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REVIEW OF European & Transatlantic Affairs



Introductory Remarks

1. 1. Letter from the Editor-in-Chief

Domonkos D. Kovacs
Editor-in-Chief

It gives me great pleasure to introduce the Fall 2022 issue of the Review of European & Transatlantic Affairs.

European Horizons seeks to give young people a voice in shaping the future of Europe and transatlantic relations, incubating innovative policy ideas through our publications, conferences, and cooperation with our university chapters. Since 2015, RETA has been providing a platform for students to connect to each other, our partner organizations, academics, and policy makers, enabling them to develop ambitious suggestions for improving the transatlantic relationship and European policy, and generate novel insight.

2022 will enter history books as a year of unprecedented change and disruption. Russia's savage invasion of Ukraine brought an end to decades of peace in Europe, and shook the foundations of the global security architecture. Europe has been reminded once again, that it is not exempt from the dynamics of history. As the world seems to leave the era of COVID-19 behind, a period of economic polycrisis dawned on us. Inflation soared to a level unseen in decades, supply chain issues disrupted a myriad of sectors, looming food shortages are posing existential risk to the MENA region, European Union was confronted with a refugee wave, and the energy crisis continues to pull the fabric of Europe apart, shedding light on deep-seated divisions. All the while, the climate crisis is accelerating,

endangering the future of the whole of humanity.

However, 2022 was also the year of unity in the face of adversity. Ukraine – against all odds – stood its ground, and continues to push back against the aggressor. Despite a multitude of differences in interest and ideology, the West swiftly came together, and stood in solidarity behind Ukraine. The world witnessed an outpouring of support towards refugees fleeing Ukraine. Ordinary citizens have fought against human rights abuses, gender-based violence, racial inequality, and attacks on civil society, while reframing our ideas of how to address institutional issues. Governments have taken steps to enhance cooperation with one another and protect democratic values. As the world is slowly emerging from the liminal era of deglobalisation, supply chains are becoming increasingly resilient, foreshadowing a more secure future for all.

This issue of the Review of European & Transatlantic Affairs reflects on these hopes and challenges, in four thematic sections, organised along the lines of our 2021/2022 policy priorities: Environment, EU and US relations with Asia, Defending Democracy, and NATO & Security.

In 2022, we decided to take our journal to the next level. We moved forward from being an exclusively student-edited publication, and became a peer-reviewed journal. We regard this the next, organic step in the development of RETA. On behalf of the entire organisation, I would like to extend my gratitude to our peer-reviewers Jon Roozenbeek (University of Cambridge), Jose M. Martinez-Sierra (Harvard University), Timothy Less (University of Cambridge), Nidhi Piplani Kapur (Symbiosis International University), Daria Mattingly (University of Cambridge), Achim Ladwig (Secretariat-General of the European Committee of the Regions). Your contribution made the elevation of RETA to the next level possible! Thank you!

Domonkos D. Kovacs is a recent graduate of the University of Cambridge, having majored in History and Russian; he currently pursues an MA in International Relations at the Central European University, focusing on European Security and International Law. His research interests include Transatlantic and NATO-Russia relations, EU-Russia security relations, European Strategic Autonomy, Russian near abroad policy pertaining to the EU's Eastern Partnership states, cyber security, disinformation and election interference, as well as hybrid and asymmetric warfare. He serves as the Director of Publications for European Horizons.

ENVIRONMENT

2. 1. Integrating New Genomic Techniques into the EU Strategy for Sustainable Agriculture

SUBMITTED BY

Ella Otterbeck

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I. INTRODUCTION

The European Green deal plays a major part in the European Union's plan to make Europe the first climate-neutral continent. One of the sub-strategies of the Green Deal is the Farm to Fork (FtF) initiative, which aims to make food production in the EU more efficient and sustainable. The FtF initiative details ambitious steps to greenify the food sector, yet mostly disregards one powerful tool: genome editing, which is a deliberate and targeted change in an organism's genome sequence and has great potential to transform European agriculture.¹ For example, genome editing could make plants more nutritious, resilient, pest-resistant, and effective at storing carbon.² However, research on and use of genome editing and New Genomic Techniques (NGTs) remain crippled by EU legislation from 2001, which prohibits the use and internal development of Genetically

1 EASAC:a. 2017. Genome Editing: Scientific Opportunities, Public Interests and Policy Options in the European Union. Policy Report 31. <https://easac.eu/publications/details/genome-editing-scientific-opportunities-public-interests-and-policy-options-in-the-eu/>

2 Ibid; EASAC:b. 2020. The Regulation of Genome-Edited Plants in the European Union. Commentary on the statement by the German National Academy of Sciences Leopoldina. <https://easac.eu/projects/details/the-regulation-of-genome-edited-plants-in-the-european-union/>; Canales, Claudia., and Fears, Robin. 2021. The Role of Science, Technology, and Innovation for Transforming Food Systems in Europe. Food Systems Brief, United Nations. https://easac.eu/fileadmin/PDF_s/reports_statements/Food_Security/FSS_Brief_IAP_Europe.pdf

Modified Organisms (GMOs).³ While the FtF strategy does recommend exploring NGTs as an option to combat climate change, this paper will argue that it is not going far enough, and recommends ways to further promote NGTs to make Europe the first green continent. Four main recommendations will be presented based on the research question “How can the EU integrate New Genomic Techniques into their strategy for sustainable agriculture?”, with a focus on non-animal agriculture.

First, this paper will outline the potential of NGTs to fight climate change and provide background information on the Farm to Fork strategy and the contemporary use of Genetic Modification (GM) technology in Europe. Second, it will propose strategies to encourage the effective use of NGTs, including (1) creating an internal and public information campaign about NGTs’ potential to fight climate change, (2) integrating the use of NGTs in the FtF strategy, (3) including NGTs in the umbrella term of organic products, and (4) updating the current GM legislation in accordance with the most recent scientific research.

II. POLICY CONTEXT

2.1 GM technology’s role in fighting global warming

New genomic techniques (NGTs) are GM techniques that were developed after 2001, when the current EU legislation on the genetic modification of organisms came into effect.⁴ While the new techniques have led to regulatory ambiguity through failing to be well-accounted for in the 2001 legislative framework, they have also sparked the interest of individual Member States and other stakeholders within the EU. This new interest is primarily rooted in the NGTs’ potential to contribute to a more resilient and sustainable food supply chain.

Genetic modification is a versatile tool that may be key in mitigating environmental degradation and achieving the EU’s climate goals. Furthermore, genetically modified crops could be an important part of climate change adaptation in the years to come. For example, it is estimated that between 1996-2012, transgenic crops led to an additional 133,639 mil-

3 EASAC:a, 2017, Genome Editing: Scientific Opportunities.

4 European Commission:e. 2021. Study on the Status of New Genomic Techniques Under Union Law and in Light of the Court of Justice Ruling in Case C-528/16 [Executive Summary]. Working Document SWD(2021) 92. https://ec.europa.eu/food/document/download/da586102-9700-4985-917e-64ebb39e0a92_en

lion tons of soil carbon sequestered.⁵ Between 1995-2015, the implementation of GM crops is thought to have reduced the use of pesticide active ingredient globally by 613 million kilograms as well as reduced agricultural land-use by 174 million hectares. Furthermore, it is thought to have led to a 37% reduction of chemical pesticides.⁶ GM technologies have also facilitated the wider use of conservation tillage practices, which, among other things, means that soil nutrients are more efficiently recycled.⁷

Despite this, the EU is conducting relatively little research on NGTs. This is partly due to the 2001 legislative framework and the limitations it imposes on the use of genetic modification, which has undermined efforts to develop the technology.⁸ Remarkably, the U.S. and China have respectively applied for 872 and 858 patents related to NGTs, while the EU lags behind with around 194 patent applications.⁹

NGTs present possibilities to contribute to carbon sequestration, grow more resilient crops, increase fertilization efficiency, as well as reduce pesticide use, nutrient excess, land use, and greenhouse gas (GHG) emissions.¹⁰ To ensure a resilient agricultural system, plants' tolerance to salinity, heat, and drought needs to be developed. Crops' dependence on external inputs such as fertilizer, pesticides, and insecticides also needs to be reduced. Furthermore, crops need to be more nutritious. According to a UN Food Systems Summit brief by Canales and Fears, NGTs will be the key to achieving all of these goals.¹¹

Besides potentially mitigating functions of modified crops, there is also a need to future-proof the food chain. Climate change will not only impact crops' growing conditions, but may also impact their nutritional content and quality - for example by changing the composition of proteins and

5 Snowdon, Rod. J., Wittkop, Benjamin., Chen, Tsu-Wei. et al. 2021. Crop adaptation to climate change as a consequence of long-term breeding. *Theoretical and Applied Genetics* 134, 1613–1623. <https://doi.org/10.1007/s00122-020-03729-3>

6 Adenle, Ademola., Steur, Hans., Hefferon, Kathleen., & Wesseler, Justus. 2020. Two Decades of GMOs: How Modern Agricultural Biotechnology Can Help Meet Sustainable Development Goals. *Science, Technology, and Innovation for Sustainable Development Goals*, 401-422.

7 Ibid.

8 European Commission:e. 2021; EASAC:b, 2020, *The Regulation of Genome-Edited*; Canales & Fears, 2021, *The Role of Science*; Meldolesi, Anna. "CAN CRISPR Modify Attitudes on Food Crops?" *Nature Italy*, 2021. <https://doi.org/10.1038/d43978-021-00070-1>; Jorasch, Petra. "Potential, Challenges, and Threats for the Application of New Breeding Techniques by the Private Plant Breeding Sector in the EU." *Frontiers in Plant Science* 11 (2020). <https://doi.org/10.3389/fpls.2020.582011>

9 Canales & Fears, 2021, *The Role of Science*, 9

10 Ibid; EASAC:a, 2017, *Genome Editing: Scientific Opportunities*; EASAC:b, 2020, *The Regulation of Genome-Edited*.

11 Canales & Fears, 2021, *The Role of Science*.

lipids.¹² NGTs can contribute to making sure that agriculture can adapt to climate change, by correcting for anticipated changes in nutrient composition. Proactively developing more resilient crops requires better understanding of plant genomics and ways to implement this knowledge in crop breeding. This development of new crop strains can in many ways be facilitated and accelerated by targeted genetic modification. It is likely that designer plant breeding, which involves different types of NGTs, will be the future of crop improvement.¹³ Such techniques can, for example, let one implement targeted gene modification to make a certain crop more heat-resistant. In the case that much agricultural production needs to move geography, NGTs could also prove essential to enable the crops' move.¹⁴ GM technologies have been used to increase crops' nitrogen-efficiency rates, thus allowing farmers to use less fertilizer and lowering excess nutrient levels in the soil and groundwater.¹⁵ NGT-assisted crop development could also further crops' ability to inhibit or reduce soil nitrification.¹⁶ Lastly, GM that makes plants more resilient to expected and current impacts of climate change can be used to preserve and protect biodiversity.¹⁷

The impressive progress seen within genomic techniques cannot be harnessed to produce more sustainable and healthier food in the current regulatory climate.¹⁸ While conventional breeding programmes have historically proven highly effective in adapting crops to new environmental stressors, their success are the results of long incremental improvement periods. Considering how the current pace of environmental changes are affecting crop yields and quality, plant breeding would do well to harness NGTs to accelerate conventional breeding programmes.¹⁹

To summarize: with further research, NGTs have the potential to be a game changer for tackling climate change and protecting the environ-

12 Henry, Robert. J. 2020. Innovations in plant genetics adapting agriculture to climate change. *Current Opinion in Plant Biology*, 56, pp. 168-173. <https://doi.org/10.1016/j.pbi.2019.11.004>

13 Henry, Robert. Innovations in plant genetics adapting agriculture to climate change. 2020.

14 Ibid.

15 Snowden, Rod. J., Wittkop, Benjamin., Chen, Tsu-Wei. et al. Crop adaptation to climate change as a consequence of long-term breeding. 2021.

16 Ibid.

17 Onley, Isabelle R., Moseby, Katherine, E., & Austin, Jeremy, J. 2021. Genomic Approaches for Conservation Management in Australia under Climate Change. *Life*, 11, 7: 653. <https://doi.org/10.3390/life11070653>

18 Henry, Robert. Innovations in plant genetics adapting agriculture to climate change. 2020.

19 Snowden, Rod. J., Wittkop, Benjamin., Chen, Tsu-Wei. et al. Crop adaptation to climate change as a consequence of long-term breeding. 2021; Mousavi-Derazmahalleh, Mahsa., Bayer, Philip. E., Hane, James, K., et al. 2018. Adapting legume crops to climate change using genomic approaches. *Plant, Cell, and Environment*, 42. 6-19. <https://doi.org/10.1111/pce.13203>

ment. They can also help deliver better health outcome. Thus, the current EU framework which cripples the research, development, and use of NGTs must be reconsidered and reformed.

2.2 The Farm to Fork Strategy

Some claim the Farm to Fork strategy is at the heart of the European Green Deal. The FtF aims to ensure a “robust and resilient food system”²⁰, which is imperative in the face of the climate crisis. It aims to improve people’s health and lifestyles while mending agriculture-related environmental damage. The FtF strategy is supposed to enable a fair transition from the old, unsustainable agricultural system to a new, sustainable agricultural system. To do this, it will work across multiple dimensions to improve the life of farmers and other people in the food supply chain, while simultaneously empowering consumers to make choices in line with their dietary needs, economic limitations, and ethical considerations. The strategy is also supposed to address the need to “reduce dependency on pesticides and antimicrobials, reduce excess fertilization, increase organic farming, improve animal welfare, and reverse biodiversity loss”.²¹ In addition, it may allow the EU to be a so-called “first mover” in sustainable agriculture, giving it an edge in a market that is going to become crucial as the world faces the harshest effects of climate change. There is also an ambition to concurrently raise global food sustainability standards, since the EU market is the biggest importer and exporter of food products globally.²² To ensure that the Member States’ approaches to reach the goals set out in the FtF strategy are cohesive, the European Commission aims to propose a holistic “legislative framework for a sustainable food system”²³ by the end of 2023. This framework will include legislation for (1) “common definitions”, (2) “general principles and requirements for sustainable food systems and foods”, (3) addressing “the responsibilities of all actors in the food system”, (4) “certification and labeling on the sustainability performance of food products”, and (5) “targeted incentives”.²⁴ Reducing GHG emissions while amplifying circularity in food production is also seen as crucial to sustainability in the FtF. Accordingly, a variety

20 European Commission:d. 2020. Farm to Fork Strategy. P. 4. https://ec.europa.eu/food/document/download/472acca8-7f7b-4171-98b0-ed76720d68d3_en

21 Ibid, 5.

22 Ibid.

23 Ibid, 8.

24 Ibid, 8.

of incentives for achieving this have been outlined, such as increasing access to new technological solutions to create biogas from farming by-products and encouraging the use of renewable energy sources in production facilities. Livestock-derived emissions of GHGs are sought to be reduced through strategies like offering more sustainable feed alternatives on the EU market, rather than, for example, the imported soy-based feed that is often grown on deforested land. The Commission will also seek to promote organic farming through measures in the new Common Agricultural Policy (CAP), partly by formulating an “Action Plan on organic farming”.²⁵

A further goal in the FtF is to make pesticide use more sustainable: among other actions, the Commission will upgrade pesticide policies and regulations, boost access to Integrated Pest Management (IPM) techniques and encourage its use in farming. There is also a need to better protect plants against new pests. One of the strategies to do so is looking into the potential of NGTs as a tool to make the food supply chain more sustainable.²⁶

To reduce excess nutrients in soil, water, and air, the Commission plans to ensure that those working in the industry follow relevant regulations, improve fertilization efficiency, and develop an “integrated nutrient management action plan” with Member States to deal with the livestock sector as well as encourage precise fertilization, especially in hotspot areas of livestock farming, and transform organic waste into fertilizers.²⁷

Notably, while there is much to say about the potential of NGTs to address the problems that the Farm to Fork strategy is supposed to solve, there is only one mention of NGTs in the strategy. This mention is related to the improvement of plant resilience against pests, an area in which NGTs could certainly be beneficial.²⁸

2.3 The current situation with GM Technology in EU

Despite the many potential beneficial uses of NGTs, the EU remains skeptical towards genetic modifications.²⁹ As previously stated, current legislation on GM technology undermines scientific research and industry

25 Ibid, 8.

26 Ibid.

27 Ibid, 9; Ibid.

28 Ibid.

29 EuropaBio. 2017. “EU Nations Should Overcome GMO Hypocrisy”. Politico. 2017, May 2. <https://www.politico.eu/sponsored-content/eu-nations-should-overcome-gmo-hypocrisy/>; Canales & Fears, 2021, The Role of Science.

development efforts. As a result, the EU is lagging behind the rest of the world in a highly important area for the future of agriculture. British scientific advisers have suggested implementing more flexible regulations, allowing individual Member States to regulate their own markets.³⁰ Notably, the United Kingdom will relax laws on gene editing, post-Brexit, to allow for gene-edited food that strengthens human health and limits the environmental impacts of agriculture.³¹ However, the general populations of several larger EU countries, such as France and Germany, remain skeptical of GM technology.³² This is in spite of the vast majority of scientists arguing that it is safe and can yield many benefits.³³

The current legislation is partially based on the precautionary principle, which informs how policy-makers should handle the issues that arise when the harmful effects of a phenomenon, process, or product cannot be sufficiently quantified and assessed.³⁴ Actions should be “proportional to the chosen level of protection”, “non-discriminatory in their application”, “consistent with similar measures already taken”, “based on an examination of the potential benefits and costs of action or lack of action”, “subject to review, in the light of new scientific data”, and “capable of assigning responsibility for producing the scientific evidence necessary for a more comprehensive risk assessment”.³⁵ However, the current GMO legislation has failed on all of these counts. Firstly, critics consider the framework too stringent in its interpretation of the precautionary principle, in part because the cost-benefit analysis is not seen as scientifically sound or balanced.³⁶ For example, it has been suggested that the risks of not implementing NGTs have not been sufficiently considered.³⁷ Some critics also view the current GMO legislation to be highly politicized, with multiple stakeholders influencing the legislative process, meaning that

30 Kelland, Kate. 2014. “Scientists Urge Change to Europe’s GMO Regulation”. 2014, March 14. Reuters. <https://www.reuters.com/article/science-gm-idUSL6N0MA2FW20140314>

31 Vaughan, Adam. “K to relax law on gene-edited food in post-Brexit change from EU”. 2022, May 25. <https://www.newscientist.com/article/2321556-uk-to-relax-law-on-gene-edited-food-in-post-brexit-change-from-eu/>

32 Kelland, Kate. “Scientists Urge Change to Europe’s GMO Regulation”. 2014, March 14. Reuters. <https://www.reuters.com/article/science-gm-idUSL6N0MA2FW20140314> .

33 Ibid.

34 European Commission:b. 2000. Communication from the Commission on the Precautionary Principle. <https://op.europa.eu/en/publication-detail/-/publication/21676661-a79f-4153-b984-aeb28f07c80a>

35 Ibid, 3.

36 Aerni, Philipp. “Politicizing the Precautionary Principle: Why Disregarding Facts Should Not Pass for Farsightedness.” *Frontiers in Plant Science* 10. (2019). <https://doi.org/10.3389/fpls.2019.01053>; Canales & Fears, 2021, *The Role of Science*; EASAC:b, 2020.

37 Canales & Fears, 2021, *The Role of Science*.

the application is not non-discriminatory.³⁸ Notably, it is thought that anti-GMO lobbying has impacted levels of polarization on the issue, leading to a climate where the evaluation of the scientific basis of arguments is undermined.³⁹ Finally, the stance of the EU on the domestic cultivation of GM foods compared to its stance on the importation of GM products is also inconsistent.⁴⁰ This creates both regulatory ambiguity, means that the law is not “consistent with similar measures already taken”, and arguably means that the laws are not proportional to the perceived threat of NGTs. Suggested changes in the legislation are to (1) evaluate the risks of the products and use of GM technologies, rather than the technologies themselves, (2) exclude GM products that do not contain foreign DNA from regulation, and (3) acknowledge the cost for food and nutrition security that comes with the slow or non-adoption of new technologies.⁴¹

III. POLICY RECOMMENDATIONS

3.1 Disseminate information about NGTs within EU bodies and to the larger EU populace

Considering the scientifically unfounded skepticism towards genetic modification technologies that is currently reflected in EU legislation and the EU populace, an NGT information campaign targeting the EU institutions, Member States, and populace is recommended. The campaign should reflect that NGTs differ from older GM technologies in several critical ways. Notably, NGTs can be much more precise in targeting components of organisms for mutation than the older technologies and do not necessarily introduce foreign DNA into organisms.⁴² This is an important point to make since GM-skeptics are typically more doubtful of transgenic mutation (a between-species DNA transfer) than of cisgenic mutation (within-species DNA transfer).⁴³ Furthermore, as discussed in the Policy Context section, using NGTs in agriculture may help the EU reach several

38 Aerni, 2019, Politicizing the Precautionary Principle.

39 Adenle, Ademola., Steur, Hans., Hefferon, Kathleen., & Wesseler, Justus. Two Decades of GMOs. 2020.

40 Aerni, 2019, Politicizing the Precautionary Principle.; Tagliabue, Giovanni. “European Incoherence on GMO Cultivation versus Importation.” *Nature Biotechnology* 34, no. 7 (2016): 694–95. <https://doi.org/10.1038/nbt.3588>.

41 EASAC:b, 2020, The Regulation of Genome-Edited.

42 EASAC:a, 2017, Genome Editing: Scientific Opportunities.

43 Blancke, Stefaan. “Why People Oppose GMOs Even Though Science Says They Are Safe.” *Scientific American*, August 18, 2015. <https://www.scientificamerican.com/article/why-people-oppose-gmos-even-though-science-says-they-are-safe/>

key climate goals, as well as improve food security, quality, and agricultural efficiency.⁴⁴ It is important for a campaign to highlight these benefits since a common fear is that GM products could pollute or are already polluting the environment.⁴⁵ While the EU as a whole and specific members such as France seem to be relaxing their stance on NGTs or are at least exploring more options,⁴⁶ the incoherent regulations of imports compared to exports of GM foods, and rules about GM animal feed, expose internal information gaps in the EU. Many Europeans also deem GMO foods as unsafe to eat, thereby undermining the scientific consensus.⁴⁷

Large-scale, targeted information campaigns related to climate issues are common in the EU. A 2012 campaign, promoted under the slogan “A world you like. With a climate you like”⁴⁸, reached millions of Europeans and was thus considered a success. The campaign identified target countries in particular need of information with regards to climate action, engaged the public with a climate action challenge and worked with 320 partners made up of corporations, non-governmental organizations, universities, and more.⁴⁹ An information campaign about NGTs would need to differ somewhat from this campaign, in particular since the 2012 campaign focused on personal climate action. However, the initiative could still be used as a preliminary model for a potential NGT-campaign. Firstly, an NGT-campaign could identify countries and institutions in which GM skepticism is particularly widespread. Secondly, the NGT-campaign could also partner with prominent politicians, scientists, farmers, and chefs, as well as target institutions or organizations such as universities, businesses, scientific institutions, think-tanks, and policy incubators. Additionally, web-based and physical advertisements that inform about the safety and potential environmental utility of GM products and techniques, while taking an official EU stance, could help spread awareness and counter skepticism.

44 See e.g., Canales & Fears, 2021, The Role of Science; EASAC:a, 2017; EASAC:b, 2020

45 Blancke, 2015, Why People Oppose GMOs

46 Blenkinsop, Philip. “EU Calls for Rethink of GMO Rules for Gene-Edited Crops.” Reuters. April 29, 2021. <https://www.reuters.com/world/europe/eu-calls-rethink-gmo-rules-gene-edited-crops-2021-04-29/>

47 Kennedy, Brian., and Thigpen, Cary Lynn. “Many Publics Around World Doubt Safety of Genetically Modified Foods.” Pew Research Center. November 11, 2020. <https://pewrsr.ch/2Uic6r2>

48 European Commission:c. 2014. EU Communication Campaign on Climate Action. N.P. doi:10.2834/60847

49 Ibid.

3.2 Integrating NGTs in the FtF strategy

The FtF initiative should detail steps to enable the use of NGTs as a tool to combat climate change. These include revamping the precautionary principle in relation to NGTs, specifically addressing them in the planned recommendations to each member state, and conducting additional research on NGT-related questions.

The FtF strategy should be aligned with the recommendations of EASAC regarding the precautionary principle when it comes to legislation on NGTs.⁵⁰ In particular, the part of the precautionary principle which prescribes that legislation should be “based on an examination of the potential benefits and costs of action or lack of action”⁵¹ should also include an evaluation of the risks of failing to capitalize on the potential uses and benefits of NGTs. This will enable a more holistic risk-and-benefit analysis of NGT use.

Furthermore, the individual recommendations to each member state to inform them of the Green Deal targets when making their Strategic Plans in line with the new CAP should include specific recommendations on NGTs. At least three of the nine objectives of the new CAP⁵², such as ensuring the competitiveness of EU agriculture, protecting food and health quality, and taking climate change action could benefit from the integration of NGTs in Europe.

To implement a revised precautionary principle and NGT-specific recommendations for the new CAP, more research is needed on NGTs’ potential benefits and risks. Currently, the FtF describes a study about the sustainability of NGTs that is currently being conducted.⁵³ To safely and efficiently integrate NGTs in the FtF, a multitude of studies should be conducted about the sustainability of NGTs as well as the benefits, risks, and attitudes associated with NGTs. The lack of research and development in the EU has led to doubts being raised about NGTs’ usefulness in mitigating climate change, especially in the short timeframe outlined in the FtF

50 EASAC:b, 2020, The Regulation of Genome-Edited.

51 European Commission:b. 2000. Communication from the Commission on the Precautionary Principle. P. 3. <https://op.europa.eu/en/publication-detail/-/publication/21676661-a79f-4153-b984-aeb28f07c80a>

52 Those nine objectives are: “fair income”, “competitiveness”, “food value chain”, “climate change”, “environmental care”, “landscapes”, “generational renewal”, “rural areas” and “food health” (European Commission:a n.d.)

53 European Commission:d, 2020, Farm to Fork Strategy.

strategy.⁵⁴ Therefore, it is imperative that further research is undertaken, and that the FtF strategy specifies how this knowledge gap is going to be filled.

3.3 Including NGTs in the umbrella term of organic products

Foods produced with the help of NGTs could and should be awarded the EU organic logo, as long as they fulfill its organic production criteria. The EU defines organic farming as: "...a sustainable agricultural system respecting the environment and animal welfare, but also includes all other stages of the food supply chain".⁵⁵ The FtF sets the goal of dedicating at least a fourth of EU agricultural land to organic foods by 2030.⁵⁶ It could be assumed that this increase in proportional land use should also lead to wider dissemination of organic products to consumers. By definition, organic farming does not currently include the use of GMOs,⁵⁷ as they are deemed "incompatible with the concept of organic production and consumers' perception of organic products"⁵⁸.

Organic farming has two main functions: catering to specific consumer demand (that is, catering to those consumers who, for example, desire pesticide-free foods) and delivering certain public goods (such as strengthening local biodiversity through the use of environmentally-friendly practices).⁵⁹ Crops that are modified to be more pest- and disease-resistant while providing more nutritional value are closely aligned with the goals of organic farming, since they enable decreased use of pesticides.⁶⁰ In the same way as organic farming protects biodiversity better than non-organic farming, studies have shown that GM farming has bet-

54 Federal Agency for Nature Conservation. 2021. "New Developments and Regulatory Issues

in Plant Genetic Engineering." <https://www.bfn.de/en/publications/position-paper/new-developments-and-regulatory-issues-plant-genetic-engineering>

55 European Parliament. 2021. "The EU's Organic Food Market: Facts and Rules (Infographic)." <https://www.europarl.europa.eu/news/en/headlines/society/20180404STO00909/the-eu-s-organic-food-market-facts-and-rules-infographic>

56 European Commission:d. 2020. Farm To Fork Strategy.

57 European Parliament. 2021. The EU's Organic Food Market.

58 Regulation 2018/848, of the European Parliament and of the Council of 30 May 2018 on Organic Production and Labelling of Organic Products and Repealing Council Regulation 834/2007, O. J. (L 150) 61 (EC). <http://data.europa.eu/eli/reg/2018/848/oj>

59 Regulation 2007/834, of the European Parliament and of the Council of 28 June 2007 on Organic Production and Labelling of Organic Products and Repealing Regulation 2092/91, O. J. (L 189) 50 (EEC). <http://data.europa.eu/eli/reg/2007/834/oj>

60 Husaini, Amjad M., and Muhammad Sohail. "Time to Redefine Organic Agriculture: Can't GM Crops Be Certified as Organics?" *Frontiers in Plant Science* 9 (2018). <https://doi.org/10.3389/fpls.2018.00423>

ter soil biodiversity outcomes than non-organic farming.⁶¹ Furthermore, certain modifications should be compatible with organic farming, such as those producing so-called orgenic plants, which include only modifications that could have occurred naturally and keep the plants otherwise sterile.⁶² In addition, NGTs can help combat the decrease in agricultural productivity which may arise when farming organically,⁶³ meaning that using NGT-derived crop strains may strengthen organic farming. NGTs can also offset the expected, climate-change-caused nutritional decline in crops.⁶⁴ Notably, GM crops can also incorporate important nutrients in foods where they would not naturally occur, change fat-composition in a nutritionally beneficial way, increase protein content or bioavailability and more.⁶⁵ For these reasons, the use of NGTs can fulfill the organic farming goal of delivering public goods. However, generating sufficient demand for organic GM foods among typical buyers of organic foods is likely difficult considering the skepticism of the EU populace towards GM foods.

The EU also plans to increase the production of organic foods. Preferably, this supply increase should be met by an increase in demand. One key obstacle in ensuring a high demand for organic products, however, is their prohibitive pricing.⁶⁶ Their steeper prices are mainly due to higher production costs and lower yields.⁶⁷ Both issues can be mitigated by integrating NGTs in organic farming, thus enabling their price reduction. For example, studies on GM maize, cotton and soybean with insect and/or herbicide resistance outperform their non-GM counterparts both in quantitative and monetary yields.⁶⁸ Furthermore, target-mutated legumes have shown multiple beneficial traits such as “higher yield,

61 Adenle, Ademola., Steur, Hans., Hefferon, Kathleen., & Wesseler, Justus. Two Decades of GMOs. 2020.

62 Husaini & Sohail, 2018, Time to Redefine Organic; Ryffel, Gerhart U. “Orgenic Plants: Gene-Manipulated Plants Compatible with Organic Farming.” *Biotechnology Journal* 7, no. 11 (2012): 1328–31. <https://doi.org/10.1002/biot.201200225>

63 Canales & Fears, 2021, The Role of Science.

64 Ortiz, Rodomiro., Jarvis, Andrew., Fox, Paul., Aggarwal, Pramod. K., & Campbell, Bruce, M. (2014). Plant genetic engineering, climate change and food security [CCAFS Working Paper no. 72]. CGIAR Research Program on Climate Change, Agriculture and Food Security (CCAFS). Copenhagen, Denmark. www.ccafs.cgiar.org

65 Ibid.

66 Askew, Katy. “Let’s Make Affordability Part of the Organic Conversation’: Affordability and Accessibility in Organic Food.” *Food Navigator*. 2021, March 10. [HTTPS://WWW.FOODNAVIGATOR.COM/ARTICLE/2021/03/10/LET-S-MAKE-AFFORDABILITY-PART-OF-THE-ORGANIC-CONVERSATION-AFFORDABILITY-AND-ACCESSIBILITY-IN-ORGANIC-FOOD](https://www.foodnavigator.com/Article/2021/03/10/Let-s-Make-Affordability-Part-of-the-Organic-Conversation-Affordability-And-Accessibility-in-Organic-Food)

67 Ibid.

68 Ortiz, Rodomiro., Jarvis, Andrew., Fox, Paul., Aggarwal, Pramod. K., & Campbell, Bruce, M. Plant genetic engineering, climate change and food security. 2014.

resistance to virus and fungal diseases, early maturity, and tolerance to drought".⁶⁹ Integrating NGTs in organic food production could therefore make organic foods more accessible.

While the inclusion of foods produced using NGTs in the organic sector might face some challenges, such as the attitudes of GMO-hesitant, or uninformed consumers, it could significantly benefit European agriculture by contributing to, for example, agricultural productivity, resilience and nutritional outcome. Therefore, the criteria for the EU's organic label should be updated to allow the use of NGTs.

Updating current legislation

Lastly, current legislation should be reformed in accordance with the latest scientific knowledge and recommendations. The general scientific consensus is that GM food is safe to eat,⁷⁰ while having many uses for mitigating environmental degradation (see Policy Context section). GMOs have, since being implemented, had largely positive effects on human health, the environment, and agricultural productivity.⁷¹ Moreover, current legislation limits internal and external opportunities for innovation, since other countries rely on the EU for scientific guidance.⁷² The EU's stance could also potentially influence the position that other geographical areas have taken on GM products. Changing the EU's stance could thus help to avoid more widespread GM skepticism, which could derail the timeline of the 2030 UN Sustainable Development Goals.⁷³

Many recommendations on reforming the current legislation have already been put forward, given that it has been deemed unscientific and inconsistent with contemporary scientific expertise.⁷⁴ Such recommendations include ensuring that the legislation allows for modified organisms that do not contain foreign DNA.⁷⁵ Crucially, the legislation should

69 Mousavi-Derazmahalleh, Mahsa., Bayer, Philip. E., Hane, James, K., et al. Adapting legume crops to climate change using genomic approaches. 2018.

70 See e.g., Blancke, 2015, Why People Oppose GMOs; Panchin, Alexander Y., and Alexander I. Tuzhikov. "Published GMO Studies Find No Evidence of Harm When Corrected for Multiple Comparisons." *Critical Reviews in Biotechnology* 37, no. 2 (2016): 213–17. <https://doi.org/10.3109/07388551.2015.1130684>

71 Mannion, A.M., and Stephen Morse. "Biotechnology in Agriculture." *Progress in Physical Geography: Earth and Environment* 36, no. 6 (2012): 747–63. <https://doi.org/10.1177/0309133312457109>

72 Senapathy, Kavin. "Nobel Laureate Sir Richard Roberts To Ask Religious And Government Leaders To Support GMOs." *Forbes*. 2016, September 21. <https://www.forbes.com/sites/kavinsenapathy/2016/09/21/nobel-laureate-sir-richard-roberts-to-ask-religious-and-government-leaders-to-support-gmos/?sh=5da6bca93c7a>; EASAC:a, 2017.

73 Aerni, 2019, Politicizing the Precautionary Principle.

74 Canales & Fears, 2021, The Role of Science.

75 EASAC:a, 2017, Genome Editing: Scientific Opportunities; EASAC:b, 2020, The Regulation of Genome-Edited.

regulate products and traits rather than technologies.⁷⁶ To live up to its standard of basing legislation and policy recommendations on the best available scientific evidence, the EU should implement these recommendations, specifically by revising the Directive 2001/18/EC.

Additionally, the 2015 amendment of the Directive should be reversed. The amendment means that individual Member States could restrict or prohibit GMOs entirely, even if they were allowed at the EU level.⁷⁷ Previously, if Member States wanted to restrict or prohibit the use of approved GM products, they had to present evidence of potential harm associated with the products. The 2015 amendment lifted this requirement of evidence, which is inconsistent with the Commission's commitment to provide evidence-based policy suggestions. Hence, the 2015 amendment should be reversed. To further improve the consistency of the framework, the principle of regulating products and traits rather than technologies should, through the revised legislation, be enforced on individual Member States as well, and not solely on the wider EU level.

IV: CONCLUSION

The EU is not currently in a position to fully take advantage of NGTs as a tool to combat environmental degradation. Thanks to their inherent adaptability, NGTs can be highly useful in reaching many environmental goals, such as those outlined in the FtF strategy. However, a general lack of research, skeptical attitudes, and outdated legislation are some key hurdles that the EU needs to overcome. The EU should therefore inform its populace and institutions about the safety of GM products and the potential benefits of NGTs. It should also sponsor and undertake research on the uses and risks of NGTs. Furthermore, NGTs should be integrated to a much higher degree into the FtF framework. NGT-derived products should also be included in the umbrella term of organic products, as long as it meets the requirements of organic production that do not relate to genetic modification. Finally, the EU should update its current legislation dealing with genetic modification so it is in line with the best available scientific data. This means revising the Directive 2001/18/EC as suggested by this paper. These policy recommendations are important steps to

⁷⁶ Ibid.

⁷⁷ Ries, Frédérique. 2021. "Possibility for Member States to Prohibit Cultivation of GMOs on Their Territory." European Parliament. <https://www.europarl.europa.eu/legislative-train/theme-union-of-democratic-change/file-possibility-for-member-states-to-prohibit-cultivation-of-gmos-on-their-territory>

reach the potential of NGTs in the EU's fight against environmental degradation and making Europe a green continent.

To further develop the above recommendations, additional research should be conducted into balancing NGT-adoption with risks to biodiversity, the possibility of modifying animals used as livestock and feed (such as insects in the aquaculture industry), as well as the possibility of introducing a new EU label marking environmentally friendly NGT derived products.

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- b) EASAC. 2020. The Regulation of Genome-Edited Plants in the European Union. Commentary on the statement by the German National Academy of Sciences Leopoldina. <https://easac.eu/projects/details/the-regulation-of-genome-edited-plants-in-the-european-union/>

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- c) European Commission. 2014. EU Communication Campaign on Climate Action. doi:10.2834/60847
- d) European Commission. 2020. Farm to Fork Strategy. https://ec.europa.eu/food/document/download/472acca8-7f7b-4171-98b0-ed76720d68d3_en
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2. 2. Ecocide: Exploring the Potential Role of International Criminal Law in Mitigating the Climate Crisis

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It is believed that if the time since the inception of our universe is compressed into a twenty-four-hour period, the human race appears only in the last four seconds¹. Even in the last few milliseconds, the impact human beings and their actions have had on the planet have been immense and unfortunately, catastrophic. The United Nations' (UN) Intergovernmental Panel on Climate Change (IPCC) has presented a report assessing the future of our planet, prior to a key summit in Glasgow, namely COP26.² The contents of the report are alarming, to say the least. The report unequivocally and indisputably states that human actions have contributed towards the increasing temperatures, which in turn has grave, unavoidable consequences. Apart from relying on scientific and statistical data to affirm the gravity of the current climate crisis- referring to the rise in sea levels and record high temperatures; the report ominously states that there is no point of return from certain foreseeable consequences of global warming. There is no denying that this report is indeed a 'code red' for Humanity and serves as a warning.³

The consequences of climate change include frequent floods, droughts, extreme weather events, rise in sea levels causing the coastal regions to sink, salinization of water among others. All these events render unlivable conditions threatening food security, health and shelter- the three fundamental needs of human beings. In today's globalised world, such non-traditional security issues require global action shaped by international laws and norms. Environmental governance on a global level is governed by such international legal instruments and these instruments are expected to adequately address, investigate and work towards miti-

1 Greenwood, Lucy, "The Canary is Dead: Arbitration and Climate Change", *Journal of International Arbitration*, 38, no. 3, (2021): 309

2 "Climate change widespread, rapid, and intensifying" IPCC. August 9, 2021, Accessed on June 12. <https://www.ipcc.ch/2021/08/09/ar6-wg1-20210809-pr/>

3 Ibid

gating the consequences of the climate crisis.

In December 2019, Vanuatu's Ambassador to the European Union put forth a radical suggestion- to make the destruction of the environment an international crime.⁴ The reasoning behind this suggestion is that, when we refer to something as a crime, it is considered immoral, thus, enabling a shift in the global perception towards acts destroying the environment.

This paper will explore the historical evolution of the criminalisation of environmental destruction; namely the crime of 'ecocide'. Additionally, the paper will also analyse the consequences of such criminalisation, specifically, the legal and political repercussions.

I: DEFINING THE CRIME OF 'ECOCIDE'

1.1 Criminalization of Environmental destruction: A Brief History

The discourse surrounding the crime of environmental destruction is not new. The term 'ecocide' literally translates to "killing the environment". The concept emerged during the Vietnam War. During the war, American aircrafts sprayed gallons of an extremely toxic herbicide, 'Agent Orange', all over Vietnam. This led to the widespread destruction of forest cover, agricultural land and led to long term ramifications affecting human health.⁵ Taking cue from the UN Genocide Convention,⁶ Galston coined the term 'ecocide', which included within its ambit ecological damage, agricultural damage and damage to the population.⁷ Subsequently, the term was discussed at the UN Stockholm Conference on the Human Environment, focusing primarily on the Vietnam War.

In 1973, Falk urged the global community to "designate as a distinct crime those cumulative war effects that do not merely disrupt, but substantially and irreversibly destroy a distinct ecosystem".⁸ Consequently, Falk pro-

4 Sophie Yeo, "Ecocide: Should killing nature be a crime?" Future Planet, BBC, November 6, 2020, <https://www.bbc.com/future/article/20201105-what-is-ecocide>

5 Chiarini, Giovanni. "Ecocide: From the Vietnam War to International Criminal Jurisdiction? Procedural Issues In-Between Environmental Science, Climate Change, and Law" *Cork Online Law Review*. 21, no. 1. (April, 2022): 2 <https://ssrn.com/abstract=4072727>

6 United Nations Genocide Convention, January 12, 1951

7 Ranjan, Shwetangi, "Ecocide: A New International Crime" *Jus Corpus*, September 30 2021. <https://www.juscorpus.com/ecocide-a-new-international-crime/>

8 Falk, Richard A. "Environmental Warfare and Ecocide - Facts, Appraisal and Proposals" *Bulletin of Peace Proposals* vol. 4 no. 1 (March, 1973) <https://doi.org/10.1177/096701067300400105>

posed an “International Convention on the Crime of Ecocide”. Under this Convention, the term “ecocide” included within its ambit a wide variety of harmful acts committed with the intention of causing long term damage to the environment. The Convention criminalized ecocide, the conspiracy to commit ecocide, attempts to commit ecocide, complicity in ecocide as well as direct or public incitement to ecocide.

Part B of the Convention dealt with the questions relating to the international criminal jurisdiction over the crime of ecocide. It proposed the possibility of the International Law Commission, upon invitation from the UN General Assembly, considering the establishment of an international judicial organ for the trial of persons charged with ecocide. It also proposed the possibility of establishing a Criminal Chamber of the International Court of Justice

Falk’s concept of ecocide was viewed through the lens of the Genocide Convention of 1948. The global community briefly debated the inclusion of ecocide within the Genocide Convention. However, this inclusion was ultimately not adopted. In 1984, the International Law Commission also considered the inclusion of “acts causing serious damage to the environment” within the ambit of ‘list of acts to be classified as offences against peace and security’.⁹ Furthermore, the categorization of ecocide as a ‘crime against humanity’ was also considered.¹⁰ However, none of these suggestions or considerations were followed up on. The International Law Commission also proposed the inclusion of ‘a serious breach of an international obligation of essential importance for the safeguarding and preservation of the human environment’ as an international crime in the Draft Articles on State Responsibility.¹¹ However, this inclusion was not supported by a majority of states and was thus dropped. In 2010, a Scottish Barrister and environmental activist named Polly Higgins had put forth that, “extensive damage to, or loss of ecosystem(s) of a given territory, whether by human agency or by other causes, to such an extent that peaceful enjoyment by the inhabitants of that territory has been or

9 Draft Code of Crimes Against the Peace and Security of Mankind (Part II), Summaries of the Work of the International Law Commission https://legal.un.org/ilc/summaries/7_4.shtml

10 Yearbook of the International Law Commission, Documents of the forty-first session, Vol. II part 1, United Nations (1989): 86 https://legal.un.org/ilc/publications/yearbooks/english/ilc_1989_v2_p1.pdf

11 Draft articles on Responsibility of States for Internationally Wrongful Acts, Art. 41(d), United Nations (2002) with commentaries. https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf

will be severely diminished” would constitute the definition of ecocide.¹²

In the European context, a European citizens’ Initiative launched in 2012 was committed towards ending ecocide in Europe and strengthening a collaborative EU position on the crime of ecocide. A ‘Draft Ecocide Directive’¹³ was also put forth for adoption, however due to the lack of sufficient signatures required to instigate the European Commission, the draft directive was withdrawn in 2013. Despite a series of incomplete initiatives undertaken towards the criminalization of environmental destruction over the years, it is evident that the global community has continually displayed an interest in the protection of the environment and seeking means to enforce the same.

1.2 Statute of the International Criminal Court (“ICC”)

The Rome statute, the founding treaty of the ICC, was adopted on the 17th of July, 1998 and came into force on 1st July, 2002. The ICC was established to try and prosecute the most serious crimes committed by individuals- such as genocide, war crimes, crimes against humanity and crime of aggression. Such crimes threaten the ‘peace, security and well-being’ of the world.¹⁴ The statute mentions the environment and environmental destruction only in the context of war crimes. This made Article 8 of the Rome Statute, detailing war crimes, the first manifestation of an eco-centric crime being recognized by the international community.¹⁵ Although the inclusion of this provision is commendable, limiting the same in the context of an armed conflict is not enough especially since serious environmental destruction takes place during peace times.

In 2016, the ICC Office of the Prosecutor (“OTP”) released a policy paper focused on case selection and prioritization, which displayed the ICC’s inclination towards prosecuting crimes involving an environmental angle—specifically the destruction of natural resources, environmental damage and land grabbing¹⁶. However, such policy papers did not result in any substantial amendments. Since the ICC holds the jurisdiction to

12 Higgins, Polly. 2015 *Eradicating Ecocide: Laws and Governance to Stop the Destruction of the Planet*. 2nd ed. Shephard-Walwyn (Publishers) Ltd., 2015

13 End Ecocide in Europe: A Citizens’ Initiative to give the Earth Rights. https://europa.eu/citizens-initiative/initiatives/details/2012/000012_en Accessed on July 24, 2022

14 The Rome Statute, Preamble (2002)

15 The Rome Statute, Art. 8 (2002)

16 Office of the Prosecutor, Policy Paper On Case Selection And Prioritization no.1, paras. 7, 40 and 41. (2016)

prosecution environmental crimes committed in the context of an armed conflict, it is possible to expand the same and conceptualize an independent crime of environmental destruction under the Court's jurisdiction.

1.3 International Humanitarian Law

Articles 35(3), 55 and 85(3)(b) of the 1977 Additional Protocol 1 to the 1949 Geneva conventions lay down war crimes which include an aspect of environmental destruction. These articles prohibit the use of means and methods of warfare which could result in severe, widespread and long-term damage. Customary International Humanitarian Law also lays down rules prohibiting damage to the environment. Rule 43 states that the principles of distinction, military necessity, and proportionality governing attacks during an armed conflict are also applicable in case of attacks that result in the destruction of the natural environment. During an armed conflict, widespread environmental destruction is almost inevitable, yet there have been very few prosecutions for environmental damage since the Second World War.¹⁷

1.4 Introduction of the Fifth International crime

In the year 2020, Stop Ecocide Foundation convened the 'Independent Expert Panel for the Legal Definition of Ecocide'.¹⁸ This panel comprised lawyers with backgrounds in environmental, criminal and climate laws. It was convened to propose the addition of a fifth international crime to the Rome Statute, namely the crime of ecocide and formulate a legally sound definition for the same.

The definition reads;

"Ecocide is defined as...unlawful or wanton acts committed with knowledge that there is substantial likelihood of severe and widespread or long-term damage to the environment being caused by those acts."

- a. 'Wanton' means with reckless disregard for damage which would be clearly excessive in relation to the social and economic benefits anticipated;
- b 'Severe' means damage which involves very serious adverse changes, dis-

¹⁷ Gillet, Matthew "Environmental Damage and International Criminal Law", in Sustainable Development, International Criminal Justice and Treaty Interpretation. Edited by Sebastien Jodoin and Marie-Claire Condonier Segger. (CUP, 2013)

¹⁸ <https://www.stopecocide.earth/>

ruption or harm to any element of the environment, including grave impacts on human life or natural, cultural or economic resources;

c ‘Widespread’ means damage which extends beyond a limited geographic area, crosses state boundaries, or is suffered by an entire ecosystem or species or a large number of human beings;

d ‘Long-term’ means damage which is irreversible or which cannot be redressed through natural recovery within a reasonable period of time;¹⁹

The panel also acknowledged the need for subsequent amendments to the Rome Statute that would arise, in case this definition was integrated within the Statute and hence, referred to this suggestion as an ‘open clause’.²⁰

The definition includes two requirements that must be met in order for ecocide to be considered a crime. First, there must be a strong chance that the “acts” (including omissions) would harm the environment significantly and either widely or permanently. In other words, the damages must affect a larger geographic area or last for an unreasonable length of time in addition to seriously harming the environment’s elements. Second, the “acts” producing environmental harm must be illegal or wanton. It means that acts only constitute the crime of ecocide when they are either illegal under national or international law or show a reckless disregard for the environment’s excessive devastation in order to achieve social and economic gains. The second barrier safeguards a variety of human activities judged necessary, desirable, and reasonable for human welfare and suggests an anthropocentric approach to the term. Simply put, this might be interpreted as meaning: environmental destruction is excused as long as humans derive enough advantage from the same.

It is commendable that the Panel expanded the definition’s range by adding spatial and temporal aspects to its significance. To use a combination of conjunctive and disjunctive formulations in the definition, they have modified their position from that adopted in the earlier legislative instruments. In addition to being severe, such devastation may also be pervasive or long-lasting, which would qualify it as ecocide. Therefore, any drastic and pervasive action, like clearing vast rainforests, could be considered ecocide, provided such acts do not fall within the ambit of

19 Chiarini, Giovanni. “Ecocide: From the Vietnam War to International Criminal Jurisdiction? Procedural Issues In-Between Environmental Science, Climate Change, and Law” *Cork Online Law Review*. 21, no. 1. (April, 2022): 16 <https://ssrn.com/abstract=4072727>

20 Ibid

activities that are necessary for social welfare.

II: ANALYZING THE PROPOSED DEFINITION AND ITS CONSEQUENCES

Based on a reading of the historic development of the discourse surrounding the crime of ecocide, one may wonder why ecocide was introduced as the fifth international crime instead of adding it under the ambit of crimes against humanity.²¹ There could be a two-fold reasoning to the same; firstly, crimes against humanity implies an inherently anthropocentric nature and hence, would not adequately focus on the environmental considerations; secondly, the contextual elements required to establish a crime against humanity are not suited to accommodate environmental destruction.²²

A thorough perusal of the proposed definition of ecocide raises the following questions; first, the definition criminalizes “unlawful” acts, which raises the question; unlawful with reference to what? Does this imply that government sanctioned projects which could have grave environmental consequences would not constitute ecocide? Second, the definition adds another substantial likelihood” The definition of knowledge in Art. 30(3) of the Rome Statute is quite different: “awareness that a... consequence will occur in the ordinary course of events.” The ICC’s judges have interpreted Art. 30(3) to require the perpetrator to be aware that his or her actions are “virtually certain” to result in the prohibited consequence(s) — a much higher standard of subjective awareness than “substantial likelihood,” which is closer to recklessness — in line with nearly all national criminal-law systems.

Although, it must be mentioned that the commentary acknowledges and clarifies the usage of the term “knowledge”. The Panel determined that Article 30’s default *mens rea* for such consequences was too narrow and would not capture conduct with a high likelihood of causing severe and either widespread or long-term environmental damage, given the high thresholds for the consequences within the definition of ecocide. As a result, the Panel suggests a *mens rea* of recklessness, or *dolus eventualis*, which requires knowledge of a significant risk of severe, widespread, or long-term damage. As a result, “knowledge” in the definition of ecocide

21 Kevin Jon Heller, “Skeptical Thoughts on the Proposed Crime of “Ecocide” (That Isn’t)” *Opinio Juris*, July 23, 2021 <https://opiniojuris.org/2021/06/23/skeptical-thoughts-on-the-proposed-crime-of-ecocide-that-isnt/>

22 Ibid

essentially implies “recklessness” or “dolus eventualis” — “whatever comes to mind.”²³

The word “wanton” imports another element of *mens rea*, that is, recklessness, into the crime of ecocide, this time in reference to the severity of the damage. It is therefore not sufficient for a perpetrator to “know” that their actions will result in “severe and either widespread or long-term damage to the environment.”; but it also must be “wanton”²⁴. Additionally, he or she needs to be aware that the harm will be evidently excessive in comparison to the anticipated social and economic benefits. It will be difficult to demonstrate that the offender knew there was a good chance that his or her actions would result in the necessary environmental damage; it will be almost impossible to demonstrate that the offender knew the expected environmental damage would be clearly excessive in comparison to the anticipated benefits. This is quite similar to the war crime mentioned under Article 8(2)(b)(iv) of the Rome Statute- which requires the perpetrator to have been subjectively aware that the damage caused by the attack was excessive in relation to the anticipated military advantage.²⁵ This requirement holds the potential to significantly impede prosecution of ecocide.

The ICC currently has jurisdiction over international crimes committed by individuals. A significant limitation in terms of extending the jurisdiction of the ICC over environmental crimes is that the ICC does not recognize the concept of criminal liability of corporations. Corporations are responsible for a major chunk of environmental destruction.²⁶ The inclusion of legal persons within the gamut of international criminal liability would provide an avenue to end to the *facto* immunity which multinational corporations would enjoy for the most serious environmental damage.²⁷ The question of whether corporations should be amenable to the jurisdiction of the Court was considered during the Rome Diplomatic Conference.

23 Kevin Jon Heller, “Skeptical Thoughts on the Proposed Crime of “Ecocide” (That Isn’t)” *Opinio Juris*, July 23, 2021 <https://opiniojuris.org/2021/06/23/skeptical-thoughts-on-the-proposed-crime-of-ecocide-that-isnt/>

24 *Ibid*

25 The Rome Statute, Art. 8(2)(b)(iv) (2002)

26 Ricardo Pereira, “After the ICC Office of the Prosecutor’s 2016 Policy Paper on Case Selection and Prioritization: Towards an International Crime of Ecocide?” *Criminal Law Forum* 31, (2020): 179–224. Accessed on July, 26 2022. <https://doi.org/10.1007/s10609-020-09393-y>

27 Regina Rauxloh, “The Role of International Criminal Law in Environmental Protection” in *Natural Resource Investment and Africa’s Development*, ed. F. Botchway (Edward Elgar, 2011): 432-434 <https://doi.org/10.4337/9780857930408.00023>

Subsequently, it was decided that the Court's authority would be limited to punishing crimes committed by individuals.²⁸ As Scheffer explains, several factors influenced this outcome. First, due to the traditional practice of international criminal tribunals as forums for trying individuals, there was a lack of sufficient experience in international law and practice to provide an instructive reference point for framing the relevant provisions for direct corporate accountability in the Rome Statute.²⁹

Moreover, questions may also arise regarding what the definition implies by "severe and long-term damage". In the absence of any clarity with regard to these terms, perpetrators will be able to misuse the ambiguity to their advantage. To explain the same, a hypothetical example maybe taken- for instance, if the Chief Executive Officer ("CEO") of a fossil fuel-based company, proposes the establishment of a new industrial plant. In terms of the pros, the project will enhance employment, provide energy, generate significant income from exports among others. In terms of cons, the use of fossil fuels and the industry itself is capable of causing air pollution, water pollution and will affect the immediate environment. As we have observed with regard to climate change, the situation keeps worsening as we continue our existing environmentally harmful practices. But in this case, it can be argued that the plant was established lawfully, since the country in question does not prohibit the same and the anticipated benefits could be considered worth the environmental harm. The cost-benefit analysis is clearly focused more on the specific fossil fuel project and not fossil fuels in general- However, would the same activity be considered ecocide if the establishment of the same required the clearance of a large forest area? If the CEO confirms that they had not been reckless while proposing the project and had adequately weighed the costs against the benefits, would it still be considered ecocide? These questions are bound to arise if ecocide cases are tried in the form of criminal trials. This paper proposes that the present definition lacks the nuanced approach necessary for avoiding such confusions. Extending the same example, the fossil fuel-based plant in question is bound to cause environmental harm and such harm is bound to contribute to the worsening of the climate crisis- yet an array of defenses are available to the alleged perpetrator.

Historically, the motivations and actions undertaken to protect the en-

28 Per Saland, "International Criminal Law Principles" in *The International Criminal Court: The Making of the Rome Statute*, ed. Roy Lee (Kluwer Law International, 1999): 189.

29 David Scheffer, "Corporate Liability under the Rome Statute" *Harvard International Law Journal* 57 (2016): 35, 38. https://harvardilj.org/wp-content/uploads/sites/15/Scheffer_0615.pdf

vironment have been classified into two categories- anthropocentric and ecocentric.³⁰ Anthropocentrism refers to a more utilitarian approach which values the environment as a passive entity through the perspective of how it benefits humans. The ecocentric approach focuses on the protection of the environment irrespective of how it benefits humans- implying that all of the environment deserves protection including those parts which do not explicitly benefit humans.³¹ In light of the urgency presented by the climate crisis and the ominous warnings by way of unbearable heat waves, heavy floods and unpredictable weather patterns; the global community should focus more on ecocentric approaches. However, being environmentally-embedded creatures, it is not possible to achieve the well-being of humans in isolation from the protection of the well-being of nature.³² It seems impossible to separate humans from the environment; the well-being of the environment and the well-being of the human race are not mutually exclusive situations- hence, the approach to environmental policy-making should also avoid this distinction. Similarly, the definition of ecocide should also lay down a stricter criterion instead of allowing perpetrators to defend themselves by stating the objective benefits through a capitalistic lens, from an environmentally disruptive project.

III: CONCLUSION

There is no doubt that the proposed definition of ecocide, aiming to criminalize acts causing environmental damage is a remarkable step towards deterring activities destroying the environment. It generates the momentum necessary for pushing global actors towards taking stricter measures regarding environmental protection and raising standards of accountability for environmental offenders. However, there is still a long way to go before ecocide is considered an international crime.

The European Parliament has repeatedly displayed its support for a law criminalizing ecocide under the Rome Statute. Additionally, the Parliament also encourages the European Commission to assess the relevance

30 Heller, Kevin Jon and Lawrence, Jessica C., "The Limits of Article 8(2)(b)(iv) of the Rome Statute, the First Ecocentric Environmental War Crime" *Georgetown International Environmental Law Review (GIELR)*, Vol. 20 (2007): 4-5, <https://ssrn.com/abstract=979460>

31 Ibid

32 Rosemary Mwanza, "Enhancing Accountability for Environmental Damage under International Law: Ecocide as a legal fulfilment of ecological integrity" *Melbourne Journal of International Law* 19 no. 2 (2018): 8 Accessed on July 28, 2022 https://law.unimelb.edu.au/__data/assets/pdf_file/0005/2983055/Mwanza-unpaginated.pdf

of ecocide to EU law as well as EU Diplomacy.

Although a new crime of ecocide may present opportunities for restitution and accountability, it is crucial to be wary of how well it will serve these more general objectives. One benefit is that a new offence wouldn't be applicable in the past. This may result in many of the primary culprits of the climate crisis evading accountability, as others have stated. As previously noted in our hypothetical scenario surrounding the fossil fuel company, the present definition of Ecocide is complex and paves way for uncertainties. For ecocide to serve the intended purpose, that is, mitigation of the climate crisis, the paper opines that the definition requires certain modifications; firstly, it need not differentiate between lawful and unlawful acts. There is not a single state in the entire globe where it is impossible to engage in legitimate activity that results in widespread or long-lasting serious environmental harm. There are also numerous states where the majority of environmentally hazardous actions are legal due to the shortcomings of domestic law. Additionally, some states' governments themselves are to blame for environmental deterioration.³³ Secondly, unlawful acts should not be subjected to an anthropocentric cost-benefit analysis. If a lawful act intended to benefit humans cannot be carried out without posing a significant risk of causing severe, long-lasting environmental damage, then doing so should be illegal if the perpetrator is aware of the significant risk. Judging the worthiness of the act in anthropocentric terms unjustifiably dilutes the concept of ecocide. Thirdly, the requirement of wantonness allows the possibility of an interpretation that would acquit ecocide defendants even if they deserve conviction.

In conclusion, anything that brings the attention of the global community to the environment, is a good sign. Anything that is considered 'criminal' is placed below a moral red line;³⁴ 'Green criminologists' have explored how a stronger criminal law response to ecocide could help protect the environment and shift societal perceptions; consequently, the discourse surrounding the criminalization of environmental crimes propagates the seriousness and grave consequences of such actions. For ecocide to actually become a crime in the global sphere, more work needs to be done,

33 Heller, Kevin Jon, "Ecocide and Anthropocentric Cost-Benefit Analysis" Opinion Juris, July 26, 2021

34 Sophie Yeo, "Ecocide: Should killing nature be a crime?" Future Planet, BBC, November 6, 2020, <https://www.bbc.com/future/article/20201105-what-is-ecocide>

being mindful of the nuances of environmental harm and the urgency to act on the same.

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2. 3. Brave New World

Climate Change, Quality Infrastructure and Europe – New Frontiers and New Solutions

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I: INTRODUCTION

Europe currently faces substantial climate change risks. Record-breaking heatwaves, droughts and wildfires increasingly populate the landscape, undermining environmental, social and economic wellbeing. By 2060, It is predicted that extreme heat related economic losses in Europe will increase approximately five-fold compared to the historical period of 1981-2010.¹ ‘Economic losses’ is defined as the total impact extreme heat will have on total European GDP compared to the 1981-2010 period.²

In particular, Quality Infrastructure (QI) is under notable threat from climate change, which can be defined through the G20 Principles of Quality Infrastructure Investment.³ This includes the technical, economic and social dimensions of infrastructure, including maximising benefits across these dimensions and minimising risks. For example, if further mitigation and adaptation actions are not taken, EU economic losses from flooding are expected to grow to nearly €50 billion per year by the end of this century under a 3°C global warming scenario,⁴ which is a more conservative scenario compared to other Representative Concentration Pathways

1 David Garcia-Leon, Ana Casanueva, Gabriele Standardi, Annkatrin Burgstall, Andreas Flouris, and Lars Nybo, “Current and projected regional economic impacts of heatwaves in Europe”, *Nature Communications* 12, No. 5807 (2021)

2 For this study, ‘European’ was considered 274 regions representing all the EU-27 countries, United Kingdom and EFTA countries (Iceland, Norway, and Switzerland)

3 Japanese Ministry of Finance, “G20 Principles for Quality Infrastructure Investment”, accessed 2 November 2022, 2019, https://www.mof.go.jp/english/policy/international_policy/convention/g20/annex6_1.pdf

4 European Systemic Risk Board, Climate-related risk and financial stability (2021), <https://www.esrb.europa.eu/pub/pdf/reports/esrb.climateriskfinancialstability202107~79c10eba1a.en.pdf>

(RCPs) for global warming.⁵ This is six times higher compared to the present.⁶ However, limiting climate change to 1.5 degrees would halve the economic losses and population exposed to river flooding compared to an unmitigated scenario.⁷ Similar threats to QI will increase due to more frequent and intense heatwaves and proliferated sea level rise. Furthermore, the climate risks to European QI includes a disparate north-south spatial gradient – indicating Southern Europe experiencing stronger climate impacts than Northern Europe.

Climate risk is typically categorised as both a ‘physical’ and ‘transition’ risk.⁸ Europe, like all jurisdictions, faces both across the continent’s diverse physical, social and economic landscape. This article will focus on physical risks and assess the extent to which European infrastructure is prepared to face such risks. This regards the exposure and vulnerability of European infrastructure, and how it performs against normative standards of ‘Quality Infrastructure’;⁹ appraising the risks associated with the technical, economic and social dimensions of infrastructure. Additionally, it assesses prospective solutions to building further resilience, including regulatory and financial solutions.

II: PHYSICAL RISK - THE CHALLENGE

By 2050, it will cost European countries €19.6 billion per year to protect strategic infrastructure from climate change, and €37 billion per year by 2080.¹⁰ Protection can be achieved through various means, and requires both embedded resilience and sustained maintenance of physical assets. The energy and transport sectors are most at risk. Currently, annual costs to fix climate-related damage to European energy infrastructure is €500 million.¹¹ However, these costs are expected to grow by 860% by 2050 and 1600% by 2080.¹² Likewise, transportation faces a similar risk, including the impacts higher temperatures will have on street, highway

5 Jeff Tollefson, “How Hot Will Earth Get by 2100?”, *Nature* 580 (2020): 444-446.

6 European Systemic Risk Board, 2021.

7 European Systemic Risk Board, 2021

8 “Climate Change: what are the risks to financial stability?”, Bank of England, accessed 30 October 2022, <https://www.bankofengland.co.uk/knowledgebank/climate-change-what-are-the-risks-to-financial-stability>.

9 Japanese Ministry of Finance, “G20” (2019).

10 “Climate Change Puts Europe’s Infrastructure at Risk”, We Build Value, accessed 5 November 2022, <https://www.webuildvalue.com/en/megatrends/climate-change-puts-europe-s-infrastructure-at-risk.html>.

11 “Climate Change Puts Europe’s Infrastructure at Risk”, We Build Value.

12 “Climate Change Puts Europe’s Infrastructure at Risk”, We Build Value.

and railway conditions. Currently, it costs €800 million a year to repair climate-related damage to European transport infrastructure.¹³ However, this figure is projected to grow by 1500% by the end of the century.¹⁴

Furthermore, it is predicted that future flooding of the Upper Middle Rhine Valley in Germany will result in the closure of network sections due to flooding of the federal highway and the closure of ferries.¹⁵ Calamities such as this would lead to the rerouting of around 7,000 vehicles, 56 long-distance trains, 78 local trains transporting 500,000 people, and 119 freight trains per day. Additionally, over 60% of EU seaports may be under high inundation risk by 2100, instigating operational disruptions and damage to port infrastructure and vessels. This is particularly the case along the North Sea coast, where the traffic of over 500 ports accounts for up to 15% of the world's cargo transport.¹⁶

Likewise, extreme heat poses a large risk. European heatwaves have become more frequent and extreme, with the percentage of heatwave-induced damage to European infrastructure destined to reach 90% by the end of the century.¹⁷ Recent examples include airport runways becoming dysfunctional due to heat.¹⁸ Likewise, there are social and economic impacts derived from climate risks currently manifesting in France and Southern Europe. From early June to mid-July 2022, in countries such as Portugal, 1,000 deaths were recorded, and in Spain, 500.¹⁹

In the present and future, the countries of southern Europe, like Italy, Spain and Greece but also France, face the greatest risks from temperature increases.²⁰ This is in part due to the disruption of economic and consequently, social characteristics, of these countries, in large part due to

13 “Climate Change Puts Europe’s Infrastructure at Risk”, We Build Value.

14 “Climate Change Puts Europe’s Infrastructure at Risk”, We Build Value.

15 “UNECE study maps transport infrastructure at high risk due to climate change in Pan-European region and Canada”, UNECE, accessed 3 November 2022, <https://unece.org/transport/press/unece-study-maps-transport-infrastructure-high-risk-due-climate-change-pan-europe-an>.

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18 “UK Heatwave: Airports monitor runways after ‘melted’ tarmac cancelled flights with temperatures rising today”, iNews, accessed 1 November 2022, <https://inews.co.uk/news/uk-heat-wave-airports-runways-melting-tarmac-cancelled-flights-temperatures-rising-1749417>.

19 “Wildfires rage in Greece, Spain and Italy as heatwave moves across Europe”, BBC News, accessed 1 November 2022, <https://www.bbc.com/news/world-europe-62235561>.

20 “European Firms and Climate Change 2020/2021: Evidence from the EIB Investment Survey”, European Investment Bank, accessed 3 November 2022, 2021, https://www.eib.org/attachments/publications/eibis_2020_report_on_climate_change_en.pdf

their dependence on infrastructure for tourism, hospitality and primary industries. The risk is also exacerbated by the harsh drought prospects, threatening to undermine food production and agriculture.

Notably, the probability of physical climate risks is inversely related to the GDP per capita of the country of operation.²¹ Wealthier European countries have more fiscal capacity and health to mitigate and adapt to physical risks, from national, provincial and municipal levels. This partly explains the disparate spatial outcomes to climate vulnerability and resilience across Europe.

Importantly, the notion of ‘Quality Infrastructure’ implores a consideration of “maximising the positive impact of infrastructure to achieve sustainable growth and development” and “integrating social considerations in infrastructure investment”.²² This includes the economic opportunities and productivity enhancement born out of infrastructure, combined with it pursuing equitable and inclusive social outcomes. Hence, when assessing the vulnerability of European infrastructure, the social and economic flow on effects must be understood. This is especially when existing inequities are rooted in infrastructural deficiencies.²³ Furthermore, principles of socially conscious infrastructure are underpinned by the G20 Global Infrastructure Hub Framework for Inclusive Infrastructure.²⁴

For the sake of this article, housing is also be considered infrastructure. This is because of the critical role housing plays in facilitating equitable access to key services,²⁵ such as healthcare, education and transport, and its role in promoting social cohesion and wellbeing and economic productivity. Furthermore, in Europe it is increasingly recognised as a key determinant of fair and equitable economic growth and sustainable development.²⁶ It is also a key dimension of the climate resilience of urban infrastructure, and mitigating societal vulnerability.

21 “European Firms and Climate Change”, 2021.

22 Japanese Ministry of Finance, “G20” (2019).

23 “Towards just resilience: leaving no one behind when adapting to climate change”, European Environment Agency, accessed 30 October 2022, 2022, <https://www.eea.europa.eu/publications/just-resilience-leaving-no-one-behind>

24 “Inclusive Infrastructure and Social Equity”, Global Infrastructure Hub, accessed 30 October 2022, 2021, <https://inclusiveinfra.gihub.org/>

25 “Public Housing is Infrastructure”, Council of Large Public Housing Authorities, accessed 1 November 2022, 2020, <https://clpha.org/public-housing-infrastructure>.

26 “Relaunching investment in social infrastructure is the key to Europe’s future”, Housing Europe, accessed 5 November 2022, 2018, <https://www.housingeurope.eu/resource-1071/relaunching-investment-in-social-infrastructure-is-the-key-to-europe-s-future>

Johanna Lovecchio, the Director of program design for climate action at Columbia Climate School and Advisor to Columbia Center for Resilient Cities and Landscapes, recognises this intersection, stating “vulnerability is a function of society”.²⁷ This even includes the “materiality” of a city, which can be determined by the “geography and urban form of the city... overcrowded and substandard housing”. The ultimate aim and hope is for communities to “absorb, respond, adapt and even thrive” in the face of climate fragility.

This is complemented by the remarks of Stewart Sarkozy-Banoczy,²⁸ Global Director, Policy and Investments at the Resilient Cities Network and the founder of Precovery Labs. He believes “you tend to have the smart cities movement, data, technology...when you haven’t quite fixed the equity and inclusion issues, and those technological things do not automatically fix the other factors”. For example, it might be the case that infrastructural resilience is occurring where there are intersectional vulnerabilities, including “people...who might already live in an area with sea level rise, but it’s also cancer alley because of the pollution that’s around it or industry that’s around it...and let’s just throw in that it happens to be in an area that gets hurricanes”.

In a number of European countries, more vulnerable communities live in dense urban environments and as a result, are likely exposed to higher temperatures due to the urban heat island effect.²⁹ Additionally, in some European countries, the areas at higher risk of floods tend to have higher proportions of disadvantaged people than areas at lower risk of floods.³⁰ More vulnerable populations do not always have access to the same adaptive capacity of wealthier populations. This is for a number of reasons, including the fact that those of lower socio-economic status cannot access green spaces or insurance protections to the same extent as higher socio-economic groups.

Examples of positive social outcomes from infrastructure include Urban

27 Johanna Lovecchio (Director of Program Design at Columbia Climate School) in discussion with James Balzer, Zoom recording, July 19 2022.

28 Stewart Sarkozy-Banoczy (Global Director of Policy and Investments at the Resilient Cities Network) in discussion with James Balzer, Zoom recording, August 16.

29 “Unequal Exposure and Unequal Impacts: Social Vulnerability to Air Pollution, Noise and Extreme Temperatures in Europe”, European Environment Agency, accessed 29 October 2022, 2018, <https://www.eea.europa.eu/publications/unequal-exposure-and-unequal-impacts>

30 “Towards just resilience”, European Environment Agency.

Blue-Green Infrastructure,³¹ public places for recreation and social cohesion, equitable access to public transport, high quality housing, equitable economic benefits from infrastructure development and operations and proper air and water quality.

This beckons for ‘just resilience’- emphasising that the impacts of climate change are not felt equally by all groups and that achieving infrastructural resilience in an equitable way is essential for the equal distribution of climate adaptation benefits.³² This is something being considered in the EU Adaptation Strategy.³³

III: PHYSICAL RISK - THE SOLUTION

Solutions to the physical risk of climate change are varied and complex.

Typically, policies such as spatial planning frameworks to redirect development away from high-risk areas, and adjusting environmental and infrastructure regulations, such as project and policy appraisals, can and have worked to this end. These include assessing and updating Strategic Environmental Assessment and Environmental Impact Assessments, alongside regulatory and economic standards (such as building codes). Furthermore, strong normative frameworks, principles and standards guide solution building agendas for infrastructural climate resilience. Examples include the UN Habitat Urban Resilience Hub’s City Resilience Global Programme (CRGP),³⁴ and the City Resilience Profiling Tool (CRPT).³⁵

Additionally, tools for decision-making in uncertain contexts can reduce the need for costly retrofitting while reducing upfront costs. Alternative-

31 Shalini Dhyani, Sunidhi Singh, Mrityika Basu, Rajarshi Dasgupta, and Harini Santhanam, “Blue-Green Infrastructure for Addressing Urban Resilience and Sustainability in the Warming World”, in *Blue-Green Infrastructure Across Asian Countries*, ed. Shalini Dhyani et al. (Singapore: Springer, 2022).

32 “Towards just resilience”, European Environment Agency.

33 “Communication from the commission to the European Parliament, the Council, the European economic and social committee and the committee on the regions empty: Forging a Climate Resilient Europe – the new EU Strategy on Adaptation to Climate Change”, European Commission, accessed 3 November 2022, 2021, <https://eur-lex.europa.eu/legal-content/EN/TX-/?uri=COM:2021:82:FIN>

34 “City Resilience Global Programme”, UN Habitat, accessed 28 October 2022, 2020, <https://unhabitat.org/programme/city-resilience-global-programme>

35 “Guide to the City Resilience Profiling Tool”, UN Habitat, accessed 28 October 2022, 2018, <https://unhabitat.org/guide-to-the-city-resilience-profiling-tool>

ly, 'soft' infrastructure, such as nature-based solutions (that is, resilience solutions derived from natural assets) are often cheaper than traditional approaches.³⁶ It is also commonly appreciated that the benefits of investing in resilience have high benefit-cost ratios, for example of investment in flood defences for coastal cities.

Increased investment, from both public and private sources, is an obvious approach, but the question of how to apply such financing is debated. Examples may include public procurement processes that consider climate resilience when comparing bids, by accounting for costs over the asset lifetime under alternative scenarios. However, even the increasingly severe impacts of climate change expected later in the design life of the project are unlikely to be considered by the project developer at the design stage unless there is government regulation mandating such.

Stewart Sarkozy-Banoczy believes the broader governance and regulatory environment is a contributing determinant for infrastructure resilience, as "this is where policy meets investments...you could stay on the funding and finance side of the operation...and ignore that other side of the equation". For example, he highlights how if you change zoning, building codes or procurement processes, "you're ahead of that curve...because then it's not just a lender saying 'hey we should do this'...so there's a lot of carrot and stick involved...it has to be precovery mindset, not recovery treadmill".

Likewise, the use of financial instruments such as green bonds, sustainability-linked loans and community municipal investments are difficult to apply in the context of climate adaptation,³⁷ with approximately 3-5% of green bond issuances have been used for adaptation purposes. This is largely because the public and the private sectors find it difficult to justify the upfront costs to taxpayers or shareholders for such investments, as building resilience requires a long-term investment horizon, competing for resources with other more immediate objectives.³⁸

Alternative financial instruments include insurance-linked securities such

36 "Nature-based Solutions", IUCN, accessed 29 October 2022, 2019, <https://www.iucn.org/our-work/nature-based-solutions>

37 "Financing Climate Resilience", Oliver Wyman, accessed 4 November 2022, 2017, <https://www.oliverwyman.com/our-expertise/insights/2017/dec/financing-climate-resilience.html>

38 "Financing Resilience", Center for Climate and Energy Solutions, accessed 4 November 2022, 2019, <https://www.c2es.org/content/financing-resilience/>

as ‘Catastrophe Bonds’ and ‘Environmental Impact Bonds’ are nascent yet increasingly utilised sustainable finance instruments for resilient infrastructure.³⁹

Likewise, emerging initiatives, such as the Resilient Communities Impact Fund (RCIFund),⁴⁰ and Adrienne Arsht-Rockefeller Foundation ‘Cool Capital Stack’ Fund⁴¹ are seminal examples of major investments in infrastructural climate resilience, and may inspire further finance initiatives to engender resilience outcomes. This is especially derived from their mix of grants, philanthropic funding, concessional and blended financial, parametric insurance and traditional debt and equity capital.

Johanna Lovecchio also cites the need for private finance for infrastructure resilience, recognising that public finance alone is not sufficient in developing infrastructure climate resilience. She cited the \$US 97 trillion gap in infrastructure financing by 2040,⁴² and the fact that only 25% of sustainable financing is directed to climate adaptation.⁴³ In particular, Johanna flagged the need to consider investing in what is “good” infrastructure, including a consideration of “externalities...jobs and social benefits” even “rethinking nature as infrastructure”, including through nature-based solutions that also abide by principles of blue-green infrastructure⁴⁴. Johanna also noted the need to “mobilise the private and philanthropic sectors” through vehicles that de-risk investments that might otherwise be difficult to justify to boards or directors and shareholders by lack of short-term returns, political risks, weak governance, or lack of creditworthiness or local capacity.⁴⁵ Vehicles that range from technical assistance grants for project preparation to insurances, concession

39 “Financing Climate Resilience”, Oliver Wyman.

40 “Resilient Communities Impact Fund”, Resilient Cities Network, accessed 21 October 2022, 2022, <https://resilientcitiesnetwork.org/the-resilient-community-impact-funds/>

41 “Arsht-Rock Announces the Cool Capital Stack: A \$750 million Investment Pipeline to Protect the World from Extreme Heat”, Adrienne Arsht-Rockefeller Foundation Resilience Center, accessed 10 November 2022, 2022,

<https://onebillionresilient.org/2022/11/09/arsht-rock-announces-cool-capital-stack/>

42 “Global Infrastructure Hub”, Global Infrastructure Hub, accessed 13 November 2022, 2021, <https://outlook.gihub.org/>

43 “Remarks by Mia Amor Mottley, Prime Minister of Barbados”, UNFCCC, accessed 3 November 2022, 2021, https://unfccc.int/sites/default/files/resource/Her_Excellency_Ms._Mia_Mottley_Prime_Minister_of_Barbados.pdf

44 Blue-Green Infrastructure Across Asian Countries (2022).

45 “The Blended Finance Playbook for Nature-based Solutions”, Earth Security, accessed 21 October 2022, 2021, <https://www.earthsecurity.org/reports/the-blended-finance-playbook-for-nature-based-solutions#:~:text=Earth%20Security's%20new%20report%20provides,to%20unlock%20investments%20in%20nature.>

agreements, and payments for performance are among these strategies.

Stewart Sarcozy-Banoczy also agrees with the strong bias of climate financing to climate mitigation. As he says, “the entire climate change system, until you blend that with the Sustainable Development Goals, was very mitigation focused”. However, he believes that climate mitigation financing is beginning to have an adaptation focus, or as he terms, a “full resilience focus”. However, he also believes many financiers have a siloed approach, meaning “it’s making sure we have these silos that get broken...it’s moving the spectrum across into adaptation and keeping the mitigation piece with it, but it’s also breaking those thematic or SDG based silos”.

Esteban Leon, the head of the City Resilience Global Programme at UN Habitat, also cited the challenge of financing adaptation projects, with there being a strong bias towards mitigation projects in current ESG taxonomies.⁴⁶ Additionally, he cited the need for strong technological adaptation measures to complement ‘soft’ measures such as nature-based solutions.

IV: CONCLUDING REMARKS

European infrastructure faces major physical risks from climate change. In particular, QI is under threat, including the technical, economic and social components of infrastructure. In coherence, a strong consideration of these 3 components lead to best practice social, economic and environmental outcomes. Climate change poses a threat to these three components of QI. These especially include risks to infrastructure integrity, which has social, economic and environmental consequences. The economic costs to mitigate these risks are high, but a lack of mitigation is even more costly.

Furthermore, the social dimensions of QI are especially threatened by climate change where social inequities and risks already exist. This includes the intersection of infrastructure with local health outcomes, the extent of blue-green infrastructure, the quality of housing infrastructure, the presence of public spaces and so forth.

⁴⁶ Esteban Leon (Head of the City Resilience Global Programme at UN Habitat) in discussion with James Balzer, Zoom recording, August 13.

To mitigate and adapt to these physical risks, competent and comprehensive systems thinking must be applied. However, developing appropriate, timely and practical solutions is difficult. This is across both regulatory and financial domains, with sustainable finance's role in addressing this risk, while innovative, is debatable and nascent. However, the increasing interest and proliferation of sustainable finance beckons its increased involvement in climate adaptation. This is complemented by a maturing regulatory landscape.

Regardless of the challenges in finding solutions, Europe's sustained future depends on mitigating and adapting to physical climate risk and maintaining standards of QI. Current events demonstrate the consequence of lacklustre adaptation, and the long-term, cross-cutting impacts are still to be fully realised.

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EU AND US RELATIONS WITH ASIA

3. 1. Between convergence and divergence - Will tech rebalance the power dynamics between Asia and The West?

SUBMITTED BY

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The evolution of technologies such as the internet, social media and e-commerce have accelerated globalisation and created a market-driven economic force which is progressively defining the political and economic power of a nation. This unavoidably redefines the power dynamic between countries and more importantly the two poles, the East and the West. The relations between the United States and European Union on one side and the Asian countries on the other, have always oscillated between collaboration and cooperation. Will globalisation and its driving forces, most importantly technological innovation, shift the power dynamics towards a new hegemony? A multipolar world? Or a uniform globalised economic system?

Historically, the 1991 collapse of the Soviet Union led to a transition from a bipolar to a unipolar world. The end of the Eastern superpower made the United States the dominant hegemonic power which consequently led to a spread of the Western value system, ideas and ways of organising

the world. The US and to some degree Europe were in charge of global governance. Capitalism became the dominant global economic system and even led to the development of market-oriented systems in former socialist states such as China and Russia. The emerging economic system led to the increase in popularity of globalisation concepts, ideas and theories especially during the Clinton era between 1993 to 2001. At the end of his presidency, the US had a very strong position both in terms of military and economic power and the capitalistic system was considered an exemplary economic model.¹ The time between 1990 to 2015 was a period of a hegemonic ascent of the United States after the collapse of the Soviet Union which marked the end of the bipolar system dominated by the East-West superpowers. It was equally the time when the European Union was founded and the term BRIC economies were created; BRIC is an acronym including the four emerging economies of the time: Brazil, Russia, India and China. In addition, strategic wars in the Middle East triggered by terrorist attacks and the subprime crisis in 2008 further shaped the global landscape with its "decline and fall cycles".² Those substantial changes in power dynamics in a very short time frame have shaped the globalisation process and vice versa.

The formation of the EU and the rise of China, India and the ASEAN³ counterbalances US hegemonic leadership. The EU was formally formed in 1993 as a consequence of a long-term process which has been accelerated by the collapse of the Soviet Union. The new union was quickly developing and forming a normative power next to the United States.⁴ Asian economies emerged rapidly and gained financial and political power. Nowadays, although the potential of Eastern emerging economies is substantial, their future influence on global power dynamics is still unclear due to political instabilities and because their institutional system is traditionally oriented towards the US.⁵

In 2002, Goldman Sachs predicted that China would overtake the US economy in size (GDP) before 2050 and that the BRIC states (China, India, Brazil and Russia) would be among the ten biggest economies, a daring prognosis given the fact that there had been little change in the list of the

1 LSE Author-Team, "Understanding the global economy," Business, International Relations and the Political Economy (2021).

2 Taylor McNeil, "Why the United States Is the Only Superpower," Tufts Now (2019), <https://now.tufts.edu/2019/11/21/why-united-states-only-superpower>.

3 Association of Southeast Asian Nations

4 Ian Manners, "The European Union's Normative Power: Critical Perspectives and Perspectives on the Critical," (Palgrave Macmillan UK, 2011).

5 Author-Team, "Understanding the global economy."

biggest economies during the last century.⁶

The global powers are shifting from West to East, however, it is unclear if this change will be permanent. "The East" is, unlike "The West", a construct of a group of nations with heterogeneous mindsets, ideology and traditions. It is possible that this heterogeneity will compromise the formation of the East as a hegemonic power. In addition, development of democracy may align Eastern countries to Western ideologies and thus rather equalize global powers than opposing the present ones.

Globalisation, which can be defined as "the increasing interdependence of world economies as a result of the growing scale of cross-border trade of commodities and services, flow of international capital and wide and rapid spread of technologies"⁷ has been documented starting from the nineteenth century, but has accelerated in pace from 1970 to 2010.⁸ Globalisation aims to integrate markets and through increased cooperation decrease inefficiencies that ultimately results in the creation of multinational corporations (MNCs) which in the tech sector have become immensely powerful following the demand for digital platform solutions in social media and to access goods and services but also in the field of artificial intelligence, internet of things or electric mobility. Apple has made a demonstration for an economically successful East-West collaboration by developing their consumer products in the United States and producing them in China. Technology is an important promoter of globalisation as it provides solutions to access information, reduce shipping costs and facilitates communication.⁹ International organisations, such as the World Trade Organisation (WTO) established in 1995, act as an institutional entity to reduce both tariff and non-tariff barriers and can be considered an important stakeholder in economic globalisation.¹⁰ Both MNCs and international trade organisations promote convergence of markets which will allow underdeveloped countries with lower gross domestic products (GDPs) to catch up to the level of countries with higher GDPs. Interestingly, in a historical perspective, globalisation goes hand in hand with eradication of old empires (defined as a "extensive groups of states or countries ruled by a single monarch, oligarchy, or sovereign state") such

6 Jim O'Neill, "The long-term outlook for the BRICs and N-11 post crisis," Goldman Sachs Global Economic, Commodities and Strategy Research (2009), <https://www.goldmansachs.com/insights/archive/brics-at-8/brics-the-long-term-outlook.pdf>.

7 Shangquan Gao, "Economic globalization: trends, risks and risk prevention..," (2017), https://www.un.org/en/development/desa/policy/cdp/cdp_background_papers/bp2000_1.pdf.

8 Steger Manfred, "Globalisation: A Very Short Introduction," Oxford University Press (2017).

9 Gao, "Economic globalization: trends, risks and risk prevention.."

10 Author-Team, "Understanding the global economy."

as the Soviet Union or the Kingdom of Japan.¹¹ Formerly, those empires used to control the flow of goods and services whereas nowadays those transactions are made through more diversified platforms produced by the market economy.

Historically, China was reached by the West by the end of the 17th century following voyages by the Portuguese, Spanish and Dutch across the Atlantic via the African and South American subcontinent. Trade routes began to flourish and were initially brutally controlled by the Portuguese, and eventually by the British East India Company, focusing on trade of silk, porcelain and tea from China and watches, clocks and other goods from the West. This trade relationship was fruitful until the industrial revolution in Europe brought a disbalance into the relationship. The new machinery allowed mass production of goods for export to China which led to an overflow of the markets. Increasingly, the Chinese were urged to open their ports and additional routes to allow trade. The Western trade routes also allowed the export of opium from India to China which led to dreadful consequences. It created addicts and social problems which had not been seen before on the continent to this extent. Thus, the Chinese officials decided to burn British opium which culminated in the Opium War later won by the West. This event allowed Western forces to gain substantial influence over China on the economic and jurisdictional level. Specifically, China was forced to pay indemnity to the country which had defeated them and lawsuits were conducted under foreign law. This was felt as a great humiliation by the Chinese who considered themselves as an advanced civilisation. The war with Japan in 1894, which emerged over a dispute over supremacy in Korea, worsened the situation. It eventually led to the politic of "Open Door" which brought American trade a privileged position in return for protection from colonisation by European powers or Japan.¹²

Later, during 1899-1900, a dispute between China and foreign powers called the "Boxer rebellion" is another example of the conflictual historic relationship with the West. At the time, Western rail and telegraph lines were blamed for famines and floods in China, an interpretation that led to an anti-Western sentiment that combined with aggressions against Christian missionaries who had privileges in the country. Missionaries

11 Oxford Living Dictionaries, "Empire," (2017), <https://www.lexico.com/definition/empire>.

12 Various authors of the American Historical Association, "China and the West," AHA History and Archives (2022), [https://www.historians.org/about-aha-and-membership/aha-history-and-archives/gi-roundtable-series/pamphlets/em-42-our-chinese-ally-\(1944\)/china-and-the-west](https://www.historians.org/about-aha-and-membership/aha-history-and-archives/gi-roundtable-series/pamphlets/em-42-our-chinese-ally-(1944)/china-and-the-west).

and Chinese Christians became the target of “the Boxers”, a religious sect which gained rapid influence. Violent conflicts emerged, resulting in many deaths on both sides and eventually, the killing of the German ambassador in Beijing in 1900. This incident demonstrated how the relation between China and the West became fragilized on a religious and political level.¹³

Asian nations, especially China have always been difficult for the West to understand. Frequently, Western businessmen or politicians assume that causalities which apply to the Western world would be transferable to an Eastern mindset. However, political freedom, which was a consequence of economic freedom in the West, may not naturally emerge in the same way in China where - despite substantial economic growth - political rights are (to a large extent) controlled by the communist party that imposes restrictions on the press, free speech and the internet.¹⁴

Many Western nations such as France, Germany or England have been pluralistic democracies since the Second World War and ideas of free will and independent jurisdiction have been present for a long time, since the French revolution in 1789. The current economic growth in China, however, does not happen in the context of a railed, political and democratic development. Xi Jinping, the general secretary of the communist party, shows little interest in integrating liberal ideas into the political system but rather intends to maintain the authoritarian leadership structures to conduct reforms to improve the country’s success. China’s political system is ideologically based on Marxist-Leninist theories. Thus, analogies from a Western perspective, trying to anticipate changes in the Chinese state governed in a completely different way, are by principle biased because China’s political and ideological trajectories differ from the West. A change in the Chinese system is unlikely to occur in the near future because the population supports the regime and considers its actions generally efficient in increasing wealth and prosperity, as far as this can be assessed from an outsider’s point of view. The Chinese support for a strong government may come from the fact that the country had to defend itself several times in the past against foreign invaders, such as the

13 Andrew Wilson, "China's Early Encounters with the West: A History in Reverse," Foreign Policy Research Institute (2008), <https://www.fpri.org/article/2008/04/chinas-early-encounters-with-the-west-a-history-in-reverse/>.

14 Rana Mitter and Elsbeth Johnson, "What the West Gets Wrong About China," Harvard Business Review, no. Spotlight Series/Understanding China (2021), <https://hbr.org/2021/05/what-the-west-gets-wrong-about-china>.

Japanese during the Second World War or the British during the Opium wars. Foreign nations are therefore often seen as a potential threat rather than a collaborator; a view which still shapes China's foreign politics today.¹⁵

The strong government and the communist ideology underlying its decisions has implications on the business world, specifically the market dynamic and property rights. The communist party imposes restrictions on foreign enterprises and protects domestic incumbents that has led to a separation of the markets between East and West, quite visible in the tech sector.

From a Western perspective, the United States has benefited from technology exports to emerging Asian markets. However the US government has recently expressed increasing concerns that China's emerging science, technology and supply chain industry may create national security risks, specifically with regards to improvements in intelligence capabilities. The director of the US national intelligence, John Ratcliffe defined China "the greatest threat to America today". The United States is worried that civilian technologies such as drones or innovations from Artificial Intelligence or Quantum technology research could be used for military or intelligence operations and thus added several Chinese companies, specifically chip and semiconductor manufacturers, to a trade blacklist. In addition, China does not share the same ideas on property law, trade practices and human rights as the West. This ideological conflict resulted in the closure of the Chinese Consulate in Texas, which was considered a hub for espionage and intellectual property theft.¹⁶ Importantly, the lines between the public and private sector in China are blurred and Chinese tech companies are suspected to be under control of the communist party to a degree which is difficult to assess due to a lack of transparency and democratic structures. While China has so far been behind in basic research and technology transfer, the Chinese government is interested in setting incentives to stimulate the private market to invest into research and development to produce Chinese technologies capable of conquering foreign markets. Exemplary projects are the microelectronic sector with Huawei's mobile phone innovations and its participation in the 5G mobile network infrastructure. In social media, TikTok, a mobile

15 Johnson, "What the West Gets Wrong About China."

16 Council on Foreign Relations, "U.S. Relations with China," (2022), <https://www.cfr.org/timeline/us-relations-china>.

video sharing platform owned by the company ByteDance has become immensely popular globally.

At the same time, the private sector in China is very competitive, and companies are interested in producing cutting-edge technologies. Experts claim that China has already won the battle for the best artificial intelligence technology.¹⁷ In addition, China has successfully kept foreign multinational companies out of their market or limited their business activities in order to create room for their own domestic enterprises. The United States are therefore equally inclined to impose restrictions on the Chinese tech sectors to protect their own markets and their national security. A technology with substantial conflict potential are cloud servers, which are progressively being used by tech companies. If market dominance is reached by a cloud service provider to a degree which would force investments into a specific company, for instance Amazon, security concerns would become very pertinent.

Some voices of the international press are overall more pessimistic and have coined the terms “trade war” or “technology war” to describe the rivalries between the US and China. While the US has highlighted severe security concerns, Beijing is appeasing this criticism and claims that the behaviour of the West is polemic in nature, with the goal to challenge China’s place as a global technological superpower. In addition, national security has often been used by the US as an excuse to initiate regulatory governmental interventions which are protectionist in nature and thus beneficial for the US tech sector. The Trump administration was very clear in its National Security Strategy in 2017 and stated that “economic security is national security”, which reflects the level of concern over the emerging Asian economies. The current constellation could well lead into a blockage since both superpowers, the US and China, are interdependent of each other which makes each side vulnerable to the other; a situation that could lead into a ping-pong of reciprocal strategic sanctioning, undermining directed development of each nation’s potential.¹⁸ At the same time, the European Union is discussing if it should claim its own digital sovereignty and develop its own core technologies. Interestingly, voices become loud that the European Union should learn from Asia to avoid falling further behind in technology development. Europe’s

17 Reuters, “China has won AI battle with U.S., Pentagon’s ex-software chief says,” (2021), <https://www.reuters.com/technology/united-states-has-lost-ai-battle-china-pentagons-ex-software-chief-says-2021-10-11/>.

18 Darren Lim, “The US, China and ‘Technology War’,” Global Asia (2019), https://www.globalasia.org/v14no1/cover/the-us-china-and-technology-war_darren-lim.

venture capital investments in technology are around one fifth compared to the US or China. China's industry in the field of e-commerce, social media and fintech is already very profitable and set to become even more important in the future. It will become increasingly pivotal for European governments to learn how to accelerate start-up ecosystems and companies and reduce overregulation. Mentality differences may also play an important role: ASEAN or Chinese entrepreneurs are willing to adapt fast to new trends and income sources and take the risk to fail, whereas European start-ups are more risk-averse and aim to create long-term value. Europe should not continue to stagnate or lose itself in ideological discussions, instead, it could use the opportunity to learn from its Eastern sparring partners.¹⁹

India, in contrast to China, is much less controlled by the government and public, government-owned companies do not feature as prominently in the country's domestic economy as they do in China. This can be both an advantage and disadvantage; on the one hand, countries with weak institutions and poorly regulated economies often cannot create strong economic growth. On the other hand, market forces may oppose control of a government which may act in its own rights and interests.²⁰ The current rivalries between the East and West have implications for policy development. It will be central that nations manage to define the boundaries of national security in mutual agreement to avoid conflicts. The risk for escalation can be considered substantial as the past has shown that every power shift was associated with some form of conflict. It will be important for the global community to observe the activities of the Chinese government and judge to what extent their leaders are willing to engage in dialogue to define boundaries of national interests and security as part of a rule-based international order.²¹ Mutual learning will be central for the world in order to solve global problems such as poverty, inequality and climate change.

Over the last decades, and more precisely between the 1980s and 2020, the Chinese economy has grown at impressive rates of around 9% per year. The economy has doubled in size every eight years and China has

19 Fabian von Heimburg, "Europe needs to learn from Asia to stop falling behind in tech," (2021), <https://www.weforum.org/agenda/2021/03/europe-learn-from-asia-stop-falling-behind-tech/>.

20 Daron Acemoglu, "Europe needs to learn from Asia to stop falling behind in tech," Crown Publishers (2012).

21 The Great Decoupling? The Future of Relations between China and the West, 2022. <https://www.youtube.com/watch?v=YKwpRLx8RmY&t=98s>.

emerged as the greatest exporting power. The industry and the urbanisation make China the biggest consumer of energy worldwide. Asian governments collaborate with regional tech companies to facilitate the development of renewable energy of which Asia already has the largest share with 45% compared to 16% in the United States and 25% in Europe.²²

Furthermore, China releases 10.5 million graduates to the job market every year and thus needs to produce eleven million jobs annually. While the state and the political parties have strong regulatory power, this is still an important challenge and requires a strong private sector since the public sector cannot provide so many jobs. Currently, 90% of the new employment opportunities is created by the private sector, mostly in urban parts of the country. The large job market and the number of highly skilled professionals equip Asia with a large pool of talent for science, technology, engineering and mathematics (STEM); India, as another example of an emerging Asian country in a head-to-head race with China produces three quarters of the world's STEM graduates.²³ A solid education level is important to successfully use novel technologies, such as digital platforms, artificial intelligence, blockchain or quantum technology. These technologies are transformative for different industries and are considered important for intelligence and military purposes, thus, there is a national interest in being competitive in those disciplines. The private sector is important as it is considered to create more than 60% of innovation. Furthermore, the private sector is responsible for around 60% of the gross domestic product (GDP) while being relatively independent of state funding by the national bank. Specifically, the entrepreneurial sector and the tech industry are booming in Asia at the moment: 43% of the start-up funding and 52% of the global growth in tech company revenues have been created in Asia. China is home to 26% of the world's unicorns (valuation of one billion dollar or more) and 90% of the smartphones are made in Asia.²⁴ Even if United States is considered to be at the forefront in terms of hardware and know-how, China has massive data sets available which can be used to develop AI algorithms. Emerging ASEAN nations and Chi-

22 Jonathan Woetzel, "What is driving Asia's technological rise?," McKinsey Global Institute (2021), <https://www.mckinsey.com/mgi/overview/in-the-news/what-is-driving-asias-technological-rise>.

23 Woetzel, "What is driving Asia's technological rise?."

24 Woetzel, "What is driving Asia's technological rise?."

na also have the will and pressure to succeed and lead in the field of AI.²⁵

While the Chinese political system is based on communist principles and ruled by a communist party, the market system maintains capitalistic traits. As a response to the market growth, the economy is becoming progressively liberal but the communist party still has substantial regulatory powers. The government is very protective about the economy and does not allow foreign companies the same freedoms as domestic enterprises. Between 1980 and 2020, British exports to China increased every year by 3% but at the same time imports increased by 9% annually which shows a trade imbalance and a lack of reciprocity.

From a business perspective, Chinese markets are difficult to understand for a Westerner because the markets are variable with regards to income and education of the stakeholders, level of digitisation and consumer behaviour and growth in different parts of the country. Digital technologies, such as networking platforms similar to LinkedIn and video conferencing software, which became popular during the 2019 Covid pandemic, are likely to facilitate business relationships by removing interpersonal cultural barriers.²⁶

One Chinese initiative which should foster collaboration with the West in a controllable and regulatable way is the Belt and Road initiative, a trillion-dollar international infrastructure program involving around 140 countries, which aims to strategically use digital technologies such as 5G, big data, AI and satellite navigation to build a world-leading IT infrastructure. While a certain level of control and regulation may be desirable in an emerging economy to avoid over-competition, the project has been heavily criticised for the risk of cyber espionage by the Chinese government and the spread of ideas and values which are not universally accepted. Economic collaborations derived from the scheme are generally beneficial; for instance, Alibaba's activities in Malaysia which include a Cloud data centre and a digital free trade zone allow Malaysia to derive economic and infrastructural benefits. However, a report on the collaboration highlights geopolitical and privacy concerns and recommends careful consideration of the strategy.²⁷

25 Jun-E Tan, "What Does the US-China AI Rivalry Mean For Southeast Asia?," *The Diplomat* (2022), <https://thediplomat.com/2022/02/what-does-the-us-china-ai-rivalry-mean-for-south-east-asia/>.

26 Julian David, "Bringing UK tech to China," *The Week* (2022), <https://www.theweek.co.uk/business/951618/bringing-uk-tech-to-china>.

27 Tan, "What Does the US-China AI Rivalry Mean For Southeast Asia?."

The Belt and Road initiative is a “revival” of the ancient Silk Road, a popular trade route dating back to the 4th and 3rd millennia BCE which was active until mid-15th century. The Silk Road consisted of several roads connecting East and Southeast Asia, the Indian subcontinent, Central Asia, the Middle East, East Africa and Europe over around 6’400 kilometres. The trade routes have been used over centuries to exchange goods such as Jade, Silk, porcelain, horn and comestibles. However, the impact of the silk road has not been not limited to economic trade but has invariably led to cultural, political and religious exchange between East and West.²⁸ The “narrative” of the Silk Road is nowadays used as a tool by the Chinese government to shape foreign politics with the West. The Belt and Road initiative was developed in 2015 under Xi Jinping and initially called the “Vision and Actions on Jointly Building the Silk Road Economic Belt and the 21st Century Maritime Silk Road” which eventually led to the “Belt and Road Forum for International Cooperation” in 2019. The aim of the initiative is to promote cooperation on different levels such as policy coordination, connection of facilities, unimpeded trade, financial integration and relationship building.²⁹ Currently, China is making significant investments in the Mediterranean Region and Middle East where it provides funding for harbour infrastructure. According to ChinaMed data, China made imports from the Mediterranean and Middle Eastern region equivalent to 220 billion USD in 2020 and exported for 325 billion USD in the same year. Contracts between China and the Mediterranean region are estimated to be at 36 billion USD and an estimate of almost 70’000 Chinese contract workers are considered to be in the region.³⁰

From a foreign politics point of view, the Belt and Road initiative can be seen as a tool to exert soft power and geocultural power; or using Xi Jinping’s words during a speech at the United Nations Office in Geneva in 2017: “Delicious soup is made by combining different ingredients”. The cultural diplomacy or “people-to-people” ties provide an anchor for the Belt and Road Initiative in order to overcome cultural barriers. Measures are very diverse and entail touristic, cultural and student exchanges as well as collaborations between political parties, think tanks and medical

28 Giulia Falato, “Silk Road or Silk Roads? An historical overview” (paper presented at the Oxford Department of Continuing Education, Oxford, 2022).

29 Simone Dossi, “The BRI and China’s foreign policy in the 21st century” (paper presented at the Oxford Department of Continuing Education, Oxford, 2022).

30 “ChinaMed Project,” 2020, <https://www.chinamed.it/about>.

entities.³¹ Thus, Chinese foreign politics is setting incentives to promote convergence between trade partners. However, there are limitations to this endeavour as the current rivalries in the big tech sector show: where competition for profits is too substantial, divergent forces separate the commercial partners and reciprocity and bilateral benefit are frequently questioned by Western partners. This may be a result of the fact that the big tech sector is highly profitable or, more importantly, has strategic implications since technological innovations are linked to national security and the military.

Olympic games are historically a forum for political and diplomatic dialogue even though this is not well received by the committee who emphasises the apolitical nature of the event. The 2022 Beijing Winter Olympic games have been marked by US led boycott to express disapproval on human rights and other issues. While the event allowed China to showcase their new "Live Cloud" technology to broadcast the sport events, the political boycotts did not clearly address the East-West tech crisis or bring any resolution to it.³²⁻³³

The current war of Russia against Ukraine has implications on the tech dispute between the United States and China because major Chinese tech companies have left the Russian markets due to threats of sanctions by the United States. Consumer product companies such as Xiaomi, Lenovo and drone maker DJI have announced suspension of their business operations in Russia and Ukraine despite Beijing's promise of a "no limits" relationship with China. Russia and China are under a bilateral trade agreement, involving cooperation on military, energy and space technology. For instance, Russia has begun to export gas via a newly built pipeline to China.³⁴ While this is not formally forbidden by international order, questions raise about how the United States would react if China supported Russia with microchips or military technology during the war against Ukraine. The United States has a strong interest to preserve their technological and economic pre-eminence in order to defend their

31 Natalia Rival, "People-to-people bonds: The BRI's "human factor"" (paper presented at the Oxford Department of Continuing Education, 2022).

32 Patrick Schröder, "Is it time for a new rapprochement between China and the West?," Chatham House Expert Comment (2022), <https://www.chathamhouse.org/2022/02/is-it-time-for-a-new-rapprochement-between-china-and-the-west>.

33 Insights Team, "Winter Olympics cloud technology sets a different record," MIT Technology Review (2022), <https://www.technologyreview.com/2022/03/17/1047439/winter-olympics-cloud-technology-sets-a-different-record/>.

34 Raquel Leslie, "U.S. Sanctions Curb Chinese Technology Exports to Russia," Lawfare Blog (2022), <https://www.lawfareblog.com/us-sanctions-curb-chinese-technology-exports-russia>.

national security, national interests and ideas of freedom and democracy. The Chinese-Russian collaboration may progressively be interpreted as a way of undermining the US tech hegemony which could become a conflict hotspot of the future. From a geopolitical point of view, the Chinese-Russian collaboration will further strengthen the “Eastern pole” and thus make the scenario of a bipolar world order more probable.³⁵

Outside of Asia, China has made substantial investments into the telecommunication market of several emerging African countries over decades. Chinese technology companies have until today ventured into almost all levels of telecommunication from satellite communication, cables and supply infrastructure in Africa, thus attempting to drag the continent under their sphere of influence. Telecommunication was liberalised in 1990 in many African economies which has led to the need to modernise the infrastructure, thereby providing a good moment for Chinese companies such as Huawei, China Telecom and ZTE to step into the continent. This has further stimulated other sectors, such as finance and banking to follow the tech companies into Africa to provide associated financing. Subsequently, trade funds such as the China-Africa Development Fund or the Export-Import Bank of China have been created. The consistent presence, the ability to define technological standards and the collaborations with African governments will consolidate the presence of China in Africa and thus provide a competitive advantage in the future in many African countries; especially at a time when many Western nations such as Australia or the United States are losing their grip on new markets in developing or emerging economies. Concerns on cybersecurity, intellectual property and espionage have been raised, especially in the case of Huawei that is considered to be firmly associated with the Chinese government. Cybersecurity implications will become especially relevant with progressive digitalisation which will include many African industries from agriculture to finance and health care.³⁶ In addition, it can be expected that many African governments, who critically observe China’s involvement on their continent, will progressively claim independence in the course of their economic upturn.

35 Joseph Dunford Jr Michael J. Morell, Frances Townsend, “Technology is crucial in our high-stakes contest with China and Russia,” *The Hill* (2022), <https://thehill.com/opinion/national-security/3483594-technology-is-crucial-in-our-high-stakes-contest-with-china-and-russia/>.

36 Motolani Agbebi, “China’s Digital Silk Road and Africa’s Technological Future,” *Council on Foreign Relations* (2022), https://www.cfr.org/sites/default/files/pdf/Chinas%20Digital%20Silk%20Road%20and%20Africas%20Technological%20Future_FINAL.pdf.

The challenge to combine economic and political freedom under the rule of law has not yet been accomplished in China. Even more, it is not very clear if the communist government has any interest in creating a free system in the foreseeable future. A whitepaper from 2011 on “China’s peaceful development” states that China will focus on sustainable social and economic development emphasising state sovereignty, national security, territorial integrity and national reunification. In addition, China highlights the importance of social stability established by the constitution-based political system.³⁷ This lack of alignment with Western values, however, will further stress the relationship with the United States and Europe on different levels. It is thus not unlikely that further political or economic blockades will dominate diplomacy and world order over the next few years until there is an alignment in the different value systems between the hegemonial powers. It can be anticipated that it will be a longer process to align China and other Asian nations who are at similar stages of development to a rule and policy-based world order given the heterogeneous traditions. It remains subject to speculation if the current rivalries around technological dominance and freedom will lead into a divergent multipolar system, a bipolar world similar to the times during the cold war or if, ultimately, a trend to a convergent system will result from dialogue and new policies.

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37 Dossi, “The BRI and China’s foreign policy in the 21st century.”

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DEFENDING DEMOCRACY

4. 1. Another Kind of Transatlantic Partnership

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I: INTRODUCTION

At this year's Conservative Political Action Conference (CPAC) in Dallas, Texas, Hungarian prime minister Viktor Orbán said "globalization may go to hell, I have come to Texas."¹ His reference to Davie Crockett's infamous line, "you may all go the hell, I will go to Texas," about the Battle of the Alamo is emblematic of a greater problem globally.² During the past decade, Hungary has made a continual march towards becoming an authoritarian state, and Orbán and his party have aimed to take other countries with them. This has formed a new type of Transatlantic partnership that has the very opposite priorities of NATO. This partnership, which includes the Fidesz Party in Hungary, America's far right, and the far right in many other European countries, has created a type of globalized nationalism, aiming to set a new status quo centered around authoritarianism. This paper aims to analyze the rise of competitive authoritarianism and how it has created a new transatlantic partnership that has emerged between

1 Justice, Richard. "In Dallas, Hungarian Prime Minister Viktor Orbán Got a Standing Ovation From the Trump Faithful." August 5, 2022. Accessed December 12, 2022. <https://www.texasmonthly.com/news-politics/viktor-orban-cpac-dallas/>.

2 Strong, W.F. "‘You May All Go to Hell’ And 9 More Great Texas Quotes." Texas Standard. June 1, 2016. Accessed December 11, 2022. <https://www.texasstandard.org/stories/you-may-all-go-to-hell-and-9-more-great-texas-quotes/>.

various political leaders.

II: COMPETITIVE AUTHORITARIANISM

In order to understand this global network, one must first understand what makes a competitive authoritarian regime. The first step in a state's progression towards a competitive authoritarian regime is democratic backsliding: the process by which democratic states become less democratic without a coup.³ The process happens slowly and through the infrastructure of the state rather than through a political overthrow.⁴ The slow rate of change makes democratic backsliding less visible, allowing states to creep towards authoritarianism without the conspicuousness of a traditional coup.

Kaufman and Haggard identify three phases to democratic backsliding that eventually lead to a competitive authoritarian regime.⁵ In each step the state becomes less democratic: polarization, occupying dominant legislature majorities, and the power of the executive becoming horizontal.

2.1: Polarization

Central to democratic backsliding, according to separate publications from Kaufman and Fukuyama, is the concept of polarization. McCoy et al puts it as "when these differences become aligned within (normally two) camps with mutually exclusive identities and interests."⁶ A polarized society is still democratic, but it is experiencing social malaise. Utilizing Kaufman's definition, social malaise is more than traditional polarization, it denotes a specific phase of backsliding where political parties become unwilling to work together and political persuasion becomes much more difficult. As polarization grows, the society divides culturally into "us vs.

3 Kaufman, Robert R., and Stephan Haggard. "Democratic Decline in the United States: What Can We Learn from Middle-Income Backsliding?" *Perspectives on Politics* 17, no. 2 (2019): 417–32. doi:10.1017/S1537592718003377.

4 Kaufman, Robert R., and Stephan Haggard. "Democratic Decline in the United States: What Can We Learn from Middle-Income Backsliding?" *Perspectives on Politics* 17, no. 2 (2019): 417–32. doi:10.1017/S1537592718003377.

5 Kaufman, Robert R., and Stephan Haggard. "Democratic Decline in the United States: What Can We Learn from Middle-Income Backsliding?" *Perspectives on Politics*.

6 McCoy, Jennifer, Tahmina Rahman, and Murat Somer. "Polarization and the Global Crisis of Democracy: Common Patterns, Dynamics, and Pernicious Consequences for Democratic Politics." *American Behavioral Scientist* 62

them," more than just politically.⁷ When a society becomes us vs them, they no longer recognize the opposition party as having legitimate ideas that they can work together with to create a better society. Instead, the other political party becomes the enemy. In highly polarized societies, "electorates lose confidence in public institutions and normative support for democracy may decline; identity factions threaten to undermine social cohesion and political stability."⁸

Identity factions occur when political parties begin to align around new cleavages that are focused on identity rather than the traditional cleavages. While all cleavages are effectively about identity (Catholic vs Protestant, bourgeoisie vs working class, urban vs rural), 'culture war' type politics realigns these cleavages to focus on race and gender. Fukuyama's argument is that in order to avoid polarization, political parties must realign into bourgeoisie vs working class so that the us vs them cannot be radicalized.⁹

2.2: Dominant Legislature Majorities

Once parties with authoritarian leanings occupy dominant legislature majorities, governing practices become less democratic. There is no longer a need to appease other political parties because they have control over governing bodies. This allows actors to create unfair systems to ensure their majority. Kaufman and Haggard use Venezuela as the primary model for this step. In 2000, Venezuelan president Hugo Chávez's party garnered 60% of the seats in parliament, and by 2005 Chavez controlled all seats in the parliament. This prevented checks and balances, resulting in Chávez's total control over the country. This allowed Chávez to enact any legislation he desired without pushback. Opposition no longer had any meaningful power, even though elections were still taking place. At this stage, the country is no longer a meaningful democracy because elections cannot be considered free and fair when it is impossible for opposition parties to win seats. This makes a state an illiberal democracy.

7 Fukuyama, Francis. "30 Years of World Politics: What Has Changed?" *Journal of Democracy* pg2

8 McCoy, Jennifer, Tahmina Rahman, and Murat Somer. "Polarization and the Global Crisis of Democracy: Common Patterns, Dynamics, and Pernicious Consequences for Democratic Polities." *American Behavioral Scientist* 62

9 Fukuyama, Francis. "30 Years of World Politics: What Has Changed?" *Journal of Democracy* pg 5

2.3: Horizontal Executive

The final step of democratic backsliding is the horizontal control of the executive. After actors have control over the legislature, they can assault “horizontal checks, political rights, and civil liberties.”¹⁰ When we look at the case of Hungary, we see that authoritarianism did not happen overnight. Incremental abuses were necessary to relax the government structures to this point. At this point a government is no longer a democracy but a competitive authoritarian regime.

III: BACKSLIDING IN HUNGARY AND THE US

3.1: Hungary

Hungary’s democratic backslide is deeply connected to Viktor Orbán and his moves towards power since the end of the cold war. Viktor Orbán was democratically elected in 2010 as the head of the Fidesz Party, a political party he created and maintains tight control over.¹¹ He was previously prime minister from 1998 to 2002 when the country was a fully functioning democracy, with vibrant political culture in the post-cold war era. Orbán himself was an anti-communist activist in the late 1980s that helped transition Hungary to democracy.¹² However, after the first elections in 1990, Orbán made a power play for the Fidesz party, shifting it to the right and becoming one of the only voices in control.¹³ Today, the country has devolved into a sort of soft authoritarianism, with overwhelming statal influence over the media landscape.¹⁴

In 1999 Hungary joined NATO, the transatlantic partnership meant to preserve the west from Russian aggression and authoritarianism. While NATO at its heart is a military alliance, it also stands firmly in favor of liberalization.¹⁵ And, like many former Soviet republics, Hungary had made a sharp turn towards liberalization internally before it even gained its in-

10 Kaufman, Robert R., and Stephan Haggard. “Democratic Decline in the United States: What Can We Learn from Middle-Income Backsliding?” *Perspectives on Politics* pg 2

11 Beauchamp, Zack. “It happened there: how democracy died in Hungary.” September 13, 2018. Accessed December 11, 2022. <https://www.vox.com/policy-and-politics/2018/9/13/17823488/hungary-democracy-authoritarianism-trump>.

12 Beauchamp, Zack. “It happened there: how democracy died in Hungary.”

13 Ibid.

14 Ibid.

15 Gheciu, A. “NATO, liberal internationalism, and the politics of imagining the Western security community.” *International Journal*, 74(1), 32–46. March 19, 2019. <https://doi.org/10.1177/0020702019834645>

dependence from the Soviet Union but progressed even further to pull towards the West and the protection of NATO.

However, after Orbán was elected in 2010, he began to take control of the media, and hamstringing political opposition.¹⁶ Opposition to Orbán is highly fragmented due to, amongst others, the existence of many fake parties that run for office at the desire of Orbán to make sure that no real opposition wins.¹⁷

Since this process happened incrementally, the rest of the west failed to catch on to the dramatic backsliding that was occurring.¹⁸

In 2022, all opposition parties in Hungary banded together as a single party in an attempt to form a unified block against Orbán.¹⁹ This party nonetheless came up short owing to a range of issues, including the power of the media under Orbán's rule.²⁰

3.2: The United States

Defining when democratic backsliding began in the United States is difficult to determine. According to many, the root of democratic backsliding was in the backlash to the passage of the Civil Right Act. In 1968, the parties realigned around race rather than class, dissolving the Southern Democratic Party. This laid the groundwork to polarization to occur, though backsliding had not yet begun. As time moved on, identity became a central factor in determining political alignment. By widening democracy into a morally acceptable definition and accepting people of color into politics into politics, American political parties realigned around race. As noted by McCoy, identity politics created a space for polarization.²¹

Others define 2016 as the start of democratic backsliding in the United States. Donald Trump relied on this polarization for his own election, stoking division to create his MAGA movement. The most extreme members of the party, such as Marjorie Taylor Green, suggest that the Clintons, and other Democratic elites, are murderers and pedophiles and refused to ac-

16 Steven Erlanger and Benjamin Novak. "How the E.U. Allowed Hungary to Become an Illiberal Model."

17 Beauchamp, Zack. "It happened there: how democracy died in Hungary."

18 Beauchamp, Zack. "It happened there: how democracy died in Hungary."

19 Scheppele, Kim Lane. "In Hungary, Orbán wins again because he has rigged the system." *The Washington Post*.

20 Scheppele, Kim Lane. "In Hungary, Orbán wins again because he has rigged the system." *The Washington Post*.

21 McCoy, Jennifer, Tahmina Rahman, and Murat Somer. "Polarization and the Global Crisis of Democracy: Common Patterns, Dynamics, and Pernicious Consequences for Democratic Polities." *American Behavioral Scientist*

cept election results.²² Under this framing, it becomes morally impossible for Republicans to work with Democrats. Democrats and Republicans become separated into two vastly different camps. This is the extreme form of polarization that is classified as democratic backsliding.

One mechanism that has enhanced American polarization is the existence of Fox News. In 1987 the Fairness Doctrine was repealed, meaning that new channels were no longer required to devote time to contrasting views on issues of public importance.²³ This led to the creation of new sources of right wing media that grew increasingly dominant. Further, Rupert Murdoch created Fox News, which has moved to the far right in recent years.²⁴ Similar channels have also appeared in recent years such as OAN and NewsMax.²⁵ Beyond this, social media sites, which are new inputs to the political ecosystem, allow individuals to separate into echo chambers. These services have allowed for the polarization of American politics to continue further, just as Fukuyama suggested.²⁶

Donald Trump losing the Presidency in 2020 revealed both the strengths and weaknesses of America's political institutions. Trump remained unable to create institutional change that would have secured his second term. For instance, Trump supporters were unable to collect enough elected officials to present an incorrect slate of electors.²⁷ However, it is important to note that Trump did not attempt to change structures, such as until the end of his presidency. Much of the strength of American institutions relied on having people in the right places to prevent Trump's coup, which is not guaranteed, especially as the United States moves into the second phase of backsliding, legislative control. Kaufman and Haggard argue that the United States' institutional structures prevent the United States from becoming a competitive authoritarian regime.²⁸ They analyze the degradation of regimes in middle-income countries and find

22 Edmonson, Katie "Marjorie Taylor Green Controversies are Piling Up." The New York Times.

23 "Fairness Doctrine." Britannica. Accessed April 28, 2022. www.britannica.com/topic/Fairness-Doctrine.

24 Stelter, Brian. Hoax: Donald Trump, Fox News, and the dangerous distortion of truth. Simon and Schuster, 2020.

25 Stelter, Brian. Hoax: Donald Trump, Fox News, and the dangerous distortion of truth. Simon and Schuster, 2020.

26 Fukuyama, Francis. "30 Years of World Politics: What Has Changed?" Journal of Democracy pg 5

27 Kilgore, Ed. "Trump's Long Campaign to Steal the Presidency: A Timeline." July 14, 2022. Accessed December 12, 2022. <https://nymag.com/intelligencer/article/trump-campaign-steal-presidency-timeline.html>.

28 Kaufman, Robert R., and Stephan Haggard. "Democratic Decline in the United States: What Can We Learn from Middle-Income Backsliding?" Perspectives on Politics pg 1

the key difference between the United States and Venezuela, Turkey, and Hungary is the strength of American political institutions. However, since their paper was released in 2018, it has been revealed that the institutional mechanisms within the United States may be more malleable than previously thought. It was sheer luck that Democrats on anti-Trump Republicans controlled a number of governorships that would have otherwise allowed states to send in different electorates than prescribed by the votes in their states. However, while institutions survived the 2020 elections, actions are already being taken in 2022 to undermine those very institutions, with far-right political running on platforms to reject election results.²⁹ Further, obscene recounts, such as what was done by the “cyber ninjas” in Arizona, displayed the lack of faith in institutions already prevalent in the United States. However, the fact that every single episode of election subversion was spoiled allowed for the United States to see its weaknesses without breaking. The United States remains a democracy.

Beyond the media though, the United States is beginning to reflect further democratic backsliding. The second phase of democratic backsliding, legislative control, is already present in the United States. The Republican party, since 2020, has focused its efforts on asserting local controls. Much like the Fidesz party, the Republican party has focused on asserting its power in regional legislatures. Since the Republican party is a rural party, it has the advantage in controlling regional legislative positions. Republicans in Texas have used their extreme legislative advantage to ensure their further success after the state threatened to turn blue in the 2020 elections. Senate Bill 1 was signed by Greg Abbott in September of 2021, limiting voting rights.³⁰ This bill especially targets people of color who have less access to voting facilities. These efforts were utilized by Abbott in his 2022 election where he secured his own victory by impacting legislative systems.

The culmination of these issues in American politics have led to a fertile space for democratic backsliding. Most importantly, the Republican party in the United States has learned how to use these factors to their own political advantage. America has fully undergone the first stage of democratic backsliding that is outlined by Kaufman and Haggard. The

29 Parks, Miles. “Midterm results show voters reject election denialism.” November 23, 2022. Accessed December 12, 2022. <https://www.npr.org/2022/11/23/1138875937/midterm-results-show-voters-reject-election-denialism>.

30 Ura, Alexa. “Gov. Greg Abbott signs Texas voting bill into law, overcoming Democratic quorum breaks.” The Texas Tribune.

Republican party has primed the U.S. for the next step, legislative control. Based on 2022 election results, voters are denying the far-right this chance.³¹ However, being cognizant of the potential for backsliding is important when actors within the country are focused on moving towards authoritarianism.³²

IV: HOW GLOBALIZED NATIONALISM WORKS

Orbán has become somewhat of a celebrity in Republican politics for his willingness to 'own the libs' and share inflammatory remarks as he did in Texas. He was first presented as a model for political commentators like Tucker Carlson and Steve Bannon, but now there is clear coordination between the parties.³³

The Republican Party in the United States is studying the democratic backsliding that occurred in Hungary. Fox News host Tucker Carlson has repeatedly made trips to Hungary and is on the record saying that Orbán is a friend.³⁴ There is no coincidence in Orbán making his speech in Texas, as he has become an important figure in Republican politics. From this, it is possible to see the connections between Viktor Orbán and the American Far Right. This connection threatens democracy and globalism, two values that are at the center of the NATO alliance.

V: CONCLUSION

Viktor Orbán's audience is no longer just the people of Hungary. Massive political change would need to occur in order for the country to have any hope towards liberalization. However, the Trans-Atlantic partnership relies on the democratic nature of its states. The relationship between the United States and Hungary shows how quickly authoritarian leaning actors can organize against this idea for their own political gain. It is vital to the Trans-Atlantic partnership that the growing tendencies towards authoritarianism are halted before authoritarian regimes become the norm.

31 Parks, Miles. "Midterm results show voters reject election denialism."

32 Tharoor, Ishaan. "U.S. democracy slides toward 'competitive authoritarianism.'" *The Washington Post*. November 8, 2022. Accessed December 12, 2022. <https://www.washingtonpost.com/world/2022/11/08/american-democracy-backsliding-competitive-authoritarianism/>.

33 Jihad, Shirley. "Why are Trump Republicans embracing Hungarian leader Orbán?" *Here & Now*. August 4, 2022. Accessed December 12, 2022. <https://www.wbur.org/hereand-now/2022/08/04/orban-republicans-trump>.

34 Serdült, Viktória. "Opinion | Tucker Carlson Has Become Obsessed With Hungary. Here's What He Doesn't Understand." *POLITICO*.

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NATO & SECURITY

5. 1. Is Vladimir Putin Alone Responsible for the War in Ukraine?

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In an unprecedented time of global challenges, Europe again sees a war at its doorstep for the third time in a century. Russian President Vladimir Putin and the Russian military have blatantly violated their neighbour Ukraine's sovereignty with its full-scale illegal invasion. This war comes as US President Joe Biden called this period "an inflexion point between democracies and autocracies." President Putin has offered few excuses for his war in Ukraine other than historically based grievances on redrawn history that Russia was humiliated and betrayed by the West at the end of the Cold War, which he has previously called "the greatest geopolitical catastrophe of the 20th century." Putin makes no secret that he does not regard Ukraine as a "real country" but as part of the previous great Russian Empire that is a major power in the world again. Putin's efforts have been hampered while causing havoc. He has failed to capture his main objectives, which has led to a discussion of major changes to the post-Cold War European security architecture that would be upgraded to solve a crisis like this one. As with all wars, attributing responsibility has been the centrepiece of scholarly and policy debates. This leads to the question: is Vladimir Putin alone responsible for the current war in Ukraine?

When attempting to answer that question, one could apply the late realist international relations scholar Kenneth Waltz's method of evaluating a war, "Man, the State and War", by first exploring the international system, the State, and then the individual.¹ When looking at the international sys-

¹ Kenneth N Waltz, *Man, the State, and War: A Theoretical Analysis*. (New York: Columbia University Press, 2001).

tem, one of the many factors driving this war and the debate around it was the expansion of the North Atlantic Treaty Organization (NATO) eastward in Russia's direction to include former Soviet satellite Republics in the organization so they would have security guarantees after the collapse of the Soviet Union. World order transitioned from bipolar between the United States and the Soviet Union to one of unipolarity, where the United States enjoyed a time of global hegemony. President Putin frequently includes NATO expansion in his historical grievance rants, as do realist international relations scholars like John Mearsheimer, who that the West, led by the United States, encroached too far on Russian territory, and provoked the proverbial bear. This has been proven wrong at every turn.

In contrast, NATO expansion was brought about to create a more stable Europe as an expansion of the liberal international order, as scholar John Ikenberry would argue, even one that Russia was extended a hand to join.² Here we have arrived at the state of Russia, one of vast economic decline, ravaged by sanctions since 2014 after it seized Crimea from Ukraine. Russia has a revisionist history, nationalistic and expansionist "empire," whether under Catherine the Great or Stalin. Then we arrive at the individual level: Putin could be difficult to explain psychologically, but as a former KGB intelligence official, it comes down to trying something. If that does not work out, try something else. Thus, the responsibility for the current war has to be sought in Putin's change of strategy and not in the development of NATO or the West. He started as a leader who sought to be part of the West, working closely with the United States and the Bush Administration on the War on Terror. He later became profoundly mistrustful and paranoid about his grip on power. As former Secretary of State, Condoleezza Rice recently remarked, "[Putin] went from shy to confident, arrogant to megalomaniacal".³ She also stated that during her tenure in government, Mr Putin never brought up NATO.

Seeing today's Vladimir Putin, it is hard to believe that he gave this speech some twenty years ago to the German Bundestag in 2001:

"As for European integration, we don't just support these processes; we

2 G John Ikenberry, 'The Myth of Post-Cold War Chaos', *Foreign Affairs* 75, no. 3 (1996): 79–91, <https://doi.org/10.2307/20047582>.

3 Condoleezza Rice and Fareed Zakaria, 'On GPS: When Condoleezza Rice First Met Vladimir Putin', CNN, n.d., <https://edition.cnn.com/videos/tv/2022/02/20/expgpps-0220-condi-rice-on-putin.cnn>.

look at them with hope. We do this as a people who have learned suitable lessons from the Cold War and the pernicious ideology of occupation. But here - I suspect - it would be appropriate to add: Europe has not benefited from this split either. I firmly believe that in today's rapidly changing world, with truly dramatic changes in demographics and unusually high economic growth in some regions, Europe, too, has a direct interest in further developing relations with Russia. No one doubts the great value of Europe's relationship with the United States. But I believe that Europe will only strengthen its reputation as a powerful and independent centre of world politics in the long term if it combines its potential with Russia's human, territorial and natural resources, as well as with Russia's economic, cultural and defence potential. Of course, evil should be punished; I agree. But we must understand that retaliation cannot replace the focused, well-coordinated fight against terrorism. In that sense, I fully agree with the American President...I can say with confidence: the primary goal of Russia's domestic policy is, first of all, to ensure democratic rights and freedoms, to improve the standard of living and security of the people... But at the moment, Russia is a highly active part of the European continent. The word "dynamic" is not only meant in a political sense, but also in an economic sense, which seems particularly hopeful."⁴

Part of the problem is that several international relations scholars from both major theoretical camps – Liberals and Realists – were so surprised by the sudden ending of the Cold War. A bipolar construct of the world order of two major nuclear powers that took the place of nearly half a century, and it just goes away overnight, without a shot having been fired. This led to an over-assumption by the United States and the West that democracy was triumphant, and they had won the Cold War. As showcased in Francis Fukuyama's book "The End of History", international relations and world order are constantly changing.⁵ There was, however, this perception, as we saw in Putin's 2001 speech, of a fusion between European and Russian communities that were more present than at the beginning of the Cold War as the best means for long-term peace on the European continent. Liberal international relations scholar John Ikenberry frequently writes about the strength of a liberal democratic order by pointing out what successes German and Japanese democracies became as leaders in that order after World War II. He also discusses a constitutional political order

4 Vladimir Putin, 'President Vladimir Putin Addressed the Bundestag', 2001, <http://en.kremlin.ru/events/president/news/40168>.

5 Francis Fukuyama, *The End of History and the Last Man* (London: Penguin, 1992).

that sought to bind democracies together, as he notes in his article “The myth of post-Cold War Chaos”:

“Cold War security structures provided additional constitutional architecture. Lord Ismay’s observation that NATO was created to keep the Russians out, the Germans down, and the Americans encapsulate the alliance’s importance in locking in long-term commitments and expectations. The American-Japanese security pact had a similar dual containment character. These institutions not only served as alliances in the ordinary sense of organized efforts to balance external threats but offered mechanisms and venues for building relations, conducting business, and regulating war. The recent French decision to rejoin NATO can be understood only in this light. If NATO were simply a balancing alliance, the organization would be in an advanced stage of decay. It is NATO’s broader political function—binding the democracies together and reinforcing political community—that explains its remarkable durability.”⁶

Ikenberry’s words ring very accurately. It cannot be overstated when talks about the importance of democratic defence alliances like NATO were created and continue to face common threats. However, John Mearsheimer disagrees, writing in a provocative article after the annexation of Crimea, “Why Ukraine is the West’s Fault”:

“The taproot of the trouble is NATO enlargement, the central element of a larger strategy to move Ukraine out of Russia’s orbit and integrate it into the West. At the same time, the EU’s expansion eastward and the West’s backing of the pro-democracy movement in Ukraine—beginning with the Orange Revolution in 2004—were a critical element, too. Since the mid-1990s, Russian leaders have adamantly opposed NATO enlargement. They have made it clear in recent years that they would not stand by while their strategically important neighbour turned into a Western bastion. For Putin, the illegal overthrow of Ukraine’s democratically elected and pro-Russian President—which he rightly labelled a “coup”—was the final straw. He responded by taking Crimea, a peninsula he feared would host a NATO naval base and working to destabilize Ukraine until it abandoned its efforts to join the West... Putin’s actions should be easy to comprehend. A massive expanse of flat land that Napoleonic France, imperial Germany, and Nazi Germany all crossed to strike at Russia itself, Ukraine is a buffer state of enormous strategic importance to Russia.

6 Ikenberry, “The Myth of Post-Cold War Chaos”.

No Russian leader would tolerate a military alliance that was Moscow's mortal enemy until recently moving into Ukraine. Nor would any Russian leader stand idly by while the West helped install a government there that was determined to integrate Ukraine into the West."⁷

Two essential ideas are worth noting in Mearsheimer's article. First, he is right to point out that the Color Revolutions happening in Ukraine could have made Putin more paranoid about his grip on power. However, the fact that this is some Western-engineered plot to topple the regime in Moscow just does not stand rigour. Former Warsaw Pact members⁸, such as the Czech Republic and Poland, chose democracy for themselves. Second, Mearsheimer argues that the Bucharest summit in 2008 under the Bush Administration was not helpful. It supported Georgia and Ukraine to join NATO but with no actual roadmap, allowing Russia to invade Georgia shortly after. However, Mearsheimer does not focus on the individual level enough, which is the primary driver of the present Russia-Ukraine war. He says that any Russian leaders would be responding the way Putin is.

In 1997, Russian President Boris Yeltsin (who had even expressed a desire for Russia to join NATO) and US President Clinton, as well as 15 other state representatives, signed the NATO-Russia founding act, which states:

"NATO and Russia do not consider each other as adversaries. They aim to overcome the vestiges of earlier confrontation and competition and strengthen mutual trust and cooperation. The present Act reaffirms the determination of NATO and Russia to give concrete substance to their shared commitment to building a stable, peaceful and undivided Europe, whole and free, to benefit all its peoples. Making this commitment at the highest political level marks the beginning of a fundamentally new relationship between NATO and Russia. Based on common interest, reciprocity and transparency, they intend to develop a strong, stable and enduring partnership."⁹

7 John J Mearsheimer, 'Why the Ukraine Crisis Is the West's Fault: The Liberal Delusions That Provoked Putin', *Foreign Affairs* 93, no. 5 (2014): 77–89.

8 An alliance led by the Soviet Union that actually invaded and suppressed its own members,

9 North Atlantic Treaty Organization, "'Nato-Russia Founding Act.'" Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation, 1997, https://www.nato.int/cps/su/natohq/official_texts_25468.htm.

It does not seem like there was this get Russia post-Cold War aggression Mearsheimer is talking about. US troops in Europe went down drastically from 27,639 in West Germany to just 9,563. Ukraine even gave up its nuclear weapons in the 1994 Budapest memorandum that granted Ukraine “security guarantees” from Russia.¹⁰

In 2008 after Russia had invaded Georgia, U.S. President in Barack Obama was elected, promising a “reset” in relations between the United States and Russia. In his new counterpart Dmitri Medvedev, Obama saw a more like-minded young lawyer who was potentially interested in reforms. Medvedev’s actions, however, were limited given that Vladimir Putin assumed the role of Prime Minister, still retaining most (if not all) of the power. Many Russian scholars saw the job swap as Putin’s failed attempt at succession. Nevertheless, Obama and Medvedev implemented some key reforms, such as the congressional approval of a New Start Treaty, a key arms agreement reducing the number of nuclear weapons each country had stationed around the world. On that occasion, Russian favorability of the United States reached an all-time high of 60%, and the two leaders even had a burger summit in Virginia. Two other significant events happened in 2008: Russia’s invasion of Georgia and the Bucharest memorandum, stating the intention of Georgia and Ukraine to join NATO. As the US Ambassador William Burns (now CIA Director) detailed in cable back to Washington, such a move would touch “a raw nerve” with Russia risking engendering “serious concerns about the consequences of stability in the region.”

What about all that cooperation achieved under Obama and Medvedev? In 2007 before handing off power to Medvedev, Vladimir Putin gave a shocking speech at the Munich Security Conference, where he derided the US-driven security order:

“Today we are witnessing an almost uncontained hyper use of military force — in international relations, the force plunging the world into an abyss of permanent wars. And of course,” Putin continued, “this is extremely dangerous. It results in the fact that no one feels safe. I want to

10 Michael A Allen, Carla Martinez Machain, and Michael E. Flynn, “The US Military Presence in Europe Has Been Declining for 30 Years – the Current Crisis in Ukraine May Reverse That Trend”, *The Conversation*, 2022, <https://theconversation.com/the-us-military-presence-in-europe-has-been-declining-for-30-years-the-current-crisis-in-ukraine-may-reverse-that-trend-175595>.

emphasize this — no one feels safe!”¹¹

This represented the beginning of the significant step forward Putin would make from his previous speech in Germany in 2001; he now saw something different than an American alliance against terrorism but one of an American Empire representing a threat to his power. “When your narrative is not saying what you want, you change the narrative”, as is inherent in his KGB training.

In 2011 Vladimir Putin returned to the Presidency, more determined to crack down on dissent, particularly in the media and civil society. Then U.S. Secretary of State Hillary Clinton criticized the Russian elections. As suspicion and protests ensued around Russia at Putin’s return, he falsely claimed Secretary Clinton paid the protestors. Emboldened and more paranoid than ever, the former KGB Colonel maintained his tightest grip on power. When, in 2014, his all-Ukrainian President, Viktor Yanukovich, was forced from power, Putin seized Crimea, the Southern part of Ukraine, serving as a key Russian naval base in the Black Sea. His intervention in Syria successfully shored up key Russian ally Bashir Al Assad. By 2017, Putin found a like-minded partner in Donald Trump as US President, whom he helped elect by having his intelligence services hacked into the opposition Democratic Party’s internet server.¹² Donald Trump helped Putin by attacking and undermining NATO frequently and not committing to the vital Article 5 component stating that an attack on a NATO member is an attack on all members, which - so far, the U.S. has only invoked after 9/11. Furthermore, Trump also delayed critical security aid to Ukraine that led to his first impeachment from office when he asked Ukrainian President Volodymyr Zelensky to investigate the family of his rival, former Vice President Joe Biden and, precisely, the work his son had previously done in the country.

When Putin lost his main ally in Washington to that same Joe Biden in 2020, he is thought to have become even more emboldened and detached from reality. Subsequently, the Russian President ordered nearly

11 Ted Galen Carpenter, ‘Did Putin’s 2007 Munich Speech Predict the Ukraine Crisis?’, CATO, 2022, <https://www.cato.org/commentary/did-putins-2007-munich-speech-predict-ukraine-crisis>.

12 Ellen Nakashima and Shane Harris, ‘How the Russians Hacked the DNC and Passed Its Emails to WikiLeaks’, The Washington Post, 2018, https://www.washingtonpost.com/world/national-security/how-the-russians-hacked-the-dnc-and-passed-its-emails-to-wikileaks/2018/07/13/af19a828-86c3-11e8-8553-a3ce89036c78_story.html.

200,000 troops to surround the Ukrainian border to remind the West of his demand that Ukraine never is allowed to join NATO. Fighting never wholly stopped in the Eastern Donbas region of Ukraine, where Russia has long been supporting “separatists” and considers the area a part of Russia, not Ukraine. Putin has even said that he doesn’t regard Ukraine as a country and blames the current problems in Russia on the United States and his predecessor Mikhail Gorbachev for allowing the Soviet Republics to break away. He did not sound like that in the famous 2001 speech. While a flurry of leaders such as U.S. President Joe Biden and French President Emmanuel Macron engaged with Putin diplomatically to try and dissuade the Russian leader from engaging with Ukraine militarily, they were unsuccessful. On February 24th, 2022, Putin declared the independence of the two regions in the Donbas and pursued a full-scale invasion of Ukraine. With no end to the warring insight, Putin has found his forces bogged down and unsuccessful. Still, it has caused many civilian deaths in different parts of Ukraine, leading to mass refugee evacuations.

Putin alone is responsible for the current war in Ukraine at the individual level of analysis of war based on Kenneth Waltz’s system of evaluating war. As Putin appears to be more isolated than ever in his replica Kremlin offices hiding from Covid-19, he increasingly dresses down his top intelligence officials. He puts them under house arrest, limiting his access to capable intelligence. Furthermore, he underestimated the Ukrainian people’s will to fight and the unity within the transatlantic alliance, including Switzerland, which has placed devastating economic sanctions, including Russia’s removal from the international finance system Swift. Unwillingly, Putin has shown the world why NATO is relevant and why countries like Ukraine should join the alliance. Neutral long-standing Nordic countries such as Sweden and Finland have now applied to join NATO for fear of becoming the “next Ukraine”. Given the person, Putin is, his KGB background, and an institution of inherent torture and blackmail, would something like NATO expansion (international system) deter the Russian dictator from doing what he wants, or is it just a convenient excuse? Previous leaders of the Kremlin, from Gorbachev, Yeltsin to Medvedev and even an earlier version of Putin, have shown they are not opposed to reforms. Still, Putin took another path to recreate a tsarist Russian empire in a bipolar order opposing the West and the United States that no longer exists. Putin cannot succeed in his attempt, and the war will end at some point with his demise and being on the wrong side of history.

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2. 3. Germany Rearmed

Historic turning point in light of the Russian invasion of Ukraine

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I: ABSTRACT

Germany has now been given a new historic mandate, provided by the Russian invasion of Ukraine. Germany needs to continue on this path forward and lay out an effective strategy for re-equipping its armed forces (die Bundeswehr), a force plagued by inefficiency and historical guilt over its actions in two world wars, and take on the mantle of responsibility as a leader in European security and collective defense. Simultaneously, the German government can present this change to the public, reforming the slow bureaucratic procurement processes, creating a national security council, as well as encouraging other NATO countries to contribute to an increase in defense spending. The upcoming NATO Strategic Concept will be important for Germany to lay out its strategic goals and how best it can implement this new change in cooperation with its NATO allies amid the ongoing Russian invasion of Ukraine. Recent war crimes committed by Russian troops near Kyiv and elsewhere throughout Ukraine against civilians should prevent any dissenting viewpoints of a re-armed Germany from gaining traction. These events will likely change German-Russian relations in the near future, resulting in Berlin choosing to lean more toward NATO and the West and having to rely less on Russian energy. Germany must continue to ramp up its sanctions against Russia in tandem with its transatlantic allies, provide more weapons and equipment to Ukraine, and keep any diplomatic off-ramps open. Continued efforts by Germany to re-arm should provide a more united front against Russian aggression that would deter any spillover of the conflict into NATO territory, especially in the Baltics, given their connected history to Russia and potential hotspot in the Suwalki Gap between Belarus and the Russian

exclave of Kaliningrad. Germany has now pledged heavy weapons and other material to Ukraine after months of complaints from Kyiv, and more must be sent to continue supporting Ukraine's fight against the Russians, which has now descended into a daily slugfest in the Donbas as Russia slowly grinds away territory.

II: INTRODUCTION: A TURNING POINT

Just three days following the unprovoked Russian invasion of Ukraine, German Chancellor Olaf Scholz announced to lawmakers at the German Bundestag that Germany would pledge 100 billion Euros in defense spending, raising his country's commitment to NATO defense expenditures to above 2% of its GDP, something several U.S. presidential administrations had failed to do that had been a major transatlantic controversy. He also pledged to send weapons to Ukraine, a large development from Germany's previous pledge weeks earlier to send 5,000 helmets and a field hospital, but nothing more. This was a stunning move and a historic shift (*die Zeitenwende*) in German foreign policy, one that had for decades been averse to war and seeking to balance relations between Russia and the West. The speech took place around the same time as a massive demonstration in Berlin, with hundreds of thousands of protesters marching through the city condemning Putin and showing solidarity with Ukraine. In a recent poll conducted on *Der Spiegel*, 79% of German respondents welcomed the shift in foreign and security policy with relations to Germany rearming, and 76% support mobilising German troops if a NATO member-state is attacked.¹ This conflict and the Chancellor's speech fundamentally change Germany's relationship between Russia and the West, given that, until recently, Germany has historically courted relations between the two parties, sometimes acting as a bridge between the two. It must now side with its transatlantic allies and partners and distance itself from Russia, especially in the realm of energy security as the revenues from the energy sector are key in supporting the Kremlin's war of aggression in Ukraine.

1 Gathmann, Florian. "Standing up to Putin: Inside Germany's Foreign and Security Policy Revolution." *DER SPIEGEL*, 9 Mar. 2022, <https://www.spiegel.de/international/germany/standing-up-to-putin-inside-germany-s-foreign-and-security-policy-revolution-a-31fd2aba-bc08-4711-bb98-bd9fab99d908>.

III: ALARM BELLS AND FAULTS IN THE SYSTEM

This shift is a major wake-up call for the German Bundeswehr, as a force that has been straddled with its historic war guilt of the Second World War and the Holocaust, as well as free-riding US security via NATO and enjoying the “peace dividend” of the post-Cold War European security architecture by being “surrounded by friends”. A recent assessment by its army chief, Lieutenant General Alfons Mais, paints a bleak picture of his country’s readiness in a recent LinkedIn post: “In my 41st year of service in peace, I would not have thought I would have had to experience another war,” General Mais wrote. “And the Bundeswehr, the army that I am allowed to lead, is more or less broke. The options we can offer policy-makers to support the alliance are extremely limited.”² This blunt assessment posits the worrisome picture that the Bundeswehr shows across all services, such as a deficient lack of operational ships, helicopters, tanks, and armored vehicles. Some estimate that Germany only has enough ammunition in-store to withstand about three days of fighting.³ The new commitment of funding by Chancellor Scholz will be a major boost for its capabilities, but the slow procurement bureaucracy will have to be reformed to better streamline procurement capabilities, as it takes time for that money to be allocated via committees and then develop the systems. Until that process can be reformed and domestic production is viable, weapons systems will have to be bought from the outside – an example being the F-35 Lightning II from the U.S., which will replace the older Tornado fighter jet, a workhorse of several European air forces.

Another area that must be addressed in the German foreign policy apparatus is the lack of a National Security Council. Currently, there is Federal Security Council (der Bundessicherheitsrat) in place, which has been in force for decades and has not been updated by the new governing coalition. Voices such as former German Ambassador to the U.S., Wolfgang Ischinger, and politicians from different political parties have called for

2 Bennhold, Katrin. “Germany Is Ready to Lead Militarily. Its Military Is Not.” *The New York Times*, *The New York Times*, 23 Mar. 2022, <https://www.nytimes.com/2022/03/23/world/europe/ukraine-germany-military-russia-scholz-lithuania.html>.

3 Weiss, Richard. “Germany Doubles Military Spending, But Can’t Rearm Overnight.” *Bloomberg.com*, 24 Mar. 2022, <https://www.bloomberg.com/news/articles/2022-03-24/germany-military-spending-up-after-russia-invades-ukraine>.

a National Security Council to be created.⁴ The lack of such a consulting body has led to mixed messaging, as different departments in the government contradicted each other over sanctions against Russia vis-a-vis the SWIFT banking system (Society for Worldwide Interbank Financial Telecommunication). This must be streamlined for better continuity in terms of crisis response and strategic communication. It would act as a central policy coordinator, helping to overcome the fragmentation that often characterizes federal ministries' responses to crises.⁵ Beyond improving short-term crisis reaction, more regular meetings of the relevant cabinet members and a stronger coordination role in the chancellery will be needed to enable long-term strategic planning, common strategic foresight exercises, and coordination on adapting political strategies in conflict countries.⁶

IV: NATO STRATEGIC CONCEPT

The upcoming NATO Strategic Concept, presented at the Madrid Summit in late June 2022, will be a key denominator for the alliance in the coming future. The Strategic Concept is updated every ten years and “re-affirms NATO’s values and purpose, and provides a collective assessment of the security environment. It also drives NATO’s strategic adaptation and guides its future political and military development.”⁷ With the war in Ukraine dragging onto its second month, the concept should focus on the conflict as one of its key points of focus, especially in light of possible war crimes committed by Russian troops against Ukrainian civilians in multiple areas around the country, as well as the alleged use of chemical weapons. According to Jens Stoltenberg, NATO Secretary-General, “the Madrid Strategic Concept will reflect the new security environment, re-commit to our values, and reaffirm our unity, ensuring that our Alliance is fit for the future.” In a recent NATO ministerial meeting, the alliance agreed that the new concept must take into account the alliance’s future

4 Brockmeier, Sarah. “The Path to a German National Security Council.” Global Public Policy Institute (GPPI), 21 May 2021, <https://www.gppi.net/2021/05/21/the-path-to-a-german-national-security-council#:~:text=Germany's%20Federal%20Security%20Council%20is,department%20heads%20from%20selected%20ministries>.

5 Anheier, Helmut K. “Germany Needs a National Security Council: By Helmut K. Anheier.” Project Syndicate, 18 Apr. 2022, <https://www.project-syndicate.org/commentary/germany-needs-national-security-council-by-helmut-k-anheier-2022-04>.

6 Besch, Sophia. “Waking a Sleeping Giant: What's next for German Security Policy?” War on the Rocks, 9 Mar. 2022, <https://warontherocks.com/2022/03/waking-a-sleeping-giant-whats-next-for-german-security-policy/>.

7 “NATO 2022 Strategic Concept.” NATO, <https://www.nato.int/strategic-concept/>.

relationship with Russia. At the upcoming summit, the alliance will set the guidelines for NATO strategy as it looks forward to 2030 and covers a whole host of issues from China to climate change. The guidelines must include a response to accusations of war crimes committed by Russia against Ukraine that have been developing around Kyiv, Mariupol, and throughout Ukraine in recent weeks. Particular attention should be reserved to the Donbas region considering that the focus of the conflict has shifted to the eastern part of Ukraine.

One major factor that has come up around the time of the summit in Madrid is the recent development of welcoming both Sweden and Finland into the NATO fold, resulting in a major strategic and ideological failure for Putin. If, or when, both countries join NATO, 800 miles of Russia's northern border will straddle the border of a NATO-member state, leading Russia to reconsider its position. The only major opponent of the access of the two Scandinavian countries to NATO is Turkey, whose President Recep Tayyip Erdogan recently stated: "being too friendly with Kurdish militant groups it considers to be terrorists."⁸ Erdogan has gone back and forth recently over potentially blocking the two from entering the alliance and it remains to be seen if the two countries will join. If successful, Sweden and Norway's NATO accession could represent a major setback for Putin in his bid to contain the military alliance.⁹

V: IT TAKES A VILLAGE

The halls of parliament in the German Bundestag erupted in waves of applause throughout Chancellor Scholz's speech on 27 February 2022, but there were also many gasps throughout the speech, many coming from the SPD and Greens, who are part of the current governing coalition. Many felt betrayed and shocked that they weren't consulted prior to the speech. To some, such as SPD floor leader Rolf Mützenich, the shift goes against what he has stood for. "He has been fighting for peace and disarmament for almost his entire political life." Now, though, he demonstrated loyalty to Scholz: Such decisions," meeting participants quoted

8 Haltiwanger, John. "Right before Meeting with Putin in Iran, Turkey's Erdogan Threatens to 'Freeze' Sweden and Finland's NATO Membership." Business Insider, Business Insider, 19 July 2022, <https://www.businessinsider.com/turkey-erdogan-threatens-to-freeze-sweden-finland-nato-membership-2022-7>.

9 Daalder, Ivo. "If Finland and Sweden Join NATO, It's on Russia." POLITICO, POLITICO, 12 May 2022, <https://www.politico.eu/article/finland-sweden-join-nato-russia/>.

him as saying, ‘aren’t just the chancellor’s right, but also his duty.’”¹⁰ This shift has also affected the Greens, a party founded out of the peace and environmental movement in Germany, where Foreign Minister Annalena Baerbock said in a speech, “If our world is now a different place, then our policies must also be different.”¹¹ Many members of her party have written a letter opposing sending more weapons to Ukraine. Even within his own cabinet, such as Vice-Chancellor Robert Habeck, was against the move, over the concern “to not become targets themselves.”¹² At the outbreak of the war, the different parties were, at least publically, standing behind their chancellor as he decided to create a special fund to support military expenditures.

As the war continues to drag on, with mounting casualties on both sides, it will be more difficult for the divergent political parties to continue to show a unified front, as they have different interests to which they have to attend. One aspect that would make this move difficult for dissenters to emerge is the recent development that the German Federal Intelligence Service (die Bundesnachrichtendienst) intercepted Russian radio messages, many of which discussed killing civilians around the city of Bucha, a town recently liberated by Ukrainian forces as Russian troops left to focus on the eastern part of the country. Bucha has become synonymous with human rights violations and the rape and slaughter of innocent Ukrainian civilians, with thousands here and elsewhere in Ukraine now buried in mass graves in an effort by the Russians to hide what they are doing from the rest of the world.¹³

VI: RUSSIAN RESPONSE

Germany’s decision to begin to re-arm touches a major historic nerve in Russia, given that they’ve been invaded by Germany twice in the twenti-

10 Gathmann, Florian. “Standing up to Putin: Inside Germany’s Foreign and Security Policy Revolution.” *Der Spiegel*, 9 Mar. 2022, <https://www.spiegel.de/international/germany/standing-up-to-putin-inside-germany-s-foreign-and-security-policy-revolution-a-31fd2aba-bc08-4711-bb98-bd-9fab99d908>.

11 Gathmann, Florian. “Standing up to Putin: Inside Germany’s Foreign and Security Policy Revolution.” *Der Spiegel*, 9 Mar. 2022, <https://www.spiegel.de/international/germany/standing-up-to-putin-inside-germany-s-foreign-and-security-policy-revolution-a-31fd2aba-bc08-4711-bb98-bd-9fab99d908>

12 Burchard, Hans von der. “Germany’s Habeck Warns Tank Deliveries to Ukraine Could Turn West into Russian ‘Target.’” *POLITICO*, 15 Apr. 2022, <https://www.politico.eu/article/berlin-bickers-over-tanks-for-ukraine-amid-warnings-that-west-could-become-target/>.

13 Occhicone, Christopher. “Mass Graves in Ukraine Reveal Mounting Death Toll.” *The Wall Street Journal*, Dow Jones & Company, 9 May 2022, <https://www.wsj.com/articles/mass-graves-in-ukraine-reveal-mounting-death-toll-11651829402>.

eth century, coming at the cost of millions of lives. Chancellor Olaf Scholz is by no stretch of the imagination a Kaiser Wilhelm II or Adolf Hitler, but this move will certainly be used by the Kremlin for its own benefit, tapping into a deep sense of insecurity that a stronger Germany will once again be a threat to Russia. As a result, this development makes it more difficult for any anti-war or pro-European sentiment to develop in Russia, as all major Russian news outlets adheres to the Kremlin line.¹⁴ A classic Russian “siege mentality” has developed around the Kremlin as the country continues to be isolated from much of the world due to sanctions, businesses leaving the country, and Russia being suspended from organizations such as the UN Council of Human Rights. Nobody knows exactly what’s going on inside the Kremlin. It is speculated that even Putin’s closest advisors are afraid to tell him the truth about the exact realities of conflict. This lack of transparency may incentivize Putin adopt risky policies, potentially widening the conflict. However, as of late, this has not equated to anything outside the borders of Ukraine, nor has it caused a nuclear exchange, despite recent saber-rattling by Putin aiming to dissuade Western support for Ukraine.

One of the first casualties of this conflict was the suspension of the controversial Nord Stream 2 pipeline, which Germany decided to decertify shortly after Russia recognized Luhansk and Donetsk as independent states. The major bargaining chip that Russia holds over Europe is its oil and gas supply, on which the continent is heavily dependent. It will be a key challenge for Europe to find other sources of energy. This will come about as Europe seeks to diversify its energy, both from other countries as well as more environmentally friendly ones. This will be a major challenge for Germany as the country has been heavily reliant on Russian energy. To increase the pressure on Moscow to change its conduct in Ukraine, Germany must ban all Russian energy imports – this must be done in concert with other EU countries. The ban potentially will be felt right away by everyday Germans, but it will send a clear message to the Kremlin that German money will not go to Russia as long as it’s continues its war of aggression against a sovereign neighbor.

Nord Stream 1 has come under scrutiny recently as well. The pipeline was closed for repairs for a few days but has been brought back online. Before

14 Kornegay, Jr., Patrick. “Source of Russian Conduct: Mystic Chords of Memory.” American University, Transatlantic Policy Center, 11 July 2022, <https://www.american.edu/sis/centers/transatlantic-policy/07112022-source-of-russian-conduct.cfm>.

that decision to shut down the pipeline, capacity was down 40%, leading many to think that this was a move by Moscow in response to Berlin supporting Ukraine's fight. The shortages cause many to fear that this recent move will result in a winter supply shortage,¹⁵ a major indicator that Moscow has been using energy as a weapon against Europeans supporting Ukraine. This recent development has forced Germany to look elsewhere to make up for its energy losses, resulting in Germany opening up formerly shut down coal plants, a major loss in the fight against climate change.¹⁶

VII: BALTIC HOTSPOT

Nowhere else in Europe feels as close to the war in Ukraine as do the three Baltic countries (Lithuania, Latvia, and Estonia), who all have NATO battlegroups present in their countries, including a contingent in Lithuania led by Germany. All three countries were under Soviet control during the Cold War. If a conflict were to go hot in another part of Europe, it would likely be here, given Russia's desire to reassert control over areas it lost following the collapse of the Soviet Union. Their position is particularly precarious, given that there is a small strip of land connecting Poland with Lithuania, and much of Baltics are bordered by the Russian exclave of Kaliningrad and Belarus. Due to the ongoing conflict in Ukraine, thousands of U.S. and NATO troops have been deployed to NATO's Eastern Flank from the Baltic to the Black Sea. With regard to Germany in this region, they must increase capability readiness by conducting larger/joint-force exercises, since they "are out of practice when it comes to brigade- or division-sized operations of the kind that would be necessary to defend German or NATO territory."¹⁷ Increasing exercise capabilities should deter Russia from believing that NATO wouldn't respond to any form of aggression in the Baltics or elsewhere in Eastern Europe.

15 Steitz, Christoph, and Nina Chestney. "Russia Pumps Nord Stream Gas to Europe Again - but It's Not Enough." Reuters, 21 July 2022, <https://www.reuters.com/business/energy/nord-stream-1-gas-pipeline-nominations-show-rise-july-21-operator-website-2022-07-21/>.

16 Robertson, Harry. "Germany Takes 'Bitter' Decision to Fire up Coal Power Plants as Russia Chokes off Its Vital Natural Gas Supplies." Business Insider, 20 June 2022, <https://www.businessinsider.com/germany-coal-power-plants-russia-cuts-natural-gas-climate-energy-2022-6#:~:text=Germany%20has%20taken%20a%20%22bitter,by%20around%2060%25%20last%20week>.

17 Gathmann, Florian. "Standing up to Putin: Inside Germany's Foreign and Security Policy Revolution." Der Spiegel, 9 Mar. 2022, <https://www.spiegel.de/international/germany/standing-up-to-putin-inside-germany-s-foreign-and-security-policy-revolution-a-31fd2aba-bc08-4711-bb98-bd-9fab99d908>

VIII: WEAPONS

One of the major shifts in Germany's foreign policy was the government's decision to send weapons to Ukraine. This shift takes place in light of Germany's long-standing official policy of not sending German-made weapons into conflict zones. The first shipment of weapons was highly symbolic of this change, although they were older models given by the Soviet Union to its East German ally before the collapse of the Berlin Wall.

Germany has now pledged to send heavy weapons and other war material to the fight in Ukraine, chief among those being seven 155-mm self-propelled howitzers (Panzerhaubitze 2000), some of the most effective weapons in the Bundeswehr's artillery arsenal, able to strike a target up to 40 kilometers away.¹⁸ This is just one example of a litany of weapons that Berlin has and will provide to Ukraine, now listed daily via the German government's website, with a comprehensive list of all the weapons pledged to Ukraine, from Panzerfausts to first aid kits.¹⁹ This has not included main battle tanks, which are one of the major items on the wish-list from Kyiv that Berlin has had yet to provide. This move comes after months of complaints from Kyiv as Berlin has done little compared to other Western countries in their bid to support Ukraine's right to self-determination with heavy weapons. This move stands in stark contrast to Berlin's initial unwillingness to only send helmets and a military hospital to Ukraine before the outbreak of the war.

IX: DIPLOMATIC OFF-RAMPS?

Diplomatic relations at the highest levels of government have come under recent strain between Kyiv and Berlin. At the 2008 NATO summit, former German Chancellor Angela Merkel played a key role in preventing Ukraine's accession to NATO – Merkel's decision has now come back to the fore. It has been recently reported by a spokesman that she "stands by that decision," receiving harsh criticism from Ukrainian President Volodymyr Zelenskyy, inviting her and former French President Nicolas Sarkozy to Ukraine "to see what the policy of 14 years of concessions to Russia

18 "First Heavy Weapons from Germany Arrive in Ukraine." Deutsche Welle, 21 June 2022, <https://www.dw.com/en/first-heavy-weapons-from-germany-arrive-in-ukraine/a-62211051>.

19 "Militärische Unterstützungsleistungen Für die Ukraine: Bundesregierung." Webseite Der Bundesregierung, 21 July 2022, <https://www.bundesregierung.de/breg-de/themen/krieg-in-der-ukraine/lieferungen-ukraine-2054514>.

has led to.”²⁰ Another key German political leader, President Frank-Walter Steinmeier, was barred from coming to Kyiv with other European leaders over his previous dealings with Russia concerning Nord Stream 2. He later commented that that decision was a mistake.²¹ Despite the recent spats, Scholz did come to Kyiv to meet with Zelenskyy, along with other European leaders in a show of solidarity to Ukraine, as well as to express their support for Ukraine’s bid for EU candidacy.²² This was regarded as a diplomatic victory for both sides as they looked to make up for differences, while Ukraine is still asking for more from Berlin, and in many ways having come up short.

Diplomatic formats such as the Minsk Protocols (I and II) helped create a “line of contact” in the Donbas region of eastern Ukraine following the outbreak of violence in 2014, mediated by France and Germany. This avenue has now been closed due to the ongoing conflict. Another framework is provided by the Normandy Format – a multilateral system involving Russia, France, Germany, and Ukraine. This was also closed due to the outbreak of fighting. A new format must be created that includes all major players, including the United States, to help facilitate a drawdown of fighting. This will likely be extremely difficult given that President Putin has no plans of decreasing his country’s commitment to the fight. However, diplomatic channels must be kept open in the hopes of finding a peaceful solution to the conflict. It must be underscored that this avenue to peace will only become viable if Putin is willing to withdraw all forces from Ukraine. No diplomatic solution can be achieved if one of the negotiating parties continues to attack civilians.

X: PUBLIC DIPLOMACY

Germans are no strangers to wars of aggression, having been forced to live with the legacy of two world wars and the Holocaust. The war in Ukraine has shown that Germans feel a different sense of responsibility

20 Ankel, Sophia. “Merkel Said She Stands by Her 2008 Decision.” Business Insider, 5 Apr. 2022, <https://www.businessinsider.com/merkel-says-stands-by-decision-block-ukraine-nato-bid-2022-4>.

21 “German President Steinmeier Admits ‘Mistakes’ over Russia Policy.” Deutsche Welle, 5 Apr. 2022, <https://www.dw.com/en/german-president-steinmeier-admits-mistakes-over-russia-policy/a-61362153>.

22 Goncharenko, Roman. “German Chancellor Olaf Scholz Makes Historic Visit to Kyiv.” Deutsche Welle, 17 June 2022, <https://www.dw.com/en/german-chancellor-olaf-scholz-makes-historic-visit-to-kyiv/a-62163543>.

with regard to this new crisis in Europe. The German government must continue with its messaging that it does not stand for this type of barbarism that Putin's Russia is unleashing on the people of Ukraine. The historic responsibility and shame that Germany has accepted (*die Vergangenheitsbewältigung*) cannot be forgotten overnight, but this change in Germans' perception of responsibility must be vigorously promoted, in all areas of government. The government should do more to keep citizens informed on what their country is doing to help end the hostilities. It will take time however, as Germany has developed a close trade relationship with Russia, that has left a "wall in the head", and "shattered long-held assumptions, belief systems, and visions of relations with Russia."²³

XI: TRANSATLANTIC COOPERATION

Nothing quite united the Western world as much as Putin invading Ukraine. This sense of unity was almost immediate, with governments on both sides of the Atlantic condemning the invasion and taking steps to punish Putin for his actions against a neighboring country, from pledges to send billions of euros worth of arms, to imposing crippling sanctions on Russia. Whilst initially not sending heavy weapons, Germany has pledged to send 1 billion euros to Ukraine via the European Peace Facility, where Ukraine can make military purchases.²⁴ Biden Administration has been supportive of the changes Germany has implemented in its foreign policy, praising moves such Germany's decision to halt the certification of the Nord Stream 2 pipeline.²⁵ With Germany pledging to spend more on its defense, this should encourage the 18 remaining countries who have not met their obligations to reach 2% of GDP defense spending, under the agreement concluded at NATO Wales Summit in 2014. Germany's volte-face, being one of Europe's biggest economies, should be a wake-up call for other countries to follow suit and increase their spending.

In the coming weeks and months as the war continues, maintaining the sense of unity could prove a challenge, as the conflict eventually stops

23 Frankenger, Klaus-Dieter. "German Turning Points." American Institute for Contemporary German Studies, Johns Hopkins University, 25 Mar. 2022, <https://www.aicgs.org/2022/03/german-turning-points-past-and-present/>.

24 RadioFreeEurope/RadioLiberty. "German Delivery of Heavy Weapons to Ukraine Allowed under International Law: Justice Minister." RadioFreeEurope/RadioLiberty, 16 Apr. 2022, <https://www.rferl.org/a/germany-ukraine-military-aid/31806386.html>.

25 Smith-Schoenwalder, Cecelia. "White House Applauds Germany's Move to Halt Nord Stream 2." US News, 22 Feb. 2022, <https://www.usnews.com/news/politics/articles/2022-02-22/biden-administration-welcomes-germanys-action-to-halt-nord-stream-2-pipeline-in-rebuke-to-russia>.

getting headlines. This cannot be allowed to happen, and Germany and its Western allies must continue to show a united front in their efforts to support Ukraine.

XII: CONCLUSION - WHERE DOES IT STOP?

The Russo-Ukrainian war of 2022 has forever shattered the post-Cold War security architecture that has kept much of the continent at relative peace. The question emerges: what happens next, now that the war is into its sixth month? Unless Germany, as well as the rest of the EU fully stand behind Ukraine, the foundations of Europe's stability will be shaken to the extent where the West will emerge weaker, divided, and unable to contain an imperialist Russia.²⁶ Germany faces a new test – whether it wants to be on the right side of history. Given its own historic legacy of military aggression, it must stand up for what is right in the fight against barbarism. There are multiple areas that must be addressed collectively by Germany and its Western allies. Only months prior, most of these would have been unimaginable, from sending heavy weapons to Ukraine to diversifying energy imports away from Moscow. The longer these remain not fully addressed, the longer this war will rage on.

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²⁶ Dempsey, Judy. “The High Price of German Hesitancy.” Carnegie Europe, 12 Apr. 2022, <https://carnegieeurope.eu/strategieurope/86872>.

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