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SPICE

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LETTER FROM THE EDITORS

When friends, family, and acquaintances ask us what we study at the University of Pennsylvania, we proudly reply, “Philosophy, Politics, and Economics” - and are often met with confused, intimidated, or even skeptical stares. Despite these reactions, as PPE students we recognize the importance of our interdisciplinary education in the social sciences, and we value it enormously. The PPE discipline provides us with a foundation of knowledge to understand the institutions and social forces that shape our world while also training us to examine the political and economic environment with a critical eye. The papers published in this year’s edition of SPICE reflect the diverse range of scholarship that PPE students pursue as well as the remarkable achievements that can emerge from our dynamic range of studies.

Rethinking the Six-Day War: An Analysis of Counterfactual Explanations constructs a framework to evaluate a “what-if” situation, comparing counterfactual scenarios to analyze the inevitability of a transformational event in Arab-Israeli relations. Banal Behavior: A Study of Non-Choice examines the question of what it is to make a conscious decision and how will, thought, and action characterize our meaningful behavior. The Value of a Liberal Arts Education argues that a foundational approach to education not only has a place in the modern world, but is part of what makes us intrinsically human. Market Design in the Presence of Repugnancy: A Market for Children presents an illuminating analysis of repugnant transactions as constraints on a market, leading to deeper considerations of efficient allocations of scarce resources.

Together these papers represent scholarship from the Five Themes of Study that PPE students may pursue: Choice & Behavior, Ethics & the Professions, Distributive Justice, Public Policy & Governance, and Globalization. Of the many outstanding submissions we received this year, our four selections were truly exceptional and we are proud to present these papers as exemplary scholarship in their respective fields.
This journal would not be possible without the dedicated contributions of our authors, editors, and the faculty advisors of the PPE department. In particular, we extend our appreciation to Dr. Sumantra Sen for his guidance, support, and mentorship, which have been invaluable to us during our years at Penn.

To the students, parents, faculty, alumni, and friends of the PPE Program at Penn, on behalf of the SPICE Editorial Board, we hope that you enjoy this year’s issue and the interdisciplinary scholarship advanced by our students.

Sincerely,

Isabelle Sun
Co-Editor-in-Chief

Abby Tran
Co-Editor-in-Chief
Rethinking the Six Day War: An Analysis of Counterfactual Explanations

Limor Bordoley

Abstract
The Six Day War of June 1967 transformed the political and physical landscape of the Middle East. The war established Israel as a major regional power in the region, while the Israeli territorial acquisitions resulting from the war have permanently marred Israel’s relationship with its Arab neighbors. The May crisis that preceded the war quickly spiraled out of control, leading many to believe that the war was unavoidable. In this paper, I construct three counterfactuals that consider how May and June 1967 might have unfolded differently if a particular event or person in the May crisis had been different. Ultimately, the counterfactuals show that war could have been avoided in three different ways, demonstrating that the Six Day War was certainly avoidable. In the latter half of the paper, I construct a framework to compare the effectiveness of multiple counterfactuals. Thus, the objective of this paper is twofold: first, to determine whether war was unavoidable given the political climate and set of relations present in May and June 1967 and second, to create a framework with which one can compare the relative persuasiveness of multiple counterfactuals.

Introduction
The Six Day War of June 1967 transformed the political and physical landscape of the Middle East. The war established Israel as a major regional power, expanding its territorial boundaries and affirming its military supremacy in the region. The Israeli territorial acquisitions resulting from the war have been a major source of contention in peace talks with the Palestinians, and has permanently marred Israel’s relationship with its Arab neighbors. The May crisis that preceded the war quickly spiraled out of control, leading many to believe that the war was unavoidable. In the first part of the paper I will explore whether or not the war was unavoidable in June 1967. More specifically, I will construct three counterfactuals, or hypothetical worlds, that consider how May and June 1967 might have unfolded differently if a particular event or person in the May crisis had been different. Ultimately, the counterfactuals show that war could have been avoided in three different ways, demonstrating that the Six Day War was certainly avoidable.

In the latter half of the paper I will construct a framework with which to compare the persuasiveness of multiple counterfactuals and then
apply the framework to the three proposed counterfactuals. The framework will be valuable on two levels. First, it will flesh out, in concrete terms, what it means to be a “compelling” counterfactual, avoiding the arbitrariness and inaccuracies of using one’s intuitions as the basis for comparison. Second, by offering a systematic method for comparing multiple counterfactuals it fills a major void in contemporary counterfactual literature.

Thus, the objective of this paper is twofold: first, to determine whether war was unavoidable given the political climate and set of relations present in May and June 1967 and second, to create a framework with which one can compare the relative persuasiveness of multiple counterfactuals.

**Background to Counterfactual Analysis**

As the root of the word suggests, a counterfactual world is a hypothetical world that is counter or contrary to the actual world. It is a world where some event \(x\), does not happen but could have occurred. For example, in deciding to attend the University of Pennsylvania after high school graduation, I simultaneously decided not to attend Berkeley where I was also accepted and not to take a gap year. Besides the actual world where I decide to attend the University of Pennsylvania, there exist two distinct counterfactual worlds: one where I decide to take a gap year and one where I attend Berkeley. In either of the two counterfactual worlds, my life could have unfolded very differently. I might have majored in something else, not studied abroad in Cambridge, or even decided to pursue a different career. Counterfactual thought experiments isolate an independent variable (what to do after high school graduation) and examine how a dependent variable (my major) might change if the independent variable changed (I decide to go to Berkeley instead of Penn). By changing the independent variable repeatedly and assessing the corresponding effect on the dependent variable, one develops a more complete picture of what was possible at the particular point in time. In the context of the college example, the counterfactual worlds are all the historically possible ways that my life could have been different given my post-high school graduation decision.

In addition to determining what was historically possible, counterfactual thought experiments are useful for making causal claims, particularly in history, where traditional scientific experiments cannot be used to determine causal relationships. To determine the cause of a war or an economic downturn, a historian does not have the luxury of testing a hypothesis by changing the independent variable and observing the change in the dependent variable. However, a historian can argue that A caused B if he/she can prove that “if A had not occurred, B would not have occurred and the world would be otherwise similar.” For example, a historian might
argue that the September 11 attack on the World Trade Center caused the War on Terror. To prove a causal relationship, the historian would have to show that if the September 11 attack did not occur then the War on Terror would not have occurred and the world would have been otherwise similar. The “otherwise similar” clause is meant to rule out causes that are so remote that if they were absent, not only would the proposed effect not happen, the world itself would look very different. For example, one might argue that the assassination of Abraham Lincoln caused the War on Terror by demonstrating that if Lincoln had not been assassinated, the War on Terror would not have happened. While the counterfactual statement could be correct (the War on Terror might not have happened), the causal claim would be inaccurate. The world would have changed too much in the 140 years between the assassination and the war to make any direct claim of causation.

It is important to note that counterfactual thought experiments, which I will refer to as “counterfactuals” from this point on, can alter more than one independent variable at a time or assess the effect on more than one dependent variable. However, changing more than one independent variable makes it more difficult to isolate a direct causal relationship. Consider a counterfactual that argues that the War on Terror as well as the current recession would not have occurred if al-Qaeda had not attacked the World Trade Center and President Bush had not been reelected in 2004. It is not clear which independent variable (terrorist attack or reelection) would have caused the dependent variables (war and recession) to change. Even so, many historical events, such as war and recession, are the product of multiple factors so a counterfactual with a corresponding number of independent variables would be appropriate.

The three counterfactuals in this paper each alter one or two independent variables and assess the change in the likelihood of war in 1967 (the dependent variable). To clarify even further, the dependent variable in the counterfactuals is the likelihood of a war in May/June 1967 between Israel and Egypt that involves a heavy exchange of firepower and results in major changes in territorial boundaries. This is the kind of war that we are interested in measuring because of its long-term implications on Israel’s relationship with the Arab world and its borders.

**Counterfactual 1: Soviet Misinformation and Israeli Provocation**

On May 13, 1967 Anwar Sadat arrived back from Moscow with a message for Gamal Abdel Nasser, the Egyptian president. According to Soviet intelligence, Israel was amassing 10-12 brigades in preparation for an invasion of Syria. Heightening the sense of urgency, the Soviets warned that an invasion would take place within a of couple days. Nasser was told to
expect “an Israeli invasion of Syria immediately after Israel’s Independence Day, with the aim of overthrowing the Damascus regime.” It was at this point that the localized exchange between Israel and Syria began to unravel into a full-blown regional crisis.

By this time, tension had been building for months. Border exchanges slowly intensified with Fatah increasing the number of raids on Israeli water construction sites and areas in the demilitarized zones. Hoping to deter further guerilla raids, Israel responded with disproportionately devastating attacks as evidenced by its massive raid on the West Bank town of Es-Samu. The border exchanges reached a symbolic height on April 7 when Israel responded to Syrian firing on an Israeli tractor in the demilitarized zone by shooting down six Syrian MiG 21s (fighter jets) and pursuing the remaining MiGs into Damascus. By flying its jets over Damascus on April 7, the anniversary of the Syrian Baath party, Israel demonstrated to the populace celebrating below that they were fully exposed to Israeli air power. Like many other retaliatory raids, this demonstration of Israeli military strength did not have the deterrence effect it was intended to have. Instead, Syria used the incident to put additional pressure on Egypt to fulfill its commitment under the mutual defense agreement of 1966.

During these months of increasing tensions, Nasser had maintained a position of nonintervention, claiming that Egypt’s obligation to defend Syria only applied to Israeli conquest of Arab territory and not to localized exchanges of fire. This position became increasingly difficult for Nasser to maintain as his Arab neighbors scathingly criticized him. He was taunted by Jordan for “hiding behind the skirts of UNEF [the United Nations Emergency Force]” after the Es-Samu incident and suffered excruciating humiliation for his inaction in response to the April 7 attack. Nasser was so “stung by the criticism of his Arab foes” that the prospect of further embarrassment resulting from inaction started to appear even more dreadful than a conflict with Israel.

Egypt’s inaction also became very difficult to defend given the provocative Israeli rhetoric hinting at plans to take military action against Syria. Israeli Prime Minister Eshkol declared, “in view of the 14 incidents in the past month alone, we may have to adopt measures no less drastic than those of 7 April.” In another public speech, Eshkol announced that he intended to empower the Israeli Defense Forces so that they would be capable of repelling aggression and striking “a decisive blow within the enemy territory.” A statement made by one senior Israeli military officer on May 12 particularly angered Nasser. Although the source and exact text of the statement have not been verified, Nasser claims the officer said, “Israeli commanders have announced they would carry out military operations against Syria in order
to occupy Damascus and overthrow the Syrian government.”11 As Nasser would describe on May 23, it was “a very important statement,” one that made it increasingly difficult for him to justify Egypt’s continued inaction.12 An Israeli threat to invade Damascus could not be rationalized as a local dispute and would certainly require an Egyptian response under the mutual defense agreement of 1966.

Unable to deny the applicability of the mutual defense agreement and unwilling to endure another episode of humiliation, Nasser was left with no choice but to take action if Israel began to take steps to realize their threats. It was in this state of mind that Nasser received the Soviet message about Israeli troop build-up and concrete plans to invade Damascus on May 13. Once Syria publicized the warning delivered by the Soviets, Nasser could not ignore it without destroying what was left of his reputation throughout the Arab world.13 The Israeli threats just two days prior, coupled with the Soviet information, “led Nasser to believe that the situation was getting out of hand” and so he mobilized Egyptian troops into the Sinai.14

The ordering of troops into the Sinai set into motion a chain reaction that would eventually propel Egypt and Israel into a war that neither seemingly wanted. Nasser stationed troops in the Sinai as a “purely defensive” measure to ensure that Egypt could swiftly come to Syria’s aid if Israel attacked.15 To secure the safety of UNEF forces stationed at checkpoints where the Egyptian Army was now deployed, Egyptian General Mohammed Fawzi requested the removal of the forces stationed at those specific positions.16 U Thant, the UN Secretary General, responded that a partial removal was not an option because it undermined the effectiveness of the force. As a result, Nasser had no choice but to request the full withdrawal of UNEF.17 With UNEF forces removed from all positions, including the port of the city of Sharm el-Sheikh, Egyptian troops now controlled the Straits of Tiran. At this point, Nasser had reestablished his position as leader of the Arab world and garnered enthusiastic support from Algiers to Baghdad.18

Intoxicated by his recent political success and reassured by all the messages of support, Nasser decided to close the Straits of Tiran to Israeli shipping on May 23.19 Israel had made it clear after the Suez crisis in 1956 that closure of the Straits was a casus belli, or justification for war, and warranted an Israeli response. After a failed attempt to reopen the Straits with an international regatta and Egyptian rhetoric threatening the destruction of Israel, Israel launched the first attack of what would be a brief yet momentous war in the history of the Arab-Israeli conflict.

The three weeks preceding the war unfolded with a significant amount of momentum. As the crisis unfolded into war, it became increasingly difficult for any party to intervene and alter the course of the
events. A variety of factors contributed to this increasing force, including poor Soviet judgment, American impotence, Nasser’s miscalculations and Israel’s cabinet divisions. Despite the increasing momentum, could war have been averted in 1967? I assert that war could have been prevented if Israel had not made threats about invading Damascus and if the Soviet Union did not plant misinformation about Israeli troop buildup on May 13. The combination of these two events within three days created enough initial energy for increasing tensions to unravel into war. The Israeli threats between May 11 and 13 created “the spark that ignited the long accumulating tinder” while the Soviet message added enough oil to the fire that it became nearly impossible to put it out with a diplomatic solution.

If Israel had not made threats to invade Damascus and the Soviets had not sent a warning about Israeli troop build-up, May and June of 1967 would have unfolded very differently. Without any evidence of Israel’s intent to invade Syria, Nasser would have been able to maintain Egypt’s position of nonintervention by denying the applicability of the mutual defense agreement. The public statements made by Eshkol and other senior military officials revealed how far Israel was willing to go to put an end to the Fatah raids, which included invading Syria. While there is no evidence that Israel actually planned to invade Damascus, the Syrians were able to manipulate the threats to support their claims that Israel posed a serious threat. On May 13, just days after Eshkol hinted at the possibility of invading Syria if necessary, the Syrian Foreign Ministry convened ambassadors from countries on the Security Council to describe the plan that the “imperialist and Zionist quarters” created to undermine the Syrian regime. The Ministry claimed that the plot was revealed by the “statements of Zionist Chief of Staff Rabin.” The Soviet warning on May 13 supported Syria’s depiction and gave it even more leverage to pressure Nasser into taking action. Syria’s success in leveraging the Israeli threats and Soviet warning is evident in Nasser’s resignation speech. In the June 9 speech, he asserted:

“All of us know how the crisis started… there was an enemy plan for the invasion of Syria and the statements by his politicians and his military leaders openly said so. Sources of our Syrian brothers were categorical on this...Add to this the fact that our friends in the Soviet Union warned the parliamentary delegation...that there was a premeditated plan against Syria. We considered it our duty not to accept this silently. This was the duty of Arab brotherhood.”

Nasser cited as primary evidence of a plot against Syria the Israeli threats, Soviet warning and Syrian sources, demonstrating the weight he gave to
those three sources. If the Israeli threats and Soviet warning had not occurred, all that would remain are empty Syrian calls for assistance, which had been the status quo since April 7. Those two pieces of evidence were crucial for providing Syria leverage. Without it, Syria would have been unable to get Nasser to mobilize troops in the Sinai.

Indeed, Syria and much of the Arab world would have continued to criticize Nasser for being weak and ignoring his responsibilities to Syria; however, Nasser would have been able to keep Egypt out of the conflict by citing the localized nature of the exchange. Just as he had kept Egypt out of the conflict since the April 7 incident, Nasser would have been able continue to weather the criticism without taking action. Besides the Israeli threats and Soviet warning, there was nothing distinct about the week preceding May 14: the day Nasser gave the order to mobilize troops in the Sinai. Egypt was still reluctant to enter into a confrontation with Israel given the severe internal economic crisis and the fact that the best third of its army was bogged down in Yemen. The excerpt from Nasser’s resignation speech confirms that Egypt had not wanted to initiate any kind of aggression. According to Nasser, it was Israel that started the crisis with a plan of invasion and Egypt was simply reacting to the threat by mobilizing troops.

If Nasser had not been pressured into mobilizing troops, there would not have been a need to request the removal of UNEF. As discussed earlier, Egypt had requested the partial removal of UNEF to ensure that Egyptian forces would not be inhibited by the UNEF presence at certain check points and to ensure the safety of UNEF troops. There would not have been such a concern if Egyptian troops were not deployed into the Sinai in the first place. Without an Egyptian request for removal, UNEF would have been able to remain at all its posts, including Sharm el-Sheikh. With UNEF forces still deployed in Sharm el-Sheikh, Nasser would not have needed to redeploy Egyptian troops to the port city nor would he have wanted to do so. If Nasser ordered troops into Sharm el-Sheikh, he would have been faced with the dilemma of risking war with Israel by closing the Straits or allowing Israeli ships through and facing ridicule by his Arab neighbors. His decision to request only the partial removal of UNEF demonstrates that Nasser had not wanted to be put in such a position. If he had wanted to occupy Sharm el-Sheikh and close the Straits of Tiran from the beginning, he would have asked for a complete removal of UNEF in his initial request. He made it clear that he wanted quite the contrary. To remove any potential ambiguity in his position, Nasser deleted the word “all” from the sentence in the drafted letter to UNEF General Rikhye that stated: “I request that you give orders to withdraw all of these troops immediately.” Even though the previous sentence in the letter made it clear that “all of these” referred only
to those troops along Egypt’s eastern border, Nasser wanted to “prevent any misunderstanding regarding the continued presence of UNEF in Gaza and in Sharm al-Sheikh.”

Without Egyptian troops occupying Sharm el-Sheikh, Israeli ships would have been permitted to pass through the Straits of Tiran, leaving Israel without a *casus belli* with which to justify a preemptive attack on Egypt. During the May crisis, Israel argued that Nasser had initiated the aggression by closing the Straits of Tiran, committing “a blatant act of war.” Because Nasser had initiated hostilities and America failed to reopen the Straits with an international regatta, Israel was confident that it would not jeopardize American support if it launched a preemptive attack. Walt Rostow, the U.S. National Security Advisor, had declared, “Any Israeli unilateral action could be justified only after all peaceful measures had been exhausted.” Israel had cooperated with the U.S. in an effort to resolve the conflict peacefully but those attempts had failed. The Israelis also reasoned that if the U.S. was willing to “take any or all measures in its power to open the Straits,” it could not really fault Israel for “taking all measures in its power.”

In a world where Nasser does not close the Straits of Tiran, Israel would not have been able to launch an attack on Egypt without undermining its relationship with the U.S., something it had no intention of doing. If Israel had launched an attack it would have appeared as the aggressor, which it very much wanted to avoid. President Lyndon Johnson asserted during the May crisis, “I think it is a necessity that Israel should never make itself seem responsible in the eyes of America and the world for making war. Israel will not be alone unless it decides to go it alone.” Secretary of State Dean Rusk also noted the repercussions of Israeli aggression, “if Israel fires first, it’ll have to forget the U.S.” Israel did not want to jeopardize its “special relationship” with the U.S. because it relied heavily on American military and monetary aid. Israel’s concern for maintaining a good relationship with America was evident in Eshkol’s decision to delay a preemptive attack at Johnson’s request despite the intense pressure he was experiencing from the Israeli public and generals. Because Israel valued U.S. support so dearly and Egypt had not initiated any hostilities, it would not have launched a preemptive attack on Egypt in June 1967.

Without an Israeli attack, it would appear as though war would have been averted in June 1967. Removing the Soviet warning of May 13 and the Israeli threats of May 11-13 would have fundamentally altered the way the last two weeks of May unfolded. Like the first two weeks of May, Nasser would have continued to be berated by his Arab neighbors for not coming to Syria’s defense, but he would have been able to maintain his position because Syria would not have appeared to be in any imminent danger. The conflict
would have remained localized, with Fatah using guerilla tactics to sabotage Israeli water construction sites and Israel retaliating with disproportionate force.

**Counterfactual 2: Amer’s Resignation**

A cautious prime minister feeling immense internal cabinet pressure, an outspoken chief of staff seeking to provoke the Egyptians into war, a disparaged president longing for his once enviable position in the Arab world, and finally, an incompetent minister of defense yearning for an opportunity to redeem himself from his 1956 failure – these characters were instrumental in shaping the outcome of the Six Day War and the crisis that preceded it. With varying degrees of success, Levi Eshkol, Yitzhak Rabin, Gamal Abdel Nasser and Abdel Hakim Amer all attempted to manage the May crisis in a way that advanced their distinct goals. While all four personalities played a significant role in shaping the crisis, Amer was the most successful in manipulating the crisis to his benefit. Ever since his disastrous failure in the 1956 Suez crisis, he was anxious to redeem himself and sought to do so through another armed conflict with Israel. Seizing the opportunity that presented itself in May 1967, Amer manipulated Nasser into escalating tensions with Israel to a point that would inevitably mean war. Contemporary Egyptian explanations place much of the blame for stumbling into the war on Amer, portraying Nasser as a leader hoping to win a political victory without inciting a war and Amer as a trigger-happy minister of defense “looking for a military confrontation from the start.”36 I argue that Amer was so instrumental to the outbreak of war in June 1967 that, had he not been minister of defense, war could have been averted. More specifically, if Nasser had accepted Amer’s resignation after the 1956 crisis, a major armed conflict between Egypt and Israel in June 1967 would have been averted.

To understand how Amer was the driving force in the outbreak of the Six Day War, it is important to have a basic understanding of the relationship he had with Nasser. The two first met in military college and began what would become a “lifelong” friendship, developing a strong sense of trust in and loyalty for one another.37 After serving together as young officers and later plotting the 1952 revolution together, their friendship grew stronger and they became much more like brothers, even naming their sons after each other.38 When Nasser became president in 1956, he appointed Amer as minister of defense and commander in chief of the armed forces even though many other officers were much more qualified for the position.39 Because Amer’s “main qualification for the job was not his military achievements but the fact that he was the man Nasser trusted most,” it was not surprising that Amer struggled during the 1956 Suez crisis.40 While Egyptian troops exchanged fire with the
Israelis in October 1956, Nasser found Amer “paralysed with indecision in his headquarters, tears pouring down his face.” Sorely embarrassed by the Egyptian defeat, Amer offered his resignation, which Nasser refused to accept, presumably out of loyalty. Instead, the Egyptian president put Amer under constant surveillance, stating that he “would rather resign” than have Amer purged.43

Even though Amer maintained his posts as minister of defense and chief of staff of the army, his friendship with Nasser deteriorated. He grew very envious of Nasser’s following and public presence. In fear of Amer turning the army against him, Nasser attempted to reassert some control over the armed forces but was ultimately unsuccessful due to resistance from Amer. Nasser did not want to risk a showdown and still needed Amer to keep the army under control so he abandoned his goal of reasserting control over the armed forces. Despite the lack of trust between the two, strange vestiges of their friendship remained. By the early 1960s, the two were as much rivals as they were friends.45

When tensions began to rise between Syria and Israel in 1967, Amer saw an opportunity to redeem himself from his disastrous failure in 1956 and planned to take advantage of the opportunity by exploiting his special relationship with Nasser. At all the major turning points in the May crisis, Amer’s actions pushed Egypt closer to war with Israel. The first critical juncture was the Soviet message about Israeli troop concentrations along the Syrian border. Despite Israeli evidence showing otherwise and testimony from Egyptian chief of staff Muhammad Fawzi confirming the Israeli evidence, Nasser believed that Israel was amassing troops. After all, his close friend and advisor, Amer, boasted of seeing aerial photographs confirming Israeli troop build-up along the border.47

Uncertain how to proceed with the Soviet warning, Nasser met with Amer to discuss the potential ramifications of an Israeli invasion of Syria and to decide on an appropriate response. Nasser worried that if he failed to intervene and Israel invaded Syria, the Ba’ath regime would topple, generating a domino effect that could undermine the stability of all progressive Arab regimes in the region including Iraq, Yemen and even Egypt. Moreover, the mutual defense pact with Syria would be proven useless, undercutting Egypt’s stature both in the Arab world and in the eyes of the Soviets. Nasser feared that “the Eastern front could collapse” as a result, and that “Egypt could find itself facing Israel alone.” As much as Nasser wanted to avoid such a scenario, he was reluctant to intervene given Egypt’s current commitment in Yemen and its economic struggles. Unable to definitively agree on a plan of action, Amer and Nasser resolved to have the general staff convene the next day to determine the appropriate military response. After
military intelligence chief Muhammad Ahmad Sadiq reviewed the Soviet information and conferred with other generals, Amer “took control of the meeting” and made the final decision to put all troops on the highest alert and to call the reserves to active duty. Over the next two days, the Egyptian army moved into the Sinai, reassuring Syria of its commitment to the mutual defense pact and signaling to Israel that it was prepared to enter into an armed conflict if necessary.

The mobilization of troops in the Sinai created an opportunity for Nasser to address the presence of UNEF forces on Egyptian territory. Repeatedly taunted for hiding behind the “skirts of UNEF,” Nasser was anxious to have part of the force removed. General Fawzi and Mohamed Heikal, both close advisors to Nasser, recall that Nasser and Amer had made it clear long before 1967 “that they wanted to seize on any international or regional situation which [would] permit doing away with that force [UNEF].” According to Heikal’s 1967: Al-Infijar, the prospect of removing UNEF and redeploying the Egyptian army was first discussed at the third Arab summit in 1964 and then again by Amer in 1966. While both Amer and Nasser agreed that UNEF should be removed, they differed on the extent of the withdrawal. Seeing UNEF as an impediment to his ultimate goal of leading Egypt to a glorious victory against Israel, Amer wanted full withdrawal of UNEF. On the other hand, Nasser only wanted a redeployment of troops away from the Israeli border and was unwilling to assume responsibility for defending Gaza or deploying troops into Sharm al-Shiekh. He was only interested in a political demonstration of force that would boost his prestige in the Arab world, and unlike Amer, had no intention of pushing Egypt into an armed clash with Israel. Seeking to avoid any ambiguity on this point, Nasser asked Amer to replace “withdraw” with “redeploy” in the letter the military drafted for General Fawzi to send to UNEF General Rikhye. Amer replied that the letter had already been sent but that he would try to stop the courier en route; he informed Nasser later that he was unable to intercept the message.

Upon receiving the request, General Rikhye advised UN Secretary General U Thant that a partial withdrawal would not be possible without undermining the effectiveness of the entire force. Agreeing with Rikhye, U Thant informed Nasser that he would not authorize a partial withdrawal of UNEF but that Egypt had the right to request a complete removal of UNEF if it sought to do so. With the entire Arab world watching, Nasser couldn’t afford the public humiliation of retracting his initial request so he asked for the entire force to be removed.

With UNEF forces removed and Egyptian forces now deployed at Sharm al-Sheikh, the Egyptian president was forced to address the issue of
Israeli shipping through the Straits of Tiran. Nasser knew that closing the Straits would allow him to reestablish himself as leader of the Arab world, but he was reluctant to do so for fear of pulling Egypt into a military conflict it could not handle. Relying on the expertise of his close friend and minister of defense, Nasser consulted Amer about Egypt’s military preparedness for an armed confrontation with Israel. Amer reassured Nasser of Egypt’s military supremacy and its ability to deter Israeli action, asserting, “on my neck, the army is prepared for the situation with both defensive and offensive plans.” Amer’s confidence in Egypt’s military supremacy was central in Nasser’s calculation of the benefits and potential costs associated with closing the Straits. If Egypt could win in a military confrontation with Israel or at least defend itself until the superpowers stepped in to impose a ceasefire, closing the Straits would be the strategic choice. He could recover much of the prestige he had lost over the last decade and reestablish himself as leader of the Arab world without risking another embarrassing military defeat. Because of Amer’s assurance that Egypt was prepared to confront Israel militarily, “Nasser’s gamble became bolder and more provocative.”

To the delight of Amer, Nasser decided to close the Straits of Tiran to Israeli shipping on May 23 and brought Egypt one step closer to war with Israel.

Since the Suez crisis, Israel had made it clear that closing the Straits would be considered a casus belli, and thus, perceived Nasser’s move as an act of war. Up until the closure of the Straits, Israel interpreted Nasser’s moves as purely political demonstrations intended to boost his prestige in the Arab world. After May 23, Israel began to see Egypt as a real threat to its security. Even though the closure of the Straits was considered an act of war, the Israeli cabinet was divided on the appropriate response due to American reservations and ambiguity with regard to the nature of the Egyptian threat.

Encouraged by the lack of an American or Israeli response to the closure of the Straits, Amer moved forward with his plans for an offensive attack against Israel—code name Operation Dawn. Orders for the operation came directly from Amer’s house, circumventing Supreme Headquarters. Some Egyptian accounts claim that Amer executed the operation in blatant opposition to Nasser’s orders, hoping to create an opportunity to redeem himself from his 1956 failure. Amer explained to General Murtagi, “Between me and Moshe Dayan there is a feud going back to the Tripartite War...This is my opportunity to teach him a lesson he won’t forget and to destroy the Israeli army.”

As Amer redeployed the Egyptian armed forces in preparation for Operation Dawn, Nasser received news from the Soviet ambassador that plans for the offensive had been revealed to Israel. In spite of Amer’s best attempts to convince him otherwise, Nasser called off the operation in fear
of Egypt appearing as the aggressor. Even though the operation was called off, news of its existence was enough to heighten Israel’s sense of emergency. News of Operation Dawn confirmed that Nasser’s closure of the Straits was, indeed, an act of aggression and that another Egyptian offensive was imminent. Using Operation Dawn and Amer’s redeployment of troops as evidence of an imminent Egyptian attack, the hawkish members of the Israeli cabinet were able to persuade the rest of the cabinet and the United States that a preemptive attack was necessary. Frightened by the prospect of an Arab attack from all sides, prime minister Eshkol gave the orders to launch a surprise attack on Egypt’s air force on June 5, 1967. The following six days would prove to be an even more humiliating defeat for Egypt, and especially for Amer, than the 1956 war had been.

Throughout the May crisis Amer proved to be a powerful force, pushing Egypt progressively closer to an armed conflict with Israel. I assert that Amer was so instrumental to the outbreak of war that if Nasser had accepted his resignation after the 1956 crisis, a major armed conflict between Egypt and Israel would not have occurred in June 1967. If Nasser had accepted Amer’s resignation in 1956, General Mohammed Fawzi would have likely replaced Amer as minister of defense during the May crisis of 1967. Given that Nasser selected Fawzi to replace Amer and rebuild the Egyptian army in the aftermath of the Six Day War, it is not unfathomable that he would have chosen Fawzi a decade earlier to similarly clean up after Amer’s mishandling of the 1956 war. As Nasser’s chief advisor on foreign affairs and a longtime friend, General Fawzi was one of the few individuals in Nasser’s small circle of trusted staff.

Unlike Amer, Fawzi was a diplomat and supported Nasser unconditionally, never seeking to undermine him. These two characteristics would have been very consequential for how the May crisis would have played out had Fawzi held the position of minister of defense in 1967. The decision to mobilize troops, request the removal of UNEF, close the Straits of Tiran and execute Operation Dawn were, in large part, the product of Amer’s attempts to manipulate Nasser into starting a war with Israel to redeem himself. As a diplomat, General Fawzi would have emphasized the risks involved with escalating tensions further, advising Nasser against pursuing actions that would lead to war. Moreover, General Fawzi had no personal incentive, like Amer did, to enter into a war because he had not publicly embarrassed himself during the 1956 crisis. As a Nasser loyalist, General Fawzi would not have tried to undermine Nasser’s desired position by misinforming him about Egypt’s military capacity or executing an operation in blatant opposition of Nasser’s wishes.

These distinctions would have become salient on May 13, when
Nasser received the Soviet message about Israeli troop build-up. Reluctant to take immediate action, Nasser sent General Fawzi to see first hand if there was any truth to the warning. Upon returning, Fawzi informed Nasser and the general staff that there was no abnormal troop build-up, but he was drowned out by the higher-ranking Amer, who claimed to have seen aerial photographs of Israeli troop concentrations. In the absence of Amer’s false testimony, Fawzi’s report would have played a more central role in Nasser’s decision about whether or not to mobilize troops. Given Egypt’s military presence in Yemen and its internal economic troubles, there is a good chance that Nasser would have been deterred from mobilizing troops, knowing that Israel did not pose an imminent threat to Syria. Nevertheless, one might object that Nasser would have mobilized troops in an attempt to boost his prestige in the Arab world. Even so, the Six Day War could still have been averted if General Fawzi was minister of defense.

If Fawzi had been minister of defense in 1967, Nasser would have been able to more accurately calculate the potential costs associated with closing the Straits of Tiran and conclude that doing so would not be in his best interest. Without Amer’s false reassurances about Egypt’s military strength, Nasser would have had a more realistic understanding of Egypt’s capabilities. Unlike Amer, General Fawzi had no incentive to misrepresent Egypt’s military preparedness. In fact, he did quite the opposite in 1967. Agreeing with the assessment of many other Egyptian commanders, Fawzi reported that the Egyptian army was ill prepared and disorganized for an armed conflict with Israel. As a result, he was very much opposed to war, calling the reoccupation of Sharm al-Sheikh a “needless provocation” and Operation Dawn “disastrous.” Had Amer been absent from the cabinet, Fawzi’s assessment of the armed forces and his recommendation against occupying Sharm al-Sheikh would have been sufficient to persuade Nasser against closing the Straits. Between the internal economic struggles and the Yemen quagmire, Nasser’s regime would not have been able to survive another embarrassing defeat by the Israeli Defense Forces. Fawzi’s doubt about Egypt’s military capabilities would have sufficed to deter Nasser from closing the Straits.

If the Straits remained open to Israeli shipping, Israel would not have launched a preemptive attack on June 5. In the absence of a casus belli, Israel would have continued to perceive Nasser’s mobilization of troops and removal of UNEF as purely political demonstrations, not posing any imminent threat to its security. If Israel did not feel threatened by a looming Egyptian attack, it would not have launched a preemptive attack and would have focused instead on its internal economic and immigration struggles. Even if one objects that Israel did want to launch an offensive, it would not
have been able to do so without undermining its alliance with the United States, a relationship it heavily depended on for economic and military aid.

Similarly restrained by its alliance with the Soviet Union and its internal economic woes, Egypt would not have launched an offensive attack on Israel. As discussed earlier, Nasser had no intention of firing the first shot, but instead, hoped to boost his prestige in the Arab world through bluffing and propaganda. Without Amer present to undermine this position, Nasser would have been able to enjoy his political victories from early on in the May crisis and avoid war with Israel. With both sides unwilling to attack first, it appears as though war would have been averted in June 1967. If only Nasser had accepted Amer’s resignation after the Suez crisis, Egypt could have avoided another embarrassing defeat.

**Counterfactual 3: Delayed Soviet Intervention**

Discussion of the U.S.S.R.’s role in the Six Day War tends to be centered around its warning to Egypt and Syria on May 13 about Israeli troop build-up. Scholars describe the Soviet move as highly manipulative, citing the misinformation as a means of coaxing Egypt into coming to Syria’s defense. Indeed, the Soviet warning about Israeli troop build-up played an important role in the build-up to war. However, the more crucial Soviet action during the crisis was what it failed to do. The Soviet failure to prevent Nasser from closing the Straits of Tiran was far more instrumental to the outbreak of war than its message about Israeli troop build-up. In fact, I assert that if the Soviet Union had taken a stern position against closing the Straits and had threatened Nasser against pursuing such action, the Six Day War could have been averted.

The crisis began to unfold on May 13, 1967 when Moscow sent a message to Syria and Egypt warning that Israel was amassing 10-12 brigades in preparation for invading Damascus. The message had been fabricated by the Soviet Union in an attempt to induce Nasser to come to Syria’s defense under the mutual defense agreement signed in 1966. The U.S.S.R. was concerned for the safety and stability of the pro-Soviet Ba’ath regime, which at the time, had been experiencing internal unrest as well as persistent retaliatory raids from Israel. The Israeli raids were intensifying, peaking on April 7 with Israeli fighter jets shooting down six Syrian MiGs and following the remainder into Damascus. The U.S.S.R. was aware that a conflagration between Syria and Israel would certainly lead to “a serious Syrian defeat” that would likely result in the removal of the pro-Soviet regime. Lacking confidence in the “Syrian hotheads’” willingness to quell the Fatah attacks or make concessions to resolve the internal crisis, the Soviet Union sought to enlist the help of the Egyptians.
In response to the Soviet warning about Israeli troop build-up, Nasser mobilized troops in the Sinai, going far beyond what the Soviets had intended. Nevertheless, the U.S.S.R. thought it could benefit from Nasser’s mobilization. The Soviets were confident that the U.S. was too preoccupied with Vietnam to get involved in the Middle East and thus saw it as a unique opportunity to strengthen its position in the region without risking a direct confrontation with the U.S.\(^7\) Even though Nasser’s mobilization of troops caused some worry, the Soviets were confident that neither Egypt nor Israel was in a position to start a military confrontation. From the Soviet perspective, Eshkol’s indecisiveness and perceived weakness along with a series of internal factors including an economic recession and low immigration made Israel an unlikely candidate for initiating hostilities.\(^6\) Similarly, the Soviets believed Egypt was not militarily capable of winning a war against Israel and would not seek to initiate hostilities, especially if the Soviet Union had opposed such action. As a result, the Soviet Union decided to retroactively support Nasser’s mobilization of troops, seeing it as an opportunity to ensure Syria’s security, deepen Nasser’s dependency on the U.S.S.R. and recover some of Nasser’s prestige in the Arab world.\(^7\)

Nasser misinterpreted this support along with Soviet messages of cooperation and friendship as military backing if Egypt were to enter into a military confrontation with Israel.\(^8\) The Soviet Union was very careful in declaring its support of Egypt, only using general terms of “support” and “help” and offering to defend only the “lawful interests of the Arab States.”\(^7\) Adding to the miscommunication, Nasser had interpreted the Soviet warning about Israeli troop build up as “encouragement to move against Israel.”\(^8\) These misperceptions created a false sense of security for Nasser because he wrongly assumed that the Soviet Union would come to its defense militarily if armed conflict erupted or use its international clout to quickly end a conflict diplomatically as it had during the Suez Crisis. This false sense of security coupled with a desire to repair his reputation in the Arab world led Nasser to continue to escalate tensions with Israel by requesting the removal of UNEF at particular checkpoints. UN Secretary General U Thant replied that partial removal would not be possible because it would undercut the effectiveness of the force.\(^8\) Tempted to put an end to the taunts for “hiding behind the skirts of UNEF” and reassured by Soviet backing, Nasser requested the complete withdrawal of UNEF.\(^8\) The Soviet Union was surprised by the request because Nasser had not consulted them prior to making the decision.\(^8\) U Thant’s speedy compliance with the request also came as a shock.\(^8\)

With UNEF removed and Egyptian troops deployed in the port city of Sharm al-Sheikh, Nasser had to decide whether or not to close the
Straits of Tiran to Israeli shipping. The mobilization of troops in the Sinai and the removal of UNEF enabled Nasser to recover much of the prestige he had lost in recent years. Intoxicated by his recent political success and the outpouring of support from across the Arab world, he was anxious to regain his position as the uncontested leader of the Arab world, something he believed closing the Straits would give him. Nasser knew that closing the Straits would likely lead to war but he was confident that the Syrian and Egyptian army, along with Soviet backing, could defeat Israel. He was told by his Minister of Defense, Abdel Hakim Amer, that the Egyptian army “[was] prepared for the situation with both defensive and offensive plans” and thus, remained confident that the Egyptian army could at least hold off Israel long enough for the Soviets to intervene.

At this point, Nasser was still under the assumption that the Soviets would intervene on Egypt’s behalf if necessary. All the anti-imperialism rhetoric and messages of friendship and cooperation were still in the back of Nasser’s mind. The absence of a strong Soviet response following Nasser’s mobilization of troops and the removal of UNEF confirmed his initial interpretation regarding the Soviet warning about troop build-up: the U.S.S.R. wanted Egypt to take action against Israel. Moreover, Moscow described the withdrawal of UN troops as “justified” and a “strong move,” giving Nasser the impression that he had made the right decision. Given his confidence in Soviet backing and Egyptian military strength, Nasser concluded that it was in his best interest to close the Straits.

Closure of the Straits on May 22 was a turning point in the May crisis. Up to that point, Israel had viewed the mobilization of troops and the removal of UNEF purely as demonstrations intended to boost Nasser’s position in the Arab world, not as serious threats to Israel’s security. Because closure of the Straits was considered a casus belli Israel began to see Egypt as a real threat to its security. Demonstrating that he was well aware of how his move would alter the direction of the crisis, Nasser stated on May 26, “occupying Sharm-el sheikh meant a conflict with Israel.” Unwilling to get involved in such a conflict, the Soviets reminded Nasser that it had only promised to neutralize the U.S. if it decided to get involved but that “its support would not go beyond that.” The Soviet clarification began to chisel away at the solid backing Nasser had believed he had from the U.S.S.R. Recognizing the vulnerability of Egypt’s new position, Nasser told Dmitrii Pozhidaev, Soviet ambassador to the UAR that “it was of utmost importance…that the Soviet Union declare its support of the just struggle of all the Arab peoples.”

The Soviet Union had no interest in providing the type of support Nasser desired if it entailed getting involved militarily if a war broke out. After May 22, the U.S.S.R. realized that the crisis had spiraled out of control.
and that their previous “hands-off” approach was no longer advantageous. In an effort to prevent armed conflict from erupting, Moscow activated the hotline with Washington and gave explicit instruction to Nasser to avoid initiating any hostilities. These instructions were repeated during talks between Egyptian War Minister Badran and Soviet leaders on May 25 when Kosygin, a Soviet statesman, emphasized that “it was now time to cooperate” and that the Soviet Union would not support Egypt if it initiated hostilities. The Soviet warning crystallized what had been ambiguous to Nasser in the two weeks prior to closing the Straits: Moscow did not want Egypt to initiate any hostilities against Israel. Soviet reservations weighed heavily on Nasser, and as a result, he decided to cancel Operation Dawn, an offensive on Israel planned for May 27. Nevertheless, the Soviet threat had come too late. Nasser had already initiated the first act of war by closing the Straits and was intent on keeping them closed, making armed conflict almost inevitable. After delaying plans for an ultimately futile U.S. attempt to reopen the Straits, Israel launched the first attack on June 5. The Israeli strike on Egypt’s air force would mark the first day of what would be six days of unprecedented destruction and ultimately, a humiliating defeat for the Arab world.

The May crisis that preceded the outbreak of war seemed to unfold without much Soviet resistance until the very end. The Soviets calculated that a certain level of escalation would strengthen their position in the Middle East so they did not do much to restrain Egypt in the beginning. However, once armed conflict became likely after the closure of the Straits, the U.S.S.R. took steps to prevent further escalation. It is important to note that the Soviet failure to prevent war was not a function of its inability to restrain Egypt but instead a result of its timing. It had decided to restrain Nasser too late into the crisis, not realizing that the start of war had been marked by the closure of the Straits. I assert that if the Soviet Union had warned Nasser against closing the Straits after his request for the removal of UNEF, the Six Day War could have been averted. Indeed, “there is not the slightest doubt that if at the decisive moment, before or immediately after the announcement of the blockade, the Soviets had adopted a resolute and clear attitude of ‘anti-imperialism—yes; war against Israel—no,’ the war would have not taken place.”

If the Soviets had threatened Nasser after the withdrawal of UNEF, he would not have closed the Straits of Tiran. Even without a Soviet threat, Nasser had serious “hesitations, doubts and second thoughts” about closing the Straits given the likelihood of war erupting. He had not wanted war, but rather had wished to restore his reputation by increasing tension and then exploiting Soviet diplomatic support to quell the situation. Egyptian
troops had occupied Sharm al-Sheikh on May 20, but it took Nasser three
days to announce the closure of the Straits, revealing the extent to which
these reservations weighed on his decision.\textsuperscript{102} Given Nasser’s preexisting
reservations about closing the Straits, a Soviet threat to withdraw support
would have been more than sufficient to deter him from pursuing such
action.

Heavily dependent on the financial and diplomatic backing of the
U.S.S.R., Nasser would not have risked Soviet support by closing the Straits. By 1967 the U.S.S.R. had become Egypt’s “major international benefactor and
protector,” providing unequivocal diplomatic support and supplying over
$1.5 billion worth of military equipment to Egypt.\textsuperscript{103} Of particular importance
was the Soviet Union’s persistent support of Egypt against Israel, which was
most apparent at a UN meeting when the U.S.S.R. vetoed UN resolutions
unfavorable to the Arab states.\textsuperscript{104} Soviet support was instrumental to
neutralizing U.S. support of Israel on both a diplomatic and financial level.
Without it, Egypt would have been far more vulnerable to an Israeli attack
and much less capable of defending itself if war broke out. Recognizing that
Soviet support of Egypt was more important than recovering lost prestige,
Nasser would have agreed to the Soviet request and stopped escalating the
conflict after the removal of UNEF. Nasser’s decision to cancel Operation
Dawn after he received a Soviet threat to withdraw support serves as
additional confirmation that he would have abandoned any plans for further
escalation, including closure of the Straits.

If Nasser had not closed the Straits of Tiran, Israel would not have
launched a preemptive attack on Egypt. Even though Nasser had already
escalated the crisis with the mobilization of Egyptian troops in the Sinai and
the withdrawal of UNEF, “the crisis was still manageable.”\textsuperscript{105} As mentioned
earlier, Israel was not particularly alarmed by these moves, but rather
interpreted them as simple demonstrations intended to boost Nasser’s
reputation within the Arab world.\textsuperscript{106} At that point, Israel had no intention of
starting a war and even took measures to prevent it, including restraining
Israeli political and military personalities from making provocative
statements.\textsuperscript{107} Affirming Israel’s desire to avoid war, Prime Minister Eshkol
stated, “We have no intention of attacking any Arab country or of endangering
its security, territory or rights.”\textsuperscript{108}

An attack preceding any closure of the Straits would not have
been advantageous for Israel, for it would have been interpreted as an act
of aggression that would have seriously jeopardized Israel’s relationship
with the United States. Secretary of State Dean Rusk had warned against
Israeli aggression, noting, “If Israel fires first, it’ll have to forget the U.S.”\textsuperscript{109}
Echoing Rusk’s message, Johnson reminded Israel that it would have full
Given the unprecedented amount of financial and military support Israel was receiving from the U.S., it would not have jeopardized its relationship with the U.S. by attacking Egypt.\textsuperscript{111}

In the absence of an Israeli preemptive attack, war would have been averted in June 1967. If Nasser had received explicit instruction from the U.S.S.R. to keep the Straits of Tiran open and to avoid attacking Israel, he would have had very little room to escalate the crisis further. With similar warnings from the U.S. to refrain from shooting the first shot, Israel would have had to rely on purely defensive measures for responding to Nasser’s escalatory moves. Instead of producing a bloody and destructive Six Day War, June 1967 would have unfolded in a relatively calm manner. As long as the U.S. and U.S.S.R.’s threats remained credible and their regional allies continued to rely on their support, the deadlock between Egypt and Israel would have persisted.

\textbf{Comparison}

In presenting three distinct counterfactual scenarios, the objective has been to determine whether or not the Six Day War was unavoidable given the political climate and set of relations present in May and June 1967. I assert that the counterfactuals have provided three plausible accounts for how the Six Day War could have been averted, demonstrating that the war was by no means inevitable. I consider the counterfactual scenarios plausible because they all respect the minimal rewrite rule and the cotenability standard to some degree. I will examine the extent to which each scenario meets these two standards in order to make a claim about how compelling each counterfactual is relative to the other two. Such an analysis is highly subjective as it involves identifying the components of a compelling counterfactual and requires establishing a metric for comparing the degree to which each counterfactual has the components. Despite the subjective nature of the analysis, comparing the counterfactuals in some qualitative manner will still be useful for analyzing the relative importance of the different actors and events in the counterfactuals and attributing some degree of responsibility for the war.

\textbf{Importance of Minimal Rewrite and Cotenability Standards}

Before comparing the counterfactuals, it is important to understand the significance of the minimal rewrite rule and the cotenability standard in counterfactual analysis. The minimal rewrite rule requires a counterfactual to be historically consistent with well-established historical facts, eliminating the possibility of far-fetched counterfactuals that radically alter the temporal landscape.\textsuperscript{112} To meet the minimal rewrite standard, a counterfactual must a)
begin with the real world, as it was known at the time, and b) avoid undoing the past and rewriting large periods of history.\textsuperscript{113} The minimal rewrite rule seems to be an intuitive part of a compelling counterfactual. After all, if I wrote a fourth counterfactual that made the Soviet Union democratic, it would certainly be less compelling than the other counterfactuals simply because it would require a complete overhaul of over 40 years of history. Such an overhaul might even be sufficient for questioning the existence of a May crisis in the first place. If the Soviet Union had not been ideologically opposed to the U.S., would there have been a Cold War? Would Egypt have had enough military and financial resources to provoke tensions? When a counterfactual attempts to rewrite such a large part of history many uncertainties arise, making it very difficult for the counterfactual to provide any conclusive claims for how history might have been different.

The minimal rewrite rule is a necessary part of a plausible counterfactual but it is certainly not sufficient. In addition to respecting the minimal rewrite rule, a counterfactual must also meet the cotenability standard. Cotenability requires that the connecting principles linking the antecedent (what would have been different in the counterfactual) with the consequent (the change in how history unfolded) be consistent with each other and with both the antecedent and consequent.\textsuperscript{114} The connecting principles specify what would have to be true in order for the counterfactual to work. They encompass everything from assumptions about weather patterns to theories about how states interact. For example, imagine a man standing in front of a house covered in gasoline and holding a box of matches. In reality, he does not light a match and the house stays covered in oil, but consider a counterfactual scenario where he lights the match (antecedent) and the house lights on fire (consequent). For the counterfactual to work, we need to assume, among other things, that the man was close enough to the house to light it on fire, that there was oxygen in the air, that the man knew how to light a match, that it was not raining, etc.\textsuperscript{115}

While the connecting principles appear to be relatively simple in this example, they can be fairly complex, especially when considering counterfactuals that require changing a state’s behavior or capacities. Consider a counterfactual world where the American South acquires nuclear weapons (antecedent) during the mid 19\textsuperscript{th} century, and as a result, wins the Civil War (consequent). For this counterfactual to work, we would have to assume that the South had the technology to produce and the capacity to deploy the weapons correctly, that the North did not also have nuclear weapons, that the Confederacy was driven by self-interest, etc. In this case, a Confederacy armed with nuclear weapons (antecedent) would not be cotenable with our beliefs about scientific knowledge and military capabilities at the time.
(connecting principles). We could not link the acquiring of nuclear weapons with winning the Civil War without changing our beliefs about the South’s ability to successfully deploy nuclear weapons, a military capability it was far from developing. A counterfactual scenario that requires us to undo such foundational assumptions would be highly implausible and not very useful for determining the historical possibilities at a particular juncture in the past.

A compelling counterfactual is one that persuades the reader to believe that history could have easily played out very differently. To persuade the reader in such a way, a compelling counterfactual alters a minor act or event in history (minimal rewrite) and demonstrates how significant changes would result without unreasonably disturbing one’s beliefs about the actors or historical landscape (cotenability). The degree to which one counterfactual is more compelling than another will depend on its ability to better approximate the minimal rewrite and cotenability standards.

A framework to compare how closely different counterfactuals adhere to a set of criteria has not been formally established in counterfactual literature, making it difficult to definitively say that one counterfactual is more compelling than another. I will attempt to fill this void by outlining two metrics, which can be used to assess how cotenable and minimally rewritten one counterfactual is relative to another without making any claims about the absolute value of the persuasiveness of the counterfactuals. Indeed, the measurement of such intangible objects is not a science and what I propose will not be perfect. Nevertheless, it is a workable framework within which one can make an informative claim about the relative persuasiveness of a counterfactual.

It is important to note that the framework is tailored for idiographic case-study counterfactuals, which analyze particular junctures in the past to determine what was historically possible and impossible within that period of time and particular set of relations among political entities. While the two standards will still be important, the metrics will not necessarily work as well for assessing other types of counterfactuals, such as nomothetic counterfactuals, which are more concerned with applying theoretical generalizations to historical events and identifying lawful regularities across the events.

Using the metrics I put forth, I will demonstrate that the counterfactual requiring stronger Soviet intervention during the May crisis is the most compelling of the three. Since it is the most compelling, I will argue that the Soviet Union should assume a higher degree of negative responsibility for the war than Nasser or Israeli leaders because it was in the best position to prevent the war but failed to do so.
Framework Part 1: Minimal Rewrite

To measure the degree to which a counterfactual minimally rewrites history, one should examine both the quantity and the significance of the changes in the antecedent. In other words, how many parts of history are rewritten in the counterfactual and how significant are those changes. Looking simply at the number of changes would be an oversimplification that could lead to a counterintuitive assessment of the relative persuasiveness of a counterfactual. Consider the counterfactual discussed earlier where the Six Day War does not occur because the Soviet Union is democratic. If we simply examined the number of rewrites we would conclude that this fourth counterfactual is more compelling than the first counterfactual that requires multiple changes, including Israeli leadership refraining from making provocative statements and the Soviet Union refraining from incorrectly warning Nasser. Even though the hypothetical fourth counterfactual isolates one variable to change, it is a significant one that would require us to undo a much larger section of history.

While comparing counterfactuals based on the number of rewrites might be relatively clear-cut, incorporating significance into the metric requires a more subjective analysis. To overcome some of the arbitrariness in this analysis, I suggest a general ordering of various types of rewrites based on how many historical facts would have to change to make the antecedent true (See Figure 1). If ordering from least to most significant, the bottom of the hierarchy would include rewrites that involve natural occurrences like heart attacks, tsunami’s, earthquakes etc. Given the random nature of these events, it would be very easy to rewrite a single event in history while leaving virtually all other historical facts the same. On the other hand, rewrites involving individual persons require more undoing of historical facts, and thus, would be ordered above natural occurrences. Rewrites that replace individuals in certain capacities or require individuals to choose a different course of action would fall within this tier. “As a human being, subject to all the fragilities of flesh,” an individual’s personality, risk aversion, emotional intelligence etc. could be easily rewritten without changing many historical facts.117 Replacing an individual in a particular capacity would require rewriting slightly more historical facts. For example, a counterfactual that replaces Nasser with Sadat as president in 1967 would require a more significant rewrite than a counterfactual that makes Nasser more risk averse because it would require rewriting, among other historical facts, the mechanism through which Nasser came to power in the first place.

The next rational tier in the ordering would be rewrites that change the actions or characteristics of a group. This tier would include counterfactuals that rewrite the Soviet Union as democratic or require the
Israeli cabinet not to approve a preemptive attack on Egypt. The rewrites in these counterfactuals are an aggregation of rewrites at the individual level, requiring more historical facts to be changed. The distinction here becomes salient if we consider a counterfactual where Nasser decides to declare war on Israel in June 1967 versus a counterfactual where the United States Congress votes to go to war with Egypt. In the first scenario, Nasser is the only one that would have needed to change his mind, whereas in the second scenario, many congresspersons would have had to change their mind, making it a more significant rewrite.

The final tier requiring the most significant rewrite of history includes counterfactuals that attempt to artificially change the capabilities or resources of an actor or group. This group of counterfactuals might give nuclear weapons to the Confederacy or airplanes to the Mayans. They require a much more extensive alteration of historical facts in order for the counterfactual world to even be conceivable. It is important to note that this subset excludes counterfactuals that rewrite one’s capabilities or resources through historically conceivable means. While artificially giving the Confederacy nuclear weapons would be a significant rewrite, enhancing the South’s capabilities with firepower and financial support from Britain would not be. The latter counterfactual would fall under the less significant collective action rewrite because it requires parliament members to agree on providing support.

In categorizing a rewrite within the framework I have put forth, it is useful to consider whether or not the counterfactual undoes an abnormality in history. A counterfactual that rewrites an abnormal event, person or decision should be ordered below a counterfactual that rewrites an event, person or decision that follows a norm because it requires less historical facts to be altered. Consider a counterfactual that rewrites the first Oslo Accords to end in a stalemate and a counterfactual that rewrites the U.S. support of Israel during the Yom Kippur War. The former rewrite would require less undoing of historical facts because negotiations before and after the Oslo accords ended in a stalemate (i.e. Madrid Peace Conference, Camp David Summit, Taba Summit etc.), making Oslo more of an exception than the norm. In contrast, the United States has been steadfast in its support of Israel so a rewrite changing this norm would require many historical facts to change, making it more significant than the Oslo rewrite.

**Framework Part 2: Cotenability**

The ordering I have developed for comparing the significance of rewrites in counterfactual scenarios serves as a good starting point for evaluating cotenability. The significance of both rewrites and cotenability
are related in that the more significant a rewrite is the more likely it is that the connecting principles will require one to undo his/her beliefs about the historical landscape, relationships, characters etc. To better understand this relationship, consider two counterfactuals at opposite ends of the rewrite ordering: first, a counterfactual that claims that there would not have been a Six Day War if Nasser had been more risk averse and second, a counterfactual that asserts that the Confederacy would have won the Civil War if it had nuclear weapons. In the first counterfactual, Nasser’s personality is only slightly rewritten and does not require us to undo our beliefs about the historical landscape, including our beliefs about Egypt’s capabilities, its relationship with Israel, the realist theory of international relations etc. In contrast, to make an argument for how nuclear weapons would allow the Confederacy to win the Civil War, our beliefs about the South’s military capacity, scientific knowledge, and war tactics at the time would have to be undone.

While the ordering developed for comparing the significance of rewrites is helpful, it is not sufficient for determining how cotenable one counterfactual is relative to another. The ordering can give us a general idea of where particular types of counterfactuals might fall relative to others on a hypothetical cotenability scale, but a case by case analysis will be required to make a definitive comparison. To determine the cotenability of a counterfactual scenario, one should identify what would need to be true in order for the antecedent (what is imagined to have been different) to lead to the consequent (how history would have changed as a result), and determine if those connecting principles are consistent with each other as well as the antecedent and the consequent. Once the beliefs that are not cotenable are isolated, one should compare the counterfactuals based on the number of inconsistent beliefs as well as how integral those beliefs are to the antecedent successfully leading to the consequent. Indeed, this component of the comparison is not clear-cut and will require some informed judgment, however, the subjective analysis should not detract from the legitimacy of the metric, but instead, signal its workability. Any metric that attempted to eliminate all subjectivity from the analysis would be denying the complexity of each counterfactual and its connecting principles, and ultimately fail to provide any unique insight.

\textbf{Application of Framework}

Applying the framework to the three counterfactuals about the May crisis will be useful not only for determining which counterfactual is more compelling but also for clarifying how the two metrics should be applied. Using the two metrics, I will prove that the counterfactual requiring stronger
Soviet intervention is the most compelling. For simplicity’s sake, I will refer to the counterfactual requiring the Soviet Union to refrain from sending its warning on May 13 and requiring the Israeli leadership to refrain from making provocative statements as the “Provocation counterfactual.” The “Amer counterfactual” will refer to the counterfactual requiring Nasser to accept Amer’s resignation after the Suez crisis. Finally, the “Soviet counterfactual” will refer to the counterfactual that requires the Soviet Union to intervene after the removal of UNEF and threaten Nasser against closing the Straits of Tiran.

To compare the three counterfactuals based on the first metric, the number of rewrites will first need to be isolated. In terms of the number of events rewritten, the Provocation counterfactual requires the most changes. While the Amer and Soviet counterfactuals only rewrite one event each (the acceptance of a resignation and the sending of a threatening message, respectively), the Provocation counterfactual requires two events to be rewritten: first, the Soviet warning on May 13 and second, the provocative statements of Israeli leadership. Based on the number of rewrites alone, the Provocation counterfactual is less compelling than the Amer and Soviet counterfactuals, and the Amer and Soviet ones are equally compelling.

Incorporating significance, the Provocation counterfactual begins to look even less compelling in comparison to the other two, and the Amer counterfactual begins to look more persuasive than the Soviet one, see Figure 2. The Provocation counterfactual rewrites the actions of both Soviet and Israeli leadership, placing itself in the second tier in terms of significance ordering. Although it is not clear exactly how many individuals would have had to change their votes or refrain from making provocative statements, it can be concluded with relative certainty that more people would have had to change their course of action than in the other two counterfactuals. In the Amer counterfactual, Nasser is the only actor changing his mind about accepting Amer’s resignation, which places the rewrite in the third tier of the significance ordering. In the Soviet counterfactual, Soviet leadership has to collectively decide to intervene before they originally intended to, which places it in the second tier of the significance ordering. While the Provocation and Soviet counterfactuals both fall within the second tier of significance, the overall magnitude of the rewrite in the Provocation counterfactual is larger because it involves the additional change of public statements made by Israeli leaders. After taking into account both the number and significance of the rewrites, the Amer counterfactual should be ranked the most minimal, followed by the Soviet counterfactual in second place, and the Provocation counterfactual in third. See Figure 3 for a summary of the arguments supporting this ranking.
Comparing the three counterfactuals based on their ability to meet the cotenability standard will be slightly more difficult than comparing them based on minimal rewrites. To begin, it is important to identify what would need to be true for the antecedent in each counterfactual to lead to the consequent. To avoid getting bogged down in assessing every connecting principle, I will focus on the ones I see as most central and most likely to pose a problem of cotenability.

For the Provocation counterfactual to work, the Soviet Union would have to find it disadvantageous to misinform the Egyptians, and Israeli leaders would have to be deterred from making provocative statements. The first assumption is not consistent with our beliefs about how the Soviet Union perceived its relationship with Egypt and its interests in the Cold War. As Egypt’s primary international benefactor, the Soviet Union was confident in its ability to control Egypt. Moscow believed that the Arab-Israeli conflict was yet another proxy war, where the superpowers determined the rules and regulated the international behavior of its satellite powers. Given the instability of the pro-Soviet Baath regime and the Soviet belief that it could control Egypt, it was in the Soviet Union’s best interest to plant the misinformation and manipulate Nasser into defending Syria. Even if the initial Soviet warning were rewritten away, the Soviet Union would have been incentivized to spark tensions in some other way later in May or June. Consequently, we cannot hold the belief that Moscow saw the conflict as a proxy war and thought it could control Egypt while also believing that they would not provoke tensions in May 1967. While this first assumption is not cotenable with some of our previously held beliefs, the second assumption about deterring Israeli leadership is. After Israeli leadership made the initial remarks, Eshkol told Rabin to refrain from making any additional provocative statements, pointing out that “this week has had its fill of threats and warnings.” Because Eshkol successfully deterred Israeli leaders from making any additional remarks later on in the crisis, our beliefs about Israeli leadership would not have to be undone in order for this part of the counterfactual to be successful.

For the Amer counterfactual to work, Nasser would have had to be willing to accept Amer’s resignation in 1956 and Fawzi would have had to remain minister of defense through June 1967. The first assumption runs contrary to our beliefs about Nasser’s relationship with Amer. Nasser had a longstanding but complex friendship with Amer where he felt simultaneously deeply loyal to, but also distrustful of, Amer. Despite pressure from his cabinet to accept Amer’s resignation in 1956, Nasser rejected it precisely because he had such a unique relationship with Amer. Out of both fear and loyalty, the Egyptian president said “I would rather resign” than have
Amer purged.\textsuperscript{122} Thus, our belief about Amer’s relationship with Nasser is not cotenable with our assumption that Nasser would have accepted Amer’s resignation.

With regard to the second assumption, it is not clear whether or not Fawzi would have remained in the position of minister of defense through 1967. Because Fawzi was a Nasser loyalist and remained minister of defense until Nasser died, there is no reason to believe that he would have been replaced as minister of defense if he had been appointed to the position in 1956. Because nearly a decade separates the antecedent and the consequent in this counterfactual, it is important to consider, however, how Fawzi’s appointment as minister of defense in 1956 might have affected Nasser’s decisions before the May crisis. As a diplomat and pragmatist, Fawzi could have convinced Nasser to pursue more diplomatic routes with the U.S., avoid deploying troops in Yemen, or even advise against signing the mutual defense pact with Syria. While our belief that Fawzi would have remained minister of defense through 1967 is cotenable with our beliefs about his relationship with Nasser, our belief that the circumstances preceding May 1967 would have remained the same even without Amer is not cotenable with our beliefs about Fawzi’s diplomatic nature.

For the Soviet counterfactual to work, the Soviet Union would have had to intervene a few days earlier than it actually did, and Nasser would have had to heed the warning. Because the Soviet Union did intervene, albeit a few days too late, the assumption that the Soviet Union would have wanted to threaten Egypt against closing the Straits is cotenable with our previously held belief that the Soviet Union wanted to avoid war. Moscow “had absolutely no intention of bringing about a conflagration,” however, it did hope to escalate tensions enough to consolidate pro-Soviet Arab forces, deepen Nasser’s dependency, and raise Nasser’s prestige in the Arab world.\textsuperscript{123} Moreover, the connecting principle that assumes that Nasser would have heeded the Soviet threat against closing the Straits is cotenable with our beliefs about Egypt’s relationship with the Soviet Union. Unwilling to jeopardize Soviet diplomatic, military, or financial support, Nasser called off Operation Dawn when the Soviet Union advised him against making the first offensive move. Thus, it is not inconsistent to assume that Egypt would have responded similarly if the Soviet Union had intervened after the removal of UNEF.

Before combining the individual assessments of cotenability with the minimal rewrite evaluation, it is useful to rank how cotenable each counterfactual is relative to the others. Without any striking inconsistencies, the Soviet counterfactual appears to be the most cotenable (see Figure 2). To assess how cotenable the Provocation counterfactual is relative to the
Amer one, we will need to compare the number of inconsistent beliefs as well as how integral those beliefs are to the antecedent (what is imagined to be different in history) successfully leading to the consequent (the absence of war) for each counterfactual. In the Provocation counterfactual, there is one inconsistency and it pertains to our belief about the Soviet Union’s incentive structure and the connecting principle that assumes the Soviet Union would not have provoked tensions in May. The connecting principle is fairly important to the success of the counterfactual but there is a chance that the counterfactual could still work even if the assumption is not made. The crux of the argument in the Provocation counterfactual is that the Soviet message, in tandem with the provocative Israeli statements, created the initial momentum that eventually spiraled out of control. However, there is a chance that the consequent (absence of war) would have still occurred even if the Soviets tried to increase tensions later in May. In other words, Soviet provocation might not have been sufficient to create the initial momentum in the absence of provocative Israeli rhetoric.

Compared to the Provocation counterfactual, the Amer one has both more inconsistent beliefs and beliefs that are more instrumental to the consequent occurring, making it less cotenable overall. The Amer counterfactual is not cotenable in two ways. First, one cannot believe that Nasser was deeply loyal to Amer while also believing that Nasser accepted Amer’s resignation in 1956. Second, the assumption that most of the 1967 circumstances would have remained the same if Fawzi became minister of defense in 1956 is not cotenable with our beliefs about Fawzi’s diplomatic and pragmatic character. While the first inconsistency renders the Amer counterfactual unsuccessful, the second inconsistency is only remotely worrisome. If we must undo our belief about Nasser’s loyalty to Amer in order to accept the antecedent (Nasser’s removal of Amer in 1956) as true, then the whole counterfactual is futile. Without a sense of loyalty, Nasser would have never appointed Amer in the first place – let alone felt compelled to follow his advice – making Amer much less potent. On the other hand, if we accept the belief that Nasser was deeply loyal to Amer, then the counterfactual does not work because Nasser would have never accepted Amer’s resignation in 1956.

With regard to the second inconsistency, ignoring the potential effects of Fawzi’s appointment to minister of defense would not hinder the antecedent (removing Amer) from producing the consequent (absence of war) and thus, is not a significant inconsistency. In comparison to Amer, Fawzi was much more diplomatic and pragmatic, meaning that his actions in the decade separating the Suez and May crisis would have made it less difficult to prevent war. For example, Egypt may not have entered a mutual defense agreement with Syria if Fawzi had been minister of defense. This
would have left Syria without much leverage to pressure Nasser into coming to its defense. Thus, the ordering of the counterfactuals based on their ability to meet the cotenability standard should have the Soviet counterfactual ranked first as the most cotenable, followed by the Provocation one in second, and the Amer one in third. See Figure 3 for a review of the cotenability issues facing each counterfactual.

Integrating this ranking with the minimal rewrite ordering reveals that the Soviet counterfactual is the most compelling while the Amer counterfactual is the least. In the minimal rewrite analysis we concluded that the Amer counterfactual should be ranked first as the most minimal, followed by the Soviet one in second, and the Provocation counterfactual in third. Figure 2 plots this minimal rewrite ordering as well as the cotenability ordering on a single plot, illustrating the relative distance between the counterfactuals in each ranking. While the graph shows the relative position of the counterfactuals on each scale, a system for each of the two scales must be established in order to create a final ranking for relative persuasiveness.

I assert that the cotenability standard should be weighted more heavily in assessing the relative persuasiveness of a counterfactual because it can constitute a compelling counterfactual on its own while the minimal rewrite standard cannot. If one were to write a counterfactual that was completely cotenable but did not respect the minimal rewrite rule at all, it would be at least plausible if not minimally persuasive. In contrast, a counterfactual that rewrites the most random and insignificant historical fact but is not cotenable with a considerable number of previously held beliefs is not likely to be considered plausible, let alone persuasive in any way. Using these extreme cases is useful for thinking about how integral each standard is for a counterfactual to be compelling. To avoid the arbitrariness of placing an exact number on the weight of each standard, I will use a relative weight that only assumes that cotenability should be weighted more than .5 in the assessment.

Looking back at the two orderings, the Provocation counterfactual is strictly dominated by the Soviet counterfactual in both rankings, meaning the highest position it can take in the final ordering is second, see Figure 2. To determine the relative ordering of the Amer and Soviet counterfactuals, it will be useful to review how far apart they are in each ranking (see Figure 3). In the minimal rewrite ranking, both counterfactuals have only one rewrite; however, the Soviet counterfactual may involve a group of people (Soviet leadership) while the Amer one does not (only Nasser must accept Amer’s resignation). In the cotenability ordering, the Soviet counterfactual has no striking cotenability issues while the Amer counterfactual has two, one of which is very debilitating. Because the cotenability standard is weighted
more heavily, the difference in the ordering is further magnified. I assert that the small disparity between the positions of the Amer and Soviet counterfactuals in the rewrite ordering will be overcome by the significant difference on the cotenability scale, making the Soviet counterfactual more compelling overall. Consequently, the Soviet counterfactual should be ranked the most compelling overall because it is more compelling than the Amer counterfactual and strictly dominates the Provocation counterfactual on both orderings.

To position the Provocation and Amer counterfactuals in the final ranking, consider the distance separating them on both scales. In the minimal rewrite ordering, there is a significant gap between the two counterfactuals, see Figure 2. While the Amer counterfactual only involves one rewrite that is not very significant (it only changes one of Nasser’s actions), the Provocation counterfactual requires two rewrites of higher significance (it changes the actions of both the Soviet Union and Israeli leadership). On the cotenability scale, the Provocation counterfactual is not cotenable in one fairly significant way, but the consequent (avoiding war in June 1967) may still have occurred even if we do not undo our beliefs about the Soviet Union’s interests and its relationship with Egypt. The Amer counterfactual is not cotenable in two ways, one of which is very significant: either the consequent cannot occur because Nasser would have never dismissed Amer, or the counterfactual is rendered futile if our beliefs about Nasser’s close friendship with Amer have to be undone. The two counterfactuals appear to be equally compelling because they are equidistant from each other on both scales, each compensating for a deficiency on one scale with success on the other, see Figure 2. However, because the cotenability criteria is weighted more than .5, the distance separating the counterfactuals on the cotenability scale is magnified in the total calculation, making the Provocation counterfactual more compelling overall. Incorporating this information with the previous conclusion that the Soviet counterfactual should be ranked as the most compelling, the final ordering of relative persuasiveness should list the Soviet counterfactual first, the Provocation one second, and the Amer one third.

Assessing the relative persuasiveness of the three counterfactuals serves two purposes. First, it highlights the components of a successful counterfactual, demonstrating that a counterfactual can be compelling in more than one way. Second, it informs the discussion of how to attribute responsibility for the war. If a counterfactual can persuasively show that the absence of a particular actor or event in May 1967 would have almost certainly lead to the absence of war, one can justifiably claim that that particular actor or event is responsible in some way for the war. For example, showing how Nasser’s removal of Amer in 1956 would have meant no Six Day War enables
one to conclude that Nasser was responsible, to some degree, for the outbreak of the war. Because all three counterfactuals offer distinct arguments for how war could have been avoided, one cannot attribute sole responsibility for the war to any one actor or event. However, using the rankings of persuasiveness, one could distribute responsibility according to how easily war could have been avoided. As the most compelling scenario, the Soviet counterfactual shows that the Soviet Union could have easily prevented the war by intervening earlier. In contrast, the Amer counterfactual demonstrates that Nasser could not have really been expected to release Amer in 1956 given his deep friendship and intense fear of Amer. Thus, one could argue that the Soviet Union was more responsible for the war than Amer.

Conclusion
The two main objectives of this paper was to determine whether or not the Six Day War was unavoidable given the political climate and set of relations present in May and June 1967, and to create a framework with which the persuasiveness of multiple counterfactuals can be compared. With regard to the first objective, I have offered three counterfactual explanations for how the Six Day War could have been avoided, each highlighting a distinct factor that contributed directly to the outbreak of war. The Provocation counterfactual revealed how the Soviet warning coupled with provocative rhetoric from Israeli leadership made it nearly impossible for Nasser to keep Egypt out of the conflict. Pointing to more internal factors, the Amer counterfactual told a story of intense rivalry and friendship, which prevented Nasser from accepting the resignation of the person who can be said to have single-handedly escalated the conflict into war in 1967. Finally, the Soviet counterfactual highlighted the Soviet Union’s inability to control the conflict, focusing on the Soviet failure to intervene before Nasser closed the Straits. Taken together, the three counterfactuals demonstrate that war was certainly not inevitable and could have, in fact, been avoided in multiple ways.

In many ways, the May crisis of 1967 resembles the current crisis between Israel and Iran over Iran’s nuclear ambitions. Iran, with its overly provocative rhetoric about having Israel “wiped off the map” has imbued Israel with a heightened sense of fear by evoking, like in May 1967, images of the holocaust. Similarly, Israeli leadership has not been shy about publicizing its willingness to resort to force or launch a preemptive attack, but seems to be holding back until the U.S. “turns off the red light” like it did in 1967. The counterfactual analysis of the May crisis has some important implications for the current crisis. First, it demonstrates that war is not the only possible outcome or resolution to the crisis. For example, war could be
averted if the U.S. chooses to intervene early in the crisis, firmly advising Israel not to attack just as the Soviet Union did with Nasser before Operation Dawn. Second, the counterfactual analysis reveals how seemingly inconsequential decisions can have serious implications for the course of the crisis. If avoiding war is the preferred outcome of the crisis, which is not completely clear at this point, then President Ahmadinejad and Prime Minister Netanyahu should be particularly cautious in crafting their statements and political moves to avoid propelling the crisis past a point, like the closure of the Straits of Tiran, where there are not many viable options besides war.

While the first half of the paper focused on the first objective of determining whether or not the Six Day War was inevitable, the latter half addressed the second objective of creating a framework for comparing counterfactuals. By isolating the two most important components of a compelling counterfactual and creating a metric with which to measure the components, I have created a framework that can be used to assess the relative persuasiveness of multiple counterfactuals. Applying the framework to the three counterfactuals described in the first half of the paper has revealed the complexities involved in assessing cotenability and the minimal rewrite rule; however, it has also proved that the framework is ultimately workable. Indeed, there are points where the framework falls short. As the framework is applied to more counterfactuals, it will become increasingly difficult to create an ordering of relative persuasiveness. One way to potentially address this concern is to set an exact weight for the cotenability and minimal rewrite standards. This might be done by surveying how often each standard is respected in contemporary counterfactual literature. Even if the current framework cannot provide a complete ordering of a large set of counterfactuals, it can still be used to compare counterfactuals within the group, making it a unique contribution to the contemporary literature on counterfactual analysis.

Moreover, the framework is valuable for its systematic treatment of counterfactuals, which avoids the arbitrariness and inaccuracies of depending on one’s intuitions for comparing the persuasiveness of three counterfactuals. Plagued by poor heuristics and inconsistencies, our intuitions lead us to believe that particular counterfactuals are more compelling than others for wholly irrelevant reasons. For example, our intuitions might lead us to believe that a counterfactual is most compelling because it alters a peculiar fact, like what president Truman ate for breakfast the morning he ordered the atomic bomb to be deployed, and ignores to what extent the breakfast actually lead to ordering the atomic bomb, or how likely the breakfast was to change in the first place. In identifying the components of a successful counterfactual and providing a means of measuring them, this framework is useful for disciplining the way we assess counterfactuals.
Appendix

Figure 1: Tiers of Rewrite Significance

- Most significant
  - 1. Capabilities (i.e. scientific, military, etc.)
  - 2. Group (i.e. state, committee, cabinet etc.)
  - 3. Individual (i.e. personality trait, particular decision, replacement etc.)
  - 4. Random Natural Occurrences (i.e. heart attack, tsunami, earthquake, etc.)

Least significant

Figure 2: Graph of Minimal Rewrite and Cotenability Orderings

- Least cotenable, Most minimal rewrite
- Most cotenable, Most minimal rewrite

Cotenability

Minimal Rewrite

Amer

Soviet

Provocation

Least cotenable, Least minimal rewrite

Most cotenable, Least minimal rewrite
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Banal Behavior: 
A Study of Non-Choice

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Abstract
Both the classical and behavioral models of decision-making fall short of sufficiently explaining irrational individual decisions and paradoxical social phenomena. The theory of non-choice offers a more satisfying account of individual decision-making. A review of the deficiencies in the classical and behavioral models demonstrates the need for a new conception of choice. Drawing upon the philosophies of Hannah Arendt and Immanuel Kant, among others, choice is defined as the alignment of thought, will, and action. Stemming from this new model of choice is the theory of non-choice, defined as either the misalignment of the tri-partite decision process or a decision made without thought.

The new conceptions of choice and non-choice salvage human rationality and freedom in individuals’ decisions, even when the decision outcomes are against individuals’ self-interest. Redefining social norms as the collection of individual non-choices more thoroughly explains widespread, illogical social behavior. Cases of behavioral phenomena with negative externalities, including practices of female genital mutilation/cutting and foot-binding, are examined alongside those with positive externalities, including the voting paradox and organ donation. The concept of non-choice included in these case studies signals that individuals’ counter-preferential behavior is not necessarily caused by irrational decisions, nor motivated by evil or altruistic preferences; rather, it is banal behavior. The banality of evil and the banality of goodness on a large-scale have implications for assigning responsibility to individual action and for motivating pro-social decisions. Most significantly, the concept of non-choice offers normative guidance for the individual decision maker to salvage her rationality and freedom of choice amid the presence of coercive social norms.

Introduction
A non-choice led Judge Guido Calabresi’s father to become an active anti-Fascist revolutionary. His behavior was not a deliberate, conscious, and active choice, but an unintentional, unconscious, and passive non-choice. While attending a “perfectly horrible speech” by the Fascist Minister of Education in 1924 Italy, Calabresi’s father failed to applaud during an interruption of the speech. He didn’t hiss or boo. He didn’t refrain from applauding because he was particularly political. Rather, he didn’t applaud because “there was nothing to applaud.” It was simply a bad speech. From this simple abstention from action, the crowd marked his father as an anti-
Fascist (Calabresi, “Graduation Remarks”). Was his father conscious that his action appeared to be a staunch political statement? Was his father simply irrational in his decision not to applaud? Or was he simply not thinking about his actions’ consequences?

Calabresi’s remarks touch upon an often over-looked subject: the concept of non-choice. Standard theories for understanding individual decision-making and large-scale social behavior, including classical economics and behavioral economics, attribute motives or preferences to individual decisions. The decision theories assume that individual actions are prompted by an active, conscious preference. When individuals act against their narrow self-interest, classical economists explain it as a “mistake” that will be corrected by the invisible hand of the market, while behavioral economists explain it as either “irrational” behavior or motivated by a social preference. Neither explanation satisfactorily explains large-scale phenomena that are caused by intentional decisions, but nonetheless act against an individual’s self-interest or preference, such as the prevalence of female genital mutilation/cutting or voting. Non-choice provides a more satisfactory answer.

Non-choice is characterized not by acting according to self-defined preferences or motivations, as in the classical and behavioral models, but by actions taken without preparatory thought or taken counter-preferentially. Calabresi asked his dad why he chose to become an active anti-Fascist, seeking to understand his motivation behind his politics. His father replied that he did not choose to be an active anti-Fascist, as his behavior was not motivated by political sentiments. His inaction snowballed into a political career, something that was unpredictable to his father even in retrospect. Hannah Arendt was one of the first to note that evil consequences can stem from a lack of thought in a decision—a non-choice (Arendt, Eichmann in Jerusalem). Less attention has been spent on the possible positive consequences from non-choices. Calabresi’s father says, “Everybody talks about the banality of evil; nobody talks about the banality of good” (“Graduation Remarks”). He was not motivated by altruism, but nonetheless behaved in a good manner.

Non-choices are prevalent, everyday occurrences, but seldom do they produce the dramatic consequences of Calabresi’s father’s non-choice. In fact, non-choices are often mundane: they occur when I set out luminarias in front of my home on Christmas Eve in New Mexico; they occur when I automatically include a 20% tip on a restaurant bill; and they even occur when I choose not to give a panhandler a dollar on the streets of Philadelphia. These mundane decisions are not necessarily unpredictable in their consequences: my non-choice of setting out luminarias perpetuates the tradition each holiday season; my non-choice to tip 20% compensates for the
below-minimum-wage income of the server; and my non-choice to ignore the panhandler can leave him destitute, or can inspire another to give him even more money, transforming his life.

Paradoxical, large-scale social phenomena with both positive and negative externalities may be explained by amassing individual non-choices. While singular non-choices may have tremendous consequences for the individual and society at large, aggregating many parallel non-choices may have even more significant effects. When presented with unpredictable and unexplainable social phenomena, the classical and behavioral economists’ traditional tools of individual motives and preferences fall short. Social norms, reconceived as the aggregation of individual non-choices across a population, may provide a more adequate method to explain paradoxical social phenomena than classical or behavioral economists. Social norms with negative externalities, such as female genital mutilation and foot-binding, or those with positive externalities, such as voting and default organ donation registries, are not necessarily caused by evil or altruistic motivations. Nor are those decisions necessarily in accordance with an individual’s preferences. Rather, those phenomena are perpetuated through a simple lack of thought or a counter-preferential action. Conforming to the norm is not a genuine free choice, but conditional upon the expectations of others’ behavior. Individuals acting according to conditional preferences are no longer autonomous, active choosers, but conditioned, banal non-choosers. Non-choosers do not act. They behave.

With these wide-ranging implications for both the individual and for society, it is a wonder that non-choice hasn’t been given more critical attention. The lack of focus on non-choice may be caused by the general wonder and infatuation with choice. At the center of democratic functioning, and arguably at the core of humanity, is the concept of choice. Indeed, members of democracy live in the “land of the free,” where each is free to pursue his or her dreams. Choice is revered in art—Hamlet must choose “to be or not to be,” upheld in the founding documents of democracies—the inalienable right to liberty is inscribed in the U.S. Declaration of Independence, and pondered upon in philosophy—Kant’s conception of freedom and Aristotle’s notion of reason are essential to humanity. Isaiah Berlin says in the Essays on Liberty, “Those who have ever valued liberty for its own sake believed that to be free to choose, and not to be chosen for, is an inalienable ingredient in what makes human beings human” (Ben-Porath 15). Choice continues to be metaphysically deconstructed by philosophers, leveraged by policymakers, and manipulated by business marketers. At the core of these discussions is the fear of limitations on choice—the state’s limitation on citizens’ freedom, the society’s limitation on citizens’ choice
options, and the individual’s own limitations on his/her rationality. The discussions focus on an active decision model, in which individuals may be constrained, but nonetheless actively choose their own life trajectory.

The purpose of this project is to expand upon the behavioral model of decision-making by offering another explanatory variable to paradoxical social phenomena: non-choice. Non-choice not only presents a better descriptive account of unexplainable social phenomena, but also a normative view of choice, offering philosophers and policymakers an opportunity to salvage individual freedom and rationality in the new choice model. Ultimately, just as classical economists are mistaken to assume perfect rationality of individual decision-makers, behavioral economists are equally mistaken to label individuals as “irrational” in their decisions. Humans are not irrational if their freedom resides in their abilities to think. Individuals acting in society are no longer fools for making counter-preferential decisions, but are simply engaging in non-choices.

Conceptions of Individual Choice

Individual decision theories and economic theories rest their findings on the assumption of choice—equating decisions in the marketplace to choices. Reviewing the classical and behavioral accounts of individual choice offers the platform to critique this assumption, and supports the claim that decisions are not synonymous with choices. Both theories conceive of choice as comprised of freedom and rationality, while each focuses on the constitutive elements in differing degrees. As Sigal Ben-Porath says in Tough Choices, “The mainstream scholarly and political view on choice sees [choice] as a derivative of conditions of freedom and as based on the capabilities of individuals to autonomously express and execute their preferences” (6). In short, when afforded both the liberty and rationality to act, individuals can autonomously choose.

While founded upon the same constitutive elements, the classical and behavioral economic models place differing emphasis on the limits to choice: the classical model focuses on lifting the state restrictions to act in the marketplace, while the behavioral model focuses on creating more opportunities for free choice in the marketplace. The models may differ in their focus on limits to free choice, but both rest on the assumption that every decision is, in fact, a choice. The models attempt to derive theories, based on either normative principles or empirical evidence, to explain and predict individual decision-making. While their approaches differ, their aim is the same: to accurately explain behavioral phenomena. Outlining their different approaches opens the floodgates for critiquing the adequacy of the explanatory power of each model and reveals the opportunity for the theory
of non-choice to explain paradoxical choices, at both the micro and macro levels.

The Classical Model

At the center of the classical model of economics is the theory of rational choice. This emphasis arises from a long philosophical tradition that sees rationality as the necessary pre-requisite to autonomous choice. Hamlet, both the most and least rational Shakespearean character, remarks on the utter magnificence of human reason. He extols to Rosencrantz:

> What a piece of work is a man, how noble in reason, how infinite in faculties, in form and moving how express and admirable, in action how like an angel, in apprehension how like a god! the beauty of the world, the paragon of animals—and yet, to me, what is this quintessence of dust? Man delights not me—nor woman neither, though by your smiling you seem to say so. (<i>The Tragedy of Hamlet, Prince of Denmark</i>, Act II, Scene 2, 303-312)

Dan Ariely notes that this quotation reflects the predominant view of human nature, shared by economists, policymakers, and “everyday Joes,” that humans are inherently rational creatures (xviii). Hamlet’s praise of human reason is echoed throughout time. Plato’s Socrates proclaims, “Reason is the only thing which once it is born in man, remains with him throughout his life as the protector of virtue” (<i>The Republic</i>, Book 8, 549b). Aristotle characterizes human nature as based in the capacity to reason: “For man, therefore, the life according to reason is best and pleasantest, since reason more than anything else is man” (Vol. 19). For Immanuel Kant, reason was the decisive cognitive process for self-legislation, or humans acting according to their own self-governed goals. His notion of the categorical imperative, in fact, is based upon the notion that actions are only justified by principles determined by reason: “Act only according to that maxim whereby you can, at the same time, will that it should become a universal law” (Kant 30). The state also emphasizes rationality in choice, and uses diminished rationality to limit a citizen’s action. For instance, if a citizen is deemed limited in her rational capacity, it is justified to prevent her from acting or to have a surrogate decision-maker choose on her behalf. Such is the case when the democratic state precludes citizens under a certain age—typically 18—from voting, justified by their insufficiently developed intellect to make an informed political decision.

Rational choice theory stems from this philosophical tradition of rationality as the central facet of individual decision-making. Jon Elster describes rational choice theory as both normative—telling people how to
choose, and prescriptive—telling them how to act in order to best achieve their aims. Its explanatory account of human behavior is of secondary importance (Elster 21). The following model is the basic structure of the rational choice theory (Elster 22):

![A Rational Choice Diagram](image)

For an action to be a rational choice, it must satisfy three conditions. First, it must be the best means of satisfying the desires of the individual, given his beliefs. Importantly, those beliefs must also be rational (Elster 22). If I desire to satisfy my hunger and I believe the best course to achieve that end is to drink water, I am hardly undertaking a rational decision. Thus, a second condition is that my belief must be rational; for instance, eating a turkey sandwich is a rational belief to satisfy my desire. The only requirement for a rational belief is that it must be grounded in available information. The decision’s foundation in “the optimal amount of information” is the third condition in rational choice theory (Elster 23). Information seeking does not require the belief to be true objectively; it merely requires that the belief is subjectively true. If I seek information on how best to satisfy my hunger and, after gathering the information, I am still convinced that water is the best means to satisfy that end, then I am undertaking a rational decision (although objectively false). Because of the subjectivity of rationality, “belief formation is vulnerable to distorting influences of various kinds” (Elster 23). This vulnerability is important for an economic model that must account for
rational mistakes in the marketplace.

A related model of choice that also rests upon the assumption of perfect rationality is the generalized axiom of revealed preferences, or GARP (Ariely xix). Vilfredo Pareto offered this “revealed preference” theory to circumvent the limitation of economists in determining individual motivations. Rather than economists asking each actor in the marketplace his or her preferences, this model infers the preferences from the actions (Bruni and Guala 21-49). Pareto assumed that the subjective fact of a person’s preferences conformed to the objective facet of the given choice.

The assumption of rationality in decision-making is the basis of Adam Smith’s Wealth of Nations (Ariely xix-xx). His economic theory, viewed as the foundation of capitalism, rests on the assumption that, in the marketplace, the individual uses a cost-benefit analysis of each alternative to make a decision according to his or her own self-interest. Smith argues that when each individual acts according to his or her own self-interest, the economic “pie” expands. When individuals make “mistakes” in their decisions, acting against their narrow self-interest, market forces and the “invisible hand” correct them by channeling competition toward an equilibrium. These positive externalities of an expanding economy and corrective market forces are not based upon individual generosity or altruism, but on a rational narrow self-interest. Smith says, “It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity, but to their self-love, and never talk to them of our own necessities, but of their advantages” (Book 1, Chapter 2, Wealth of Nations).

Individuals are held to a high standard—perfection—for their rationality in the classical model.

In addition to addressing the rational component of choice, the classical model emphasizes freedom as essential to choice. Classical economists emphasize negative freedom, purporting that the ultimate role of the democratic state is to preserve citizens’ capacity for liberty. In other words, “the state should not limit choices; it should not intervene in the personal process of preference development and expression” (Ben-Porath, 4). On the economic level, economic libertarians hold free choice as the ultimate value for market economies. Greenfield writes: “Markets depend on choice—if we all are free to choose, the market allocates resources to those who desire them. If choice is limited, the story goes, then people are less able to satisfy their preferences and thus worse off” (122). Therefore, if an actor is entirely rational, but is constrained by other agents, then she is unable to freely choose.
Criticisms of the Classical Model

The classical model of individual and collective decision-making has a number of flaws. First, the classical model focuses on lifting barriers to market interaction, to the neglect of other limiting forces. Greenfield notes the problems of focusing on the market:

Depending on markets means that if you have few resources, you have little choice. Also, markets limit choice by making manipulation of our choice profitable. Markets also put price tags on things we don’t want to commodify—left to their own devices, markets sweep up all kinds of things we’d otherwise choose to protect from markets, like babies or kidneys (3).

Focusing on the market neglects the limits imposed by both the brain and society.

The brain is a tremendous limit to rationality. Many actions occur through automation and habit, without a rigorous cost-benefit analysis. By assuming rationality, the classical model neglects the brain’s own limitations on rational decision-making. The brain is composed of many structures, some that analyze and think (the prefrontal cortex), some that create and store memories (the hippocampus), and some that control automated actions (the basal ganglia) (Greenfield 49). While this complex structure allows for humans to multi-task, it is limited. Greenfield writes:

The problem is that the analytic parts of our brains are easily over-taxed, and you cannot dependably ask them to do more than one thing at a time… One problem is with how our brain works is that if the prefrontal cortex is tired or overtaxed or distracted, our basal ganglia take over (51).

As Charles Duhigg notes in The Power of Habit, “Most of the choices we make each day may feel like the products of well-considered decision-making, but they’re not. They’re habits” (xvi). He notes that one Duke University study (2006) finds that more than 40% of actions people perform daily weren’t actual decisions, but habits (Duhigg xvi). The “autopilot” feature of the basal ganglia accounts for mistakes in decision-making not recognized by rational choice theory or the classical model (Greenfield 51). The model neglects genuine mistakes, such as the “forgotten baby” cases in which mothers forget their children in a car seat and the child dies from heat. Researchers have directly linked these cases to the autopilot feature of the brain (Greenfield 51). The classical model is thereby deficient by not recognizing actions that are taken “in the zone” or on “auto-drive.” It incorrectly recognizes such
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The model wants to attribute a choice to mothers in this instance, while society (and juries) recognize the action was not a choice, but a mistake, worthy of acquittal (Greenfield 52).

Not only are choices in the market place limited by psychology, but they are also sometimes coerced and involuntary (not choices at all, in other words). For example, radio host Neal Boortz said that victims of Hurricane Katrina ought to bear the costs of the devastation. He said that generous donors were ignoring that victims placed themselves in the devastating position through their poor decision-making. Boortz said that “poverty is a behavioral disorder” and “what we saw in New Orleans was poor people demonstrating the very behavior that made them poor in the first place” (Greenfield 15). Labeling poverty and the devastation of a hurricane as the results of individuals’ choices overlooks many limiting factors, including lack of financial resources, modes of transportation, or forewarning to leave the city. Greenfield notes, “Most Americans seemed to recognize, in a simple but profound way, that the victims of the flood had had few real alternatives and should not be blamed for the ‘choices’ they made” (16). Polls found that only 22% blamed residents, while the majority blamed the government for the disaster (Greenfield 16). The classical model, by elevating all actions to genuine choices, neglects fake choices, or those that lack viable alternatives.

Moreover, it has been well documented that individuals do not follow a path of narrow self-interest, as Smith claims. Numerous empirical studies on choice negate the assumption of narrow self-interest, as many individuals make counter-preferential choices, reducing his/her own welfare for the sake of fairness or other-regarding preferences (Ben-Porath 31-32). Finally, because the classical model places too high of a burden for a person’s rational decision process and does not account for social preferences, it fails to give an adequate descriptive account of individual choice. Behavioral economists developed in direct response to these deficiencies in the classical model. Reviewing the behavioral response will offer a more thorough criticism of the classical model of choice.

The Behavioral Model

Behavioral economics offers an alternative, descriptive model, to explain individual decision-making. While Smith’s model of capitalism has been critiqued from almost every angle—most notably Karl Marx’s criticism in the Communist Manifesto—behavioral economists’ concerns pertain to the assumption of perfect rationality. In fact, the field developed to critique the assumption that economic agents act according to narrow self-interest.
based upon a rigorous cost-benefit analysis. Amos Tversky and Daniel Kahneman laid the foundations for behavioral economics, which studies the psychological limits on an individual’s rational decision-making. As Dan Ariely proposes in Predictably Irrational, humans have the capacity to reason, but often fall short of perfect reasoning skills. Empirical evidence, both in laboratory experiments and in market data analysis, dismembers the rationality assumption of the classical model.

Behavioral economics un-pillars the assumptions of will power, self-interest, and rationality in the classical model and suggests that each are bounded or limited by human’s own psychology. Jolls et al. state that the task of behavioral economics is “to explore the implications of actual (not hypothesized) human behavior” (Jolls et al. 1548-1549). Behavioral economists ask: “How do ‘real people’ differ from homo economicus?” and offer the notions of bounded rationality, bounded willpower, and bounded self-interest as answers. First, individuals have bounded willpower, evidenced in their hyperbolic discounting of events in the future compared to the present (Laibson 1997). Second, individuals have bounded self-interest, as they show concerns for fairness and punishment (Camerer & Thaler 1995). Third, and most important to the task at hand, individuals have bounded rationality. Empirical evidence of this limit to human reason include: the self-serving bias (Babcock & Loewenstein 1997); the availability heuristic (Tversky & Kahneman, 1982); the hindsight bias (Fischhoff 1975); the omission bias (Ritov & Baron 1990); over-optimism (Weinstein 1980); and the inability to predict experienced utility (Kahneman, 1996). Individuals’ bounded rationality is further evidenced by their loss aversion, meaning losses hurt more than equivalent gains feel good (Kahneman & Tversky 1979). A related limit is the “endowment effect,” the discrepancy between an individual’s willingness to pay for an item and their willingness to accept the same item based on their ownership of the item (Kahneman, Knetsch, and Thaler 1990).

At the center of this empirical evidence is the individual’s reliance on heuristics in judgment. For example, individuals experience “mental contamination” in decision-making. Kahneman and Trversky’s “wheel of fortune” study asked people to first spin a wheel with numbers 1 to 100 on it and then to give an estimate of the number of nations in Africa. While the wheel’s number and the number of nations in Africa are clearly independent of each other, individuals were anchored to the wheel’s number—they gave low answers when the wheel’s number was low and high answers when the number displayed was high (Greenfield 63). Framing effects also bias individual decision-making. For instance, in a 1982 study, a group of cancer patients was presented with two surgical options: a surgery with a 90%
survival rate and another surgery with a 10% mortality rate. Despite the identical, probabilistic outcomes, the framework induced the patients to favor the 90% survival rate over the 10% mortality rate (Ben-Porath 30-31). Each of these phenomena offer the empirical evidence behavioral economists use to criticize the normative account of classical economists. Because psychological barriers leave individuals short of perfect rationality, behavioral economists claim that individuals systematically (and predictably) behave “irrationally” in their choices. Rather than merely describing individuals’ “irrational” decision capacity, scholars have suggested that states, businesses, or power holders can leverage the bounded decision capacity for their own interests. These scholars suggest leveraging the insights of behavioral economics at the individual level to promote good externalities on a macro-level.

In addition to criticizing the rationality assumption of the classical model, behavioral economics focuses on the freedom of choice in society. While the classical model emphasized negative freedom, or lifting the barriers for free choice, the behavioral model emphasizes positive freedom, or the opportunity to act according to a person’s preferred choice (Ben-Porath 6-7). Even with negative protections of choice, behavioral economists say choices may not be genuinely free. Cass Sunstein and Signal Ben-Porath explain that an individual’s freedom of choice is not only limited by her own psychology, but also by the choice options available in society. The “choice landscape” or “architecture of choice” of society or the state does not prohibit an individual taking a certain action, but nonetheless limits human freedom by “nudging” an individual toward a particular course of action. In this way, a choice architecture that “nudges” an individual toward a particular decision is “liberal paternal.” Sunstein says, “A nudge...is any aspect of the choice architecture that alters people’s behavior in a predictable way without forbidding any options or significantly changing their economic incentives.” Nudges are paternal because they encourage a particular choice, and simultaneously liberal because they are not mandates for action (Sunstein 6). Just as the welfare state created new roles to enhance positive freedom, the liberal paternal state is a new arena for state intervention since it is a “choice architect” for citizens. Sunstein explains, “Choice architects can make major improvements to the lives of others by designing user-friendly environments” (11).

Importantly, liberal paternalism presumes that whatever efforts the state takes to offer a neutral space to act, or to provide negative freedom, fail because the state’s “neutrality” is compromised by the choice landscape it creates. Sunstein says that it is impossible to construct a “neutral design” and that the state cannot avoid being choice architects since it naturally creates the choice menu for its citizenry (Sunstein 3). He writes:
The libertarian aspect of our strategies lies in the straightforward insistence that, in general, people should be free to do what they like—and to opt out of undesirable arrangements if they want to do so...The paternalistic aspect lies in the claim that it is legitimate for choice architects to try to influence people’s behavior in order to make their lives longer, healthier, and better...In our understanding, a policy is ‘paternalistic’ if it tries to influence choices in a way that will make choosers better off, as judged by themselves [the choosers]” [Emphasis in Original] (Sunstein 5).

For instance, by forbidding same-sex marriage, the state creates a barrier for personal relationships. In this way, any state action that deregulates or regulates personal-social institutions can have “significant consequences in shaping the landscape of options individuals face in this realm, thus shaping their identity, their preferences, and their actions” (Ben-Porath 4). From this perspective, states cannot avoid being paternalistic. They suggest that the state must harness its propensity for paternalism by not prohibiting choices, but by “nudging” individuals toward certain outcomes, thereby preserving an illusory “liberty.” For example, tax credits for children offer incentives for citizens to bear children. Technically, the individual has the free choice to rear a child, but the state’s policy might influence one’s choice to have children or not. In this way, liberal paternal policies shape the choice landscape for individuals.

Criticisms of the Behavioral Model

In many ways, behavioral economics compensates for the deficiencies of the classical model by offering a descriptive account of human behavior. The classical model of self-interest has been disproven by hundreds of experiments around the world showing (Henrich, Boyd, Bowles, Camerer, Fehr, Gintis, McElreath, Alvard, Barr, Ensminger, Henrich, Hill, Gil-White, Gurven, Marlowe, Patton, and Tracer 2005). The field of behavioral economics can help economists better predict market behavior, can help the state create policies that compensate for citizens’ bounded decision capacity, and can help individuals plan for their own decision shortcomings. Despite its improvements upon the classical model, behavioral economics has five fundamental flaws.

First, it uses a methodological individualistic approach to explain decision-making. By focusing on individuals’ use of heuristics—including the self-serving bias and availability bias—it discounts how behavior in the collective can influence a person’s decision to act in a certain manner. Rather than attributing concerns for fairness in Dictator Games to social
expectations, it attempts to incorporate these social preferences into an individual utility model. This approach reduces all social phenomena to individuals’ irrational decisions, and explains all behavioral regularities through facts of personal motives, beliefs, and capabilities. This approach neglects the interaction of these individual facts with larger social norms, and their influence on motives, beliefs, and capabilities. As the account of social norms will illustrate, people rarely make decisions in a vacuum; their decisions are conditioned upon others’ observable choices and inferred preferences. Recognizing the social context of decision-making is essential for a proper descriptive account of choice.

A second criticism of the behavioral economics conception of choice is that it takes agency away from the individual, labeling her behavior as hopelessly “irrational” without any normative guidance to help her reclaim her rationality. To be sure, the field does offer its own normative advice: Sunstein suggests using the insights of behavioral economics to “nudge” individuals to make good decisions for themselves (6); Ben-Porath suggests using the findings to create a better educational system and choice landscape for citizens (16); and Ariely proposes individuals utilize the findings by correcting their behavior after learning about their frequent “irrational” mistakes (xxii). Yet, each piece of normative advice concerns avoiding irrational mistakes rather than positively making rational choices. In fact, Ben-Porath warns against assuming that all adults have developed the cognitive tools to enable them to go through a productive process of choice (147). By describing human behavior as irrational, and presupposing that individual decision-making is permanently deficient, individuals lose agency over their rationality. While the field certainly expands the notion of human rationality beyond narrow self-interest to include other-regarding preferences (for example, preferences for fairness and punishment), it does not offer guidance to salvage human rationality. Without a normative account of choice to reclaim rational choice, rather than to simply avoid irrational decisions, behavioral economists degrade humans to slaves of their deficient cognitions.

A third deficiency of behavioral economics concerns liberal paternalism’s opportunity for free choice. If the state is never able to offer genuine freedom, because every choice it presents its citizens either limits the choice landscape or nudges an individual toward a certain option, any negative prohibition or positive opportunity for liberty becomes irrelevant for free choice. In the behavioral view, even if the state offers negative prohibitions of freedom infringement by guaranteeing certain rights and curtailing its own power, individuals still lack freedom of choice because of the inherent choice architecture of society. The logical consequence of
choice architecture is to throw protections of state intervention to the wind, since they will always be inadequate safeguards for freedom. This result runs counter to democratic principles that rely on the notion of free choice. Thus, without any space for freedom, states can justify mounting intrusion into citizens’ life choices—a sinister prospect.

The fourth deficiency of liberal paternalism in particular is its singular focus on state limitations of choice, to the exclusion of other limiting agents. Focusing solely on the state’s limits on choice misses another critical actor that limits individual liberty: society. Society inherently influences agents’ judgments of their choices. For instance, Ben-Porath cites Charles Dickens’ Oliver Twist and Jane Austen’s Mr. Darcy as examples of characters whose life choices were largely determined by external social circumstances. Their life trajectories fit into an “allotted future,” with little room for maneuvering within their pre-chartered destiny. According to Ben-Porath, “Parental knowledge and social conventions were considered to be better directives than one’s own judgment.” In contrast, “the contemporary democratic, Western sociopolitical structure and ethos…favors choice over destiny. Freedom, exercised through the choice of a life plan, is the tool for overcoming the social vision of inherent inequality or structural stratification, such as the one evident from comparing Oliver Twist with Mr. Darcy” (Ben-Porath 2-3).

While Ben-Porath may be correct in judging contemporary contexts as less rigid in class structure, allowing for some social mobility, her view that the current social structure provides space for “a lifetime of choices” underestimates the societal limitations on individual freedom (144). While Oliver Twist in contemporary society may have encountered greater freedom to escape his impoverished destiny as an orphan, and Mr. Darcy would have been free to marry women of all economic statuses and races, there are nonetheless tremendous limitations to individual choice in contemporary society. These limitations are not necessarily enforced by legal sanctions or by the state’s “liberal paternal” policies, but, rather, by society’s own choice architecture. While choice may appear to be less restricted in the twenty-first century compared to the early nineteenth century, declaring it absolutely free from societal influences is fallacious. As this study shall prove, society has tremendous influence on individual choice, especially through social norms. Including society as a limiting agent of choice supports the idea that, “clearly, choice is bounded by the context in which it occurs and is limited by the forms of rationality that the choosing individuals can utilize” (Ben-Porath 126).

Finally, and most importantly, the view of behavioral economists does not adequately explain large-scale, paradoxical social behavior. Behavioral economists’ explanations for counter-preferential or other-
regarding decisions assume that individuals made choices. For instance, individuals who made poor decisions for their retirement investments were “naïve” investors (Sunstein 120). This accusation of naïveté, alongside the accusation of irrationality, rests on the assumption of an active choice model. The theory uses psychological heuristics to prove the deficiency of human rationality, but nonetheless attributes the decision to the individual’s own decision capacity. An individual may have been naïve or irrational in her decision, but it was nonetheless her choice.

The behavioral account neglects a third mode of decision-making, which ought to be considered alongside the classical rigorous conception and the deficient behavioral conception, to explain paradoxical decisions. Both the classical and behavioral accounts miss the possibility that actions are taken not due to an inherent flaw in the system or in the mind, but due to laziness or the desire for conformity. Non-choices are not caused by deficient rationalities, nor are they “mistakes” to be corrected by an invisible hand in the marketplace. Rather, non-choices are characterized by a lack of thought or a counter-preferential selection among the choice options. A proper descriptive model of collective decision-making must account for those individuals who do not think, but nonetheless still behave and survive in society. It must also consider those people who behave against their own preferences. Accounting for these two types of decisions builds upon the behavioral model by offering a better explanation for paradoxical social phenomena.

**A New Conception of Choice**

A new conception of choice must avoid the pitfalls of both the classical model, by not assuming the constancy of human rationality, and the shortcomings of the behavioral model, by not labeling the individual as deficient in her capacity to choose. The new construction of choice must reintegrate reason into an individuals’ decision-making capacity. It must also recognize society as a limiting agent to liberty, while offering a space for freedom outside of any external restriction. Importantly, the reconstruction must be descriptive—accurately describing human behavior—and normative—offering individuals who appear deficient in their decision processes an opportunity to reclaim their rationality and freedom in choice.

Most importantly, a thorough definition of choice accounts for the critical deficiency in the classical and behavioral models, neither of which offer a clear answer to the question: what is choice? In the classical model, decisions are assumed to be choices, neglecting any automated or constrained actions. In the behavioral model, decisions are assumed to always be limited choices, limited by psychology and the choice environment, but choices nonetheless.
Redefining choices in the active sense enhances the behavioral model by labeling those “irrational” decisions in more precise and dignifying ways.

Choice, as I shall define it, is the sequential process of thought, will, and action. Before analyzing each step separately, it is important to note that each element is necessary and independently insufficient to constitute a choice. The process is also linear: thought preceding will and will preceding action. The absence of any element or the misalignment of any single element in the process constitutes a non-choice. Delineating the steps of choice offers the foundation to its counterpart, non-choice.

The Choice Process

*Thought*

Rationality is viewed as a pre-condition for choice—granting individuals the autonomy to discern their preferences, even before they are given the opportunity to act upon those preferences. As Ben-Porath says, “Decisions made through proper choosing processes are deemed justified and legitimate” (5). Since heuristics are considered irrational “choosing processes,” the new conception of choice must include a proper, rational process of determining one’s preferences to render the choice legitimate. The proper process is thought. Thought is a type of self-dialogue, a process of rumination. Hannah Arendt’s thorough description of thought will serve as the basis for understanding the process. For Arendt, thought has four primary characteristics: it is inactive; it is distinct from knowledge; it deals with invisibles, out of the world of appearances; and it is solitary.

Thinking’s first characteristic is that it paralyzes physical action, requiring the ability to stop and think (Responsibility and Judgment 176). Arendt writes:

Thinking’s chief characteristic is that it interrupts all doing, all ordinary activities no matter what they happen to be…. For it is true that the moment we start thinking on no matter what issue we stop everything else, and this everything else, again whatever it may happen to be, interrupts the thinking process; it is as though we moved into a different world (Responsibility and Judgment 165).

Thus, in the choice process, thought must be separated from action, since action is destructive for the activity of thinking. This distinction also lifts the burden of constantly thinking, as Arendt does not suggest that thinking is a continuous activity since action necessarily interrupts it.

A second facet of thought is its distinction from knowledge. Like Kant, Arendt distinguishes between thinking and knowing by separating
reason from intellect. Reason is the urge to think and to understand, while intellect seeks verifiable knowledge (Arendt, Responsibility and Judgment 163). Thinking is therefore a rational process by definition, since it involves logical reasoning, rather than serving as the storehouse of facts and knowledge. The consequence of the distinction from knowledge is that only thought can satisfy the need to think, rather than any functional accumulation of knowledge. Arendt says, “the thought which I had yesterday will satisfy this need today only to the extent that I can think them anew” (Responsibility and Judgment 163). A thinking individual must continually stop and think in order to satisfy her desire.

A third facet of Arendt’s thought is that it deals with invisibles, outside of the world of appearances (Responsibility and Judgment 167). This is not to say that thinking must only concern concept or ideas, only that when it does concern physical objects, they must be outside of the immediate sense perception. Arendt says, “to think about somebody who is present implies removing ourselves surreptitiously from his company and acting as though he were no longer there” (Responsibility and Judgment 165). More often than not, sensory experiences provide food for thought that occurs later.

The final facet of thought is that it is solitary—a idea closely related to the stop and think component of thinking. Michael Sandel conceives of moral arguments as a dialectic between one’s judgments about particular situations and the principles one affirms upon reflection; however, he also conceives of moral reflection as a public endeavor, rather than a solitary pursuit. His justification is that moral reflection requires an interlocutor, a Socrates of sort, who can put pressure upon one’s convictions (Sandel 28-29). Yet thinking in this manner would merely reinforce principles defined by society, especially if the interlocutor comes from the same political and social constructs as the individual. For this reason, thinking necessarily must take place in solitude—acting as one’s own interlocutor—in order to properly judge the social norms in play. Solitude is not loneliness:

Solitude means that though alone, I am together with somebody (myself, that is). It means that I am two-in-one, whereas loneliness as well as isolation do not know this kind of schism, this inner dichotomy in which I can ask questions of myself and receive answers (Arendt, Responsibility and Judgment 98).

Solitude, then, offers a forum for a silent dialogue of myself with myself. Arendt suggests that solitude can be interrupted by exhaustion or by other people. In the modern era, social media, technology, and other communication devices must be added to the list of disruptive forces.
Whatever the disruptive force, the self-dialogue in solitude “shuns the multitude” (Arendt, Responsibility and Judgment 103).

While it may seem obvious that thinking should preface a genuine choice, thought as defined by Arendt proves that it is difficult to achieve. Thinking places many obligations on a person—she must remove herself from society, she must stop all other activities, and she must think on objects not in her direct sense perception, but on phenomena outside her senses or on metaphysical questions. She must not engage in thinking for a functional, practical purpose to generate knowledge, but to think for thinking’s sake. These stringent requirements on thought explain why, according to Arendt, “Thinking, the quest for meaning—rather than the scientist’s thirst for knowledge for its own sake—can be felt to be ‘unnatural,’ as though men, when they begin to think engage in some activity contrary to the human condition” (165). It feels unnatural because individuals so rarely engage in thought of this sort.

An example of thought illustrates its rigor and hints at its potential benefits. Sandel describes an Arendtian form of thought that deals with intangibles: the moral dilemma hypothetical. Like Arendt, Sandel describes thought as an engagement in mental aerobics, but specifies that the activity involve moral quandaries—concepts outside of the world of appearances. For instance, Sandel presents the popular “trolley” thought experiment, which compels the thinker to discern the moral difference between pushing a man in front of trolley to save five people and pushing a lever to redirect the trolley, saving five but killing one as a result of the redirection. The moral quandary to save five at the expense of one compels the individual to discern his preference for utilitarianism—sacrificing one for the sake of five—or deontology—not intentionally pushing a person into harm’s way. As Sandel says, “By setting aside contingencies—‘What if the workers noticed the trolley and jumped aside in time?’—hypothetical examples help us to isolate the moral principles at stake and examine their force” (22-24). By thinking through hypothetical moral dilemmas, individuals engage in thinking not for a functional purpose, but to sort out their own moral convictions. They help determine their preferences for diverging moral principles.

Thinking on a moral dilemma satisfies the conditions of Arendtian thought: it is inactive and requires the individual to stop and think; it is not undertaken for a functional purpose to acquire knowledge; and it concerns intangible concepts in the hypothetical realm. Indeed, “This way of conceiving moral arguments, as a dialectic between our judgments about particular situations and the principles we affirm on reflection, has a long tradition. It goes back to the dialogues of Socrates and the moral philosophy of Aristotle” (Sandel 28).
Despite its rigor, incorporating this laborious process of thinking into the choice model has a number of benefits. First, while Arendt claims that thinking is not the handmaiden of knowledge and that it is “resultless by nature” (Responsibility and Judgment 166-167), it nonetheless serves the practical purpose of preparing the individual for a choice by creating preferences on which to act. This factor is not in contradiction with Arendt’s theory, since she acknowledges the preparatory nature of thought and that preparation is neither a tangible product nor a type of knowledge. Preferences must be determined at the level of thought in order to avoid the pitfalls of revealed-preference theory, which infers preferences from an action. Revealed preference theory does not account for counter-preferential choices, or when an individual acts against her own desires and beliefs. Since this concept is empirically disproven, and preferences are often misaligned with actions, they must instead be determined at the solitary, inactive stage of thought. Thinking offers the potential energy for action by generating preferences. As in the revealed preference and the behavioral models, preferences precede the action in a choice. Preferences prepare action by creating desires, beliefs, or inclinations for decisions. For example, I must think about my preference for a certain type of food in order to decide my lunch order from a restaurant menu. In the trolley experiment, I must determine my preference for utilitarianism in order to choose to save five at the expense of one. Thus, preparation to act is the practical function of thinking.

Preferences determined at the level of thinking can take many forms and need not be impermeable. On the contrary, because the desire to think can only be satisfied by the activity of thinking, thinking demands a continuous inner dialogue and revision process. Sandel’s description of the process of thinking on the moral dilemma requires starting with a conviction or opinion on the right thing to do, reflecting on the reason for the conviction, and determining the principle on which it is based. He writes:

Then, confronted with a situation that confounds the principle, we are pitched into confusion: “I thought it was always right to save as many lives as possible, and yet it seems wrong to push the man off the bridge (or to kill the unarmed goat-herds).” Feeling the force of that confusion, and the pressure to sort it out, is the impulse to philosophy. Confronted with this tension, we may revise the judgment about the right thing to do, or rethink the principle we initially espoused. As we encounter new situations, we move back and forth between our judgments and our principles, revising each in light of the other (Sandel, 28).
Rather than leaving an agent unprepared, this revisionary process of preferences affords the individual tools and moral principles to use for her decisions and actions. Sandel says, “wrestling with their dilemmas sheds light on the way moral argument can proceed, in our personal lives and in the public sphere” (27). Significantly, because thinking is solitary, this toolkit is internally defined rather than externally imposed, rendering the ultimate decision her own. Society or the state does not determine the justificatory principles of a moral dilemma because it is unable to interfere in the revisionary process of thought. Moreover, thinking helps a person to revise her preferences at different life stages. Peoples’ preferences can adapt to their maturing worldview.

Thinking is preparatory for Arendt in another way: it prepares the individual for action among a plurality of people by creating roots. Thinking and remembering is the human way to strike roots in the world, according to Arendt (Responsibility and Judgment 100). She writes:

> For human beings, thinking of past matters means moving in the dimension of depth, striking roots and thus stabilizing themselves, so as not to be swept away by whatever may occur...The greatest evildoers are those who don’t remember because they have never given thought to the matter, and, without remembrance, nothing can hold them back (Responsibility and Judgment 95).

Thinking prepares for just actions by grounding the individual in a world of remembrance. The nuances between individuals’ preferences strike roots for an individual to be distinct among many in society, while simultaneously connecting him to those with similar tastes and aversions. Similar preferences connect individuals to one another, which may either encourage an individual to avoid evil and do good with those of similar preferences, or to do evil and avoid good with those of dissimilar preferences. By offering roots grounded in the emotions of guilt, fear, and sorrow, thinking deters actions with consequences that may strike those emotional chords. While Arendt focuses on the avoidance of evil by striking roots, thinking also has implications for altruistic actions, by creating roots in memories of happiness, generosity, and human goodness. By offering memories of these events and allowing an individual to ruminate on the emotional memory, an individual may be motivated to recreate the altruistic feelings again through his choices. In this way, thinking prepares an individual for good actions as well as avoiding evil actions.

Another benefit to incorporating this rigorous thought process into the choice model is that thinking is universally accessible because it is distinct
from knowledge. Knowledge is interwoven with access to education, life experiences, and the capacity for remembering facts. Thinking, on the other hand, does not deal with measurable facts. Arendt says, “the faculty of thinking, as distinguished from the thirst for knowledge, must be ascribed to everybody; it cannot be a privilege of the few” (Arendt, Responsibility and Judgment 166). Thus, thinking preserves the humanity of individuals who appear unintelligent or “irrational” in the market setting. Behavioral economists can no longer label the masses as irrational, since every person retains the capacity to think, whatever her level of knowledge. While it is universally accessible, it is still not as frequent as Socrates supposed, according to Arendt—“No doubt I can refuse to think and to remember and still remain quite normally human” (Responsibility and Judgment, 94). Thus, while thought is universally accessible, it is not necessarily universally utilized. However, when dealing with questions of morality, the capacity for thought must be universal. Arendt says, “If the ability to tell right from wrong should have anything to do with the ability to think, then we must be able to ‘demand’ its exercise in every sane person no matter how erudite or ignorant, how intelligent or stupid he may prove to be” (Arendt, Responsibility and Judgment 164).

The most significant benefit of thought is the salvation of an individual’s rationality and freedom of choice. Rationality in choice is salvaged due to the preparation for discernment in moral dilemmas. According to Beauchamp and Childress:

The virtue of discernment brings sensitive insight, astute judgment, and understanding to action. Discernment involves the ability to make fitting judgments and reach decisions without being unduly influenced by extraneous considerations, fears, personal attachments, and the like (40).

Closely related to this concept is Aristotle’s phronesis, or practical wisdom. A person who has practical wisdom is able to apply his values to particular circumstances, “while keeping emotions within proper bounds” and acting “with a proper balance of reason and desire” (Beauchamp and Childress 40). Thinking, then, is not purely “rational” as the classical model presumes, but allows for emotions, personal values, and desires to come into a choice. Because discernment is the result of a rigorous thought process of applying generalized rules, values, or morals to particular cases, it is not devoid of emotions. In other words, by preparing an individual to discern rather simply to prefer, thinking infuses reason into emotional choices. This addition enhances the role of thought in the choice process, because other-regarding preferences, such as altruism or spite, can remain rational choices.
Preferences based on narrow-self interest preclude such emotional social preferences, while discernment incorporates a broader range of choice options.

Moreover, thought reincorporates freedom into the choice model by its distinction from knowledge. Knowledge limits an individual’s freedom of choice since it is quantifiable and absolute and often dependent upon access to education. Behavioral economists propose learning about heuristic pitfalls to avoid them in decisions, rendering a decision free of psychological constraints. However, because this knowledge is only accessible to those with access to behavioral economics courses or textbooks, free choice is reserved for only the educated elite by this account. The universal access to thought over knowledge allows any individual to have the capacity for free choice. Thinking offers a space for unlimited freedom of engagement. As Kant said, the separation of knowledge and thinking “eliminated the obstacles by which reason hinders itself” (Arendt, Responsibility and Judgment 164).

Will

Perhaps the most contentious aspect of the choice process is the notion of a will. Philosophers and psychologists fiercely debate whether humans possess a will, whether it is distinct from other cognitive processes, and whether actions can even be attributed to a particular will. Rather than outlining the complex debate, the description of will here will be brief, although admittedly incomplete. In the new conception of choice, the will is the bridge from thought to action. The will brings the solitary process of thought into reality. The will signals the direction for the potential energy of thought, transforming the speed of action into a velocity of choice. Arendt asks, “Does reason then command the will?” (Responsibility and Judgment 71). Reason in this account does not command the will, but prepares the will to offer direction for action.

The “conscious” is a useful concept to help describe the role of the will in the bridge of choice. While no definition of conscience is unmet by controversy, Beauchamp and Childress offer a moderate explanation of conscious, “An individual acts conscientiously if he or she is motivated to do what is right because it is right, has tried with due diligence to determine what is right, intends to do what is right, and exerts an appropriate level of effort to do so” (43). In this description of the conscious, thought is the “due diligence” of determining what is right, the will is the motivation or intention to do what is judged as right, and the action is the level of effort to act upon that judgment. The will, then, can be seen as an intention to align the thought with the action. This notion aligns with Kant’s account of the conscience, which he views as a “compass” derived from pure practical
reason (Arendt, Responsibility and Judgment xxii).

A few points from John Searle’s complex analysis of intentionality are noteworthy to understand the notion of will. First, a person may intend an action without the conditions of its satisfaction. For instance, Hamlet may intend to kill his stepfather, Claudius, but fail to satisfy that intention. Second, a person may intend an action but must do so in the right way. Hamlet may intend to avenge his father’s death by murdering his murderer, but if Claudius had died of a heart attack, the satisfaction of the intention was not conducted in the right way. Third, Searle distinguishes actions with prior intentions from intentional actions. For example, Hamlet may be giving a soliloquy and pace about the room, an intentional action to move around, but conducted without prior thought. On the other hand, Hamlet may develop his intentions prior to his actions, as in the case of thinking about poisoning his stepfather. In the first case, Hamlet was acting intentionally; in the latter his action had prior intentions. The current account of the will in choice is concerned with actions developed with prior intentions, since choice necessitates a thought process that precedes an action. These intentions are derived from the preferences created in the thought process. Finally, Searle notes that there exists a causal connection between prior intentions and intention in action. These elements are causally self-referential, since the action is caused by the prior intention, rather than made through impulse or lack of thought (Searle 79-94). Any “accidents” in actions are not intentional and are thus neither choices nor non-choices. They are simply mistakes outside of the choice/non-choice models.

Central to the definition of choice is the alignment of thought, will, and action. The will must gain direction from the solitary, self-reflexive activity of thought. My will must not be directed toward exogenous ideas or gain direction without the necessary precondition of thought to be considered a choice. For example, if I think about kicking a soccer ball, and I am motivated to kick the ball and subsequently direct my action toward that intention, I have made a choice (however successful I am in the endeavor). If, however, I merely kick the ball out of a knee-jerk reaction, I have acted out of impulse or reflex without thought or intention; I have not made a choice. Thus, the will must direct the action in the path carved out by the waves of thought.

Separating thought, will, and action leaves the will intact when a person fails to produce the intended result (an accident) or acts against her own self-interest (a counter-preferential decision). Separating the intention from action also accounts for the flaws in revealed preference theory, where actions may not in fact align with the individual preferences. Critically, the will must not allow society, norms, customs, or exogenous agents to
impose the direction in order to be a genuinely free choice. I can intend to act according to outside purposes—conforming to a social norm or rule—but that intention is not grounded in a self-defined preference. For this reason, freedom and rationality must not reside in the will, since one can intentionally act according to external social influences. Rather, freedom and rationality in choice must reside in the solitary thought process, insulated from outside dictates. To make a decision, one can intentionally act; however, to make a free choice, the intention must be self-defined and aligned with the preferences created in thought.

Action

Action is the kinetic step of choice, prepared by thought and given direction by the will. Action, as defined here, is similar to Arendt’s conception since it is defined in opposition to thought, but unique from Arendtian action, as genuine freedom remains in the activity of thinking rather than in action. Jerome Kohn describes Arendt’s concept of action:

Thinking is self-reflexive, whereas an agent can act only with others than himself and the activity of thinking, which takes place in solitude, stops when a thinker begins to act, just as the activity of acting, which requires the company of others, stops when an agent begins to think with himself [Emphasis in Original] (Kohn, Responsibility and Judgment, xxi).

Arendt believed freedom was actualized in the process of initiation—not the result of the action, but the beginning of the act itself (The Human Condition 9). Thus, in both this account and Arendt’s account, freedom occurs before the action itself.

Key to this account of action as the final node of a free choice is that it is distinct from behavior. Kohn elaborates:

The distinguishing mark of Arendt’s conception of action, as opposed to behavior, is that it is its own end. Because the goals set by some agents inevitably conflict with those set by others, the meaning of action, if it has any, must lie within itself (Responsibility and Judgment xxiii).

Thus, individuals’ actions must have self-created goals or preferences. Actions must not be rule-defined, since “there is nothing unique about adhering to those rules” and they must not do good for the sake of appearing good (Kohn, Responsibility and Judgment xxiv). When goals are set by others, or “exogenously” defined, the person is behaving. Only endogenously, or self-made, defined preferences can direct genuine actions.
This distinction of action and behavior is essential for the definition of choice because it sets the groundwork for non-choice. Behavior is rule-defined, without thought, and directed toward exogenous goals. Action, on the other hand, is fully aligned with thought and will. This tripartite choice alignment is not intended for outside purposes—such as creating a maxim for others’ action in Kant’s categorical imperative; rather, the alignment is for the individual’s own purposes, the meaning lying within itself. A person does not contradict his or herself in order to create a universally valid law, but in order to preserve her freedom and rationality for her own purposes (Arendt, Responsibility and Judgment 69).

While thought and will are essential steps in a free choice, action is equally as essential. Importantly, just as thought created the roots for remembering, “Action, in so far as it engages in founding and preserving political bodies, creates the condition for remembrance, that is, for history” (Arendt, The Human Condition 9). These conditions for remembrance are a direct result of the fact that, in opposition to the solitary activity of thinking, the activity of action “cannot even be imagined outside the society of men” (Arendt, The Human Condition 22). Thus, action requires the plurality of others’ actions. Arendt explains:

The vita activa, human life in so far as it is actively engaged in doing some thing, is always rooted in a world of men and of man-made things which it never leaves or altogether transcends. Things and men form the environment for each of man’s activities, which then would be pointless without such location; yet this environment, the world into which we are born, would not exist without the human activity which produced it, as in the case of fabricated things (The Human Condition 22).

Because “only action is entirely dependent upon the constant presence of others,” freedom must not reside in action, contrary to Arendt’s belief (The Human Condition 23). The presence of others necessarily limits free choice—either through the choice architecture of society, or through social institutions like the state or culture. Thus, when a person makes a choice, it must be preconditioned by thought and will, since action is necessarily a social endeavor.

To make a genuine self-defined, free, rational choice, one must preface her action with the process of solitary self-dialogue and her intention must be grounded in that reflexive self-talk. Only after those conditions are met can the individual act in conjunction with her thoughts and will. This plurality of human action is the most important component of the re-conception of choice for the purpose of understanding the notion of non-choice.
Benefits of the Model

One benefit of the new conception of choice is that it is simultaneously solitary and social; thought must happen in a vacuum while action necessarily occurs in plurality. An individual choice must be endogenously defined, or, in other words, no external agents can interfere with the tri-partite process of choice. A person legislates her own actions by creating self-defined preferences and directing her will toward satisfying those preferences. An individual must think for herself, will for her own purposes, and act upon her own preferences to freely choose. The solitary nature of the thinking process preserves individual rationality and freedom. Even amid external limitations on action, individuals retain the freedom to think and every individual has access to her faculties of reason. Thus, the new conception safeguards individual freedom and rationality in the thinking process.

Moreover, the most important benefit of the new definition of choice is that it offers an avenue to understand non-choice without accusations of “irrationality” and without having to infer preferences through actions. Rather, because the will may be misdirected or the action limited by outside forces, it is easy to see how individuals can make “counter-preferential” decisions. Without thought to establish an individual’s preferences, she may rely too heavily on norms, customs, and dictates to guide her actions. Additionally, without the will in alignment with the preferences determined in the thought process, it is easy to see how an individual can direct decisions for others. She may be overly concerned with the appearance of her action or for the desire to conform to others’ actions. Thus, there are many roadblocks in the choice process that can descriptively explain “irrational” behavior or “counter-preferential” decisions. The rigor of the tripartite choice process offers new avenues to explain collective behavior that, on the surface, lacks logical explanations.

Non-Choice

Non-choice is the negative conception of choice and is defined in two ways. First, it can be a decision made without thought. Individuals acting according to a custom or heuristic are not engaging in a choice because they are allowing the custom or heuristic to substitute for their individual thought. Second, non-choice can be a misalignment of the processes of choice. If an individual goes through a rigorous thought process, but her will directs her action away from endogenously defined preferences, she engages in non-choice. Thus, counter-preferential choices are not, in fact, choices, but non-choices.

Mill, Arendt, and Kant’s philosophies of liberty offer additional support for these two conceptions of non-choice. Mill offers insight into the
first conception and redefines conformity as a non-choice: “Forcing a person to live according to custom or convention or prevailing opinion is wrong, Mill explains, because it prevents him from achieving the highest end of human life—the full and free development of his human faculties” (Sandel 51). Thus, conforming to customs or conventions is a type of non-choice because it lacks thought. As Mill writes:

The human faculties of perception, judgment, discriminative feeling, mental activity, and even moral preference, are exercised only in making a choice. He who does anything because it is the custom, makes no choice. He gains no practice either in discerning or in desiring what is best. The mental and moral, like the muscular powers, are improved only by being used…He who lets the world or his own portion of it, choose his plan of life for him, has no need of any other faculty than the ape-like one of imitation. He who chooses his plan for himself, employs all his faculties (Sandel 51).

Thus, anything done according to custom, without individual thought or use of “muscular powers,” is a non-choice. Mill concedes that following convention can lead a person to be superficially satisfied and prevent him from harm. But, he asks, “What will be his comparative worth as a human being? It really is of importance, not only what men do, but also what manner of men they are that do it” (Sandel 51). Thus, engaging in non-choice degrades a person’s humanity.

Hannah Arendt’s conception of non-thinking also corresponds to the concept of non-choice as a lack of thought. She writes:

[Thinking] may have a paralyzing effect when you come out of it, no longer sure of what had seemed to you beyond doubt while you were unthinkingly engaged in whatever you were doing. If your action consisted in applying general rules of conduct to particular cases in ordinary life, then you will find yourself paralyzed because no such rules can withstand the wind of thought (Arendt, Responsibility and Judgment 176).

Thus, conforming to a general rule of conduct is only possible through a lack of thought. By its very definition, thinking paralyzes choosing for conformity’s sake. Arendt describes the dangers of non-thinking guiding action:

By shielding people against the dangers of examination, it teaches them to hold fast to whatever the prescribed rules of conduct may be at a given time in a given society. When people then get used to is not so much the
content of the rules, a close examination of which would always lead them into perplexity, as the possession of rules under which to subsume particulars (Responsibility and Judgment 176).

In other words, non-thinkers subscribe to a rule not for its particular content, but in order to hold fast to a prescribed rule of conduct. Non-thinkers engage in non-choice by allowing the system to choose on their behalf. This conception of non-thinking non-choice does not dispute individual preferences that have society at heart—for justice or equality, for instance—but, rather, describes those decisions that are motivated by social conformity.

Kant sheds light on the second definition of non-choice. For Kant, the opposite of autonomy is heteronomy, in which an individual acts “according to determinations outside of herself” (Sandel 109). Sandel writes that, for Kant:

When we act heteronomously, we act for the sake of ends given outside us.
We are instruments, not authors, of the purposes we pursue....[in contrast],
when we act autonomously, according to the law we give ourselves, we do something for its own sake, as an end in itself. We cease to be instruments of purposes given outside us. This capacity to act autonomously is what gives human life its special dignity. It marks out the difference between persons and things (110).

Thus, any exogenously defined goal is not an autonomous choice, but a heteronomous non-choice because it is directed for purposes outside of the individual. Conformity for the sake of conformity, then, is a non-choice. When the state or society directs the individual’s will, it misaligns the choice process and renders the decision a non-choice. Again, this conception of non-choice does not judge the correctness of an individual’s preferences, but merely describes a decision conditionally motivated for purposes of conformity as a non-choice.

Finally, non-choices are banal behavior. Banal behavior aggregated across many individuals in society can lead to both horrific and fantastic consequences. Collective banal behavior, soon to be defined as social norms, can lead to a banality of evil or a banality of goodness in society. Non-choice may seem inconsequential on an individual level, but it grows in significance with a sufficiently large population of non-choosers.

Social Norms

Social norms are informal rules of behavior. This study shall redefine them as the aggregation of individual non-choices, as previously
defined. Cristina Bicchieri provides a comprehensive definition of social norms from which to launch this reformulation. It is helpful to understand what social norms are not before outlining what they are. Social norms are not private norms, or those “self-imposed rules that people construct to overcome weakness of will” because those are not observable to others nor contingent upon others’ approval (Elster 24). Social norms are also not habits or automated actions, since habits are private, idiosyncratic, and are not dependent upon others’ opinions (Elster 25). They are distinguished from legal rules as well, since the behavior is neither formally sanctioned nor enforced by exogenous entities. Thus, any enforcement of the norm is informal and based entirely on expectations of conformity (Bicchieri 8).

Often, aside from etiquette books like Emily Post’s Etiquette, social norms are not made explicit. Rather, they are informal, meaning they exist without being written down or codified, making social norms particularly difficult to study.

Social norms focus on behavior in collection, rather than on individual behavior. Private, routine patterns of behavior or habits, such as brushing my teeth after mealtimes, do not fall under social norms because they are not motivated by expectations of others (Bicchieri 9). In contrast, collective behaviors that are norm-driven intertwine an individual’s motive to act with preferences of conforming to others’ actions. For example, a social norm exists in America to tip 20% of the total restaurant bill. This norm is informal, since it is typically not automatically included in the bill, and prescriptive, since it is not a prohibition on acting, but a positive instruction to act. Moreover, the norm varies by location, as a 20% tip in Europe would be unheard of just as a 0% tip in America would be extremely rude behavior. This indicates that the behavior is collectively motivated, since individual behavior varies by location and culture. In examining this type of collective behavior, the question becomes: are people endogenously motivated to engage in the same behavior or exogenously motivated by observing others’ behavior collectively? In other words, are people engaging in the same action because of individual motivations (i.e. everyone brushes their teeth for the same endogenous reason of having good oral hygiene), or are they engaging in the same action because of collective motivations (i.e. everyone tips 20% in the U.S. for the exogenous reason to comply with the social etiquette)?

In order to understand collective behavior, one cannot simply refer to the behavior, since that dismisses the motive of the behavior, nor can one simply refer to expectations of behavior, since people can place different expectations on themselves and others. Rather, social norms are constituted by the complex interplay of expectations and actions. An example is best suited to unraveling the complex definition of social norms. Let’s take
the New Mexican tradition of setting out luminarias on Christmas Eve. Luminarias, sometimes called farolitos, are small paper lanterns, usually made with a candle set in sand inside a brown paper bag, that are set out in front of homes on Christmas Eve in New Mexico. The tradition of setting luminarias in rows along my sidewalk is contingent upon my understanding that this tradition only occurs in a particular situation, on Christmas Eve. I have a conditional preference to conform to this tradition based on both my empirical expectations and normative expectations of the behavior. Empirical expectations are the beliefs that others also engage in a certain behavior. This necessitates observation of others’ behavior. For instance, if I observe a large enough subset of my New Mexican community placing luminarias out on Christmas Eve 2011 (my entire neighborhood, for example), I have an empirical expectation that they will do so again this Christmas Eve 2012. In order to conform, I must also have either normative expectations or normative expectations with sanctions. My normative expectations are that I believe that most, if not all, of my neighbors expect me to conform to the luminaria tradition. I may have normative expectations with sanctions if I believe that I will not be invited to the annual neighborhood association luncheon if I do not conform to the norm. Thus, I have a conditional preference to conform to the behavior rule of placing luminarias out on Christmas Eve, because I expect others to do the same and I believe others expect the same of me. This distinction between empirical and normative expectations also distinguishes social norms from descriptive norms, such as fashions or fads. I may want to wear the latest fashion because I observe others wearing the latest trend (i.e. empirical expectations), but not because of my belief that others expect me to be trendy (i.e. normative expectations) (Bicchieri 2).

The example of the luminaria social norm may seem mundane, but it illustrates my conformity to a collective behavior that is against my individual self-interest initially. From an individually rational perspective, the costs of setting out luminarias, including the material costs of the bags, sand, and candles, and the opportunity cost of time, outweigh the benefit, as I do not engage in the behavior for religious purposes and prefer to stay inside to avoid the winter cold, thereby willingly foregoing the benefit of seeing the beautifully lit lanterns. Individual rationality dictates that I should not partake in an activity in which the costs are greater than the benefits. Yet, each winter you can find me partaking in this costly behavior. Am I irrational?

Social norms offer salvation for my rationality. They do so by transforming a mixed-motive game into a coordination game (Bicchieri 3). Individually, I do not want to partake in a behavior that imposes greater costs than rewards. Collectively, however, I conditionally prefer to conform
to the behavior. For instance, according to a narrow self-interest, I prefer not to contribute money to purchase a retirement gift for a co-worker with a colleague. This mixed-motive game can be represented in a Prisoner’s Dilemma, one-shot game:

*Game 1: Mixed-Motive*

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<th>Person B</th>
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<tbody>
<tr>
<td>Cooperate</td>
<td>5,5</td>
<td>0,10</td>
</tr>
<tr>
<td>Defect</td>
<td>10,0</td>
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If my colleague and I both defect from contributing money to the gift, we both receive a low payoff, since the colleague is upset. Our payoff is still positive because we did not have to take the time and money to purchase a gift. If we both cooperate, we split the cost of the gift equally. However, the best situation for either Person A or Person B is for the other person to cooperate, while she herself defects. In other words, I want my colleague to contribute 100% of the gift’s costs, while I still reap the social benefit of giving a kind gift. In this narrow self-interested game, defection is the dominant strategy for both Person A and B. Mutual defection is the Nash Equilibrium.

Social norms fix this dilemma by increasing the payoffs for cooperation while reducing the benefits of defection. The new one-shot Prisoner’s Dilemma is a cooperation game rather than a mixed-motive game, thereby making cooperation (i.e. conformity to the norm) the dominant strategy.

*Game 2: Coordination*

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<tbody>
<tr>
<td>Cooperate</td>
<td>10,10</td>
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<td>Defect</td>
<td>0,10</td>
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With these payoffs, if a social norm of gift giving exists when a colleague retires, and Person A and Person B both have empirical expectations that
the other will contribute to the gift and normative expectations that they are expected to contribute (or that they will be informally sanctioned if they do not contribute), mutual cooperation is the equilibrium. Thus, it becomes rational to conform and contribute to the gift when a social norm is in place.

In this way, social norms offer reasons to conform based on informal social sanctions or rewards. It is rational to conform if the costs or rewards outweigh the benefits. However, simply because it is rational to conform to a behavior in the presence of a social norm does not make the action a product of free choice. Social norms are not the collection of irrational decisions, but the aggregation of individual non-choices. Non-choices, as defined by a disjunction of thought, will, and action, occur when an individual acts according to an exogenously defined preference. Choices are based on preferences that are not conditional upon others’ actions. Social norms are by definition the collection of non-choices because individuals have conditional preferences over their actions. They act not for their own sake, but for the sake of others’ expectations and behavior.

Bicchieri distinguishes between two methods of decision-making—deliberative and behavioral rules—which clarifies the ways social norms fit into the classical and behavioral models. Rational choice models support the deliberative route of decision-making. This route emphasizes that individuals assess a situation, gather information, list the possible consequences of different actions, assess the probability of each consequence occurring, and then calculate the expected utility of each alternative action (Bicchieri 4). While this is the only type of decision process in the classical model, the behavioral model recognizes the descriptive deficiency of this method, since individuals are limited by their own psychology and rely on heuristics and defaults to inform their choices. My decision to conform to the luminaria tradition demonstrates my divergence from the rational choice model of deliberation, as each winter I fail to undergo this rigorous mental calculation of lighting the lanterns. Yet, my actions are nonetheless intentional and do not suffer from deficiencies in my rationality (I should hope, at least).

While building upon the classical model’s reliance on deliberative decision-making, the behavioral model does not recognize a second crutch for decision-making: behavioral rules. This route of decision-making is labeled the “heuristic route.” According to Bicchieri, to prime a behavioral rule that applies to a particular situation, an individual categorizes relevant actions into various contexts based on memory. As such, cognitive shortcuts allow individuals to activate appropriate scripts and schemata for any given situation. For instance, I have a memory of luminaria lighting that is cued by the context of Christmas in New Mexico. My mind automatically begins calculating the percent tip owed upon receiving my dinner bill. Bicchieri explains:
[Heuristic route] behavior is guided by default rules stored in memory that are cued by contextual stimuli. According to the heuristic route, norm compliance is an automatic response to situational cues that focus our attention on a particular norm, rather than a conscious decision to give priority to normative consideration (5).

This heuristic form of decision-making is distinct from the heuristics described by the behavioral model, since it suggests society provides additional cues for automated responses. By “cuing” the behavioral rule, society prescribes a particular course of action for a given situation. The subsequent action can be categorized as either of the two forms of non-choice.

The first version of non-choice occurs when decisions are made without thought and according to automatic procedures. Previous constructions of social norms integrate rational decision-making into the decision to comply to the norm, by imposing an incentive structure with sanctions or rewards for compliance (Cialdini 1990). In this way, conformity was a conscious process that included a cost-benefit analysis for conforming or transgressing. Yet, in Bicchieri’s rational reconstruction, these rigorous cost-benefit analyses are unnecessary to induce conformity, since “compliance is often automatic and unreflective” (4). Bicchieri emphasizes the automatic component of norm compliance over the deliberative side of conformity:

The rational reconstruction of social norms does not commit us to avow that we always engage in conscious deliberation to decide whether to follow a norm. We may follow a norm automatically and thoughtlessly and yet still be able to explain our action in terms of beliefs and desires (3).

I set out the luminarias each winter or tip 20% without thought: I do not reflect upon the costs and benefits of my behavior, nor do I think about the principles and moral precepts underlying my actions; rather, I conform according to routine. I conform because of my expectations that the tradition will continue each year in my neighborhood, without fanfare or deliberation. Bicchieri notes, “Once one adopts a behavioral rule, one follows it without the conscious and systematic assessment of the situation performed in deliberation” (4). Thus, these behavioral rules are substituted for individual thought, making them a form of non-choice.

This form of non-choice is distinct from the behavioral model’s reliance on psychological heuristics and automated habits. In these non-choices, I am not going on “autopilot” since I am still consciously aware of my actions. This distinction from non-choice without thought and automated...
processes is critical because it does not make my behavior irrational. Bicchieri writes, “There is a difference, though, between choosing rationally and choosing a course of action because it is the rational thing to do...Lack of awareness should not be equated with lack of rationality” (Bicchieri 47-50). Using Bicchieri’s example, a stock trader that uses a conventional signaling system is making a rational decision because she wants to buy and sell shares and the system is a way to coordinate with other traders. However, perhaps the trader was never aware or thought about the signaling convention as a coordinating device. She did not choose the device for rational reasons, but nonetheless made a rational decision to comply. The latter circumstance, in which the trader acted without thinking, is a rational non-choice. Bicchieri elaborates:

This, I must add, is a common experience; frequently we do not think much before acting, in the sense that our behavior does not consciously follow from intentions or plans and is carried out without awareness or attention. To engage in a thoughtful process, we must be sufficiently motivated: The situation must have high personal relevance, our action must have important consequences, we are held responsible for our choice, or there is some challenge present. As opposed to this thoughtful evaluation of pros and cons, we usually engage in a more rapid, heuristic form of processing (47).

This passage perfectly describes the parallel between heuristic decision-making through reliance on social norms and the lack of thought in a non-choice. Thus, social norms comprise the first type of non-choice—lacking thought and intentions derived from a free and rational cognitive process.

Decision-making that relies upon behavioral rules in social norms also fits into the second form of non-choice, which occurs when there is a misalignment of thought, will, and action. Bicchieri acknowledges that the distinction between deliberative and heuristic routes to behavior is a useful simplification, but is often not as clear-cut in reality. Rather, individuals may conform to a norm not through automatic processes, but for fear of negative social consequences (Bicchieri 51). In other words, an individual may rigorously deliberate with himself over his decision to follow a behavioral rule and may determine that following the rule is counter-preferential, but nonetheless follow it for fear of sanction for violating the norm (Bicchieri 51). The social norms direct the will toward exogenous preferences rather than endogenously defined preferences. Any decision based on expectations of others is exogenous to individual, or endogenous, preferences. In other words, if a preference is conditional on others’ behavior, it cannot be aligned
with self-defined preferences. For instance, the individual may determine through thought that his preference is not to tip 20% at a restaurant he will never visit again. Yet, his individual preference becomes conditional on others’ compliance to the social norm, an exogenous preference. The social norm, therefore, directs his will toward the exogenous goal of complying with the social norm. He acts counter-preferentially not by a lack of thought, but by allowing the norm to impose conditional preferences. Thus, any counter-preferential decision is a non-choice.

In this way, social norms constitute non-choices either through a lack of thought or the misdirection of will. Under the new conception, social norms are the aggregation of individual non-choices. People are not acting, but behaving. People are not choosing, but conforming. This collective banal behavior has both positive and negative consequences. Reviewing the banality of non-choices reveals how social norms can produce negative externalities without evil motives—Arendt’s concept of the banality of evil applied to collective behavior. A less frequently analyzed topic is the effect of collective non-choices on good externalities. Pro-social behavior may be promoted through mundane motivations to conform to a social norm. In these cases, people are not motivated by altruism or generosity, but simply by the desire to conform. The banality of goodness is a no less terrifying concept, as human dignity and kindness may be nothing but an illusion, caught behind the veil of collective non-choices.

The Banality of Evil Behavior

Locating the psychological source of horrific human action, especially the Nazi death camps in World War II, has become as rich an intellectual endeavor as understanding human choice and freedom. As Richard J. Bernstein writes in his philosophical interrogation of Racial Evil, the visibility of evil in the modern era, from Auschwitz to Cambodia and from Rwanda to Bosnia, has created a paradox for understanding these atrocities. On one hand, the visibility of evil has reached a peak in the twentieth and twenty-first centuries—through reports on genocides, famine, and death camps, yet the intellectual resources for understanding evil are limited. Studying the topic “numbs us” through the excruciating descriptions and personal testimonies of events. The question stemming from each horrific event is not only how humans have committed such horrific crimes against humanity, but also “what do we really mean when we describe an act, an event, or a person as evil?” (Bernstein 1-2).

Despite the numbing effect, this question is not devoid of answers. Kant coined the term “radical evil” to explain such horrors. While controversy surrounds what this term means, it is clear that Kant believes an individual’s
will, rather than his reason, is the source of evil. Importantly, Kant does not allege that humans are naturally inclined to commit evil acts; rather, humans can choose to commit evil. Their volitions direct their evil actions, making the individual fully responsible for his evil maxim (Bernstein 15 and 43). The location of evil in the will attributes an evil motive or intention to the actor. In short, it attributes evil to a choice. Bernstein writes, “Kant never compromises on the principle that it is always within our power to choose between good and evil maxims, and that it is we (and we alone) who must bear the responsibility for these choices” (43).

Kant’s conception of radical evil is fundamentally flawed for two reasons. First, it presumes a level of consciousness in actions, which may not be present. In the presence of automated, norm-based decisions, the individual is unaware of his motives to act. Thus, under Kant’s conception of evil, non-choice does not exist, since only people who are fully conscious of their motives can act. This has proven to be theoretically false and will soon be proven descriptively invalid. Moreover, in this world, the diffusion of responsibility would reduce to an environment in which no agent is responsible for his actions or crimes, since a motive may never be directly pin-pointed.

A second flaw of Kant’s conception of evil is that it allows human atrocities to be rationalized. Arendt writes in The Origins of Totalitarianism that Kant rationalized the concept of racial evil as “perverted ill will” that could be explained by “comprehensible motives.” For her, comprehending the incomprehensible left no rational solution to evil (Bernstein 11).

This paradox of never being able to understand the incomprehensible led Arendt to her own conception of evil. She proposed that evil outcomes might not always be attributed to an evil motive, but may possibly occur through a lack of thought—a non-choice under the current framework. Arendt’s report on the trial of Adolf Eichmann in Jerusalem coined a controversial phrase: the banality of evil. Arendt attributed Eichmann’s evil actions not to a psychological evil motive or a predisposition to wickedness, but to a lack of thought. She writes:

However monstrous the deeds were, the doer was neither monstrous nor demonic, and the only specific characteristic one could detect in his past as well as in his behavior during the trial and the preceding policy examination was something entirely negative: it was not stupidity but a curious, quite inauthentic inability to think (Responsibility and Judgment 159).

Eichmann’s thoughtlessness renders his actions non-choices. He lacked an evil motive in the Kantian sense; rather, his motives were compliance
to a set of bureaucratic rules. While this study concerns non-choices in the collective, Eichmann illustrates the horrific consequences of one individual’s non-choice. Like Eichmann, those non-choosers in the collective also exhibit a lack of thought and judgment over the codes they follow.

Eichmann’s inability to think manifested itself in his testimony in court through a reliance on clichés and his flagrant contradictions and inconsistencies—a fact that had not bothered him at trial, according to Arendt. She writes:

> Clichés, stock phrases, adherence to conventional, standardized codes of expression and conduct have the socially recognized function of protecting us against reality, that is, against the claim on our thinking attention which all events and facts arouse by virtue of their existence (Responsibility and Judgment 160).

His reliance on standardized codes of expression and conduct parallels an individual’s reliance on psychological heuristics and social norms to guide behavior. Individuals’ use of conventions to direct their actions protects them from the reality of their actions. Thus, collective banal behavior that causes negative externalities does not bother an individual non-chooser, since “everyone else does it.” Following a social norm offers protection from the moral realities of the actions, just as Eichmann’s insistence to follow orders severed him from judging the morality of his behavior.

Most importantly, Eichmann “had not the slightest difficulty in accepting an entirely different set of rules” (Arendt, Responsibility and Judgment 159). As we shall see, those following anti-social or unpopular norms are almost instantly convinced to comply with a completely different set of rules. This quick reversal of behavior mirrors Eichmann’s instantaneous reversal in judgment of his actions: “He knew that what he had once considered his duty was now called a crime, and he accepted this new code of judgment as though it were nothing but another language rule” (Arendt, Responsibility and Judgment 159). This rapid reversal of preferences, both on the individual and collective levels, provides evidence for the lack of thought in bad outcomes, as “evil” actions are not rooted in anything endogenously substantive.

**FGM/C**

The first descriptive account of banal behavior with negative externalities is female genital mutilation/cutting (FGM/C). Before defining the practice as a collection of individual non-choices, or a social norm, it is helpful to understand the practice itself, its prevalence, and its purposes. From
the start, it is essential to note that the decision to cut or not to cut is made by someone other than the female. If the girl is young enough, a surrogate may make the decision on her behalf or impose the decision upon her without her consent. Because the surgery is irreversible, the girl never has the ability to properly choose whether to be cut or not, even upon reaching adulthood. This imposition of the decision complicates but does not prohibit studying the practice under the lens of choice and non-choice. When describing the preferences and decisions to undergo the practice, this account will refer to the preferences and decisions of whoever makes the decision on the girl’s behalf—an imperfect but necessary solution to the complication.

FGM/C describes the practice of partially or totally removing the external female genitalia. The practice ranges from removal of the clitoris to removal of all external genitalia, leaving only a small opening for urine and menstrual blood (“Fact Sheet”). The practice is most common in 28 countries in Africa and the Middle East, but also occurs at high rates in Indonesia, Malaysia, Pakistan, and India. Tremendous challenges exist in trying to identify how many women and girls undergo the practice, since reporting may be inaccurate, especially where the practice is illegal or socially unacceptable, and since it is difficult to validate the accuracy of reporting. However, some estimate that three million women and girls undergo FGM/C annually (Population Council, “Change is Possible”).

It is imperative to note that the reason this practice comes under the label of banal behavior with negative externalities is not due to individual reasons or cultural traditions for the practice. The categorization is not meant to insult a particular way of life or liken it to the atrocities previously discussed. Rather, it is placed under the negative label due to the host of health problems associated with the practice. The problems depend upon the degree of cutting, the sanitation of the tools, and the girls’ health. The short-term health problems include bleeding or hemorrhaging, infection, pain, and trauma. Long-term health problems include problems going to the restroom which may cause infection, vaginal scarring that makes sexual intercourse painful, painful menstruation, increased risk of sexually transmitted infections, fertility problems, problems during child birth, and psychological and emotional stress including post-traumatic stress disorder and depression (“Fact Sheet”). Reading the list of health problems sickens in the same way that Bernstein suggests excruciating and detailed descriptions of evil events can make us “numb” (1).

Despite its numbing effect, the prevalence of the practice, along with the tremendous health consequences, has led major organizations—including the United Nations, World Health Organization, and Non-Governmental Organizations (NGOs)—to study the motives underlying the practice for the
purpose of creating strategy interventions to end the practice. Contrary to common belief, FGM/C is not condoned in any religious text and not directly undertaken for religious purposes, although they are sometimes used as a guise. Rather, it is practiced for social, economic and political reasons. The U.S. Department of Health and Human Services Office of Women’s Health explains the many possible individual motives for the practice:

Those who support FGC believe that it will empower their daughters, ensure the girls get married, and protect the family’s good name. In some groups, FGC is performed to show a girl’s growth into womanhood and, as in the Masai community, marks the start of a girl’s sexual debut. It also is performed to keep a woman’s virginity by limiting her sexual behavior. FGC is believed (by those who practice it) to stop a woman’s sexual desire. In some groups, women who are not cut are viewed as dirty and are treated badly. While FGC pre-dates both Christianity and Islam, religion is also used to promote the practice. Some communities believe that in order to be good Muslims, parents must have their daughters cut. There are also many superstitions about FGC, such as: The clitoris will continue to grow as a girl gets older and so it must be removed; [and] the external genitalia are unclean and can actually cause the death of an infant during delivery (“Fact Sheet”).

This list of motives—superstitious, religious beliefs, and notions of sexuality—could be integrated into an active choice model if they are genuine, endogenously defined preferences. Because discerning whether these preferences were created under a rigorous thought process is impossible, we cannot definitively conclude that they are genuine choices. However, it is theoretically possible that individuals actively choose to cut their daughters with the alignment of thought/will/action. If they are indeed acting upon their own preferences, intervention becomes unnecessarily corrosive on the individual’s freedom and rationality. After all, we can’t argue with others’ preferences.

There is one other motive attributed to the practice that offers an opportunity for intervention for those wishing to end the widespread practice. The Office of Women’s Health explains, “FGC is often part of a community’s tradition. Most parents who support FGC believe they are protecting their daughter’s future marriage prospects, and not hurting her. It is seen by parents as part of a girl’s upbringing” (“Fact Sheet”). Undertaking a practice for tradition and for social purposes signals that people who cut their daughters may not be actively choosing based on their endogenously defined preferences. Rather, individuals may be deciding to cut their daughters for the exogenous purposes of conforming to tradition, inducing
them to undertake a counter-preferential action. They are engaging in non-choice through the misalignment of their preferences and actions. Similarly, if they decide to cut their daughters without thought to their preferences for cutting, they are non-choosing.

Understanding the social motive for conformity is essential for intervention strategists. Strategists who address religious motives will necessarily fail, because, in addition to being corrosive of the individual’s free will, they address the wrong trigger of action. Strategists who create strategies to address the decisions to comply to an unpopular norm must address the social motives that prompt the counter-preferential action. As one NGO working on intervention strategies for FGM/C notes, “FGM/C is practiced for a variety of reasons differing by ethnic groups even within the same country. It is essential, therefore, to tailor any intervention to address community rationale for FGM/C and take into account readiness to openly question and address the issue” (Population Council, “Change is Possible”). For this reason, the Population Council believes that the “most effective approaches for abandonment of FGM/C are multifaceted, intervening at many strategic points and promoting a different norm publicly” (“Change is Possible”). Strategies include education of the physical and psychological effects of the practice, public debate about the practice, and public pledge of abandonment. This multi-faceted approach focuses on the social motivations for cutting and the interdependent decisions of members of the community. In short, it considered FGM/C to be a social norm.

Defining FGM/C as a social norm is now widely accepted among international organizations, including the United Nation’s Children’s Fund (UNICEF) and major NGO’s, such as Tostan. In addressing the problem of FGM/C, UNICEF focuses on the social dynamics of the practice and the importance of interdependent decision-making. The intervention strategies address social norms, as defined in game-theoretic terms. Importantly, the practice perfectly fits Bicchieri’s definition of social norms, and thereby establishes itself as a collection of individual non-choices.

The first indication that FGM/C is a social norm is the clustering of its practice. If a sufficient subset of the population is required for conformity, then a clustering of conformity would be expected. If the practice is undertaken for individual, endogenously defined preferences, then the rate of conformity should be evenly distributed across a population. The practice is not evenly distributed and its prevalence varies drastically by country—1% in Cameroon and 5% in the Democratic Republic of the Congo practice FGM/C compared to 96% in Egypt and Guinea and 90% in Somalia (Lewnes 4-5). Thus, the clustering subsets of the population who undertake the practice signify that it has community-based motives rather
than individually defined motives. In addition, the practice is contingent upon the family preferring marriage to non-marriage and understanding that the behavioral rule to cut applies to the marriage situation.

Most importantly, the practice is a conditional preference based on both empirical and normative expectations. UNICEF relates the practices to a conditional preference by focusing on the community motive, thereby considering it a social norm (they refer to norm as a social convention, but the effect is the same) (Lewnes 2005). UNICEF reports:

The social processes of FGM/C resemble the social dynamics of the self-enforcing social convention theory identified by Schelling. Families carry out FGM/C to ensure the marriageability and status of their daughters within the intramarrying group. For marriage and for status, what one family chooses to do depends on what other families in that community choose to do (Lewnes 13).

The motive of marriageability and social status are conditional preferences because they are goals that are dependent upon the community at large. They are conditioned upon the empirical expectation that other members of the community cut their daughters and the normative expectation that they are expected to cut their daughter. It may also be the case that they are based on the normative expectation with sanctions since “no one family can abandon the practice on its own; to do so would ruin the marriageability and status of that family’s daughters” (Lewnes 13). Thus, if a family does not cut their daughter, they are faced with the social sanction of lowered social status and potential financial ruin by not marrying off their daughter.

Because the preferences are conditioned upon the perceptions of eligibility for marriage and the relative status of others, they are exogenously defined motives, thereby constituting them as non-choices. This indicates FGM/C is the second type of non-choice—the misalignment of the choice process—rather than a type of thought. Individuals who are engaging in the practice are still rational, but are acting counter-preferentially. The counter-preferential nature of the decision to cut is empirically proven. In Burkina Faso, for instance, 72.5% of women undergo FGM/C. Yet, when they were interviewed, only 11.1% of women between 15 to 29 years old preferred to support the practice (Mackie “Presentation Philosophy of Social Science”). The women endogenously preferred not to cut their daughters, yet acted counter-preferentially. They engaged in non-choice through a misalignment of the thought, will, and action.

Unraveling why individuals engage in counter-preferential decisions leads back to the game-theoretic construction of social norms as transforming
a mixed-motive game into a coordination game. In a mixed-motive game, the payoffs for cutting are less than not cutting, as the preferences elicited in the Burkina Faso study suggest. The preferences without a norm in place create the following game matrix, played with the self and “others” representing the entire community:

**Game 3: Mixed-Motive**

<table>
<thead>
<tr>
<th></th>
<th>Others</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Uncut</td>
</tr>
<tr>
<td>Self</td>
<td></td>
</tr>
<tr>
<td>Uncut</td>
<td>5,5</td>
</tr>
<tr>
<td>Cut</td>
<td>0,5</td>
</tr>
</tbody>
</table>

This table illustrates a mixed-motive game that has a dominant strategy to not cut, since the payoff in “Don’t Cut” strategy always outweighs the “Cut” strategy. In this individual mixed-motive game, the Nash Equilibrium is everyone not deciding to cut his or her daughters.

However, the game theory matrix with the norm of cutting in place transforms the game into a coordination game. The following matrix uses the same payoffs in UNICEF’s report:

**Game 4: Coordination**

<table>
<thead>
<tr>
<th></th>
<th>Others</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Uncut</td>
</tr>
<tr>
<td>Self</td>
<td></td>
</tr>
<tr>
<td>Uncut</td>
<td>3,3</td>
</tr>
<tr>
<td>Cut</td>
<td>2,0</td>
</tr>
</tbody>
</table>

In this game, the presence of the norm transforms the payoffs to create a coordination game. Importantly, there are two stable Nash Equilibria: both cut, or both don’t cut (Lewnes 15). Either coordination strategy constitutes an equilibrium, because no one can make himself or herself better off by changing strategies. They have no incentive to deviate from their chosen
course of action; therefore their strategies are mutual best responses to the others’ actions.

Significantly, the presence of both stable coordination strategies gives those wishing to end the practice hope. The equilibrium of both cutting is referred to as “stuck in the tragic equilibrium.” UNICEF reports:

The members of a FGM/C-practicing community find themselves in the tragic equilibrium portrayed in the lower-right box D: Self Cut and Other Cut – All Cut. Individually, each would be better off in the hopeful equilibrium portrayed...All Uncut. Each values the tragic equilibrium of All Cut at 1, each values the hopeful equilibrium of All Uncut at 3, but no individual acting alone can make the move from the worse equilibrium, All Cut, to the better equilibrium, All Uncut. To do so on her own would make her worse off (Lewnes 16).

The strategy to play the sub-optimal equilibrium is not irrational, either, because it integrates the benefits of conforming and the sanctions of non-compliance into the decision matrix. UNICEF reports that even if each individual endogenously prefers to escape the equilibrium:

The tragic equilibrium of All Cut traps everyone. Because of the interdependency of choice, even if every single individual in the community wanted to abandon the practice, no individual could do so on her own. Why? Abandonment of cutting would make an individual worse off, unless she can be sure that everyone else would stop as well. The fact that Other may want to stop provides Self no assurance that Other actually has stopped, or will stop. And from Other’s point of view, the fact that Self hopes to or might stop provides no assurance either (Lewnes 16).

Coordinating the collective abandonment of the practice must address these social motivates, rather than individual motives. Legal strategies are insufficient for compliance, as the Population Council notes, “Passage of laws to criminalize the practice are not sufficient because they do not address underlying social norms supporting FGM/C” (“Change is Possible”). Incorporating two other concepts of game theory alongside the theory of social norms bolsters intervention strategies: pluralistic ignorance and tipping points.

First, pluralistic ignorance addresses that fact that people are unaware of others’ non-choices. Pluralistic ignorance is a cognitive state in which one believes one’s preferences are different from those of similarly-situated individuals, even if one’s behavior is identical to others’ behavior
(Bicchieri 186). The process of pluralistic ignorance occurs where no transparent communication is possible and when people engage in social comparison with others’ observable behavior, assume that others’ behavior is consistent with their preferences, and infer that everyone who engages in the same behavior endorses their own behavior (Bicchieri 186-188). Thus, they conform to the same behavior because of a false inference of preferences.

The concept of non-choice enhances and simplifies the understanding of pluralistic ignorance. People subscribe to the same inference of preferences as in revealed preference theory, and thereby falsely characterize others’ behavior as choices. This reveals one major consequence of non-choice: if you behave according to others’ actions, you may mistakenly behave according to counter-preferential actions, thereby making your own behavior counter-preferential. Thus, non-choices and pluralistic ignorance may lead to the emergence and perpetuation of unpopular norms. For instance, racial segregation may be supported by non-choices through the process of conforming to counter-preferential actions. A study in 1975 found that 18% of those polls actually favored segregation, but 47% believed that most favored segregation (O’Gorman 1975; Bicchieri 193). The racist norm undoubtedly sustained itself in American thought due to a misperception of others’ preferences. Thus, when actors use others’ actions rather than thought as the basis for preference-generation, a racist norm may persist.

Informational cascades are one mechanism that may support pluralistic ignorance. This occurs when one group of trendsetters acts in one way, which causes the others to act based on the inferred preference of those trendsetters, which causes others to act based on those trendsetters, and so forth. The cascade of inferences is based on others’ actions, which conveys no truthful information about preferences. A norm set off by an informational cascade is very fragile and easily upset by truthful information. Bicchieri writes:

To model the effects pluralistic ignorance may have on the dynamics of unpopular norms, we need to model how people may rapidly converge on a common behavioral pattern on the basis of very little information, and how even a little new information, suggesting that a different course of action is optimal, may shift collective behavior in a direction opposite to the status quo (Bicchieri 86).

The model Bicchieri uses to prompt this shift in behavior is an informational cascade, which takes very little to reverse the cascade.

FGM/C is likely a case of pluralistic ignorance triggered by an informational cascade, evidenced by the rapid rates of abandonment. In
communities where FGM/C is prevalent, people wrongly infer that others’ actions are based on their true beliefs and there is a lack of transparent communication. There is an informational cascade in which people base their actions on others’ behavior, which has little to no informational value about genuine preferences. Intervention strategies that successfully shift the norm toward abandonment reveal that pluralistic ignorance is at play. Specifically, one of the six elements in the UNICEF strategy for abandonment is an explicit, public affirmation in communities of their genuine preferences. Individuals in a community must publically commit to abandon the practice in a large public gathering or through a widely distributed statement.

Once the genuine preferences are made public, the norm based on false inferences of preferences (i.e. based on others’ non-choices) quickly shatters. It is so fragile that approval of the practice shifts almost overnight, finally converging on the equilibrium reflective of genuine preferences. This is empirically supported by the success of such public abandonment strategies in communities. In one community in Senegal, Tostan measured the approval ratings for FGM/C before and after the intervention strategy:

<table>
<thead>
<tr>
<th>FGM/C Preferences and Practices</th>
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<tbody>
<tr>
<td>Changes in approval ratings for FGC following implementation of the Tostan community education program, Senegal</td>
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<table>
<thead>
<tr>
<th>Participants</th>
<th>Comparison Group</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Baseline</td>
</tr>
<tr>
<td><strong>Women</strong></td>
<td></td>
</tr>
<tr>
<td>Approve FGC</td>
<td>72%</td>
</tr>
<tr>
<td>Will cut daughters in the future</td>
<td>71%</td>
</tr>
<tr>
<td><strong>Men</strong></td>
<td></td>
</tr>
<tr>
<td>Will cut daughters in the future</td>
<td>66%</td>
</tr>
<tr>
<td>Prefers a woman who has been cut</td>
<td>---</td>
</tr>
</tbody>
</table>

Clearly, the data indicates a rapid reversal of willingness to cut after the public pledge of abandonment—from 72% to 16% for women and from 66% to 3% for men (Population Council, “Change is Possible”).

The second useful concept for understanding the quick abandonment and fragility of unpopular social norms is Thomas Schelling’s concept of a “tipping point” of behavior. Gerry Mackie likens the coordination game and tipping point to sitting in a standing audience. Perhaps everyone in the audience prefers to sit and watch a performance. If one person prefers to sit and acts upon that preference, then she doesn’t see the performance.
Everyone else in the audience will remain standing unless a certain threshold of people decides to sit. Similarly, “if only one family abandons FGC, its daughter doesn’t get married” (Lewnes 17). Thus, a critical mass of sitting or abandoning FGM/C is necessary to tip to the preferred equilibrium. Once enough people decide to act upon their genuine preferences, they have an incentive to declare their intentions and recruit others to adopt their new practice. If a sufficient number of people desire to abandon the practice of cutting their daughters, then the social norm may tip to the other stable Nash Equilibrium of everyone choosing not to cut. The tipping point does not transform the coordination game back into a mixed-motive game, but tips it to the mutually preferable equilibrium. Thus, individuals are finally able to align their preferences, will, and actions; they are able to choose.

Nowhere in this description of the widespread practice of FGM/C is an account of “evil motives.” Describing social norms as a collection of individual non-choices not only preserves the rationality of the individuals partaking in counter-preferential decisions, but it also preserves their humanity. Analyzing an “irrational” decision or “evil” crime must take into account the presence of social norms in order to accurately qualify them as “evil.” Perhaps their motivation is not demonic, but social. Perhaps they are not choosing an evil course of action, but non-choosing a conforming behavior.

Rather than attributing motives to the negative externalities, the case of FGM/C illustrates banal behavior through the aggregation of counter-preferential non-choices. It was not the case that individuals did not think about their preferences for cutting. Their thought is evidenced in the study in Burkina Faso in which women declared their genuine preference. The presence of the norm to cut did not change individual preferences for cutting, but directed the will toward an action misaligned with thought—a non-choice.

Foot-binding

Social norms also facilitate banal behavior resulting from the collection of decisions made without thought. Non-choice without thought also preserves individual rationality, since individuals are not incapable of rational choice, but are simply not utilizing their capacity for reason. Like the case of counter-preferential non-choices, social norms that produce bad externalities are not caused by individual evil motives. Arendt describes social norms as one danger perpetuated by non-thinking. She says that non-thinking teaches the individuals to substitute social norms for thought:

[Non-thinking] teaches them [individuals] to hold fast to whatever the
prescribed rules of conduct may be at a given time in a given society. What people then get used to is not so much the content of the rules, a close examination of which would always lead them into perplexity, as the possession of rules under which to subsume particulars. In other words, they get used to never making up their minds (Arendt, Responsibility and Judgment 178).

Instead of thought preparing the path for action, social norms prescribe a person’s conduct. People do not act, but behave in accordance with the cultural norms they are given.

The social norm of foot-binding in China illustrates the case of banal behavior perpetuated by the absence of thought, rather than by evil or irrational motives. Understanding the practice, its purposes, and its prevalence is again necessary to understand its categorization as a social norm. Foot-binding is a practice that consists of wrapping a six- to eight-year-old girl’s toes under the foot and the sole toward the heel. The wrapping bandage is worn day and night in an attempt to achieve a pointed four-inch-long foot (Mackie 1000). As in the case of FGM/C, foot-binding is included under the heading of negative externalities not for cultural reasons, but due to its tremendous health risks: “Complications included ulceration, paralysis, gangrene, and mortification of the lower limbs; perhaps 10 percent of girls did not survive the treatment.” Due to these health risks, and the extreme pain of the practice, the saying became, “A mother can’t love both her daughter and her daughter’s feet at the same time” (Mackie 1000). In addition to the physical pain, the women with bound feet were left crippled and housebound. This made costs of the practice extremely high, since a working-class family had to choose between binding their daughter’s feet and using her for labor in the fields. The opportunity cost of lost wages, then, must be included in the list of negative externalities.

The prevalence of the practice was also extremely high. It originated in the Sung Dynasty (960-1279), perhaps by a dancer in the emperor’s palace or the love poet Li Yu (937-978), and subsequently spread rapidly. At first it was fashionable to bind a woman’s foot, but foot-binding quickly transformed into a social requirement in which “people were ashamed not to practice it” (Mackie 1001). By the Ming Dynasty (1368-1644), the practice was a deeply ingrained norm. Over time, it spread from the upper classes to the lower classes and became more exaggerated. By 1835, 50 to 80 percent of women bound their feet—the clear exceptions being working women and women in the lowest rungs of society. The practice’s evolution may be seen as the evolution of a choice to follow a fashion to a non-choice reinforced by social norms.
UNICEF says that there are important parallels between FGM/C and foot-binding in China. Mackie describes the similarities between the two practices:

Among the correspondences between foot-binding and FGM/C, they both:
- Are nearly universal customs within groups where they are practiced; they are persistent and are practiced even by people who oppose them.
- Control sexual access to females and promote female chastity and fidelity, at least in their origins.
- Are considered to be necessary for proper marriage and are believed to be sanctioned by tradition.
- Seem to have a past of contagious diffusion and are supported and transmitted by women (UNICEF 3; Mackie 999).

Most significantly, foot-binding resembles FGM/C insofar as it is a self-enforcing convention, perpetuated by the informal social punishment of chastisement in the marriage market for non-compliance (Mackie 999).

Intervening to end the practice originally failed. In 1665, the Manchu conquerors failed to abolish the practice by imposing steep legal penalties. An edict against foot-binding failed again in 1847. As in the case of FGM/C, these strategies failed because they neglected to address the social nature of the practice. If the motive is social, any intervention targeting the individual utility function will necessarily fail. Progress towards abandonment only began at the point when anti-foot-binding societies emerged. Protestant missionaries founded the first society in 1874 and the first indigenous society began in 1897. By 1912, the Nationalist Revolution banned the practice (Mackie 1001). Because the societies recognized the social conditioning of the practice, they had hope for success.

Reformers used three key strategies to end the practice of foot-binding in China: reformers educated the Chinese that the country was “losing face” in the international arena, in which other countries did not practice foot-binding; they educated the Chinese on the health problems of bound feet; and they created social networks of “natural foot societies.” The final element resembles the strategy of public pledge of abandonment in FGM/C, as it created an informal social sanction by having individuals publicly pledge not to allow sons to marry women with bound feet and not to allow daughters to bind their feet (Lewnes 3).

The social strategy ended the practice almost immediately. In fact, the practice of foot-binding lasted for over 1,000 years, but ended in a single generation (Mackie 999). In one rural area, the female population went from 99% bound in 1889 to 0% bound in 1919 (Mackie 1001). This
instantaneous reversal can also be diagrammed in game-theoretic terms, as the Nash Equilibrium changed from the “tragic equilibrium” to the preferable equilibrium by transforming the norm from a strategy of compliance to coordinated repudiation of the practice.

The stability of the tragic equilibrium may have been partially perpetuated by counter-preferential non-choices, since “some Chinese opposed foot-binding as useless but felt obliged to conform for the sake of proper marriage” (Mackie 1001). However, these counter-preferential decisions seem to be the minority of cases. The more likely case is that the norm was perpetuated by non-choices characterized by a lack of thought. This proposition is supported by the other explanations of foot-binding. Some explanatory theories suggest that the Chinese people developed an aesthetic appreciation for small feet (Levy 1966), believed the practice displayed a family’s wealth (Veblen 1934), and distinguished the Chinese from other northern ethnicities (Ebrey 1990). This indicates that people desired to bind their daughters’ feet. With a few exceptions, the practice was not against rational self-interest, but aligned with genuine preferences.

Despite the alignment of the will and action, the almost instantaneous reversal of a social norm suggests that the element of non-thinking played a prominent role in foot-binding. For non-thinkers, adopting a new rule of conduct is easy (given that the majority of others also conform to the new rule) because they are not choosing their course of action, but allowing their behavior to be chosen for them. In China, women were not choosing to bind their feet. They simply bound their feet because society told them to bind their feet. They did not think about their own preferences. Arendt comments on the quick reversal of behavior for non-thinkers:

If somebody then should show up who, for whatever reasons and purposes wishes to abolish the old ‘values’ or virtues, he will find it easy enough provided he offers a new code, and he will need no force and no persuasion—no proof that the new values are better than the old ones—to establish it. The faster men held to the old code, the more eager will they be to assimilate themselves to the new one; the ease with which such reversals can take place under certain circumstances suggests indeed that everybody is asleep when they occur (Responsibility and Judgment 178).

Thus, whenever a rapid reversal of behavior occurs, an element of non-thinking is likely at play since individuals are not choosing according to their own self-written law, but allowing society to dictate their behavior.

This point of the rapid reversal of norms, perpetuated by non-thinking non-choices, is illustrated most simply by Sweden’s “Dagan H” dag
for road reversal. People drive on the right side of the road because others drive on the right side, making it in their own best interests to coordinate in order to avoid head-on collisions. The right-side-of-the-road preference is conditional on others' actions. Yet, although coordinating driving behavior is in each driver's individual self-interest, it is not a behavior that is based on thought. Drivers do not inherently prefer the right to the left; they simply want to coordinate their actions and drive on.

Sweden encountered a problem in this desire to coordinate driving strategies. In Sweden, most cars were left-hand vehicles, but the country's immediate neighbors, including Norway, drove on the right. This discrepancy in strategies caused many head-on collisions when passing in two-lane highways, prompting the Swedish government to begin the HTK (Statens Högertrafikkommission) or the “state right-hand traffic commission.” It prepared for “Dagen H,” a day that would shift the norm from left-to-right-side driving. On Sunday, September 3, 1967, all traffic was prohibited between 1 and 6 p.m. to convert the roads. Before 1 p.m., the norm was left-side driving; after 6 p.m., the norm was right-side driving. The shift was pleasantly uneventful. In fact, 5 fewer traffic accidents were reported on Monday morning than on the previous Mondays (125 from 130 to 198) (“Dagen H”). The shift was quick and painless largely because the norm was perpetuated by non-thinking. If people had genuine preferences for driving on the left, then the new norm would have caused chaos and social upheaval. Because people were behaving according to a thoughtless norm, it was not difficult to assimilate to a different, thoughtless norm.

Dagen H illustrates how non-thinking non-choices can also lead to deeply engrained social norms. While FGM/C was an example of the negative externalities caused by a misalignment of will and thought, acting according to given social constructs is perhaps more terrifying and dangerous. Just as Eichmann systematically executed millions by a lack of thought, a collection of individuals can create social phenomena through non-thinking decisions. It does not take radically evil motives to create social phenomena with horrific outcomes. Millions of women are circumcised annually and millions of Chinese women were crippled not due to evil motivations, but due to non-choices.

The insight that motives are not necessarily the driving force behind suboptimal states of the world offers hope. Bicchieri writes, “Many norms are not socially beneficial, and once established they are difficult to eliminate. If we know what induces people to conform to ‘anti-social’ norms, we may have a chance to curb destructive behavior” (Bicchieri 7). The state cannot justly interfere with individual preferences, but it may have cause to intervene if the preferences are against the individual’s self-defined
preferences. Thus, once China and the United Nations recognized the social aspect of foot-binding and FGM/C, they were given the opportunities to curb the destructive behavior.

**The Banality of Altruistic Behavior**

Just as horrific negative externalities may result not from evil motives, but from individual non-choices, wondrous positive externalities may result not from altruistic motives, but from the aggregation of individual non-choices. Like the invisible hand correcting for mistakes in the marketplace, the interdependency of individual decisions may inadvertently guide good behavior in society.

Costly individual behavior that has larger benefits for society triggers the free rider problem in Public Goods Games. In the game, each individual has an incentive to defect from contributing to the public good, leading to a deficient outcome, or a “tragedy of the commons” (Hardin 1968). It has been observed that over repeated play in the Public Goods Game, there is decay toward the free-riding equilibrium (Isaac, Walker, and Thomas 1984; Kim and Walker 1988). This decay to the sub-optimal equilibrium may result from rational choices in which individuals deliberate the costs and rewards of compliance and determine that defection is in their best interests. James Andreoni identifies this strategy to defect, based upon deliberative thought, as the best explanation for the decision to free ride (1988). Andreoni also notes that there may be an element of learning in this decay, in which individuals learn that the dominant strategy is to defect after repeated interactions. Both the calculative and learning explanations to the free riding equilibrium fall under the active choice model, since subjects are appearing to calculate the costs and benefits of their decisions and to act accordingly, even if it takes some time to learn the correct response.

The decay to the suboptimal equilibrium may also result from non-choices. In the real world, individuals may be following a social norm of defection causing an overall deficient result for society. For instance, society’s growing taste for tuna has led to the tragedy of the commons in the Bluefin tuna population worldwide. Many cite that the trendy norm of eating sushi has led to a deficient result for society and the environment (Revkin, “Tragedy (Tuna) of the Commons”). The decision to recycle also illustrates this point: a person may choose to recycle by thinking about the high costs to the environment, or a person may non-choose to recycle by observing everyone else in society recycling.

Despite this game theoretic prediction, empirical studies also prove that free riding is not always the dominant strategy for individuals. For instance, subjects in a Public Goods Game often play at levels halfway
between the free riding and Pareto efficient level (Marwell and Ames 1981). History is littered with instances in which pro-social phenomena successfully overcame the free-rider problem. Voting, blood and organ donation, and even communities who recycle in large quantities without external rewards, are all social phenomena unexplainable by traditional game-theoretic predictions. If the individual costs outweigh the individual benefits, why do individuals nonetheless partake in pro-social behavior? What explains this paradoxical equilibrium?

It is tempting to attribute pro-social behavior to altruistic or benevolent motives. This account portrays the individual as a hero when she donates blood, for example. In fact, blood drives often give donors tee shirts and buttons proclaiming: “I’m a Hero!” (Unitedbloodservices.org). These individuals may truly be “heroes” if they are motivated by pure benevolence or altruism. They are heroes if they are making an active choice by thinking critically about their preference for donation, and directing their will toward the act of donation. However, what if these individuals were motivated by the tee shirt proclaiming their heroism? If these individuals donated for the sake of appearances, then did they make the decision for its own sake (a choice) or for the sake of appearing altruistic to others (a non-choice)?

Social scientists have offered empirical evidence that benevolence may not always be the driving force behind pro-social behavior. Rather, social norms seem to be the motivation to conform to a behavior that has beneficial social consequences. For example, one much-studied example of a pro-social norm that guides behavior is the norm of fairness. In an Ultimatum Game experiment in the United States, the fairness norm was evident. The Proposer gave a mean offer of 30-40% of the total amount, which may have demonstrated a fear of rejection more than a taste for fairness. However, offers below 20% were rejected about half the time (Camerer 2003). If Responders were acting according to the classical model of rationality, then they ought to have accepted any non-negative allocation. By rejecting even positive offers, they showed a preference to punish unfair offers, reinforcing the social norm of fairness (Bicchieri 104). Even in the Dictator Game, in which the Proposer dictates the outcome without fear of punishment, the mean allocation is 20% (Forsythe et al. 1994). This indicates some other-regarding preference is at play, since the rational assumption would hypothesize that the Proposer gives nothing (Bicchieri, 107).

Fairness is just one of a host of social preferences evidenced in Ultimatum and Dictator Games. It is important to note that social preferences are distinct from socially motivated actions, since social preferences concern the content of the preference rather than the motivation. Thus social preferences, just like other individual preferences, cannot be disputed in...
decision theories. The existence of social preferences proves that individuals are concerned not simply with their own monetary payoffs, thereby destroying the classical assumption of narrow self-interest. Yet, are social preferences irrational preferences? Fehr-Schmidt created an integrated utility function to prove that inequality aversion can be factored into an individual’s rational decision calculus (1999). This would suggest that social preferences, for altruism or equality for instance, could be integrated into the classical rational model alongside monetary rewards.

Yet, this integration of social preferences is not necessary to prove an individual’s rationality in behaving pro-socially. Rather than having society as the content of the preference, individuals may have the preference to conform to pro-social behavior. Social norms may motivate pro-social behavior by substituting for the individual thought process or by misaligning the individual preference with the decision. In the latter case, individuals are rational to act against their individual preference in order to reestablish a net-beneficial norm. When a Responder rejects an above-zero offer, this may be viewed as a “punishment” for the Proposer violating a norm of fairness. In Public Goods Games, especially, cooperators are very willing to punish free-riders, even if it is costly for them and even if they cannot resolutely expect future benefits from punishment (Fehr and Gachter 2000). Fehr and Gachter note that potential free-riders can only avoid or reduce punishment by increasing their cooperation levels (2000). If a pro-social norm of fairness is prevalent in society, then punishing violations would be in the best interest of the individual across repeated interactions.

This punishment is not irrational, despite the cost to the Responder, because it reestablishes a solution to a difficult coordination problem. Under the definition of social norms, the punishment must be informal, so fear of a reduced monetary payoff is not informal in the proper sense. However, Dillenberger and Sadowski have suggested that an additional punishment to non-compliance is shame (2010). When an individual behaves selfishly under observation, or chooses the allocation that most benefits herself, the decision-maker feels a sense of shame. This informal sanction is critical since it induces compliance to a pro-social behavior not through integrated sanctions (i.e. reduced payoff), but through informal social sanctions.

Pro-social norms do not always lead to beneficial results, however. In fact, sometimes the existence of a pro-social norm actually induces anti-social behavior. For instance, the hunter-gatherer society of the Ik was reported to have a strong norm of reciprocity (Turnbull 1972). If one member of the society helped another, the receiver of help would have a strong obligation to reciprocate the favor, even in incommensurable gifts such as going to war. As such, members of the Ik would go to great lengths to avoid receiving
gifts, such as repairing leaky roofs at night to avoid a neighbor’s offer to help. They were avoiding the pro-social norm of reciprocity (Bicchieri 9). Dana et al. empirically confirm this observation of norm avoidance, using Dictator Games to show that people will take great lengths to avoid engaging in pro-social behavior (2004).

Thus, behaving with other-regarding preferences is not irrational. The real question is the following: is pro-social behavior a choice? Bar Hillel and Yaari suggest that allocations in the Dictator or Ultimatum Games follow a thoughtful distributive mechanism. This mechanism depends upon a reflective equilibrium (Rawls 1971) and grounded in “observed ethical judgments” or “moral intuitions” (Bar Hillel and Yaari 1983). If the mechanism for distribution is indeed prefaced by a reflective thought, in which one considers the moral and ethical consequences of the decision, it is indeed a genuine choice. For instance, if I determine that I have a preference for equality through a solitary thought process, my decision to allocate according to that distributive mechanism can be considered a choice. If, however, my allocation reveals my preference for equality, it cannot be accurately considered a choice. The inference may be based on a counter-preferential non-choice or a non-choice guided not by thought but by automated procedures. Thus, inferring a benevolent or altruistic motive from a good result is fallacious.

This account of pro-social behavior suggests that at the center of any of these pro-social norms are not necessarily individual choices, but non-chances guided by exogenously defined preferences or a lack of thought. With the presence of a norm of generosity, for instance, “the person who instead follows a norm of generosity or cooperation need not have a desire to ‘feel good’” (Bicchieri 18). This is evidenced in the empirical finding that employees in Italy who were given a paid-day-off incentive to donate blood donated, on average, about one extra donation annually (Lacetera and Macis 2010). If the person were donating to “feel good,” then the rate of donation should remain constant with or without the paid-day-off incentive. Thus, other motives must be infiltrating the “purely altruistic” motives.

Benevolent motives are defined as completely other-regarding desires. Similarly, an altruist wants to satisfy another’s desires at whatever cost to the self. Thus, if a person is either benevolent or altruistic, they should not be influenced by norms, but should act according to their own benevolent or altruistic desires. This conception denies that a person can be both a benevolent person and norm follower (Bicchieri 18). In other words, individuals are either guided by their own preferences to act generously, or by society’s normative and empirical expectations for behavior, but not both. Either they act or behave.
Benevolence, according to Bicchieri’s account, can only be a motive for individuals directing their actions at an inner circle of relations. In this instance, benevolence is only defined as an active choice. She writes:

Benevolence, however, is usually directed to people with whom we habitually interact and know well. As social distance increases, benevolence tends to decrease. If most people were benevolent toward strangers, we would need no pro-social norms of fairness, reciprocity, or cooperation. In particular, we would have no need for these norms that ‘internalize’ externalities created by behavior that imposes costs on other people. Thus it is plausible that one is guided by benevolence (or even altruism) in interacting with family and friends, but when interacting with strangers, be guided by social norms. Moreover, whereas benevolence toward those who are close to us should be a relatively stable disposition, generosity or cooperativeness with strangers will vary according to our expectations (Bicchieri 18-19).

Thus, benevolence and altruism by definition are choices, since people can hold others’ well-beings as the object of their action, but cannot be motivated by these preferences on a societal level. In other words, choices may be founded upon preferences that have society as the object, while non-choices have conditional preferences for conforming to a pro-social norm.

This recognition of the difference between a benevolent social preference and an action motivated by a preference to conform to the pro-social norm is critical for policymakers or philanthropists who desire to induce pro-social behavior. Just as interventions that targeted “evil motives” failed in the cases of FGM/C and foot-binding, interventions that target “altruistic motives” will necessarily fail to induce pro-social behavior if conformity is the true preference.

Identifying the positive externalities guided by non-choices rather than individual altruistic motives is as appealing, if not more appealing, to policymakers and philanthropists wishing to induce pro-social behavior. Bicchieri writes, “The idea that social norms may be cued, and hence manipulated, is attractive. It suggests that we may be able to induce pro-social behavior and maintain social order at low costs” (7). Voting and default organ donation serve as the two examples of individual non-choices leading to positive benefits for society. Both cases are caused not by individual goodness, but by a banality of goodness induced by conformity rather than thought.

**Voting**

Voting is necessary for democratic functioning to express “the will of the people,” to prevent a tyranny of the majority (Pressman 2004), and
to garner legitimacy to a government domestically and abroad (Levine 2005). Some even contend that voting allows a citizen to move the political apparatus toward his or her preferences (Levine 2005). For these reasons, classifying voting as a “pro-social” activity is hardly disputed.

Yet, the social phenomenon of voting presents a paradox. From the canonical model of rational self-interest, each individual has an incentive to free-ride on the public goods game of voting, avoiding the many costs of showing up to the polls, while still acquiring the benefits of living in a democratic society. However, this public choice theory of voting does not manifest itself in reality, since people vote at much higher rates around the world than public choice theory predicts. For instance, in 2000, 104 U.S. million citizens voted, which represents over 50 percent of the voting eligible population. Again in 2008, 61.6% of the voting eligible population got out the vote (United States Election Project). In contrast, the canonical model predicts a zero-turnout equilibrium. Many explanations which attempt to explain this paradox between observation and prediction have surfaced. These explanations serve not only an academic purpose, but also a practical function, since mechanisms designed to increase turnout will necessarily fail if they are targeting the wrong motives for voting.

The first explanations for the voting paradox conceive of voting as an active choice. For instance, Harsanyi (1980) suggests that people turn out on Election Day according to a utilitarian rule, or by adopting Kant’s categorical imperative and applying it to election. In this view, individuals ask themselves what would happen if no one voted, and thereby adopt the action that maximizes the social welfare if it was adopted by all members of society (Amaro De Matos and Barros 240). If individuals did vote according to a rigorous thought process and directed their actions according to a self-defined preference, it would be a choice.

Game theory presents another explanation of the voting paradox, which also renders the act of voting a choice. In this perspective, citizens vote if and only if the potential benefit of voting exceeds the costs (Palfrey and Rosenthal 8). In the deliberative thought process, citizens should make these calculations:

\[
\text{Vote if Probability (Benefit)} > \text{Cost} \\
\text{Abstain if Probability (Benefit)} < \text{Cost}
\]

The expected gains from voting depend on the benefit—typically the benefit of the voter’s preferred candidate winning the election—multiplied by the probability of the voter’s ballot determining the election. This expected gain must outweigh the costs in order to induce voting (Pressman 5). If the
thought process did, in fact, follow this calculus, the action of voting would be considered a choice.

Unfortunately, manipulating any one of these variables proves to be insufficient to explain the voting paradox under rational choice theory. First, public choice theory attempts to explain the paradox by focusing on the decisiveness of a vote or the expected probability of making a tangible difference in the election’s results. While effective in small elections, instrumentality fails to explain the paradox in large jurisdictions, such as the United States’ presidential election. For this reason, John Aldrich suggests that the “rationality of voting is the Achilles’ heel of rational choice theory in political science” (Aldrich 1997).

Others focus on the costs in the decision equation to explain the paradoxical observation. The U.S. Census Bureau found in one study that the majority (40.6 percent) of registered voters chose to abstain in the 2002 election due to the high costs of voting (Levine 185). Unfortunately, any calculation of costs—including tangible costs such as transportation as well as opportunity costs such as missing work or leisure—indicate that any rational, self-interested person should not vote. To further complicate the rational choice perspective, significantly reducing the costs of voting does not increase the voting rate. Patricia Funk found that introducing the system of optional postal voting in Switzerland decreased the costs of voting significantly, but hardly increased turnout (3 percentage points), which Funk found to be statistically insignificant. Tilman Börgers also warns that reducing the costs of voting through the internet may result in reduced participation because the election may lose legitimacy, which reduces the probability of decisiveness (Börgers 532).

Still others focus on the altruistic benefits of voting. This explanation views voting as expressive in its intent and considers casting a ballot a consumption activity that offers the benefits of feeling a sense of civic duty and a patriotic self-image (Jakee and Sun 61). While the benefit of civil duty (+D in the rational calculus) may factor into some citizens’ rational calculi, the theory is not falsifiable. Roland Bénabou and Jean Tirole’s theory of pro-social behavior recognizes the interaction of altruistic motivations with other motivations:

To gain a better understanding of pro-social behavior, we sought, paraphrasing Adam Smith, to “thoroughly enter into all the passions and motives which influence it.” People’s actions indeed reflect a variable mix of altruistic motivation, material self-interest, and social or self-image concerns (1674).
Rather than disputing the explanation of altruism, which cannot be disproven for lack of falsifiability, this account of voting accepts it as a potential explanatory factor. If individuals are genuinely motivated by their own preference to vote for purposes of a higher ideal—i.e. civic duty, democratic functioning, or belief in a candidate—then they are making genuine choices.

Not all votes can be rendered a choice, however. Benevolence in choice is incompatible with social motivations, as previously defined. Thus, while Bénabou and Tirole claim that there is an interaction between formal incentives, social norms, and individuals’ altruistic motivations, this account rejects such an interaction of motivations. If a vote is cast for exogenously defined preferences, conditioned on normative and empirical expectations, it is not an active choice, but a behavior conforming to a norm.

A non-choice occurs when people “perform good deeds and refrain from selfish ones because of social pressure and norms that attach honor to the former and shame to the latter” (Bénabou and Tirole 1653). While previous rational choice explanations failed, the voting paradox may be explained through social norms. Amaro de Matos and Barros subscribe to this explanation, viewing others’ decisions to vote as creating a cascade of influence on a citizens’ preference to vote (2004). The preference to vote is conditional upon the empirical expectations of others voting. Observing high voting rates in previous elections would produce this empirical observation, satisfying the first prong of social norms. Observation of voting behavior may come through word-of-mouth reports, television reports, or the long lines at a polling booth. While the Australian ballot makes the ballot unobservable, the act of voting itself has many opportunities for observation.

Voting also fits the criterion of normative expectations. If a norm to vote exists in a community, then a citizen will believe that she is expected to vote by her neighbors and friends. This social pressure misdirects the will from an endogenously defined preference, characterizing the behavior as a non-choice. If this is the case, the rate of voting should increase when social pressure increases. Empirical studies prove this to be true. Funk’s research in Switzerland suggests that social pressure to conform to the norm of voting is highest in smaller communities. She writes:

> The sharpest test for social pressure arises from looking at the effect of postal voting in different-sized communities. A large number of anthropological studies have documented that social control is particularly strong in small and close-knit communities. People know each other and gossip about who does their civic duty and who does not. Therefore, the relief from social pressure is supposedly the highest in small communities and ceteris paribus, also this negative ‘social effect’ on turnout (Funk 1).
Her empirical evidence of the postal voting system in Switzerland corroborates this social effect, as voter participation was more negatively affected in smaller communities (Funk 1). Smaller communities, which had the most inconvenient and shortest timeframes to vote, had a 50 percent lower increase in turnout (1.5 percent increase). Funk explains the paradoxical findings of lowering the costs of voting through social incentives. She says that smaller group sizes exert more social pressure and that “adding an opportunity that allows to escape social pressure might reduce pro-social behavior” (Funk 9). Tadelis corroborates this pressure in his finding that cooperation increases in a trust game if defection is made public (2007).

Voting can either signal conformity to a norm that “everyone votes” or a norm that “a good citizen votes.” Funk notes that evidence suggests that citizens with a strong sense of civic duty are more likely to vote, proving a social norm exists that a good citizen should vote. Under either norm, the preference to vote is dependent upon the normative expectations of conformity, rendering it an exogenously directed behavior. Signaling voting behavior is critical for expectations, since it makes the action observable. A citizen can signal ex ante, indicating her intentions to vote, or ex post, indicating that she did, in fact, vote. Signaling ex post may occur in American society with the “I voted!” stickers. The simple “I voted!” sticker is a way to signal a voter’s patriotism and conformity to a social norm.

Compliance to the norm also creates social benefits, transforming the mixed-motive game into a coordination game, thereby solving the free-rider problem. Bénabou and Tirole note that social signaling is present in pro-social behavior due to the reputational rewards of contributing to the public good or conforming to the social norm. They write, “Decisions carry reputational costs and benefits, reflecting the judgments and reactions of others—family, friends, colleagues, employers. The value of reputation may be instrumental or purely affective (social esteem or shame as a hedonic good)” (Bénabou & Tirole 1654). Funk says that the benefits of signaling include social esteem from showing up at the polling station, the avoidance of social sanctions, or the benefits of being perceived of as a cooperator in the community (2). She writes:

Both types [defectors and cooperators] may receive signaling benefits from showing up at the polls, e.g. through social esteem from people who are at the polls and from those who learn about the voting act through gossip. As community size increases, social connectedness decreases and signaling benefits as well…. If social pressure matters for voting decisions, the presence of mail-in ballots provides an opportunity to escape. Therefore, the more social concerns matter for voting decisions, the more distinctive
the mail ballot system’s trade-off between cost reduction and a reduction in social incentives (Funk 3).

Bénabou and Tirole point to vote by mail as reducing the signaling effect by making the act of voting unobservable. This explains the unaffected voting rate in Switzerland despite reduced costs, since the main social effect in the mail-voting system was the removal of social pressure. It reduced the costs at the expense of the social benefits.

Taken together, the empirical and normative expectations render the decision to vote a conditional preference. The preference for behavior is dependent upon the interdependencies of decisions. Voting is a non-choice because it is counter-preferential: individuals appear to calculate the time and expense of voting as less than the social benefits of conforming. The social benefits of voting make the act beneficial not for its own sake (i.e. fulfilling a civic duty), but for the sake of appearance. Thus, the conditional preference is focused on society’s preferences rather than individual preferences. Amaro De Matos and Barros write, “the utility of voting or not voting for an individual depends on the decisions made by the individuals in his/her given social-relations network” (241). The action is not taken for “altruistic” preferences, but for the social preference to conform to a norm of voting. As Mill says, “He who does anything because it is the custom makes no choice” (Sandel 51). If the norm to vote or the norm that a good citizen votes exists in a community, then high participation rates are nothing more than collections of individual non-choices, which just so happen to create positive social benefits. A high voting rate is banal behavior with good results. Thus, norms create not only a banality of evil, but also a banality of goodness in society.

Organ Donation

Default organ donation serves as the example of a pro-social phenomenon perpetuated by non-thinking non-choice. This example stands out from the previous examples, since the state, and not society, is the agent directly influencing the choice. The case study is still relevant because the state does not mandate donation nor does it impose penalties or rewards for opting-out of the donation system. The example also has a wealth of literature surrounding autonomy in relation to choice. Social norms are still at play in default organ donation systems, as they signal the preferences of society through the default decision.

Organ donation clearly fits into the “pro-social” category, as more than 112,000 people are in need of an organ transplant in the United States at any given moment. The need for donations is urgent, as 6,521 patients
died while waiting for organ transplants in 2010 alone. Eighteen people
die each day, on average, waiting for an organ donation. Due to this high
need, organ donation presents a social dilemma, since only 14,507 donations
occurred in the United States in 2010 (New York Organ Donor Network).
In addition, there seems to be a contradiction between people’s preferences
and actions. When surveyed, 97% of respondents indicated their support
for transplantation, yet their willingness did not translate into their donation
decisions, as only 43% checked the organ donation box on their driver’s
license. Majorities were also willing to donate while living, but only 64%
of those respondents marked their drivers’ licenses in favor of donating and
only 36% had an organ donor card (Sunstein 178). The mismatch of supply
to demand and stated preference to action has incentivized practitioners to
search for creative ways to increase the supply.

One method practitioners use to induce pro-social behavior is
to reduce the costs. Yet, the costs for living organ donors cannot easily
be circumvented. Donating a liver, for instance, has the high cost of
going through anesthetized surgery, followed by the potential for health
complications. According to a rational choice model, the risks and costs of
donating an organ while living outweigh the benefits. Despite this fact, in
2010, 282 living people donated their livers (out of 6,291 total donations)
and 6,276 donated their kidneys (out of 16,8898 total donations) (New York
Organ Donor Network). These people were likely not acting “irrationally,“
but donating to a family member or friend based on genuine altruistic
motivations, since altruism is possible at an intimate level.

Despite the notable altruistic motivations to donate an organ,
the high costs of donation while living make the rational choice to not to
donate to a stranger, or someone outside an inner-circle of friends and
family. Descriptively speaking, individuals are largely complying with the
canonical model of decision-making according to their rational self-interest.
Their calculations direct their action toward the choice to not donate while
living. What remains to be explained, however, is the low rate of deceased
organ donations. Of the 14,507 organ donors in the United States in 2010,
only 7,943 were deceased donors (New York Organ Donor Network). Of the
360,000 transplants that have occurred since 1998, 80% came from deceased
donors (Sunstein 177). The rate of living to deceased donations is nearly
identical, despite the much lower cost of donation when deceased. Absent
spiritual, religious, or moral concerns, the costs of organ donation when
deceased should be negligible.

One controversial solution to organ donation is a “donorcyle”
mechanism, which points to the effect of increased organ donations (a 10
percent increase) upon repealing motorcycle helmet laws (Dickert-Conlin
et al. 2009). This intervention, however, produces a beneficial externality only at the expense of increased fatalities. Moreover, the number of donors on the deceased donation registry necessarily limits this solution. As such, solutions must target the underlying motivations for not pre-registering to donate upon death.

As a result of this tradeoff, some look to targeting choice as the mechanistic solution. Sunstein notes that the primary obstacle to increasing donations is the requirement of consent, in which surviving family members consent once deceased or living individuals give prior consent for donation. Consent is the ultimate use of rationality and autonomy, in which individuals choose with intentionality, understanding, and without controlling influences (Beauchamp and Childress 101). Consent is the center of the organ donation debate, since individuals must give their express agreement to being a donor before death or a surrogate must consent after death. Any mechanism that seeks to increase the number of organ donations, rather than focusing on the demand side through more effective allocation, necessarily grapples with the concept of consent. Practitioners are encouraged by studies that cite the mismatch of preference to donate and actual levels of donation. However, using these studies as the basis for implementing policies that circumvent consent is fallacious, since individuals may want to appear willing to donate when surveyed, but genuinely prefer not to donate in reality. Despite this fallacious justification, many practitioners think “nudging altruism” through default consent mechanisms is the best solution.

Presumed consent is one system proposed to fix the supply of organs. The system would presume consent to donate unless the individual or the family explicitly opts-out. This system may alleviate the shortage, to an extent. In a study of Europe, countries that had presumed consent mechanisms (Belgium and Austria) had much higher levels of organ donation than countries using an opt-in system (the U.K., Germany, and the Netherlands) (Davis 1383). In a lab experiment, when individuals had to opt-out of the system, 82% remained donors, in contrast to only 42% who agreed to be donors if they had to opt-in (Sunstein 180). Thus, the “nudge” of setting the default to donation, requiring the individual to actively opt-out, may work to increase registered donors.

Despite this pro-social benefit, default donation mechanisms are ethically tenuous. Presumed consent is a non-choice, since it bypasses the individual thought process and exogenously imposes a decision. By circumventing an individual’s rationality, the policy encourages making the decision automated. Any behavior that is automated necessarily lacks a thoughtful preparation, since general rules of conduct cannot “withstand the wind of thought” (Arendt, Responsibility and Judgment 176). Thus,
Davis is wrong in his contention that a default system “promotes individual autonomy by allowing competent adults to make the donation decision for themselves, rather than have it made for them by relatives” (Davis 1382).

The default mechanism is classified as a “liberal paternal” policy, because it allows the individual the liberty to opt-out, while nonetheless signaling the correct decision. The American Medical Association is critical of the presumed consent mechanism, saying that it “raises serious ethical concerns unless effective mechanisms are in place for documenting and honoring refusals” (Davis 1383). Beauchamp and Childress warn that, “presuming consent on the basis of a general theory of human goods or of the rational will is morally perilous.” They also refer to the non-choice of presuming consent: “Consent should refer to an individual’s actual choices, not to presumptions about the choices the individual would or should make” (Beauchamp and Childress 107).

In default donation mechanisms, society accompanies the state as another limiting agent on a person’s freedom to choose to donate. By setting the default to donation, an individual infers that there is a rational justification for this decision—a nudge based on sound judgment. The donation default also serves as a signal for the individual of society’s preferences. Individuals may infer society’s preference for donation from the default, creating pluralistic ignorance based on that inference. Individuals are unaware of other society members’ genuine preferences for donation, so they use the default setting for organ donation as a signal to infer society’s preferences. This inference is not based on individual facts, but on the choice menu itself. In this way, individuals infer the social norm of donation through a process of pluralistic ignorance not unlike the case of FGM/C. Thus, society encourages defaulting to a pro-social norm without any basis in endogenously defined preferences. Social norms exacerbate the limitations of freedom and rationality imposed by state default donation policies.

Any state mechanism for default donation presents an ethical dilemma as to whether to induce pro-social behavior at the expense of imposing the will of society and the state on an individual’s decision. This tradeoff between granting the liberty to choose and correcting a suboptimal societal equilibrium is not unlike the tradeoff between deceased motorcyclists and increased organ donations. The fear is that just as some states may repeal motorcycle helmet laws to increase the supply of organs, some may restrict a person’s liberty to choose, bypassing their rationality, in order to increase the social good. Johnson and Goldstein note, “Defaults can lead to two kinds of misclassification: willing donors who are not identified or people who become donors against their wishes. Balancing these errors with the good done by the lives saved through organ transplantation leads to delicate
ethical and psychological questions” (1338). Those ethical questions stem from the different causes of “choosing” the default: one can actively look at the checked box and consent; one can inadvertently keep the box checked through lack of attention; or one can keep the box checked because one infers that to be the best decision, as defined not by themselves, but by the state. The first default setting is a choice because active thought is given to the decision; the second default setting is a non-choice characterized by lack of thought and conscientiousness; and the third default is a non-choice based on social norm’s misdirection of the will toward the exogenous preference to conform.

Reciprocity norms are another social norm that has affected the organ donation process. The National Kidney Registry leverages the reciprocity norm by matching donors to patients in need through an exchange process. If Person A is willing to donate a kidney to Person B, but it is not a good antibody match, then, without the Registry, Person B would remain on a long waiting list for a donation. However, if a similar antibody mismatch occurs with Person C willing to donate to Person D, then an “exchange” of recipients can occur. This matching technique can create long chains of exchanges—some reaching as many as 60 people long (Sack, “60 Lives”). The New York Times reports that this domino chain began with “an algorithm and an altruist” and “its momentum fueled by a mix of selflessness and self-interest among donors who gave a kidney to a stranger after learning they could not donate to a loved one because of incompatible blood types of antibodies” (Sack, “60 Lives”). The initial “altruistic” choice is indisputable, since altruism is certainly possible among close family and friends. The chain, however, was perpetuated by the reciprocity norm: a person was willing to give a kidney if and only if another person was willing. Each person’s expectations of donation were mutually dependent upon the others’ expectations. The interdependencies of their decisions created conditional preferences to donate. Thus, donation was no longer for individual, altruistic preferences, but for conditional preferences.

Thus, there is a tradeoff between freedom to choose and achieving the optimal level of a public good. The case of organ donation raises concerns over the extent of society and the state’s inducement of a pro-social decision. A high rate of donation is undoubtedly a worthy goal, especially in light of the long waiting lists for transplant patients. Yet is the social-optimal level of donations worth expending liberty and rationality? Is it just or desirable for society and the state to encourage non-choice? More significantly, can society aptly call those who donate through default—through a non-choice—altruistic?
The Consequences of Banal Behavior

The cases of social phenomena with negative externalities—FGM/C and foot-binding—and the cases of social phenomena with positive externalities—voting and organ donation—are all cases of banal behavior. These decisions are behavior rather than action because they are not based on endogenously defined preferences—the individuals are not agents of their own self-law. The decisions are banal because they are not grounded in evil or altruistic motivations. In fact, they are not based on individual preferences at all, but on social preferences, conditional upon the empirical and normative expectations of others’ actions. The interdependency of decisions renders them non-choices. The behavior is banal in the lack of uniqueness, its absence of individuality, its dearth of natality. Without an altruistic motive for pro-social behavior, a banality of goodness results. Without an evil motive for anti-social behavior, a banality of evil results. The banality is based on a lack of thought, the absence of motivation, and the misdirection of the will. But what are the consequences of this banality?

First, banal behavior has implications for assigning responsibility. Choice is inextricably linked to personal responsibility. Eleanor Roosevelt said, “We shape our lives and we shape ourselves...And the choices we make are ultimately our own responsibility” (Greenfield 7). The link between choice and responsibility for the consequences of those decisions is ingrained in political theory, the legal system, and in advertising (Greenfield 9). It comes in two flavors, according to Greenfield. On one hand, a choice makes a person responsible for the consequences of his own actions. The criminal code, for example, distinguishes between murder and manslaughter based on the level of intent. When killing is a choice, it warrants more severe punishment; when killing is not intentional prior to the act, it is afforded reduced sentencing. On the other hand, a choice is a personal responsibility in and of itself. The choice to wear a helmet while riding a motorcycle, for instance, affords the personal responsibility of assuming the risks associated with that decision. Both choice as responsibility and choice as costs are leveraged for political gain—either to shift the burden of blame onto the state or onto the individual.

But if our choices are constrained—by our psychology, the state, and society—then the link between assigning responsibility to individual decisions becomes tenuous. Given these constraints, can we appropriately assign the corresponding costs to an individual’s poor choice? Society recognizes that when choices are limited, individuals should not bear the full costs of their actions. Such was the case during Hurricane Katrina, as only 22% found the individuals living in the devastated neighborhoods were fully to blame for their situations (Greenfield 16). In this case, citizens
judged the victims as not fully responsible for their circumstances because their choices were limited. As such, they diffused the responsibility among many, including the state and local governments, charitable organizations, and Nature herself.

The diffusion of responsibility occurs frequently in society: employers take responsibility for certain risks for their employees; insurance companies take on the responsibility of the risks of natural disasters; and the government assumes the responsibility for its citizens’ damage to national infrastructure. Yet it is a fallacy to point to the last person in the chain of choices for bearing full responsibility of any action. While Hitler is the person symbolically blamed for the Holocaust, many others, including bureaucrats like Eichmann and bystanders in the community share the blame. As Greenfield notes, “Many events have multiple causes and influences, and the responsibility for creating them is dispersed. Sometimes responsibility is shared” (158). However, acknowledging that multiple actors sometimes share blame, choices can nevertheless only come from individuals. As Arendt says, “There is no such thing as collective guilt or collective innocence; guilt and innocence make sense only if applied to individuals” (Responsibility and Judgment 29). What happens, then, if individuals’ decisions are not choices, but non-choices dictated by society? If individuals are not choosing their actions, then they cannot be fully responsible for the consequences. Given the host of constraints and the inescapable presence of social norms, individuals may never be fully responsible for their actions. This leads to an irresolvable dilemma in the theory of banal behavior of assigning responsibility to non-choices. While not a conclusive answer, I believe the best approach to resolving this dilemma is to assign responsibility to individuals, while recognizing where others are to blame, including limiting institutions and circumstances. If responsibility diffuses to the point that every crime and every poor decision is attributed to “society,” individuals would lose all sense of self-worth and anarchy may ensue without the possibility for law and order. At the core of responsibility, after all, is a respect for oneself. Blaming society only degrades a human to a laboring, unthinking member of the herd.

Another result of the theory is the explanatory power of incomprehensible acts. For Kant, those who are tempted to do wrong by following their motives are radically evil. Indeed, this theory of choice does not eliminate the possibility of choices guided by genuine evil or altruism. On March 11, 2012, U.S. Staff Sgt. Robert Bales allegedly shot and killed 16 civilians in Afghanistan, 9 of whom were children. Theories of why he would kill abound. Some attributed his actions to a psychological trauma caused by four tours in Afghanistan (Dao, “At Home”). Others, including
columnist David Brooks, attributed the massacre to genuinely evil motives: “even people who contain reservoirs of compassion and neighborliness also possess a latent potential to commit murder.” Brooks contends that it is human nature to kill, as “we’re natural-born killers and the real question is not what makes people kill but what prevents them from doing so” (Brooks, “When the Good Do Bad”). I am not qualified to determine what motivated Bales’ rampage; rather, the news commentary serves as evidence that most want to attribute a radically evil motive or psychological disturbance to the tragedy. The theory of non-choice offers a third explanation for such evil consequences. Rather than emotional motives causing evil, a simple counter-preferential decision or a decision without thought can cause harm. On a larger scale, these non-choices can become a coercive force on free will, perpetuating an evil throughout a population.

On the other hand, one surprising consequence of the theory of banal behavior is that good results can result from non-choices. Just as Eichmann wasn’t motivated to kill in a Hannibal Lecter sense of evil, individuals need not be motivated by the goodness of their hearts to promote social welfare. Lacking altruistic motivations, however, may be disheartening to readers. Individuals desire to attribute good motives to good actions, since it paints a rosy picture of humanity. Realizing that an action is undertaken for ulterior purposes taints the outcome’s goodness. For instance, we discount a salesperson’s compliment, since we know it may be given disingenuously to encourage purchases. One could argue that motives should not matter for good outcomes. Should I care whether a neighbor votes for the “right reasons” of civic duty or for the sake of appearances? Society benefits by the action whatever the motivation.

My preference for altruism may be an additional example of a “nosy preference,” or a preference I fallaciously hold over another person’s preferences. Nosy preferences undoubtedly lead to inefficient outcomes—perhaps crowding out potentially beneficial actions through my preference for an altruistic motivation behind the good effect. One manifestation of nosy preferences is the disdain of markets for goods that are typically donated—presumably from altruistic motivations. Alvin Roth finds that repugnance for certain types of transactions are a constraint on markets. Alongside other examples like the ban on eating horse meat in California, Roth says, “The laws against buying or selling kidneys reflect a reasonably widespread repugnance, and this repugnance may make it difficult for arguments that focus only on the gains from trade to make headway in changing these laws” (37). Roth notes that individuals are repulsed over buying and selling organs, but tolerant of transactions that leverage the norm of reciprocity, such as kidney exchange programs. I agree that repugnance
plays a role in limiting markets for scarce goods, but I disagree that it is the only cause. Rather, the preference for “in-kind” exchanges indicates a preference for altruism. The banality of goodness complicates the myth of altruistic donations. Recognizing the limits to altruistic actions, and the genuine banality in many positive actions, may create an opening for “repugnant” markets. If individuals find that good motives are not behind good donations, then perhaps they would not find markets for scarce goods as distasteful as before.

Opening up the opportunity to monetize goods that were previously based in altruistic donations has tremendous consequences for choice. Greenfield notes that Rab Nawas, a farmer in Pakistan, was indebted to his landlord and had only two valuables: his children and his kidneys. His decision to sell one of his kidneys—not for altruistic purposes, but for monetary reasons—undoubtedly helped someone in Europe, Australia, or the United States who was willing to pay (Greenfield 137). A preference for altruism would have limited this choice at both ends—limiting Nawas’ decision to sell his organ and limiting the willing patient’s ability to purchase the organ. The nosy preference for altruism would have left both worse off: Nawas would have remained impoverished and the patient would have remained on the long donor list, assuming his survival. Nawas’ choice is not an isolated example, either, as the World Health Organization estimates that one fifth of all kidneys transplanted worldwide come from a black market rather than a charitable donation (Greenfield 137). While Nawas’ decision was a choice, rather than a banal non-choice, it nonetheless illustrates that our preference for altruistic choices may be misguided. The banality of goodness may not be as horrible a consequence after all.

In the same vein of thought, leveraging the banality of goodness to promote pro-social consequences may be counterproductive. Specifically, practitioners who attempt to make good actions the default decision—transforming a choice into a non-choice—may “crowd out” genuinely altruistic actors or create a backlash. In Brazil, for instance, the switch to presumed consent from an opt-in method of organ donations led to public outcry and lower donation rates, forcing the country to switch back to the non-default option. People didn’t seem to like when they were induced by the state to act altruistically. On a larger scale, there appears to be a negative relationship between inducements of deceased donations through state policies and live donation rates. The following chart illustrates the clear negative relationship between deceased and live donation rate, indicating a possible “crowding out” of altruistic, live donors when deceased default mechanisms are in place. The countries with presumed consent (green) also display a negative correlation between the two types of donations, suggesting
that altruistic, live donations decrease as individuals are induced to donate upon death:

*Live and Deceased Kidney Donation Rates*

(Tabarrok, “Presumed Consent and Organ Donation”)

This negative relationship between live and deceased donations may indicate that a “crowding out” of altruism occurs when states attempt to induce donation through various default mechanisms. Jason Dana warns against this interpretation, arguing that because the countries with defaults were getting so few live donors, they were forced to choose a default mechanism. He goes on to say that, “It could even be that these countries have less marriage and population growth, and it is mostly family ties that guilt people into donating one of their kidneys while alive” (Dana, “Presumed Consent and Organ Donation”). Even if altruism is not crowded out in these countries, the possibility leads to a worrisome philosophical implication: if we begin to recognize the banality of goodness and attempt to leverage it for the “good of society,” are we risking crowding out genuine altruism? Will society no longer recognize altruism as genuine when it in fact is, allowing...
cynicism to override the possibility of genuine human goodness?

The graph of organ donations points to another implication of banal behavior and non-choice: the role of culture in limiting and influencing our decisions. Culture matters for the rates of organ donation, clearly evidenced by the wide variations of donation rates by country (Dana, “Presumed Consent and Organ Donation”). Both the classical and behavioral model focus on the limitations of the state and psychology, neglecting society as another limiting agent, but culture matters for individual choice. Cultural influences are hard to recognize, since they pervade all aspects of life, from gender roles to religious mores (Greenfield 3). Greenfield writes:

If I am correct in arguing that deeply embedded cultural assumptions and biases influence us in ways we hardly recognize, then we should worry a great deal if the culture around us bombards us with messages that do not correspond with what we would believe is we considered things from a distance. The task for us is to identify the elements of culture that have these influences (91).

Greenfield notes a host of cultural influences on choice, many of which link to the aforementioned paradoxical social phenomenon: patriotism and nationalism partially explains voting norms; religiosity and gender roles help to explain FGM/C; religiosity and consumerism are at play in organ donation rates; and sexuality and gender roles help explain foot-binding. This study enhances the classical and behavioral models by including society as an additional constraint on free choice.

Most significantly, culture is self-reinforcing, encouraging conformity to behavioral rules and coercing individuals to make counter-preferential decisions. Alexis de Tocqueville wrote of the “soft despotism” in democracies and the implications of despotism in Democracy in America:

I see an innumerable multitude of men, alike and equal, who turn about without repose in order to procure for themselves petty and vulgar pleasures with which they fill their souls. Each of them, withdrawn apart, is a virtual stranger, unaware of the fate of the others: his children and his particular friends form for him the entirety of the human race; as for his fellow citizens, he is beside them but he sees them not; he touches them and senses them not; he exists only in himself and for himself alone, and, if he still has a family, one could say at least that he no longer has a fatherland.

Over these is elevated an immense, tutelary power, which takes sole charge of assuring their enjoyment and of watching over their fate. It is absolute,
attentive to detail, regular, provident, and gentle...It works willingly for their happiness, but it wishes to be the only agent and the sole arbiter of that happiness. It provides for their security, foresees and supplies their needs, guides them in the principal affairs, directs their industry, regulates their testaments, divides their inheritances. Can it not relieve them entirely of the trouble of thinking and of the effort associated with living? In this fashion, every day, it renders the employment of free will less useful and more rare; it confines the action of the will within a smaller space, and bit by bit it steals from each citizen the use of that which is his own [Emphasis added] (Tocqueville 187–88).

Tocqueville’s words touch upon the theory of social norms as non-choices. Individuals in society are strangers to one another—they act only according to their immediate self-interest. Yet, their actions have tremendous implications on one another by creating an “immense, tutelary power” of social norms. These norms subvert individual free will, relieving the individual of the “trouble of thinking” by directing them to the correct behavioral rule. Individuals no longer need to think to decide; rather, they look to society to choose for them. Just as behavioral economics points to the mental crutches of psychological heuristics, the theory of banal behavior points to the additional crutch of social norms to guide decisions. The logical implication of an over-reliance on society to guide behavior, according to Tocqueville, is that free will fits within a smaller space.

Most importantly, the thing “stolen from each citizen” from an increasingly constrained free will is the prospect of an individual, unique choice. If Albert Camus is correct in saying that “life is the sum of all of your choices,” then free choice is the essence of individuality. As William Jennings Bryan observed, “destiny is not a matter of chance, it is a matter of choice” (Greenfield 7). If most of our behavior is dependent upon others’ actions, then can we be distinct individuals in the herd of society? If we continue to place conforming to society on a higher platform than unique decisions, then how can our choices reflect who we truly are? Excess banal behavior, without moments of genuine free choice, may in fact turn society into an innumerable multitude, alike and equal.

**Redeeming Choice**

Both the classical and behavioral models fall short of sufficiently explaining paradoxical social phenomena. The assumption of perfect rationality in the classical model clashes with the descriptive account of irrationality in behavioral economics. I reject that individuals must be either perfect decision-makers or irrational fools. The concept of non-choice offers
a more satisfying explanation to paradoxical social phenomena. Individuals are no longer irrational or naïve when they act against their self-interest or preferences, but following society’s behavioral script for their behavior. The presence of social norms more adequately describes behavioral paradoxes such as voting and incomprehensible actions such as FGM/C.

In addition, neither the classical or behavioral theories provide adequate normative guidance to decision-making. While the behavioral model certainly expanded upon the classical model by offering a more accurate account of human decision-making, it did not offer any normative advice for how all individuals can avoid acting irrationally without elite education. Moreover, individuals in the behavioral model are entirely un-free—completely constrained by choice architecture. If freedom is the centerpiece of democratic functioning, then individuals must be offered normative guidance for how to realize their capacity for free choice.

In society, Greenfield says, “we’re fish that need to discover the water. If we do, some of the power that cultural norms have on our decision making may evaporate” (91). His normative guidance to redeeming choice is fourfold: a person must recognize the power of the situation, acknowledge irrationalities, be mindful of habits, and cultivate an awareness of cultural influence. I believe the underlying mechanism beneath these prescriptions, and the proper mechanism for “discovering the water,” is courage and thought.

Counter-preferential non-choices may be the cause of great evil. Conformity becomes the motivation for action rather than acting according to a self-determined preference. The most classic excuse for a child disobeying rules is “but everyone else was doing it!” There is a long historical trend of linking hypocrisy to morality. Arendt says the Socratic condition under which we are prevented from doing wrong is “the condition of not being at odds with ourselves even though this might mean to be at odds with the whole world” (Responsibility and Judgment 122). Dostoevsky in The Brothers Karamazov writes that for Dmitri K. to win salvation, he must never lie to himself. Similarly, for Kant, moral conduct depends upon man not contradicting himself by making an exception in his own favor. Arendt writes, “Morally speaking, this should be enough not only to enable him to tell right from wrong, but also to do right and avoid wrong” (Responsibility and Judgment 67). Thus, man has a duty to himself before duties to others. The normative advice to avoid counter-preferential non-choices is simply to recognize your preferences and act upon them. Do not act for the sake of others, but for your own sake. This takes courage to act against the fray, but is necessary to avoid the hypocrisy that is the root of evil consequences caused by non-choices.
Non-choices caused by a lack of thought are equally dangerous; if we are unaware of the consequences of our decisions, then we are unable to guard against evil acts. As Arendt shows, thinking is no small feat. I want to highlight what I believe is the most difficult aspect of thought: its solitary nature. Solitude brings quiet, a condition necessary to escape the noise of society and to think for oneself. For Aristotle, “The distinction between quiet and unquiet… is like the distinction between war and peace: just as war takes place for the sake of peace, thus every kind of activity, even the process of mere thought must culminate in the absolute quiet of contemplation” (Arendt, The Human Condition 15).

Society creates the noise that interrupts the peace required to think. Never before has this condition been so difficult to obtain. According to the Bureau of Labor Statistics’ American Time Use Survey (2011), each day the average American spends 8.2/7.8 hours on work (for women and men, respectively), 2.6/2.1 hours on household activities (for women and men, respectively), and 2.7 hours watching TV. Significantly, the time spent on leisure activities that included computers or video games varied widely by age: those age 75 and over spent 1.1 hours reading and only 18 minutes on electronic leisure activities, while individuals ages 15 to 19 read for an average of 6 minutes and spent 1.1 hours on electronic entertainment (Bureau of Labor Statistics, “Time Use Survey”). With all of these forms of distraction—work, household labor, TV, and computers—it is not an unreasonable conclusion to say that people spend little time simply thinking. In fact, the survey measured that Americans spend on average .28 hours each weekday and .34 each weekend thinking/relaxing. This time also varied widely by age, as those ages 75 and over spent .64 hours each day relaxing/thinking, while those ages 15 to 19 spent only .11 hours each weekday (Bureau of Labor Statistics, “Table 11”). The negative relationship between thinking and using electronics is clear: those older Americans who used fewer electronics had more time to think, while younger Americans who used more electronics had less time to think (See Appendix D). If thinking is valuable for proper decision-making and essential for choice, then Americans who value the “American Dream,” which is rooted in the principles of free choice, should be alarmed. The normative solution to redeeming free choice in our democratic society, founded on the “consent of the governed,” is to spend more time thinking. The data points to one specific piece of advice toward this end: put down the iPhone, the iPad, and the iMac. One cannot think with the noise of social media streaming from multiple sources—it declares war on the solitude of rationality.

Letting go of electronics, just like thinking itself, feels unnatural and will take discipline. However, the benefits of taking the time and quiet
space to think are too numerous to enumerate. Three specific beneficial consequences of thinking are of note. First, thought prepares the individual to realize her choice in action. It does so by striking roots in memories, generating preferences, and discerning the proper method of action. Without these preparatory features, actions are rendered automated. They are not human action, but animal behavior. Second, thought conditions humans against evildoing and predisposes them to altruism by striking roots in emotions and memories among fellow human beings. Arendt says, “The very word conscience, at any rate, points in this direction insofar as it means ‘to know with and by myself,’ a kind of knowledge that is actualized in every thinking process” (Responsibility and Judgment 160-161). Because action is always in the presence of others, someone can never transcend this world of man-made things and other beings when in action. This is a necessary condition of action, since “things and men form the environment for each of man’s activities, which would be pointless without such location” (The Human Condition 22). Thus, connecting through actions is limited to the people directly affected by the action. Thinking is the only activity that is capable of transcending the physical world, thereby creating the possibility of infinite connections to others. Thinking on abstractions and intangibles creates intellectual connections among people. After all, the love and sorrow I experience are uniquely my own, but are nonetheless shared experiences among all humans since the dawn of time. Thinking on these shared experiences guards against my decision to cause harm to others, and encourages me to act altruistically through our shared intellectual connections. While action creates the condition for remembrance, thinking is the process of remembering, striking roots with our fellow beings (Arendt, The Human Condition 9).

Finally, while thinking connects, it also distinguishes humans from one another. Despite the tremendous pressure to conform in society, an individual always retains the free space of thought. Whatever her outward actions and statements of beliefs, she is always capable of privately holding differing principles. This capacity for free thought makes each human unique, as no thought can be replicated by another. Even if an individual becomes an automated member of the herd—continually making non-choices and engaging in banal behavior—she retains her uniqueness of thought. For these reasons, I agree with Arendt that, the “highest and perhaps purest activity of which men are capable is the activity of thinking” (The Human Condition 3). Choice is not choice without thought.
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The Value of a Liberal Arts Education

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Abstract
In recent years, liberal arts education has faced caustic challenges on the grounds that it is neither a wise investment nor relevant in the modern era. However, these claims disregard the contention that liberal arts education has an intrinsic value that supersedes other tertiary concerns. The benefits of a liberal arts education are certainly comprehensive and apply to all members of society. As such, the inherent merit of the liberal arts must be recognized and supported by the state at all educational levels. The current economic and political environment has made it apparent that anything less will severely undermine the solemn standing of the liberal arts. If we are to repudiate the liberal arts, we will deny the very essence of what makes us human.

Introduction
As I write this, some American universities are severely scaling back or even closing humanities departments like Classical Studies and Romance Languages. In the U.K., funding for higher education in the humanities has been drastically cut (Morgan). Some of the logic behind these cuts lies in the idea that the humanities are a luxury good that cannot be afforded in difficult economic times, and that in an increasingly competitive and global economy, countries are better served by focusing on disciplines related to science, technology, engineering, and mathematics. Meanwhile, some “Occupy” protesters in different cities have decried a system that led them to take on thousands of dollars in student loans in pursuit of degrees that have not been well-received by potential employers. On the other side of this debate, Rush Limbaugh has blamed universities, saying that they “offer useless majors, and then they lie about the quality of these useless majors. They lie about the happiness and the jobs and the money that awaits you after you get a degree in something like Classical Studies.” The one thing these widely varying views share is that they all approach the idea of liberal arts education as something to be debated in terms of its pure economic value.

I will argue that liberal arts education has an inherent value that transcends economic and political conditions. The liberal arts are good for our soul, our view of the world, and our innate creativity. In light of difficult funding decisions that educational institutions face, this inherent value must be recognized to ensure the continued survival of the liberal arts. While the liberal arts can be defended in terms of their benefits for national prosperity
and good democratic citizens, this view stops short by giving liberal arts education an instrumental rather than an inherent value. My argument is not based on a paternalistic view, and I will seek to defend it against the possible objection that claiming an inherent value for liberal arts violates liberal neutrality. Given this inherent value, I will argue that states should not debate the stages or types of education which should include liberal arts components, but should seek to ensure an emphasis on the liberal arts at all levels of education. I believe that while the debate around the liberal arts often focuses on their place in higher education, it is critical to support their place in elementary education as well. The inherent benefits that I argue for apply for all people in society.

Defining “Liberal Arts”

In order to take a side in the debate about the value of a liberal arts education, it is necessary to provide a definition of a liberal arts education. In fact, this very exercise may calm the doubts of some skeptics before my larger argument for the inherent value of a liberal arts education. It would seem that sometimes those who decry the supposed uselessness of the liberal arts might hold misconceptions about what they so vehemently argue against.

I will use a definition eloquently argued for by Matthew Arnold in the late nineteenth century. Arnold was the two-time Chair of Poetry at Oxford and for much of his career the Inspector of Schools in England. Arnold says that the humanities are often criticized on the grounds that “the study is an elegant one, but slight and ineffectual; a smattering of Greek and Latin and other ornamental things, or little use for any one whose object is to get at truth and be a practical man” (246). He says that there is “always a tendency in those who are remonstrating against the predominance of letters in education to understand by letters belles lettres and by belles lettres a superficial humanism, the opposite of science or true knowledge” (246). He then goes on to clarify what he means by an education of letters, or rather a liberal arts education, by discussing the example of an education in Greek and Roman Antiquity, which in his time and ours is placed firmly in the realm of liberal arts disciplines. When Arnold speaks of knowing Greek and Roman antiquity as an aid for knowing ourselves and the world, he means “more than a knowledge of so much vocabulary, so much grammar, so many portions of authors in the Greek and Latin languages- [he means] knowing the Greeks and Romans, and their life and genius, and what they were and did in the world; what we get form them and what is its value” (246). This description, rather than characterizing a superficial sort of knowledge, is in fact consistent with the type of education that would allow people to understand greater truths.
Arnold goes on to say that the type of education he advocates for involves “knowing the best which has been thought and uttered in the world” (247). Arnold says that by speaking of “knowing ancient Rome,” he does not mean “knowing merely more or less of Latin belles lettres and taking no account of Rome’s military and political and legal and administrative work in the world.” By knowing ancient Greece, he means “knowing her as the giver of Greek art and the guide to a free and right use of reason and to scientific method, and the founder of our mathematics and physics and astronomy and biology” and “knowing her as all this and not merely knowing certain Greek poems and histories and treatises and speeches- so as to the knowledge of the modern nations also” (247). Essentially, he describes what a modern liberal arts university would include under the heading of a Classical Studies degree. Such a course of study does not focus on literary texts at the exclusion of historical context, archaeological knowledge, and philosophical background. I will choose to adhere to this definition during my argument. A liberal arts education brings its pupils a uniquely rich depth and breadth of knowledge, and in the latter sections of this paper I will examine the inherent values of these virtues for the students.

The State’s Role in Education

In order to provide support for the idea that the state should have a role in supporting certain types of education, it is important to examine philosophical views towards education, particularly when viewed through the lens of equality of opportunity. John Rawls, a leading twentieth century political philosopher, discusses the importance of equality of opportunity in ensuring a just society in his influential work A Theory of Justice. Rawls says “those who are at the same level of talent and ability and have the same willingness to use them, should have the same prospects of success regardless of their initial place in the social system, that is, irrespective of the income class into which they were born” (63). Following from Rawls’s idea, it seems clear that if a democratic state wants to ensure people this freedom, the state should take a significant amount of responsibility for education, which provides a pathway to later success in life. If people of all income levels have equality of opportunity in education, this would give them the chance to transcend the social circumstances into which they are born. Unfortunately, many people live in circumstances that place barriers in the way of their social mobility and access to education. If certain groups of people are systematically excluded from having access to education, this will exclude these groups from the possibility of social mobility, since education provides an avenue to later opportunities in life.

When people suffer from a cumulative disadvantage caused by
inadequate access to education, they will be severely restricted in their freedom to pursue the kind of life they want (in terms of careers, leisure activities, etc.). In accordance with Rawls’s principles of justice, the state should seek to ensure educational access for its citizens. When people have inadequate access to education, it will be impossible to fulfill part of Rawls’s second principle: positions and offices will not truly be open to all based on fair equality of opportunity because many people will lack the education to be eligible for such offices and positions.

In an opposing view, Nozick would claim that education does not fall within the realm of services the minimal state should provide, nor would he think that it is the role of the state to rectify inequalities that may arise from a lack of educational opportunities. I do not propose to examine Nozick’s idea of just acquisitions in terms of economic resources and whether or not they should be redistributed to ensure a just society, but his transactional principles do not seem completely compatible with a social good such as education. His work particularly opposed taxation, saying that it is “on a par with forced labor” (169). Since taxation is the means by which a large portion of public education is supported, it would seem that Nozick’s model does not allow for a state role in education. However, as Scanlon points out, in Nozick’s model “citizens may band together for whatever other purposes they may desire—to provide education, to aid the needy, to organize social insurance schemes—but such schemes must be purely voluntary, and the state must enforce any-one’s right not to be compelled to contribute to them” (1).

Despite this possibility that groups of people within the minimal state could support education, leaving the choice open this way could have dire consequences. If people in the upper class banded together to support education, but only for their own children, citizens in the lower classes might not be able or encouraged to participate in this system. Since there is no redistributive mechanism to ensure that, for example, a revenue stream like property taxes could be used to fund public education, it seems probable that there would be an entire class of people who would not be ensured access to education. Education would become the privilege of the wealthy as opposed to the right of all citizens. In this situation, social stratification would increase, and there would be an entire class of relatively uninformed political participants (those without education), and this would lead to disenfranchisement. The class of people who did not have access to education would, in addition to missing out on the instrumental values of a liberal arts education, be deprived of the inherent values I argue for as well.

Citizenship Education

This basis for state support of education does not in itself clarify
what types of education should be supported. Education is often discussed in terms of its utility for creating good democratic citizens, an idea which appears in Rawls’s work Justice as Fairness: A Restatement. Rawls describes how citizenship education will be accomplished in a society, saying that “citizens acquire an understanding of the public political culture and its traditions of interpreting basic constitutional values” (145). According to Rawls, this is accomplished through judicial processes, such as the interpretation of constitutional cases and how these are affirmed by political parties. He says that “if disputed judicial decisions—there are bound to be such-call forth deliberative political discussion in the course of which their merits are reasonably debated in terms of constitutional principles, then even these disputed decisions, by drawing citizens into public debate, may serve a vital educational role” (146). Essentially, Rawls thinks that the political and judicial process themselves will be the primary tools through which citizens receive democratic education, and additional formal education in this area will not be required.

It seems unlikely that in all cases citizenship education will be ensured solely through participation in the political process, especially given that this idea depends on active efforts on the part of the citizens to participate in this level of deliberative processing. With the voter turnout rate in the U.S. hovering slightly above 60%, it seems unlikely that public debate will serve its intended educational role (McDonald). Additionally, even in their strongest formulation, his ideas have instrumental overtones. They are focused on citizenship education and the overall goal of allowing people to have equal opportunities to succeed, which is framed in career-based terms.

According to Costa, Rawls’s neglect of this topic can be partly explained by “his confidence that the functioning of just institutions will ‘spontaneously’ generate, in citizens who live under them, the necessary support for principles of justice, and will encourage the development and exercise of the virtues characteristic of reasonable citizens” (56). When closely examined, this argument seems to have a circular structure. If citizens are necessary to contribute to a strong public political culture, but these same citizens derive their reasonable and virtuous nature from the political institutions they live under, then there would seem to be a basic component missing from democratic societies if the citizens do not have some basic access to democratic education. Participation in the democratic process is necessary, but it is by no means the same thing as formal education that fosters qualities necessary for democratic citizenship.

A report by the Carnegie Foundation called “Educating for Democracy: Preparing Undergraduates for Responsible Political Engagement” highlights...
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this shortfall. The report states “in a 2006 survey of California high school graduates who had recently completed a course in U.S. government, half could not correctly identify the function of the Supreme Court, a third could not name either of California’s two U.S. senators, and 41 percent did not know whether the Republican or Democratic party is more conservative. For the sake of these individuals and for the health of our democracy, it is critical to strengthen their understanding of political institutions, issues and events” (3). The report goes on to recommend that this could be accomplished at the university level, because “more than 15 million Americans from increasingly diverse backgrounds are enrolled as undergraduates in our nation’s colleges and universities” and “when undergraduates have the understanding and skills to be politically engaged, many are motivated to do so. Research suggests that colleges are well positioned to promote democratic competencies and participation, and to prepare students to be thoughtful, responsible, creative citizens” (3).

Another work that discusses education’s effects on democratic skills is Milton Friedman’s Capitalism and Freedom. Friedman believes that positive effects for the state will occur as a result of funding for higher education because it is “a means of training youngsters for citizenship and for community leadership,” and that subsidies should be provided for this type of education to individuals to spend at institutions of their choosing, which would “make for more effective competition among various types of schools and for a more efficient utilization of their resources” (99). He also discusses education at more basic levels, saying that “a stable and democratic society is impossible without a minimum degree of literacy and knowledge on the part of most citizens and without widespread acceptance of some set of values. Education can contribute to both.” Thus, he continues, “the gain from the education of a child accrues not only to the child or his parents but also to other members of the society” (86). This argument, although it does not rely solely on the benefit of education to economic prosperity but incorporates the benefits to democratic citizenship, is nonetheless highly instrumental. The value of liberal arts education lies in the benefit to the community, partly in the form of the stability in society that democratic education supposedly carries.

He goes on to state that “the qualitative argument from ‘neighborhood effects’ does not, of course, determine the specific kinds of schooling that should be subsidized or by how much they should be subsidized. The social gain presumably is greatest for the lowest levels of schooling, where there is the nearest approach to unanimity about content, and declines continuously as the level of schooling rises” (88). This essentially quantifies the marginal benefits of education. This approach would provide support for some form
of basic education for all, but by no means guarantees any access to higher education or a specific type of education unless it provides increasing marginal utility to the community.

Although his approach acknowledges that education is valuable for economic and political reasons, I think this framework would place some members of society at a severe disadvantage. Friedman states that “what forms of education have the greatest social advantage and how much of the community’s limited resources should be spent on them must be decided by the judgment of the community expressed through its acceptable political challenges” (89). Thus, if through the deliberative process it is decided that only basic literacy and mathematics education are necessary for the majority of the population, this framework would lead to a failure of equality. Quantifying education in terms of “greatest social advantage” deals with an idea of marginal benefit to individual people, and distributing education in a way that creates the greatest advantage would likely mean giving educational resources to people who are the most academically gifted. This instrumental view will exclude the less-advantaged members of a society. If the state chooses to support only basic education for the majority of the population, then many of the liberal arts disciplines will only be accessible to people who society deems the mostly likely to benefit from their study. The inherent values that I believe a liberal arts education provides are not limited to the most intelligent or economically advantaged members in a society, and thus Friedman’s practical conclusions fall short of my ideal view of the grounds for supporting liberal arts education.

Amy Gutmann’s work also articulates the qualities and benefits of education that can enhance democratic participation. Her views include the usefulness of education in forming moral character, which comes closer to the inherent values I will argue for, but still stops short by framing the value in instrumental terms. Gutmann cites Noah Webster’s idea that “education, in great measure, forms the moral character of men, and morals are the basis of government.” However, Webster goes on to say that “the only practicable method to reform mankind is to begin with children, to banish, if possible, from their company every low-bred, drunken, immoral character” (48-9). By acknowledging that in a democratic society, citizens “must be free to disagree over what constitutes low-bred and immoral character” (48), Gutmann adapts this into a more realistic and timely framework. Her version is that: “Education, in a great measure, forms the moral character of citizens, and moral character along with laws and institutions, forms the basis of democratic government. Democratic government, in turn, shapes the education of future citizens, which, in a great measure, forms their moral character. Because democracies must rely on the moral character of parents,
teachers, public officials, and ordinary citizens to education future citizens, democratic education begins not only with children who are to be taught but also with citizens who are to be their teachers” (48).

This idea of complete participation in democratic education to ensure participation in democracy emphasizes the need for this type of education throughout society.

Gutmann’s description of this type of education makes it clear that it is consistent with that found in the liberal arts disciplines. Education that teaches democratic virtue is that which teaches people “the ability to deliberate, and hence to participate in conscious social reproduction” (46). She states that there are two basic facts about our lives, which are that “we disagree about what is good” and “we face hard choices as individuals even when we agree as a group.” These two facts “are the basis for an argument that primary education should be both exemplary and didactic. Children must learn not just how to behave in accordance with authority but to think critically about how they are to live up to the democratic idea of sharing political sovereignty as citizens” (51). I believe that the deliberative skills and critical thinking necessary for these ideals can be found in the liberal arts disciplines. However, even valuing education for its benefits in a democratic society stops short of acknowledging the true worth of the humanities.

Inherent Value

In my freshman year Greek history class, the professor titled his first lecture “Why history matters.” On one of the lecture slides he juxtaposed a picture of the famous kore, a statue of a Greek woman that resides in the Acropolis museum, with a picture of Britteny Spears. He posited that all learning is an antidote to popular culture. In our society, there is a profound importance to being able to recognize something that speaks to us more deeply that the drama on the latest episode of a reality T.V. show or the scandal over the latest celebrity divorce. I will argue that the inherent value of the humanities lies within this deeper and more profound sphere. The liberal arts have an inherent value for our souls, the way we view the world around us, and our innate creativity.

In Plato’s Republic, Socrates provides an argument for the idea that education is good for our souls. The Socratic method of learning to recognize the good can be understood through the allegory of the cave, in which the prisoners in the cave gradually learn to recognize that the shapes they see are mere shadows, and eventually leave the cave to live in the light of the sun and recognize the highest form of good. However, after they have made this ascent, people “must be willing to go down again among those prisoners” to “share their labors and honors, whether they be slighter or more serious”
(519d). A Socratic method of learning is one that engages students actively in their own learning by guiding them towards lessons and truths while allowing them to ask questions and critically engage with the topics. Socrates’ discussion of education indicates that the power of knowledge “is in the soul of each and that the instrument with which each learns—just as an eye is not able to turn toward the light from the dark without the whole body—must be turned around from that which is coming into being together with the whole soul until it is able to endure looking at that which is and the brightest part of that which is” (518c). This view emphasizes the fact that education is not just about giving someone a simple skill or a tool with which to accomplish certain tasks, but rather it is a holistic process that involves re-shaping the very soul of a person. I believe that this type of learning, one that engages people at the level of their very soul, is found within the liberal arts.

Another work that supports my argument for the inherent value of education is Adam Smith’s Wealth of Nations. He discusses education as a way to avoid the dehumanization that he views as a consequence of capitalism. He says that “in the progress of the division of labour, the employment of the far greater part of those who live by labour, that is, of the great body of the people, comes to be confirmed to a few very simple operations, frequently to one or two” (839). He describes the consequences of this, for as he argues, “the man whose whole life is spent in performing a few simple operations, of which the effects too are, perhaps, always the same, or very nearly the same, has no occasion to exert his understanding, or to exercise his invention in finding out expedients for removing difficulties which will never occur.” Such a man will in due course lose “the habit of such exertion, and generally becomes as stupid and ignorant as it is possible for a human creature to become” (839-40). When this occurs, “the torpor of his mind renders him, not only incapable of relishing or bearing a part in any rational conversation, but of conceiving any generous, noble, or tender sentiment, and consequently of forming any just judgment concerning many even of the ordinary duties of private life. Of the great and extensive interests of his country he is altogether incapable of judging” (840). Basic education is presented as a way to avoid this downward spiral. Thus, peoples’ access to education allows them to connect with their humanity and become better citizens by understanding the larger interests of their country. The initial part of his argument approaches the point I will focus on because it deals with the qualities of human beings that exist outside of political and economic models. I think that the ability to conceive of the “generous, noble, or tender sentiment[s]” that Smith discusses presents a strong argument for the ways in which education can enrich our souls.

Martha Nussbaum provides a modern argument for the idea
that humanities education holds inherent value in addition to its role in promoting good democratic citizenship. She says that “when we meet in society, if we have not learned to see both the self and other in that way, imagining in one another inner faculties of thought and emotion, democracy is bound to fail, because democracy is built upon respect and concern, and these in turn are built upon the ability to see other people as human beings, not simply as objects” (6). This ability, while essential for democratic citizens, also has inherent value by virtue of strengthening peoples’ sense of their own humanity and enforcing the recognition of humanity in others.

Nussbaum argues that the humanities have an inherent value because they are good for our souls, and if we lose liberal arts education, we will forget our soul. She acknowledges that for many people this word has strong religious connotations, but she connects her arguments to Tagore’s and Alcott’s meanings and defines the soul as: “the faculties of thought and imagination that make us human and make our relationships rich human relationships, rather than relationships of mere use and manipulation” (6). One can find an echo of Smith’s idea that the humanities are necessary to prevent dehumanization: although society is not as stratified as it was in Smith’s time and not all of the working class are employed in jobs where they perform the same one or two tasks over and over again, we still run the risk of losing an integral part of ourselves if we neglect liberal arts education.

Nussbaum references the work of British pediatrician and psychoanalyst Donald Winnicott and his research on the developmental role that imaginative play has for children. She says that “as play develops, the child develops a capacity for wonder. Simple nursery rhymes already urge children to put themselves in the place of a small animal, another child, even an inanimate object” (96). The example she gives is the nursery rhyme “twinkle twinkle little star, how I wonder what you are.” She describes it as “a paradigm of wonder, since it involves looking at a shape and endowing that shape with an inner world. This is what children ultimately must be able to do with other people. Nursery rhymes and stories are thus a crucial preparation for concern in life” (97). Describing nursery rhymes as preparation for later intellectual and interpersonal connections in life might seem to tilt this argument towards the instrumental as well, yet the sense of wonder and imagination that is described in child’s play is ethereal and essentially impossible to quantify. I will choose to focus on the existence of the rhyme and the feeling itself as two sides of the same coin. Such natural wonder and curiosity are key components of the human condition, and any manifestation of these qualities should be seen as a manifestation of humanity itself.

Nussbaum says that as people get older, they can “close up, forgetting
the inner world of others, or they can retain and further develop the capacity to endow the forms of others, in imagination, with inner life” (98). In the first scenario, people are denying a part of what makes us human, while in the second they are enriching their very souls. In my view, if people are engaged in the liberal arts from an early point in their education and continue this engagement throughout their lives, they can continuously enrich their souls and their identity as human beings. Nussbaum says that “it is all too easy to see another person as just a body-which we might then think we can use for our own ends, bad or good” and “it is an achievement to see a soul in that body, and this achievement is supported by poetry and the arts, which as us to wonder about the inner world of that shape we see- and, too, to wonder about ourselves and our own depths.” Thus, the liberal arts encapsulate the manifestation of humanity that imaginative play and nursery rhymes represent for small children. Failing to acknowledge this leads to the closing off that Nussbaum describes and the loss of our inner world.

I will now turn to the ways in which a liberal arts education has value for how we view the world around us. Mike Seymour states that the purpose of his work, Education for Humanity, is to make the case for “creating schools that are devoted to all dimensions of the human condition” in which “all students will be engaged collaboratively to succeed by a caring educational community” (ix). He says that the insight he argues for in his book is that “the separation of people from their deeper selves underlies all other forms of disconnection. Being disconnected from oneself hampers true connection to others, to the natural world, and to a higher meaning that gives a sense of hope and fulfillment” (11). The study of the humanities deals extensively with the study of the human condition. I believe that supporting the type of education he argues for will allow people to better connect to their true selves, and by extension form stronger connections to others and the world around them. Seymour says that “educating for self begins the journey to realize inner aliveness and purpose by finding ourselves through what we cherish and love” (33). Like the prisoners in Socrates’ allegory of the cave, I think that all people are searching for the form of the good, and they will be unable to achieve it without the study of the liberal arts.

Arguing for the inherent value of the liberal arts by grounding it in the ethereal area of its good for the soul can be a difficult endeavor. For example, Mark Roche, a former dean of Notre Dame’s College of Arts and Letters, points out that “when the value of a liberal arts education is defended today, educators normally elevate not its intrinsic value, which is simply too foreign to contemporary culture, but critical thinking, which is essential to success and crucial to the venerable enlightenment goal of dismantling false truths” (101). Yet the complexity of providing an inherent defense for
the liberal arts has not kept Roche and other authors from delving into this area. Indeed, I would be doing my own liberal arts background a disservice if I shied away from this area simply because it represents a more abstract argument. Defending the liberal arts for their inherent value is the only way to ensure their place in society regardless of the economic or political climate of a state.

The study of the liberal arts, in addition to being good for our souls, is beneficial for the way that we see and understand the world around us. Roche’s argument includes the inherent good of the liberal arts both in an internal and external sense. Roche states that while a liberal arts education can “help us discover intrinsic goods, it is in itself an intrinsic good” (15). Thus, if a liberal arts education is not supported by a state, we lose an entire bundle of intrinsic goods: the inherent good represented by a liberal arts education itself and the other goods it guarantees. He goes on to say that a liberal arts education helps “students recognize the gap between the world as it is and the world as it ought to be while at the same time reconciling them to what is good and beautiful about the world they have inherited” (20). In recognizing this difference between the possible and the actual, students are engaged at a higher level of humanity and are able to ask broad-based questions about how and why things have come to be the way they are and whether and how to change them. Although this is a more complex question than a child wondering what a star is, it is nonetheless a question based on imagination and the ability to construct a better world in our minds and even attempt to help that world come to exist in reality.

Roche gives specific examples of how different areas in the liberal arts serve to elevate the way in which we view the world around us. He says that “art assists the individual’s search for edification and contributes to the collective identity of a culture” and “offers a window not only into the collective identity of a given culture but also into the complexity and dignity of humankind and indeed onto the transcendent itself” (20). Additionally, “our experience of art and literature differs from the routine experience of consumption and utility. When we appreciate an object of beauty, we do not desire to possess or transform it, to consume or use it; we leave it free as it is. Our experience of literature is of value for its own sake. It is ‘purposeless’ in the higher sense of being its own end” (35). This relates closely to Nussbaum’s discussion of the importance of maintaining a sense of wonder. Thus, the form of education that helps us learn how to appreciate things like art and literature as ends in themselves is in itself an intrinsic good. I believe that students who have had access to a liberal arts education will be better able to critically engage with the world around them and appreciate art and literature on a deeper level.
Victor Ferrall concurs with Roche that a liberal arts education is valuable for individuals and for the relationships that people form with one another. He says that a “society needs well and broadly educated citizens. The more liberally educated citizens it has, the stronger it will be. Individuals benefit from being well and broadly educated. The more they are liberally educated, the stronger they will be in both their personal and professional lives, and as citizens” (16). Liberal arts strengthen a society by improving the way in which people relate to one another, and this is accomplished by virtue of the fact that they strengthen its citizens as individuals. Although a stronger democratic society is certainly a worthy achievement, the argument need not progress that far: the liberal arts are good for individuals in a society by virtue of the fact that they have inherent good for the relationships between individuals regardless of their place in society or the type of society in which they live.

I will now examine the ways in which the liberal arts are valuable for our innate creativity. An argument for this can be found in the work of Ferrall and Roche in their discussions of how the humanities help people relate different areas of knowledge and demarcate their place in the world around them. In doing so, people are able to envision possibilities beyond their daily experiences and think more creatively. Roche says that “liberal arts students are encouraged to develop not only an awareness of knowledge intrinsic to their major but a recognition of that discipline’s position within the larger mosaic of knowledge” (20). Ferrall states that “a liberal education defines the relationship of its holders to the world around them” and that people who pursue such an education “are seldom satisfied with their level of knowing. They wonder, and bring their analytical resources and knowledge to bear on their wondering. The life of their minds is not limited by or to their daily experience. For them, the fact of not knowing can be a source of pleasurable challenge. Creativity is central to what they value” (17).

This creativity can be viewed as an effect of the different ways of understanding the world that the liberal arts inspires, but I believe that the two still represent separate inherent goods. I would posit that one can lead to the other in a cycle of innovation and appreciation for inner beauty. People who are inspired by a deep appreciation for art or literature may go on to create their own works of art, which can in turn be appreciated for others for the sake of their beauty. By allowing the “life of the mind” to transcend mere everyday experience, the liberal arts prevent us from experiencing the dehumanization against which Smith cautioned.

In an era where the liberal arts are challenged both in higher education and grade school curricula, it is important to prove to the skeptics that there is an inherent value to the liberal arts. However, there is yet
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another approach to the defense of the liberal arts, and it lies in what comes
down to an eloquent version of pleading the Fifth. Stanley Fish says that,
“To the question ‘of what use are the humanities?’, the only honest answer
is none whatsoever. And it is an answer that brings honor to its subject.
Justification, after all, confers value on an activity from a perspective outside
its performance. An activity that cannot be justified is an activity that refuses
to regard itself as instrumental to some larger good. The humanities are their
own good.” Fish goes on to say that in some ways he knows he is asking the
world “to subsidize [his] moments of aesthetic wonderment” when he sees
a beautiful piece of art or reads a moving poem. At first glance this might
sound self-centered, but upon closer examination, it can be completely
egalitarian. After all, why should everyone not experience this same sense
of wonder when seeing a painting or reading a passage of literature that
speaks to them? Supporting the idea that the liberal arts have an inherent
value is not a matter of subsidizing one person’s tastes, but rather involves
recognizing something integral to our humanity. Far from being a useless
luxury good, the humanities are essential to our identities as humans.

Objections to the Inherent Value

If the state acknowledges liberal arts education and supports its
inherent value, this could this be seen by some as a value judgment of one type
of education over another. I am not arguing that all people must be required
to pursue a liberal arts degree in college, but rather that the liberal arts
must be ensured a permanent place in society and at all levels of education.
However, it could be argued that this view violates liberal neutrality. After
all, who am I to say that Greek statues are inherently superior to Britney
Spears?

Some might respond to the view that Fish espoused in the last section
by arguing that they have no obligation to subsidize other peoples’ enjoyment
of the arts, or education that focuses on subjects like art and literature, if
they do not enjoy such things. Bentham and Mill also debated the issue of
whether all pleasures are equal. Bentham takes a utilitarian point of view in
qualifying different types of enjoyment, while Mill takes a perfectionist view
that some types of pleasures are superior to others. I will use their arguments
to support the idea that regardless of whether all pleasures are weighted
equally, a range of options must be allowed to exist in order to give people
the opportunity to choose the types of pleasures that bring them the most
fulfillments.

Bentham’s equivalent example of the Greek statue and Britney Spears
was the comparison between reading poetry and the game of push-pin. He
said that, “prejudice apart, the game of push-pin is of equal value with the
arts and sciences of music and poetry. If the game of push-pin furnished more pleasure, it is more valuable than either. Everybody can play push-pin: poetry and music are relished only by a few” (93). In fact, he goes on to say that the preference of poetry to push-pin could even be conceived as elitist, because “if poetry and music deserve to be [sic] preferred before a game of push-pin, it must be because they are calculated to gratify those individuals who are most difficult to be pleased” (94). I acknowledge that it is entirely possible that someone could gain equal or even greater enjoyment from push-pin over poetry, as they could gain equal or even greater enjoyment from Britney Spears over Greek statues. However, while games and pop music may be more accessible or more appealing for some, they do not require any additional support in the way that poetry and art do. Market forces will not always be kind to the arts, and I believe that a societal commitment to the liberal arts is necessary to ensure that people have the opportunity to appreciate things like poetry, art, and classical music.

While Mill takes the perfectionist view that some pleasures are inherently superior to others, I believe that his argument can also be used to illustrate the necessity of ensuring that the higher pleasures are available to all in society. Mill states it was “quite compatible with the principle of utility to recognize the fact that some kinds of pleasures are more desirable and valuable than others. It would be absurd that, while in estimating all other things quality is considered as well as quantity, the estimation of pleasure should be supposed to depend on quantity alone” (Mill 8). In order to make this qualitative distinction, he said that “of two pleasures, if there be one to which all or almost all who have experience of both give a decided preference, irrespective of any feeling of moral obligation to prefer it, that is the more desirable pleasure” (8). Thus, he argues that people who do not appreciate higher pleasures have simply not had the chance to enjoy them and are not making a fully informed choice. Mill describes higher pleasures as ones that engage our uniquely human capacities, and says that “those who are equally acquainted with and equally capable of appreciating and enjoying both do give a most marked preference to the manner of existence which employs their higher faculties” (9). Mill states that “it is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied. And if the fool, or the pig, is of a different opinion, it is because they only know their own side of the question. The other party to the comparison knows both sides” (10). This statement does seem elitist: after all, people who enjoy the occasional reality T.V. show or pop culture tabloid story would probably not be happy to be told that they are merely fools whose satisfaction comes from a lack of full information about their options.

Mill has a response for this concern, although this part of his argument
continues to emphasize the superiority of the higher pleasures over the lower pleasures. He says that many people who are capable of appreciating higher pleasures will sometimes forgo them for lower pleasures. He says that “this is quite compatible with a full appreciation of the intrinsic superiority of the lower. Men often, from infirmity of character, make their election for the nearer good, thought they know it to be the less valuable; and this is no less when the choice is between two bodily pleasures than when it is between bodily and mental” (10). Citing insecurity of character for the choice of lower pleasures might create new objections instead of calming all concerns, but the idea that people must have an opportunity to cultivate an appreciation for higher pleasures in order to enjoy them is a more defensible position.

I would like to add a further stipulation to Mill’s view. Even in saying that people sometimes choose lower pleasures over higher pleasures, his argument conforms to a perfectionist view. According to Mill, the higher pleasures are inherently superior and all people, if given sufficient opportunity to experience them, will recognize this fact. I would argue that if the state does not support the liberal arts, then they are essentially giving preference to types of learning and pleasure that tend to be market-driven. Things like pop music and reality T.V. will continue to exist due to the fact that many people enjoy them, and thus there will always be money to be made in presenting such material to the public. However, if there is an insufficient emphasis on the liberal arts, many people will not have the opportunity to appreciate the things that Mill would categorize as higher pleasures. If people have few opportunities to learn about things like art and classical music, they might not seek out things like museums and orchestra concerts as leisure activities, and the existence of these cultural institutions will be jeopardized. Thus, ensuring an emphasis on the liberal arts and peoples’ ability to appreciate certain pursuits does not entail acknowledging their superiority, but rather making sure that they continue to exist as options in society.

There is yet another modern objection that state support for a certain type of education could be construed as undue preference. This is a part of the idea of liberal neutrality argued for by Ronal Dworkin in his work A Matter of Principle. Dworkin states that “government must be neutral on what might be called the question of the good life” (191). This theory “supposes that political decisions must be, so far as is possible, independent of any particular conception of the good life, or of what gives value to life. Since the citizens of a society differ in their conceptions, the government does not treat them as equals if it prefers one conception to another” (191). According to this view, a government would seem to violate liberal neutrality if it supported the liberal arts when some citizens in a society might not hold
this as part of their conception of a good life. Following from this, I see two logical directions for the argument to take: either all citizens in a society must unanimously agree that the inherent value of the liberal arts is applicable regardless of what peoples’ conception of a good life is (which I think is ideal, but unlikely), or the strict nature of liberal neutrality must be examined.

In fact, there are several existing criticisms of liberal neutrality. Colin Macleod argues that adoption of neutrality might be inconsistent with other important liberal commitments. He states that much of the “state activity that liberals have traditionally endorsed is difficult to reconcile with neutrality. Specifically, it seems difficult to justify government policies and programs which aim at preserving and enriching the artistic and cultural character of communities without appeal to perfectionist considerations of the sort forbidden by neutrality” (530-531). Given the extent to which many modern democracies engage in activities that are inconsistent with liberal neutrality already, I think it would be entirely justified to add the defense of the liberal arts to this category. However, an even more defensible approach would be to provide a different definition for the type of neutrality that states should seek.

Richard Arneson provides one such definition in his work “Liberal Neutrality on the Good: An Autopsy.” He states that one possible conception of neutrality is neutrality of justification, which “requires that any policies pursued by the state should be justified independently of any appeal to the supposed superiority of any way of life or conception of the good over others” (193). I will choose to adhere to this definition. Although the appreciation of art and literature might not be a key component in everyone’s conception of the good life, I think that the existence of the liberal arts is justified independently of this fact. As I argued earlier, economically-driven entertainment will always have a place in society due to market forces, but if we do not support the liberal arts their existence will be jeopardized. As I will discuss in the following section, viewing the liberal arts in market-based terms can lead to their marginalization. The state must acknowledge the inherent value of the liberal arts in order to secure their place in society and ensure that people have the opportunity to enrich their souls, broaden their view of the world around them, and nurture their own creativity.

Importance of the Inherent Value

In many of the authors I have discussed it is possible to find arguments for the economic good of the humanities and their utility in creating democratic citizens. For example, Nussbaum’s argument incorporates the portion of debate around liberal arts education that centers on whether education that is not linked to economic profitability should be
considered necessary. She states that “the national interest of any modern
democracy requires a strong economy and a flourishing business culture”
and that this economic interest “requires us to draw on the humanities and
arts, in order to promote a climate of responsible and watchful stewardship
and a culture of creative innovation.” Although I agree with this, I think this
argument stops short of the true worth of the liberal arts by assigning them
an instrumental value in terms of their good for the economic and political
interests of a democracy. Following from this connection, her argument
reframes the debate as she states that “we are not forced to choose between
a form of education that promotes profit and a form of education that
promotes good citizenship” (10-11). Nussbaum states that “science, rightly
pursued, is a friend of the humanities rather than their enemy” (7). However,
the funding pressures have placed different types of education in direct
competition with one another, which sets up a system of winners and losers
rather than a coexistence of different types of education. I believe the current
economic and political climate make it clear why an inherent view of the
value of liberal arts is necessary.

Arguments that focus on education solely as a means to economic
growth place the humanities in a fragile position. In “Economic Value of
Education and Cognitive Skills, Eric Hanshuk says that, “In the United
States, the rapidly increasing earnings of college-educated workers during
the past two decades currently provides them with a premium of more than
70% higher earnings than a high school graduate with similar job experience”
(40). He goes on to explain that these benefits apply on the national level as
well, and that “recent studies suggest that education is important both as an
investment in human capital and in facilitating research and development
and the diffusion of technologies (see Benhabib & Spiegel, 2005)” (41). If
philosophy or English majors are not be seen as facilitating “research and
development” or the “diffusion of technologies,” then this view seems to
leave little room for their national value.

Politicians often discuss the usefulness of education solely in
terms of career preparation and job creation. In my home state of Florida,
politicians have recently questioned the merit of using taxpayer dollars to
support degrees they view as less than useful. In October, Governor Rick
Scott said in an interview to The Herald-Tribune that he wants to shift money
away from some degree programs at state universities to increase support for
science and technology fields. He explains his reasons for cutting humanities
funding as follows: “If I’m going to take money from a citizen to put into
education then I’m going to take that money to create jobs. So I want that
money to go to degrees where people can get jobs in this state. Is it a vital
interest of the state to have more anthropologists? I don’t think so.” This
simple and shortsighted view values education solely in terms of resulting economic gains and places the liberal arts in direct competition with the “STEM” subjects. In the current economic climate, it is even more tempting to discuss education in terms of how it can benefit economic growth, and in this case liberal arts education may seem expendable.

The view espoused by Rick Scott is far from a radical one. In a report by the National Governor’s Association Center for Best Practices, it is stated that if “higher education is truly going to help drive economic growth, students’ academic success must be tied to the needs of the marketplace—not only to ensure that students get jobs, but also to maximize the value of an educated workforce to the economy as a whole” (5). The report says that governors and state policy makers must ask themselves the question: “Are we producing degrees that provide the greatest chance of yielding the most benefit—for individuals, industry, and the state economy?” (5). In an odd turn of language that hints that perhaps the authors do not remember the classic quote from Animal Farm that says “all animals are equal, but some animals are more equal than others,” the report states that “more degrees are important…but some degrees are more valuable than others” (11). It goes on to say that “a degree is better than no degree, but degrees that do not fit the job market and raise the standard of living will not lift the economy” (11). This places higher education firmly in the context of how much utility it can directly produce for the economy.

As David Carr points out, “if the key purpose of the modern university is the higher pursuit of truth then history may have greater claim on curricular programming and resources than technical engineering; but if the key goal is utility, then poetry will fare poorly in any competition with business studies” (8). In the current economic climate, many universities are faced with cuts, and these cuts frequently take place in the areas, namely the liberal arts, that are traditionally seen as not yielding the highest utility. This view fails to acknowledge the values of the liberal arts that transcend economic values, and in an attempt to escape funding pressures in the short term, these actions will have severe consequences in the long term by jeopardizing the place of the liberal arts in higher education.

Recent budget cuts in light of economic difficulties have made it painfully clear that the liberal arts is often viewed as a luxury good that need not be maintained in difficult economic times. Such cuts have occurred at universities in the U.S. and in the U.K. In October 2010, facing funding cuts, the State University of New York at Albany eliminated its French, Classics, Russian, and theater programs. The school’s motto is “the world within reach,” but this hardly seems to be exemplified by placing such subjects out of the reach of its students (Jaschik).
In the recent funding cuts in the U.K., it was announced that the higher education budget would be cut by 40% over 4 years. The Department for Business Innovation and Skills, which oversees higher education, announced that it would "continue to fund teaching for science, technology, engineering and mathematics (STEM) subjects." The STEM subjects were identified as priority teaching areas in the Browne Review, and the decision to keep resources focused on these areas essentially signaled an end to most, if not all, teaching grants for humanities (Morgan). As David Carr points out, the changes in higher education funding "have put British universities under some pressure to seek other than public sources of revenue, and to be more financially self-supporting. Such pressure has encouraged them to diversify in more market competitive professional and vocational directions, so that courses of business studies may nowadays appear more economically attractive and viable than courses in ancient history or philosophy" (6).

These education funding cuts have had drastic effects for students, who are now also faced with difficult choices about which type of education they can afford to pursue. The government is allowing universities in England to charge up to £9,000 per year for undergraduate courses, raising the cap from its 2011/12 level of £3,375. (BBC). Although there is a graduated payback system for student loans where students pay back 9% of their income above a threshold (which was raised from £15,000 to £21,000), these increased fees, along with the fact that many universities are being forced to make difficult budgeting decisions that often put the very existence of humanities departments in doubt, will likely affect the number of students who pursue liberal arts degrees. The same situation will arise in the U.S. if public universities continue to defund the humanities: soon degrees like Classical Studies may become accessible only to those students who gain admission to (and have the means to pay for) selective liberal arts colleges or private universities with large endowments.

When a government makes funding decisions based on prioritizing which degrees are more economically necessary or productive, it sends a clear message about the value of the liberal arts. Universities are forced to make difficult funding decisions and may focus more of their resources on majors that are traditionally seen as more "useful." In turn, the actions of the government and the universities sends the message to students that the value of education lies in how closely it can be connected to future earning potential and overall economic productivity of a country. As seen from the literature discussed earlier, appealing to the idea that the humanities are necessary for democratic citizenship might place them on more solid footing. However, even grounding the need for the study of liberal arts in its utility for creating good democratic citizens falls short of the ideal defense by failing...
to establish and defend its inherent value.

Roche acknowledges that “one factor working against the elevation of intrinsic value is the overriding competition principle that rules our age.” He goes on to say that, in the context of his work as Dean at Notre Dame, he took the view that “there are some departments that must be supported even if they do not bring in sufficient numbers of students or dollars. There are some values for which we need to sacrifice our competition principle, for it, too, is after all only a means to greatness, and we must be watchful for victims along the way” (43). By not acknowledging the inherent value of the liberal arts, societies risk the possibility that they might be sacrificed in the competition between universities. After all, schools with tight budgets might come to the conclusion that if their students will obtain sufficient citizenship education at an earlier point in their schooling or by virtue of participating in the democratic process as Rawls suggests, there is no need for them to allocate precious funding to liberal arts disciplines.

Some might question whether it is relevant, given the wide range of ideas on the subject, that a society supports the humanities for one particular reason over another. After all, some might claim that as long as the humanities have a place and support structure in a society, the basis for that recognition need not be examined in great detail. However, the context of the current economic and political climate shows the opposite to be the case. When the humanities are supported for instrumental reasons, such as a justification that they can lead to economic prosperity by fostering a certain type of thinking or that they lead to political stability by creating an informed citizenry, their existence is in fact very fragile. If these instrumental reasons cease to exist and there is no inherent basis for the existence of liberal arts education, then it will be the first area to be marginalized in policy and funding debates.

Place of Liberal Arts

I will argue that current philosophical and political arguments that center on ensuring access to higher education are not sufficient to achieve the goal of giving all citizens access to the inherent benefits of the liberal arts: in order to ensure access to liberal arts education, efforts must begin at the level of early childhood education and continue throughout subsequent stages. Although much of the literature focuses on the place of the liberal arts in higher education, the inherent value of the liberal arts is by no means limited to university students. In fact, it would be extremely harmful to exclude it as a consideration from earlier education. Ensuring the place of the liberal arts in higher education, while undoubtedly critical, is not by itself sufficient. Many people may not pursue higher education, and if the humanities
remain solely the domain of colleges and universities, a large portion of the population will likely not fully benefit from their inherent value. For example, the college-going rate in many American cities, particularly large urban ones, is very low. In Philadelphia, the college-going rate for graduating high school seniors hovers around 25 percent. The U.K. faces a similar issue: according to a 2009 study by the Organisation for Economic Cooperation and Development, 25% of adults in the U.K. ages 25-34 have not completed upper secondary education (“Education at a Glance”). Thus, ensuring a place for the humanities, but only doing so in the area of higher education, will fail to reach a large portion of the population. High school graduates are no less human than people with doctoral degrees, and no less deserving of the inherent good of the humanities.

Martha Nussbaum acknowledges that grade schools do not play the only role in a child’s development, since much of their character may be shaped by their life within their families. However, she says that schools “can either reinforce or undermine the achievements of the family, good and bad....What they provide, through their curricular content and their pedagogy, can greatly affect the developing child’s mind” (51). For example, one of the things she says a surrounding culture, as partially provided by the school’s education, can do is “teach children to see new immigrant groups, or foreigners, as a faceless mass that threatens their hegemony-or it can teach the perception of the members of these groups as individuals equal to themselves, sharing common rights and responsibilities” (51). Although this is something that certainly has value for a democratic society, it also has inherent value by virtue of broadening children’s view of the world and reinforcing their recognition of a common humanity. Supporting this inherent value, even in grade school education, is critical to ensuring that the benefits of a liberal arts education are not solely limited to college students.

Advocating for a commitment to liberal arts education in grade school may seem like a stringent requirement. However, given the fact that the benefits of a liberal arts education are relevant even at a young age and some students may not otherwise have access to the humanities, it is necessary. In the era of No Child Left Behind, with its focus on continual improvement of standardized test results, discussing grade school education in terms of inherent goods may seem to imagine an improbable scenario. As Roche would say, I am imagining the world not as it is, but as how I believe it should be. This is a rigorous approach to the place of the humanities in society, but given the inherent good of a liberal arts education, it is not an unreasonable one.

The inherent benefits of the liberal arts for the soul, our view of the world, and innate creativity apply regardless of age. I believe that the
decision to prioritize a liberal arts education will provide these inherent benefits during grade school education, and because of this a society should also maintain a commitment to the inherent value of liberal arts for students before they reach university. As mentioned from Nussbaum’s argument earlier, this inclusion does not have to be at the expense of science education or other disciplines. Nor does it have to come at the expense of results on standardized tests: while it is debatable whether or not allowing children to holistically engage with material will lead to results as rapidly as intensive drilling in testing techniques, it can be argued that it will support their long-term educational development in a way that will both improve their performance at skills the tests aim to measure while allowing them the inherent value that an instrumental education strips away.

If people have benefited from a liberal arts education since a very young age, they will be able to engage with the world around them on a deeper level. They will be able to appreciate works of art, pieces of music, and literary texts. By doing so, this will create a climate that appreciates and supports these pursuits. In turn, the adults that continue to see the world “not as it is but as it should be” will recognize the inherent value of liberal arts and ensure its place for future generations. Much like the prisoners from Socrates’ allegory of the cave, adults with liberal arts educations should not confine themselves solely to a cerebral existence but should work to ensure that others have access to humanities education from an early age.

Conclusion

The liberal arts face many threats in the current economic and political climate. Funding cuts at the university level have made these threats clearer than ever. Although the liberal arts can be argued for in terms of their value for creating a strong national economy or fostering characteristics necessary for good democratic citizens, I believe they also have an inherent value that must be acknowledged. This inherent value lies in their benefit to our souls, the way we view the world, and our innate creativity. Rather than being a paternalistic view that violates liberal neutrality, I believe this argument is defensible from an egalitarian point of view by virtue of the fact that it allows for the existence of more options in society. The inherent benefit of the liberal arts should be recognized and supported by the state at all educational stages. The current economic and political climate has made it clear that any less stringent support can jeopardize the permanent place of the liberal arts in society. If we deny the liberal arts this honor, we are denying a part of what makes us human.
The Value of a Liberal Arts Education

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Market Design in the Presence of Repugnancy: A Market for Children

Shane Olaleye

Abstract
A market-like mechanism for the allocation of children in both the primary market (market for babies) and the secondary market (adoption market) will result in greater social welfare, and hence be more efficient, than the current allocation methods used in practice, even in the face of repugnancy. Since a market for children falls under the realm of repugnant transactions, it is necessary to design a market with enough safeguards to bypass repugnancy while avoiding the excessive regulations that unnecessarily distort the supply and demand pressures of a competitive market. The goal of designing a market for children herein is two-fold: 1) By creating a feasible market for children, a set of generalizable rules and principles can be realized for designing functioning and efficient markets in the face of repugnancy and 2) The presence of a potential, credible and efficient market in the presence of this repugnancy will stimulate debate into the need for such markets in other similar areas, especially in cases creating a tradable market for organs for transplantation, wherein the absence of the transaction is often a death sentence for those who wish to, but are prevented from, participating in the market.

Introduction
What is a Repugnant Transaction? Why Care About It?
Classical economics posits that when the marginal benefit of an action outweighs its marginal cost, a market mechanism can be implemented wherein an appropriate price emerges that balances the marginal benefit and marginal cost of the action through a suitable transaction between counterparties. While this principle of economic equilibrium emerges in most of the exchanges in modern life, it is sometimes violated in certain economic transactions. Repugnant transactions belong in this class of constraints on market forces. The precise definition of a repugnant transaction is a bit amorphous but a working definition will suffice in this current context. For the purpose of this paper, a repugnant transaction will be defined as a transaction that is not illegal per se, but one which a member of society as an...
Market Design in the Presence of Repugnancy

unencumbered third party to the transaction, deems to be outside the sphere of acceptable market transactions either from a moral or emotional aversion to the transaction, and seeks to prevent it. Therefore, repugnancy to a certain transaction introduces constraints that prevent the marginal benefits of the transaction from equating to the marginal cost of the transaction thereby leading to inefficiencies.

Perhaps a key idea in understanding repugnant transactions is to map repugnancy as a social preference model in which an outsider (sometimes a group of outsiders) who is not counterparty in the transaction finds it necessary to prevent the transaction in order to maximize his private utility. Sen (1970) presents the liberal paradox as the situation wherein respecting certain liberal values of all individuals in a society would lead to an ordering of preferences that are in conflict with the Pareto optimality ordering of preferences. These liberal values that conflict with the Pareto optimality condition are usually the cases where individuals in a society have some nosey preferences, or repugnance, over domains of choices that are outside their own choice function. As Sen puts it, a majority of a community might have a nosey preference for you to sleep on your back or on your belly even if the Pareto optimal condition is for only you to decide how to sleep. Sen shows that it is often impossible to have a society that respects individuals’ nosey preferences and still conforms to Pareto optimal ordering of preference. The only way out of this paradox is either to ignore these nosey preferences or to find a way to bargain around them. Although the social preference model is not the generally accepted view of repugnant transactions, thinking of repugnant transactions along these lines helps elucidate the constraints that they present on market forces.

Roth (2007) presents the case of buying and selling horsemeat for human consumption in California as an example of a repugnant transaction. Many Californians do not enjoy eating horsemeat and these people avoid consuming horsemeat in whatever forms. Still, a sizeable subset of this group also finds the transaction, the buying and selling of horsemeat for human consumption, so repugnant that they take active steps in order to prevent anyone else from consuming it. The extent of their repugnancy to this transaction is so extreme that they have sought, and succeeded in, the banishment of trading horsemeat for human consumption via a referendum in 1998. At the time of the referendum, there were no slaughterhouses in California and all slaughters were conducted out of state. The meats

3 A referendum, also referred to as a ballot question, is a direct vote in which an issue is put to a vote and the electorate decides whether to accept or reject the proposal. The California referendum in question is California Proposition 6, Prohibition on Slaughter of Horses for Human Consumption (1998). The referendum passed on November 3, 1998 with 4,672,457 approval votes (59.39%) versus 3,195,619 (40.61%) rejection votes. Full information on the proposition can be found on the CA Secretary of State’s website (http://vote98.sos.ca.gov/VoterGuide/Propositions/6.htm).
were eventually shipped to foreign markets, including Canada, Europe and Japan, and rarely did the meat make it back to the Californian market for sale (“Prop 6 Bans Slaughtering Horses to Eat”, 1998). The law effectively prevents Californian equine farms from entering into a knowing transaction to transfer rights of a horse to an individual whose intent is to slaughter the horse and use the meat for human consumption; almost any other use of the horse is acceptable, including consumption of the meat by other animals. Today, a national debate is currently ongoing, even in the legislative branch of government, as to whether horsemeat for human consumption should be banned nationally because horses should be recognized and treated as pets (H.R. 503, 2006 & S. 311, 2007) or whether horsemeat for human consumption should be permitted since populations in Europe and South Asia maintain a historical traditional of consuming equine (Zeder et al. 2006) and a viable U.S. market exists to meet that demand. The bill passed in the House of Representatives by a vote of 263 Ayes to 146 Nays but was tabled in the Senate without a vote.4

Roth’s (2007) analysis of repugnant transactions also details various interesting features of this phenomenon. Repugnant transactions seem to follow both arrows of time, in that certain transactions, such as cadavers for anatomical study, short selling and life insurance were once considered repugnant but are no longer. Meanwhile other transactions, such as the use of mercenary soldiers, indentured servitude, debtor’s prison, sale of indulgences, and ecclesiastical offices were once considered acceptable but are now repugnant. Furthermore, Roth details how repugnant transactions often combine with other market distortion factors, such as taboo tradeoffs (prostitution market), externalities (alcohol market), precedent for bad behavior (the moral hazard of the life insurance market), moral issues (prediction market for terrorist attacks) and decency concerns (dwarf tossing market) (pg 39-42). It is society’s intense antagonism toward, or disgust, dislike, and distaste of these repugnant transactions that causes the constraint on efficient markets by preventing the equating of supply and demand at the prevailing equilibrium price. These transactions, although not ubiquitous in everyday life, still create market distinction and reduce aggregate social welfare.

While predicting ex-ante how a repugnant transaction will constrain market forces might be fruitful in helping to design markets to avoid such constraints, making such predictions is difficult, if not impossible. Luckily, great research and effort has been put into an ex-post descriptive theory of repugnant transactions. Fiske and Tetlock (1997) point to the effectiveness

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of a value pluralism model\(^5\) in trying to deal with the repugnancy that is elicited in taboo tradeoff transactions. Taboo tradeoffs are those tradeoffs that violate society’s deeply held intuition about integrity, sanctity and moral and political values. The authors include asking a parent to put a price on their child as one of those taboo tradeoffs that people not only find confusing but also intractable. The advantage of thinking of taboo tradeoffs within a value pluralism model is that it focuses the individual on the numerous conflicting values involved in the tradeoff and encourages the individual to undergo critical reflection on the tradeoff. This reflection helps the individual to try to understand that tradeoffs are necessary and then to try to identify solutions that are effective but do not violate the moral intuitions of the individual. The authors identify a four step procedural outline\(^6\) in trying to deal with individuals’ initial repugnant reaction to these tradeoffs, in hopes of devising a solution that takes these value tradeoffs into consideration. The key takeaway is that often communal brainstorming can help to overcome market constraints, such as repugnant transactions, and help move society to propose solutions that increase the social welfare of the populace. Fiske and Tetlock’s research seems to point to the need for market design that takes these repugnancies into consideration and seeks to alleviate them while still achieving the socially efficient result that is common of market transactions.

**What is Market Design?**

The National Bureau of Economic Research (2011) defines market design as the examination of why markets, institutions or government policies fail, and the consideration of the properties of alternative mechanism, in terms of efficiency, fairness, incentives and complexity. The aim of market design in this context is to address the failures of the current allocation process in the market for children and remedy these failures by constructing new mechanisms whereby a socially efficient outcome can be realized, even in the face of repugnancy. Designing a market in the face of repugnancy must take advantage of what Thaler and Sunstein have termed choice architecture in order to arrive at the desired outcome through the incentivized actions of market participants. Thaler and Sunstein (2008) describe choice architecture as a process of designing mechanisms to nudge choices towards expected outcomes (which are often in the best interest of the society and the decision maker) without forcing the decision maker towards a certain

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\(^5\) The value pluralism method states that people are likely to think of issues within many domains, with some of those domains activating conflicting values but with no conceivable way to rank those values and resolve the conflict.

\(^6\) These steps are 1) Acknowledge the legitimacy of the repugnancy that people sensibly have to the taboo tradeoffs, 2) Encourage the deliberative body to define itself as a collective in search of a common answer to shared problems, 3) Encourage each member to devise, elaborate and defend at least one possible implementation, 4) Encourage critical reflection on why reasonable people might choose a given model or combination of models to solve the problem at hand.
path. At all times, market participants respond to the incentives in play and always reserve the choice to choose any action set available to them without coercion.\(^7\) In this case, the desired social outcome is the equilibrium point at which market pressure is used to determine the allocation bundles and the division of surpluses.

**Why Design a Market?**

The market is the most widely accepted mechanism used to allocate scarce resources in the most efficient manner. Equilibrium in the market is generally defined as the price at which the quantity demanded by consumers is perfectly balanced by the quantity supplied by firms. Any shock to the market, whether endogenous or exogenous, causes a corresponding change to market forces that set to restore the equilibrium. It is this dynamic equilibrium that characterizes the efficiency of the market. The structure of a well-defined market is best approximated by the theory of perfect competition, which requires many buyers and sellers, perfect information, homogenous goods and little to no barriers to entry. In reality, one or more of these factors are missing in any transaction and the goal of market design is to design a structure that mimics, as closely as possible, the results of a perfectly competitive market. In the presence of a repugnant transaction, this dynamic equilibrium cannot be realized and the market remains in a static state that is far from efficient. The lofty goal of market design, therefore, is to supersede this technical barrier and allow the use of market-like forces to arrive at a dynamic equilibrium.

**What is Social Efficiency? Why Desire It?**

In economics, Pareto efficiency (or Pareto optimality) is defined as an allocation of a set of goods in a society such that it’s impossible to change the current allocation to make someone better off without making at least one individual worse off. An economic system that is not Pareto efficient implies that it is possible to improve the welfare state of an individual without harming any other member of society, ergo there is no marginal cost associated with taking that Pareto improvement. Essentially, there are numerous allocations that meet the Pareto efficiency requirement, which create a Pareto frontier of potential allocation. Pareto efficiency is a widely used normative criterion to evaluate public policy alternatives mainly because it creates a rule to rank the allocative efficiency of each policy outcome without any judgments.

\(^7\) It must be noted that although market design avoids the need for coercion of market participants, this does not preclude the inclusion of punishment or costs attributed to a certain action. A market participant is always free to choose any action, however perverse. Economic theory states that the market participant will be incentivized to choose the action in which their private marginal benefit (PMB) is greater than their private marginal cost (PMC) + the cost of punishment (or benefit of reward). This concept is economically identical to a Pigouvian tax.
on the fairness or the interpersonal utility of those allocations. Still there exist infinite possibilities of allocations that lie on the Pareto frontier, and so Pareto efficiency is usually regarded in practice as a minimal requirement for allocation distribution.

The Kaldor-Hicks efficiency criteria is a measure of economic efficiency that builds upon the concept of Pareto efficiency but allows the ranking of Pareto efficient outcomes in order to determine the one that generates the greatest social welfare. Under the Kaldor-Hicks efficiency criteria, an outcome is efficient if those that are made better off could, in theory, compensate those that are made worse off. Therefore, if it is possible to change the current allocation so that the winners receive a bigger benefit than the corresponding loss suffered by the losers, the new allocation is more efficient than the previous outcome. Kaldor-Hicks efficiency – hereafter referred to as social efficiency – does not require any actual compensation to be made by winners to losers, only that the mere possibility of such compensation exists. The principle is that if the winners receive a greater benefit under a different allocation regime (their total willingness to pay to switch to the new regime) than the harm caused to the losers in the switch (their total willingness to prevent to switch to the new regime), then economic benefits are realized as the winners can compensate the losers completely for their loss while still retaining a bit of benefit for themselves. In short, social efficiency creates a criterion that marks as efficient the outcome that maximizes social welfare for a given society.

Why a Market for Children?

Ever since Jonathan Swift satirically proposed the idea of slaughtering the children of the Irish poor and serving them as food for the rich in order to reduce the burden of the poor on Ireland, any proposal that attempts

8 In a two-person economy, Pareto efficiency dictates that the scenario wherein all the wealth is given to any one of the two individuals is as efficient as another scenario wherein the wealth is split evenly, or even split 60%-40%. In fact, any allocation wherein the sum of the wealth of both individuals adds up to 100% of the economy’s endowment lies on the Pareto optimal frontier. Pareto efficiency gives no other way to rank among these alternatives.

9 In the previous example of a two-person economy, the socially efficient allocation would be one in which the wealth is allocated to the two individuals so that their marginal utility of wealth would be equal. If one individual derives a greater marginal benefit from wealth, that individual could theoretically work (or perform some other task) for the other individual for more wealth, which in turn would serve to decrease his marginal utility of wealth and increase that of the other individual. Note however that this does not require that the final allocation be evenly divided (50-50) between the two individuals, as no assumption as to the shape of their utility curve is required and their utility curves do not have to be the same. Also note that all socially efficient outcomes are also Pareto efficient. In fact, the socially efficient outcome is an allocation that also lies on the Pareto efficient frontier but one that has the greatest social welfare among the subset.

10 Jonathan Swift wrote “A Modest Proposal: For Preventing The Children Of Poor People In Ireland From Being A Burden To Their Parents Or Country, And For Making Them Beneficial To The Public in 1729 as a satire while using the tools of economic analysis to suggest that the poor would benefit by selling their children as food for the rich, thereby reducing the burden of parenthood and making a little economic profit from the endeavor to better their circumstance – a win-win for everyone involved.
to place a commercial value on the life of a child has also been deemed as satire; a nonstarter in the world of public policy. It is under this context that I announce that the market proposed herein is not satirical and I do not intend the argument to disintegrate to *reductio ad absurdum*. Instead, the primary goal of designing a market for children is because it is the belief of this author that the current repugnancy concerning a transaction in the market for children is greater than that concerning a transaction in the market for organs transplants. Many individuals consider child making/rearing to be sacrosanct and not the place for market interaction. Therefore, the idea of a market designed to allow for the trade of children is regarded as one of the most repugnant transactions and thus serves as a suitable launch pad for market design. The goal therefore, is to see if even a reasoned market design can overcome such initial repugnancy and stimulate debates into the benefits and costs of having transactions in markets where they were once considered repugnant, especially the market for organs destined for transplantation.

The idea to design a functioning market for children was concocted while reading past articles about the inefficiencies in the market for babies and the adoption market. Krawiec (2009) details how the ban on baby selling in the United States has created an industry in which asymmetrical legal restrictions have led to intermediary parties (lawyers, counselors, adoption agencies, facilitators) earning outsized profits while the market suppliers (the mothers, surrogates, etc.) are told to be content with only the altruism of their actions as payment for services rendered. She argues that while a ban on the commercial sale of babies has prevented the suppliers from earning any surplus, it has only bolstered the profit-making activities of these fertility specialists, brokers and middlemen whose commercial enterprises have flourished unconstrained on the back of this restricted market. Krawiec concludes that despite government regulation to ban a market for babies, there is a thriving legal market in the U.S. that has simply adapted around the current legislation.

Furthermore, Spar (2006) details modern day scenarios in which advances in reproductive medicine have indeed created a market for babies with in-vitro fertilization, purchases of sperm, eggs and embryos, and surrogacy option as evidence of a thriving and lucrative market even as the government seeks to actively ban the buying and selling of babies. Spar documents numerous scenarios that show that the demand for children is so strong that people will do almost anything to fulfill it; stories of fifty year olds resorting to in-vitro fertilization, couples crossing international borders to unregulated markets and families emptying savings accounts to pay adoption agencies and commercial entities were among the strategies listed.

Likewise, Prichard (1984) details how the current existing regulatory
procedures that determine the adoption of newborns by couples often come with high, and sometimes prohibitive, costs to be incurred by the adoptive parents. Using evidence from Canadian adoption agencies, Prichard found that couples often remain on waitlists for a minimum of a year and a half and sometimes up to ten years, only to receive a malnourished and infirmed child because the birth mother had no incentive to take care of it either pre- or post-birth. To game the required residency requirements, many couples maintain multiple residences, especially in areas where the waitlists are shorter, in order to increase their chances of qualifying for an adoption. Meanwhile these couples pay outsized sums to middlemen, such as physicians and lawyers, to help guide them through the regulatory rules that are common in the industry. 11 Couples unwilling to bear with the legal hurdles and shortages of available children for adoption are often tempted to resort to fertility clinics to increase their chances of conception while increasing the risk of the child being born with numerous ailments. Landes and Posner (1978) describe how a disequilibrium leading to a baby shortage in the adoption market has been created because of the U.S. regulatory environment. This disequilibrium has allowed a separate black market to exist while also creating a surplus of unadopted children to be managed at the public expense. As of their writing in the late ‘70s, Landes and Posner documented prices for babies in the black market ranging from lows of $9,000 to highs of $40,000. Meanwhile the authors also document that some 350,000 children were in foster care at an annual expense to the U.S. government of $700 million. This represents the possibility of a net social efficiency gain: removing the social costs of the current U.S. regulations, and moving to a market-based system that provides additional benefits.

What is Inalienability? Are Parental Rights Inalienable?

In trying to design a market for children, it is crucial to ask the normative question as to whether or not parental rights are inalienable. It is difficult to imagine that a child could be considered a commodity; a product that is easily traded in the marketplace and subject to the same laws of supply and demand as most everyday items. While U.S. state laws forbid direct payments to biological parents, these laws still allow biological parents to receive non-monetary compensation in order to transfer or to gift their parental rights without any compensation. The spirit of the laws seem to underlie the fact that although parents acquire property rights over their children upon birth, these parents cannot transfer these property rights commercially. Yet commercial transactions occur on a daily basis for these very same parental rights transfers, all within the letter of the law. In a sense, these laws would like to treat parental rights as inalienable property rights 11

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11 The Canadian adoption market operates with comparable costs to the U.S. adoption market.
but the intended spirit of the laws are limited by practical purposes.

Inalienability is a restriction on property rights. The generally acceptable definition of inalienability is the restriction on saleability, transferability, ownership or use of a given right. Even the United States Declaration of Independence includes, in its second sentence, an affirmation that “all men are endowed with certain inalienable rights and among these rights are Life, Liberty and the pursuit of Happiness”. Although these three rights are given to be inalienable by the Declaration, it neither makes clear why these three rights are indeed inalienable nor makes clear how far the subset of these rights extend. While the inalienability of Life, Liberty and the pursuit of Happiness might possibly be argued on normative grounds, this process still does not shed any insight into how a criterion can be applied to other rights to determine their eligibility as inalienable rights. Such a criterion will certainly be required to try to explain why and if parental rights meet the standard for inalienability.

Calabresi and Melamed (1972) make a good attempt to try to find the criterion for determining the eligibility of inalienability of rights. In their research on the differences between property and liability rules, Calabresi and Melamed devote a section to discussing inalienable rights and examining why these restrictions on property rights are so pervasive. By analyzing scenarios in which they believed it might be conducive to social efficiency to restrict certain rights, the authors try to generalize principles that lead to the inalienability of certain rights and they suggest two reasons why inalienable rights are seen in practice. Their first suggestion is that a given property right can elicit a moral externality. Unlike the case of a traditional externality, it is possible for a moral externality to be unbounded. Therefore, the moral nature of the externality that is caused by exercising the full range of a property right might be so great that it is impossible to cure through Coase theorem\(^\text{12}\) or any bargaining opportunity. The only recourse in this scenario is a restriction on these property rights. The authors’ second suggestion is that inalienability can be seen as a sort of commitment device, protecting people when their short-term incentives conflict with their long-term interests. The restriction on property rights can then be seen as a paternalistic effort by the state to protect its citizens from their shortsighted actions.

Calabresi and Melamed are to be congratulated for their efforts to

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\(^{12}\) In “The Problem of Social Cost” (1960), economist Ronald Coase laid down a procedure for dealing with externality to achieve economic efficiency. His theorem states that, absent transaction costs and with well-defined property rights, it is possible for both parties to bargain to reach the efficient level regardless of which party has the initial allocation of property rights. Coase analysis shows that the role of government in correcting externalities is to maintain laws that defend property rights and to structure rules and regulations in order to reduce transaction costs to bargaining. Prior to Coase’s analysis, the prevailing thought was that the role of the government was to set a tax (or subsidy) on private production or consumption to make individuals internalize their externality à la Pigouvian tax. Coase won the Nobel Memorial Prize in Economic Science in 1991 for this work and an earlier work, “The Nature of the Firm” (1937).
elucidate the necessity for inalienability of property rights even though their reasoning ultimately falls short of accomplishing this fact. To take the authors’ first suggestion is to accept that individuals’ utility have a social preference model. As previously shown, Sen (1970) would tell us that to constantly respect an individual’s preferences for actions and transactions that are outside the sphere of their own choices would lead to a liberal paradox – the impossibility of respecting everyone’s preferences and achieving a Pareto efficient outcome. Calabresi and Melamed’s second suggestion simply sets up a straw man in its implication that inalienability can or should be used as a commitment device. This argument disregards the role that well structured incentives can play in achieving a greater benefit at a lower social cost. Rose-Ackerman (1985) attempts to build on Calabresi and Melamed’s justification of inalienable rights by showing that economic efficiency might actually require restriction on property and therefore leads to a valid public policy position. She also posits that certain specialized distributive goals can only be achieved through some kind of inalienability rule and that an unfettered market process may be incompatible with the responsible functioning of a democratic state. In her analysis, Rose-Ackerman examines a broad range of economic activities in which some given rights have been deemed inalienable in market transactions by society. Through these examples, Rose-Ackerman identifies the ultimate justification of the inalienability of property rights. Inalienability is a second-best public policy response to the messiness and complexity of the physical world. She concurs that it is generally easier to conceive of an alternate policy that would be superior, if only transaction costs were lower and that policy were implementable. Then, if Rose-Ackerman’s conclusion is to be accepted, it would seem that the justification for the inalienability of parental rights was simply one of technological constraints – it was once impossible to conceive of a better public policy in practice.

Inalienability could have been appropriate for parental rights in the past but that is no longer the case in today’s society. While the law might still consider parental rights to be inalienable in principle, it does not actually prevent commercial transactions of parental rights from occurring in practice. Transactions for the exchange of parental rights still occur legally so long as these exchanges avoid any monetary compensation to the biological parents. The entire system of adoption, surrogacy and other intermediary markets for children function within the confines of this law and treat parental rights as transferable. Since inefficiencies have been introduced due to regulative pressures brought on by preventing repugnant transactions in the current system, the solution to these inefficiencies lies with creating a Coasean solution in the marketplace: creating well defined property rights for parents over their children, removing transaction costs and barriers to
entries in the market and minimizing the repugnancy that brought about the regulative pressures. The challenge then is to create a market that surpasses the technological barriers that necessitated classifying parental rights as inalienable in the first place.

Primary and Secondary Market Distinctions
The market for children is meant as a catchall for a market that would include both the market for babies (hereafter the “primary market”) and the adoption market (hereafter the “secondary market”). Having an unregulated transaction in both the primary and the secondary market is often regarded as a repugnant transaction under the working definition of this paper and to prevent this transaction, rent-seekers have pushed for regulatory restrictions that prevent such unfettered market interactions. These restrictions, although beneficial to one group, have introduced inefficiencies into the allocation system that ultimately result in reduced social welfare and therefore make an interesting case study for market design. If it is possible to design a market for children that can allow for the proper functioning of the mechanism of supply and demand, while reducing the repugnant effects of unfettered market exchange, then it is possible to increase social welfare and move closer towards a socially efficient outcome. In this drive, it might also be possible to realize a set of generalizable principles for comprehensive market design in the face of repugnancy. These principles would go a long way in helping better design markets that would continue to improve social welfare and surpass many of the technical barriers that prevent transaction in numerous scenarios. Perhaps these principles can jumpstart the creation of a market for transplantation organs, saving the lives of those who might have otherwise died without a functioning marketplace to create a supply for the increasing demand of organs for transplantation.

Designing the Market
Supply and Demand In the Primary Market
Mothers who would be willing to transfer their parental rights for adequate compensation would meet the initial supply in the primary market. In order to participate in the marketplace, all mothers would be required to submit to registration, background checks and regular pre-natal care for the duration of their pregnancy. The goal of requiring all mothers to submit to screening is to maintain a list of eligible suppliers in the marketplace while also allowing the market to screen for adverse selection. As the market develops, it is quite likely that entrepreneurial enterprises will push for further efficiency gains in the marketplace. One of the simplest gains that can be achieved on the supply side of the market is that of economies of
scale. It would be possible for firms to enter the supply side of the market as agents that manage a team of mothers whom are cherished for their offspring rearing potentials. The firm could easily achieve a reduction in the cost and effort required to comply with the general screening devices for the mothers.

In order for firms to emerge in this industry, it must be because such firms provide a service to the initial suppliers in order to entice these mothers to become a part of the firms. The reduction in screening costs would be one of the potential contributions of the firms. Since multiple firms could potentially be created to help manage the supply in the marketplace, these submarkets would operate as close to a perfectly competitive market as possible. There would be continual market pressure on these firms to maintain a certain level of quality demanded by the consumers. This naturally leads to a race in which the suppliers attempt to signal the quality of their supplies over the competition.\(^\text{13}\) This would drive general upkeep in the market and ensure not only appropriate screening for eligible mothers who enter the market, but would also serve to make sure the suppliers continue to deliver a certain baseline level of care (pre-natal care, etc.) before they can find an appropriate consumer in the marketplace. The role of the government would be to track all the information flow in the primary market.

Parents who would be willing to receive a transfer of parental rights at a price would meet the demand in the primary market. Given the backlog in the current allocation system and the presence of a black market that attempts to meet that demand, it is safe to assume that there would be adequate demand in the marketplace and no other mechanism would be needed to try to stimulate it. The role of the government in the demand side of the market would also be to maintain a screening process for would-be parents before they are accepted into the market’s pool of consumers. The current allocation method in the primary and secondary market already uses a process called home study\(^\text{14}\) and a similar process could be implemented herein. To accomplish this screening, the government would create an agency, National Children To Good Homes (NCGH), which would be responsible for drafting the minimum requirement necessary to enter both the supply and demand side of the primary market. The NCGH would be funded initially through a government loan and the eligibility requirements would have to be approved by the federal government. After this initial phase, the NCGH would become a private, independent agency, both politically and economically. The role of the NCGH would be limited to being counterparty to all transactions in

13 This would be similar to the use of trademarks in the marketplace to signal the quality of a producer’s wares to the consumer. The screening information and past history of transactions would inevitably become the suppliers trademark.

14 A home study is the screening of the home and the lives of the adoptive parents in other to determine that the adoptive parents are fit to receive parental rights over an adoptive child. In the U.S., a home study is mandated by law.
the marketplace as the approval and licensing agency. The NCGH would be counterparty to these transactions in order to verify not only that both sides of the transaction have met the screening requirement, but also to keep a running database of all transactions that have been consummated. Licensed parents would be free to enter the market to seek appropriate transactions to trade parental rights through whatever legal means they choose including, but not limited to, hiring intermediaries to help facilitate the search and matching process.

It would be the responsibility of the participants in the marketplace to find suitable transactions. Technological advances in marketing and advertising should reduce the search costs to a minimal level that facilitates quick and mutually beneficial transactions. Still, there is the possibility that intermediaries could enter the marketplace in order to provide services and expertise that continue to lower these costs. Unlike the current allocation system though, these intermediaries could not earn outsized profits since a central clearinghouse would already exist through the NCGH database to provide a context for each new transaction. Such information disclosure would remove the asymmetric information that these intermediaries currently exploit in order to charge outrageous sums to the consumers in the marketplace. Suppliers, demanders and their respective agents would be free to come to an agreement as to how best to share the surpluses in the marketplace.

Of course, several equilibrium prices would emerge; each child in the primary market would have differential demand and differential supply. This would be a natural consequence of the system and should not be a primary concern. The market would be robust and respond to these differential supplies and demands through the price mechanism. Also, as the market emerges, reputational effects would begin to develop in the market and the providers (mothers and firms alike) would be able to generate a premium by providing appropriate signals for their exceptional products. These premiums would be earned as suppliers willingly signal additional positive information about their type in order to find an appropriate demand. Biological parents would finally get a chance to earn a premium in the marketplace and could choose to allocate a portion of their premium to intermediaries who would help facilitate the process. Similarly, consumers would begin to be able to earn a surplus in the market, as their needs would be better able to be satisfied with an appropriate and differentiated supply, in whose type they could be extremely confident before engaging in a transaction. Consumers could also engage the services of intermediaries to help facilitate the process.
Information In the Primary Market

In the primary market, the suppliers would possess private information about their type that would not initially be available to the consumers in the marketplace. A biological mother knows the precautions she took during her pregnancy and only she is readily aware of this level of precaution. This private information introduces information asymmetry into the market and possibly jeopardizes the quality it. Akerlof (1970) discusses how heterogeneity of quality along with asymmetric information can lead to market failure for above average quality goods. In Akerlof’s market, the only equilibrium is a market for low quality goods at an appropriate price. The market failure results because buyers cannot easily identify the various quality types that are available in the marketplace and would only be able to correctly identify the type if they find potential problems much later after the transaction has occurred. Akerlof’s analysis, also colloquially called the Market For Lemons, is a fear of any market with asymmetric information. Fortunately, the proposed primary market can avoid such a fate for two reasons. First, the private information leading to asymmetric information in this market is verifiable and second, the primary market assumes repeated play.

The first reason the primary market can avoid the fate of the Akerlof’s lemon market is that the private information of the supplier is verifiable. Take as an example a mother who enters into a transaction to transfer her parental rights after her child has been conceived. After agreeing to monetary terms, the mother refuses to follow scheduled pre-natal care and consumes alcohol during the term of her pregnancy. Once a child is born with fetal alcohol syndrome, the mother’s actions would be easily verifiable and considered a breach of the contract terms. The biological mother would also lose all parental rights under the law and receive any legal punitive measures already in place for such an offense. Still, without waiting the full term of a pregnancy, it is easily verifiable whether a mother is taking adequate precaution in the best interest of the infant. Mandatory alcohol and drug screenings along with regular prenatal care could become standard requirements that consumers demand of suppliers in the marketplace as part of the contract terms. These contract terms help identify the supplier types by bringing the supplier’s private information into the public sphere.

The second reason the primary market can avoid the fate of Akerlof’s Lemon Market is that the market assumes repeated play. Suppliers that continually operate within the marketplace must rely on reputational effects to signal their quality. Since the private information that the suppliers possess can evidence their superior quality over the competitors, it is in their best
interest to publicly disclose such information. A firm that provides excellent prenatal care to pregnant mothers, houses them in spa-like environments and has on-site obstetricians would be willing to disclose such information to potential consumers. Since this information is also verifiable, revealing such information would lead to an unraveling result. The unraveling result produces another condition under which suppliers are incentivized to reveal their private information in order to earn premiums in the marketplace. Those who refuse to will be assumed to already signal their low quality of care by their resistance to information disclosure and would receive a price in the marketplace commensurate with their quality type.

Supply and Demand In the Secondary Market

The increase in supply in the primary market would necessitate a secondary market to act as a backstop. The function of the secondary market is to continue to find suitable matches for those children who were unmatched in the primary market. In the United States, the current adoption system plays a similar role and the secondary market is loosely based on that system. While the secondary market is similar to the adoption market in that its main function is to find parents who are willing to assume parental rights over a child, it is unique in that the secondary market uses financial incentives to motivate that function.

The supply in this market would still be the mothers and firms who provide the supply in the primary market. Unlike in the primary market though, the goal of the suppliers in this market would be simply to assign their parental rights and turn the children over to NCGH for care. In order to effectuate a transfer, all suppliers would be required to provide annual physical checkups and documentation for the children, including birth information, name, known allergies, medical history, etc. Any supplier found in violation would be required to pay 15% of the current spot price for a child at birth (or an appropriate proxy) as penalty before assigning parental rights to the NCGH. Repeat offenders could be censured, with the information becoming public in the NCGH database and also with the addition of either increasing punitive fines, prohibition from further engagement in

15 Unraveling of private information occurs when suppliers benefit from revealing their private information in order to gain a surplus in the market. Consider the market for orange juice with 100 suppliers each with fruit concentration in the juice between 0% and 100%. Suppliers are aware of the percent of fruit by content used in their juice but consumers do not know this amount. This information is verifiable by consumers but only after they have purchased the juice. If all suppliers do not reveal the percentage of oranges by content in the juice, the market is left to assume that every supplier is of equal type and would pay the same amount for all orange juice. The supplier that uses 100% fruit in the juice is therefore incentivized to reveal to consumers that his juice is 100% fruit. Since this information is verifiable, this supplier can start to enjoy a premium and every other supplier will receive a price with the expectation that their juices contain between 0% and 99% fruit. This incentivizes the 99% supplier to reveal his juice concentration, then the 98% supplier and so on until every juice provider reveals his fruit content – an unraveling of private information. This is actually the case in the U.S. market for orange juice – every orange juice provider reveals on their label the percent of oranges by content contained in the juice.
the marketplace or criminal prosecutions if the repeated cases are deemed to be egregious enough to warrant a prosecution by current criminal law. Anyone not in violation could transfer parental rights and turn the children over to NCGH for care at an appropriate time. Failure of the suppliers to comply with these turnover rules in a timely manner would also be regarded as a violation and carry the same penalties. None of these new functions preclude the NCGH from continuing the current role of the adoption market of receiving parental rights from mothers who are not part of the primary market and seek to transfer their rights for whatever reason. Similarly, the NCGH can continue to provide a safe haven for those children who are referred to the agency by a state’s department of children’s services due to concern of abuse or neglect by the current parents. Likewise, none of these rules prevent suppliers from exiting the market and retaining their parental rights at any point.

The demand in the market would initially be maintained by the NCGH. The role of the NCGH in the secondary market would be to accept parental rights from primary market suppliers. The NCGH would continue to maintain the child’s care, uptake, education and development until the earlier of: a suitable match is made in the secondary market or the child graduates from a college or a similar educational facility (technical or trade school as an example). All primary and secondary education expenses for a child would be fully covered by the federal government with the revenue collected from its tax receipts from the primary market along with the money saved from the repeal of the Adoption Tax Credit.\(^\text{16}\) While a child is raised inside the NCGH facilities, there would still be the possibility that the child could be matched in the secondary market. This new demand would be met by willing parents who are either unwilling, due to financial issues, or unable to engage in a transaction in the primary market. These consumers would be subject to the same screening mechanism in place for consumers in the primary market. Unlike in the primary market, the compensation would be awarded to the parents who are adopting the child in the secondary market. Once again, market forces would determine the appropriate price in the marketplace. As a profit-maximizing firm, NCGH would realize that the present value cost of taking care of a child until the above constraints are met could easily dwarf the spot price of the most in-demand child in the secondary market. As such, the NCGH would be incentivized to seek a suitable match for the child as quickly as possible. Likewise, parents, perhaps

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\(^{16}\) In the U.S., an adoption tax credit offered to adoptive parents to incentivize them to adopt a child. The adoption credit allows parents to claim a reduction in their federal tax payable for qualified adoption expenses including attorney fees, home study, adoption fees, etc. The credit is a dollar for dollar reduction up to $13,360 per child. This amount is partially phased out for couples with household modified adjusted gross income (MAGI) above $185,210 and fully phased out for couples with household income above $225,210.
motivated by altruism, might seek to drive down the price in the secondary market to increase the probability of finding a match (to as close to certainty as possible) in the secondary market. The end goal is to create a market with strong incentives for both the supply and demand side to seek a transaction as quickly and efficiently as possible in order to allow these children to enter suitable homes. The clearance rate of children should be close to 100% with these incentives and anyone not matching in the secondary market would be provided with a safety net until maturity. These incentives would not only help meet the demand for children but would also increase social welfare by quickly assigning children to homes where they can be loved.

**Information In the Secondary Market**

Since the secondary market transaction is between the primary market supplier and the NCGH and between the NCGH and the secondary market consumer, there are no asymmetric information issues present. As a condition of transferring parental rights over to the NCGH, the primary market suppliers would be required to provide all relevant information about the care and upbringing of the child. Any extra positive information that the suppliers would choose to disclose could only benefit them in quickening the transfer process. On the other side, once the NCGH later transfers parental rights to secondary market consumers, the agency already possesses all the required information about both the child and the adoptive parents. The secondary market would operate as close to perfect information as possible. Any concern about the secondary market consumers’ potential inability or unwillingness to acquire the information necessary to protect their interest in the marketplace is unwarranted. It would be possible for all consumers to continue to rely on intermediaries to help gather information. Since the information should be readily available through the agency, the role of the intermediaries would be to provide a service to the consumers by helping to facilitate the process.

**Maximum Age for Trade In the Primary Market**

In order to effectuate a drive towards efficiency, the market must be created so as to allow a balance of flow between the primary and the secondary market. Since the secondary market naturally feeds from the excesses of the primary market, it is crucial to designate a cutoff when the supply of the primary market must shift into the secondary market. A natural cut off seems to be a range between age one and two. Once a child reaches age one, suppliers in the primary market would be allowed to either continue to search for an appropriate transaction at their cost, or hand over the child to NCGH at no cost, if not in violation of the turnover rules. At the
age of two, the child must be turned over to NCGH while still subject to the turnover rules. A failure to meet the timeliness of the deadline would be considered a violation under the turnover rules and subject to the same punishment. Between the ages of one and two, the suppliers in the primary market would consider the decreasing marginal benefit of a transaction with the increasing marginal cost of meeting the turnover rules. While the system might encourage prices to plummet days before a child’s second birthday, it does provide the incentives for primary suppliers to seek a transaction as soon as possible under the appropriate price.

**Taxing the System**

In order for the system to function properly, the NCGH must be able to collect enough revenue from the system to meet its obligations under the rules and the government must collect enough tax revenue to likewise meet its obligation. In the primary market, the NCGH must be able to earn a commission on this price to fund its obligations. The NCGH would start with commission of 10% with a gradual step down to 6% of the transaction price in the primary market. Along with the initial loan from the federal government, the NCGH would be able to meet its initial startup costs and fund its operating costs. Operating costs for the NCGH should be minimal for the first two years as the costs that should be incurred during this period are of monitoring/screening and enforcement costs. After the initial two years, the agency would be required to incur the cost of care for children in the secondary markets so costs should increase in this interim until sufficient demand can be found for the secondary market. The initial loan from the government should have a principle amount that covers the initial costs of the agency up and all foreseeable costs until year three.

After the system is operational, the NCGH would be responsible for remitting 35% of its operating profit (EBIT) to the federal government as taxes. The NCGH would be subject to all tax rules of a corporation as dictated by the IRS. An accounting firm must audit the financial statements of the NCGH, with said firm subject approval of the federal government. The status of the accounting firm as auditor would be subject to renewal of approval every six years if the accounting firm is unchanged, otherwise each time a change of accounting firm is desired. The NCGH must detail the reason for choosing the particular accounting firm and the reason must be

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17 The assumption is that the spot price of a child decreases with age. This is a fair assumption especially when interpreting data from the matching rate of children in adoption and foster homes as a function of age to be an adequate proxy for price.

18 The commission rate is to be 10% in the first three years, 8% percent in years 4 and 5 and 6% thereafter. This is to allow the NCGH to generate sufficient revenue as the quantity in the marketplace grows.

19 The primary costs will be the setup costs for the agency, the hiring cost of staff and the construction cost of a home center for children in the secondary market.
presented in a written document to the government for approval based on the merits of reason.

Contract Enforcement and Principles

A system of principles would be developed to guide transactions in the primary and secondary market. These principles would simply serve as a starting point for transactions that can be used as a yardstick in contracts. In order to prevent one-sided contracts, the NCGH would maintain a sample contract that contains the best practices and principle ideas for a transaction. Of course, once the suppliers and the demanders are familiar with the market, such principles might become moot as best practices would probably develop from experience. Suppliers and demanders would be free to come to any agreement to govern their transaction. These contracts would still be subject to traditional contract law and must contain offer, acceptance, and consideration in order to be considered valid. Likewise contract law would dictate when a contract could be voided or considered unenforceable, especially in cases of unequal bargaining power, outright coercion or duress. It would be up to the discretion of the judicial branch to establish the case law and precedents that would dictate governing rules behind a valid and enforceable contract in the marketplace. Contract law would also govern the rules dictating the remedial action for a breach under a valid contract.

Checks and Balances

The most important requirement in the system would be one of internal checks and balances to ensure its independence and survivability. Madison, in the Federalist Papers, writes, “If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficult lies in this; you must first enable the government to control the governed; and in the next place oblige it to control itself.” (Federalist Papers, 51). Following this advice, the system must be properly designed in order to incentivize the participants to effectively control their actions within the bounds of the law.

To start, the NCGH must maintain a database of approved suppliers and consumers in the primary market and secondary market. The NCGH must also publish yearly all violators of the rules along with the remedial punishments assigned for breaches. This list would be publicly available. It would also be the role of the NCGH to verify that all transactions in the primary market fall under the accepted guidelines that would validate a contract. Meanwhile, it would be the role of the consumers to monitor the activities of the NCGH, especially in its role in providing suitable
accommodation and nurturing for children in the secondary market. The NCGH would have a fiduciary duty to the government to maintain the care of the children in the secondary market and its exclusive role, as agency in the market, is contingent on its performance of those duties. Any violation of that fiduciary trust could be reported to the Consumer Bureau Protection Agency.\textsuperscript{20}

**Critiquing the Market**

*Market Design Critique*

Roth (2008) defines an efficient market as one that provides thickness, overcomes congestion and makes it safe to participate. On these three metrics, the designed market for children passes the efficient market test. A market provides thickness if it can easily attract a sufficient proportion of participants to enter into mutually beneficial transactions. In that sense, the market for children provides thickness as it enables a marketplace where those who are willing to transfer their parental rights can meet those who are willing to compensate them for those parental rights. The market for children is designed to be as liberal as possible to allow these market participants to enter into a transaction. A market can overcome congestion by providing enough time, or making transactions fast enough so that market participants can consider alternative possible transactions to arrive at satisfactory ones. It is difficult to comment on the ability of the market for children to overcome congestion but the market is designed to provide sufficient information for supplier and consumers to make an informed decision. Even if gathering the information could potentially be time consuming, it only provides opportunity for intermediaries to enter the market and reduces the cost and time of information gathering in exchange for a share of the surplus. Lastly, a market can make it safe for participants to participate if it incentivizes them to use the market as a venue for transactions as opposed to transacting outside the market (in illegal/black markets). This is perhaps where the market for children excels. By designing this market to occur with government approval, it easily incentivizes both supply and demand to engage in transactions within the law yet provides them with the surplus to pull their activities away from illegal markets. As the market evolves it would bring all transfer of parental rights into regulated markets, thereby eradicating many of the criminal activities that have come to be associated with illegal markets. These metrics though are only a necessary condition for efficient markets and so further empirical analysis would still be required to determine whether this market for children could indeed be efficient in its operation.

Another critique of this market design comes from its dependency

\textsuperscript{20} The FTC has a division committed to protecting American consumers. Their website can be accessed at [http://www.ftc.gov/bcp/index.shtml](http://www.ftc.gov/bcp/index.shtml).
on choice architecture. Santos (2011) criticizes market design and choice architecture as a means of stopping people from flexing their ethical muscles by making sure that individual goals do not conflict with social welfare. According to Santos, if markets were designed to lead people towards the best strategies without significant effort, it would leave the people ill prepared when they are confronted with a novel yet similar dilemma. Santos also criticizes market design and choice architectures by arguing that they promote a version of economic analysis that goes beyond the arenas traditionally reserved for economic study. On the first critique, Santos fails to recognize that ethical situations regularly arise that test individuals’ moral intuitions. One cannot simply place blame on the simplification of individual decision-making as a way of anticipating that ethical decision-making would decline. In fact, it is equally as accurate to infer that aligning individual goals with those of social welfare can better allow individuals to realize that it is often possible to shift their perspectives in order to achieve an outcome that is not only individually beneficial but also socially desirable. The goal of market design, like technological advancement that simplifies decision-making, is to systemize processes towards efficiency and a critique cannot be successfully leveled at the system for creating an efficient process. There will always be ethical dilemmas that require our ethical muscles; many of these dilemmas would be created by the new designs that solved old problems. To the second critique, Santos is accurate to claim that market design does stretch the limit of economic analysis but there is nothing to say that economic analysis cannot strengthen decision-making in new and novel fields. If social welfare is indeed an outcome to be desired, then economic analysis has much to contribute to other fields of thought. Injecting economic analysis into other arenas can only shed insight into tradeoffs that occur in life. For example, economics takes no normative stance on which moral or ethical stance an agent must take but it can be used to sort moral or ethical views along an efficiency/equitable tradeoff. It is then society’s decision which level of tradeoff would best serve its desires.  

Meanwhile, Satz (2010) tries to argue why things should not be for sale by appealing to the moral limits of markets. According to Satz, a market should be prohibited or highly regulated if it can be described as a noxious one. She defines a noxious market as 1) one with weak agency,

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21 Economic analysis can make a recommendation to not accept an outcome that is Pareto dominated, that is, if two outcomes exist and one is better than the other on all levels (efficiency, social welfare, equitable, social justice, redistribution, etc.), then economic analysis can easily recommend rejecting the outcome that is inferior. This only applies to outcomes that are strictly dominated (in all relevant criteria).

22 Michael Sandel also posits similar arguments in his new book of a similar title, “What Money Can’t Buy: The Moral Limits of Markets”. Unfortunately, apart from book reviews and the lecture series of the same name, this author has not been fully exposed to Sandel’s claims and therefore his arguments are not represented herein.
2) one with vulnerability, 3) one with extreme harms for individuals, 4) one with extreme harms for society. Weak agency is described as a market with “inadequate information about the nature of and/or consequence of a market; others enter the market on one’s behalf”. Vulnerability is described as “markets in a desperately needed good with limited suppliers; markets with origins in poverty and destitution; markets whose participants have very unequal needs for the goods being exchanged”. Extreme harm for individuals and society are self-descriptive in that they describe markets that harm the participants or society. It is these noxious markets, akin to repugnant transactions, that Satz believes need to be restricted and regulated to avoid commercial infringement on personhood, equality and morals. It should be noted that Satz includes the market for women’s reproductive labor and the market for human kidneys among these noxious markets. Still, Satz agrees that market forces should be encouraged in the non-noxious market, or the efficient and effective market as Satz refers to them. Indeed the aim of market design is to try to transform these noxious markets (or repugnant transactions as referred to herein) into suitable market transactions that overcome the technical constraints and result in increased social welfare. Perhaps it can even be said that the government regulation Satz believes is required of noxious markets can best be simulated with well-designed incentives and government oversight.

Finally, a point of contention against designed markets of this type is that there is still the possibility of government control through its monetary or political influence. This viewpoint is contrasted with another view that claims overt government regulation and control is a major requirement in markets of this type in order to overcome the repugnancy that constrains it. The point to be made here is that both sides of the government regulation debate will not be satisfied with this designed market that includes but minimizes the role of government; perhaps that is the key takeaway from this debate. With both sides unhappy with the current design of the system, it can be said that this newly designed market system lies closer to a moderate policy recommendation that includes major compromises. The point of designing a market in the face of repugnancy is to allow a market-based system to exist while still appreciating the concerns of repugnancy and mitigating the effects as much as possible; this is the role of government oversight in the marketplace.

Market for Children Critique

A question to be addressed is whether we should be designing a market for children in the presence of repugnancy. The argument is actually two-fold: 1) Should we even be designing a market for children in particular,
2) Should we even bother to respect repugnancy when designing a market? The first part of this argument deals with whether the aim of a market for children should be efficiency or satisfying demands for parental rights. Those that endorse this argument claim that the adoption market (and to a lesser extent the market for babies) is about ensuring that unfortunate children separated from their biological parents find a nurturing home. These critics claim that the only priority of such allocation should be assigning unfortunate children to homes. Any intentional increase in the supply of children into the market would be regarded as immoral. This argument, though, ignores the failures in the current allocation system. Simply put, the current allocation system does not do an adequate job of placing children into homes. Davis (2011) maps out the demography of adoption behaviors in the U.S. In her analysis, she points out that the desired candidate for adoption is a healthy, white infant and matching said infant in a home is seamless. It is for the other “harder to place” children who are usually in foster care, slightly older and from a racial minority group or with special needs care that the current allocation system fails (pgs 8-9). By allowing a market transaction to allocate these for whom the current system fails to find homes, the children can receive an opportunity that they can only wish for under the current system.

The second side of the argument claims that repugnancy should not be a constraint that is to be respected but rather should be denounced. Those that espouse this viewpoint believe that repugnancy constrains free exchange between counterparties and that these constraints sometimes lead to disastrous results for all parties involved. In the case of a market for children, repugnancy as a constraint on market forces introduces excess bureaucracy that hinders parents willing to provide children with loving homes from finding these children. The critics claim that the market should be unconstrained if the ultimate goal of the market transactions (assigning children to homes) only contains pecuniary externalities. Still, it can be argued against these claims that moral aversion can indeed be considered a non-pecuniary externality and so these justify the restrictions to an extent. If moral aversion to a transaction blocks the transaction, rather than just affecting the price, it could be regarded as a non-pecuniary externality. The answer to this critique, like the previous one, is that the current market allocation lies between both claims. The current designed market attempts

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23 Pecuniary externalities are externalities that operate through the price mechanism. For example, if there is one buyer and one seller in a marketplace, the entrance of a second seller will depress the equilibrium price. Clearly the entrance of the second seller harms the original seller but because this externality operates through the price mechanism, the entrance of the second seller also benefits the buyer. In fact, the loss in surplus to the original seller is exactly balanced by the equal gain in surplus by the buyer, therefore resulting in no net social welfare loss. Pecuniary externalities basically shift the allocation of surplus in society. In the market for children, this pecuniary externality would shift surplus from intermediaries to the parents (both biological and adoptive).
to improve the lot of the children in the market beyond and above their current situation today while still allowing for the market based mechanism to conduct efficient transactions between consenting counterparties.

Another critique against the market for children is that it will serve only to further benefit the rich while disadvantaging the poor. In this critique, the assumption is that the market for children would assign such a high price for children thereby excluding those without sufficient financial capital from participating in the marketplace. The initial response to this critique is to disregard it. After all, numerous markets exists that allocate goods with exorbitantly high prices but there are no calls for banning them. Certain sections of California neighborhoods have average house prices that surpass one million dollars. The price of these homes is prohibitive to the average American but no one questions whether free exchanges should be allowed in these marketplaces. Incidentally, the current regulations have actually made the price that a parent would have to pay in order to buy the parental rights of another artificially high so that only the rich can afford to adopt and the poor are prohibited from participating. Under the proposed market for children, the average prices should drop as the supply in the market increases to meet the available demand. As the price of acquiring parental rights drops, many more Americans would actually be able to participate in the market than are currently able to today. It is also to be said that poor mothers would not be exploited by the current system. The system does not coerce any biological mother to supply her parental rights against her will. On the contrary, contract law would prevent such coercion from being binding in the court of law. Moreover, these poor mothers would actually benefit under this new system since they are able to earn a profit from the sale of their parental rights – a benefit denied to them today.

Another critique on the market for children is that changing the price of the transfer of parental rights from zero (as it is currently today) to a positive amount might crowd-in suppliers who are undesirable. This argument fails to ignore the safeguards that would have been introduced to catch, eliminate and discourage such suppliers. In fact, to be able to enjoy the surplus available in the marketplace, suppliers would need to be held accountable. Such information disclosure would actually lead to increase in the average health of children, as suppliers would try to capture as high a surplus as possible.

24 There is also a crowd-out argument but that argument does not hold much weight in this market. The crowd-out argument is usually that those who are intrinsically motivated to commit a socially beneficial action might stop or reduce their action once given monetary compensation for their actions. An example could be paying people who spend their time in a Big Brother/Little Brother organization. When paying these men to spend their time with underprivileged minors, they tend to perform the action less, perhaps because the monetary aspect cheapens the signaling effect of their action. Nonetheless, it can be argued that there is minimal intrinsic motivation for a woman to give up her parental rights today. Such exchanges mostly occur when the mother is forced to surrender parental rights due to external pressures. As such, there is little crowd-out effect in this market.
Transferability Critique

A final critique against the market for children is that the market allows selling of human lives. Of course, any argument that begins with the sale of humans ultimately becomes a discussion on slavery. To be certain, the market for children is anything but a market for human lives. Instead, as often repeated in the texts, this is ultimately a market for the transfer of parental rights. Under the proposed market, birth mothers would receive a chance to transfer their parental rights over a child for compensation. The buyers in this market receive only the rights over the child that the biological parents initially possessed under the law. These transferred rights do not include the license to abuse, neglect or impose undue labor on a child. To assume that these transfers of parental rights can lead to extreme form of human degradation such as slavery is to fall prey to the slippery slope logical fallacy and to ignore the expanse of child protection laws already in place.

Conclusion

Organ Transplantation in the U.S.

It is the hope of this paper that genuine discussion into the market for children should bring more discussion into markets for other goods and services that also suffer from the constraints of repugnant transactions. The market for organs for transplantation is an excellent example of a system that can benefit from such market design. Currently in the Unites States, there is a shortage of available organs for donation. Many Americans that require life-saving organ transplantation will die because the current procurement system does not generate enough supply to meet the continually increasing demand. In fact, to be put on the waiting list for an organ is often a death sentence as it necessitates waiting in a multi-year queue. If a person’s turn in line ever arises before succumbing to the disease that necessitated the transplant, too often the person is too sick to be able to benefit from the transplantation because of the length of time spent with the ailing organ. Goodwin (2006) writes that each day, eighteen people will die while waiting on the waitlist and another one hundred and ten people will take their place before the day ends. This translates to a growth rate of one person every thirteen minutes on the waitlist and that rate increases yearly. Despite the attempts of the United Network of Organ Sharing (UNOS), the current system cannot meet the current ballooning demand for organs. Included in this shortage statistics is the startling fact of racial inequity in the distribution of organs in the U.S. Citing UNOS data, Goodwin points out that Blacks wait longer than any ethnic group for all organs and have the highest death rate while waiting. Blacks were more likely to be donors and Whites recipients for six of the eight types of deceased donor organ transplant (pg 5). Even if all
the organs were equitably distributed along racial lines, demand for organs for transplantation would still outstrip their supply. This is as clear a call to action as can ever be made for market design to assist in increase the supply of organs for transplantation.

On December 5, 2011, Alexander Berger, wrote an op-ed piece for the New York Times arguing for the legalization of trading in kidneys for transplantation. The author’s conclusion, also shared by this author, rests on the fact that altruism has fallen short in its goal of increasing kidneys for donation. It is due time to begin to consider other methods to increase the supply of organs for donation so that “people should not have to beg their friends and family for a kidney, or die while waiting for one” (Why Selling Kidneys should be Legal, 2011). Mr. Berger was due to donate one of his kidneys that Thursday (December 8) to a complete stranger. Indeed, kidney donation is one of those rare donations that can be done with living donors, wherein one person with two healthy kidneys donates one to a patient and both donor and recipient live healthily with one functioning kidney. Still supply of available kidneys is outstripped by its demand.

Generalizable Principles

Baron and Leshner (2000) have shown that protected values (such as repugnancy towards certain transactions) have been known to change with discussion. When people carefully consider the factors at stake in an issue, they can get beyond the initial repulsion of the repugnancy and consider the merits of the issues. It is the hope of this paper that the design of a market for children is able to overcome the initial repugnancy that is felt in the consideration of a tradable market for parental rights over children.

The laws against buying and selling of parental rights (or kidneys) reflect a reasonable widespread repugnance, and this repugnance may make it difficult for arguments that focus only on the gains from trade to make headway in changing these laws. Our moral intuition might tell us that the buying and selling of parental rights is repugnant because it places a value on human lives and could potentially coerce the poor into transactions against their interest. On most occasions, we can trust our moral intuition to guide us to an individually and socially beneficial outcome but we can only trust our intuitions until they have been shown to be wrong. Hopefully, this paper has proven that the initial moral intuition can be misguided or conflicted and careful discussion and analysis into the issues can reveal opportunities to increase social welfare. Furthermore, it can be possible to design Pareto-efficient markets that correct many of those intuition failures and guide individuals toward the socially acceptable outcomes.

Repugnant transactions can indeed constrain market forces but
understanding the cause and root of these repugnancies is often the first step in designing a market that reaches an efficient allocation regardless of repugnancy to the transaction. With such repugnancies present, there are roles for government to play in the market design but such roles must be minimized in order to allow market forces to continue to dominate the allocation. Rent-seeking activities could still potentially create unnecessary and costly restraints on trade in the marketplace but it is the goal of market design to consider the incentives of the participants involved to prevent the factions from stopping welfare gains. In all, the tools of economics can help govern behaviors to lead to socially efficient outcomes but it is imperative to understand the reasons behind repugnancies to transactions and analyze those intuitions to show the steps to design these markets.

Further Research Avenues

Predicting when a repugnant transaction will act as a constraint on market forces is beyond the scope of this paper, but it is the hope of this paper that a well functioning market can be designed in such cases to produce an outcome that is socially beneficial. By designing a market for children, it is the aim of the author to show that a workable market solution can generate an efficient allocation solution, at least in the theoretical sense of the word. With any market design, the goal is first to design the market, then later run it on a small enough scale to test the market in practical terms, and then to go back to the drawing board to continue to iterate on the market mechanism and achieve the desired efficient outcome. This paper is simply the first of those steps. The next approach is to see if designing such a market can be feasible and if empirical data can conform to theoretical expectations. Concurrently, experiments could be run to see whether introducing various iterations of this market design can actually reduce the repugnance toward a market for children. In the end, market design principle can be used to help solve some of the world’s pressing allocation issues.
Works Cited


