b., first paragraph, 3rd-6th sentences and accompanying footnotes.
[61] *See* Image A in connection with the text accompanying footnote 25 above.
[62] *See* Image B in connection with the text accompanying footnote 25 above.
[63] *See* Images E and F in Part I, A.2. below.
[64] *See Some Echoes*, Part I, A.2.b., first paragraph, first four sentences and accompanying footnotes.
[65] *See Some Echoes*, Part I, A.2.b., first paragraph, 5th sentence and accompanying footnote.
[66] *See* CHOC, Vol. 6, 427.
[67] "The High Office of Imperial Representatives" is the more literal translation of "Yushihtai" if one looks beyond the entries in E-C-C-E-D, 1056, 904, 929, respectively referring to the more common meanings of "drive", "scholar", "platform". An example of "Yu" meaning "connecting to the emperor" can be seen at the description of a young Song emperor's portrait, *available at* https://zh.wikipedia.org/wiki/%E8%B5%B5%E6%98%BA#/media/File:Song_Modi.jpg.
[68] CHOC, Vol. 6, 603. The largest one, located in the capital, was staffed with 31 imperial representatives. *Id.* The Chiang-nan branch was staffed with 28 imperial representatives. *Id.* "Hsing" literally means "execute", see, E-C-C-E-D, 179, idiomatically translated as "branch" in *CHOC*. *Id.*, Vol. 6, 592.
[69] *See The Reverberations*, Part II, A.3.a., A.3.b.(1).

apparently also embraced a strand of neo-Confucian ethics that valued practical achievements.

e. The Embrace of a Strand of Neo-Confucian Ethics of Valuing Practical Achievements

Before Khubilai's conquest of southern China, the Sung empire had had to cope with repeated failures at stopping invasions by nomadic tribes on its north.[70] In the process of coping with those failures, a new school of Confucianism, now known as neo-Confucianism, became the dominant cultural force for the elite.[71] In the hope of reversing the trend of failures at the military front, a strand of neo-Confucianism ethics of valuing practical achievements gained prominence especially in the southern Yangzi River delta region after the Sung empire was downsized to the point of relying on the Yangzi River for protection against further incursion against an empire formed by a nomadic tribe.[72] A philosophy of valuing practical achievement would likely result in actual significant achievements before gaining prominence. As a big achievement of the Sung empire was developing the sea trade to contribute to funding the costly wars with nomadic tribes,[73] that strand of neo-Confucian ethics would likely also gain prominence along China's southeast coast and the coast of Annam, a natural trading partner for the Pearl River delta region.[74] The Guangdong imperial faction, with its epicenter in the Pearl River delta region,[75] would certainly be exposed to that strand of neo-Confucian ethics. The Yuan empire's Guangdong imperial faction apparently embraced it and practiced it so well that the rebellious force that overthrew the Yuan empire apparently adopted the strategy of increasing the chance of winning the peace by winning Guangdong peacefully.[76]

As the Yuan empire's Guangdong imperial faction succeeded through sea trade and practical applications of all advantages associated with the available sea travel technologies at the time, a utilitarian value associated with giving a region hosting a high office a name facilitating sea travel and sea trade arose.

2. The Plausible Utilitarian Origin of the Name Taishan

The origin of the name "Taishan" likely had come from sailors' needs for landmarks for navigation.[77] The two large islands of the coast of Taishan, *see* image E. below, are named "Shangchuan" and "Xiachuan",[78] meaning "upper river" and "lower river", respectively.[79] Those two names likely came about as sailors frequently needing

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[70] *See* Ebrey, 164, 166-173.
[71] *See China history Episode 61*, https://www.youtube.com/watch?v=uB9EI5XCLFQ&list=PLOrf2h5ONlwUTW9etWK4b3xQiz8LdgkKS&index=61 ("CH E61") *generally*.
[72] *See* Ebrey, 137 (maps of the Song empire); *See* CH E61, 38:59-39:41.
[73] *See* Ebrey, 142-43 (the compass was also invented).
[74] *See* Goscha, 16-17; Ebrey, 144 (Sinicization—meaning acculturalization to cultural of the Yangzi River region—of Fukian happening rapidly during Song era).
[75] *See* Ebrey, 171 (map showing Yuan empire's attempts to conquest Southeast Asia by sea beginning the trips from Guangzhou, the widely believed political and economic center of the Pearl River delta region).
[76] *See Some Echoes*, Part I, A.2.b.(1).(b)., first paragraph.
[77] *See* Image G below for a picture of a rod of rock erected for purpose of facilitating navigation.
[78] *See* english.taishan.com/history/index.htm.
[79] "Shang" means "up"; "chuan", "river"; "Xia", "low". *See* E-C-C-E-D, 886, 630, 980, respectively.

fresh water, thus making sense to name the largest islands near the river with easy access to replenish water, *see* image F. below, "upper river" and "low river". They likewise wished to facilitate navigation by naming mountains next to important destinations. Because the site of an office of The High Office of Imperial Representatives would be an important destination,[80] it would make sense to name the mountains next to path toward the high office "High Office Mountain".



Image E



Image F

A river emptying into the bay at upper tip

3. The "Taishan" Component of the Taishan-Hu-Guang Mosaic of Robust Circulation of Folklores about Aspects of the Yuan Empire's Apparent Honorable Ending in Guangdong

The Reverberations presents four reported occurrences in the second and fourth decades of last century and Mrs. Kingston's remembrance of what she had heard from her mother in the 1940 as incorporated in the modern American literary classic *The Woman Warrior* as a mosaic of robust circulation of folklores about aspects of the Yuan empire's apparent honorable ending in Guangdong in the early half of last century.[81] *The Reverberations* argues the name of the Chinese county providing more early Chinese immigrants to America than any other county[82] was changed from "Xinning" to "Taishan" in 1914 suggests the possibility people at the region and Chinese immigrants in America were largely aware that the name "Taishan" carries with it prestige that "Xinning" did not, plausibly as a result of robust circulation in the region that Taishan hosted an important office of the powerful Yuan empire governing institution, Yushitai, the High Office of Imperial Representatives, as the word "Tai" in the past had a common shade of meaning, "High Office".[83] Three events happening in about the course of a year in 1938 and 1939 when viewed triangulated-ly indicate a robust cultural memory of ending Yuan empire's dark time in inter-ethnic relation in the Pearl River delta region.[84] The first event, the Guangdong-an troops successfully blocked Japanese armed forces' main attack on Chinese positions in the strategically important Battle of Wuhan between June and November, 1938, enabling a vast majority of the Chinese army to escape being encircled by Japanese armed forces, thus defeating

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[80] *See* footnotes 66 to 69 above and the companying texts for the point that Taishan plausibly hosted an office of the Giang-nan Hsing Yushitai.
[81] *See The Reverberations,* Part I, A.3.a., A.3.b.(3)., A.2.b.(3).
[82] Kwong, 19-20.
[83] *See The Reverberations,* Part I, A.3.a., A.3.b.(1).
[84] *See id.,* Part I, A.3.b.(3).(a)., A.2.b.(3).

the Japanese strategic objective of forcing China into a quick surrender.[85] That suggests the possibility that the Guangdong-an soldiers had been inspired by cultural memories of their ancestors' successful armed struggle to end ethnic minority dominance during the Yuan dynasty.[86] The second was that the famous Vietnamese leader Ho Chi Minh adopted the name "Hu-Guang", literally meaning "Mongolian Light" after apparent access to inside information about the completely unexpected high performance of Guangdong-an troops, indicating his ability to make the historical connection between enlightened Yuan empire rule in Guangdong and the remarkable success of the first Ming emperor in rebuilding China's economy and social order after the successful armed struggle to end the Yuan empire.[87] The third part of the triangulation was the establishment of a high school by the exiled Guangdong Chinese government in area still under its control after Japanese troops occupied the most important Guangdong-an city, Guangzhou, as an act of defiance, and naming the high school "Yuehua".[88] *The Reverberations* argues that the local leaders had a perception that evoking the Pearl River delta's bi-ethnicity past would have the effect of rallying the local population to continuing resistance against Japanese occupation because Guangdong people's resistance to Khubilai Khan's gratuitous ethnic oppression policy contributed to forcing the Yuan empire's Guangdong imperial faction to evolve over the conquest mentality, a different path of changing the ultimate outcome of an imperial conquest.[89] As support for the particular significance of the adopting the name "Taishan" and the particular interpretation of the triangulation of three reported events in 1938 and 1939, *The Reverberation* points out that Mrs. Kingston's mother, an immigrant from the Pearl River delta region, had apparently told her an important aspect of the Yuan empire's apparent honorable ending in Guangdong while Mrs. Kingston was a child in the 1940s.[90] The "Taishan" component is potentially the most important component of this limited mosaic because name change affected many people and provides a basis to speculate that many people knew about the "High Office" shade of the meaning of the word "Tai".[91] However, it is not an indispensable component because other remaining components, when viewed under selected historical and cultural lenses,[92] also present a robust mosaic of circulation. Examining a cultural basis for increasing the likelihood of many people knowing that the "Tai" part of name had a possible meaning of "High Office" does contribute to the value of the component, making the mosaic much more

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[85] *See id.,* Part I, A.3.b.(3).(a).

[86] *The Reverberations* argues that although the dynastic transition from Yuan dynasty to the Mingy dynasty was a peaceful one in Guangdong, it would make sense for Emperor Zhu to send his most loyal and battle-hardened troops to occupy Guangdong because Guangdong's strategic importance and the infant dynasty needed Guangdong imperial faction's talents to loyally serve the new dynasty. The result was that the people of Guangdong would have cultural memory of both the successful armed struggle to end the Yuan empire and the Yuan empire's apparent honorable ending in Guangdong. *See id.*

[87] *See id.*

[88] *See id.,* Part I, A.2.b.(3).

[89] *See id.*

[90] *See id.,* Part I, A.3.b.(3).(c). *Some Echoes* developed the point further. See Part I, B. below.

[91] *See The Reverberations,* Part I, A.3.a.

[92] *The Reverberations,* Part I, A.1.-2. developed more historical contexts; Part I, A.3.-4. developed more cultural contexts.

robust through enabling the leaps on informed speculation smaller.[93] Fortunately, Chinese people are notorious for choosing propitious names.

People often select names for constitutive significance.[94] For example, when the U.S. base Fort Braggs was changed to Fort Liberty in 2023, it was motivated by the desire to express disapproval of a name viewed as associated with the ideology of enslaving black people.[95] When it was changed to Fort Braggs, it was intended as a message for the 2nd Trump administration.[96] Chinese people are not exceptional to that. In fact, from the known longstanding Chinese custom of selecting propitious names for their children,[97] it can be inferred that Chinese people also have preference for selecting names for places that convey some significant meaning. As an example, they chose the words meaning "2nd City" to refer to Sacramento[98] because in their view, Sacramento had a lower number of people with Chinese origin.[99] As another example, the two big islands off the coast of Taishan were named "Upper River Island" and "Lower River Island,"[100] apparently in relation to informing sailors new to the sea in that region that there was a river near those two large islands. They also like to give uplifting names to business and associations. For example, Yick Wo, the laundry business[101] whose name is a part of the case name for a U.S. Supreme Court case literally means "Benefitting Harmony".[102] Thus, if an opportunity to change the name of a place arose, it would be logical for them to choose something uplifting.[103]

If real estate covered under the administrative unit known as Taishan was an important place, the name "Taishan" had originally arisen in connection with the place known as being important, as an office of the Chiang-nan Hsing Yushitai, literally meaning "The High Office of Imperial Representatives, Chiang-nan Branch,"[104] would

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[93] It is big leap to assert that because Mrs. Kingston's mother knew about a different ending to the Yuan empire's imperial faction, many others would also know it. Ho Chi Minh might know through choosing the name Hu Guang would not help much because at most it demonstrates at most two people knew.

[94] *Cf.* Lucy Williams & Mason Spedding, *The First Amendment and Constitutive Rhetoric: a Policy Proposal*, 99 New York University Law Review 1338, 1353-54 ("Williams") (citing scholarship on the point that name choice can be affected by the desire to communicate what is important to the person making the choice).

[95] *See* https://apnews.com/article/army-base-renaming-fort-bragg-liberty-dcfe8bd9eeaa8373d2338bf99a4cac69.

[96] *See https://www.army.mil/article/283622/fort_liberty_becomes_fort_bragg_renamed_for_battle_of_bulge_hero.*

[97] *For example, Judge Jamese Ho's Chinese name, Chuin-Yue, see. https://en.wikipedia.org/wiki/James_C._H[o]. literally means "beautifying the universe", see E-C-C-E-D, 751, 1053, respectively.*

[98] *Cf.* Maxine Hong Kingston, *China Men* 149 (Alfred A. Knopf, 1980) ("*China Men*").

[99] *Cf*., Kwong, 84 (the federation of district associations for Chinese immigrants formed in San Francsico). That was consistent with the perception that San Francsico had highest number of Chinese immigrants.

[100] *See* footnotes 79 and 80 above and accompanying texts.

[101] *See* Chan, 94.

[102] *See* E-C-C-E-D, 1036, 706. The same Chinese words when Romanized through mandarin translation would look like "Yi He".

[103] As an example in the context of Vietnamese cultural history, Binh Dinh, the name of a Vietnamese province, literally means "pacify". *See* Goscha, 415. That also sounds like the Taishan dialect for the same Chinese words, which are phonetized in mandarin as "ping ding", *see* E-C-C-E-D, 832, 656, respectively. Taishan and Vietnam traditionally had very close relationship. *See* Part II, A.1. below.

[104] *See* the text accompanying footnotes 67-68 as well as the footnotes above.

be. The name being passed down would also be connected with the knowledge of importance being passed down, preferring the name by the public then indicates common knowledge of a proud past—the residents of Taishan during the Yuan dynasty and the 14th century apparently had great influence on development of inter-ethnic relation to an encouraging direction and made great contribution to China's recovery in practical all areas after a ruinous dynastic war to end a dynasty with an overall bad inter-ethnic relation record.

4. The Economic Force for the Name to Survive for Centuries

Although more than 545 years had passed after the peaceful Yuan-Ming dynastic transition in Guangdong in 1368[105] and before the adoption of name "High Office Mountain" in 1914,[106] there had been a consistent economic force for the word "Taishan" to be a part of the vocabulary, referring to the Taishan coast. The trade between the Pearl River delta region and coastal Vietnam had continued, as it had for probably over hundreds of years before the Yuan dynasty, and sailors continued to need a landmark for sea travel.[107] As the name for the sailing landmark continued, that provided the cultural force for the word "Taishan" to refer to the valley between the two mountains extending inland.



Image G.

A photo of the rock rod erected by Portuguese to facilitate sailing[108]

B. The Enhancement from *The Woman Warrior*

The Taishan-Hu-Guang mosaic has been enhanced by the fact that *The Woman Warrior*, written in the 1970s,[109] had a segment about having a dream during childhood on the basis of what Mrs. Kingston had heard from her mother that indicates the mother had told Mrs. Kingston while she was a child in the 1940s something about the Yuan empire's Guangdong imperial faction winning support from the people of Guangdong and receiving a peaceful ending.[110] That indicates that Mrs. Kingston's mother had heard about aspects of the Yuan empire's apparent honorable ending in Guangdong

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[105] *See* CHOC, Vol. 7, 24-25.
[106] *See* http://english.taishan.com/history/index.htm.
[107] The Portuguese erected a rod of rock on the Upper River Island to help them navigate. *See* https://www.sohu.com/a/154189904_205753.
[108] A photo from sohu.com web page cited in the footnote above.
[109] *See* Warrior, publication information page.
[110] *See Some Echoes*, Part II, B.

before immigrating to America, and provides a specific instance of a person being affected by circulation of folklores about aspects of Yuan empire's apparent honorable ending in Guangdong.[111] That also fits well into something predicted on the basis of cultural developments and historical events discussed in reliable academic sources.[112] The readers, however, are still required to make an empirical leap of faith that what Mrs. Kingston experienced was not unusual. That leap would be shorter if the lack of objection over the name change from "Xinning" to "Taishan" could be accompanied by more concrete evidence that people over 100 years ago understood that the word "Tai" in the name "Taishan" meant "high office". Unfortunately, places expected to supply such concrete evidence are silent about what "Taishan" literally means.

C. The Issue Arising from the Silence about the Cultural Meaning of "Taishan" in Websites Motivated to Provide an Explanation

The official Taishan website is likely to provide an explanation for what "Taishan" literally means, but it does not provide one.[113] Taishan.com, a website clearly designed to interest tourists, does not provide an entry on the meaning of "Taishan", either.[114] An issue arose from those facts, is the notion that "Taishan" literally means "High Office Mountain" a mere literary fantasy driven by some ideology hoping that meaning to be true?[115] The issue needs to be responsibly addressed because a quasi-educational Chinese television program having some claim to entitling an assumption of reliability asserted that it means "a chunk of mountain".[116] That explanation is very unsatisfactory to people familiar with culture in the Pearl River Delta region because intending to mean "a chunk of mountain" would be contrary to the custom of selecting a name with a sense of soaring hope or associated with prestige[117] or practical functionality or something desired.[118] That leads to the question about why there is such a silence in places where one expects to find an explanation that carries significantly more epistemic authority than a television program with the target of keeping audience interested through reporting a new location after another,

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[111] *See* Part I, A.3. above.

[112] *See, e.g.,* Ebrey, 202-203 (popularity of novel during the Ming dynasty), and CHOC, Vol. 7, 24-25 (Yuan-era military governor being trusted with high level position after surrendering to the Ming army).

[113] In fact, in the official website, www.cnts.gov.cn. one has to go to various theme sections and read the pages in them to get the idea that at the beginning of last century, Taishan was known as Xinning. The English version of the Wikipedia page does not provide an explanation either. Neither does the Chinese version the Wikipedia page, though it acknowledges that the word "Tai" carries prestigious meaning in the past.

[114] *See* http://english.taishan.com/history/index.htm. It merely mentions the year of the name change. It also does not provide explanation about the place names, Xinning, Shanghuan, Xichuan. *See id*., and the website's main public introductory page.

[115] The notion apparently appeared first in a law review article making the point that the constitutional gay jurisprudence is a judicial overreach in addition to explaining some wholesome Chinese American statistics.

[116] *See* the text accompanying footnote 32 above.

[117] According to Wikipedia, Justice Ming Chin has a Chinese name, literally meaning "benefitting enlightenment". *See* https://en.wikipedia.org/wiki/Ming_Chi[n].

[118] Guanghai is an example, suggesting a connection to Vietnamese coastal port of Haiphong. *See* Image N below. Hong Kong is an example because it literally "a harbor with mesmerizing scent". *See* E-C-C-E-D, 987, 685, respectively. The name Taishan actually contains an aspect making it unattractive for many adults because it sounds identical to "carrying a mountain", *see* E-C-C-E-D, 929, sounding a doing tough labor, far from propitiousness customarily desired in Chinese naming tradition.

because after all "Xinning,"[119] literally meaning "New Harmoney,"[120] sounded like having positive constitutive meaning[121] and was preferred over.

Fortunately for the Taishan-Hu-Guang mosaic, silence is often also a form of expression,[122] and, in the case of what "Taishan" literally means, could have been driven by the value of promoting ethnic harmony.[123]

II. THE PLAUSIBLE OUTCOME OF PRACTICALLY EXPRESSING APPRECIATION FOR ETHNIC HARMONY

As a name can facilitate identifying a particular person from a group of people or a place to be located in a map with many administrative sub-regions, it can also be intended to represent or communicate a constitutive identity.[124] For example, when the parents of "Chuin-Yue"[125] or himself adopted the official name "James", the name "James" indicated a more likelihood that he could speak English. The act of changing a name could indicate a desire to facilitate bonding in a community he would grow up to be a part of, even though his parents did not say it aloud at the time of choosing, if that was the parents' choice.[126] Non-verbal conduct can also communicate.[127] Likewise, just like choosing the name "Taishan" could be a constitutive expression,[128] and viewed under context, the silence about that choice could also be constitutive. In order to understand the context for the silence, this part will first discuss the historical and cultural backgrounds behind the name "Xinning" and the name's one plausible

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[119] The former name that began in 1498. *See* http://english.taishan.com/history/index.htm.
[120] *See* E-C-C-E-D, 996, 816, respectively.
[121] *See* Williams, 1353-1354.
[122] *See* Burke, vii (most communications being non-verbal).
[123] Besides Yick Wo, other names also indicate value for harmony, such as "Yeung Wo", "Hop Wo", and "Yan Wo", see Ronald Takaki Strangers from a Different Shore 119 (Back Bay Books, 1998). "Yeung Wo", "Hop Wo", and "Yan Wo", are, respectively, phonetized Taishan dialect for the Chinese words means "Raising Harmoney", "Combining for Harmony", and "Human Harmony," respectively, *see*, respectively, E-C-C-E-D, 1017, 706; 705, 706; 866, 706.
Before proceeding onto the next part, a few words about context are in order. Both the "Taishan" component and the "Hu Guang" component in the Taishan-Hu-Guang mosaic are not indispensable to convey the idea of widespread circulation. One can infer from popularity of *Romance of Three Kingdom*, *see* Ebrey, 202, vividly demonstrated by its popularity in Vietnam, Goscha, 342 (continuing popularity in 20th century), that there was a regional cultural market for stories relating to the apparent happy development of peaceful Yuan-Ming dynastic transition in Guangdong. The two components of the mosaic have become even more dispensable upon seeing specific evidence of circulation in *The Woman Warrior*. The "Taishan" component of the mosaic does, however, add more texture to the sub-empirical claim of robust circulation of folklores about aspects of the Yuan empire's apparent honorable ending in Guangdong in the Pearl River delta region in the first half of last century. The next part is based on informed speculation and adds sub-texture to texture. For that reason, the informed speculation in the next part is also dispensable. A reader may just dismiss the next part as valueless speculation. That decision may just be another way to support the point about many variations of salutary effects, *see The Reverberation*, Part II, B.2., 3rd paragraph, if that decision comes about after considering the idea of ethnic harmony.
[124] *See* Burke, vii-xi.
[125] This is apparently Judge James Ho's given birth name in Chinese. *See* https://en.wikipedia.org/wiki/James_C._H[o].
[126] *Cf.* Burke, viii-ix ("[A]n act may be placed in many contexts, and when the character of the context changes, the character of the act changes accordingly. Thus, the same book may be in a supply-and-demand context for a bookseller [and] a morality-immorality context for a censor[.]").
[127] *See* Burke, vii.
[128] *See* Willaims, 1353-54.

constitutive dimension under those contexts. It will then explore the plausibility of unforeseen consequences arising from adopting that name for purpose of expressing the constitutive dimension in order for the readers to appreciate an aspect of the cultural memory associated with the name making it desirable for people living in the County of Xinning to prefer a name that likely had been popularly circulating though not officially recognized for centuries.[129] It then concludes by evaluating the plausibility that the silence about the literal meaning of "Taishan" was motivated by the benefits of the cultural message sent through the silence, i.e., the people living in the administrative region identified by the name "Taishan" valuing ethnic harmony.

A. The Historical and Cultural Backgrounds Behind the Name "Xinning"

Part I, A.2. above makes the point that the name "Taishan" had a utilitarian origin, facilitating sailors to know about their location in the sea through naming two mountains on both sides of a bay hosting a port providing access to an important administrative office in the Guangdong coastal region, thus the name "Taishan," literally meaning "High Office Mountain".[130] The name "Xinning" was adopted in 1499.[131] That is an undisputed historiographical fact. It is also an undisputed historiographical fact that the state of Dai Viet, the former name for present north Vietnam,[132] absorbed a big part of an erstwhile existing state of Champa, located in present central Vietnam,[133] in 1471.[134] Known historical developments indicate that the name "Xinning" was likely adopted in connection to the Ming empire's[135] policy to speed up the assimilation of the Pearl River delta region as a result of disruption on the Ming empire's southern security scheme dating back to the Ming dynasty's founding upon Dai Viet's successful absorption of a big part of Champa. This subpart proceeds first with evidence that coastal Taishan had become a major hub of trade between the Pearl River delta and the Red River delta for centuries before the Yuan dynasty. It then explores the plausibility that toward the end of the 15th century, the Ming empire had the perception that the close relationship between the Pearl River delta region and the Red River delta region contributed to the perceived destabilization of the Ming empire's southern border security scheme. It then explores the possibility that the Ming administrators chose to officially name the sub-region constituting Taishan as "Xinning" as an expression of its policy to steer the Pearl River delta region toward a cultural identity closely related to the Yangzi River delta, after having developed a similar policy to cope with border insecurity arising from conflicts with nomadic tribes controlling Mongolian regions.

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129 *See* Part I, A.4. above.
130 *See* Part I, A.2. above.
131 *See* http://english.taishan.com/history/index.htm.
132 *See* Goscha, 23 ("Dai Viet" began being used to refer to an area roughly covering modern north Vietnam in about the beginning of 11th century). Incidentally, as a historiographical point of significance for this part, a polity based in the Pearl River delta region had adopted the name Dai Yue for about 1 year in 917. *See id*.
133 *See* Ebery, 171 (map of Khubilai's conquest).
134 *See* Goscha, 414-15.
135 Lasting from 1368 to 1644. *See* Ebery, 190.

1. Coastal Taishan Likely Having Become the Hub of Trade Between the Pearl River Delta and the Red River Dela for Centuries Before the Yuan Dynasty

At least 500 years before Khubilai Khan's founding of the Yuan dynasty, nautical technology had developed to enable the Pearl River delta region to transport to and from central China more effectively through ships sailing along the Chinese coast.[136]

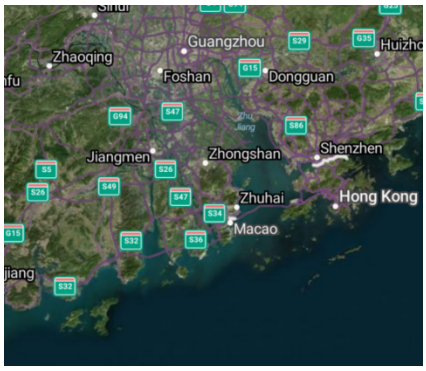


Image H, a satellite photo of the Pearl River delta region[137]

The same technology would also facilitate transport of people and good between the Pearl River delta region and the Red River delta region.



Image I, a satellite photo of southeast China and north Vietnam coast[138]

Because the landscape of southern China and northern Vietnam is dotted with hills and there is a significant mountain range on the Vietnam side of the two deltas,[139] it was likely that after developing that technology, transport by sea between the two delta regions would be more pleasant and cheaper than transport of goods by land for more than 100 miles.[140] With the invention of the compass,[141] the efficiency and safety

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[136] See Fairbank, 191-92 (development of rudder technology).
[137] A cropped shot from satellite image available at the internet.
[138] The Red River delta is represented by Hanoi and Haiphong. The distance between Hong Kong and Shanghai is about twice as long as the distance between Hong Kong and Haiphong.
[139] *See* Ebrey, 11 (map of China with elevation indications).
[140] *Cf.* Warrior, 60-61 (Mrs. Kingston's mother traveled by sea to Guangzhou even though the absolute distance by land is shorter). A satellite photo of Mrs. Kingston's ancestry village is one river away from northeast Taishan. *See Some Echoes*, footnote 110.
[141] *See* Ebery, 142-43. The invention of the compass was likely, for navigation, as revolutionary as the invention of the transistor for radio.

of the transport by sea over long distance would likely at least double. Because Taishan is at the coast of the western side of the Pearl River delta region and has a half-moon-shape bay suitable for ships to take on new supply of fresh water because a river empties through it,[142] with two large islands outside the bay significantly block sea turbulence at the bay,[143] it was likely that the Taishan coast had become the hub of the trade between the Pearl River delta region and the Red River delta region for hundreds of years before Khubilai Khan's troops reached the Pearl River delta region[144]. That educated guess finds easy support through existing cultural information about the Taishan coast. The main town in Taishan coast, at the center of the half-moon-shape bay, through which a river empties is called Guanghai,[145] sounding like a combining of the first words of the Vietnamese central coast provinces[146] and the Red River delta port of Haiphong.[147] The bay is called Guanghai Bay[148]—another instance of a geographic feature being named after the name of a nearby place usually familiar to most people. Those two names indicate that the name Guanghai was inspired by its trade connection with central Vietnam coast and the Red River delta. That is an educated guess enforced by the fact that the Pearl River delta region had been known administratively as Kuang-chou Lu and Kwangchou Fu during the Yuan dynasty and Ming dynasty, respectively.[149] That suggests the adoption of the word "Quang" for the central Vietnamese provinces had been affected by Vietnamese central coast's traditional close ties with the Pearl River delta region.[150] The apparent close trade and culture ties between Taishan coast and Vietnamese coast provide a basis for making some informed speculation about the perception by Ming empire in the 2nd half of 15th century.

2. The Plausible Perception by the Ming Empire that the Close Relationship Between the Two Deltas Contributed to a More Muscular Dai Viet

During a twenty-year span from 1450 to 1470 after Dai Viet regained its independence from the Ming empire in 1428,[151] Dai Viet doubled the territory under its control by conquering smaller Champ states at south of its southern border.[152] *Vietnam* makes the point that the expansion was driven by population growth in the Red River delta region.[153] That might be an over-simplification. The historical circumstances that the growth in Viet-identity population during the 14th and 15th centuries in Dai Viet's relatively new territories had come at least in part from migration from the Pearl River delta region, with migration from present-day Taishan possibly

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[142] See Image F above.
[143] See Image C above for a satellite photo of the Pearl Harbor.
[144] *See* CHOC, Vol.6, 435.
[145] *See* Image E above.
[146] See Image K below.
[147] *See* Goscha, xxii (showing Haiphong to be a major city in the north).
[148] *See* "Location of Guanghai Bay in Guangdong Province, China" at researchgate.net.
[149] *See* the political division map of Yuan empire at CHOC, Vol.6, 441 and the political division map of Ming empire at CHOC, Vol. 7, xxv.
[150] *See* Burke, vii-xi, for constitutive meaning of word expression. An example of an American analogy to the same idea is the city of New Orleans, *cf.* Lepore, 170, apparently commemorating the founders' origin in Orleans, France.
[151] Goscha, 30.
[152] *See* Goscha, 414; xviii (Map of Dai Yue in 1450 showing its border and the borders of 3 states Dai Viet had conquered by 1471).
[153] *See* Goscha, 414.

leading the initial phases. The post-Ming-occupation Dai Viet came about and became more muscular during a period when the global climate tending to drive migration of people to warmer places,[154] resulting in population growth in the Pearl River delta region from places north of it, pressuring old-stock Guangdong-ans migrating further south.[155] The established sea trade routes between the Pearl River delta region and the Red River delta region and present Vietnamese central coast would tend to facilitate the people in the Pearl River delta region to skip the Red River delta region to migrate directly to its southerner region with significant relatively empty spaces.[156] The southward migration was likely also driven by political uncertainty in connection with Yuan-empire-collapsing dynastic change in Guangdong, the occupation of Guangdong by Emperor Zhu's elite troops,[157] and the Ming empire's remarkable success which triggered population growth in areas north of the Pearl River delta region. After 1470, the Ming empire investigators plausibly had the perception that the close relationship between the Pearl River delta region and the Red River delta region contributed to a more muscular Dai Viet. There is circumstantial evidence from 3 different angels to form a mosaic supporting this hypothesis, presented in the order of historical motivation and opportunity for elite Pearl River delta region migration to Dai Viet before the latter became significantly more muscular, the likely available sociological evidence of significant Pearl River delta region migration to Dai Viet, and historical events pointing to a connection between the Pear River Delta region migration to Dai Viet and the increasingly muscular Dai Viet in the 15th century.

a. The Cultural Reasons and the Historical Opportunity for Elite Pearl River Delta Migration to Dai Viet Before and After the Peaceful Yuan-Ming Dynastic Transition in Guangdong

Thanh Hoa, the Vietnamese province south of the Red River delta region with a long coastline, sounds like the northern Taishan dialect[158] for the Chinese phrase meaning "New Slate".[159] There are historical and cultural reasons to hypothesize immigration from Taishan contributed significantly to the founding of the Vietnamese Thanh Hoa province on top of the natural cross-migration as a result of geographic proximity[160] and the name "Thanh Hoa" was selected for its constitutive significance for people settling into the region.

The coastal region of the land covered by the Vietnamese province of Thanh Hoa became available for immigration because it had been the site of the fluid border

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154 *See Ice Age Effects.*

155 *See* Part II, A.2.b.(2). below for cultural evidence of that sociological development.

156 *Vietnam* describes Thanh Hao as virgin territory at about the beginning of 15th century. *See* Goscha, 35.

157 *See* footnote 87 above for the point of likelihood that Emperor Zhu would send some of his most loyal, battle-hardened units to occupy Guangdong after the peaceful dynastic transition.

158 By entirely co-incidence, the authors have got confirmation that "Thanh Hoa" sounds closer to the northwestern Taishan dialect than the Taishan dialect the author is familiar with. Incidentally, the author had heard people born at the beginning of the 20th century speaking the language of Taishan as a dialect of Chinese, indicating that during the Little Ice Age, southward migration had caused the language of Taishan to evolve into a Chinese dialect. *See* Appendix A for more detailed geographic features of Taishan.

159 *See* E-C-C-E-D, 854, 711. It is based on Mandarin phonetization.

160 The available sea travel technology made that possible. *See* Ebrey, 142-143 (the compass had been invented during the Song dynasty).

between Dai Viet and its southern Champ neighbors.[161] Armed conflicts and political instabilities likely contributed to it being under-populated.[162] At around the beginning of mid third of 14th century, the Guangdong Mongolians[163] had motivation to begin arranging some family members to migrate to the under-populated land now known as Thanh Hoa province of Vietnam because the beginning of a new era of gratuitous ethnic oppression policies from Yuan empire's central government would cause many to think it would lead to the Yuan empire's collapse[164] and open up the potential gate of ethnic retaliation. A sad episode in Chinese history in the century before sheds light on the fear the Guangdong Mongolians might have. According to *Cambridge China*, upon the collapse of the Jin empire,[165] reportedly, there were gratuitous killings of ethnic Jurchens, the ruling minority in the Jin empire.[166]

Because of the shared story of conquering a much larger Han population between the Jin empire and the Yuan empire and the Yuan empire's history of gratuitous ethnic oppression,[167] the Yuan empire's Guangdong imperial faction had motivation to develop an exit strategy for survival. An episode in early Yuan empire history indicates why the land now known as the Vietnamese Thanh Hoa province would be a logical location for the exit strategy in addition to being relatively under-populated because of conflicts between Dai Viet and Champa. Although Khubilai Khan discouraged inter-ethnic marriage between Mongolians and Han Chinese,[168] he himself sent a signal that inter-ethnic marriage for purpose of enhancing Mongolian hegemony was permissible by a marrying a daughter to a Korean prince.[169] Thus, it was highly likely that the Yuan-era Taishan elite had developed close ties with their Vietnamese counterparts

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[161] *See* Goscha, 412 (joint forces of small Champ states, *id*., 411 invaded Hanoi twice in the 1370s).
[162] *See* Goscha, 35 (describing Thanh Hoa as newly colonized land).
[163] This ethnic identification is based entirely on the custom of identity identification based on father's side. As asserted earlier, in order to maintain a Mongolian identity population to a critical level for sustained period of time, the initial regional rulers had to accept inter-ethnic marriage. By 1333, it was highly likely that an overwhelming majority of the Guangdong Mongolian population were ethnically mixed, with individuals having tri-ethnicity mixture trending to become a majority within likely 2 generations.
[164] *The Reverberations* makes the argument that the Guangdong imperial faction actively supported the coup to remove Bayan because it perceived that Bayan's policies would be so harmful to them that it was worth the risk to support overthrowing a prime minister with military backgrounds. *See The Reverberations*, Part II, A.2.b.(1).
China Men contains an allusion to people organizing to rebel against Khubilai Khan in an allusion about Chinese railroad builders organizing to strike for better wages. *See China Men*, 140. That could be a result of hearing stories about resistance to Khubilai's conquest that initially motivated the Guangdong imperial faction to quickly overcome its conquest mentality or hearing stories about people's resistance to Bayan policies to turn the clock on inter-ethnic relation back to Khubilai's time. That allusion within an allusion supports the point in *Some Echoes* that Mrs. Kingston had heard in her childhood a lot more about the Yuan empire in Guangdong than just a peaceful ending.
[165] The Jin empire (1115-1234) was a nomadic-tribe based empire arising from modern southern Manchuria upon conquering the northern part of the Song empire. *See* Ebrey 149-150,170.
[166] *See* Ebrey, 180. Those were sad events indicating that ancestor-honoring culture could have the dark side of fueling gratuitous violence.
[167] See Part I, A.1., opening paragraph, 3rd sentence above.
[168] *See* Ebrey, 173.
[169] *See* CHOC, Vol. 6, 437.

through inter-marriages,[170] resulting in elite Taishan migration to Thanh Hoa being welcome, out of shared fear of potentially devastating ethnic retaliation upon the Yuan empire's ending in Guangdong as ancestor-honoring culture tended to strengthen relations through marriage.[171] Moreover, because of past armed conflicts between Dai Viet and a Champ state over the fluid border, the migration from Guangdong could be welcome as providing a buffer against future flair of conflicts. As the Yuan empire's Guangdong governing and/or commercial infrastructure beneficiary planners for the increasingly likely Yuan empire downfall intended the exit strategy to be both a potential effective bargaining piece and a welcome (and respected[172]) one to the host countries, they likely planned for talents and the best technologies to migrate well ahead of the feared Yuan implosion.[173] That aspect of that exit strategy might explain Dai Viet resistance to Ming empire's conquest was able to reverse the tide after retreating to Thanh Hoa.[174]

The Pearl River delta migration to the Thanh Hoa region and other southwest regions out of fear of ethnic retaliation would likely continue for some time even after the peaceful Yuan-Ming dynastic transition in Guangdong until people fearing ethnic retaliation became convinced that Emperor Zhu intended to fully honor the national policy against retaliation. As the Ming empire investigators tried to understand the causes of Dai Viet becoming increasingly muscular, they likely encountered sociological information supporting the perception that the close ties between the Pearl River delta region and the Red River delta region had been parts of the bloodlines for Dai Viet becoming increasingly muscular.

b. The Likely Available Sociological Evidence of Significant Pearl River Delta Migration to Dai Viet

Without the benefit of a report by the Ming empire investigators in the late 15th century, this subsegment proceeds to form a mosaic of Ming empire investigators in the

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[170] Because both Annam and Champa accepted tributary state status, see text accompanying footnote 45 above, it was highly likely that a princess from the royal family of Annam or Champa marrying to a son of a Yuan prince would not be viewed as marrying down. Moreover, it was highly likely that after 2 generations, the Yuan empire princeling and aristocracy families in Guangdong were dominated by ethnic-mixed individuals, lowering further cultural barriers to inter-ethnic marriages.

[171] People general want their grandchildren to have happy lives. But https://www.aaihs.org/the-invisible-threads-of-gender-race-and-slavery/, 6th paragraph (in 1662, Virginia passed law to determine a person born to be free or enslaved depending on freedom status of mother, thus making possible for grandchildren born to a slave mother to be enslaves)

[172] It was highly likely that the Yuan-era Guangdong imperial faction had the military capability to impose great cost to the host countries in addition to having the connections to influence decision-makers in the host countries.

[173] Known Chinese history in last century provides insight on this point. Upon seeing that the Chinese communist troops were poising to win the civil war in the mainland, the existing Chinese government sent some of the best leaders and elite troops and elites in many fields to Taiwan, apparently as a part of the exit strategy. *See* Murray A. Rubinstein (Editor), Taiwan, a New History, "A Bastion Created, a Regime Reformed, an Economy Reengineered, 1949-1970" 329 (M.E. Sharpe, 2007). The surge in talent in Taiwan was likely the foundation for Taiwan to have emerged as a technology powerhouse.

[174] According to *Vietnam*, the resistance gained the advance technology to offset Ming empire's military technical superiority through captured Ming army prisoners of war. *See* Goscha, 30. That might also be informed speculation. However, whether the historical truth was a combination of both possibilities is not particularly important because this segment makes an informed speculation of Ming empire strategists' perception toward the end of the 15th century.

15th century plausibly encountering perceptively overwhelming sociological evidence that significant Pearl River delta region migration to Dai Viet contributed some of the bloodlines enabling the increasingly muscular Dai Viet, from three angles, the insights from two highly acclaimed Chinese-American cultural experience books, the names of Vietnamese central coast provinces, and the Vietnamese Nguyen monarchs' choices.

(1) An Insight from *The Woman Warrior* and *China Men*

Mrs. Kingston's first book winning national award for non-fiction, *The Woman Warrior*,[175] mentions that Chinese farmworkers in California's Central Valley had Vietnamese relatives.[176] That provides an insight about the traditional relation between the Pear River delta region and the Red River delta region as a result of geographical proximity and development of sea travel technology:[177] the peoples of the Pearl River delta region and the Red River delta region had been cross-migrating for thousands of years before discovery of gold in California,[178] with significant net migration southward from the Pearl River delta region to the Red River delta region as a result of the Little Ice Age[179] and historical forces upon the Pearl River delta region.[180] Mrs. Kingston's second book winning national award for non-fiction provides an insight that reinforces that insight.

According to Mrs. Kingston's second book, *China Men*,[181] "Big Uncle", is phonetized as "Dai Bak" in the Chinese dialect she was familiar with.[182] According to a Vietnamese dictionary, "Big" is represented by the word "Dai",[183] and "uncle" is represented by the word "bac".[184] As "c" and "k" are often pronounced the same, as in "cat" and "key", "Dai Bak" provides an indication of the similarity of the Chinese dialect she grew up speaking to the component of the Vietnamese language based upon the Chinese language.[185] Because Mrs. Kingston's parents were from a village one river away from Taishan.[186] As the Taishan coast is at least 30 miles closer to Vietnam

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[175] *See* https://www.penguinrandomhouse.com/books/93016/the-woman-warrior-by-maxine-hong-kingston.
[176] Warrior, 206.
[177] *See* Part II, A.1. above.
[178] *See* Goscha,16-17.
[179] *See The Reverberations,* Part I, A.3.b.(3).(b)., 4th paragraph.
[180] *See* Part II, A.2.a. above for the point that fear of ethnic retaliation provided motivation for many to arrange for some relatives to migrate to Vietnam, and Part II, A.2.b.(2). below for further migration motivated by economic opportunity after the Yuan empire's Guangdong imperial faction being absorbed by the Ming empire.
[181] It won the 1981 national book award for non-fiction. *See* https://www.nationalbook.org/books/china-men/.
[182] *Id*., 15.
[183] Pocket Vietnamese Dictionary 28 (Periplus, 2017) ("Periplus").
[184] *Id.*, 141.
[185] Until the French conquest of Vietnam, Vietnam used Chinese writing system for official documents and Chines-language based written expressions for words of local origin. *See* Goscha, 34. It is highly plausible that at the beginning of the 15th century, a majority of people at the Pearl River delta region spoke a language overlapping with Vietnamese more than Chinese.
[186] *See Some Echoes*, footnote 110, for a satellite photo. Satellite photo view indicates that Mrs. Kingston's father's village is a river away from Taishan's northwest corner. Incidentally, while a child, the author's parents took the author to the patrilineal home village several times, each time by ship moving along the river.

than the point of the river neighboring her parents' village,[187] that indicates that the Taishan dialect would be more similar to the Vietnamese language. The similarity between the Vietnamese language and the dialects of early Chinese immigrants to America sheds light on plausible overlooked historical and cultural ties between Taishan and the Vietnamese provinces of Thanh Hoa, Neigh An, and Ha Tinh.

(2) An Insight from Apparent Cultural Conditions Embedded in the Names of Vietnamese Provinces Associated with Dai Viet's Growing Strength in the 15th Century

Interestingly, the two names Vietnamese provinces to the south of Thanh Hao[188] are named "Nghe An" and "Ha Tinh", in the southward order,[189] literally means "conflict-ceasing harmony"[190] and "river quietness,"[191] respectively, when written in Chinese. Those two cultural facts have some correspondence to the likely socio-psychological impact and socio-economic impact on the people of Taishan[192] as results of Emperor Zhu's carrying out the national policy against ethnic retaliation and his remarkable success. Once upon realizing that Emperor Zhu adopted the national policy against ethnic retaliation and the Ming regime apparently carried it out in good faith, the Guangdong Mongolian communities must have felt an overwhelming sense of relief, knowing the outcome from the armed rebellion to overthrow the Yuan empire could be a lot worse for them.[193] As pointed out earlier, the infant Ming empire apparently absorbed the entire Yuan imperial infrastructure in Guangdong.[194] When the Yuan imperial infrastructure migrated out of Taishan, the local economy would likely take a significant downturn because the single most important driving force of the local economy, servicing the Yuan imperial infrastructure, just became significantly downgraded. That would also trigger outbound migration for the entire region, with Dai Viet being a natural choice.[195] That meant the rivers transporting goods and people

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[187] The 30 mile is based on absolute distance. Travel by waterway, much more convenient than by straight line because of a big mountain and many hills in between, would make the journey about 10 miles longer.

[188] As pointed out in footnote 162 and accompanying text above, "Thanh Hao" sounds like the northwestern Taishan dialect meaning "new slate".

[189] *See* map of Vietnamese provinces in Image K. below.

[190] *See* E-C-C-E-D, 576, for "An" meaning "Harmony". Unfortunately, E-C-C-E-D does not have an entry for the Chinese word for "Nghe". The ideogram 乂 provides an idea. The cross intuitively represents a conflict. Because the lines are bent, it represents a resolution.

[191] *See* E-C-C-E-D 706, 744.

[192] As a tangential cultural evidence supporting an erstwhile significant Mongolian community in Taishan, the Taishan dialect the author is familiar with contains the "Kr" consonant in two very common words, "kroi", meaning "how"; "krai", "bad". It is highly likely that as a result of the combined effect of immigration, public education usually conducted in mandarin Chinese to facilitate people from different dialect to learn together, and the development in media technology tending to orient young people to the dialect with most commercial appeal, the Taishan dialect will disappear within 100 years.

[193] See above for the point about reported massacres of ethnic Jurchens upon the fall of Jin empire. Because the head of the Yushitai determined what reported history goes into official account, *cf*. China History, Episode 75, at 16:43, https://www.youtube.com/watch?v=o5wtBLgoKuA&list=PLOrf2h5ONlwUTW9etWK4b3xQiz8LdgkKS&index=7[5] (the Yushitai chief who ended late Yuan-era gratuitous oppression being responsible for writing the history of the prior dynsty), it was highly likely staffers in the High Office of Imperial Representatives would know it because they staffers would do the detail works.

[194] *See* the text accompanying to footnote 77 above.

[195] *See* Part II, A.1. above. Dai Viet was a country based in the Red River delta region.

toward and inside Taishan,[196] once bustling with commerce and hustle, would become quiet.

Nghe An, the Vietnamese province south of Thanh Hao province with a long coastline,[197] sounds significantly like the Taishan dialect for the Chinese phrase meaning "conflict-ceasing harmony".[198] That corresponds to the sense of relief many in Taishan would feel after knowing about the Ming empire's national policy against ethnic retaliation and confirmation that it was real. Ha Tinh, the Vietnamese province south of Nghe An also with a long coastline,[199] sounds like the Taishan dialect for the Chinese phrase meaning "River being quiet".[200] That corresponds roughly to the sense of the river servicing the need of the Yuan imperial infrastructure being quiet after the infrastructure migrated out to serve the Ming empire. The insight from this set of rough parallelism between plausible socio-psychology developments in Taishan and adoption of names in connection to Dai Viet's southward expansion might cause the Ming empire investigators to further suspect that the close ties between the Pearl River delta region and Dai Viet were some of the bloodlines to a more muscular Dai Viet[201] that upset an important assumption of the Ming empire's southern security scheme.[202] That further suspicion might turn into an actual perception on the basis of the apparent sociological conditions leading to the names of successively formed Dai Viet provinces after the Dai

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[196] This is of course an assumption based on the premise that Taishan hosted important imperial infrastructure as well as a large military base has purchase. Because dams have been built along the Pearl River and inside Taishan, the satellite photo of Taishan at present time does not show a river running from the north to the south; it still shows a branch of the Pearl River branches into Taishan, along with a dam right over it. *See* Image P in Appendix A.

[197] *See* Image K below.

[198] The qualifier "significantly" is used because according to the version of Taishan dialect the author is familiar with, the same words are pronounced as "Yei An". That version of the dialect arose from the southern part of the north Taishan valley.

[199] *See* Image K below.

[200] *See* the text accompanying footnote 194 above. That is almost identical to how the author would pronounce the same Chinese words if asked to speak in the Taishan dialect he is familiar with.

[201] Some might have already gotten that suspicion from the fact that Vietnamese rallied against Ming conquest from a region with a name sounding in a dialect in southwest Pearl River delta region. See above for the point that "Thanh Hoa" sounds like a Taishan sub-dialect for the Chinese phrase meaning "new slate".

[202] It was a scheme based on balance of power among a number of small states with roughly equal strength, *see* CHOC, Vol. 8, 311-12, as Emperor Zhu wrote in his Ancestral Injunction,

> The overseas foreign countries like An-nan [Vietnam], Champa, Korea, Siam, Liu-ch'iu [the Ryukyu islands], [the countries of the] Western Oceans [South India] and Eastern Oceans [Japan] and the various small countries of the southern *man* [barbarians] are separated from us by mountains and seas and far away in a corner. Their lands would not produce enough for us to maintain them; their peoples would not usefully serve us if incorporated [into the empire]. If they were so unrealistic as to disturb our borders, it would be unfortunate for them. If they gave us no trouble and we moved troops to fight them unnecessarily, it would be unfortunate for us. I am concerned that future generations might abuse China's wealth [/] and power and covert the military glories of the moment to send armies into the field without reason and cause a loss of life. May they be sharply reminded that this forbidden. As for the *hu* and *jung* barbarians who threaten China in the north and west, they are always a danger along our frontiers. Good generals must be picked and soldiers trained to prepare carefully against them.

Viet's southward expansion until 1471.[203] Their names begin with the word "Quang",[204] sounding like "Guang" in Guangzhou, and in fact represented by the same Chinese word.[205]



Image J

On the left, political map of Vietnam



Image K

On the right, map showing locations of Thanh Hoa, Nghe An, Ha Tinh, Quang Binh, Quang Tri, Quang Nam, Quang Ngai

The choices by the Vietnamese Nguyen monarchs centuries later also sheds light on impacts of Pearl River delta developments on the Vietnamese elite in the 15th century.

(3) An Insight from a Nguyen Monarch's Choice and His Two Ancestors' Actions

The Nguyen military household played an important role in building up the Le dynasty.[206] A Taishan web page claims that the Nguyen military household descended from a coastal Taishan family, with a member migrating to Vietnam at the beginning of the Ming dynasty,[207] although there is serious reliability issue with that web page's

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[203] It is plausible that Ming empire's investigator had come to the conclusion through a perspective biased by the trade routes. If they travelled by the trade routes, they would end up in places with active trades with the Pearl River delta region, resulting in the perception that significant portion of the nutrients for Dai Viet's bigger muscle had come from the Pearl River delta region. *Cf.* Goscha, 414 (attributing the growth of Viet-identity population in Vietnam to growth in agricultural production).

[204] They are, respectively, Quang Binh, Quang Tri, Quang Nam, Quang Ngai.

[205] *See* Goscha, 34 (Vietnamese wrote in Chinese until beginning of 20th century).

[206] *See* Goscha, 35.

[207] *See* http://www.cnts.gov.cn/tssrmzf/zjts/lswh/xsyl/tsxs/content/post_2892023.html, para. 16. Because of the fact that after the improvement of the rudder to the point of enabling ships capable of carrying significant cargos and before invention of technology enabling ships be powered by more than the wind and human muscle, Taishan had been likely a destination for most travel from Vietnam to various parts of China, and the most cost-effective path for most people in Taishan to places outside would likely be a path leading to Haiphong, it is highly possible that some ancestors of the Nguyen monarchs had immigrated from Taishan.

claim.[208] Some known actions of the Nguyen monarchs and their ancestors tend to lend some support that at least to the point that the Nguyen monarchs had been influenced by contacts with the Pearl River delta region.[209] According to *Vietnam*, when the Vietnamese Ming Mang emperor during the Nguyen monarchy era had an acculturalization program for conquered territory, he named it "Han Phong Hoa".[210] Because Han is a traditionally used to refer to the ethnic majority in China,[211] that also indicates he had a high level of bi-ethnicity sentiment. Ming Mang's father, Gia Long, the most famous Nguyen monarch,[212] relied on the ethnic Chinese population for support.[213] Those known facts indicate a high level of bi-ethnicity sentiment by the Vietnamese Nguyen monarchs. *Vietnam* also reports an ancestor of the Nguyen monarchs having close cultural ties to the Pearl River delta region, as he hoped to gain legitimacy for the part of Vietnam under its control through blessing from a Pearl River delta based religious institution.[214] Those incidents of bi-ethnicity sentiment[215] along with known account that Nguyen family rose into prominence while the family was based in Thanh Hao[216] tend to support the plausible perception by Ming empire investigators that close ties between the Pearl River delta region and the Red River delta region were some bloodlines to the increasing muscular Dai Viet in the 15th century. It is highly likely that sociological conditions on the ground merely supported, as opposed to inviting, an educated guess by Ming empire strategists far away from Guangdong based on known historical facts.

c. The Apparent Connection between Pear River Delta Migration to Dai Viet and the Increasingly Muscular Dai Viet

Historical facts known toward the end of the 15th century almost compelled an educated guess at that time that there had been a connection between the Pear River

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[208] According the Taishan web page, after doing something to become prominent, the Nguyen monarchs' patrilineal ancestor became heir to the Vietnamese monarch without a son as a result capturing a flower ball randomly tossed by the reigning monarch's only daughter. See *id.* That account sounds like a fantasy and is directly contradicted by reported history adopted in Vietnam. See Goscha, 35 (the Nguyen family prominence rising from military exploits).

[209] Even if the Vietnamese Nguyen monarch did not have a direct patrilineal ancestry in Taishan, it is possible that one mother of the many giving continuity to the family line was a descendant of someone migrating from the Pearl River delta region after 14th century.

[210] *See* Goscha, 52-53. That phrase sounds like the Taishan dialect for mandarin phonetization "Han Feng Fa", literally meaning "Chinese", "wind", "transforming", see E-C-C-E-D 703, 675, 711.

[211] *See id.*, xii.

[212] Under him, Vietnam acquired the "S" shape. *See id.*, 44.

[213] *See id.*, 46.

[214] *See id.*, 12 (the fact that it was a mission with more than 100 people indicating the availability of technology travelling to Vietnam 's central coast from the Pearl River delta region).

[215] The bi-ethnicity sentiment was apparently robust in the Pearl River delta region until at least 100 years ago. When the Vietnamese patriot attempted at the French governor-general's life in Guangzhou died from drowning, his body was buried at a sacred site for local martyrs in connection with uprising against the Qing empire. *See* William J. Duiker, Ho Chi Minh 118 (Hyperion, 2000). Apparently, the Pearl River delta education elite in late 1940s perceived the bi-ethnicity sentiment to be most robust in Taishan, as indicated by a Taishan high school where Japanese troops occupying Taishan formally surrendered being selected to be the permanent home for the high school named after the Pearl River region's bi-ethnicity heritage. *See* Yuehua High School, *available at* https://baike.baidu.com/item/%E8%B6%8A%E5%8D%8E%E4%B8%AD%E5%AD%A6/15408292, school history segment.

[216] *See* Goscha, 35. That known fact also supports to a limited extent the web page's claim about Taishan being the Nguyen monarchs' ancestry homeland.

delta region migration to Dai Viet and the increasingly muscular Dai Viet. A simple review of historiography would lead to that educated guess, significantly made more credible by Le dynasty founder's choices after ending a 25-year Ming empire colonial rule in Dai Viet.

(1) A Connection Arising from Historiography

A rough historiography of Vietnamese developments in the context of developments in China shedding light on Ming empire strategists' perception is listed below,

1368	Peaceful dynastic transition in Guangdong,[217] with Emperor Zhu announcing national policy against ethnic retaliation.[218]
Post-1368	The Yuan-era Guangdong military governor being appointed to very important positions to national rebuilding in China.[219] Emperor Zhu is known to have employed reputable Yuan-era officials to serve his infant dynasty.[220]
1373	Emperor Zhu issued an ancestral injunction against absorbing Annam and Champa.[221]
1398	Emperor Zhu ended his remarkably successful reign through natural death.[222]

[217] *See* CHOC, Vol. 7, 24-25.

[218] *See* Zhu Yuanzhang, Lecture 1 ("Zhu Lecture 1"), https://www.youtube.com/watch?v=Vu23DU13u_8&list=PLlD7SeKBB31csZi0ry6-xY05c6qMWhgpP&index=1, 28:50. The phonetization of the Chinese phrase is "Hua Yi Yi Jia". "Hua" means "Chinese". E-C-C-E-D, 711. The two "Yi"s are pronounced differently and represent different Chinese characters. The first "Yi" means "foreigner". *See* Ebrey, 56. The second "Yi" means "Same". E-C-C-E-D, 1024. "Jia" means "Family". E-C-C-E-D, 725. The literal translation of "Hua Yi Yi Jia" is "Chinese, foreigners, same family".

[219] *See* Zhu Yuanzhang Lectures, Episode 10 ("ZL, E10"), at 37:45-38:29, https://www.youtube.com/watch?v=_-uOlfsDUn8(The Yuan-era Guangdong military governor Ho Chen served as the governor of present-day Shanghai region and then the governor of present-day Wuhan region), 38:01 (identifying present-day Shanghai region as Cheking). Hu-Guang was an ethnically diverse province. *See* CHOC, Vol. 7, 107.

[220] *See, e.g.*, ZL, E 10, at 37:45-38:29, cited in footnote above. The Yuan-era Guangdong military governor could successfully carry out his new duties only as a result of being able to tap into talents of prior dynasty.

[221] *See* CHOC, Vol. 8, 311-12. It is plausible that in order to induce the Yuan empire in Guangdong to surrender peacefully, Emperor Zhu promised both a policy against ethnic retaliation and leaving a significant part of the economic interest of the Guangdong imperial faction untouched. The most important economic interest in Taishan at that time was likely trade with Dai Viet and Champa. If the claim that many families well connected to the Yuan empire had arranged some family members to migrate to various parts of present-day Vietnam as an exit strategy has purchase, normal trade relation with Dai Viet would benefit family members in both the Pearl River delta region and coastal Annam and coastal Champa.

[222] *Cf*. CHOC, Vol. 7, xxiii (first Ming emperor's reign lasting about 3 decades).

1407	Ming empire, under Emperor Zhu's son's reign, conquered Dai Viet.[223]
1428	Thanh Hoa-based resistance regained independence for the Red River delta region.[224] Le dynasty founder adopted approaches similar to Emperor Zhu's initial approaches to deal with the old-regime's governing infrastructure.[225]
1450	Dai Viet expansion reached present-day Vietnamese Ha Tinh province.[226]
1471	Dai Viet expansion reached present-day Vietnamese Binh Dinh province[227]

By the time Dai Viet's southward expansion absorbing the Champ state of Vijaya,[228] all the events listed above happened within 103 years. They point to the mosaic that the able leaders of Yuan-era Guangdong imperial faction had implemented an exit strategy in the present Thanh Hoa region before the ending, and Emperor Zhu had promised to leave Dai Viet and Champ states alone in addition to a promise of non-ethnic-retaliation in order to induce a peaceful dynastic transition in Guangdong. The Ming empire strategists had much more information and more recent information than now available in Los Angeles Public Library. If reading 2nd sources and watching credible lectures on Youtube[229] in the 3rd decade of 21st century could lead to an educated guess about the Pearl River delta region, made more influential through the Yuan empire in the larger South China Sea region, contributing to the increasingly muscular Dai Viet in 15th century, so could Ming empire strategists toward the end of the 15th century. This educated guess could gain a lot of purchase from the fact that the Le dynasty founder apparently took pages out of Emperor Zhu's book on how to rebuild a country after regaining independence as the Ming empire retreated from the costly imperial projects of the third Ming emperor.

(2) A Connection Arising from the Le Dynasty Founder's Choices

After leading a war of independence from the Ming empire from Thanh Hoa, the Le dynasty founder made choices similar to what Emperor Zhu did. He did not retaliate against collaborators of the Ming occupation.[230] He kept them to serve his new

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223 *See* Goscha, 30.
224 *See id*., 30, 35.
225 *See id*., 30-31 (Le dynasty founder retained officials and governing structure serving the Ming occupation).
226 *See id*., xviii (map showing the region now known as the Vietnamese province of Ha Tinh being under Dai Viet control by 1450).
227 *See id*., 415.
228 According to map in Vietnam, two Champ states, Indrapura and Amaravati, had been absorbed before Vijaya. *See id*., xviii.
229 *See, e.g.,* Zhu Lecture 1 (mentioning Emperor Zhu's national policy against ethnic retaliation).
230 *See* Goscha, 30-31.

dynasty,[231] and just continued the power structure built up by the Ming empire.[232] In other words, he borrowed pages from Emperor Zhu's playbook for success.[233] It is plausible that the particular approach was adopted because many people in his camp had cultural memory of Emperor Zhu's successful policies toward Guangdong as a result of being descendants of immigrants from the Pearl River delta region or even just being first generation immigrants from the Pearl River delta region.[234] If one accepts the notion that the Yuan-era Guangdong imperial faction had planted talents of all kinds in the region to become known as Thanh Hoa while still in firm control of the Pearl River delta region,[235] if not Guangdong entirely, and if one finds purchase to the notion that Emperor Zhu succeeded because he had adopted the policy of absorbing the Guangdong imperial faction into his infant dynasty,[236] then there was an embedded cultural memory within the Le camp favoring embracing the Ming methods that had been bult upon the Yuan empire's Guangdong experiences.

As a fact-based educated guess by Ming empire strategists on the basis of macroscopic political information is reinforced by sociological evidence provided by investigators on the ground, the Ming empire policy-evaluators could conclude that an effective strategy to deal with an increasingly muscular Dai Viet was to affect the bloodlines to that increasing muscularity such that it would not cause problem to the Ming empire, through increasing acculturalization of the Pearl River delta region. They would likely be familiar with such a strategy because a similar strategy had likely already existed at the northern border which Mongolian tribes had overwhelmed militarily only a generation ago, almost causing the Ming empire to collapse.

3. A Likely Pre-existing Ming Empire Strategy to Enhance Border Security Through Cultural Intervention

In the mid-15th century, there was a major war with Mongolian tribes in which the Ming army suffered a series of humiliating defeats, reaching the bottom when the Mongol tribal troops sieged Beijing, before the Ming army rallied to fight the war to a draw.[237] With the Ming army being much bigger,[238] fighting a war to a draw was no basis for comfort. As a result, it was highly likely that the Ming empire would adopt an approach of enhancing the northern border security through steering the ethnically-mixed population at the border regions toward a higher level of cultural identity with

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[231] *See id*.
[232] *See id*.
[233] *See Some Echoes*, Part I, A.2.(1).(b) for the point that Emperor Zhu succeeded because he prioritized economic recovery and chose to employ Yuan empire's talent into his service rather than permitting some base instinct of retaliation to take root.
[234] See the text accompanying 182 above for the point that the Little Ice Age continued the pressure for southward migration. Ming empire's early success would also have the same effect.
[235] *See* Part II.A.2.a. above.
[236] *See Some Echoes*, Part I, A.2.(1).(b).
[237] *See* CHOC, Vol 7, 319-28.
[238] The Ming population was likely at least 20 times as the Mongolian tribes. *See* CHOC, Vol. 6, 428 (During the Yuan dynasty, the Mongolian population was at only 3% of the total population of the Yuan empire).

the Ming empire.[239] As a result, in considering different approaches to cope with the new balance of regional power south of its southern border, the existing strategy of enhancing border security through intervention of cultural development in regions naturally connected with a neighboring country through economic ties, enhanced by past cultural ties, would likely be considered as a part of the long-term strategy to prevent a more muscular Dai Viet from becoming a threat to the Minge empire's southern provinces.



Image L

An almost complete map of Ming empire in its greatest extent[240]

4. The Ming Empire's Likely Program to Speed up the Assimilation of the Pearl River Delta in Response to the More Muscular Dai Viet

It was likely that the sociological forces unleased by the Little Ice Age coupled with the remarkable success of the first 70 years of the Ming dynasty[241] alone would gradually cause the Pearl River delta region to have a cultural identity closer to the Yangzi delta region than the Red River delta region by the beginning of the first large group of Chinese immigrating to America. The appearance that Dai Viet would possibly stay in the Champ states for a long time[242] would likely cause the Ming empire strategists to feel the need to be more proactive, as that appearance became more prominent as time went by without evidence of a rebellion having the potential of causing a Dia Viet retreat emerging.[243] That appearance might become more

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[239] *Cf.* CHOC, Vol. 7, 372 (The mindset for coping with northern border challenges from nomadic tribes during the Ch'eng-hua reign (1465-87) being a defensive one). A piece of tangential evidence of such strategy comes from not paying attention to Wang Yangming, a future accomplished military leader's, *see id.*, recommendation in about 1490 to fortify border with Mongolia by more actively assimilating the border population. *See* China History, Episode 81, at 14:10, https://www.youtube.com/watch?v=6KJun8LaHq0&list=PLOrf2h5ONlwUTW9etWK4b3xQiz8LdgkKS&index=81.

[240] Frome China History, Episode 78, https://www.youtube.com/watch?v=uq3qwBk7LlM&list=PLSyuJLM8uqBYm_VaFMZPkk9E3UUxtaR0E&index=76.

[241] The Ming empire reached its largest extent during the reign of Yonglo emperor. *See* CHOC, Vol. 7, 221-22. The emperor following Yonglo is highly regarded for managing retreat from the costly policy of grandure. *See* CHOC, Vol. 7, 283. Some view that the Ming empire stayed on its peak for the next reign as well, demonstrated by successful peaceful relation with Mongolia, helped in part by military talent at repelling a Mongolian tribe's invasion. *See* CHOC, Vol. 7, 298-99.

[242] When Champa was initially attacked, it was plausible that Ming empire had the perception that the occupation would be temporary because it was only less than 100 years ago that Champ troops had reached Hanoi and ransacked the Dai Viet capital, *see* Goscha, 412.

[243] Dai Viet's previous gain on Champ territory by invasion had been pushed back as recently as less than 100 years before. *See* Goscha, 412.

concerning if the Ming empire had the perception that Dai Viet's staying power in the conquered territory had been sustained in part by immigrants from the Pearl River delta region with ethnic identity close to Dai Viet's main population. That perception might likely lead Ming empire strategists to conclude that a more muscular Dai Viet would develop an ambition toward Guangdong,[244] unless a program to speed up acculturalization of the Pearl River delta region to be more consistent with the Ming empire's interest. Thus, an acculturalization program more aggressive than the existing one might have arisen, giving rise to the symbolic value of giving names associated with the policy to new administrative units formed to have a tighter control over the Pearl River delta region. Under this logic, the name "Xinning" was selected for the region known by sailors and local residents as "Taishan". The fact that an administrative district at the other end of the Pearl River delta, north of Guangzhou, was named "Conghua", literally meaning "assimilation",[245] in the year earlier,[246] supports the hypothesis that "Xinning" had the constitutive meaning of expressing Ming empire policy of a new era for the Pearl River delta region, particularly for the southwest sub-region.

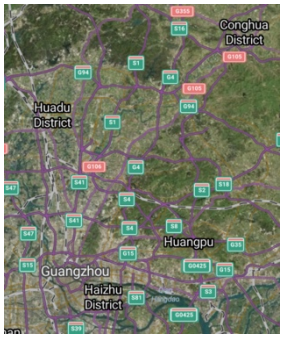


Image M

A map showing the township of Conghua being about 50 miles from Guangzhou

B. Likely Unforeseen Complications Associated with the Project Symbolized by the Name "New Harmony"

A culture engineering program would likely have unforeseen consequences. First, it would be difficult to administer in the technology of 15th century without some high-pressure tactics, such as some kind of fines or administrative sanctions, to say the least.[247] That would likely cause all people targeted to feel a new stress in life, to say

[244] The Qing empire had the same kind of concern when Vietnamese emperor Jia Long requested the name Nan Viet for the S-shape territory under the Nguyen monarch. *See* Goscha, xi.
[245] *See* E-C-C-E-D, 635, 771, respective. As another indicator of overlap between Chinese language and Vietnamese language, "Tonghua" would be another way of expressing assimilation in Chinese, *see id*., 944, *compare to* "dong hoa" at Periplus, 86.
[246] *See* www.conghua.gov.cn.
[247] With modern technology, presumably, it is easier to find individuals not going along and target sanction on him, instead of engaging in collective sanction of an entire area, such as a town. A person complaining about a policy by writing something on a village wall might not be detected with the 15th century technology. An official attempt to discourage further writing might be a collective punishment for all literate individuals within a 1-mile radius.

the least, resulting in unhappy memory.[248] Second, it would likely involve official sponsored destruction of cultural symbols that would be perceived by many to be gratuitous.[249] That would plausibly result in another source of unhappy memory. Third, once fines, administrative sanction, and prohibition of something perceived to be valuable were involved, that would certainly invite unscrupulous individuals to take advantage of the situation,[250] resulting in many more unhappy events and subsequent unhappy cultural memories.[251] Fourth, there would likely be different interpretations by officials at different administrative units in carrying out the acculturalization program's specific provisions, likely resulting in gratuitous measures never intended.[252] The differently sourced unhappy memories would likely be intensified as a result of unfavorable publicity arising from the highly likely leakages from the program's implementation[253] and the equally likely spreading[254] stories about abuses in the program's implementation. Changes in national security climate[255] would likely cause scale-back or even suspension of the acculturalization program, resulting in perception by the public that some prior efforts had been abused by local officials or were

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[248] *Cf. Masterpiece Cakeshop v. Colorado Civil Rights Commission*, 584 U.S. 617 (2018) (a Christian bakery contesting the purported emerging norm of same-sex couple being treated equally).

[249] The Ming occupiers burned books while occupying Annam. Goscha, 30. The implementation of the acculturalization program plausibly resulted in doing the same kind of thing.

[250] Corrupt officials would likely take advantage of opportunity to extort on the basis of a new political climate resulting from a culture engineering program because many individual negatively affected by it would likely feel there would be negative downstream consequences if local officials provided negative evaluations about individuals progressing on the acculturalization program, similar to many people strongly disagreeing with same-sex marriage feeling compelled to demonstrate to their supervisors that their altitude had changed. *Cf. Masterpiece Cakeshop v. Colorado Civil Rights Commission*, 584 U.S. 617 (2018) (opponent of same-sex marriage receiving sanction from state government). Many individuals would likely prefer to pay off to get out of a politically incorrect citation rather than dealing with such citation's uncertain implications.

[251] The Vietnamese novel *The Tales of Kieu* became an instant hit in 1820 when it was published in Hanoi, *see* Allen, vii., and it contains a big slight on the Ming dynasty. In that novel, the protagonist's husband was induced by a Ming representative to cooperate and was then ambushed. *See id*., 104, 117-18. The book's popularity might have been propelled to some extent by those unhappy cultural memories of 300 years earlier as the people of the Guangzhou Fu, the Pearl River delta's administrative name, apparently took part in populating the new Dai Viet territories, reflected by the provinces arising from the newly conquered Dai Viet territory beginning with the syllable "Quang" in their names, *see* Image N above and *compare* it *to* a map of 1450 Dai Viet at Goscha, xviii. "Quang" and "Guang" are different dialectical phonetization of the same Chinese word.

[252] CHOC makes the point Bayan's ethnic oppression policies might not have intended to include prohibiting use of metal in farm tools, but many officials made the interpretation. *See* CHOC, Vol. 6, 570.

[253] The Pearl River delta is a geographically diverse region, with a long coast line, accompanies by many islands of the coast. It also has many hills and accompanying valleys, with sub-region being cutoff from purely land transport, either permanently by the Pearl River's branches or seasonally by many streams formed after raining.

[254] A boat on a river or in the delta connecting river to the wide open ocean is like a buffalo on a prairie. It can go in many different directions.

[255] As one such instance, in the 1520's, a civil war broke out in Dai Viet. *See* Goscha, 36. That would likely result in a perception that scaling back on acculturalization program would be justified in order to address other priorities because a fractured Dai Viet would not be a threat to Ming empire's southern border at least in the short run. As another instance, in mid-16th century, the Ming empire would experience another serious threat from Mongolian tribes, similar to that in mid-15th century. *See* Ebrey, 210. That would likely cause initial scaling back to continue as the Ming empire had motivation to minimize conflicts in the south while concentrating to cope with the threat from the north.

completely excessive.[256] Gradually, the term "New Harmony", sounding like a wish for a brighter future initially, would acquire a negative cultural meaning among the regional population, making it easier for the region to continue to use the old name "Taishan" in addition to natural cultural and economic forces.

C. The Constitutive Expression of Valuing Ethnic Harmony Through Silence about the Meaning of "Taishan"

As the Yuan dynasty was a dark time for most part of China for most of the time—as for Guangdong, the Yuan era's beginning is forever connected with Khubilai's troops' initial atrocities,[257] the stories relating to the dark ethnic relation history and episodes would also likely pass along for centuries,[258] along with the folklores relating to the Yuan empire's apparent honorable ending in Guangdong. Thus, for many people in the Pearl River delta region, whatever the later success of the Yuan-era Guangdong imperial faction, the overall experience with the Yuan empire was a dark one.[259] Through the silence, the elite entrusted with selecting a name to replace "Xinning"[260] and choosing a name associated with prestige and a proud past in "Taishan" was expressing sensitivity to ethnic groups who had suffered a great deal from Khubilai Khan's conquest. Through the silence about the silence, people taking pride in the achievements of the residents of Taishan in the 14th century were plausibly expressing that they valued ethnic harmony also. The silence about a high status name might have been perceived as a practical way to achieve both the value of ancestor-honoring and appreciating ethnic harmony. Thus, the notion that the word "Tai" in "Taishan" is just an idiomatic expression about a quantity of mountain, as in the Chinese TV program on local geographies, might just be the result of epistemic oversight, ironically caused

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[256] As a relatively recent analogy of scaling back on a prior cultural policy as a result of change in security perception. After normalizing relation with the United States, apparently perceiving Taiwan as no longer a threat, there had been a change in China's policy of minimizing the availability to the Chinese public of information how much contribution the Kuomintang made in the war effort to defeat Japan. The result was that there were movies and TV dramas made since the 1980s about the KMT's war effort in Second Sino-Japanese War, initiating with the movie *The Battle of Tai'erzhuang*, web-linkable *at* https://www.youtube.com/watch?v=de4YAlcL-Q8. That would likely affect older generations' opinion about earlier cultural experiences, as a result of perception about lack of forthcomingness by the government during their years of receiving public education.

[257] Reportedly, Kublai Khan's troops also engaged in reckless killing of an entire city after encountering determined resistance in the further push to China's southern coast, and Kublai moderated that practice after admonition by his Tibetian spiritual. China History, Episode 72, at 23:22-23:58, https://www.youtube.com/watch?v=O1TCG3G4Bec&list=PLOrf2h5ONlwUTW9et WK4b3xQiz8LdgkKS&index=7[2].

[258] *See, e.g.,* https://www.youtube.com/watch?v=IKzk1q-SPH[s] (Chinese program on resistance of Khubilai's conquest at the county where Mrs. Kingston's father was from, reported in CHOC, Vol. 6, 435).

[259] Mrs. Kingston's second national best-selling book *China Men* (Alfred A. Knopf, 1980) provides circumstantial evidence that the dark aspect of the Yuan dynasty had been circulating in the region as well, for it contains an allusion about planned rebellion against Khubilai Khan. *See id*., 140 ("The time and place for the revolution against Kublai Khan had been hidden inside autumn mooncakes."). Hearing stories about Khubilai Khan would likely lead to stories about what happened in Guangdong during the dynasty Khubilai Khan founded.

[260] At the beginning of the 2nd decade Chinese immigrants to America and their relatives in Taishan were at the height of their influence over a newly emerged Republic of China out Qing court's abdication. *See* Sucheng Chan, *Chinese American Transnationalism: The Flow of People, Resources, and Ideas between China and America during the Exclusion Era 157* (Temple University Press, 2006).

by the silence in advancing a constitutive value.[261] More importantly, this insight tends to enhance the empirical sub-claim of social capital production in addition to the empirical sub-claim of robust circulation[262] because the idea of valuing ethnic harmony contributes at least as much as the ethnic mixing/ancestor-honoring culture to understand (or be smart about[263]) the folklores relating to the dramatic political events in the 14th century Guangdong, e.g., the peaceful dynastic transition in Guangdong and the Yuan-era Guangdong military governor's apparently being promoted and trusted with important assignments by the new dynasty, that primarily symbolize the Yuan empire's apparent honorable ending in Guangdong. This insight has implications on insights about Chinese American experiences and beyond.

III. IMPLICATIONS

The point about being silent about Taishan's high status meaning being motivated by the constitutive value for ethnic harmony has significant implications in being able to shore up the notion that many people in 1914 recognized that "Taishan" literally meant "High Office Mountain", despite the silence about that meaning in places where one would expect to see an explanation for why "Taishan" was preferred over "Xinning". Other implications also arise from it, the implications on the point of Chinese American communities enjoying extra fountains of social capital being addressed first, followed by the implication on the point that the judiciary as an institution is simply incompetent at resolving cultural conflicts.

A. Insights on Chinese American Communities Enjoying Extra Set of Culturally-related Fountains of Social Capital

Investigating the deeper historical backgrounds about the official silence about "Taishan" meaning "High Office Mountain" provides significant more purchase to the point that the meaning attributed to "Taishan" by the Chinese TV geography program, "a chunk of mountain", had been just based on epistemic oversight. Through the point that even the silence had constitutive meaning for the people of Taishan, this investigation also shores up other components of the Taishan-Hu-Guang mosaic for the hypothesis that there had been circulating folklores in the first half of last century in the Pearl River delta region of aspects of Yuan empire's apparent honorable ending in

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[261] This investigation also explains why early Chinese immigrants did not have Mongolian sounding names, despite the fact that today, a significant portion of the population in Kaiping County identify as ethnic Mongolians. Many Guangdong Mongolians likely adopted Chinese names even during the height of the Yuan dynasty as an expression of valuing local culture and ethnic harmony. They all would be motivated to adopt traditional Chinese names out of survival instinct upon knowing that the Yuan dynasty was about to come to an end.

[262] The reader should keep in mind that this article is written to explain that a source of information undermining the notion of robust circulation in the first half of last century has been based on epistemic oversight.

[263] *The Reverberations* makes the point that some folklores might be extravagantly embellished that they would invite jokes about them, and the point that trying to understand why the more entertaining versions were circulating also tend to trigger the some wholesome ideas resulting in consistent behavioral choices.

Guangdong.[264] Thus, both points accomplished provide more empirical grounding to the point made (or argued) in *The Reverberations* that Chinese American communities have always enjoyed extra fountains of social capital. This investigation also complements the investigation made in *Some Echoes* through providing more texture to the notion of widespread circulation of the kind of folklores Mrs. Kingston were exposed to while growing up in California.

On a related point, even if one considers everything written is just ideologically driven fantasy, if the reader has to evoke the concepts of ancestor-honoring, ethnic harmony and community action synergy—just one of the three, out of perhaps more—to evaluate this article's merit, it still goes to prove the same point about extra fountains of social capital for Chinese immigrants. According to mind science research, once a schema has been primed, it could affect behavior for 48 hours.[265] Since an idea evoked would actually be more prominent than a subconscious schema, the reader is more likely to make healthier, more family-conscious choices within 48 hours. Just by common sense, those choices facilitate production of social capital and contribute to more virtuous cycles in the community or enabling existing ones to last longer.

B. An Insight on Judicial Incompetence in Resolving Cultural Conflicts

The newly nuanced explanation to an apparent trustworthy information and an apparent mysterious silence also contributes to the point about judicial incompetence in resolving cultural conflicts made in *The Reverberations* and by many others in other contexts. As a matter of doctrinal analysis for the 14th Amendment purpose, it is adequate to show that there is a good faith basis for a hypothesis that deprivileging hetero-normality could have negative downstream consequences.[266] Because that provides a legitimate ground to be cautious about deprivileging hetero-normality, it also provide legitimate concern about deprivileging hetero-normality having, as downstream consequences, even more severe negative effects for many disadvantaged individuals as results of their higher levels of reliance on social capital[267] and consequently higher levels of harm from its leakage. Just because judges did not know about plausibility of the severe negative effects did not mean that it did not exist, analogous to the fact that the name "Taishan" (and the silence about its origin) has constitutive meaning even though Chinese American studies scholars have only known it to be the name of the Chinese county providing more early Chinese immigrants to America than any other county.[268]

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[264] Incidentally, upon the notion of Ho Chi Minh understood "Hu-Guang" literally meaning "Mongolian Light", a person familiar with Cantonese might wonder whether the name "Ho Chi Minh" was inspired by an episode in the Yuan empire's honorable ending in Guangdong because "Ho Chi Minh" literally sounds like "Mongolian for Ming [Dynasty]" in Cantonese dialect. In Mandarin Chinese, the name is pronounced "Hu Zhi Ming", plausibly meaning "Mongolian for Ming [Dynasty]", *see* E-C-C-E-D 709, 1088, 802.

[265] *See Trojan*, 1505, fn. 60.

[266] *See Heller v. Doe*, 509 U.S. 312, 319-20 (1993)

[267] *See* Putnam, 299 (making the point that social capital is especially important to those lacking financial capital and human capital).

[268] *See, e.g.,* Lee, Erika, *The Making of Asian America: a History* (Simon & Schuster, 2015).

CONCLUSION

The empirical claim that the circulating folklores and their more entertaining echoes about aspects of the Yuan empire’s apparent honorable ending in Guangdong have always been extra fountains of social capital for Chinese American communities may never be proved conclusively. Likewise, the point that in 1914, many people in Taishan and born in Taishan understood that phrase “Taishan” literally meant “High Office Mountain” may never be proved conclusively. Nonetheless, in trying to understand either hypothesis, if the reader evokes the idea of ethnic-mixing/ancestor-honoring or ethnic harmony in order to gage the plausibility of either empirical claim, that goes to the point that hearing about aspects of the Yuan empire’s apparent honorable ending tends to facilitate social capital production. Not proving something conclusively is far from negating it. This exercise to demonstrate a constitutive value to a particular silence also contributes to the point that the judiciary is simply incompetent to resolve cultural conflicts without specific mandates from the constitutional texts.

Appendix A

Within the county of Taishan, the valley between the mountains, before building of modern roads, had been generally divided by hills into a northern part and the southern part, *see* Image N below, though there are valleys between the hills making it possible for cart-friendly paths connecting the two parts through economically feasible transportations, *see* Image O below for one such valley. Within the northern part, a northwestern part is further divided by hills from it. *See* Image P below. However, there is a river—appearing as the roughly horizontal green in the middle of Image P--flowing between the hills to connect the two subparts by water way. The hills with passages between them might have been perceived as more natural fortification for a supra-regional administrative structure by military planners.



Image N



Image O



Image P

(Student Editor for this Article: Zhuohang Yu)

TALK IT OUT: MEDIA, MILITARY, AND CIVIC DIALOGUE AS FIREWALLS AGAINST AUTHORITARIAN DRIFT

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Abstract: The article discusses U.S. authoritarian populistic drift, its costs and backstops with the most critical one's military obligation to refuse illegal orders even if approved by courts, and public dialog moderated by the media, even if the media and the public are fragmented. The article takes us through historical examples, touches on economic results and compares U.S. populist authoritarianism with China's technocratic authoritarianism.

Keywords: Authoritarianism; Populism; Technocracy; Illegal Orders; Civic Dialog; Media

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INTRODUCTION

Democracy in the United States faces mounting threats from what scholars describe as authoritarian populism. Former President Donald J. Trump has repeatedly fused populist rhetoric with authoritarian impulses, combining charismatic personal appeal, media spectacle, and attacks on institutional checks. The consequences have been grave: intensifying polarization, delegitimization of courts and legislatures, and the normalization of conspiratorial falsehoods.[1]

The United States is not alone. Around the globe, populist leaders—from Viktor Orbán in Hungary to Jair Bolsonaro in Brazil—have used electoral legitimacy as a gateway to dismantling democratic institutions.[2] But the American case is uniquely perilous, given the global role of the United States in sustaining liberal democracy abroad. If American institutions falter, the ripple effects extend far beyond its borders.

This Article advances a dual claim. First, resilience against authoritarian drift depends upon institutional firewalls: constitutional fidelity by the military, strong legislatures and courts, and statutory guardrails against abuse. Second, it also requires civic-cultural strategies: a revival of interpersonal political dialogue facilitated by media institutions that encourage citizens to "talk it out" with friends and family.

Thus, the project is both legal and sociological. Part I examines the military's constitutional duty to refuse manifestly unlawful orders, even in the face of judicial complicity. Parts II–IV analyze the political, institutional, social, and economic costs of authoritarian drift, demonstrating why legal resistance is essential. Part V considers the role of the press and media ecosystems in both accelerating and potentially countering authoritarianism. Part VI introduces the concept of media-prompted civic dialogue, a scalable intervention that could strengthen democracy at the grassroots by filtering extremism and fostering trust. Part VII synthesizes these insights, arguing that the defense of American democracy requires layered firewalls: military, institutional, media, and civic.

The stakes are existential. Authoritarian populism thrives on division, mistrust, and disengagement. Its antidote lies not only in elite institutions but also in citizens' willingness to converse across divides. The survival of democracy may hinge as much on kitchen-table conversations as on Supreme Court rulings or congressional statutes.

I. THE MILITARY'S CONSTITUTIONAL DUTY

A. The Oath and the "Lawful Orders Only" Rule

Every officer in the United States military swears an oath not to a monarch, not to a party, and not to a president, but to the Constitution itself:

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[1] Nancy Bermeo, *On Democratic Backsliding*, 27 J. DEMOCRACY 5, 5–19 (2016).
[2] STEVEN LEVITSKY & DANIEL ZIBLATT, HOW DEMOCRACIES DIE 45–72 (2018).

"I, [name], do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same…."[3]

This oath, mandated by Article VI of the Constitution, represented a radical departure from older traditions of personal loyalty. Under monarchies and authoritarian regimes, armed forces historically swore allegiance to the sovereign.[4] The Framers deliberately rejected this, placing the Constitution above any officeholder.

The Uniform Code of Military Justice (UCMJ) concretizes this principle. Article 92 punishes the failure to obey "lawful orders."[5] Its silence on "unlawful orders" is deliberate: orders lacking lawfulness are void, and obedience to them may itself constitute a crime. Similarly, Article 90 criminalizes willful disobedience of a superior commissioned officer's "lawful command," again presupposing that unlawful commands fall outside military obligation.[6]

This is neither obscure nor theoretical. It is drilled into cadets at West Point and Annapolis, appears in military training manuals, and is taught at the Judge Advocate General's (JAG) School.[7] Military law thus embodies the maxim articulated at Nuremberg: "The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility…provided a moral choice was in fact possible."[8]

The tragic case of Lieutenant William Calley, convicted for his role in the My Lai massacre in Vietnam, underscores this principle. Calley argued that he was simply following orders to eliminate "the enemy." The court martial rejected the defense, ruling that orders to slaughter civilians are manifestly unlawful and cannot shield obedience.[9]

B. Judicial Complicity and the Limits of Supreme Court Authority

The harder case arises when unlawful orders are judicially blessed. Suppose a president orders active-duty troops into American cities to suppress peaceful demonstrations, and the Supreme Court upholds the order's constitutionality. Do officers then have a duty to obey?

Here we collide with the doctrine of judicial supremacy. In *Cooper v. Aaron* (1958), the Court famously declared that "the federal judiciary is supreme in the exposition of the law of the Constitution."[10] That dictum has been treated as axiomatic. Yet Cooper arose in defense of constitutional rights—ordering Arkansas officials to

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[3] U.S. CONST. art. VI, cl. 3.
[4] SAMUEL HUNTINGTON, THE SOLDIER AND THE STATE 84–112 (1957).
[5] 10 U.S.C. § 892.
[6] 10 U.S.C. § 890.
[7] Richard H. Kohn, *How Democracies Control the Military*, 8 J. DEMOCRACY 140, 140–53 (1997).
[8] 1 TRIAL OF THE MAJOR WAR CRIMINALS BEFORE THE INTERNATIONAL MILITARY TRIBUNAL 223 (1947).
[9] *United States v. Calley*, 46 C.M.R. 1131 (C.M.A. 1973).
[10] *Cooper v. Aaron*, 358 U.S. 1, 18 (1958).

comply with Brown v. Board of Education—not in legitimizing authoritarian abuse. It presupposed good faith.

Judicial authority is not unlimited. As Alexander Bickel argued in The Least Dangerous Branch, judicial review rests on public acceptance of its legitimacy.[11] A Court captured by partisanship and used to rubber-stamp authoritarian decrees risks forfeiting that legitimacy. Abraham Lincoln foresaw this danger in his First Inaugural Address:

"If the policy of the government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court… the people will have ceased to be their own rulers."[12]

Lincoln's warning is profound: judicial error—especially willful error—cannot transmute illegality into lawfulness. Officers who cling to their oath must remember that fidelity is to the Constitution itself, not to judicial usurpation.

History confirms this. In Korematsu v. United States (1944), the Court upheld Japanese-American internment.[13] That decision is now universally condemned as a stain on American jurisprudence, and the Court itself formally disavowed it in Trump v. Hawaii (2018).[14] The analogy is chilling: if the Court could uphold internment, it could uphold domestic troop deployments against protestors. Obedience to such rulings entrenches authoritarianism. Officers may therefore face a stark but necessary duty: to refuse compliance even when the judiciary has failed.

C. Statutory Constraints: Posse Comitatus and the Insurrection Act

Beyond constitutional principle, statutory law sharply cabins presidential power to use troops domestically. The Posse Comitatus Act of 1878 provides:

"Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force… shall be fined under this title or imprisoned not more than two years, or both."[15]

The Act reflected post-Reconstruction distrust of federal troop deployment in civil affairs. Its animating principle was that the military must not become an instrument of domestic political control.

The Insurrection Act creates narrow exceptions. President Eisenhower invoked it in 1957 to enforce desegregation orders in Little Rock, protecting Black students from mob violence.[16] The Act was also used in genuine emergencies—civil war, natural disasters where local order collapsed. Never has it been intended to suppress lawful

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[11] ALEXANDER BICKEL, THE LEAST DANGEROUS BRANCH 240–55 (1962).
[12] Abraham Lincoln, President of the U.S., First Inaugural Address (Mar. 4, 1861).
[13] *Korematsu v. United States*, 323 U.S. 214 (1944).
[14] *Trump v. Hawaii*, 138 S. Ct. 2392, 2423 (2018) ("Korematsu was gravely wrong the day it was decided.").
[15] Posse Comitatus Act of 1878, 18 U.S.C. § 1385.
[16] MARY L. DUDZIAK, COLD WAR CIVIL RIGHTS: RACE AND THE IMAGE OF AMERICAN DEMOCRACY 124–30 (2000).

dissent. As Professor Stephen Vladeck has argued, a president who cites the Act to send troops against peaceful protestors inverts its very purpose.[17]

Thus, even if the Court were to bless such use, statutory context reveals its illegitimacy. Officers would remain bound to resist.

D. Comparative and Historical Lessons

Authoritarian regimes consistently rely on military obedience as their final safeguard. History offers sobering parallels:

In Germany in 1933, Hitler's consolidation depended on the Reichswehr's willingness to acquiesce in repression.[18]

In Chile in 1973, Pinochet's coup succeeded only because the military obeyed orders against its civilian government.[19]

In Turkey in 2016, portions of the military attempted to resist President Erdoğan's authoritarian drift, though unsuccessfully.[20]

The U.S. military is not immune. During Trump's presidency, generals like James Mattis and Mark Milley faced acute dilemmas. Milley later admitted regret for participating in the Lafayette Square photo op, acknowledging it blurred the line between military professionalism and domestic politics.[21]

These examples show that obedience or refusal at moments of crisis determines whether democracy survives. Officers cannot abdicate responsibility to judiciary or executive. The oath is not ritual; it is the final firewall against collapse.

E. The Prospective Duty of JAGs and Scholars

Given these stakes, legal scholars and Judge Advocates General must preemptively clarify doctrine. The JAG Corps should issue guidance emphasizing that unlawful orders, even judicially ratified, must be refused where they violate constitutional rights and statutory limits. Law reviews, bar associations, and military education institutions must likewise build a body of scholarship preparing officers for this dilemma. Waiting until the crisis arrives may be too late.[22]

Transitional Note: Yet even if officers resist, authoritarian drift carries immense institutional, social, and economic costs. Understanding these costs underscores why refusal is not only lawful but essential.

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[17] STEPHEN I. VLADECK, THE SHADOW DOCKET 201–07 (2023).
[18] IAN KERSHAW, HITLER: 1889–1936 HUBRIS 452–61 (1998).
[19] PETER KORNBLUH, THE PINOCHET FILE 83–112 (2003).
[20] GONUL TOL, ERDOGAN'S WAR 210–25 (2022).
[21] Helene Cooper, *Milley Apologizes for Role in Trump Photo Op*, N.Y. TIMES (June 11, 2020), (quoting Mark Milley, Remarks at National Defense University).
[22] Geoffrey S. Corn, *Unlawful Orders and the Obligation to Disobey*, 165 MIL. L. REV. 123, 123–65 (2000).

II. POLITICAL & INSTITUTIONAL COSTS OF AUTHORITARIAN DRIFT

Authoritarianism rarely announces itself with tanks in the streets. More often, it arrives gradually, through the quiet erosion of political institutions. Courts bend, legislatures abdicate, executives exploit emergency powers, and checks and balances are hollowed out. In the United States, this process is often masked by constitutional forms that remain in place even as their substance is emptied.[23]

This Part explores five major institutional costs of authoritarian drift: (A) the erosion of the rule of law, (B) the weakening of legislatures, (C) policy volatility and governance fragility, (D) the delegitimization of democracy abroad, and (E) the creation of institutional vicious cycles. Together, these costs reveal that authoritarian populism not only threatens civil liberties but corrodes the very machinery of governance.

A. The Erosion of the Rule of Law

Authoritarianism first manifests in the corrosion of judicial independence. Courts become pliant, legislatures submissive, and oversight bodies hollow. A strongman rarely abolishes institutions outright; he bends them until their form survives but their function is destroyed.[24]

The Founders anticipated this risk. James Madison warned in Federalist No. 48 that "a mere demarcation on parchment of the constitutional limits of the several departments is not a sufficient guard against those encroachments which lead to a tyrannical concentration of all the powers of government in the same hands."[25]

Hungary offers a cautionary example. Prime Minister Viktor Orbán systematically packed the Constitutional Court, lowering retirement ages to force out judges and replacing them with loyalists.[26] Judicial robes remained; judicial independence vanished.

The United States is not immune. During his presidency, Trump repeatedly demanded "loyalty" from the Department of Justice and derided judges who ruled against him as "so-called judges."[27] If courts bend to intimidation, they cease to function as checks on executive power. The consequences are not only constitutional but economic: investors and businesses require predictable legal frameworks. Where courts are captured, capital flees.[28]

B. The Weakening of Legislatures

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[23] Aziz Huq & Tom Ginsburg, *How to Lose a Constitutional Democracy*, 65 UCLA L. REV. 78, 84–90 (2018) (explaining how constitutions can be hollowed out while formal structures remain).
[24] Kim Lane Scheppele, *Autocratic Legalism*, 85 U. CHI. L. REV. 545, 545–84 (2018).
[25] THE FEDERALIST NO. 48 (James Madison).
[26] András Bozóki & Dániel Hegedűs, *An Externally Constrained Hybrid Regime: Hungary in the European Union*, 25 DEMOCRATIZATION 1173, 1173–89 (2018).
[27] Donald J. Trump (@realDonaldTrump), TWITTER (Feb. 4, 2017), (remarks attacking Judge James Robart).
[28] DOUGLASS NORTH, INSTITUTIONS, INSTITUTIONAL CHANGE, AND ECONOMIC PERFORMANCE 80–92 (1990).

A second political cost is the atrophy of legislatures. Authoritarian leaders typically convert parliaments into instruments of ratification rather than deliberation. Hannah Arendt observed that in authoritarian regimes, legislatures survive as "the most important and the most respected institutions," but only because they serve propaganda rather than debate.[29]

In the United States, Congress has increasingly shown symptoms of dysfunction. Presidents rely on executive orders and emergency powers to bypass legislative deliberation. Trump's declaration of a "national emergency" in 2019 to reallocate military funds for a border wall—despite Congress's refusal to appropriate such funds—illustrates this trend.[30]

History warns of the dangers. In the Roman Republic, the Senate ceded extraordinary powers to consuls during crises, normalizing emergency rule until dictatorship became permanent.[31] Similarly, the Weimar Republic relied on Article 48's emergency provisions with increasing frequency, hollowing parliamentary power and preparing the ground for Hitler's rise.[32]

If legislatures abdicate, the balance of separated powers collapses. Authoritarian executives then wield not only their formal prerogatives but also the inertia of legislative weakness.

C. Policy Volatility and Governance Fragility

Authoritarian drift produces extreme policy volatility. In democracies, policy change requires negotiation, coalition-building, and compromise—processes that create predictability and stability. By contrast, authoritarian leaders can reverse policies overnight to serve immediate political interests.

For businesses and citizens, this unpredictability is crippling. Investors require stable tax codes, contract enforcement, and property rights. Without them, long-term planning collapses. Economists Daron Acemoglu and James Robinson argue that "inclusive institutions" are prerequisites for sustained growth, while authoritarian "extractive institutions" generate volatility and stagnation.[33]

Venezuela offers a stark case. Hugo Chávez and Nicolás Maduro alternated between socialist expropriation and ad hoc concessions to favored industries, creating massive uncertainty. Foreign investment evaporated, and the country's oil wealth was squandered.[34]

The United States saw a preview during Trump's trade wars. Tariff announcements were made by tweet; allies one day became adversaries the next. Markets fluctuated wildly in response, as companies struggled to predict supply chains

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[29] HANNAH ARENDT, THE ORIGINS OF TOTALITARIANISM 310 (1951).
[30] CONG. RSCH. SERV., R46379, PRESIDENTIAL DECLARATIONS OF NATIONAL EMERGENCY: STATUTORY AND CONSTITUTIONAL ISSUES (2020).
[31] MARY BEARD, SPQR: A HISTORY OF ANCIENT ROME 342–50 (2015).
[32] PETER FRITZSCHE, GERMANS INTO NAZIS 211–25 (1998).
[33] DARON ACEMOGLU & JAMES A. ROBINSON, WHY NATIONS FAIL 74–103 (2012).
[34] Francisco Rodríguez, *An Empty Revolution: The Unfulfilled Promises of Hugo Chávez*, 87 FOREIGN AFFS. 49, 49–63 (2008).

or costs. The Peterson Institute for International Economics estimated that American consumers paid nearly the entire cost of tariffs, roughly $57 billion annually.[35] Such volatility discourages innovation and undermines growth.

D. Delegitimization of Democracy Abroad

A further institutional cost is the erosion of democratic credibility abroad. Political scientists Steven Levitsky and Lucan Way demonstrate that when powerful states model democratic backsliding, smaller states often follow suit.[36]

During the Cold War, America's credibility as leader of the "free world" depended on practicing democracy at home. Martin Luther King Jr. made this point explicit: segregation and racial violence undermined U.S. claims to moral leadership.[37]

Today, authoritarian actors such as China exploit U.S. failings to delegitimize democracy. Chinese state media highlights police violence and election disputes to argue that democracy is unstable and hypocritical.[38] If the United States itself deploys troops domestically against protestors, the consequences would be catastrophic for America's global reputation. Allies would lose faith; autocrats would gain license.

E. The Institutional Vicious Cycle

Perhaps most dangerous is the feedback loop authoritarianism creates. Once institutions bend, their weakness becomes self-reinforcing. Each abdication justifies the next.

The Weimar Republic illustrates this dynamic. Emergency decrees, once exceptional, became routine. By the early 1930s, the Reichstag had effectively ceded governance to presidential decree, paving the way for Hitler.[39]

The United States faces a similar risk. If the military obeys unlawful domestic orders, if courts ratify them, and if Congress acquiesces, authoritarian governance could entrench itself as "normal." Once normalized, reversal becomes nearly impossible. Rebuilding institutional strength after collapse is far harder than preserving it in advance.

F. Transition to Part III

The political and institutional costs described here—erosion of rule of law, legislative weakness, volatility, delegitimization, and vicious cycles—are not abstract. They translate into lived consequences: repression of dissent, inequality, brain drain,

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[35] Mary Amiti, Stephen J. Redding & David Weinstein, *The Impact of the 2018 Trade War on U.S. Consumers* (Nat'l Bureau of Econ. Rsch., Working Paper No. 25672, 2019).

[36] STEVEN LEVITSKY & LUCAN WAY, COMPETITIVE AUTHORITARIANISM: HYBRID REGIMES AFTER THE COLD WAR (2010).

[37] Martin Luther King, Jr., *Letter from Birmingham Jail* (1963), *in* WHY WE CAN'T WAIT (1964).

[38] David Bandurski, *China's Propaganda Machine Takes Aim at American Unrest*, CHINA MEDIA PROJECT (June 2, 2020).

[39] DETLEV PEUKERT, THE WEIMAR REPUBLIC: THE CRISIS OF CLASSICAL MODERNITY 163–70 (1992).

and economic decline. Part III turns to these social and human costs, showing how authoritarianism corrodes daily life as well as political structures.

III. SOCIAL AND HUMAN COSTS OF AUTHORITARIAN DRIFT

Authoritarianism is not confined to the chambers of legislatures or courts. It filters down into the lived experience of citizens, reshaping social life, limiting freedom, and imposing human suffering. While Part II examined institutional consequences, this Part focuses on how authoritarian populism corrodes the social fabric: silencing dissent, driving out talent, exacerbating inequality, weakening civil society, endangering public health, and imposing lasting psychological costs.

A. Suppression of Dissent and the Chilling of Free Expression

At its core, authoritarianism thrives on silencing opposition. The First Amendment embodies the American conviction that speech is both an individual liberty and a structural safeguard of democracy. Justice Brandeis famously wrote in Whitney v. California (1927) that "the fitting remedy for evil counsels is good ones," not suppression.[40] Yet authoritarian regimes invert this principle, treating dissent not as a necessary component of democracy but as treason.

Classic authoritarian states employed blunt tools: the Soviet Union criminalized "anti-Soviet agitation,"[41] and Nazi Germany institutionalized censorship under Joseph Goebbels' Propaganda Ministry. Modern authoritarians adopt subtler mechanisms: licensing requirements for journalists, "fake news" laws targeting critics, or economic pressures that starve independent outlets.[42]

The United States has seen echoes of these tactics. During his presidency, Trump repeatedly called the press the "enemy of the people."[43] This rhetoric is not mere bluster: when leaders delegitimize journalism, citizens internalize fear of speaking out, leading to self-censorship and retreat from public discourse. The "marketplace of ideas" collapses into propaganda and silence.

B. Brain Drain and the Flight of Talent

Repression produces not only silence but also emigration. Skilled individuals, facing limited opportunity and political intimidation, often choose exit over voice.[44] Political economists have long noted that "brain drain" undermines economic growth and deprives societies of the very citizens most capable of reform.

Historical cases are instructive. East Germany hemorrhaged intellectuals and professionals to the West before the Berlin Wall sealed borders.[45] Contemporary

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[40] *Whitney v. California*, 274 U.S. 357, 375 (1927) (Brandeis, J., concurring).
[41] 4 GEORGE ORWELL, THE COLLECTED ESSAYS, JOURNALISM AND LETTERS OF GEORGE ORWELL 194–200 (Sonia Orwell & Ian Angus eds., 1968) (noting Soviet censorship categories).
[42] ERIC HEINZE, THE CONCEPT OF INJUSTICE 212–18 (2013).
[43] Donald J. Trump, President of the U.S., Remarks in Phoenix, Arizona (Aug. 22, 2017) ("These are really dishonest people. They're the enemy of the people.").
[44] ALBERT HIRSCHMAN, EXIT, VOICE, AND LOYALTY 30–43 (1970).
[45] HOPE M. HARRISON, DRIVING THE SOVIETS UP THE WALL: SOVIET-EAST GERMAN RELATIONS, 1953–1961, at 211–20 (2003).

Russia has seen waves of emigration following repression of dissent and academic freedom.[46]

The United States risks similar dynamics. Surveys show that younger Americans, particularly those with advanced degrees, are increasingly open to working abroad.[47] If authoritarian drift accelerates—manifesting in surveillance, politicized universities, or restrictions on speech—the country could face a generational loss of innovators. Academic freedom, long a magnet for global talent, would wither.

C. Inequality, Exclusion, and Patronage

Authoritarian regimes rarely distribute repression evenly. Instead, they reward loyalty and punish dissent. The result is a stratified society where economic privilege is tied to political allegiance.

Russia epitomizes this logic. Under Vladimir Putin, oligarchs thrive only so long as they remain politically loyal; those who cross the Kremlin, like Mikhail Khodorkovsky, face imprisonment or expropriation.[48] In Turkey, President Erdoğan has steered lucrative state contracts toward loyal construction magnates, entrenching inequality.[49]

In the United States, the risk is subtler but real. When federal funds are threatened to be withheld from disfavored states or cities, or when regulatory waivers are granted selectively to allies, the seeds of authoritarian patronage are sown.[50] Over time, such practices erode equal citizenship and transform economic opportunity into political patronage.

D. Weakening of Civil Society and Social Capital

Democracy depends on more than institutions; it requires a vibrant civil society of unions, associations, and nongovernmental organizations. Alexis de Tocqueville observed that Americans' "art of association" was the seedbed of their democratic spirit.[51]

Authoritarian leaders understand this and systematically attack civil society. Russia has branded NGOs as "foreign agents."[52] Hungary has imposed onerous registration requirements on independent associations.[53] Civil society is suffocated not by outright bans but by bureaucratic strangulation.

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[46] Michele Berdy, *Russia's Brain Drain: The Exodus of the Educated*, MOSCOW TIMES (Oct. 5, 2022).
[47] *Record High in U.S. Say They Would Move Abroad if They Could*, GALLUP (Jan. 20, 2021).
[48] ANDERS ÅSLUND, RUSSIA'S CRONY CAPITALISM: THE PATH FROM MARKET ECONOMY TO KLEPTOCRACY 112–16 (2019).
[49] Cihan Tuğal, *Turkey in the Middle East*, 57 NEW LEFT REV. 5, 5–34 (2009).
[50] David Super, *The Rise and Fall of the Implied Budget Power*, 84 NOTRE DAME L. REV. 167, 167–214 (2009).
[51] 2 ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA 104–05 (1835).
[52] *Russia: Government vs. Rights Groups*, HUM. RTS. WATCH (Apr. 24, 2017).
[53] Kim Lane Scheppele, *Understanding Hungary's Constitutional Revolution, in* CONSTITUTIONAL CRISIS IN THE EUROPEAN CONSTITUTIONAL AREA 111, 111–38 (Armin von Bogdandy & Pál Sonnevend eds., 2015).

The weakening of civil society translates into declining trust and diminished democratic capacity. Robert Putnam's Bowling Alone documented the costs of declining association in the United States even without authoritarian repression.[54] Where authoritarian governments actively target associations, the decay is accelerated: citizens are atomized, fearful, and unable to organize for accountability.

E. Public Health Risks and the Suppression of Bad News

Authoritarianism also carries deadly public health costs. Leaders who equate transparency with weakness often suppress bad news. But delay can be fatal.

The Soviet handling of Chernobyl in 1986 remains emblematic. Officials concealed the explosion for days, exposing thousands unnecessarily to radiation.[55] China's initial suppression of COVID-19 information in 2019 likewise delayed global response, costing countless lives.[56]

Even in democracies showing authoritarian drift, similar dynamics appear. During the Trump administration, pandemic data was politicized and health officials pressured to downplay scientific findings.[57] When truth becomes subordinate to propaganda, the consequences are measured in lives lost.

F. Psychological Toll: Fear, Silence, and Self-Censorship

Beyond material harms lies the psychological toll of authoritarian drift. Citizens internalize fear, avoid political speech, and retreat from civic engagement. Václav Havel described life under communism as "living within a lie," where individuals perform loyalty outwardly while inwardly silencing themselves.[58]

Fear produces obedience not only to laws but to signals: citizens refrain from attending protests, signing petitions, or teaching controversial books. Over time, habits of self-censorship become ingrained, leaving democracy without citizens capable of democratic participation.

G. Transition to Part IV

The social and human costs—suppressed dissent, emigration of talent, rising inequality, civil society decay, public health failures, and psychological trauma—bleed directly into economic life. Brain drain undermines productivity, inequality distorts markets, and volatility deters investment. The next Part turns to the economic costs of authoritarian drift, demonstrating that repression has not only moral and political consequences but quantifiable financial ones.

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[54] ROBERT PUTNAM, BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY 64–110 (2000).
[55] SERHII PLOKHY, CHERNOBYL: HISTORY OF A TRAGEDY 213–28 (2018).
[56] Yanzhong Huang, *The COVID-19 Pandemic and China's Global Health Leadership* (Council on Foreign Rels., Working Paper, Apr. 2020).
[57] Dan Diamond, *Trump Officials Interfered with CDC Reports on COVID-19*, POLITICO (Sept. 11, 2020).
[58] VÁCLAV HAVEL, THE POWER OF THE POWERLESS 36–45 (1985).

IV. ECONOMIC COSTS OF AUTHORITARIAN DRIFT

While the political and social harms of authoritarianism are grave, the economic costs are equally destructive. Authoritarian leaders often tout their ability to "get things done" without the friction of legislatures or courts. Yet beneath the façade of decisiveness lies an economy plagued by volatility, cronyism, disinvestment, and long-term stagnation.

This Part examines how authoritarian drift imposes quantifiable economic losses. It proceeds in six steps: (A) the structural performance of extractive institutions, (B) policy volatility and investor uncertainty, (C) crony capitalism and rent-seeking, (D) disinvestment in public goods, (E) inequality and declining general welfare, and (F) the global credibility costs borne by authoritarian states.

A. Authoritarianism and Economic Performance

Economic historians have shown that political institutions shape prosperity. Daron Acemoglu and James Robinson distinguish between "inclusive institutions," which protect property rights and foster innovation, and "extractive institutions," which concentrate wealth and power in elites.[59] Authoritarian regimes almost invariably generate extractive institutions.

While some authoritarian governments may deliver short bursts of growth, these gains rarely endure. Without independent courts, a free press, or checks on arbitrary power, investors cannot count on consistent contract enforcement or policy stability. As Douglass North argued, credible commitment to rules is the foundation of economic growth; authoritarian regimes are incapable of sustaining such commitment.[60]

The result is a paradox: authoritarian states may mobilize resources quickly for prestige projects—massive infrastructure, showcase industries—but in the long run, they undermine the predictability that markets require.

B. Policy Volatility and the Costs of Uncertainty

Markets prize stability. Authoritarian leaders, however, tend to govern by whim, generating volatility that undermines planning horizons.

The United States saw this dynamic in Trump's trade wars. Tariffs were often announced by tweet, with little consultation of Congress or allies.[61] Farmers lost access to export markets; manufacturers faced sudden input cost spikes. Economists Amiti, Redding, and Weinstein found that U.S. consumers bore nearly the entire cost, paying an additional $57 billion annually.[62]

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[59] DARON ACEMOGLU & JAMES A. ROBINSON, WHY NATIONS FAIL: THE ORIGINS OF POWER, PROSPERITY, AND POVERTY 74–103 (2012).
[60] DOUGLASS NORTH, INSTITUTIONS, INSTITUTIONAL CHANGE, AND ECONOMIC PERFORMANCE 80–92 (1990).
[61] Chad P. Bown, *The 2018 Trade War and the End of WTO Dispute Settlement as We Knew It* (Peterson Inst. for Int'l Econ., Working Paper No. 20-10, 2020).
[62] Amiti et al., *supra* note 35.

This pattern is not unique. In Argentina, sudden currency controls and arbitrary taxation destabilized markets, producing recurring crises.[63] In Venezuela, the Chávez and Maduro governments alternated between nationalizations and concessions, wiping out private investment.[64] The lesson is clear: when authoritarian leaders govern unpredictably, economies falter.

C. The Cost of Crony Capitalism

Authoritarianism breeds crony capitalism. When market access depends on political loyalty, efficiency collapses.

Russia under Vladimir Putin exemplifies this dynamic. State contracts and energy concessions are distributed to loyal oligarchs.[65] Rather than competing on productivity, firms compete for proximity to power. Economists have estimated that corruption functions as an implicit "tax," raising costs and deterring entrepreneurship.[66]

The United States is not immune to similar temptations. When leaders threaten to withhold federal funds from "blue states," or when regulatory relief is promised only to loyal industries, markets begin to operate on patronage rather than law.[67] Over time, the perception of politicized markets erodes trust, discourages foreign investment, and damages competitiveness.

D. Authoritarianism and Disinvestment in Public Goods

Authoritarian leaders often neglect investments in public goods—education, science, infrastructure—that yield diffuse benefits. Because these benefits cannot be easily monopolized or used for patronage, authoritarian governments prefer short-term rewards.

The U.S. debate over cuts to the National Institutes of Health (NIH) during the Trump administration illustrates this risk. Slash billions in research funding likely will cripple biomedical innovation.[68] Studies by United for Medical Research found that every $1 in NIH funding generates more than $2 in local economic activity.[69] A University of Chicago study projected that deep cuts could result in trillions of lost GDP over decades, as medical innovations drive productivity.[70]

International parallels abound. In Brazil under Jair Bolsonaro, science and higher education budgets were gutted, prompting a mass exodus of researchers.[71] In Hungary, university takeovers by loyalist foundations undermined academic

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[63] Guillermo Perry & Luis Servén, *The Anatomy of a Multiple Currency Crisis: Argentina 2001–02* (World Bank, Pol'y Rsch. Working Paper No. 3519, 2005).
[64] Rodríguez, *supra* note 34, at 49–63.
[65] ÅSLUND, *supra* note 48, at 112–16.
[66] SUSAN ROSE-ACKERMAN, CORRUPTION AND GOVERNMENT: CAUSES, CONSEQUENCES, AND REFORM 147–61 (1999).
[67] Super, *supra* note 50, at 167–214.
[68] Sarah Zhang, *Trump Wants to Slash NIH's Budget. Here's What That Means*, ATLANTIC (Mar. 16, 2017).
[69] UNITED FOR MEDICAL RESEARCH, NIH'S ROLE IN SUSTAINING THE U.S. ECONOMY (2017).
[70] Pierre Azoulay et al., *Public R&D Investments and Private-Sector Patenting: Evidence from NIH Funding Rules*, 86 REV. ECON. STUD. 117, 117–52 (2019).
[71] Richard Lapper, *Bolsonaro's War on Universities*, FIN. TIMES (May 2, 2019).

independence.[72] The long-term cost is fewer patents, less innovation, and slower productivity growth.

E. Inequality, Rent-Seeking, and the Decline of General Welfare

Authoritarian systems exacerbate inequality. Without independent institutions to safeguard the general welfare, elites extract disproportionate gains. Economists Emmanuel Saez and Gabriel Zucman estimate that in the United States, the top 0.1 percent controls as much wealth as the bottom 90 percent.[73]

Authoritarian policies accelerate this concentration. Loyalists receive contracts, subsidies, and regulatory waivers, while adversaries face exclusion. The result is rent-seeking: profits derived from privileged access rather than innovation.[74]

As Keynes observed, concentrated wealth depresses aggregate demand, creating stagnation.[75] Democracies can correct inequality through progressive taxation and redistribution. Authoritarian regimes, by contrast, entrench elite privilege, undermining social trust and economic stability.

F. Global Credibility and the Cost of Lost Trust

Finally, authoritarian drift carries costs in global markets. Investors and allies view respect for the rule of law as a prerequisite for engagement. When democracies backslide, credit ratings fall and borrowing costs rise.

The United States has long benefited from the "exorbitant privilege" of the dollar as global reserve currency.[76] This privilege rests on institutional trust. Should American institutions falter—if elections are undermined, if courts cease to function independently—that trust could fray. Even a modest rise in borrowing costs would increase debt service on trillions of dollars, costing hundreds of billions annually.[77]

Comparative history confirms the danger. Post-Soviet states struggled for decades to attract foreign investment due to weak legal systems.[78] By contrast, Chile's return to democracy after Pinochet was marked by heavy reinvestment in rule-of-law institutions, which helped fuel growth.[79]

G. Transition to Part V

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[72] Scheppele, *supra* note 53, at 111–38.
[73] EMMANUEL SAEZ & GABRIEL ZUCMAN, THE TRIUMPH OF INJUSTICE: HOW THE RICH DODGE TAXES AND HOW TO MAKE THEM PAY 22–35 (2019).
[74] MANCUR OLSON, THE RISE AND DECLINE OF NATIONS 50–70 (1982).
[75] JOHN MAYNARD KEYNES, THE GENERAL THEORY OF EMPLOYMENT, INTEREST AND MONEY 85–92 (1936).
[76] BARRY EICHENGREEN, EXORBITANT PRIVILEGE: THE RISE AND FALL OF THE DOLLAR AND THE FUTURE OF THE INTERNATIONAL MONETARY SYSTEM 22–29 (2011).
[77] CONG. BUDGET OFF., THE LONG-TERM BUDGET OUTLOOK (2020).
[78] ANDERS ÅSLUND, HOW CAPITALISM WAS BUILT: THE TRANSFORMATION OF CENTRAL AND EASTERN EUROPE, RUSSIA, AND CENTRAL ASIA 145–66 (2013).
[79] PATRICIO MELLER, THE CHILEAN ECONOMY: POLICY LESSONS AND CHALLENGES (1992).

The economic costs of authoritarian drift demonstrate that repression is not only a moral and political wrong but also an economic self-destruction. Volatility, cronyism, inequality, and lost credibility all weaken prosperity. Yet economics also intersects with information. Markets require transparency, just as citizens require truth. The next Part turns to the media ecosystem—examining how authoritarian leaders capture it, how polarization is fueled by economic incentives, and how reforms and innovations like "Talk It Out" could restore democracy's informational foundation.

V. MEDIA, POLITICAL DISCOURSE, AND AUTHORITARIAN DRIFT

If institutions are democracy's skeleton, information is its bloodstream. Citizens cannot hold leaders accountable without accurate knowledge of government action, economic conditions, and civic choices. The Framers recognized this when they enshrined freedom of the press in the First Amendment.[80] Yet authoritarian leaders have always understood that controlling information is a precondition for controlling the state.

This Part analyzes the role of media in authoritarian drift, showing how (A) the press has historically functioned as democracy's constitutional safeguard, (B) polarization and digital platforms have fractured public discourse, (C) economic incentives have weakened journalism, (D) reforms could restore media as a bulwark, (E) media framing shapes civic optimism and economic sentiment, and (F) scholars and legal institutions must prepare for authoritarian capture of information systems.

A. The Media's Constitutional Role

James Madison described press freedom as "the only effectual guardian of every other right."[81] The press was not merely another liberty but a structural safeguard against tyranny. By exposing corruption and holding leaders accountable, it provides the informational foundation for self-rule.

Authoritarian leaders invariably attack this safeguard first. Adolf Hitler centralized radio under the Propaganda Ministry; Benito Mussolini used state-controlled newspapers to stoke nationalist fervor; Joseph Stalin's censors turned the Soviet press into a mouthpiece.[82] Each case illustrates that authoritarian consolidation begins with silencing independent media.

In the United States, formal constitutional safeguards remain strong, but recent decades have exposed vulnerabilities. Political leaders—most prominently Donald Trump—have repeatedly labeled the press "fake news" and "the enemy of the people."[83] Such rhetoric delegitimizes independent journalism and primes citizens to distrust all information not emanating from the leader himself.

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[80] LEONARD W. LEVY, EMERGENCE OF A FREE PRESS 198–215 (1985).

[81] James Madison, *Report on the Virginia Resolutions* (1799), *reprinted in* THE PAPERS OF JAMES MADISON 345 (William R. Rachal ed., 1973).

[82] RICHARD J. EVANS, THE THIRD REICH IN POWER 122–40 (2005); ALEXANDER STILLE, BENEVOLENCE AND BETRAYAL: FIVE ITALIAN JEWISH FAMILIES UNDER FASCISM 34–42 (1991); SHEILA FITZPATRICK, THE RUSSIAN REVOLUTION 88–90 (1994).

[83] Trump, *supra* note 43.

B. Media as a Vector of Polarization

The media not only informs but also frames political reality. In the digital era, partisan outlets and algorithmic curation exacerbate polarization. Research shows that consumption of ideologically consistent media reinforces partisan identities and increases hostility toward opponents.[84]

Social media platforms amplify this effect. Algorithms prioritize content that drives engagement—often outrage, fear, or sensationalism.[85] The result is a fractured public sphere where citizens inhabit parallel realities. For authoritarian populists, this environment is fertile: it allows leaders to delegitimize opponents, spread conspiracies, and mobilize support without accountability.

The U.S. experience following the 2020 election illustrates this dynamic. Partisan networks amplified unfounded claims of fraud, while platforms spread disinformation at scale.[86] Polarization hardened; bipartisan cooperation collapsed. Citizens, frustrated by gridlock and mistrust, became more receptive to strongman solutions.

C. Economic Incentives and the Decline of Democratic Media

Media dysfunction is not only political but also economic. Traditional journalism, especially local news, relied on advertising revenue that has been captured by digital platforms such as Google and Meta.[87] As ad revenues collapsed, newspapers shuttered or were absorbed into conglomerates, leaving "news deserts" across vast regions of the country.

The consequences are measurable. Studies show that communities without local newspapers experience lower voter turnout, higher corruption, and greater polarization.[88] National outlets cannot fill the gap; local reporting is essential for accountability in schools, municipalities, and state governments.

In response, many surviving outlets have shifted toward sensationalism, clickbait, or partisan programming to retain audience loyalty.[89] Authoritarian regimes exploit this vulnerability by subsidizing loyalist media and bankrupting critics. If unchecked, democracies risk drifting into the same model: media as a patronage network rather than an independent check.

D. Media as a Bulwark: Proposals for Reform

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[84] MARKUS PRIOR, POST-BROADCAST DEMOCRACY: HOW MEDIA CHOICE INCREASES INEQUALITY IN POLITICAL INVOLVEMENT AND POLARIZES ELECTIONS 130–45 (2007).
[85] SIVA VAIDHYANATHAN, ANTISOCIAL MEDIA: HOW FACEBOOK DISCONNECTS US AND UNDERMINES DEMOCRACY 91–110 (2018).
[86] YOCHAI BENKLER, ROBERT FARIS & HAL ROBERTS, NETWORK PROPAGANDA: MANIPULATION, DISINFORMATION, AND RADICALIZATION IN AMERICAN POLITICS 239–312 (2018).
[87] VICTOR PICKARD, DEMOCRACY WITHOUT JOURNALISM? 54–73 (2020).
[88] Pengjie Gao, Chang Lee & Dermot Murphy, *Financing Dies in Darkness? The Impact of Newspaper Closures on Public Finance*, 135 J. FIN. ECON. 445, 445–67 (2020).
[89] Matthew Gentzkow & Jesse M. Shapiro, *Competition and Truth in the Market for News*, 22 J. ECON. PERSPS. 133, 133–54 (2008).

To resist authoritarian drift, the media must be reconstituted as a bulwark of democracy. Several reforms are possible:

Revitalization of Local Journalism. Public investment—through tax credits, nonprofit funding, or state subsidies insulated from political interference—could restore local news infrastructure.[90]

Transparency in Algorithmic Curation. Platforms that now function as de facto public squares should be subject to transparency requirements. Independent audits of algorithms could ensure that amplification does not privilege sensationalism at the expense of truth.[91]

Standards for Political Advertising. While First Amendment constraints are real, narrowly tailored disclosure requirements for online political ads could reduce disinformation, similar to rules governing commercial advertising.[92]

Incentives for Constructive Programming. Governments could provide tax incentives or public-service credits for outlets that produce bipartisan, solutions-oriented programming. Just as entertainment can be steered toward educational goals, so too can political media.[93]

These reforms would not eliminate partisan media but would rebalance incentives toward accuracy and civic responsibility.

E. Media, Optimism, and Economic Sentiment

Media not only informs but also shapes civic and economic psychology. Behavioral economics confirms that consumer confidence is heavily influenced by news framing.[94] During recessions, pessimistic reporting deepens downturns; during recoveries, constructive reporting accelerates growth.

Authoritarian populists exploit this by amplifying despair. By painting democracy as hopelessly corrupt, they persuade citizens that only authoritarian consolidation can restore order. Conversely, media that highlights bipartisan reforms, constructive compromises, and long-term solutions fosters optimism that strengthens democratic resilience.[95]

Thus, the orientation of the press has macroeconomic implications. Journalism is not simply a neutral mirror of events; it is itself a driver of civic mood and economic outcomes.

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[90] PENELOPE MUSE ABERNATHY, NEWS DESERTS AND GHOST NEWSPAPERS: WILL LOCAL NEWS SURVIVE? 88–102 (2020).
[91] Daphne *Keller, Who Do You Sue? State and Platform Hybrid Power over Online Speech* 44–49 (Hoover Inst., Working Paper No. 1902, 2019).
[92] SPENCER OVERTON, STEALING DEMOCRACY: THE NEW POLITICS OF VOTER SUPPRESSION 162–67 (2006) (analogy to commercial ad regulations).
[93] MONROE E. PRICE & STEFAAN G. VERHULST, SELF-REGULATION AND THE INTERNET 97–103 (2005).
[94] ROBERT J. SHILLER, NARRATIVE ECONOMICS: HOW STORIES GO VIRAL AND DRIVE MAJOR ECONOMIC EVENTS 41–56 (2019).
[95] PIPPA NORRIS & RONALD INGLEHART, CULTURAL BACKLASH: TRUMP, BREXIT, AND AUTHORITARIAN POPULISM 301–10 (2019).

F. The Role of Scholars and Independent Institutions

Finally, scholars and professional institutions must anticipate authoritarian capture of media. Law schools should prepare students for litigation against government efforts to weaponize libel law or licensing regimes against critical outlets.[96] Journalism schools should experiment with models of nonprofit or cooperative ownership that insulate reporting from market failures.

The legal profession also has a role. Just as Judge Advocates General must prepare for unlawful orders in the military context, media lawyers must prepare for authoritarian efforts to curtail press freedom. Preemptive scholarship can shape doctrine before a crisis emerges.[97]

G. Transition to Part VI

The analysis so far shows that authoritarianism corrodes not only institutions, society, and the economy, but also the information ecosystem on which democracy depends. Yet reforming institutions and media alone is not enough. To be resilient, democracy requires cultural practices that foster trust across partisan lines. The next Part therefore turns to a novel proposal: media-prompted interpersonal dialogue, or "Talk It Out," as a civic-level intervention capable of filtering extremism and rebuilding democratic norms.

VI. TALK IT OUT: MEDIA-PROMPTED CIVIC DIALOGUE

The preceding Parts have shown that authoritarian drift corrodes institutions, society, the economy, and the press. But legal and institutional reforms alone cannot suffice. Even if the military resists unlawful orders, legislatures reclaim their power, and media reforms succeed, democracy cannot thrive unless citizens themselves are willing to engage across lines of difference. Polarization has rendered politics increasingly tribal, with partisans less likely to converse meaningfully with those who disagree.[98]

This Part proposes a novel intervention: media-prompted interpersonal dialogue, or what this Article terms "Talk It Out." The idea is simple but potentially powerful: if mainstream media outlets consistently encouraged viewers to discuss political issues with family and friends—using guided prompts, factual anchors, and conversational norms—the result could be reduced extremity, improved factual alignment, and greater civic participation. Unlike censorship or top-down regulation, this approach leverages the media's reach while relying on voluntary, interpersonal exchange.

A. Theoretical Rationale

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[96] Clay Calvert, *Weaponizing Libel Law: The Curious Case of Donald Trump's Presidential Threats Against the Press*, 16 First Amend. L. Rev. 349, 349–76 (2017).

[97] Geoffrey R. Stone, *The First Amendment in the Trump Era*, 85 U. CHI. L. REV. ONLINE 335, 335–50 (2018).

[98] LILLIANA MASON, UNCIVIL AGREEMENT: HOW POLITICS BECAME OUR IDENTITY 55–72 (2018).

Several strands of communication and political theory support the plausibility of this intervention.

1. The Two-Step Flow of Communication. Paul Lazarsfeld and Elihu Katz demonstrated that media rarely changes minds directly; instead, it influences interpersonal conversations through "opinion leaders."[99] Messages filter through trusted personal networks. A deliberate strategy to prompt these conversations harnesses a channel already more persuasive than distant elites.

2. Deliberative Democracy. Jürgen Habermas argued that legitimate law arises from deliberation under conditions of reciprocity and reason-giving.[100] While large-scale deliberative assemblies are resource-intensive, everyday micro-dialogues can approximate the same benefit: they require participants to articulate reasons, consider trade-offs, and listen.

3. Cross-Cutting Exposure. Diana Mutz's work shows that exposure to differing views moderates policy preferences, though it sometimes reduces participation.[101] More recent studies, however, suggest that when conversations are framed constructively, moderation can occur without demobilization.[102]

4. Motivated Reasoning and Identity Threat. Psychological research confirms that factual corrections often fail when they threaten partisan identity.[103] Yet conversations with trusted interlocutors—family, close friends—may reduce perceived threat, making factual updating more possible.[104]

Taken together, these literatures suggest that carefully designed interpersonal conversations could act as a "civic vaccine" against authoritarian populism.

B. Intervention Design

A national dialogue initiative could be embedded within media programming at minimal cost. Outlets—television, streaming, podcasts, digital platforms—would include recurring prompts inviting viewers to talk politics with someone they trust.

Each prompt would include three components:

Three Open-Ended Questions. Designed to elicit reasoning rather than slogans (e.g., "What trade-offs would you accept in tariffs?").

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[99] PAUL LAZARSFELD & ELIHU KATZ, PERSONAL INFLUENCE: THE PART PLAYED BY PEOPLE IN THE FLOW OF MASS COMMUNICATIONS 32–47 (1955).
[100] JÜRGEN HABERMAS, BETWEEN FACTS AND NORMS: CONTRIBUTIONS TO A DISCOURSE THEORY OF LAW AND DEMOCRACY 107–34 (1996).
[101] DIANA C. MUTZ, HEARING THE OTHER SIDE: DELIBERATIVE VERSUS PARTICIPATORY DEMOCRACY 62–83 (2006).
[102] Matthew Levendusky, *Americans, Not Partisans: Can Priming American National Identity Reduce Affective Polarization?*, 80 J. POL. 59, 59–70 (2018).
[103] Dan M. Kahan, *Ideology, Motivated Reasoning, and Cognitive Reflection*, 8 JUDGMENT & DECISION MAKING 407, 407–24 (2013).
[104] Brendan Nyhan & Jason Reifler, *When Corrections Fail: The Persistence of Political Misperceptions*, 32 POL. BEHAV. 303, 303–30 (2010).

Two Neutral Fact Anchors. Shared factual points that both sides can acknowledge (e.g., "Tariffs raise consumer prices").

One Perspective-Taking Exercise. A question that encourages empathy (e.g., "How would this policy affect people unlike us?").

For example, after a segment on healthcare, the broadcast might close with:

"This week, take ten minutes to talk with a friend or family member. Ask: (1) What do you think is the biggest challenge in U.S. healthcare? (2) Would you prioritize cost, access, or innovation? (3) What trade-offs would you accept? Fact: The U.S. spends about 18% of GDP on healthcare. Exercise: Imagine you're a small-business owner—how would rising premiums affect you?"

Such low-friction prompts would normalize dialogue as a habitual civic act. Anchors, media personalities should make their discussion with friends and family trendy i.e. "I talk with my family about politics all the time" statements by popular persons could start a snowball effect for national self-filtering dialog. Thus, it is critical news outlets, cooperate with film and entertainment industries, as well as educational institutions. It is also fundamental to conduct more frequent and precise surveys. All this in the name of thriving society.

C. Research Agenda and Testable Hypotheses

A robust research program could evaluate this intervention through field experiments and quasi-experiments.

Hypotheses:

H1: Participants will report less policy extremity after repeated guided conversations.

H2: Participants will demonstrate improved factual accuracy on contested questions.

H3: Participants will exhibit reduced affective polarization toward out-partisans.

H4: Participants will report higher civic efficacy and likelihood of voting.

H5: Effects will be strongest in heterogeneous networks, but positive even in homogeneous ones when norms are emphasized.

Testing could occur through randomized controlled trials (e.g., different media markets receiving prompts at different times) or partnerships with streaming platforms. Surveys, behavioral measures (turnout, volunteering), and discourse analysis could measure outcomes.

D. Guardrails and Risks

Any intervention must anticipate potential pitfalls.

1. Backfire Effects. Poorly framed conversations could entrench views. Guardrail: prompts should emphasize listening, reciprocity, and empathy.

2. Participation Drop. Mutz's research warns that cross-cutting exposure can reduce political participation.[105] Guardrail: affirm civic efficacy (e.g., "Your voice matters in shaping solutions").

3. Privacy and Ethics. Conversations must remain voluntary and unrecorded. The design should respect autonomy, with opt-in participation.

4. Elite Capture. If partisan outlets design prompts to entrench their own positions, the effort could backfire. Guardrail: develop nonpartisan conversation kits curated by independent bodies (universities, nonprofits).

E. Comparative Lessons

Comparative evidence supports the potential of media-driven dialogue.

In Rwanda, Betsy Paluck's field experiment showed that radio dramas designed to model deliberation reduced prejudice and conflict.[106] Citizens did not simply adopt elite messages but used them as scripts for their own conversations.

Similarly, James Fishkin's "deliberative polling" demonstrates that when citizens engage in structured conversation, preferences shift toward moderation and factual accuracy.[107] While deliberative polls are resource-intensive, media-prompted micro-dialogues could scale this effect nationally at minimal cost.

F. Synthesis

The "Talk It Out" proposal is not a panacea. But it offers a scalable, content-neutral, constitutionally unproblematic method for strengthening democracy at the grassroots. Unlike regulation of speech—which raises First Amendment concerns—this approach empowers citizens themselves to deliberate.

If successful, such dialogue could counteract authoritarian populism's reliance on division and mistrust. Authoritarian leaders thrive on citizens talking past each other; democracy thrives on citizens talking to each other.

G. Transition to Part VII

Having analyzed the institutional, social, economic, and informational dimensions of authoritarian drift, and having proposed media-prompted dialogue as a civic countermeasure, the final Part synthesizes these insights. It argues that a layered defense—military, institutional, media, and civic—is necessary for democratic survival.

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[105] MUTZ, *supra* note 101, at 102–18.

[106] Elizabeth Levy Paluck, *Reducing Intergroup Prejudice and Conflict Using the Media: A Field Experiment in Rwanda*, 96 J. PERSONALITY & SOC. PSYCH. 574, 574–87 (2009).

[107] JAMES S. FISHKIN, WHEN THE PEOPLE SPEAK: DELIBERATIVE DEMOCRACY AND PUBLIC CONSULTATION 45–67 (2009).

VII. SYNTHESIS AND CONCLUSION

A. A Layered Firewall Against Authoritarian Drift

The preceding Parts have traced the multifaceted dangers of authoritarian populism and the corresponding defenses necessary to preserve constitutional democracy. The central claim of this Article is that resilience requires a layered firewall, composed of institutions, law, media, and civic practice.

Military Fidelity to the Constitution. As Part I established, the military oath to the Constitution is the final backstop against authoritarian usurpation. Unlawful orders—even if judicially ratified—must be resisted. The Posse Comitatus Act, the Insurrection Act, and comparative lessons all reinforce this duty.[108]

Strong Political Institutions. As Part II showed, legislatures, courts, and oversight bodies must not cede authority. Their abdication creates vicious cycles that normalize authoritarianism. Preserving their independence is not optional; it is existential.[109]

Social and Economic Health. Part III demonstrated that authoritarianism imposes human costs: silenced dissent, emigration of talent, entrenched inequality, hollowed civil society, and public health failures. Part IV extended this to economics: policy volatility, crony capitalism, disinvestment in science, inequality, and global credibility losses. Democracy's survival is inseparable from prosperity and social well-being.[110]

A Resilient Information Ecosystem. Part V argued that a democracy without trusted media is democracy in name only. Polarization, algorithmic amplification, and collapsing local journalism have created vulnerabilities authoritarian leaders exploit. Reforms—algorithmic transparency, subsidies for local journalism, and disclosure in political ads—are essential to rebuild informational resilience.[111]

Civic Dialogue as Cultural Infrastructure. Finally, Part VI advanced a novel civic intervention: Talk It Out. By embedding prompts for interpersonal conversation in media programming, citizens can develop habits of reason-giving, listening, and factual alignment. Dialogue across partisan lines, however modest, inoculates against the mistrust and disengagement on which authoritarian populism thrives.[112]

Together, these layers form a comprehensive defense. No single firewall is sufficient. But woven together—military fidelity, institutional strength, social and economic resilience, media reform, and civic dialogue—they create redundancy and depth.

B. Risks of Fragmented or Partial Defense

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[108] *See supra* I (detailing military oath and unlawful orders).
[109] *See supra* II (analyzing legislative abdication and judicial capture).
[110] *See supra* III–IV (documenting human, social, and economic costs).
[111] *See supra* V (proposing media reforms to rebuild informational resilience).
[112] *See supra* VI (developing "Talk It Out" intervention).

If defenses are partial, authoritarianism can exploit the gaps. Consider three scenarios:

Institutional Resistance Without Civic Trust. Suppose courts, legislatures, and the military resist unlawful orders, but citizens remain polarized, alienated, and disengaged. Authoritarian populists will continue to mobilize mistrust, undermining institutions through political pressure.[113]

Civic Dialogue Without Institutional Integrity. Conversely, even if citizens engage constructively, authoritarian capture of courts or legislatures can nullify their efforts. Dialogue is powerless if elections are rigged or judicial review hollowed out.

Media Reform Without Citizen Uptake. Finally, reforms to journalism and platforms may succeed in creating more accurate content. But if citizens lack habits of engagement, they will not process or use the information effectively.[114]

These scenarios highlight the interdependence of law and culture. Institutions without citizens become brittle; citizens without institutions become vulnerable. Only their combination offers resilience.

C. Implications for Scholarship and Practice

This Article carries implications across three fields—law, political science, and media studies.

For law, it challenges judicial supremacy by reaffirming that fidelity lies with the Constitution itself, not with captured courts. It underscores the importance of statutes like Posse Comitatus as practical bulwarks, and it calls on JAGs and legal scholars to preemptively articulate doctrines of resistance.[115]

For political science, it confirms that authoritarian drift is gradual, often legalistic, and institutionally corrosive. It links institutional decline with social and economic harms, showing how backsliding spirals into entrenchment.[116]

For media studies, it reframes the "marketplace of ideas" from mass exposure to interpersonal dialogue. Rather than assuming that greater media supply ensures democratic outcomes, it emphasizes that conversation—structured, repeated, and trusted—is the real engine of moderation.[117]

D. The Normative Stakes

The normative stakes could not be higher. Authoritarian populism thrives on division, despair, and disengagement. It persuades citizens that democracy is corrupt,

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[113] Milan W. Svolik, *Polarization versus Democracy*, 30 J. DEMOCRACY 20, 20–32 (2019).
[114] CASS R. SUNSTEIN, #REPUBLIC: DIVIDED DEMOCRACY IN THE AGE OF SOCIAL MEDIA 77–103 (2017).
[115] Corn, *supra* note 22, at 123–65.
[116] Bermeo, *supra* note 1, at 5–19.
[117] LAZARSFELD & KATZ, *supra* note 99, at 45–61.

that elites are conspiratorial, and that only strongman rule can deliver. Once entrenched, such regimes are extraordinarily difficult to reverse.[118]

The antidote is multi-layered: military officers refusing unlawful orders, legislatures reclaiming their role, courts enforcing rights, media restoring truth, and citizens rebuilding trust. None of these alone is sufficient. But together, they can preserve the democratic experiment.

The United States has faced such crises before. Lincoln warned that if Supreme Court rulings irrevocably fixed national policy, "the people will have ceased to be their own rulers."[119] During Watergate, the press exposed corruption while courts and Congress asserted their authority. After September 11, civil society pushed back against excesses in surveillance. Each episode illustrates resilience when institutions and citizens act in concert.

E. Quiet Conversations as Democratic Salvation

Perhaps the most counterintuitive insight is that democracy may depend not on louder elite discourse but on quieter conversations at the kitchen table. Authoritarian populism thrives when citizens no longer talk across divides. The "Talk It Out" initiative envisions media prompts that normalize cross-cutting dialogue: short, low-friction exchanges that build habits of listening and factual alignment.

If millions of Americans engaged weekly in such conversations, the effects could be profound: less extremity, more empathy, higher turnout, and greater resistance to demagoguery.[120] Like vaccination, dialogue may not prevent every infection of authoritarian rhetoric, but it can build herd immunity.

F. Conclusion

Democracy's survival in the United States is not preordained. It depends on layered defenses: institutions that uphold law, media that sustains truth, and citizens who talk to one another. The military oath, the resilience of legislatures and courts, the vitality of civil society, and the role of the press are all essential. Yet the final firewall may be cultural rather than institutional: the willingness of citizens to engage in good faith dialogue.

In the face of authoritarian populism, the path forward is not despair but deliberation—not retreat into tribalism but renewal of civic trust. To preserve democracy, America must be willing to talk it out.

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[118] LEVITSKY & ZIBLATT, *supra* note 2, at 12–41.
[119] Lincoln, *supra* note 12.
[120] Paluck, *supra* note 106, at 574–87.

NOTE ON CHINA – U.S. GOVERNANCE SYSTEMS, A CRITICAL COMPARISON

The COVID-19 pandemic and the accelerating climate crisis have exposed both the strengths and the weaknesses of contemporary governance models. In the United States, populist dynamics have too often led to gridlock and policy inconsistency. In China, centralized industrial planning has delivered rapid scaling of infrastructure and clean energy but at the cost of transparency and political openness. Neither system offers a perfect model for twenty-first-century governance. Yet, as Rafal Pruchniak has argued in his constitutional reform proposals, there may be space to imagine a hybrid system that takes the best from both traditions: strong checks and balances rooted in democracy, coupled with efficient long-term policy execution.[121]

The U.S. Model: Democracy Under Stress

The U.S. Constitution was designed to slow decision-making to prevent tyranny. But in recent decades, this strength has become a liability. Populist forces—amplified by media polarization—have undermined Congress's ability to legislate effectively.[122] Budgetary standoffs, debt-ceiling crises, and erratic trade wars illustrate how partisan dysfunction at both ends of Pennsylvania Avenue can paralyze responses to pressing national needs. [123] The pandemic exposed this vividly. While the United States eventually mobilized vast resources for vaccines and stimulus, the early response was slowed by political division. Conflicting messages from the White House, state governments, and Congress allowed the virus to spread more rapidly than necessary.[124] In contrast to centralized systems, where unified commands can enforce immediate lockdowns or resource shifts, the U.S. model required negotiation, persuasion, and often litigation before decisive measures could take effect.

The Chinese Model: Planning with Limits

China's centralized system, anchored in Five-Year Plans and state-directed industrial policy, produced both remarkable achievements and serious drawbacks. On the one hand, the country's rapid mobilization of manufacturing capacity allowed it to supply the world with personal protective equipment and later dominate clean energy production.[125] China now manufactures more than 80 percent of the world's solar panels and has invested heavily in electric-vehicle infrastructure.[126] This strategic coherence stands in sharp contrast to the United States, where clean-energy policy has been hostage to shifting partisan tides. Yet China's model faltered in a different way during the pandemic. Local officials delayed reporting the outbreak in Wuhan, fearing political repercussions. Those weeks of silence allowed the virus to spread globally.[127] Such a delay would have been far less likely in the United States, where a decentralized

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[121] Rafal Pruchniak, Modern Constitutional Reform—Rebalancing the Three Branches of Government (2025) (unpublished manuscript) (on file with author).
[122] THOMAS E. MANN & NORMAN J. ORNSTEIN, IT'S EVEN WORSE THAN IT LOOKS (2016).
[123] Sarah Binder, *The Dysfunctional Congress*, 18 ANN. REV. POL. SCI. 85, 85–101 (2015).
[124] Ed Yong, *How the Pandemic Defeated America*, ATLANTIC (Aug. 2020).
[125] YASHENG HUANG, CAPITALISM WITH CHINESE CHARACTERISTICS (2008).
[126] INT'L ENERGY AGENCY, RENEWABLES 2023 (2023).
[127] Laurie Garrett, *China's Missteps in Responding to COVID-19*, FOREIGN AFFS. (Mar. 2020).

press, empowered state governments, and whistleblower protections create multiple channels for disclosure.[128]

Toward a Hybrid Constitutional Model

Pruchniak's proposal for constitutional reform envisions combining democratic legitimacy with governance efficiency. Under his model, the executive could initiate legislation, but all laws would undergo judicial review to ensure they are economically sound and socially just. Courts would act as moderators rather than passive arbiters, while voters would retain ultimate authority through electronic elections and referenda.[129] This system attempts to resolve the core trade-off visible in the U.S. and Chinese experiences. The United States has strong safeguards for liberty and transparency but struggles with policy efficiency. China has unmatched planning capacity but suffers from weak institutional checks. A hybrid framework would aim to capture the benefits of both: decisive policy implementation without sacrificing accountability or fairness.

Shared Lessons from COVID and Climate Policy

The pandemic and climate change both underscore the need for cooperation as well as competition between the world's two largest economies. During COVID-19, American innovation in mRNA vaccines paired with China's mass manufacturing capacity to expand global supply.[130] Both sides contributed to saving lives worldwide. Looking forward, the climate crisis requires the same dynamic: fair competition in technological innovation, but also structured cooperation in scaling solutions, from clean-energy grids to carbon capture. Neither unilateralism nor isolationism can succeed against global threats. Just as the pandemic demanded coordination, the climate emergency will require recognition that interdependence is a feature, not a flaw, of twenty-first-century governance.

Media, Education, and Bridging the Gap

For cooperation to be sustainable, it must rest not only on governmental bargains but also on cultural respect and mutual understanding. Here, media and educational institutions play a decisive role. In both the United States and China, national narratives often emphasize rivalry, military preparedness, and historical grievances.[131]

These perspectives reinforce pride but also make compromise more difficult. Left unchecked, they risk framing every policy disagreement as an existential contest. Media outlets could instead shift toward responsible framing—highlighting not only competition but also areas of necessary cooperation—while using viewer surveys and polling to track progress toward political reconciliation. Educational institutions should invest in cross-cultural literacy, teaching younger generations to appreciate both the

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[128] MARGARET ROBERTS, CENSORED: DISTRACTION AND DIVERSION INSIDE CHINA'S GREAT FIREWALL (2018).
[129] Pruchniak, *supra* note 121.
[130] Katalin Karikó & Drew Weissman, *The mRNA Vaccine Revolution*, 386 NEW ENG. J. MED. 1493, 1493–95 (2022).
[131] ODD ARNE WESTAD, THE COLD WAR: A WORLD HISTORY (2017).

strengths and flaws of each system.[132] Exchange programs, joint research centers, and collaborative platforms for students could build the interpersonal trust that political rhetoric often undermines. Universities can also help media conduct and analyze these surveys, bridging social science and journalistic practice. Governments might extend grants to sociologists to identify and counter militarization trends in the media and steer funds toward dual-purpose science projects (as often done at DARPA) that highlight cooperative opportunity. Aligning media and academia in this way can help unwind war rhetoric with scientific expertise and precision, better prepare societies to mitigate health and climate risks, and—crucially—support the early-stage marketing and adoption of frontier innovations that traditional industrial policy can be too risk-averse (or too budget-constrained) to back.

The competitive cultures of both nations are deeply rooted and will not disappear. The United States takes pride in individual liberty, entrepreneurship, and checks on authority. China emphasizes collective strength, strategic planning, and respect for centralized coordination. Each sees the other through a lens of skepticism, sometimes bordering on hostility. Yet competition need not preclude respect. Just as athletes may push each other to excel while respecting the rules of the game, nations can cooperate on existential challenges while competing in other domains.

The Obvious Choice – and the Persistent Risk of War

The choice before the world's two superpowers is, on its face, obvious. Cooperation—especially on public health, climate change, and economic stability—would benefit not only the United States and China but humanity as a whole for decades to come. Yet wars continue, and regional conflicts intensify, precisely because Washington and Beijing too often treat one another as adversaries first and partners second.[133] Without a shared commitment to stopping wars—whether in Asia, the Middle East, or Europe—the promise of joint leadership for the global good remains unfulfilled. The central obstacle is political incompatibility. The United States faces an era of populism in which policy is often shaped by partisan spectacle rather than consensus-building.[134] China, by contrast, operates through technocratic governance, where planning and expertise guide strategy but public participation remains limited.[135] These diverging systems make it difficult to establish the trust necessary for sustained cooperation. Each nation doubts the other's capacity to commit reliably—China questions U.S. volatility, while America questions China's lack of openness. Without bridging this incompatibility, cooperation might remain fragile, and competition risks tipping into confrontation.

Authoritarianism and GDP Performance

Comparative political-economy research shows that authoritarian regimes frequently inflate their economic performance and, in the long run, achieve lower growth than democracies. Using satellite night-time light data, Luis R. Martínez estimates that authoritarian states overstate annual GDP growth by up to thirty-five

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[132] JOSEPH NYE, SOFT POWER: THE MEANS TO SUCCESS IN WORLD POLITICS (2004).
[133] MICHAEL BECKLEY & HAL BRANDS, DANGER ZONE: THE COMING CONFLICT WITH CHINA (2022).
[134] NORRIS & INGLEHART, *supra* note 95.
[135] SEBASTIAN HEILMANN, RED SWAN: HOW UNORTHODOX POLICY-MAKING FACILITATED CHINA'S RISE (2017).

percent compared to democracies.[136] Other studies corroborate this finding, suggesting exaggerations between fifteen and thirty percent annually,[137] while more conservative estimates place overstatements at between half and one and a half percentage points per year.[138] Beyond inflated reporting, authoritarian rule also produces genuine long-term growth penalties: historical analysis of countries between 1920 and 2000 demonstrates that each additional decade under authoritarianism reduced average annual growth by about 0.37 percentage points.[139] In short, while authoritarian leaders often claim stellar performance, both measurement and reality reveal underperformance.

China as the Exception

China complicates this general picture. Since the late 1970s, it has overseen the largest poverty reduction in history, lifting more than 800 million people out of extreme poverty.[140] Between the early 1980s and the mid-2010s, Chinese GDP growth averaged between eight and ten percent annually, far outpacing democratic peers such as India or Brazil.[141] China's system of one-party rule facilitated long-term planning, enabling massive infrastructure projects, targeted subsidies for renewable energy and electric vehicles, and industrial strategies for 5G, high-speed rail, and artificial intelligence. In certain domains, Chinese firms have leapfrogged advanced democracies.[142] These achievements suggest that authoritarian systems can deliver extraordinary results under specific conditions, including market reforms, demographic scale, and deep integration with the global economy.

Innovation, Universities, and Patents

Recent evidence demonstrates that authoritarian rigidity has not prevented China from becoming an academic and innovation powerhouse. In the 2025 Academic Ranking of World Universities, Tsinghua and Peking Universities ranked among the top twenty-five institutions worldwide.[143] Tsinghua now ranks third globally in SCImago's research-impact metrics and sixth in the Nature Index for natural-science publications.[144] China surpassed the United States in overall scientific publications in 2016 and overtook it in Nature Index high-impact research by 2022.[145] Patent activity is equally striking: in 2021, Chinese entities filed 1.4 million patents, more than half of all global filings.[146] By 2023, China accounted for 47.2 percent of global patent

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[136] Luis R. Martínez, *How Much Should We Trust the Dictator's GDP Estimates?* (Becker Friedman Inst., Working Paper No. 2021-78, 2021).
[137] WORLD BANK, USING NIGHT LIGHTS TO ESTIMATE SUBNATIONAL GDP IN DEVELOPING COUNTRIES (2018); Roland Kupers, *Satellites to Authoritarian Regimes: Your GDP Is Inflated*, MANHATTAN INST. (2021).
[138] Christian Bjørnskov & Martin Rode, *Regime Types and Economic Growth: Evidence from Night-time Light Data*, 59 INT'L STUD. Q. 223, 223–37 (2015).
[139] Daniel Treisman, *The Causes of Corruption: A Cross-National Study*, 76 J. PUB. ECON. 399, 399–457 (2000); *Democracy Is Good for the Economy. Can Business Defend It?,* BROOKINGS INST. (2022).
[140] WORLD BANK, CHINA OVERVIEW: DEVELOPMENT AND POVERTY REDUCTION (2020).
[141] BARRY NAUGHTON, THE CHINESE ECONOMY: ADAPTATION AND GROWTH (2007).
[142] Mariana Mazzucato & Caetano Penna, *The Rise of Mission-Oriented State Investment Banks* (UNCTAD, Working Paper, 2015).
[143] *Academic Ranking of World Universities 2025*, SHANGHAIRANKING CONSULTANCY (2025).
[144] *SCImago Institutions Rankings 2025*, SCIMAGO; *Nature Index 2025*, NATURE.
[145] *Nature Index 2022 Annual Tables*, NATURE.
[146] *China Is the Largest Contributor to Global Patent Applications*, OUR WORLD IN DATA (2023).

applications, up from 32 percent a decade earlier.[147] In artificial intelligence, Chinese researchers filed over 38,000 patents between 2014 and 2023, compared with just 6,200 by U.S. counterparts.[148] In applied technology, China has become a dominant force in the electric-vehicle sector, fueled by more than $230 billion in subsidies since 2009; companies like BYD have even surpassed Tesla in global sales.[149] By mid-2025, China led in 57 of 64 frontier technologies, including semiconductors, solar panels, and drones.[150]

U.S. – China Diplomatic Frictions

Despite economic and academic achievements, cooperation between the United States and China remains severely constrained. The United States' 2022 National Security Strategy identifies China as the "only competitor with both the intent and capability to reshape the international order."[151] Beijing, on paper, emphasizes "non-alliance, non-confrontation, and not targeting third parties."[152] However, most recently China strengthened economic ties with Russia and North Korea amid brutal war in Ukraine and anticipating a conflict with Taiwan or at the very least preparing for such a possibility. From Washington's perspective, China's ongoing support for Russia's defense industry during the war in Ukraine—particularly via dual-use exports of machine tools and semiconductors—poisons trust and risks secondary sanctions.[153] Beijing's coercive economic actions against Lithuania in response to the opening of a Taiwan office triggered a WTO complaint by the European Union.[154] South China Sea militarization and increasingly aggressive diplomatic rhetoric push regional states toward deeper U.S. security partnerships, while the opacity created by China's 2023 counter-espionage law chilled foreign direct investment and produced negative FDI inflows for the first time since the 1990s.[155]

From Beijing's perspective, the United States has imposed punitive tariffs such as the 100 percent duty on Chinese electric vehicles and new solar and semiconductor tariffs, which it interprets as protectionism disguised as national security.[156] The administration's outbound-investment restrictions on Chinese AI, semiconductors, and quantum technologies are likewise perceived as efforts to slow China's modernization.[157] The proliferation of U.S. sanctions regimes—including secondary sanctions on banks and third-country entities—reinforces Beijing's narrative that

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147 WORLD INTELL. PROP. ORG., WORLD INTELLECTUAL PROPERTY INDICATORS 2024 (2024).
148 *China Files Vastly More AI Patents than US*, FIN. TIMES (May 2024).
149 *The Shift East: How China's EV Boom Powers Its Tech Rise*, TIME (June 2025).
150 *China Takes the Lead in the Global AI Tech Race—Can the US Charge Ahead?*, MONEYWEEK (July 2025).
151 THE WHITE HOUSE, NATIONAL SECURITY STRATEGY OF THE UNITED STATES OF AMERICA (2022).
152 Ministry of Foreign Affairs of the People's Republic of China, *Global Security Initiative Concept Paper* (2023).
153 European Commission, EU Sanctions Against Russia: Enforcement Reports (2023); U.S. Dep't of State, Press Briefing, PRC Support to Russia's Defense Industrial Base (2024).
154 Request for Consultations by the European Union, *China—Measures Concerning Trade in Goods and Services to or from Lithuania*, WTO Doc. WT/DS610/1 (Jan. 27, 2022).
155 U.S. DEP'T OF DEF., ANNUAL REPORT ON MILITARY AND SECURITY DEVELOPMENTS INVOLVING THE PEOPLE'S REPUBLIC OF CHINA (2023).
156 OFF. OF THE U.S. TRADE REP., TARIFF ACTIONS ON CHINESE ELECTRIC VEHICLES AND BATTERIES (2024).
157 Exec. Order on Addressing United States Investments in Certain National Security Technologies and Products in Countries of Concern (Aug. 9, 2023).

Washington is weaponizing the financial system without restraint.[158] The Taiwan issue remains the hardest obstacle: for Beijing, unification is non-negotiable; for Washington, the Taiwan Relations Act requires arms sales and defense preparedness.[159]

The economic costs to China of these policies are measurable. Tariff losses in the EU and U.S. EV markets have already constrained Chinese firms, with the EU imposing duties of up to 45 percent on €9.7 billion of imports in 2023.[160] Export controls have slowed China's semiconductor ambitions, while negative net FDI inflows in 2023 underscored the chilling effect of geopolitical tensions.[161] The IMF estimates that geoeconomic fragmentation could reduce global GDP by up to seven percent, with China more exposed than most due to its central position in supply chains.[162] The tail-risk of a Taiwan conflict looms largest: Bloomberg Economics estimates a $10 trillion global GDP hit, with costs falling disproportionately on China as the hub of global manufacturing.[163]

Competition and Trade Barriers

The contrast between open competition and trade barriers further clarifies the stakes. Economic theory demonstrates that openness reallocates resources toward productive firms, increases consumer choice, and strengthens innovation.[164] Empirical studies of tariff reductions in Indonesia and Chile show significant productivity gains from cheaper, higher-quality inputs.[165] In the United States, increased import variety raised welfare by an estimated 2.6 percent of GDP between 1972 and 2001.[166] Exposure to import competition has spurred patenting and IT adoption in Europe, consistent with "escape-competition" effects.[167] At the same time, openness creates distributional challenges: the "China shock" generated localized job losses in U.S. manufacturing regions, highlighting the need for robust adjustment policies.[168] But protectionism fares worse. IMF analysis shows tariff hikes reduce output and productivity while raising unemployment,[169] and studies of U.S.–China tariffs in 2018–2019 confirm that costs were largely passed on to domestic consumers, yielding

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158 DANIEL DREZNER, THE USES AND ABUSES OF WEAPONIZED INTERDEPENDENCE (2022).
159 Taiwan Relations Act, Pub. L. No. 96-8, 93 Stat. 14 (1979).
160 European Commission, Anti-Subsidy Investigation on Battery Electric Vehicles from China (2024).
161 State Administration of Foreign Exchange, Balance of Payments Report (Q4 2023).
162 INT'L MONETARY FUND, WORLD ECONOMIC OUTLOOK: GEOECONOMIC FRAGMENTATION (2023).
163 *The $10 Trillion Cost of a Taiwan Conflict*, BLOOMBERG ECON. (Oct. 2023); RHODIUM GRP., THE ECONOMIC COST OF A TAIWAN CRISIS (2022).
164 Marc J. Melitz, *The Impact of Trade on Intra-Industry Reallocations and Aggregate Industry Productivity*, 71 ECONOMETRICA 1695, 1695–1725 (2003).
165 Mary Amiti & Jozef Konings, *Trade Liberalization, Intermediate Inputs, and Productivity: Evidence from Indonesia*, 97 AM. ECON. REV. 1611, 1611–38 (2007); Nina Pavcnik, *Trade Liberalization, Exit, and Productivity Improvements: Evidence from Chilean Plants*, 69 REV. ECON. STUD. 245, 245–76 (2002).
166 Christian Broda & David E. Weinstein, *Globalization and the Gains from Variety*, 121 Q.J. ECON. 541, 541–85 (2006).
167 Nicholas Bloom, Mirko Draca & John Van Reenen, *Trade-Induced Technical Change? The Impact of Chinese Imports on Innovation, IT, and Productivity*, 83 REV. ECON. STUD. 87, 87–117 (2016).
168 David Autor, David Dorn & Gordon Hanson, *The China Syndrome: Local Labor Market Effects of Import Competition in the United States*, 103 AM. ECON. REV. 2121, 2121–68 (2013).
169 Davide Furceri, Swarnali A. Hannan, Jonathan D. Ostry & Andrew K. Rose, *Macroeconomic Consequences of Tariffs* (Int'l Monetary Fund, Working Paper No. 19/9, 2019).

net welfare losses.[170] Concentrated market power also blunts innovation: when one country or a handful of firms dominate, markups rise and incentives to innovate diminish.[171]

Universities, Media Symbiosis, Communication – and Cross-Border Detente Potential

For universities facing federal funding cuts, adaptation requires new institutional models. Micro-venture-capital funds at universities can provide small, flexible pools of risk capital that bridge funding gaps for early-stage ventures, as demonstrated by initiatives like Stanford's StartX and MIT's E14 Fund. [172]] Partnerships between academia and specialized media outlets can create a symbiotic relationship, translating academic findings for public audiences while diversifying revenue for both sides; The Conversation has pioneered such partnerships with considerable success. [173] Proactive communication channels allow universities to counter misinformation and mobilize public opinion around the economic and social returns of research, a necessity underscored by proposals to slash NIH budgets by nearly twenty percent.[174]

Crucially, this academia–media symbiosis can—and should—be designed cross-border. Mobilizing foreign alumni networks to anchor micro-VC funds, open foreign markets, and connect research to international media partnerships can diversify capital and audiences while building reputational resilience. Oxford's cross-border innovation funds show such arrangements are feasible.[175] Extending these partnerships across borders could yield an additional benefit: creating channels of communication that not only protect universities from domestic austerity but also promote mutual understanding between the United States and China. Shared platforms where academics and journalists collaborate across borders can normalize the notion of "competitive partnership," redirect attention to joint gains in health, climate, and technology, and—over time—pave the way for détente alongside greater, healthier competition. The primary goal remains mitigation of research and education cuts; the secondary dividend is geopolitical: a thicker, civilian infrastructure of knowledge exchange that reduces misperception and supports selective cooperation even amid structural rivalry.

The evidence demonstrates that authoritarianism generally produces inflated statistics and slower long-term growth, yet China remains a striking exception, with extraordinary achievements in poverty reduction, technological leadership, and academic prominence. China's rise has coincided with worsening diplomatic frictions that limit opportunities for cooperation with the United States, but the logic of open competition over protectionism remains robust. At the institutional level, universities can adapt to federal retrenchment by building micro-VCs, partnering with media, and

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[170] Mary Amiti, Stephen J. Redding & David E. Weinstein, *The Impact of the 2018 Tariffs on Prices and Welfare*, 33 J. ECON. PERSPS. 187, 187–210 (2019).
[171] Philippe Aghion, Nick Bloom, Richard Blundell, Rachel Griffith & Peter Howitt, *Competition and Innovation: An Inverted-U Relationship*, 120 Q.J. ECON. 701, 701–28 (2005).
[172] Fiona Murray, Scott Stern & Georgina Campbell, *The MIT Innovation Initiative and Entrepreneurial Ecosystem* (MIT Working Paper, 2019); *StartX Impact Report* (Stanford Univ., 2021).
[173] Andrew Jasinski, T*he Conversation: A Case Study in Academic–Media Partnerships*, 25 J. HIGHER EDUC. OUTREACH & ENGAGEMENT 35, 35–49 (2021).
[174] CONG. RSCH. SERV., FEDERAL RESEARCH AND DEVELOPMENT FUNDING: FY2018 (2017).
[175] OXFORD UNIVERSITY INNOVATION, OXFORD SCIENCES INNOVATION ANNUAL REPORT 2021 (2021).

mobilizing alumni globally. If extended across borders, these strategies can sustain research, improve public understanding, and serve as instruments of soft diplomacy—nudging U.S.–China relations toward managed competition and targeted cooperation, even as constitutional innovation seeks to balance liberty with effectiveness at home.

Industrial Overcapacity, Strategic Underinvestment

China's aggressive industrial policy has produced extraordinary scale in clean-energy manufacturing, but also severe imbalances. In 2024, Chinese firms manufactured roughly 588 GW of solar panels, far exceeding global demand of about 451 GW, leaving utilization rates near 54 percent and billions in industry losses.[176] This glut forced Beijing to intervene, pressing companies to shutter under-used production lines.[177] On one level, the resulting low global panel prices represent an historic opportunity for accelerated decarbonization. But from another angle, the United States and European Union failed to take advantage of these gluts, instead reinforcing tariffs and narrowing market access.[178]

By contrast, the U.S. response has been hesitant and fractured. The Inflation Reduction Act (IRA) initially promised to transform domestic clean-energy deployment by guaranteeing long-term tax incentives.[179] Yet by mid-2025, legislative rollbacks under the *One Big Beautiful Bill* (OBBB) and executive freezes had sharply curtailed its effectiveness.[180] More than $14 billion in projects were canceled or delayed in 2025 alone, undermining domestic clean-energy build-out.[181] Meanwhile, Washington raised Section 301 tariffs on Chinese EVs, batteries, and solar cells, creating the paradox of high tariffs with weakening domestic subsidies.[182] Instead of capturing the gains from cheap Chinese solar output, U.S. policy heightened costs while slowing deployment.

Europe followed a similar path. Confronted with overcapacity, the European Commission imposed duties as high as 45 percent on Chinese EV imports in 2024.[183] In parallel, the EU has moved to accelerate its own *Net-Zero Industry Act* funding schemes.[184] While this can be justified as a defense of strategic autonomy, the combined U.S.–EU stance risks missing the global climate dividend from low-cost Chinese production.

Geopolitics looms large in these choices. China's tacit economic support for Russia since its invasion of Ukraine has hardened European and U.S. policy elites

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[176] *China Steps in to Tame Animal Spirits as Solar Sector Racks Up Billions in Losses*, FIN. TIMES (Sept. 2025).
[177] *Id.*
[178] *Fact Sheet: Section 301 Tariff Increases on EVs, Batteries, and Solar Cells*, WHITE HOUSE (May 14, 2024).
[179] RESOURCES FOR THE FUTURE, PROJECTED IMPACTS OF REPEALING THE SECTION 45Y AND 48E TECHNOLOGY-NEUTRAL CLEAN ELECTRICITY TAX CREDITS (2025).
[180] *The "One Big Beautiful Bill" Act—Navigating the New Energy Landscape*, SIDLEY AUSTIN LLP (July 2025).
[181] *$14 Billion in Clean Energy Projects Have Been Canceled in the US This Year, Analysis Says*, ASSOC. PRESS (Mar. 2025).
[182] Fact Sheet, *supra* note 178.
[183] *EU Slaps Tariffs on Chinese EVs*, REUTERS (Oct. 29, 2024).
[184] European Commission, Net-Zero Industry Act Briefing (2024).

against cooperative clean-energy integration.[185] Beijing's provision of dual-use goods, expanded trade flows, and rhetorical cover for Moscow's war effort has tied the climate question to security concerns in Europe.[186] Likewise, China's refusal to engage in meaningful political dialogue over Taiwan has deepened U.S. distrust, ensuring that Chinese industrial overcapacity is perceived less as a decarbonization opportunity than as a strategic threat.[187]

Had Beijing emphasized political recognition of Taiwan or distanced itself economically from Russia's war, transatlantic policymakers might have approached the solar glut differently. Cheap Chinese panels could have been framed as a stabilizing global public good rather than as a coercive lever of strategic dependency. Instead, distrust has fused climate, trade, and security into a reactive tariff-heavy posture. The result is an ironic misalignment: China bleeds cash from over-investment, while the U.S. and EU forgo cheap supply in the name of industrial defense—delaying climate goals on all sides.

In short, industrial policy and geopolitics have collided. China's economic decisions created cost advantages but also strategic suspicion. The U.S. and EU, preoccupied with energy security, Taiwan, and Russia, now risk combining underinvestment with over-protectionism—a policy mix that is neither economically efficient nor climatically sustainable.

(Student Editor for this Article: Wenjia Zhang)

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185 *China and Russia's Economic Ties After Ukraine* (BROOKINGS INST., Policy Brief, 2024).
186 *China's Support for Russia's War Economy*, EUR. COUNCIL ON FOREIGN RELS. (Mar. 2025).
187 *The Taiwan Question and U.S.–China Relations*, COUNCIL ON FOREIGN RELS. (2024).

DIGITAL AUTHORITARIANISM AND HUMAN RIGHTS: RECONCILING NATIONAL SECURITY AND THE RIGHT TO PRIVACY

Syed Shaharyar Ahmed*

Abstract: Digital technologies are now being used strategically by countries for conducting surveillance, exerting control and repressing people which have given birth to digital authoritarianism. This phenomenon poses severe risks to the international human rights framework, specifically pertaining to the right to privacy as well as the freedom of expression. Governments across the democratic as well as authoritarian systems are rapidly incorporating tools of mass-surveillance, facial recognition mechanisms, data analytics driven by AI, as well as intrusive cyber laws under the guise of national security. This research paper aims to navigate the rift between state security and individual digital rights, such as the right to privacy while assessing how the progressing technologies have removed the barrier between legitimate security interests and systemic violation of human rights. The paper conducts a comparative analysis of legal frameworks across various jurisdictions to determine how digital governance frameworks influence the balance between state independence and human rights. Lastly, the paper suggests a rights-oriented regulatory framework which incorporates accountability, proportionality, as well as privacy-by-design guidelines into the national security system, ensuring that progress in technology is not made at the cost of fundamental rights.

Keywords: Digital Authoritarianism; Digital Surveillance; Mass Surveillance; Human Rights; Digital Rights; Right to Privacy

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INTRODUCTION

The integration of digital technologies within the sectors of governance, national security as well as law enforcement has occurred at an unprecedented rate in recent years. Although these technologies strive to provide enhanced protection and efficiency, they also pose severe risk of being deployed for discretionary and authoritarian practices. The phrase "digital authoritarianism" refers to this concept as it encompasses the strategic deployment of digital devices by states for conducting mass surveillance, enforcing censorship as well as exerting political control. In contrast to the traditional modes of authoritarianism, wherein reliance is fundamentally placed on hard power and coercion, digital authoritarianism works through a more subtle yet invasive framework which involves manipulation, processing and regulation of information.[1]

The twenty-first century has observed an unprecedented incorporation of digital technologies into the sectors of law enforcement, government as well as national security. Although these technologies strive to provide efficacy, improved security as well as predictive potential, they also carry severe concerns of being deployed for authoritarian use. The term digital authoritarianism refers to this concept. It is basically the strategic deployment of digital technologies by countries for conducting mass surveillance, enforcing censorship, as well as establishing political dominance. In contrast to the traditional modes of authoritarianism, which are mostly dependent on physical dominance, digital authoritarianism works through a more covert yet invasive approach for processing, analyzing and manipulating information. In this regard, the digital landscape has become a platform for not merely national security but also for revamping the power dynamics between the citizens and the state.[2]

The paradigm shift towards digital authoritarianism cannot be separated from the post-9/11 security framework. The terrorist attacks which occurred on 11th of September 2001, led to a seismic shift towards global governance, specifically in the enhancement of national security mechanisms. States across the globe revisited their policies concerning the narrative of counterterrorism, thereby validating extraordinary surveillance mandate under the guise of protecting its citizens. The enactment of USA Patriot Act in the United States, as well as the Investigatory Powers Act in the United Kingdom, and various other counterterrorism legislative frameworks in Europe and Asia demonstrate how national security occupied a key position, even surpassing protection of fundamental freedoms.[3] Surveillance technologies, which were once limited to merely intelligence-based operations, have now been deployed in usual practices and border control, with the validation that digital data collection is required for predicting future attacks. This narrative has validated the breach of right to privacy and other civil protections, which laid the groundwork for digital authoritarianism

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[1] Tiberiu Dragu & Yonatan Lupu, *Digital Authoritarianism and the Future of Human Rights*, 75 INT'L ORG. 991 (2021).

[2] *Id.*

[3] Orin S. Kerr, *Internet Surveillance Law after the USA Patriot Act: The Big Brother That Isn't* (2002), https://doi.org/10.2139/ssrn.317501.

practices under the guise of national security, even in countries with democratic governments.[4]

The right to privacy has been safeguarded under various international human rights frameworks. For instance, Article 12 of the Universal Declaration of Human Rights (UDHR) provides for protection of individual's liberty, privacy, and family against any unwanted interference. This principle was further reinforced in biding treaties such as under Article 17 of the International Covenant on Civil and Political Rights (ICCPR), which provides protection against unlawful surveillance and mandates the states to safeguard the privacy of individuals from both private and public interference.[5] In the European Legal Framework, the European Convention on Human Rights (ECHR) has provided under Article 8 that the right to privacy and family life needs to be respected and the same has been upheld by the European Court of Human Rights in various landmark judgments. It can be collectively said that these legal frameworks illustrate that privacy is a fundamental right and one of the pillars of a democratic society which ensures freedom, autonomy and dignity.[6]

Despite these safeguards, the emergence of digital technologies has created various gaps between legal frameworks and technological advancements. International human rights law, which was developed decades ago, did not cater to the transformative potential of artificial intelligence, big data analytics or even biometric surveillance. Consequently, while treaties provide for the right to privacy, they lack contextual relevancy while addressing new digital threats like algorithmic profiling, predictive policing as well as automated decision-making.[7] This leads to a severe research gap as to whether legal and policy frameworks reconcile the legitimate national security interests with the need to protect right to privacy and other human rights in a landscape governed by digital technologies? This challenge gets further complicated through the deployment of surveillance technologies by private companies, blurring the distinction between corporate accountability and state responsibility. This research paper will carefully examine how existing legal frameworks regarding human rights can be revisited, reinterpreted or amended so that it could tackle the problems created through digital authoritarianism. Lastly, the research aims to establish that digital advancement does not directly lead towards authoritarianism if adequate legal, ethical, and institutional safeguards are implemented.

I. DIGITAL AUTHORITARIANISM AND HUMAN RIGHTS

Digital authoritarianism has become a global challenge in the digital age, which shows the ways in which governments have deployed digital technologies for exerting influence, suppressing dissent, as well as revamping the relationship between country and its people. There is an interplay of three dominant concepts when studying digital authoritarianism i.e. surveillance authoritarianism, information control and cyber sovereignty. Surveillance authoritarianism refers to conducting pervasive supervision

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[4] Gabriele Cosentino, *Digital Authoritarianism in the Middle East: Deception, Disinformation and Social Media*, 13 BUSTAN: MIDDLE E. BOOK REV. 190 (2022).
[5] Eliza Watt, *The Right to Privacy and the Future of Mass Surveillance*, 21 INT'L J. HUM. RTS. 773 (2017).
[6] Bart Van Der Sloot, *Decisional Privacy 2.0: The Procedural Requirements Implicit in Article 8 ECHR and Its Potential Impact on Profiling*, 7 INT'L DATA PRIV. L. 190 (2017).
[7] *Id.*

of people and communities through devices such as artificial intelligence-driven facial recognition, data-extracting algorithms as well as biometric identification. These technologies enable states for tracking social trends in real time, which leads to the creation of a "panoptic digital environment". China is the most prominent example of this phenomenon. For instance, through deployment of its advanced networks of surveillance cameras, incorporation of artificial intelligence, and mechanisms like Social Credit Score, the Chinese government has legitimized surveillance is a device for effective governance as well as social engineering.[8]

Information control includes censorship, regulation of online information as well as disinformation practices. It is not just about limiting access towards content but also about revamping the media which is consumed by the citizens. China's "Great Firewall" is an embodiment of this framework. Through scrutinizing foreign websites, limiting access to global sites, and promoting state-sponsored narratives, China has established a self-reliant information ecosystem. Russia has also worked along the same lines which can been seen through the enactment of Sovereign Internet Law of 2019 through which Russia agencies have the mandate to disconnect the Russian part of the internet from the global web, which shows centralized governmental control over digital sharing of information.[9] Lastly, cyber sovereignty is based on the principle that countries should exert complete control over digital activities within their territorial limits, which is similar to the concept of traditional sovereignty. However, the concept is often described as a defensive framework towards foreign interference, while it has been deployed by countries like Iran, Russia and China for validating the restrictive measures for curbing digital freedom. It is interesting to note that digital authoritarianism is not merely confined to authoritarian regimes. Countries with democratic regimes have also started using digital authoritarianism, mostly due to the growing trend of exporting surveillance technologies to these states. For example, Chinese surveillance devices have been used in Latin America as well as Africa, which shows that China has expanded the digital authoritarianism beyond its territorial limits.[10]

The right to privacy along with the freedom of expression are violated when mass surveillance is conducted under digital authoritarianism. Surveillance and censorship collectively violate Article 19 of the ICCPR as well as Article 10 of the ECHR, as both provisions provide freedom for obtaining, receiving as well as sharing information.[11] In this regard, privacy and freedom of expression are mutually relevant and coherent, as people cannot dissent freely without adequate privacy while without freedom of expression, there is no point in having privacy protections. The digital landscape has introduced new technicalities for these rights. For instance, algorithmic profiling as well as predictive analysis violate not only privacy but also the freedom of thought and expression, which potentially halt free speech when individuals are aware that they are under surveillance. In the same manner, mass information collection often

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[8] Dimitar Lilkov, *Made in China: Tackling Digital Authoritarianism*, 19 EUR. VIEW 110 (2020).

[9] Anna Litvinenko, *Re-Defining Borders Online: Russia's Strategic Narrative on Internet Sovereignty*, 9 MEDIA & COMM. 5 (2021).

[10] Monique Taylor, *China's Digital Authoritarianism* (2022) https://doi.org/10.1007/978-3-031-11252-2.

[11] Amy Shepherd, *Extremism, Free Speech and the Rule of Law: Evaluating the Compliance of Legislation Restricting Extremist Expressions with Article 19 ICCPR*, 33 UTRECHT J. INT'L & EUR. L. 62 (2017).

happens through private companies which provides states with such access, which raises severe concerns regarding human rights and their implementation in the digital ecosystem.[12]

II. EVOLUTION OF DIGITAL SURVEILLANCE AND SECURITY NARRATIVES

The terrorist attacks of September 11, 2001, marked a significant shift towards the evolution of digital surveillance. In the light of these incidents, countries, specifically the United States and the European nations, decided to incorporate sweeping legislative and procedural measures for enhancing national security, mostly at the cost of individual privacy. One of the most fundamental developments was the enactment of the USA Patriot Act in 2001, which largely enhanced the powers of intelligence as well as law enforcement agencies for intercepting communications, obtaining personal records, as well as engaging the bulk surveillance.[13] This legislative framework allowed the National Security Agency (NSA) to implement surveillance mechanisms such as PRISM, which scrutinized email as well as other digital communications of both US residents as well as foreign nationals. Although, labelled as being temporary and extraordinary step, the broad and mostly unchecked authority allowed under these schemes got normalized, which led to the emergency of surveillance exceptionalism.[14]

In Europe, similar trends have been observed, although only through the perspective of data retention and digital surveillance. The European Union Data Retention Directive (2006-2014) allowed telecommunication providers to retain the metadata for specific timeframes for assisting law enforcement agencies. Even though this directive was later scrapped by the European Court of Justice owing to its disproportionate interference with the right to privacy, the directive shows the initial stages of legitimizing mass data collection. Across both regions, the post-9/11 era entrenched the notion that extended surveillance is a justified response towards modern security challenges, therefore, revamping the limitations of state power in the digital landscape.[15]

Although authoritarian regimes have long used surveillance for maintaining social control, democratic states started adopting such procedures which removed the difference between security and authoritarianism. This is often referred to as "creeping authoritarianism". Wherein, apparently temporary security initiatives become part of the permanent institutional protocols. For instance, the expanded police authority, warrantless surveillance as well as algorithmic profiling of people. The normalization of such procedures shows that digital authoritarianism is not limited to autocratic countries but can also manifest in liberal democracies as well under the shadow of

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[12] Katie Pentney, *The Right of Access to "Reliable" Information Under Article 10 ECHR: From Meagre Beginnings to New Frontiers*, EUR. CONVENTION ON HUM. RTS. L. REV. 1 (2024).
[13] Kerr, *supra* note 3.
[14] Tyler Wall & Torin Monahan, *Surveillance and Violence from Afar: The Politics of Drones and Liminal Security-Scapes*, 15 THEORETICAL CRIMINOLOGY 239 (2011).
[15] Marie-Pierre F. Granger & Kristina Irion, *The Court of Justice and the Data Retention Directive in Digital Rights Ireland: Telling off the EU Legislator and Teaching a Lesson in Privacy and Data Protection*, 39 EUR. L. REV. 834 (2014).

safeguarding citizens against cybercrime or terrorism.[16] Another contextual dimension to this concern is the export of surveillance technologies by western nations to underdeveloped states. Corporations which develop such sophisticated technologies mostly sell these technologies globally including to countries with weak human rights safeguards. For examples, companies in the United States and the European Union, have provided surveillance technologies in Middle Eastern countries for monitoring political activities. The global diffusion of such infrastructure raises severe doubts regarding corporate accountability and the indulgence of democratic regimes in conducting human rights violations.[17]

A new layer to surveillance landscape was added owing to the outbreak of the Covid-19 pandemic, showing how health crisis can enhance the incorporation of digital technologies. Contact tracing applications were deployed across the globe by several states along with digital health passes as well as biometric identification for tracking the infection rate and enforcing quarantines. Although these steps were implemented for ensuring public health and safety, they also led to the creation of certain other problems pertaining to privacy and civil liberties. In contrast to the security measures, pandemic surveillance mostly influenced the entire population, instead of targeting specific group of suspects, which raises doubts regarding the factors or temporality and proportionality. Many contract tracing applications collected in-depth geo-location as well as personal-health information, which was often processed via private platforms in collaboration with governments.[18] In some states, data retention practices lack adequate transparency, with ambiguous collection policies and supervisory frameworks. For instance, reports from various European states mentioned risks pertaining to centralizing sensitive health information without autonomous auditing or judicial scrutiny. The public health ground, though urgent, exposed the ease with which most tools for digital surveillance could be rapidly expanded and normalized, potentially creating standards for conducting future surveillance which might be non-health related. For example, the indefinite retention of metadata as per the post-9/11 mechanisms and the extended data retention during the pandemic highlight the difficult of reversing these measures once they have been legitimized. Furthermore, the reliance towards private companies for obtaining technology further complicates the accountability procedures. Judicial scrutiny and legislative oversight are mostly inadequate where algorithms or corporate platforms are involved, which leads to a governance defect where human rights violations can happen without having access to remedial forums.

III. CASE STUDIES: COMPARATIVE PERSPECTIVES

One of the most advanced and state organized model of digital surveillance is currently being operated by China, where security measures and authoritarian framework converge. Central to this framework is the Social Credit System (SCS), which is a national framework that incorporates fiscal records, online trends as well as interpersonal associations in the form of a unified scoring system. This framework, supported by extended use of facial recognition as well as data integration, awards

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[16] Marcus Michaelsen, *Far Away, So Close: Transnational Activism, Digital Surveillance and Authoritarian Control in Iran*, 15 SURVEILLANCE & SOC'Y 465 (2017).
[17] *Id*.
[18] Samuel Ribeiro-Navarrete et al., *Towards a New Era of Mass Data Collection: Assessing Pandemic Surveillance Technologies to Preserve User Privacy*, 167 TECHNOLOGICAL FORECASTING & SOC. CHANGE 120681 (2021).

compliance and punishes dissent via limitations on employment, travel as well as access to public spheres. Although the state has framed this system as a device for increasing "trustworthiness" and national security, yet it operates as a mode of systemic repression and behavioral regulation. Its use is more prevalent in the Xinjiang region, where the government has employed mass surveillance tools for controlling the Uyghur people. Technologies include iris scans, DNA sampling, AI-driven predictive policing frameworks as well as facial recognition cameras. China has justified its use under the guise of national security and counter-extremism, through depicting surveillance as a crucial tool for preventing terrorism and social anarchy. However, it has been observed that these initiatives far exceed the principle of proportionality which has been enshrined in the International Human Rights Law.[19]

The European Union has a different framework in which surveillance is incorporated within a robust network of human rights protections, yet rift remains between security measures and privacy safeguards. The incorporation of the General Data Protection Regulation (GDPR) in 2018 has set a global standard in data privacy, establishing guidelines for consent, accountability, as well as data minimization. GDPR aims to provide individuals with digital rights while minimizing the extent of governmental interference with their personal data. Nonetheless, security issues, specifically regarding terrorism, have forced the EU towards extended surveillance frameworks. The revocation of Data Retention Directive by the Court of Justice of the European Union (CJEU) highlighted judicial activism against blanket data retention, however, member states have continued to incorporate legislation which seeks to reincorporate the mass-monitoring framework. Schrems *I (2015)*[20] as well as *Schrems II (2020)*[21] are landmark decisions in this regard through which it was stressed that privacy protections must be ensured during the transatlantic transfer of data. Furthermore, the *Schrems II*, even rendered the EU-US Privacy Shield ineffective owing to concerns regarding the mass-surveillance activities of the United States, elaborating the divergence between American security-focused data retention and European rights-driven frameworks.

The recently enacted Digital Services Act (DSA) as well as the Digital Markets Act (DMA) aim to regulate online content, with a primary focus on transparency, competition as well as accountability. Although not strictly surveillance-oriented laws, they highlight the EU's focus towards improving democratic scrutiny on powerful tech actors which often cooperate with states in activities related to counterterrorism or control of disinformation. Yet, there are some disputes still persistent. It has been observed that counterterrorism directives often push member states to extend their surveillance mechanism in various ways which might be violative of the European Convention on Human Rights (ECHR), specifically the Article 8 (right to private life). The EU framework shows the complications faced by democratic regimes when it comes to balancing security directives with effective human rights safeguards,

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[19] James Leibold, *Surveillance in China's Xinjiang Region: Ethnic Sorting, Coercion, and Inducement*, 29 J. CONTEMP. CHINA 46 (2019).
[20] Nina Holst-Christensen, *Sag C-498/16 - Maximilian Schrems (1. 2018 Side 52)*, 25 EU-RET & MENNESKERET 52 (2018).
[21] Xavier Tracol, *"Schrems II": The Return of the Privacy Shield*, 39 COMPUTER L. & SECURITY REV. 105484 (2020).

elaborating that even robust legal actions might be forced to compromise privacy when confronted with severe threats.[22]

The surveillance framework of Pakistan as well as the rest of the Global South shows inadequate institutional protections and national security priorities creating opportunities for violations of human rights. Pakistan's security paradigm is heavily dependent on national security legal framework which allows excessive discretionary powers to the intelligence agencies, mostly with minimum judicial oversight. The Prevention of Electronic Crimes Act (PECA) 2016, for example, has enabled the authorities to intercept digital communications under the guise of cybersecurity and counterterrorism. Although it is validated as crucial for combating terrorism and online extremism, PECA has mostly been criticized for its ambiguous provisions, excessive discretionary powers with the potential to be misused against political leaders, journalists or activists. A major shift in Pakistan has occurred after the integration of biometric surveillance system which has been implemented through the National Database and Registration Authority (NADRA). NADRA hosts one of the world's biggest databases for biometric information of citizens, involved in collecting fingerprints, data regarding facial recognition as well as family relationships. Although ostensibly deployed for verification of identity, counterterrorism as well as welfare distribution, the system has created doubts regarding data misuse, insufficient safeguards, and exclusionary measures where members from the marginalized communities are not able to avail such services due to missing biometric information.[23]

In contrast to the EU, Pakistan does not have a comprehensive framework regarding data protection. Draft bills have been circulating ever since 2018, to draft an effective data protection framework, but all of these bills have been criticized for lacking clarity in key rems such as the absence of an independent regulator or providing excessive powers to the government agencies as well as insufficient safeguards against cross-border data transfer. This institutional incompetence has led citizens to be vulnerable against state surveillance, with limited forums for redressal or accountability. Beyond Pakistan, the Global South has shown similar trends, where surveillance technologies are mostly taken from China, Europe or the United States, but used by countries with weaker democratic systems and rule-of-law frameworks. This leads to double vulnerability faced by the masses due to the absence of effective legal protection for human rights and intrusive ability of such imported technologies. The outcome is an increasingly global surveillance divide, where citizens across the Global South are disproportionately vulnerable to uninterrupted surveillance.[24]

IV. LEGAL AND ETHICAL CHALLENGES

The quick development of digital surveillance technologies had led to a lot of ethical and legal concerns, most of which arise from the complication of recalibrating legitimate security risks along with the preservation of human rights. Although governments validate these initiatives under the guise of national security as well as

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[22] Christoph Busch, *Platform Regulation Beyond DSA and DMA: Which Role for the P2B Regulation?*, 12 J. ANTITRUST ENF'T 201 (2024).

[23] Ihsan Yilmaz and others, *Religious Populism, Cyberspace and Digital Authoritarianism in Asia: India, Indonesia, Malaysia, Pakistan, and Turkey,* (2022) https://doi.org/10.55271/rp0001.

[24] Peter Dauvergne, *Facial Recognition Technology for Policing and Surveillance in the Global South: A Call for Bans*, 43 THIRD WORLD Q. 2325 (2022).

public order, their implementation often strays into the sectors which threaten human dignity, democratic accountability as well as international human rights framework. A prominent legal and ethical dilemma rests in the uncertainty between protection of citizens and monitoring them. Governments mostly utilize surveillance technologies for detecting espionage, terrorism or cybercrime. However, the similar technologies could easily be shifted towards handling political opposition, human rights activists, or even minority segments. For example, under the diverse "anti-extremism" or "anti-terrorism" frameworks, provides that China and Russia have validated mass surveillance campaigns which go beyond valid security concerns, effectively penalizing dissent.[25]

This rift is not confined to authoritarian systems. Even in liberal frameworks, legal instruments often don't possess the adequate precision for prevention of abuse. Uncertain terms like "public order" or "national security" in legislation enables states to unfairly limit rights under the shadow of safeguarding society. From a legal standpoint, this challenges the rules of proportionality and necessity provided in instruments like the International Covenant on Civil and Political Rights (ICCPR). Morally, it causes serious doubts regarding if societies are validating practices which eventually eradicate democratic freedoms.[26]

Another major concern is the extraterritorial nature of surveillance in this digital landscape. The 2013 Snowden revelations exposed the implications of United States along with allied intelligence operations, including the National Security Agency's (NSA) PRISM framework, that collected large cluster of data from users across the globe. Such initiative shows the jurisdictional defects in the domain of international law, where people away from a state's territory are subject to monitoring yet lack locus standi to tackle violations in foreign courts. This leads to a legal vacuum where states have duties under the human rights framework, enforcement is mostly jurisdictional. This outcome is that surveillance mechanisms can target populations from outside jurisdiction with limited scrutiny. European jurisprudence, like the Schrems cases, has attempts to resolve this defect through conditioning information transfers on adequate protections, yet such attempts are mostly limited by region. Extraterritorial surveillance has created a two-tiered system of rights, where citizens have safeguards, while non-citizens are treated as second-class digital subjects, deprived of adequate recourse.[27]

The role of private technology corporation leads to another degree of complexity. Companies such as Meta, Microsoft, Google as well as Amazon usually process, store and collect huge clusters of personal information, making them crucial intermediaries in global governance. Governments mostly rely on these corporation for supplying data or providing access points for mass surveillance. For instance, under the PRISM framework, major United States technology corporations were forced to provide intelligence authorities with access to user data. Apart from compliance with requests from government, corporations themselves actively develop and market surveillance technologies. Companies like the NSO Group, maker of the Pegasus spyware, have allowed authoritarian systems in supervising journalists, opposition

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[25] Titus Stahl, *Indiscriminate Mass Surveillance and the Public Sphere*, 18 ETHICS & INFO. TECH. 33 (2016).
[26] *Id.*
[27] Marcin Rojszczak, *Extraterritorial Bulk Surveillance After the German BND Act Judgment*, 17 EUR. CONST. L. REV. 53 (2021).

leaders as well as activists.[28] This highlights the profit-based complicity of private actors, in which commercial factors often bypass ethical considerations. Legally, the problem rests in the fragmented regulatory framework while data protection frameworks like the GDPR have imposed obligations, they mostly address consumer privacy instead of the structural strength of Big Tech in allowing digital authoritarianism. Ethically speaking, the reliance on corporate bodies in matters pertaining to fundamental human rights leads to conflicting interests. When surveillance frameworks get privatized, systems for public accountability are weakened, raising doubts regarding fairness, accountability as well as the democratic legitimacy of such systems.[29]

Function creep is the extension of surveillance tools beyond the intended purpose, and it has become another grave concern. Technologies introduced as a response towards legitimate objectives, for instance pandemics or terrorism, are mostly realigned for diverse social or political influence. For instance, contact-tracing applications which were introduced during the phase of COVID-19, were retained or realigned by law enforcement agencies and immigration control. In the same way, national security databases initially intended for tackling counterterrorism might be used for conducting surveillance and monitor political dissents or regulating usual behavior.[30] The same has been observed in the incorporation of China's security devices into the Social Credit System. From a legal perspective, function creep violates the standard of legality, which mandates laws to be precise, reasonably apprehensible, foreseeable as well as evident in their application. When technologies evolve without adequate legal safeguards, citizens are left vulnerable against changing uses which were never democratically allowed. From an ethical standpoint, function creep raises concern regarding the trust in public bodies, the social contract would be devastated if the emergency measures were to achieve permanence as it would lead to skepticism and distrust towards state authority.[31]

V. RECONCILING NATIONAL SECURITY WITH PRIVACY RIGHTS

The problem of striking a balance between individual privacy rights and the national security measures is of the most crucial ethical and legal dilemmas of the digital landscape. Countries have a legitimate objective in protecting citizens against cyber threats, terrorism as well as organized crimes. However, such measures should not violate the fundamental rights provided under the international human rights framework. In order to achieve this harmony, frameworks based on proportionality, scrutiny, technological protections, as well as international collaborate are required. The jurisprudential evolution in the human rights paradigm calls for application of necessity as well as proportionality tests towards surveillance incentives. As per Article 8 of the European Convention on Human Rights (ECHR), the right to privacy can be limited on the grounds of national security, but only if such limitations are "necessary in a democratic state".

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[28] Gineen K. Abuali, *The Chilling of Religious Liberty in the Age of Digital Surveillance*, 54 SETON HALL L. REV. 533 (2023). <https://doi.org/10.60095/apeg7862>.
[29] *Id.*
[30] Bert-Jaap Koops, *The Concept of Function Creep*, 13 L. INNOVATION & TECH. 29 (2021).
[31] Daithí Mac Síthigh & Mathias Siems, *The Chinese Social Credit System: A Model for Other Countries?*, 82 MOD. L. REV. 1034 (2019).

In the case of *S. and Marper v. United Kingdom (2008)*, the European Court of Human Rights (ECtHR) ruled that retention of DNA samples for an indefinite period, from people not convicted of crimes, violated the vires of Article 8, emphasizing that blanket measures fail the test of proportionality if not done without adequate individualized assessment.[32] Similarly, in the case of *Big Brother Watch v. United Kingdom (2021)*, the Court held that bulk interception frameworks must be coupled with adequate protection mechanisms, such as the inclusion of independent supervision and autonomous authorization for the prevention against being misused. These judgments demonstrate that surveillance incentives need to be modified, target-specific, as well as coupled with robust protections instead of being indiscriminate or excessively diverse.[33]

A second element in reconciling privacy and security rests in the adoption of autonomous oversight and accountability frameworks. Judicial authorization of surveillance measures is a crucial protection against arbitrary encroachment. Furthermore, independent supervisory authorities such as data protection agencies as well as parliamentary intelligence committees are crucial for reviewing state actions. The requirements of transparency would enhance accountability. For instance, annual public reports showcasing the number of surveillance warrants issued enables for effective democratic scrutiny. In the absence of such checks and balances, surveillance risks transforming into a device for exerting political influence rather that ensuring national security.[34]

Other than legal scrutiny, technological incentives can also minimize privacy breaches. For instance, the deployment of Privacy-enhancing technologies (PETs), like differential privacy as well as secured multi-party computation, enables for information to be assessed without exposing the identities of relevant individuals. Encryption is also one of the prominent tools for protecting communications against unwanted interception. Anonymization methods, when properly executed, can also ensure that surveillance mechanisms focus on behavioral patterns instead of identifying individuals. More importantly, incorporating these protections by design, referred to as "privacy by design", allows for protections of human rights, which is a rudimentary principle in deployment of emerging technologies. This approach is in line with the GDPR framework, which ensures data protection through design and by default.[35]

Lastly, to reconcile privacy and national security, there is a dire need for establishing harmonized global standards. Disparities exist in various data protection frameworks which creates confusion, uncertainty, loopholes, thereby allowing states and companies to exploit some jurisdictions. These gaps can be reduced through ensuring international cooperation. The United Nations Human Rights Council (UNHRC) has approved resolutions establishing that the same human rights guaranteed

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[32] Simon A. Cole, *De-Neutralizing Identification: S. & Marper v. United Kingdom, Biometric Databases, Uniqueness, Privacy and Human Rights*, *in* PALGRAVE MACMILLAN UK EBOOKS (2013), https://doi.org/10.1057/9781137367310_6.

[33] Monika Zalnieriute, *Big Brother Watch and Others v. the United Kingdom*, 116 AM. J. INT'L L. 585 (2022).

[34] Robert G. Patman & Laura Southgate, *National Security and Surveillance: The Public Impact of the GCSB Amendment Bill and the Snowden Revelations in New Zealand*, 31 INTELLIGENCE & NAT'L SECURITY 871 (2015).

[35] Shi-Cho Cha et al., *Privacy Enhancing Technologies in the Internet of Things: Perspectives and Challenges*, 6 IEEE INTERNET OF THINGS J. 2159 (2018).

offline, must also be protected online, thereby urging countries to revisit their surveillance frameworks and ensure compliance with human rights. The Council of Europe has also provided a binding mechanism regarding cross-border data protection in the form of modernized Convention 108+. Similarly, positive benchmarks have been established by the European Union through GDPR and judgments rendered by the Court of Justice, which has revamped the intellectual discourse regarding privacy protections. Without adequate standards, mutual legal assistance and cooperation, there is a severe risk that human rights would be vitiated through divergent privacy frameworks globally.[36]

VI. TOWARDS A NORMATIVE FRAMEWORK

The quick advancement of surveillance technologies as well as their increasing incorporation into the governance frameworks mandates the development of a cohesive normative paradigm which reconciles national security interests with the digital rights safeguards. Existing international frameworks, like the ICCPR as well as the ECHR, allows for foundational guidelines, yet the specific challenges of the digital era such as mass interference, biometric identification, algorithmic profiling as well as cross-border data transfers require a specific approach. For this objective, this research proposes a digital rights-security balance framework, which is targeted around four major pillars of proportionality, temporality, legitimacy and accountability.[37]

For surveillance incentives to be legal, they must be coupled with an accessible and accountable legal framework. Secretive or excessively diverse legislation risks violation both the vires of law and democratic principles. Legitimacy requires law to be clear, foreseeable in its implementation, as well as subject to judicial scrutiny and interpretation. Without this standard, surveillance actions might drift into discretionary misuse or political abuse. Legitimacy ensures that the powers of conducting surveillance are not exercised through emergency or executive measures alone, but rather through a proper channel that is democratic, transparent and which balances national security and rights-oriented protections.[38]

The principle of proportionality restricts the security measures to be within their legitimate limits and do not go beyond what is necessary. Surveillance must be targeted instead of being diversly indiscriminate, limiting the retention as well as collection of user data. Proportionality also mandates that a proper analysis is done regarding the legitimate objective, suitability for achieving it and finding less intrusive methods for obtaining such objective. Incorporating proportionality as a fundamental element in policymaking minimizes the risk of surveillance penetrating the population monitoring under the shadow of national security.[39]

Surveillance regimes need to be subjected to autonomous supervision mechanisms which could monitor compliance, prevent misuse as well as provide remedies for people whose rights have been violated. Accountability can operate on

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[36] Francesca Bignami & Giorgio Resta, *Human Rights Extraterritoriality: The Right to Privacy and National Security Surveillance* (2018), https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID3043771_code810317.pdf.

[37] *Id.*

[38] Peter Königs, *Government Surveillance, Privacy, and Legitimacy*, 35 PHIL. & TECH. (2022).

[39] *Id.*

various levels such as judicial authorization for intrusive actions, parliamentary supervision of intelligence authorities as well as robust data protection agencies empowered to analyze complaints. Furthermore, remedies should be accessible and efficient, individuals must have the right to seek redressal against unlawful surveillance, both nationally and internationally through platforms like UN Human Rights Committee or ECtHR. Without transparency, even ideally crafted laws could risk getting ignored in practice.[40]

Lastly, surveillance mechanisms should be limited by time and there should be periodic review assessments. Exceptional circumstances often could entail such measures as response to crises like in times of pandemic or terrorism, however this should lead the surveillance actions to gain permanence. Temporality tackles the threat of "function creep" through mandating governments for justifying the renewal of such powers, subjecting them to independent scrutiny and democratic oversight. Furthermore, temporality ensures that technologies introduced for purposes like contract-tracing during COVID-19, do not gain permanence as tools for exerting state control.

CONCLUSION

It can be conclusively said that the emergence of digital authoritarianism depicts one of the defining issues of the 21st century, revamping the canons of governance, personal freedom, and the international human rights framework. As states extend their dependence on surveillance technologies and data-oriented decision-making under the umbrella of national security, the delicate balance among collective security and personal rights faces severe strain. This research has highlighted that although technological innovation offers powerful tools to the sates for addressing concerns such as cybercrime, pandemics as well as terrorism, it also leads to the creation of new risks associated with violation of human rights, repression as well as democratic backsliding. The core issue lies not in if surveillance should be allowed, but in how it could be regulated so that legitimate security interests are addressed without violating the right to privacy and related human rights.

This research has elaborated how various jurisdictions have dealt with this issue. Authoritarian systems, exemplified through China's Social Credit System as well as extended use of biometric monitoring, deploy digital devices for institutionalizing control, often under the shadow of national security. Democratic systems, although formally committed towards granting human rights safeguards, have also drifted towards "creeping authoritarianism" through the extension of surveillance authority, as observed in the post-9/11 ecosystem in the United States and the counterterrorism systems of the European Union. The case of Pakistan as well as other Global South countries highlight the concerns where weak institutional protections and underdeveloped data protection frameworks leave citizens prone to state trespass and foreign surveillance. These comparative perspectives establish that the distinction between authoritarian and democratic digital trends in digital methods has been blurred, highlighting the dire need of legislative and normative reforms.

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[40] Arnaud Braud et al., *The Road to European Digital Sovereignty with Gaia-X and IDSA*, 35 IEEE NETWORK 4 (2021).

This research has proposed a Digital Rights-Security Balance framework, which is based on the principles of legitimacy, accountability, proportionality as well as temporality. These standards collectively ensure that surveillance mechanisms are legally sound, narrowly crafted, and independently scrutinized, which being subject to review or sunset clauses. More importantly, this framework stresses that privacy protection is equally important as national security, as privacy boosts trust in state authorities, allowing for collaboration and resilience against genuine threats. Furthermore, international collaboration through frameworks such as the GDPR, Council of Europe Conventions, is necessary for preventing excessive surveillance by states.

Lastly, the struggle against digital authoritarianism is also for the protection of democratic norms in the digital landscape. Through incorporating robust protections into the regulatory as well as legal frameworks, societies can tackle the normalization of surveillance exceptionalism while ensuring universal application of human rights. The objective is not just to regulate technology, but rather to make sure that technological strength serves humanity instead of subjugating it. In achieving such objective, the international community needs to carve a path where security and human rights are not seen as competing interests, but as mutually reinforcing canons of a fair and democratic digital landscape.

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