

# “If I See a Burmese Python, I’m Gonna Kill That Shit”: How Changing the Object of the Law Affects Support for Legal Regulation

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*This Article considers what it means for law to have an object and subsequently measures the consequences of changing an object of the law. I adopt a multifaceted meaning of the word “object,” considering an object as a “real” thing, a “legal” thing, and a “social” thing. This theoretical investigation of objects culminates in a theory of the objectification of the law, whereby a law becomes perhaps too strongly identified with one particular object.*

*I then test the consequences of this objectification through a 500-person digital survey experiment centered on invasive species law. Taking recent laws regulating snakes and reptiles in Florida as inspiration, I design and field an experiment that varies the “social” element of an object, holding the law constant. Specifically, I compare support for regulating snakes and reptiles to regulating another invasive species: the housecat.*

*I conclude that support for regulation varies substantially by the social desirability of the object of that law. That is, participants were staunchly opposed to regulating cats but offered few objections to regulating snakes and reptiles. In addition to quantitative measures of support for hypothetical regulatory policies, I also conduct detailed qualitative analysis of participant explanations for their support or opposition to a hypothetical invasive species law and executive order. Using direct quotes and thematic discourse analysis, I further elaborate on 5 themes: regulation of responsibility, duty to the environment, alternative regulatory strategies and removal, perceived unintended consequences to regulation, and a general dislike for one object (snakes) versus the other (cats). The cumulative weight of this analysis shows that participants employed competing and often incompatible logics in order to rationalize*

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*regulation of the undesirable object compared to the desirable object. I conclude with discussion of the implications of these findings substantively for invasive species law, methodologically for future experiments, and theoretically as applied to future studies of object-centered law.*

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## INTRODUCTION

A lot of people do not like snakes. In fact, in a survey of the most common fears in the United States, nearly a quarter of survey takers indicated that were afraid or very afraid of reptiles and snakes, outpacing other types of fears like walking alone at night, types of sexual assault, and even murder.<sup>1</sup> Further, studies show that snakes make around 50% of the population anxious, with 2-3% of people meeting the criteria for acute phobia of snakes.<sup>2</sup> Scientists have also found evidence of specialized pulvinar neuron activity in the brain that suggests that fear of snakes has an evolutionary dimension.<sup>3</sup> And scary snakes are not just in your mind, they are also in the news, on the silver screen, and maybe even in your backyard.<sup>4</sup>

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1. Roxy Amirazizi, *America's Top Fears 2020/2021*, CHAP. UNIV. SURV. AM. FEARS WAVE 7 (2021), [https://www.chapman.edu/wilkinson/research-centers/babbie-center/\\_files/Babbie%20center%20fear2021/blogpost-americas-top-fears-2020\\_-21-final.pdf](https://www.chapman.edu/wilkinson/research-centers/babbie-center/_files/Babbie%20center%20fear2021/blogpost-americas-top-fears-2020_-21-final.pdf) [<https://perma.cc/6N5B-EPHA>].

2. Jakub Polák, Kristýna Sedláčková, David Nácar, Eva Landová & Daniel Frynta, *Fear the Serpent: A Psychometric Study of Snake Phobia*, 242 PSYCHIATRY RSCH. 163, 163–168 (2016).

3. See generally Quan Van Le, Lynne A. Isbell, Jumpei Matsumoto, Minh Nguyen, Etsuro Hori, Rafael S. Maior, Carlos Tomaz, Anh Hai Tran, Taketoshi Ono & Hisao Nishijo, *Pulvinar Neurons Reveal Neurobiological Evidence of Past Selection for Rapid Detection of Snakes*, 110 PROC. NAT'L ACAD. SCI. 19000, 19000 (2013) (finding that there is preferential neuron activity in the medial and dorsolateral pulvinar to images of snakes, arguing that this is evidence in support of Snake Detection Theory, and postulating that snake threat influenced brain development in humans and other primates).

4. Snakes as antagonists are popular in film, giving rise to an entire genre of “snakeploitation” films led by blockbuster *Anaconda* in 1997. See *Anaconda* (Columbia Pictures 1997). Films not starring snakes as primary villains still often show snakes in a negatives light. For example, in the Harry Potter franchise, snakes are associated with evil, evidenced through the speaking to snakes and the battling of

However, despite the general dislike and fear reactions to snakes pervasive in both fiction and factual society, snakes are actually not responsible for a substantial number of deaths or injuries in the United States, relatively speaking.<sup>5</sup> There are approximately 7,000-8,000 venomous snakebites each year in the United States, leading to five to ten deaths on average.<sup>6</sup> Most of these bites are from three types of snakes: rattlesnakes, copperheads, and cottonmouths (also called water moccasins).<sup>7</sup> A vast majority of snakes are not venomous and are no danger to human beings.<sup>8</sup> Snakes and reptiles are also popular pets, with the American Pet Products Association estimating that there are 4.5 million reptile-owning households in the United States.<sup>9</sup>

This dichotomy, between the reptile as frightening or as a beloved family pet is made all the more salient in light of recent regulations aimed at reducing the impact of invasive species. Especially relevant to this analysis are new laws and provisions that restrict ownership and sales of popular snakes and reptiles in the name of environmental protection. In this Article I analyze the regulatory context around invasive species law using a digital survey experiment to measure how changing the object of a law changes perceptions of regulatory overreach.

This Article both is and is not a paper about invasive species regulation. In the most literal sense, it is, as it expressly considers the regulation of snakes and reptiles in Florida's Everglades and deploys an empirical experiment to study support for

a giant snake in the second installment of the series. See *Harry Potter and the Chamber of Secrets* (Warner Bros. Pictures 2002). Reports of frightening or large snakes are also common in news media and on social media. See generally Brid-Aine Parnell, *Serial Killer Pythons Stalk Florida's Everglades*, REGISTER (Feb. 1, 2012, 11:33 AM UTC), [https://www.theregister.com/2012/02/01/burmese\\_python\\_on\\_florida\\_mammal\\_decline/](https://www.theregister.com/2012/02/01/burmese_python_on_florida_mammal_decline/) [<https://perma.cc/8EPA-VK5S>] (bombastically describing invasive pythons in the Florida everglades); Ferozan Mast, *Terrifying Moment Woman Discovers 12-Foot Monster Snake Swimming in Hotel Pool*, YAHOO! (Jan. 11, 2023, 1:58 PM GMT+1), <https://www.yahoo.com/lifestyle/terrifying-moment-woman-discovers-12-125808975.html>. [<https://web.archive.org/web/20230113103809/https://www.yahoo.com/lifestyle/terrifying-moment-woman-discovers-12-125808975.html>] (describing one woman's encounter with a large snake in the hotel pool); Li Cohen, *Massive Burmese Python Estimated to be 15 Feet Long Seen Crossing Road in Florida Everglades*, CBS NEWS (Jan. 12, 2023, 8:41 AM), <https://www.cbsnews.com/news/burmese-python-15-feet-long-seen-crossing-road-florida-everglades/> [<https://perma.cc/BAT4-XZHY>] (sharing a recent report of a large python crossing the road, including photographs).

5. Stephen E. Meyers & Prasanna Tadi, *Snake Toxicity*, NAT'L LIBR. OF MED., (Sep. 19, 2022), <https://www.ncbi.nlm.nih.gov/books/NBK557565/> [<https://perma.cc/MD9R-6QK4>].

6. *Id.*

7. *Id.*

8. For a report stating that there are more than 3,000 snake species planetwide and that about 600 of those species are venomous, see *Animal Reference: Snakes*, NAT'L GEOGRAPHIC (Jan. 30, 2023), <https://www.nationalgeographic.com/animals/reptiles/facts/snakes-1> [<https://perma.cc/H92B-ZZZJ>]. The report clarifies that just because a snake is venomous, it does not mean it is capable of significantly injuring a human being. Only about 200 snake species (7%) are so capable. *Id.* This means that 93% of snake species are not particularly dangerous to humans.

9. Jamie Baxter, *American Pet Products Association Shares Innovative Reptile Products and Ownership Data Ahead of Reptile Awareness Day*, AM. PET PRODS. ASS'N (Oct. 5, 2020), <https://www.americanpetproducts.org/news/press-release/american-pet-products-association-shares-innovative-reptile-products-and-ownership-data-ahead-of-reptile-awareness-day> [<https://perma.cc/G4EJ-KAR9>].

measures to contain and cull invasive reptiles and snakes and feral cats. However, this is also an Article about the meaning of objects under the law. To that end, it is generalizable beyond invasive species law and more broadly relevant to considering what it means for law to have objects, the impact of various objects, and how objects come to be legally salient. To do this, it is necessary to spend a not insignificant amount of time building on the work of other scholars who have attempted to parse out the nature of objects, things, and the law by carefully considering what an “object” in this sense actually is.<sup>10</sup> In investigating this phenomenon, my central aims are three: (1) to decide what an object is, (2) to decide why an object matters, and (3) to measure how an object matters using an empirical case.

To accomplish this, I unfold this Article in 7 sections. In section 1, I define what an object is and consider the implications of objects. In section 2, I identify where objects come from and how they come to be important. In section 3, I introduce the context behind the empirical case that I will use to measure the role of objects. In section 4, I outline the methodology of a digital survey experiment on invasive species law. In section 5, I present the results of that experiment. In section 6, I analyze the results of the experiment in combination with the theory introduced in sections 1 and 2. Finally, in section 7, I briefly conclude and make suggestions for future work on invasive species research, support for legal regulation, and continued study of legal objects.

#### I. DEFINING AN OBJECT OF THE LAW

A great many scholars have attached the word “object” to the word “law” and, in doing so, can mean any number of different things. Therefore, this inquiry necessarily begins with a definition that will guide this understanding of “object.” Importantly, I take a multidisciplinary approach in constructing this definition of “object,” landing somewhere between the philosophy of an object, the law of an object, and the sociology of an object.<sup>11</sup> For our purposes, we can consider an object to be a “real” thing or a “legal” thing or a “social” thing and know that the same object can take up different meanings across all three of these contexts.

The differentiation between a “legal” object and a “real” object is not novel. Scholar Michael Madison is an authoritative voice on the subject, explaining how what is often considered as a neat distinction between a “legal” thing and a “real”

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10. In particular, I consider the work of Michael Madison and Henry E. Smith as foundational to this enterprise, not only analogizing my study of objects to their respective concerns but also differentiating and extending my study of objects from the constraints (be that object type or substantive inquiry) of their seminal texts.

11. From the outset of this article, I break scholarly convention in law review writing with the consistent use of the reflexive pronoun “I.” I do this because this article, at its core, is empirical. This makes it ethically necessary to center the actions of the Author who is the architect of methodology, data collection, and analytic decision-making. Another way of putting this is that the data in this article isn’t merely “the data,” rather, it is the data *I* gathered and analyzed. This distinction is important for the consideration of the results and agreement or disagreement with the conclusions therein.

thing is actually quite blended.<sup>12</sup> For our consideration, Madison most clearly distinguishes the “legal” and “real” using a patent law example. The “real” thing is the actual device being patented, but the “legal” thing is the patent claim.<sup>13</sup> We can extrapolate this to a variety of legal issues, perhaps clumsily analogizing the substantive concern of the law with the larger intent of the law. For instance, in a dispute about property, the disputed “real” object is a piece of property, but the legal dispute centers on the meaning and right to a fuzzier legal concept of “ownership.” Madison explains how this distinction becomes more complex when a “thing” is not really a real “thing” at all.<sup>14</sup> I extend and complicate this consideration by introducing another form of fuzziness: perhaps there is a “real” object and a definable but different “legal” object, but neither of those is sufficient to understand the full salience of the studied object.

In other words, Madison’s framework helps us somewhat distinguish between a “legal” thing and a “real” thing but does not alleviate the problem of “social” things or objects. Scholar Henry E. Smith tackles this problem, rejecting the conceptualization that “legal” or “real” objects are sufficient for analysis and argues for the inclusion of a social dimension to understanding “things,” asserting that “things” are also the backdrop to social relations.<sup>15</sup> In doing so, Smith urges that we not take “things” for granted and spend as much time considering how they are *not* as we spend considering how they are.<sup>16</sup> Rather than taking up in principle the concern that an area of law is reduced to a notion of “real things” (a primary consideration of Smith) I spend my time in this Article considering the entirety of the triplicate: real, legal, and social.<sup>17</sup>

Ultimately, I will do this by interrogating the realness of a chosen object under a law, the legality of that object under that law, and the social salience of an object under the same law, choosing one context of the object to vary. I do this not in theory but by undertaking an empirical analysis with a hypothetical law and its accompanying object. But first, in the section to follow, I consider the implications of objects of the law, the potential repercussions of this objectification of the law, and consider who might have institutional and legal interests in such objectification.

#### *A. Implications of the Objectification of the Law*

First, I consider what it means for a law to have a cognizable object. There are both good and bad elements of what I term this *objectification of law*.<sup>18</sup> In some ways,

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12. Michael Madison, *Law as Design: Objects, Concepts, and Digital Things*, 56 CASE W. RESV. L. REV. 381, 383–84 (2005).

13. *Id.* at 383.

14. *Id.* at 391.

15. Henry E. Smith, *Property as the Law of Things*, 125 HARV. L. REV. 1691, 1691 (2012).

16. *Id.* at 1692.

17. I say this not to dispute Smith but rather to distinguish his project of reconceptualizing property theory from the multidimensional approach I undertake here. *See id.* at 1694.

18. Here I move away from the colloquial use of the term “objectify” as a pejorative, instead

strongly attaching a known object to a law seems helpful for the clarity of the lawmaker, the applier of the law, and individuals under the jurisdiction of the law. For example, if a law has a particularly well-defined and specific object, it might be more straightforward to apply the law, dispute the law, or build some sort of social consensus around the law. This objectification can also help make the law understandable, in a limited sense, which can help ordinary people become mobilized around laws that are important to them.

Take for example, *Roe v. Wade*, which I argue has become strongly objectified as a law governing the right to choose to have an abortion.<sup>19</sup> The strong association between *Roe v. Wade* and abortion in the public consciousness has different social ramifications than if the salient social object of the law was more specifically focused on the “right to privacy,” or legal object of the case. In this way, the object of interest to society and the legal mechanism describing the outcome are slightly different. In the case of *Roe v. Wade*, the strong object framing of abortion makes the general contours of the law more understandable and more actionable for organizing social movements and actions around the law, even if that framing sacrifices some of the nuances in the actual legal decision. This same sort of logic can be applied to other types of laws and legal decisions, where the strong presence of an object makes it easier for people not embedded in law to apply the object of law to their own lives and experiences. Later in this article, I take up the example of invasive species law and discuss in detail the concept of pet animals as objects, again showcasing the way that strong objectification of the law can dramatically affect the level of salience of a particular law.

However, the objectification of law is not necessarily always a normatively good thing. I argue that strongly associating a law with a very narrowly defined object might also create a false understanding of legal nuance and mislead about the potential application of that law to other objects. Considering the fundamental legal principle of precedent is a useful way to understand the limitations of this approach. Rules created by a single legal decision tend to be very narrow in scope, instead requiring strings of legal decisions determining what to do with slightly different sets of facts before a more general principle can be developed.<sup>20</sup> Ultimately, this rule will then go on to represent the culmination of many individual circumstances and the decisions of many legal actors, giving it a stronger element of permanence as a tool for deciding future cases, or precedent.<sup>21</sup> In this way, the very first decision in

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applying the very literal meaning of “to consider something to be an object” or specifically “to attach a law to an object.”

19. See *Roe v. Wade*, 410 U.S. 113 (1973), where the U.S. Supreme Court issued a 7-2 decision holding that the Due Process Clause of the Fourteenth Amendment protects a fundamental “right to privacy” that applies to the decision to have an abortion. The Supreme Court held that this right was not absolute and said it must balance the governmental interest in protecting woman’s health and prenatal life. *Id.*

20. William M. Landes & Richard A. Posner, *Legal Precedent: A Theoretical and Empirical Analysis*, 19 J.L. & ECON. 249–50 (1976).

21. *Id.*

this line of decisions might not be a particularly good representation of the future rule. And just because there exist other decisions that might resemble a precedent does not mean there cannot be reasons to distinguish a new case from those other decisions. As put by scholar Earl Maltz, “Virtually every opinion is replete with references to decided cases. In some situations, the opinion will consist almost entirely of such citations; in other cases, judges will engage in complicated reasoning to analogize or distinguish established authority.”<sup>22</sup>In relating this back to the idea of the objectification of law, let us imagine that one of those earliest decisions, long before the development of a rule, is focused on one particular object. A decision could be made about that very specific object that is later applied to meaningfully different objects. In that way, someone might be in support of the first decision but come not to support the ultimate rule. For a hypothetical example, let us imagine that a court must make a decision about the right of individuals to ride scooters and skateboards in a public park. The court decides that scooters and skateboards are not permissible since they create dangers and hazards for pedestrians in the park. Community members are pleased to be avoiding the “menace” of teenagers on scooters and skateboards. But perhaps another question comes before the court about whether bicycles ought to be allowed in the same park. The court reasons that bicycles are another manually powered, wheeled vehicle that poses hazards to pedestrians and also bans bicycles from the park. Here the members of the community are less pleased because they did not actually seek to regulate manually powered, wheeled vehicles. Rather, they wanted a way to regulate the behavior of teenagers in public parks. Here we see a mismatch between the socially salient object, the real object, and the object of law that was obfuscated by the objectification of the law in the first place.

In this way, the objectification of law can make it difficult for law and the popular consciousness to move past specific contexts and circumstances and can serve as a distraction from whatever the core context of the object is that is actually most salient to decision-makers and ordinary people. Take for example, policy work and justice activism aimed at reforming the criminal justice system. Criminal justice system reforms have focused on populations of criminal defendants convicted of nonviolent and minor crimes.<sup>23</sup> In some ways, this is understandable as a means of garnering political and public support for reform. However, objectifying criminal justice reform in this way has also functioned to exclude swaths of

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22. Earl Maltz, *The Nature of Precedent*, 66 N.C. L. REV. 367, 367 (1988).

23. See Katherine Beckett, Anna Reosti & Emily Knaphus, *The End of an Era? Understanding the Contradictions of Criminal Justice Reform*, 664 ANNALS AM. ACAD. POL. & SOC. SCI. 238, 243 (2016) (an analysis of contradictions in criminal justice reform). Beckett, Reosti, and Knaphus argue that developments in criminal justice reform “may constitute a comparatively minor adjustment of the boundaries that delineate ‘real criminals’ from more sympathetic others.” *Id.* at 243. In doing so, the authors are critiquing the over-objectification of criminal justice reform with one particular type of criminal defendant. This might not only hamper the larger goals of criminal justice reform regarding decarceration but also might serve to more firmly entrench the idea of said “real criminals” making some future reforms more difficult than they were originally.

defendants and particularly serious punishment outcomes. As described by the Prison Policy Initiative (PPI),

Categorically excluding people convicted of violent offenses from criminal justice reforms only limits the impact of those reforms, yet almost all state reforms have focused only on those convicted of nonserious, nonviolent, and nonsexual offenses — [sic] the so-called “non, non, nons.” In fact, almost all of the major criminal justice reforms passed in the last two decades explicitly exclude people accused and convicted of violent offenses.<sup>24</sup>

PPI explains that the centering of nonviolent, nonserious, and nonsexual offenses has yielded a terrain of reform that has made gains in that area, but at the expense of other types of crime reform, not only contemporaneously but perhaps also in the future. Focus on particular crime types is not the only consequence of the objectification of criminal law reform; there are also consequences for criminal sentencing. The Sentencing Project describes these implications, writing,

Despite the pursuit of necessary criminal justice reforms at the margins of the system, reforms to the laws and practices that perpetuate life sentences have been rare, and the focus has been too narrow to fully challenge mass incarceration. Growing support for decarceration and proposals for sentencing reforms for low-level offenses are frequently paired with the preservation of harsh penalties for serious and violent crimes.<sup>25</sup>

Again, we see how the objectification of a certain and specific meaning of criminal justice reform, centering nonviolent and less serious crimes as the object of reform, has obfuscated stagnating reforms in other areas. This is particularly notable when the other areas constitute substantial long-term punishment.

### *B. Institutional and Legal Interests in Objectification*

As the previous examples show, objectification of the law is not always, or perhaps even usually, an accidental process, rather it is one that can be deliberately undertaken to advance the motives or objectives of a particular group. That's not to suggest that all such undertakings are necessarily nefarious, rather it simply allows for objectification to have a particular intention that may or may not be compatible with the intentions of the parties involved. From here objectification can take on regulatory significance.

Explaining the relationship between objects and regulation, Madison writes, “In the middle lie what may be the most interesting regulatory choices—areas where thingness is

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24. Press Release, Alexi Jones, *Reforms Without Results: Why States Should Stop Excluding Violent Offenses from Criminal Justice Reforms*, PRISON POL'Y INITIATIVE (Apr. 2020), <https://www.prisonpolicy.org/reports/violence.html> [https://perma.cc/6JKS-P5DU].

25. *Still Life: America's Increasing Use of Life and Long-Term Sentences*, SENT'G PROJECT 1, 26 (2017), <https://www.sentencingproject.org/app/uploads/2022/10/Still-Life.pdf> [https://perma.cc/A3Y7-U48Y].

constrained in one way or another, but where those constraints offer distinct regulatory advantages and drawbacks, and raise comparable questions about legitimacy.”<sup>26</sup>

In this way, the way we conceptualize or define an object becomes very important. Another way to consider this problem is via “slippery slope” legal reasoning and to consider how the slippery slope concept interacts with previously discussed conceptualizations of precedent. Slippery slope arguments are commonly invoked in popular culture on topics ranging from legalizing abortion to physician-assisted suicide to legalizing specific types of drugs.<sup>27</sup> However, legal scholars find that while the political and moral dimensions of slippery slope arguments are less legitimate, the slippery slope argument in the context of law is an important and legitimate one.<sup>28</sup> Slippery slope arguments are common in law, sometimes even substantially endorsed by judges in their decision-making, demonstrating that the courts can take a future orientation to decision-making based on a yet unknown series of decisions.<sup>29</sup>

Contemporaneously, we see an example of this deriving from the recent Supreme Court decision *Dobbs v. Jackson*, which struck down *Roe v. Wade* (1973).<sup>30</sup> Justice Clarence Thomas authored a concurrence where he called for a reconsideration of a string of rights previously conferred by the Supreme Court on the grounds that the Due Process Clause does not secure substantive rights. He then concluded that “any substantive due process decision is ‘demonstrably erroneous’” and the court “should reconsider . . . substantive due process precedents.”<sup>31</sup> Here we see an enactment of a popular culture slippery slope argument (if they overturn *Roe*, what’s next?) applied to law and legal precedent such that there is substantial possibility of reconsidering a slew of previously settled decisions. Returning to the project of objectification, we can then consider how a slippery slope argument and strong objectification of a particular law or provision can work against each other. That is, if a law is strongly associated with one object without a slippery slope lens or an understanding of legal precedent, then it may be surprising to individuals who support regulating the original object (but not subsequent objects) exactly where the slippery slope ends. To that end, scholar Eric Lode calls for not just considering the slippery slope from the top but also reasoning it backwards from the bottom.<sup>32</sup>

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26. Madison, *supra* note 12, at 387.

27. Wibren van der Burg, *The Slippery-Slope Argument*, 3 J. CLINICAL ETHICS 256, 256 (1992); Robert M. Walker, *Physician-Assisted Suicide: The Legal Slippery Slope*, 8 CANCER CONTROL 25, 27 (2001); Anneli Jefferson, *Slippery Slope Arguments*, 9 PHIL. COMPASS 672, 677 (2014).

28. Van der Burg, *supra* note 27, at 265.

29. Take for example, *Texas v. Johnson*, 491 U.S. 397, 417 (1989), where the court argues that upholding a statute about burning a flag could lead to a series of other decisions that would ultimately yield an objectionable result. This is discussed thoroughly in Eric Lode, *Slippery Slope Arguments and Legal Reasoning*, 87 CALIF. L. REV. 1469, 1496–97 (1999).

30. *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215 (2022).

31. *Id.* at 332 (Thomas, J., concurring) (quoting *Ramos v. Louisiana*, 140 S. Ct. 1390, 1424 (2020)).

32. Lode, *supra* note 29, at 1543.

## II. THE ORIGINS OF SALIENT OBJECTS

In all of the previous discussion about what an object is and why the objectification of the law is legally significant, the origin of said objects has remained vague. A fundamental question, then, undergirding this analysis is the process by which individual objects become salient enough to motivate support or disagreement with a law. After all, the implications and potential consequences of objectification discussed above will not come to pass if the object simply does not achieve a certain level of social or legal salience or interest. So then, the analytic question becomes, How do people come to care about particular objects in relation to the law? We can answer this question with an emphasis on the third prong of our triplicate of objects (the legal, the real, and the social) through a focus on the dynamic relationship between society and the social objects of law.

*A. Legal Consciousness and the Relationship Between Law and Society*

The legal consciousness literature offers some insight on how to consider the relationship between what people experience and the law. Legal consciousness can be defined as “the ways in which people experience, understand, and act in relation to law.”<sup>33</sup> Importantly, this understanding must be situated within the context of societies and the hierarchies and complexities within them.<sup>34</sup> Legal consciousness is a particularly important consideration in relation to law as research has moved away from the assumption that law is an independent and autonomous system to consider law with a constitutive perspective that understands law to be connected to other elements of social life.<sup>35</sup> What this does is let us consider the sociology embedded in the law, broadening our analysis beyond “what does the law say” to “why does the law say that, and what do people think about it?” Those latter two questions become particularly important in our investigation of the objectification of law since the objects of law exist in the legal consciousness as dynamic social objects in addition to their existence as “real objects” and in addition to their interpretation by the courts as “legal objects.”

In his classification model for understanding social fears, Andrew Tudor offers a framework that can usefully be used to connect legal consciousness to an object, albeit in this case presuming the object has a fear component.<sup>36</sup> While specific to fear, Tudor’s could be applied to other types of objects with few

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33. Lynette J. Chua & David M. Engel, *Legal Consciousness Reconsidered*, 15 ANN. REV. L. & SOC. SCI. 335, 336 (2019).

34. Laura Beth Nielsen, *Situating Legal Consciousness: Experiences and Attitudes of Ordinary Citizens About Law and Street Harassment*, 34 L. & SOC. REV. 1055, 1055 (2000).

35. *Id.* at 1058.

36. The author lays out the model for constructing a macro sociology of fear. In it, Tudor considers the intersections of the micro and macro as well as the dynamic and static. He then creates a sort of positioning of six principal elements: environments, cultures, social structures, bodies, personalities, and social subjects. Andrew Tudor, *A (Macro) Sociology of Fear?*, 51 SOCIO. REV. 238, 246–47 (2003).

changes.<sup>37</sup> Tudor proposes that the relationship between an individual and fear is determined by macrostructural factors and microagency factors, spanning environments, cultures, social structures, bodies, personalities, and other social subjects that span both the social and the physical.<sup>38</sup> In this way we can think about the multidimensionality between an individual who is part of a society and their relationship to an object. Let us take as an example that will become increasingly relevant in this analysis, a snake as a fear object at the center of Tudor's parameterization of fear. Using Tudor's multifactor approach, we can theorize about how a snake as an object interacts with social norms, collective perceptions, and institutions like the law. Divorcing the snake as an object from this broader context would severely limit our understanding of the dynamic between the snake as an object and how people think it ought to interact with the law. What this does is take the "real object" as a snake and give it dynamic meaning and social attachment as a "social object." In this way, merely studying law without examining the legal consciousness surrounding the object would provide a very incomplete understanding of that object's relationship to the law.

This example is not designed to suggest that ordinary individuals outside of the courtroom cannot have strong beliefs about legal objects. That is, I do not mean to limit ordinary people to real and social objects. It is perfectly plausible that individuals could have strong beliefs outside the real or social capacities of an object and also have strong beliefs about the legal object and legal concepts. I do, however, see this possibility as less likely due to the opacity of law and the disentangling of almost impossible nuance that can be necessary to fully theorize a legal concept, compared to a process like objectification of the social context of an object.<sup>39</sup>

### B. Information About Objects

If we further investigate the idea that ordinary people have concrete beliefs and opinions about all types of objects, we must then consider where information about objects actually comes from. There are lots of ways to transmit information across a society and I argue here that the flow of knowledge across societies informs general consensus surrounding various objects. In this way, social knowledge becomes the mechanism by which an object becomes identifiable with a coherent social context or contexts. The sociology of knowledge provides a useful framework

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37. *Id.* at 246.

38. *See generally id.*

39. See, for example, work in jury comprehension literature that demonstrates that complexity of legal nuance and decision-making is so far afield that even jurors specifically instructed on specific cases from judges in actual courtrooms continue to exhibit extremely poor understandings of the law. In Alan Reifman, Spencer M. Gusick & Phoebe C. Ellsworth, *Real Jurors' Understanding of the Law in Real Cases*, 16 L. & HUM. BEHAV. 539, 552 (1992), the authors find that even supplemental instruction to jurors did not substantially improve juror comprehension. Taking this as only one example of the morass of complexity that is the law, the appeal of an object-based understanding of law becomes more transparent, even if the objectification of law leads to a degradation of legal nuance (which might not be understandable anyway).

for understanding how knowledge becomes entrenched in societies.<sup>40</sup> Traditionally, the sociology of knowledge focused on formal systems of ideas, but newer research argues that these formal idea systems are linked to broader cultural patterns and social consciousness.<sup>41</sup> Knowledge can be circulated through members of societies in a multitude of forms, including but not limited to storytelling, through media or institutions, and via interpersonal communication across networks.<sup>42</sup> Knowledge can also be maintained through collective memory, with strands of research in this area considering how traditions are created to serve social purposes and how certain events/phenomena are lost or retained in the collective memory.<sup>43</sup> There is also considerable work on informal knowledge that considers how ordinary people accumulate knowledge to deal with ordinary experiences.<sup>44</sup> This is a particularly appealing way of considering objects, which are themselves rather ordinary by definition. Extensions of this work also consider how people act on cultural schemas to reproduce existing social structures, with scholar William Sewell Jr. terming these “the rules of social life.”<sup>45</sup> Contemporaneously, technological innovations have changed the knowledge-scape by changing the accessibility of knowledge and access to extended networks and communities.<sup>46</sup>

Obfuscated by the previous discussion is the fact that knowledge, about objects or anything else, is not simply the receipt of impartial information. Rather, this information comes embedded in the social context in which it is created and disseminated along with various elements of emotion and morality attached to it. Law itself is a particularly good way of understanding how the creation of systems of knowledge and the literal codification of knowledge has a decidedly moral or emotional component that generates and sustains investment in various objects. There is a broad universe of possible examples of this phenomenon, but I explain the general premise here with a look at the moral foundations of criminal law. Looking back at the history of criminal law, morality is baked into the very origins

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40. See generally Ann Swidler & Jorge Ardití, *The New Sociology of Knowledge*, 20 ANN. REV. SOCIO. 305 (1994) (explaining the state of the field of the sociology of knowledge and differentiating various eras and knowledge pathways).

41. *Id.* at 306.

42. See Peter K.J. Tobin & Retha Snyman, *Once Upon a Time in Africa: A Case Study of Storytelling for Knowledge Sharing*, 60 EMERALD GRP. PUBL'G LTD. 130, 139 (2008) (describing a case study of knowledge sharing within a mining organization in South Africa); Michael Schudson, *The Sociology of News Production*, 11 MEDIA, CULTURE & SOC'Y 263, 263 (1989) (explaining the process by which the creation of news become sociological work); see generally Morten T. Hansen, Marie Louise Mors & Bjørn Lovås, *Knowledge Sharing in Organizations: Multiple Networks, Multiple Phases*, 48 ACAD. MGMT. J. 776 (2005) (discussing knowledge sharing across subsets of networks within an organization).

43. Swidler & Ardití, *supra* note 40, at 309.

44. *Id.* at 321 (citing ANTONIO GRAMSCI, *Selections from the Prison Notebooks* (Quentin Hoare & Geoffrey Nowell Smith eds. & trans., 1971)).

45. William H. Sewell, Jr., *A Theory of Structure: Duality, Agency, and Transformation*, 98 AM. J. SOCIO. 1, 9 (1992).

46. See generally Sam Han, *Theorizing New Media: Reflexivity, Knowledge, and the Web 2.0.*, 80 SOCIO. INQUIRY 200 (2010) (examining knowledge in the new media context and arguing that that media is not just an enhancement of traditional forms of communication, rather it is something dynamically new).

of the legal framework. In criminal law, blameworthiness is codified into law by a set of standards and heightened punishments through the vehicle of *mens rea*, or a guilty mind.<sup>47</sup> With strong roots in Christianity or religious morality, it was plainly stated that “justifiable punishment is premised on and proportional to moral guilt.”<sup>48</sup> In a similar but distinct vein, theories of blameworthiness postulate that punishment should reflect the individual’s degree of moral blameworthiness rather than being based merely on the degree of resulting harm.<sup>49</sup> When evaluating wrongs and harmful acts, assigning blame is inherently social; people care about what kind of person the actor is: who that person is and not just what they have done.<sup>50</sup> In this way the social dimensions of an object and societies’ reactions to that object become part of the law. Even long after the initial moral foundations of the blameworthiness of criminal law, the influence of morality in criminal law remains and is quantitatively measurable.<sup>51</sup> In some forms it is legally codified into the actual logic of criminal offenses, differentiating crimes by intent rather than outcome or alternatively arguing for more severe punishment regardless of intent due to the perceived severity of the outcome.<sup>52</sup> The foundations of criminal law demonstrate that law is not an independent system; rather it rises out of the social context and morality in which it was inscribed and explains how the morality of various objects entrenched in social systems also become entrenched in law.<sup>53</sup>

### III. EMPIRICAL CASE ANALYSIS

In the sections to follow, I move beyond the theory of objects and their origins to a concrete test of how the meaning of objects affects belief in legal regulation. In doing so, I endeavor to make meaning of the object salience described above to see how changing the object of a law changes support for that hypothetical law. Taking up once again our three types of objectification (legal, real, and social), I construct an empirical test that intentionally manipulates some types of objectification while holding others constant to measure the effect of changing the social object of a law.

In this case, the law and the “legal object” will be held constant. So also, will certain elements of “real object” be held constant. What I will vary most strongly,

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47. Paul H. Robinson, *Mens Rea*, 34 FAC. SCHOLARSHIP PA. L. 995, 996 (2002).

48. *Id.*; Martin R. Gardner, *The Mens Rea Enigma: Observations on the Role of Motive in the Criminal Law Past and Present*, 1993 UTAH L. REV. 635, 655 (1993).

49. James Edwards & Andrew Simester, *Crime, Blameworthiness, and Outcomes*, 39 OXFORD J. LEGAL STUD. 50, 50 (2019).

50. Janice Nadler, *Blaming as a Social Process: The Influence of Character and Moral Emotion on Blame*, 75 L. & CONTEMP. PROBS. 1, 1 (2012).

51. See generally Kat Albrecht & Janice Nadler, *Assigning Punishment: Reader Responses to Crime News*, FRONTIERS PSYCH., Feb. 16, 2022, at 1 (finding that moral blameworthiness, varying by political affiliation, changes the amount of desired carceral punishment for a drunk driving offense).

52. Here I refer to some of the original standards for criminality like “depraved heart” as a homicide standard and the legal consequences of “wickedness” or “malignance” as described in Samuel H. Pillsbury, *Crimes of Indifference*, 49 RUTGERS L. REV. 105, 116–17 (1996).

53. See Meghan J. Ryan, *Juries and the Criminal Constitution*, 65 ALA. L. REV. 849, 850 (2014); Tania Tetlow, *Solving Batson*, 56 WM. & MARY L. REV. 1859, 1863 (2014).

then, is the “social object.” I do this using invasive species law. I created a hypothetical law regulating snakes and reptiles, derived from a real law in Florida in the United States. Here our “real object” is animals, specifically pets, our “legal object” is the right to ownership and sale of those pets, but the “social object” is the concept of a snake or reptile *as opposed to other types of pets*. You could make an argument that the “real object” is a snake or reptile rather than a pet more generally. However, I argue that the social dimension of what a snake or reptile means to people is more important than the actual physical specificity of the object because of the comparative nature of this inquiry. As such, the difference between what a snake versus a cat means to people is derived from their social knowledge about the animals and their relationships to them rather than the absolute difference between scales and fur.

In order to test the social meaning of objects, I compare my hypothetical law regulating snakes and reptiles to a hypothetical law regulating feral cats. Again, our “real object” is a pet animal, the “legal object” is the right to ownership, but the “social object” relies on how people feel about cats compared to how they feel about snakes. To lessen the variation between the “real objects” (since a snake and a cat are admittedly literally different species of animal), I construct the experiment to hold the relative harms of each species on the local environment constant. In essence, I design an experiment where the law is the same, the harm is same, and what varies is the social attachment to the object.<sup>54</sup> Before I introduce the particulars of the experiment, I spend significant time constructing the comparison and introducing the real legal context behind the comparison.

#### *A. Framing the Problem: Invasive Species Law in Florida, USA*

On February 25, 2021, the Florida Fish and Wildlife Conservation Commission (FFWCC) approved rule changes to Chapter 68.5 of the Florida Administrative Code, adding sixteen “high-risk” nonnative species to Florida’s Prohibited Animals List. This list of new additions includes tegus, green iguanas, Nile monitors, scrub pythons, amethystine pythons, southern African pythons, northern African pythons, green anacondas, reticulated pythons, and Burmese or Indian Pythons.<sup>55</sup> Possessing these species was then limited to the following uses “research, education, control or eradication or qualified commercial use (green

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54. You might argue that there are still some differences between snakes and cats that I have not controlled for. For example, perhaps snakes reproduce faster than cats. This could be true. However, the information given in the experiment intentionally constructs cats and snakes as identically as possible. I also conducted detailed coding of respondent explanations for support or opposition to regulation that did not reveal any systematic assumptions about meaningful differences. I also had a subset of participants directly compare snakes and cats, where the most pervasive difference identified by participants was their attachment or preferences for cats versus snakes, which is precisely the intended manipulation of the experiment.

55. *Regulations for Prohibited Snakes and Lizards*, FLA. FISH & WILDLIFE CONSERVATION COMM’N (2021), <https://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/> [https://perma.cc/X2LG-WAKA].

iguanas and tegus) and pet ownership (green iguanas and tegus).<sup>56</sup> These snakes and reptiles, some of whom are among the most popular reptiles in the pet trade, became illegal to sell or acquire as new pets after July 28, 2021.<sup>57</sup> The FFWCC further clarified that persons and businesses who possessed animals for commercial use had until July 28, 2021, to liquidate their inventory.<sup>58</sup>

Though these changes dismayed and outraged reptile owners and breeders, environmental activists praised them. Kate MacFall, the Florida State Director for the Humane Society of the US, went on record sympathizing with reptile lovers but asserting that “our native wildlife and the environment is too precious. This risk is too great. This is the only one we’ve got, and we need to take care of it.”<sup>59</sup>

Meanwhile, on the other side, the United States Association of Reptile Keepers (USARK) challenged the constitutionality of the order, filing a formal complaint on May 27, 2021.<sup>60</sup> In it, USARK argues that the FFWCC adopted arbitrary and capricious rules based on no logical evidence, did not properly follow due process (which comes with scientific data to support targeting specific species), failed to prepare a statement of regulatory costs, and failed to consider other regulatory alternatives.<sup>61</sup>

Burmese pythons, in particular, have long been at the center of invasive species legislation in Florida, with cited concerns about fragile ecosystems in the Everglades. It is unknown exactly how Burmese pythons gained a foothold in the region, though common explanations include the pet trade that brought approximately 100,000 pythons to the United States in the mid-1990s–mid-2000s and the destruction of a python breeding facility during Hurricane Andrew in 1992 that led to the mass release of pythons.<sup>62</sup> Burmese pythons are of particular concern because they grow to an average of twelve feet and challenge even the strongest predators in the region.<sup>63</sup>

Public horror with these large snakes was spurred in part by the release of a photograph from National Park Researchers in 2005. This photograph depicted a headless thirteen-foot Burmese python with an exploded stomach and a fully intact

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56. *Id.*

57. *Id.*

58. *Rules for Invasive Nonnative Reptiles: Important Dates for Rule Changes to Chapter 68-5, F.A.C.*, FLA. FISH & WILDLIFE CONSERVATION COMM’N (2021), <https://myfwc.com/wildlifehabitats/nonnatives/rule-development/> [<https://perma.cc/SZV8-264Y>].

59. Jessica Meszaros, *Florida’s New Invasive Reptile Rules Have Breeders Leaving and Activists Rejoicing*, W. UNIV. S. FLA. MEDIA (Apr. 29, 2021, 5:00 AM), <https://wusfnews.wusf.usf.edu/environment/2021-04-29/floridas-new-invasive-reptile-rules-have-breeders-leaving-and-activists-rejoicing> [<https://perma.cc/X5VV-P9S9>].

60. Complaint for Declaratory and Injunctive Relief, U.S. Ass’n of Reptile Keepers, Fla. v. Fla. Fish & Wildlife Conservation Comm’n (May 28, 2021), <https://usarkfl.wild.apricot.org/resources/Documents/USARK%20FL%20Complaint%202021.pdf> [<https://perma.cc/4MU9-JNRK>].

61. *Id.* at 3.

62. Michael Sarill, *Burmese Pythons in the Everglades*, BERKELEY RAUSSER COLL. NAT. RES. (2016), <https://iep.berkeley.edu/content/burmese-pythons-everglades> [<https://perma.cc/Q2SD-GUCZ>].

63. *Id.*

six-foot alligator inside.<sup>64</sup> These reactions were not devoid of social context and precedent. Chapman University's survey of fears has found that fears of snakes and reptiles are persistent in the United States, with 24.7% of survey takers indicating that were afraid or very afraid of reptiles and snakes. This is a higher level of fear endorsement than sexual assault or murder by a known assailant, stalking, or walking alone at night.<sup>65</sup>

Florida has been engaged in proactive efforts to trap and kill Burmese pythons with the engagement of the public. Executive order 20-17 clarifies that a member of the public may kill nonnative reptiles on public land at any time without a permit.<sup>66</sup> In exchange for your efforts in killing pythons you can receive merchandise like souvenir t-shirts from the Florida Fish and Wildlife Conservation Commission, who even provide a training course in how to hand-capture pythons to kill them. FFWCC stipulates that pythons must be captured and killed by legal and humane means, including remote-controlled firearms, gasoline, or poisons.<sup>67</sup> The specifics of the new addition to the invasive species list and the existing executive order were the inspiration for the hypothetical law described in the forthcoming experiment.

### B. Regulating Invasive Species

Regulations on snakes and reptiles at the state level in Florida did not come out of thin air rather there is a significant legal history of regulating invasive species at the federal and state levels in the United States. While I do not aspire to reciting the entire history of invasive species regulation in the United States, I do provide some context about key laws and regulations at the federal level that govern much of invasive species regulation nationally.<sup>68</sup> The Lacey Act is the principle federal tool to regulate interstate and international trafficking in protected wildlife and has been amended and expanded over the past 100 years.<sup>69</sup> A violator of the Lacey Act can face criminal and civil penalties including fines, forfeiture of assets, and

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64. Victoria Gillman, *Photo in the News: Python Bursts After Eating Gator (Update)*, NAT'L GEOGRAPHIC (Sep. 5, 2006), <https://www.nationalgeographic.com/animals/article/photo-in-the-news-python-bursts-after-eating-gator-update> [<https://perma.cc/C9E6-RPZU>].

65. Amirazizi, *supra* note 1.

66. *Executive Order Number: EO 20-17, Special Regulations for Taking Non-Native Reptiles on Specified Commission-Managed Areas in the South Region*, FLA. FISH & WILDLIFE CONSERVATION COMM'N (MAY 28, 2020), <https://myfwc.com/media/23764/eo20-17.pdf> [<https://perma.cc/5FN2-STYA>].

67. FLA. ADMIN. CODE R. 68A-4.001; *Python Pickup Program*, FLA. FISH & WILDLIFE CONSERVATION COMM'N (2021), <https://myfwc.com/wildlifehabitats/nonnatives/python/pickup/> [<https://perma.cc/EPN6-AFMW>].

68. See Robert Brown, *Exotic Pets Invade United States Ecosystems: Legislative Failure and a Proposed Solution*, 81 IND. L.J., 713 (2006), and Julianne Kurdila, *The Introduction of Exotic Species Into the United States: There Goes the Neighborhood!*, 16 B.C. ENV'T. AFF. L. REV. 95, 103-04 (1988), for general overviews of the history of invasive species regulation in the United States. I opt to present information at the Federal level here rather than solely in Florida because while the hypothetical case used in the empirical experiment is inspired by Florida, participants in the experiment may come from any U.S. state.

69. Lacey Act Amendments of 1981, 16 U.S.C. § 3373(d)(1)(B).

incarceration.<sup>70</sup> While the Lacey Act has been expanded beyond its original avian focus, it has historically remained somewhat limited as applied to the exotic pet trade as it prohibits importation of only more extreme species (in terms of potential harms).<sup>71</sup> The Lacey Act is accompanied by the Endangered Species Act, originally passed in 1973 to create a list of threatened species, and Executive Order 13,122 designed to “prevent the introduction of invasive species and provide for their control and to minimize the economic, ecological, and human health impacts that invasive species cause.”<sup>72</sup> Other legislation exists in the same arena, like the National Invasive Species Act of 1996, but again does not extend substantially to the pet trade.<sup>73</sup>

More recently, the America COMPETES Act was passed by the U.S. House of Representatives on February 4, 2022, and amends the Lacey Act to prohibit the movement of injurious species across state lines, to allow for different species to be given emergency designations of injurious, and to require nonnative species that are not a regular part of the exotic animal trade to be reviewed as potentially invasive.<sup>74</sup> Some animal welfare groups have come out strongly in support of the American COMPETES Act include the Animal Welfare Institute and Brett Hartl, the government affairs director at the Center for Biological Diversity, who stated that,

By adopting a proactive approach to the wildlife trade, this bill will curb the risk of another pandemic and improve our relationship with the natural world. As we’ve seen, the cost of allowing the reckless destruction of the natural world can run into the trillions of dollars, so it’s vital that any economic competitiveness bill address this fundamental threat.<sup>75</sup>

Supporters of the exotic animal trade, which includes some snakes and reptiles, have come out strongly against America COMPETES, with USARK notably commenting,

As what can only be described as dirty politics, the America COMPETES Act of 2022 (HR4521) emerged in the House on January 28. The America COMPETES Act mutated into a 3,000-page mockery of the U.S. political process that sailed through the House in a week (passing on 2/4/22 with a 222-210 vote). This

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70. *Id.*

71. Robert Brown, *Exotic Pets Invade United States Ecosystems: Legislative Failure and a Proposed Solution*, 81 IND. L.J. 713, 719 (2006).

72. Endangered Species Act, 16 U.S.C. § 1538(a)(1)(B) (2000); Exec. Order No. 13,112, 64 Fed. Reg. 6183 (Feb. 3, 1999).

73. National Invasive Species Act of 1996, Pub. L. No. 104-332, 110 Stat. 4073 (1996); Brown, *supra* note **Error! Bookmark not defined.**, at 723.

74. H.R. 4521, 117th Cong. (2022); *America COMPETES Act Includes Big Wins for Wildlife, Pandemic Prevention*, CTR. FOR BIOLOGICAL DIVERSITY (Feb. 4, 2022), <https://biologicaldiversity.org/w/news/press-releases/america-competes-act-includes-big-wins-for-wildlife-pandemic-prevention-2022-02-04/> [<https://perma.cc/AV3Y-Z4BK>].

75. *How the America COMPETES Act Amends the Lacey Act: Fact vs. Fiction*, THE ANIMAL WELFARE INST., <https://awionline.org/sites/default/files/uploads/documents/22-COMPETES-Act.pdf> [<https://perma.cc/M3M4-QHAG>] (last visited Apr. 1, 2024) (expressing support for the COMPETES Act); H.R. 4521, 117th Cong. (2022); CENTER FOR BIOLOGICAL DIVERSITY, *supra* note 7474.

monstrosity replaced the original bill that was titled the Bioeconomy Research and Development Act of 2021.

USARK exposed the news on the same day the bill was reported in the House that deceptively hidden within a bill advertised as an economic and national defense initiative were Lacey Act amendments that will have shattering impacts on the pet community and trade, as well as other industries. Our alert has been circulating and awareness is spreading.

This issue is not just about reptiles, or birds, or fish, or amphibians, or mammals. It is about all of them! If you own an animal other than a dog, cat, or traditional farm animal, your species could be treated as injurious. If you have an animal interest business, this will likely affect you. Even business in domesticated agriculture species could be afflicted as shipments with any animal description may see increased inspection. This escalated scrutiny may also decrease the number of ports allowed for shipments.

Potentially thousands of species could fall victim to this overreach. Is it not worth a minute of your time to contact your lawmakers to protect your freedoms?<sup>76</sup>

We can see then that the terrain of pet regulation, particularly as it concerns reptiles and snakes, is a contentious one, not just in our Florida-inspired hypothetical but also on the national stage. In particular relevance to the methodology of my experiment, the gulf between the animal object and the concept of ownership rights is not one that has to be generated purely within the experiment since such connections are already inherent to existing discourse around pet regulation. This controversy is fruitful ground for an experiment because the law is actively changing and it presents with a clearly defined object in snakes and reptiles from which to build up the parameters of the experiment.

### *C. Comparison Case: Feral Cats*

The goal of my experiment is not to test whether or not people agree with the regulation of snakes and reptiles, though I predicted that they would in substantial measure. Rather, the goal of my experiment is to study what happens if the same law that purportedly solves an equally severe harm targets a more or less desirable object. In order to do this, I must select a comparison case that we can evaluate against regulatory opinions about snakes and reptiles.

I selected a comparison case that perhaps has a similar type of environmental

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76. *America COMPETES Act of 2022*, USARK (Feb. 4, 2022), <https://usark.org/2022lacey1/> [<https://perma.cc/4JSX-EB7T>].

harm, but that harm is derived from a very different object. That is, reptiles are not the only invasive species terrorizing local wildlife. A much fluffier assailant can be found in the domesticated housecat. Work by Loss et al. estimates that cats kill up to 22.3 billion mammals annually and are the greatest cause of anthropogenic mortality for birds and mammals in the United States.<sup>77</sup> Despite this, McDonald et al. found that a majority of cat owners did not agree that cats were harmful to wildlife, did not support containment strategies, and distanced themselves from conservation concerns.<sup>78</sup> Consequently, some scholars have been critical of the lack of legislation regulating cats as an invasive species, going so far as to argue that current systems of law may require governments to put protections into place that involve killing feral cats and regulating domestic cats.<sup>79</sup>

At first blush, it might seem absurd to compare invasive species regulation of snakes and reptiles to regulation of cats. However, there have been cases of regulating cats in similar ways to the new provisions and current executive orders that regulate snakes and reptiles in Florida. In Australia the national government has taken considerable steps to measure and lower the impact of feral cats and pet cats on the Australian wildlife. Australia's Federal Parliament released a report finding that feral cats kill 1.4 billion native Australian animals per year and that pet cats kill up to 390 million animals.<sup>80</sup> The same report recommended three measures to regulate domestic cats: (1) requiring registration of pet cats, (2) requiring that cats be spayed and neutered, and (3) mandating curfews to prevent pet cats from being let outside at night.<sup>81</sup> Plans to contain the feral cat problem went even further. As of 2015, the Australian government committed to killing two million feral cats by 2020.<sup>82</sup> This plan sparked controversy and protest but was nevertheless undertaken with over 200,000 felines culled in the first twelve months.<sup>83</sup>

When asked about why the Australian response to the cat problem differed so substantially from the lack of similar action in the United States, former Australian environment minister Josh Frydenberg said it was a matter of focus on the impact

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77. Scott R. Loss, Tom Will & Peter P. Marra, *The Impact of Free-Ranging Domestic Cats on Wildlife of the United States*, 4 NATURE COMM'NS 1, 2 (2013).

78. Jennifer L. McDonald, Mairead Maclean, Matthew R. Evans & Dave J. Hodgson, *Reconciling Actual and Perceived Rates of Predation by Domestic Cats*, 5 ECOLOGY AND EVOLUTION 2745, 2751 (2015).

79. Arie Trouwborst, Phillipa C. McCormack & Elvira Martínez Camacho, *Domestic Cats and Their Impacts on Biodiversity: A Blind Spot in the Application of Nature Conservation Law*, 2 PEOPLE & NATURE 235, 246 (2020).

80. Anthony Ham, *Australia's Cats Kill Two Billion Animals Annually. Here's How the Government is Responding to the Crisis*, SMITHSONIAN MAG. (Mar. 17, 2021), <https://www.smithsonianmag.com/science-nature/australias-cats-kill-two-billion-animals-annually-180977235/> [<https://perma.cc/N97G-U2UZ>].

81. *Id.*

82. AUSTL. GOVT. DEP'T OF ENV'T, THREATENED SPECIES STRATEGY, 1, 11, <https://www.dcceew.gov.au/sites/default/files/documents/ts-strategy.pdf> [<https://perma.cc/4YNT-JX2T>] (last visited Apr. 1, 2024).

83. Jessica Camille Aguirre, *Australia Is Deadly Serious About Killing Millions of Cats*, N.Y. TIMES (Apr. 25, 2019), <https://www.nytimes.com/2019/04/25/magazine/australia-cat-killing.html> [<https://perma.cc/LVK6-QVYG>].

on wildlife instead of emotional attachment to cats.<sup>84</sup> Organizations like Alley Cat Allies have also been credited as being more widely influential in the United States compared to places abroad.<sup>85</sup> Indeed, Alley Cat Allies released a statement against the Australian cat containment strategy titled, “Harmless Cat Community Massacred and Mutilated in Australia.”<sup>86</sup>

So, a seemingly absurd comparison between cats and snakes in the U.S. context might not be so absurd when taking a broader lens. Noting the different emotional (or social) attachment to cats in the United States also sets up a useful comparison of the social meaning of specific animal objects for the experiment, allowing for a test of the impact of varying social objects on support for legal regulation.

#### IV. DATA CONSTRUCTION AND METHODOLOGY

Based on the media and public reactions to laws regulating snakes compared to similar cases regulating feral cats, I hypothesize that there will be a significant difference in support for regulation depending on the social dimensions of the animal object. Further, I argue that the predicted difference in public support is not the most interesting potential finding; rather the principle aim of this empirical work is to study how people justify treating different objects of the law differently, even if the law itself and the harms it purports to prevent are identical. Considering the response to the Australian cat containment strategy versus the general response to regulating snakes in Florida, I predict that logics justifying animal removal or arguing against it will be inconsistent.

H1: *Support for legal regulation of pet animal will vary not by the terms of the law, but by the animal object of the law, even when the harms are held constant*

H2: *Individuals will justify their position using inconsistent logics about regulation*

To test this, I conduct a digital survey experiment on Prolific.co that presents participants with a hypothetical invasive species law and associated executive order, asks them if they support such a provision or order, and asks them to justify their support or lack of support.<sup>87</sup> The entire survey took five to seven minutes to complete, and participants were compensated for their participation at a rate of 15

84. *Id.*

85. *Id.*

86. *Harmless Cat Community Massacred and Mutilated in Australia*, ALLEY CAT ALLIES (Feb. 26, 2021), <https://www.alleycat.org/harmless-cat-community-massacred-and-mutilated-in-australia/> [https://perma.cc/GX6V-7KPA].

87. Prolific is a standard and reputable digital task platform for digital survey experiments. See Stefan Palan and Christian Schitter, *Prolific.ac—A Subject Pool for Online Experiments*, 17 J. OF BEHAV. & EXPERIMENTAL FIN. 22 (2018) (introducing Prolific as a survey platform); Eyal Peer, Laura Brandimarte, Sonam Samar & Alessandro Acquisti, *Beyond the Turk: Alternative Platforms for Crowdsourcing Behavioral Research*, 70 J. OF EXPERIMENTAL SOC. PSYCH. 153 (2017) (concluding that Prolific produces significantly higher quality data than other popular online work task platforms). See also recent works by this author that were conducted on Prolific including Kaitlyn Filip & Kat Albrecht, *Liebeck v. Frivolity: The Contemporary Influence of an Iconic Case*, 4 CORP. & BUS. L. J. 42 (2023) and Kaitlyn Filip & Kat Albrecht, *Virtual Justice: Measuring Perceptions of Fairness in Civil and Criminal Courts*, 54 LOY. U. CHI. L. J. (2023).

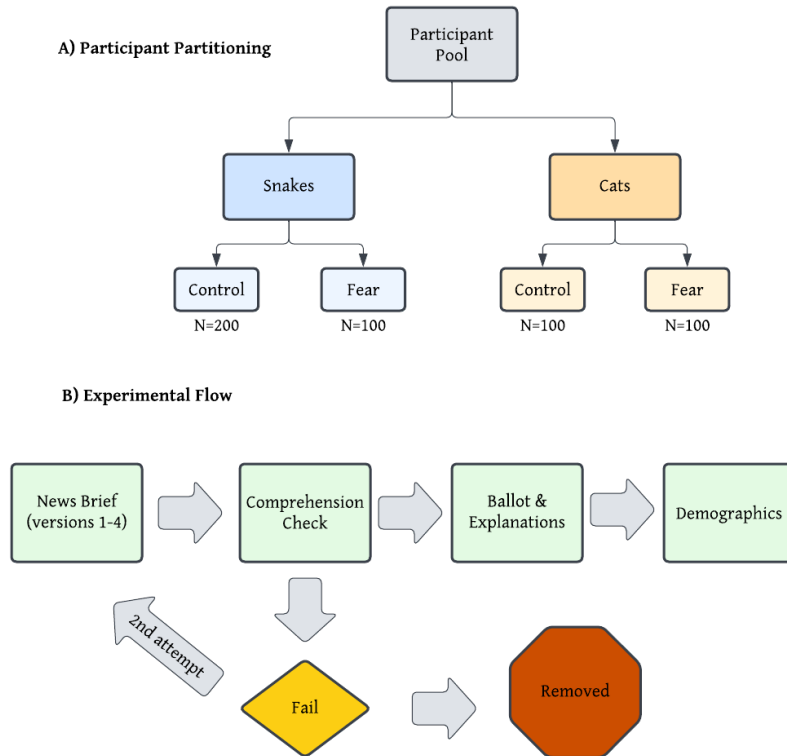
USD per hour. The survey flow is visualized in Figure 1 below. I began with a pool of 500 participants.<sup>88</sup> These participants are divided across four experimental scenarios.<sup>89</sup> Ultimately, as per Figure 1A, the participants are bucketed into receiving a hypothetical news brief centered either on snakes and reptiles or feral cats. The snakes versus cats conditions were further subdivided into two versions of the news brief: one that intentionally used fear-related words and one that stayed closer to purely factual recitation of harms. I represent those conditions in the flow chart below for accuracy, but the distinction proved to not be statistically meaningful, so I do not analyze it further.<sup>90</sup>

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88. Participants were required to be located in the United States, over the age of 18, and to have a 95% or higher worker rating on Prolific in order to be eligible for the study.

89. Rather than splitting participants evenly into groups of 125, I allocated 100 participants into each experimental condition and reserved 200 participants for the control condition. Because the control condition is the baseline, I wanted to lessen the influence of any potential outlier on the control condition.

90. By this I mean that there was no difference in support for the hypothetical law based on whether fear-related words were added to the news story. This is not entirely surprising, since both snakes and cats are known objects to participants, who have their own frames for understanding whether snakes and cats are frightening. A better measurement of the impact of fear-related words in this context could involve comparing reactions to two unknown objects. That way, the fear-related words would have a chance at making an independent impact on judgment, rather than having to overcome the hurdle of outweighing the current beliefs and priors of respondents about familiar objects.

**Figure 1. Experimental Design**

Participants in each condition were asked to read the hypothetical news brief, complete a comprehension check, express their support (or lack of support) for the new law and existing executive order, explain their reasoning, and then complete a set of demographic questions. The news brief was designed to explain a new addition to the invasive species list, justify the inclusion of the new species, and remind the reader of an existing executive order that governs removal of invasive species. Both the new provision and the existing executive order in the news brief were modelled directly after the Florida laws discussed in this Article. In the news story, the chairman of the Fish and Wildlife Commission directly addresses concerns about regulating pet animals. The news brief in both the snake and cat condition were identical, except for whether the word “snake” or “cat” was used. Text of the news briefs are shown below (Figure 2).

**Figure 2A: Sample News Brief from Experiment: Snakes****Brief Report: FWC Announces New Invasive Species Law**

Chairman of the Fish and Wildlife Commission (FWC) James Randell has announced a new provision to Administrative Code 62.8, implementing new restrictions on 'high-risk' non-native species in the state. The new provision adds 14 new animal species to the list, among them several species of snakes and reptiles including Burmese pythons, green anacondas, and tegus. All 14 species will become illegal to sell or acquire as new pets beginning on January 1st, 2025.

Randell defended the new provision, describing how snakes and reptiles have become a severe problem for the local ecosystem. Randell explained the move saying, "We understand that this might cause consternation among members of our community, particularly among those who keep snakes and reptiles as pets. This provision is not meant to harm responsible pet owners, but to acknowledge that previously released pets and now entrenched reptile populations are harming native species to the point of no return. We have seen an over 90% reduction in small mammals and birds, so we need to take action to save our native animals." This provision comes on the heels of concerted efforts by the FWC to cull invasive snake populations across the state.

This new provision is supplemented by existing Executive Order 20-13, which governs removal of non-native species. Executive order 20-13 clarifies that a member of the public may kill non-native species on public land at any time without a permit. FWC guidelines stipulate that 'high-risk' non-native species must be captured and killed by legal and humane means using a two-step process: 1) immediate loss of consciousness using a captive bolt or firearm and 2) destroying the brain with a small rod or rigid implement.

Local activists for and against the new provision are expected to offer comments at an upcoming Town Hall.

**Figure 2B: Sample News Brief from Experiment: Cats****Brief Report: FWC Announces New Invasive Species Law**

Chairman of the Fish and Wildlife Commission (FWC) James Randell has announced a new provision to Administrative Code 62.8, implementing new restrictions on 'high-risk' non-native species in the state. The new provision adds 14 new animal species to the list, among them domestic cats. All 14 species will become illegal to sell or acquire as new pets beginning on January 1st, 2025.

Randell defended the new provision, describing how cats have become a severe problem for the local ecosystem. Randell explained the move saying, "We understand that this might cause consternation among members of our community, particularly among those who keep cats as pets. This provision is not meant to harm responsible pet owners, but to acknowledge that previously released pets and now entrenched feral cat populations are harming native species to the point of no return. We have seen an over 90% reduction in small mammals and birds, so we need to take action to save our native animals." This provision comes on the heels of concerted efforts by the FWC to cull invasive snake populations across the state.

This new provision is supplemented by existing Executive Order 20-13, which governs removal of non-native species. Executive order 20-13 clarifies that a member of the public may kill non-native species on public land at any time without a permit. FWC guidelines stipulate that 'high-risk' non-native species must be captured and killed by legal and humane means using a two-step process: 1) immediate loss of consciousness using a captive bolt or firearm and 2) destroying the brain with a small rod or rigid implement.

Local activists for and against the new provision are expected to offer comments at an upcoming Town Hall.

After reading the news brief, participants were asked to complete a comprehension check to demonstrate that they had accurate knowledge of the new provision and the existing executive order outlined in the news brief. They did so by answering a trio of questions about the type of animal, what specifically would happen beginning January 1st, 2025, and about permit requirements under the existing executive order. Forty-seven participants (9.4%) answered one or more of the comprehension questions incorrectly and were given a second attempt to read the news brief and answer the questions. Ultimately, eighteen participants (3.60%) failed on their second attempt and were removed from the survey. Several participants were also removed from the study for open-text answers that did not allow for sufficient bot prevention checks (i.e., wrote "I am not sure" with no further elaboration for all open-text questions, which disallowed confirmation that the responses were not generated by a bot). Twenty-six total participants were removed from the survey for

data quality issues, retaining 94.8% of the original study population.<sup>91</sup>

The resulting sample had the demographic profile shown in Figures 3 and 4 as described by participants. A majority of participants were female (53.62%). 76.24% indicated that they were white or Caucasian, 9.09% were Black or African American, 6.61% were Asian, 1.03% were American Indian or Alaskan Native, and a further 7.03% identified as some other race. 7.23% of participants indicated that they were of Hispanic ethnicity. Similar to other samples on Prolific, the population skewed slightly liberal, with a mean around seventy (with zero being the most conservative and 100 being the most liberal). A wide spectrum of ages was well represented in the sample.

There was also significant variation in financial demographics. Around one-third of participants had attended some college or vocational school, while 38.43% had a bachelor's degree. Participants perceived themselves as belonging to a number of social classes, which I compared to their reported income. Around 50% of the participants reported full-time employment, with substantial percentages of respondents also reporting part-time work, student status, or unemployment. Taken in sum, the demographic variation, while not representative of the entire United States, did demonstrate significant variation across categories that allows for the incorporation of a range of perspectives in the study.<sup>92</sup>

**Figure 4: Financial Demographics**

|                                   | N   | (%)   |
|-----------------------------------|-----|-------|
| Gender                            |     |       |
| Female                            | 259 | 53.62 |
| Male                              | 202 | 41.82 |
| Transgender/other                 | 22  | 4.56  |
| Race                              |     |       |
| White or Caucasian                | 369 | 76.24 |
| Black or African American         | 44  | 9.09  |
| Asian                             | 32  | 6.61  |
| American Indian or Alaskan Native | 5   | 1.03  |
| Other                             | 34  | 7.03  |
| Hispanic                          |     |       |
| Yes                               | 35  | 7.23  |

91. On file with Author.

92. Here, I use the term “representative” in the context of statistical social science.

|                       |      |       |
|-----------------------|------|-------|
| No                    | 449  | 92.77 |
| Political Views       |      |       |
|                       | 25%  | 50    |
|                       | 50%  | 70    |
|                       | 75%  | 90    |
|                       | 100% | 100   |
| Age                   |      |       |
| 18 to 24              | 114  | 23.65 |
| 25 to 29              | 97   | 20.12 |
| 30 to 34              | 82   | 16.80 |
| 35 to 39              | 63   | 13.07 |
| 40 to 44              | 40   | 8.30  |
| 45 to 49              | 22   | 4.56  |
| 50 to 54              | 20   | 4.15  |
| 55 to 59              | 17   | 3.53  |
| 60 or older           | 28   | 5.82  |
| Marital Status        |      |       |
| Never married         | 293  | 60.54 |
| Married               | 144  | 29.75 |
| Divorced or separated | 47   | 9.71  |

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N= 483 - 484 due to nonresponse

Figure 3: Participant Demographics

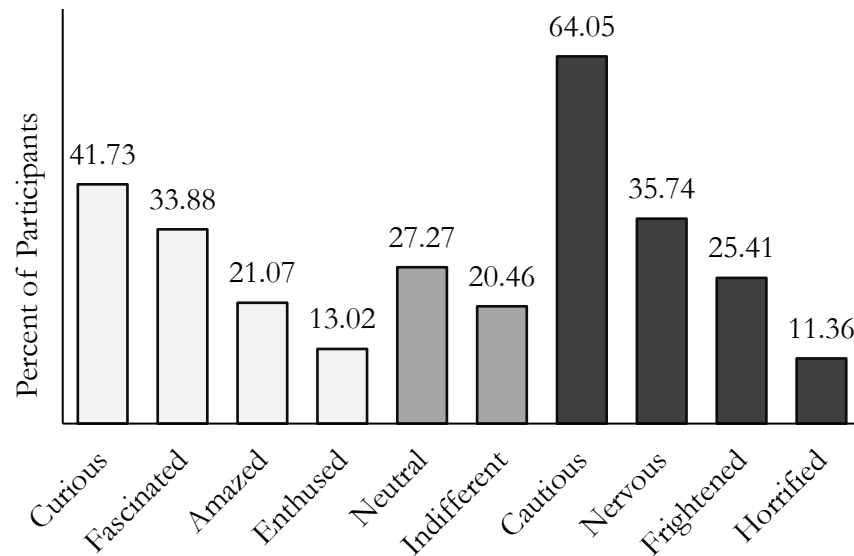
|                                   | N   | (%)   |
|-----------------------------------|-----|-------|
| Education                         |     |       |
| High school diploma/GED or less   | 78  | 16.12 |
| Some college or vocational school | 161 | 33.26 |
| Bachelor's degree                 | 186 | 38.43 |
| Postbaccalaureate degree          | 57  | 11.78 |

|                        |     |       |
|------------------------|-----|-------|
| Perceived Social Class |     |       |
| Poor                   | 37  | 7.66  |
| Working class          | 143 | 29.61 |
| Lower middle class     | 173 | 35.82 |
| Upper middle class     | 125 | 25.88 |
| Upper class            | 5   | 1.04  |
| Income                 |     |       |
| Less than 10,000       | 23  | 14.29 |
| 10,000 to 14,999       | 11  | 6.83  |
| 15,000 to 24,999       | 12  | 7.45  |
| 25,000 to 34,999       | 24  | 14.91 |
| 35,000 to 49,999       | 14  | 8.70  |
| 50,000 to 74,999       | 27  | 16.77 |
| 75,000 to 99,999       | 19  | 11.80 |
| 100,000 to 149,999     | 21  | 13.04 |
| 150,000 or more        | 10  | 6.21  |
| Employment             |     |       |
| Employed (full-time)   | 230 | 47.82 |
| Employed (part-time)   | 77  | 16.01 |
| Unemployed             | 82  | 17.26 |
| Student                | 77  | 16.01 |
| Retired                | 15  | 3.11  |

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N= 481 - 484 due to nonresponse

I also asked participants to report how they feel about snakes and reptiles via endorsement of any/all relevant descriptors (Figure 5). A majority of participants reported feeling “cautious” (64.05%), and large numbers of participants reported feeling “curious” (41.73%), “fascinated” (33.88%), and “nervous” (35.74%). Similar to the Chapman University survey of fears that found that one-fourth of individuals were afraid or very afraid of snakes and reptiles, 25.41% of participants in my experiment reported feeling “frightened” by snakes and reptiles.

**Figure 5: Feelings About Snakes and Reptiles**

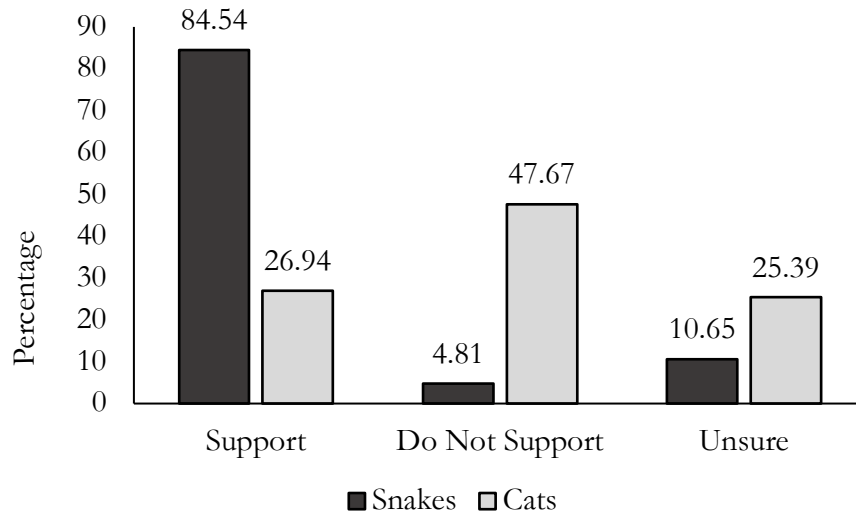
## V. RESULTS

Next, I will share the quantitative and qualitative results of the experiment. After participants were asked to read the hypothetical new invasive species law that added new species to the existing invasive species list (either a variety of snakes and reptiles or cats) and reminded about an existing executive order that allows for invasive species to be killed on public property at any time without a permit, they were asked to answer multiple choice questions about whether or not they support the new provision and the existing order. Subsequently, they were provided with open-text boxes where they were required to explain their answer.

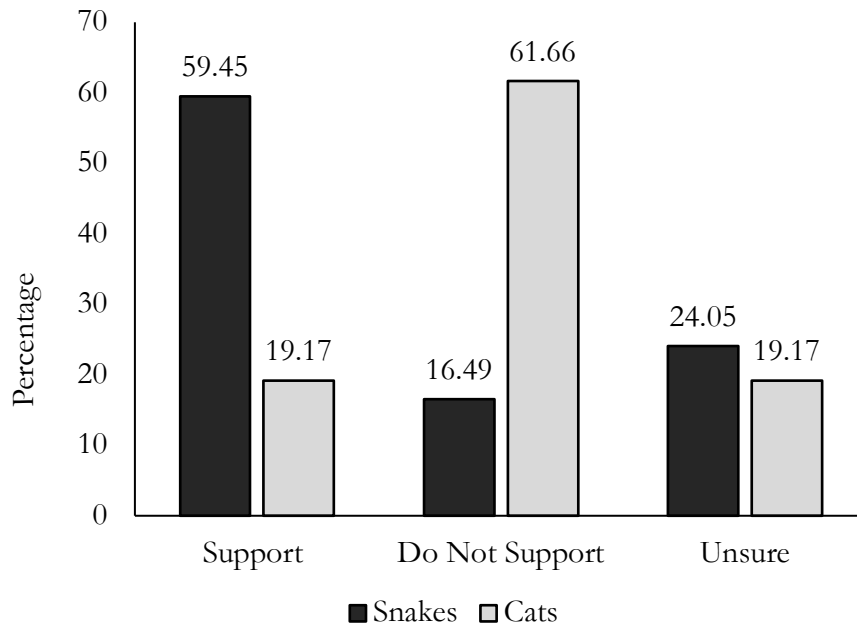
Participants were first asked to report whether or not they support a new law adding additional species of snakes and reptiles or cats to the invasive species list (Figure 6). This law comes with the provision that all new sales and purchases of the regulated animals must cease on January 1, 2025. This does not affect animals already owned as pets but would prohibit the sale or obtaining of new pets. Support for the provision varied substantially depending on the object of the law (snakes versus cats). 84.54% of participants supported the provision when it was about snakes and reptiles, while only 26.94% supported the identical provision about cats.

Importantly, the construction of the news story clearly stated the amount of environmental harm caused by the snakes or cats, and this harm was identical across both conditions. In both cases, the snakes and cats had contributed to a 90% loss in other species; it was explained that released former pets contributed to the problem and advocated that the environment needed to be protected. When it came to snakes and reptiles, about 10.65% of participants were not sure if they supported

the new provision or not. The level of uncertainty increased more than double when the provision was about cats instead (25.39%).



Next, participants were asked whether or not they were in support of the existing executive removal order, which allows for members of the public to kill nonnative species on public land without a permit. This removal must follow a two-step process outlined in the news brief that consists of immediate loss of consciousness with a captive bolt or firearm and brain destruction. There was significantly less support for the existing executive order than for the new provision (Figure 7). 59.45% of participants supported the executive order for snakes, and 19.17% supported the same order for cats. Around 20%-25% of participants were unsure, but even so, the disapproval in both conditions rose substantially. Compared to the 4.81% of individuals who opposed the new law regulating snakes and reptiles, 16.49% (a three-fold increase) did not support the executive order outlining removal practices.

**Figure 7: Support for the Existing Executive Order**

...ect of the law would change support for regulation of the object. However, significantly more interesting are the results drawn from the open-text responses, where participants explained why they did or did not support the new provision or the existing executive order.

#### *A. Thematic Analysis*

In order to unpack these responses, I conduct detailed thematic coding of the open-text responses. I present the most salient themes that emerged here, giving examples of specific quotes that typify larger patterns of responses.<sup>93</sup> In general, responses centered around five themes including regulation of individual responsibility, duty to the environment, alternatives to killing/removal, potential unforeseen consequences of regulating pets, and general dislike for snakes. I explore each theme in order before uniting them in a synthetic discussion.

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93. In general, these quotes are unedited, except for basic grammar corrections such as missed capitalization or obvious typos. I refer to participants only by their participant ID numbers recorded in the study, as no identifying information was collected for the research. Comments are also cited according to which version of the experiment the participant received, whether it be the version involving snakes and reptiles (“snake condition”) or the version involving cats (“cat condition”).

### Theme One: Regulating Responsibility

The strongest theme throughout the text corpus was the idea of using regulation in relation to personal responsibility. In this way, participants cast legal regulation as either infringing on the rights of responsible individuals or as necessary for reigning in irresponsible individuals. Which argument respondents made was almost perfectly correlated with the animal object. In the case of snakes and reptiles, participants generally supported regulation as a means of dealing with irresponsible pet owners.

One participant justified their support for regulating the sale and ownership of snakes and reptiles, writing, “People have repeatedly shown they are not responsible enough to have these animals and they now pose a danger to other wildlife and people because of it. The privilege should be taken away.”<sup>94</sup> This participant exemplifies a trend found across many responses to the “snake condition” news brief, where the harms described in the news brief were accepted by participants as evidence that snake and reptile owners were not responsible. Even respondents who themselves kept exotic pets (some of them snake and reptile owners) seemed to accept this evidence as sufficient grounds for regulation. One participant, who himself owns exotic spiders, wrote,

I support the provision because it has been proven that humans can't be trusted to not release their pets into the wild. Because of this, the government needs to make regulations to prevent more non-native species from being introduced. It's unfortunate, but necessary. I happen to keep exotic pets (tarantulas), and while I would be bummed if there were a regulation like this on certain tarantula species, I would understand the reasoning.<sup>95</sup>

This participant explicitly labels a governmental duty to intervene to regulate irresponsible conduct, even if that regulation would be to their own disadvantage as a presumably responsible exotic pet owner. Participants also frequently made allowances for the fact that most snake and reptile owners are probably responsible pet owners but frequently suggested that they believed the risk of irresponsible pet owners was too strong. One participant wrote,

If invasive species reducing the population of native species is really becoming that much of a problem, something needs to be done about it. I know that most pet owners are responsible but it's better not to bring more of those animals into an area [where] they're becoming such a massive problem in the first place, and there's the risk of too many pet owners /not/ being responsible.<sup>96</sup>

For this participant and many others, the scope of the problem took precedence over pet ownership, regardless of personal responsibility. For others, the future-thinking orientation of the new provision took precedence over responsible pet owners. One participant typified this future orientation, writing,

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94. Participant 250, snake condition.

95. Participant 358, snake condition.

96. Participant 331, snake condition.

While I understand that some people are responsible for keeping their pets, it's too late to do anything about the pets that have already infiltrated the area and are causing great harm to the ecosystem. Something must be done and this new law would begin reducing future populations of these types of pets and improv[ing] the ecosystem.<sup>97</sup>

In sum, the participant response to regulating snakes focused on harms, current and future, and determined that the actions of irresponsible pet owners superseded the actions of responsible pet owners. Participants took exactly the opposite approach when it came to regulating cats, arguing that rather than containing irresponsible pet owners, regulating cats would serve to punish responsible cat owners. Respondents frequently responded using an explicit “rights to pet ownership” frame. Some typical responses from participants were as follows: “I am a believer of individual liberties and responsible pet owners. To limit a particular pet is a slippery slope when it comes to what animal next is considered for sale or ownership.”<sup>98</sup> “A free country means free decision making in how many pets I have.”<sup>99</sup> and “Restricting peoples’ ownership of domesticated pets, such as cats, undermines rights and freedoms.”<sup>100</sup> All of these responses extend the regulation of one specific object (cats) to rights and freedoms more broadly, sometimes even specifically invoking slippery slope arguments. Notably, while these expressions of rights were frequent in the cat condition, they were entirely absent from the snake condition. Participants also criticized the idea that regulation would change the behavior of irresponsible pet owners, another difference from the snake condition, where there was no such critique of regulation. One participant criticized the proposed regulation of cats: “It won’t stop people from keeping them as pets. It will only hurt people who obey authority always. Why punish responsible owners that keep [cats] inside?”<sup>101</sup> Other participants agreed, and the response was frequently to cast about for regulatory alternatives (which will be discussed in more depth in Theme Three). One participant wrote, “It unnecessarily punishes law-abiding citizens. There should be another way to prevent unfit owners from buying certain animals.”<sup>102</sup> Searching for additional sources of regulation does acknowledge that some cat owners could be irresponsible. However, this acknowledgement of irresponsibility on the part of some pet owners was not acknowledged to the extent that it was in the snake condition. Participants also often responded with outrage at the mere premise of regulating cats, without any discussion of the harms outlined in the news story. This bears a marked divergence from the snake condition, where participants often used the specific harms presented as evidence for their decision-

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97. Participant 528, snake condition.

98. Participant 141, cat condition.

99. Participant 158, cat condition.

100. Participant 68, cat condition.

101. Participant 29, cat condition.

102. Participant 144, cat condition.

making. Representing the general negative reaction to regulating cats, one participant wrote, “I am a cat owner, and it is ridiculous to think that in the future if I wanted to get another one I wouldn’t be able to.”<sup>103</sup>

These general patterns should not obfuscate the fact that there were some participants who did acknowledge the harms of cats and a smaller pool of participants who were in favor of regulation. Responses agreeing with the regulation of cats as an invasive species expressed regret at having to regulate the cats but deemed it ultimately necessary. A particularly detailed response read in part,

It isn’t sustainable to the environments, and it’s damaging to smaller ecosystems to have all these mammals die off due to these cats. I also know of a lot of people who wanna go to the store and buy a brand-new cat, but refuse to take a wild one, or people that have actually dumped cats in my own yard that they couldn’t take care of or keep due to owning dogs. People obviously cannot be trusted to own or manage these cats when it becomes an issue, so an ordinance to ban the sale of them would be a very positive thing. I am extremely passionate about this topic, being forced to deal with all these wild cats myself, and I don’t think the average person understands the damage and effects that the large population of these cats do to the other animals in the area.<sup>104</sup>

This respondent invokes arguments similar to those used to rationalize regulating snakes regarding pet owners proven irresponsible by the scope of the problem but grounds their response in personal experience. Even so, they acknowledge the unpalatability of the object and assert that some people might just not understand the actual scope of damage, a prediction consistent with the general patterns across other participants.

### **Theme Two: Duty to the Environment**

The second most prevalent theme that emerged from participant responses was discussion of duty to the environment. In some ways, this is entirely expected since environmental protection is the central impetus for the proposed regulation. However, the specific ways in which participants talked about environmental duties varied significantly depending on whether the object of the law was snakes or cats.

Participants were generally willing to regulate snakes in the name of environmental protection. Often, these justifications did not center snakes at all, talking specifically and pointedly about environmental impact. An example of this reads,

I think it’s important to limit the impact of humans on Earth’s natural ecosystems. When humans introduce nonnative species to an ecosystem, the results are often catastrophic. So, I agree that there should be laws limiting the type of species that humans are

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103. Participant 42, cat condition.

104. Participant 192, cat condition.

allowed to own in a given ecosystem.<sup>105</sup>

Some participants more directly considered the positionality of snakes in their responses but argued for regulation of snakes and reptiles. Participants often cited their own experiences, particularly participants who owned exotic pets. One such participant wrote,

I would support this provision because our environment is already in a precarious position. I believe it is extremely important to ensure native animals and fauna are protected and allowed to thrive. I have a pet snake myself and I still agree with this because there are too many people who are bad pet owners. It is sad so many people will release pet animals back into the wild without a thought of what issues it may cause to the entire ecosystem around them.<sup>106</sup>

Even though the regulation would be operating against their personal interest, the participant voted for regulation, determining that environmental needs exceeded their own desire or need to keep snakes as pets. Some participants very explicitly centered rights in their responses, asserting that rights to pet ownership (of snakes) were superseded by duties to the environment. One participant explains this, writing,

I think balancing the effect that human activity has on local ecosystems and limiting our environment impact is far more important than an individual's right to acquire a new pet. The law also does not prohibit keeping reptiles as pets but only certain species. The benefits of this provision far outweigh the negatives.<sup>107</sup>

In addition to arguing that the environmental concern outweighs individual ownership rights, this participant points out that not all snakes and reptiles are banned under the proposed provision. This cost-benefits approach was frequently employed in the snake condition, paired with the fact that a substantial majority of participants voted in support of the provision (approximately 85%).

When it came to regulating cats, participants were generally either reticent to regulate even with consideration of environmental harms or alternatively were very explicit that they did not consider cats to be a "special" exception to general invasive species regulation. To the latter point, one participant wrote, "That is how non-native species in some states are dealt with. I don't see the point in distinguishing between a wild boar and a cat when it comes to how/if you can cull a population harming the ecosystem."<sup>108</sup> For this participant, there was no distinguishable difference between cats and other invasive species in this context. While not common across the corpus (after all, a minority of participants were in favor of regulating cats under the proposed provision and existing executive order), some participants relied on their knowledge of other invasive animal problems to come to

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105. Participant 476, snake condition.

106. Participant 362, snake condition.

107. Participant 339, snake condition.

108. Participant 41, cat condition.

similar conclusions. One participant explained their support for the order, writing,

I support the order. In Texas, United States, there is a wild hog problem, destroying crops and vegetation. Texas Farmers, as well as people from out of state kill these hogs by the dozen to protect crops, so in my opinion I would think that doing the same to cats, to protect the well-being of other species is acceptable.<sup>109</sup>

In addition to discussion of hogs in Texas, participants also brought up the example of cane toads in terms of culling invasive species to protect native animal populations. More common were responses that demonstrated conflicted feelings about regulating cats. One participant who decided to support the provision explained their uneasiness, writing,

The integrity of the local ecosystem and the survival of native species are more important than maintaining the ability to buy a new cat or keep an outdoor one. I don't enjoy the possibility of someone's pet being killed simply because it got out and I don't know exactly how I feel about banning the sale and purchase of cats altogether, but these things can be changed later, and I'd support the provision as is.<sup>110</sup>

This participant relied on the idea of law as mutable but currently necessary. Other participants also considered the temporality of the problem in making their decisions. One participant explained why they would be in favor of the provision now to lessen the number of cats killed in the future:

I say yes to this particular provision because I would rather support limiting sales, ownership, and breeding now rather than having to kill more cats later on. I cherish all animals down to the insects our great planet houses. These ecosystems are very delicate and the livelihood of every other species is at stake in an ecosystem burdened with a noninvasive species. Something would need to be done about it.<sup>111</sup>

In both of the previous cases, the participants came down on the side of regulation, even if they were not happy about it. As the quantitative results show, most participants felt the opposite in the cat condition that cats should not be regulated in this way. One participant typifies the conflicted response of participants who ultimately did not support regulation,

This is a tough one. On one hand, I agree that cats are a dangerous invasive species. It will only get worse from here as irresponsible cat owners allow their cats to roam outdoors and reproduce. Cats are very dangerous to ecosystems. But then again, there are plenty of responsible cat owners that either keep their cats indoors or provide catios. It seems like there could be some middle ground

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109. Participant 165, cat condition.

110. Participant 202, cat condition.

111. Participant 206, cat condition.

somewhere. Maybe stricter laws on spaying and neutering, and stricter fines for allowing free-roaming cats.<sup>112</sup>

In their response this participant, like many others, explicitly acknowledges the dangers of cats to the ecosystem and natural world but still does not support regulation. In this participant's case, they also assert that lots of cat owners are responsible, harkening back to Theme One, and advocate for searching for regulatory alternatives that nicely foreshadow Theme Three.

### **Theme Three: Alternatives to Killing and Removal**

The third theme revealed by the experiment describes proposed alternatives to regulatory strategies and concerns about removal/killing tactics. Generally, participants were likely to suggest alternative regulatory strategies to deal with cats but not snakes and reptiles. When it came to snakes and reptiles, participants offered justifications for removal methods tinged by some concern about the ability of the public to effectively carry out those methods.

Participants generated a variety of possible alternative strategies for regulating cats. As explained below, participants suggested education, fines, animal registration, spay and neuter requirements, and containment for domestic cats. For example, "Banning all purchase or sale of cats seems extreme. While outdoor cats are responsible for significant harm to small mammals and birds, a blanket ban seems unwise. The problem could be addressed by educating cat owners or implementing fines."<sup>113</sup> Participants also offered specific suggestions on how to punish cat owners for not following less harsh regulatory solutions. One participant proposed such alternatives writing,

I would be in support of strict laws governing ownership of the animals such as making sure they cannot escape the house or yard, strict spay/neuter laws, licensing, heavy penalties and fines if someone breaks the laws, but not saying someone cannot own a cat. I would support protecting the native species, but would hope there would be a better solution and/or a great outcome if strict cat-ownership laws are met.<sup>114</sup>

Participants often did not interrogate the feasibility of their suggested alternatives. Some participants offered alternatives that do not hold up as possible solutions. For example, one participant critiqued the provision, writing,

This is the most inhumane law I can imagine with animals. I cannot fathom how someone would think it was a good idea to start shooting everyone's cats. I understand that rodents are important to the ecosystem, but they should just move these feral cats to farmland if they really wanna do something with that. The idea of a genocide with everyone's kitties is evil and I refuse to

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112. Participant 205, cat condition.

113. Participant 116, cat condition.

114. Participant 103, cat condition.

believe this law is actually related to noninvasive species.<sup>115</sup>

In suggesting that feral cats be moved to farmland the participant reveals that they either do not understand the scope of the feral cat problem described in the news brief or that they simply do not believe it is a problem.<sup>116</sup> Indeed, the last sentence of their response fails to differentiate feral cats from domestic cats and questions the legitimacy of the law at large. Alternative regulatory strategies were much more infrequently mentioned for snakes and reptiles.

Instead of focusing on alternative regulation options, comments about snakes and reptiles tended to focus more on removal tactics. Some participants expressed willingness to kill pythons. Similar to the titular quote of this Article, another participant wrote, “If I saw a freaking python in my yard I would kill that MF-er no matter the law. I have a toddler.”<sup>117</sup> This participant, like several others, asserted in no uncertain terms that they are going to kill any pythons they see—invasive species law or not. Unsurprisingly, this sentiment was not extended to cats. Some participants also expressed willingness to participate in killing pythons for environmental protection reasons or endorsed the use of the public to help curb the snake problem. One participant wrote,

If the issue of the invasive species is already so bad and overwhelming, then I see no reason not to support this. It makes it a group and community effort to help the environment and native species by making sure the invasive and problem reptiles/ animals are removed by any means necessary. If I was a citizen of this community I would take pride in helping the environment and surroundings by participating and removing any invasive species I come across (362). If it’s on your property, it’s not endangered, and you’re not cruelly removing the creature, I think you may dispose of it how you see fit. Snakes are a threat to people, people have the right to handle said threat.<sup>118</sup>

This participant states that they would be proud to participate in python removal and centers their response on the perceived rights of individuals to handle threatening animals as they prefer, given a set of criteria. Other participants acknowledged that the premise was gruesome but accepted that it was a realistic solution. One participant particularly considered the economics of invasive species removal writing, “As gruesome as it may seem, if there is not adequate governmental funding to have a completely state-sponsored removal task force, it may be helpful to have the public act as a vigilante force to curb invasive species.”<sup>119</sup> Such financial concerns were generally not extended to cats by most participants. A final subtheme

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115. Participant 143, cat condition.

116. The latter seems more probable since the participant successfully passed the comprehension check that included three questions designed to make sure participants understood the extent of the law.

117. Participant 242, snake condition.

118. Participant 336, snake condition.

119. Participant 222, snake condition.

concerning python removal centered around personal versus governmental responsibility for snake and reptile removal. Some participants expressed doubts that ordinary people would be able to discern what snakes and reptiles were invasive or that private citizens could take it too far. One participant explained further,

I am on the fence with the order. I do agree that the invasive species should be dealt with when found where they should not be, but unless they attack, I am unsure how I feel about people without a permit just killing them on public land; I feel that it would be better to opt for some kind of govt-funded removal than to have anyone randomly kill these, but I know that money may be an option there. I feel that some people could take it too far and/or possibly kill species not on the list if this order stands, too. However, like I previously said, I do agree with this order if the animal tries to attack someone on public land.<sup>120</sup>

Other participants connected the removal problem more directly to a government versus private citizen responsibility problem. As one participant concisely put it,

[I] don't think anyone at any random time should be removing animals via any method they feel fit, from a public land. That is the job of our state people to do. Letting anyone do it could be a danger or risk to the public. On private property is a different story but on public land that is the job of the gov[ernment].<sup>121</sup>

This participant worries not about the snake, nor the person trying to kill the snake, but rather about the public at large. Using this logic, they determine that it is the government that is responsible for ensuring the safety of said public. Some participants offered concerns about the general public if the law to kill cats on public land was to be instituted, but the context of these concerns focused much more on downstream consequences of regulation or a sort of slippery slope approach. As such, I have separated those responses into Theme Four for additional analysis.

#### **Theme Four: Future Consequences of Regulation**

In general, participants were much more apt to discuss the potential negative consequences of regulation in the cat condition. Theme four, future consequences of regulation, generally focused on all of the bad things that could happen if cats were regulated as per the provision and existing executive order. One participant in the snake condition worried that the regulation of snakes could lead to other undesirable regulations, writing, "This could be a stepping stone to many more provisions on the resale of other animals and can easily escalate to the resale of certain things."<sup>122</sup> But this response was extremely unusual. Rather than offering differing assessments of future regulatory consequences for snakes versus cats,

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120. Participant 524, snake condition.

121. Participant 436, snake condition.

122. Participant 298, snake condition.

participants did not have much to say about potential negative consequences of regulation snakes at all. The same was not true of cat regulation, with participants reporting concerns across two different areas: (1) how regulation could result in a cat black market and (2) how license to kill cats would enable the serial killer dreams of disturbed individuals.

Participants were not convinced that the proposed regulatory measures would successfully ameliorate the cat problem. Some participants worried about how regulation could actually backfire, writing,

Cats are too common and traditional as household pets, so policies banning new selling/acquiring will just create a black-market making transactions and quality more suspect and risky. It also will create a stigma against existing cats and the removal policy would still be considered inhumane by many to be performed on cats.<sup>123</sup>

Limiting the sale or purchase of cats will only result in sneakier owners and breeders. There are bound to be loopholes to the law if this were to go into effect. There are alternatives to this law that could achieve the same goal. For example, spaying or neutering these feral cats and releasing them out into the wild can reduce their likelihood of preying on other animals so long as we can limit their reproduction.<sup>124</sup>

Both of these participants suggested that unfavorable regulations would not discourage bad behavior. Rather, they would just drive the cat trade underground and potentially create a new universe of risks. Interestingly, no such worries were articulated about snakes and reptiles despite general commentary across participants that snakes and reptiles are more dangerous.

Perhaps the most unanticipated finding from this experiment was that a large number of participants argued against regulating cats because they felt that disturbed individuals would take great joy in killing cats in public. One participant writes, “On one hand, I do agree that feral cats are a problem. But, if you make it legal to go out and kill them all the nut-job hunters will be shooting and torturing cats all over the place. This will only end in furious cat lovers, and tortured cats.”<sup>125</sup> The participant is not necessarily criticizing the removal strategy suggested if used correctly. Rather, they are arguing that this law will create a sort of loophole for individuals who are predisposed to enjoy killing animals to do so violently. Other participants agreed, suggesting that the invasive species law, as applied to cats, would encourage bad behavior. Another participant wrote,

Some people torture and kill cats and other animals for fun. This seems like it would those people an excuse to do it more. I think trap, neuter/spay, [and] release programs would be better.

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123. Participant 56, cat condition.

124. Participant 100, cat condition.

125. Participant 88, cat condition.

Outdoor cats don't have long lifespans, so as long as more kittens aren't being born, populations of outdoor cats will go down.<sup>126</sup>

Participants were surprisingly likely to mention serial killers and animal torture, with one participant even mentioning *Law & Order* by name as a reason to oppose regulation. In contrast, there were no instances of participants worrying that potential serial killers would enjoy hunting and killing snakes and reptiles. Some participants followed their train of concerns for killing cats beyond the killing itself and onto potential consequences for parties uninvolved in actually killing the hypothetical cats. One participant wrote,

This would be a remedy for disaster. Too many people would use this as an excuse to kill other animals, such as dogs. There would probably also be many injuries/accidental deaths of people as people do not pay attention—stray bullets would hit children, adults or others, sending them for medical care or possibly killing them. To top it off, they would leave the animal laying where they were killed, causing decay and disease that would lead to mass illness among the resident population.<sup>127</sup>

Once again, this participant endorses the view that such a law would provide an excuse for people to kill animals, this time extending the object to another socially desirable animal object (dogs). But they did not stop there. Instead, they continued the train of possibly injurious actions to stray bullets that could hit children or unrelated adults. They also forecasted the possibility of disease from deceased cats. Other participants were concerned about what constitutes “public land” as per the existing executive order that allows killing of invasive species without a permit on public land. One participant wrote, “There is a lot of ‘public land.’ Some with children on it, and seeing someone blow a cat’s head off on the playground may prove traumatizing and overall probably not the best way to go about it.”<sup>128</sup> This participant opted for colorful imagery to describe a scenario where invasive species regulation might lead to a child seeing someone “blow a cat’s head off.” No such extensions of worries about children’s welfare were articulated for snakes and reptiles, though there are some possible spillover effects based on where participants expect cats and snakes to be. That is, it is possible that participants assume that snakes and reptiles are less likely to be near people than feral cats, though in reality feral cats also avoid contact with humans.<sup>129</sup>

### Theme Five: I Like Cats, Not Snakes

The fifth and final theme that emerged from this analysis is one that speaks

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126. Participant 205, cat condition.

127. Participant 203, cat condition.

128. Participant 63, cat condition.

129. Importantly, there is a notable difference between a stray cat and a feral cat. A stray cat has been socialized to people at some point in their lifespan, while a feral cat has not. Due to this lack of socialization, feral cats are generally considered not adoptable.

quite directly to the object itself. Put simply, many participants were explicit and clear about really liking cats and not liking snakes. One participant wrote, “I may be biased because I absolutely adore cats. I just cannot imagine seeing or hearing about them being killed all because of a senseless law.”<sup>130</sup>

Here the participant very plainly states their love for cats and goes so far as to deem the law regulating them not just unreasonable but actually senseless. On the snake side, some respondents were skeptical about whether or not snakes can actually make good pets. One response that exemplifies this read,

[I would support the regulation of snakes] because snakes are not meant to be pets. While I would not want to go out killing them, I would be happy to see that they are no longer allowed to be treated as pets and not brought in from their native habitats.<sup>131</sup>

In cases like these, participants could not conceptualize snakes as pets. Some participants indicated that they are too dangerous to be pets (which would belie the reality that a vast majority of snake and reptile species are benign) or just asserted that they did not find them pet-like.

Participants in the cat condition were asked at the end of the experiment if they would have given different answers if the hypothetical law had been about snakes and reptiles instead. Some participants took the opportunity to directly compare snakes and cats in the open-ended portion of their answer to this question. When doing so, respondents did not always come to a firm conclusion about why they felt differently about snakes versus cats when it came to proposed regulation but still voted that they would change their mind depending on whether the law was about cats or snakes. One example of this was a participant who wrote, “For some reason to me, cats seem less ethical to kill off than reptiles/snakes do.”<sup>132</sup> This respondent was not the only participant to evoke ethics or morality in their assessment of the proposed regulation. Other participants reflected further on their gut reaction that snakes and cats should be regulated differently. One participant wrote,

I am not at all attached to snakes/reptiles so it would not cause the repulsion I feel at the idea of people killing cats. Of course, after a little reflection I realize that many people have pet snakes and reptiles. I think my point of not totally restricting the buying/selling, but requiring them to be kept inside would be ok with me. If they were found on public property, I am not repulsed by the idea of humane killing/removal of these invasive species.<sup>133</sup>

This participant explained that her initial emotional reaction to snakes is dissimilar to her emotional reaction to cats because she just is not attached to snakes and reptiles in the same way. Even after reasoning through the similarities between snakes and cats as invasive species in this context, the participant settled on being

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130. Participant 155, cat condition.

131. Participant 55, cat condition, would change their opinion if the law was about snakes.

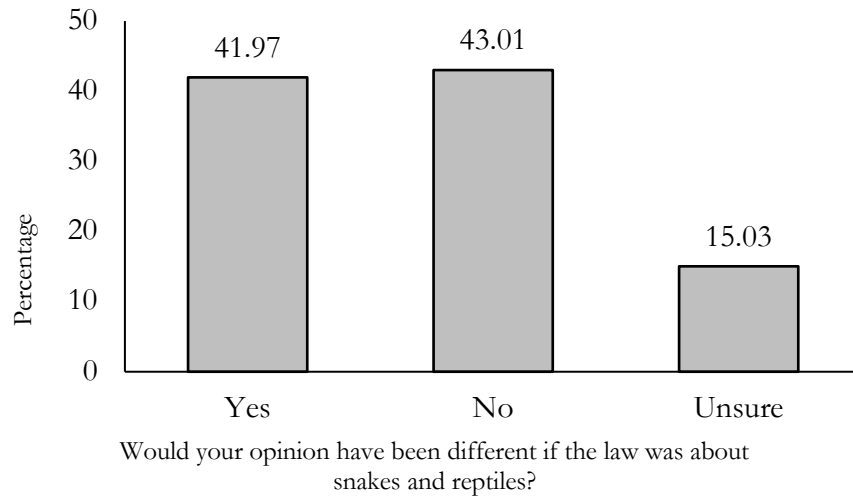
132. Participant 183, cat condition, would change their mind if the law was about snakes.

133. Participant 96, cat condition, would change their mind if the law was about snakes.

okay with the proposed regulation, voting that they would support regulating snakes in this way when asked to vote one way or the other.

As part of this final measure embedded within the experiment, I also asked individuals in the cat condition to all respond to a multiple-choice question asking if they would have changed their answer if the hypothetical law had been about snakes instead. The results of this question are depicted in Figure 8 below. 43.01% of participants said they would not change their support or opposition to the provision, but 41.97% said a change in object would change their mind while a further 15.03% were unsure if they would change their answers or not.

**Figure 8: Effect of Changing the Object**



Notably, of respondents who said it would not matter if the law had been about snakes instead, a large number were individuals who would support the provision (45.78% of that group) for cats already. That is, participants who were willing to regulate cats were also willing to regulate snakes. However, 36.14% (N=30) of that group said they would not support the provision if it applied either to snakes and reptiles or cats. This significantly outpaces the number of people who actually objected overall in the snake condition (4.81% versus 15.54%). That is, at least three times more people said they would object to killing snakes in a similar manner compared to the number that actually did object in the snake condition.

Taken in sum, the quantitative and qualitative results presented here begin with a rather simple conclusion that changing the animal object of a law does matter. However, the extended text responses also give rich detail about how participants come to decisions of regulatory support or opposition in ways that seem to depend on their social perception or personal relationships with the object of regulation. In the discussion section to follow, I synthesize these findings and discuss their implications for the substance of invasive species law, future uses of similar

methodology, and expansion of the theoretical project of understanding the role of objects and the law.

## VI. ANALYTICAL & THEORETICAL DISCUSSION

This experiment was motivated by two primary hypotheses: (1) that support for legal regulation of pet animals will vary not by the terms of the law but by the animal object of the law, even when the harms are held constant and (2) that individuals will justify their position using inconsistent logics about regulation. I found substantial support for both hypotheses. Quantitatively, it was clear that participants overwhelmingly supported regulating snakes and not regulating cats. 84.54% supported the hypothetical provision regulating snake sales and purchases, while only 26.94% of participants supported the same provision for cats even when holding environmental harms constant. This pattern held, even in the case of the more controversial executive order that allowed for culling of invasive species via methods that many participants found disturbing. 59.45% of participants supported the executive order for snakes and reptiles, while only 19.17% supported the same executive order as applied to cats.

Where this experiment makes its biggest contribution is in relation to the second hypothesis and the analysis of various rationalizations to support or oppose legal regulation of pet animals. Figure 9 below charts out the five identified themes, comparing the general thrust of those responses for cats and snakes.

**Figure 9: Themes & Results by Object**

|                                     | <b>Snakes</b>   | <b>Cats</b>   |
|-------------------------------------|---|---|
| Regulating Responsibility           | Proregulation because some pet owners are irresponsible                         | Antiregulation because only some pet owners are irresponsible   |
| Duty to Environment                 | Duty to the environment supersedes rights to pet ownership                      | More conflicted, some individuals do not distinguish between cats and other animals (like hogs or cane toads) |
| Alternatives to Killing and Removal | Less reticence, concern that regular people ought not to be involved in removal | Suggests pursuit of alternative regulatory strategies   |
| Consequences to Regulation          | Few mentioned   | Violent and disturbed individuals killing animals for fun   |
| Dislike for Snakes vs. Cats         | Less sentimental attachment to snakes   | Repulsion at the idea of killing cats   |

One of the most prevalent themes that emerged from the analysis was the need to regulate responsibility. However, the way that participants invoked the need to regulate responsibility varied substantially (almost completely) by the type of objects. In the case of snakes and reptiles, participants assimilated the evidence of environmental harm in the news brief to argue that some reptile owners were proven irresponsible such that regulation was necessary. However, even when confronted with the same set of harms, participants were much more likely to argue that cats should not be regulated because only some cat owners are proven irresponsible. These logics are incompatible on their face since they take the same evidence and come to wildly different conclusions. What this does do though, is begin developing a picture about the importance of the social and attachment dimension of the animal object. This picture became clearer with the elucidation of each theme.

A second theme that emerged from the text analysis was the relative importance of duty to the environment. In the snake condition, participants did not too often say, "I hate snakes, kill them all." Rather, they instead invoked narratives about the elevated importance of preserving the natural world as superseding the right to own snakes and reptiles. When it came to cats, participants admitted to being more conflicted, often explicitly acknowledging environmental harms but still being reticent to support regulation. An exception to this was a smaller group of participants who felt there was no distinguishable difference in regulating invasive cats compared to other invasive species that they were familiar with.

The next two themes presented as concentrated on only one animal object at a time. When it came to cats, participants frequently endorsed attempts at alternative regulatory measures, even if those suggested alternatives were not very practically actionable. Despite many of the participants' arguments being similar to elements of the lawsuit filed by USARK against reptile regulation, these alternative strategies were far less likely to be suggested by participants in the case of reptile and snake regulation. Instead, complaints about the removal methods of snakes were more centered on the safety of the general public removing animals from the wild rather than an inherent objection to removing invasive snakes and reptiles from the wild. Suggested regulatory strategies for feral cats included registering pets, requiring cats be kept indoors, spaying and neutering (very similar to the recommendations of the Australian government in containing the domestic cat problem), and relocation and fines.<sup>134</sup> When it came to potential unintended consequences of regulation, participants were similarly focused only on how it could affect cats. Participants raised few concerns about snake well-being, future regulatory plans, or who might witness the destruction of snakes. Alternatively, participants were generally quite concerned about the potentiality for "disturbed individuals" to enjoy killing cats, with multiple participants worrying that stray bullets or disturbing imagery could affect children. Participants also protested the regulation of cats asserting that it

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134. Ham, *supra* note 80.

could feed a black market or be ineffective, where no such concern was given about snakes. This further demonstrates how varying the animal at stake changes the contours of the regulatory conversation. There is clearly added significance to killing cats in the eyes of many participants regardless of the similarities (or not) of the invasiveness of the species.

Finally, some participants simply stated what I previewed at the very beginning of this inquiry: some people just really like cats but do not like snakes. As was intended by this field test, the social meaning of snakes versus cats in American society is very different. Rather than trying to limit this in the experiment, I embraced this difference with the intention of measuring how varying the social desirability of a regulated object might change support for regulation generally.

This has particular implications for the study of objects of the law. Returning to the warning by Henry Smith to pay as much attention to what objects are *not* as what they are, we can consider what snakes are not that cats are.<sup>135</sup> Even though reptiles and snakes are pets for some people, for most people they are not. Even though snakes and reptiles are usually harmless or even fearful of humans, on our television screens and on our media timelines they are often not. In this case, the societally perceived shortcomings of snakes and reptiles compared to cute, fuzzy, feline family members substantially changed beliefs about how they should be regulated. This reality showcases the importance of considering all three contexts of an object, the real, the legal, and the social, over prioritizing only one out of context. So also does this provide us useful information in interpreting the legal consciousness of individuals when it comes to regulating pet animals.<sup>136</sup> The substantially varied relationships society and the individuals in it have with snakes versus cats help us understand how a relationship with an object ought (or ought not) to be mediated by the law at all, in the eyes of that society.

The results of this experiment and this larger theoretical inquiry also have meaningful implications for what I term the *objectification of law*. Thinking back to Earl Maltz and his explanation of how precedent can differently apply to legal cases, sometimes leading to a decision heavily citing other cases and other times leading to judges engaging in complex trains of reasoning to differentiate or analogize cases to what came before, the results of this experiment show how much the attaching of a particular object to a law matters for public support of that law.<sup>137</sup> Let us imagine we are going to enact the hypothetical law at the center of this experiment. If the goal, beyond invasive species control, was to get such regulations on the books to begin forming a precedent, choosing the right object to begin with is very important. After all, precedents are rules formed through strings of legal decisions, so there is possibility to establish a precedent (or overturn one) by intentionally

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135. Smith, *supra* note 15, at 1692.

136. Chua & Engel, *supra* note 33 (employing the definition of legal consciousness offered by Lynette J. Chua & David M. Engel).

137. Earl Maltz, *The Nature of Precedent*, 66 N.C. L. REV. 367, 367 (1988).

constructing a pathway of smaller decisions.<sup>138</sup> We can actually see echoes of this through the existing law governing invasive species where, for example, the Lacey Act has been expanded over decades to include more and more species of animal and the America COMPETES Act significantly expands the terrain of potential regulation.

This brings us logically to a reconsideration of the potential slippery slope problem. A few participants in the experiment did expressly worry about a slippery slope problem, as did some opponents of new real-world invasive species regulatory measures.<sup>139</sup> Overall though, participants who were in the snake condition of the experiment did not generally express concerns that the regulation of snakes and reptiles may have implications for the regulation of other types of animal objects. An interesting follow-up study could specifically pose the scenario of a “slippery slope” type of decision whereby a participant’s regulatory decision for snakes becomes precedent for cats and then participants have the opportunity to change their mind or stand firm to their original decision.

The study conducted here is not without limitations, as is all scientific work. This study focused on a very particular set of objects in a very specific hypothetical case. Therefore, while this hypothetical has strong external validity compared to real-world events, we cannot know for sure how generalizable these conclusions are to other objects in other situations. Even within this specific scenario, there are limitations in comparing snakes and cats that should be acknowledged when interpreting these results. Opinions on snakes and cats are very polarized, with relatively few people disliking cats compared to the prevalence of dislike for snakes and reptiles. This is ideal in the construction of this experiment, which aimed to establish the first existence of an idea, making it sensible to test it on more extreme poles. However, future work may consider objects that are less polarizing to get a sense of how the objectification of the law might matter in less extreme scenarios that are less likely to prompt a visceral reaction in participants. Nevertheless, the experiment and its direct test of my theory of objectification of law makes a strong methodological, theoretical, and substantive contribution.

#### CONCLUSION

I conclude that changing the object of a law, or even just changing one element of the real, legal, or social salience of an object, affects the magnitude of support for legal regulation. I also find that ordinary people use competing and sometimes incompatible logics to rationalize the regulation of undesirable objects but preserve a lack of regulation for more desirable objects. Moreover, I identify five specific themes where those different logics can be interrogated: regulation of responsibility, duty to the environment, alternative regulatory strategies, unintended downstream consequences of regulation, and general orientation to the object. The results of this experiment have implications for invasive species law substantively, empirical legal

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138. Landes & Posner, *supra*, note 20 at 249-307 (1976).

139. *America COMPETES Act of 2022*, *supra* note 7676.

studies methodologically, and the objectification of law in theory.

The substantive conclusion of this work, that attachment and societal perception of cats compared to snakes yields substantially different support for legal regulation, has impacts for invasive species law. It suggests that invasive species law that associates stringent regulation with an undesirable animal object is more likely to be supported by the general public. It also frames difficulties in regulating desirable animal objects, casting doubts on the ability of traditional regulatory strategies to deal with growing environmental problems like feral cats in the United States.

Methodologically, this Article makes an innovative contribution in measuring public support for regulation by pairing a rigorous experimental design with the opportunity for extended-text reflection. This method usefully advances the science beyond usual polling to allow for detailed analysis of justifications for support or opposition of regulatory policies. It is only through this extended analysis that it becomes clear how specific features of the animal object change the contours of regulatory support. Future research in this methodological space should run this experiment again but using two entirely fictitious animal objects. This would force participants to glean all of their information about harms from the experiment, rather than relying on their current social schema for understanding the phenomena (as was the goal in this experiment). The results of such an experiment would make for a compelling comparison to this work, showing exactly how effective established social attachments to an object can be.

This work also advances my theory of the *objectification of law*. In some ways this paper is a warning, and in others it is a compelling legal strategy. My experiment demonstrated how varying the object of the same law dramatically changes support for that law, even if the law itself stays the same. Importantly, the way that systems of law work vis-à-vis precedent means that two objects in two separate legal decisions do not have to be fully identical for precedent from a previous decision to apply to a new case. In this way, the association of a particular object to a particular law may make it falsely appear that the law only has implications for the original specifically named object. A useful extension of this theoretical work would chart strings of decisions that ultimately became precedents and perhaps measure support (in a digital survey experiment or some other way) for the individual decisions versus the established precedent as a means of quantifying the impact of *decision drift*<sup>140</sup>.

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<sup>140</sup> Here I use decision drift to describe the slippery slope progression of inadvertent support for regulation that someone might not actually support as described in section I, part B.