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Discussing the Present | Influencing the Future

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Published twice a year (May and December), *Critical Issues in Justice and Politics* focuses on emerging and continuing issues related to the nature of justice, politics, and policy. Special emphasis is given to topics such as policy, procedures and practices, implementation of theory, and those topics of interest to the scholar and practitioner alike.

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From the Editor

The Department of Political Science and Criminal Justice at Southern Utah University experienced a whirlwind season of change during this academic year. We bade farewell to several faculty members who retired or left for new adventures elsewhere, and we welcomed new faces to the University. Among the newcomers include Southern Utah University's 16th President, Scott L. Wyatt, whose academic appointment will be in our department. We are pleased to welcome President Wyatt to our faculty team!

With so many changes afoot, we regret that we were unable to produce a fall 2014 edition of the journal. I am honored to have been appointed as the new editor of *Critical Issues in Justice and Politics*, and I look forward to working with my colleagues here at SUU, as well as our gracious external reviewers, moving ahead.

The edition you have before you features a diverse group of authors, including both faculty members and students. The following articles tackle current issues ranging from the rise of *ISIS* in the Middle East, notions of equality within the justice system, education policy, voting practices in the United States and Canada, as well as the political influence of the president's State of the Union address.

On behalf of the rest of the editorial board, thank you for your support of *Critical Issues in Justice and Politics*, and we hope you enjoy this issue.

Warm regards,

Dr. Angela E. Pool-Funai
Editor, *Critical Issues in Justice and Politics*

ISIS, Syria, and Iraq: The Beginning of a Fourth Gulf War?

The rise of *ISIS* (*ISIL* or even *ISL*) the so-called *Islamic State of Syria, Iraq, and the Levant* or, more recently, simply the *Islamic State* led by Abu Bakr al-Baghdadi, the self-proclaimed *caliph* of Sunni Islam, has given rise to the latest political storm in the Middle East, one that threatens to sweep up Syria and Iraq to be certain, and one that will likely draw in a number of other local states including Turkey, and many of the Arab states in the Persian Gulf; it has already drawn in the United States, the United Kingdom and other NATO allies, and has the attention of the government of the Islamic Republic of Iran. It has become more than a simple part of the civil conflict directed at the regime of Bashir al-Assad in Syria, it could well assume the proportion of another regional war in the area, a fourth gulf war since 1980. But unlike earlier gulf wars, the prospects for this conflict could prove catastrophic far beyond the borders of one or two countries in the region, and could well produce a new map of the Middle East before it is done.

G. Michael Stathis
Southern Utah University

Introduction: The Legacy of Salah al-Din Yusuf ibn Ayyub, The Great Ayyubid Sultan Saladin

Today Damascus, the onetime capital of the first family dynasty of the Islamic *caliphate*-the Umayyads, is a city ravaged by a civil war that threatens both the state of Syria and its ruler Basher al-Assad, as well as what is left of any semblance of political stability in the Middle East. The crisis is the offspring of many fathers, the tyranny of the Assad family, the influence of the Arab-Israeli Conflict that still eludes all attempts at settlement, the upheaval resulting from the American invasion of Iraq in

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2003, and to a lesser degree the effects of the so-called *Arab-Spring*. From this this myriad of unrest and conflict has also come the unexpected and rather sudden rise of Abu Bakr al-Baghdadi and what is variously referred to as *the Islamic State of Syria, Iraq, the Levant*, or *Lebanon*. The full reference in Arabic is *ad-Dawlah al-Islamyah fi al-Iraq wash Sham* from which the most recent name *Da'ish* has emerged meaning the *Islamic State of Iraq and Syria*, also the *Islamic State of Iraq, Syria and Lebanon*, or the *Islamic State of Iraq and al-Sham* (the *Bilad al-Sham* being a reference to the province of Syria under the caliphates of *al-Rashidun*, the Umayyads and Abbasids until 1258, and also alludes to the notion of *Greater Syria* which includes modern day Lebanon). The abbreviations include: *ISIS*, *ISIL*, the *Islamic State* or *IS*. A quasi offshoot of a regional appendage of *al-Qa'ida*, this group and its devout Sunni Muslim leader, Abu Bakr, have set as their goal nothing so mundane as a new wave of international terrorism but rather the establishment of a modern Islamic *caliphate*.

The rise of Abu Bakr and *ISIS/Da'ish* has unleashed the latest political storm in the Middle East, one that threatens to sweep up Syria and Iraq to be certain, and will likely draw in a number of other local states including Turkey and many of the Arab states in the Persian Gulf; it has already drawn in the United States, the United Kingdom and other North Atlantic Treaty Organization (NATO) allies, and has the attention of the Islamic Republic of Iran as well. It exists as more than a simple part of the civil conflict aimed at the Basher al-Assad regime, and could well assume the proportions of another full-scale regional war, a fourth gulf war since 1980. But unlike earlier gulf wars, the prospects for this conflict could prove catastrophic far beyond the borders of one or two countries in the region; it could well produce a new map of the Middle East before it is done.

Damascus also houses the stunningly beautiful tomb of the great Ayyubid Sultan, Salah al-Din Yusuf ibn Ayyub (d. 1193) or Saladin, as he became known in the West.[1] Salah al-Din successfully rallied and

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[1] Salah al-Din was born in the Iraqi city of Tikrit which is the site of a recent Iraqi attempt to push back *ISIS/Da'ish* and will likely set up a much bigger battle over the second largest city in Iraq, Mosul.

reunified the Islamic world in the wake of the onslaught of the Crusades that had brutally captured the city of Jerusalem or *al-Quds* in 1099. He recaptured the city in 1187 following a brief siege and a negotiated settlement that remarkably resulted in a peaceful entry to the city, with little bloodshed, a marked contrast to the events of the Christian capture of Jerusalem in 1099.[2] Salah al-Din gained a reputation for merciful, if not magnanimous, even chivalric, behavior and tolerance in both the Islamic world and the Christian West.[3] It is reported that he claimed that his actions were humble obedience to the laws of the *Siyar*, that part of the *Shari'a* (*Islamic Law*) intended to deal with the non-Muslim world, the so-called *dar al-harb* (the *house* or *abode of war*). Salah al-Din has been the very model upon which all later Islamic leaders attempted to emulate. Current events demand yet another comparison not between Islamic East and Christian West, or between Salah al-Din and any Western leader, but rather a comparison with a modern self-proclaimed defender of Islam who also has declared an intention to rally and reunify the Islamic world, Abu Bakr. The contrasts could not be more obvious even to most casual observer, both devout Sunni Muslims, but one a Kurd, that Indo-Iranian minority targeted by *ISIS*/*Da'ish* and the stuff of legend, the other, Abu Bakr whose brutality in violation of the *Siyar* has already created an infamous legacy.[4] How ironic that Salah al-Din's tomb lies in the very center of this new chapter of Middle Eastern calamity.[5] At a critical moment when Islam cries out for dynamic

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[2] The event and the nature of Salah al-Din are vividly and more or less accurately portrayed in Ridley Scot's recent film *Kingdom of Heaven* (2005).

[3] "Salah-al-Din al-Ayyubi, flower of Arab chivalry, champion of orthodoxy, destroyer of a dissident caliphate, unifier of Egypt and Syria, he broke the backbone of the Crusader host and lived in Arab history as a hero par excellence." Philip K. Hitti, Makers of Arab History (New York: St. Martin's Press, 1968; Harper Torchbooks, 1971), 142.

[4] Note Majid Khadduri, The Islamic Conception of Justice. Baltimore and London: The Johns Hopkins University Press, 1984), and Majid Khadduri, editor and translator, The Islamic Law of Nations: Shaybani's Siyar (Baltimore: The Johns Hopkins University Press, 1966.

[5] It is, however, well-documented that there was one exception to the *chivalry* of Salah al-Din; he had sworn a vow to personally take the head of Reginald of Chatillon the infamous Crusader and Knight Templar Lord of the castle of Karak (al-Karak) for attacking a caravan breaking a truce and in the process seizing and molesting the sister of Salah al-Din. He fulfilled his oath following the Battle of Hattin (1187).

leadership in the twenty-first century, there is instead a fanatical movement that threatens to drag the Middle East back to an imagined medieval world strangely disconnected from true intent of Islam.

The *Caliphate*, Abu Bakr al-Baghdadi, and *ISIS/Da'ish*

The emergence of Abu Bakr al-Baghdadi and *ISIS/Da'ish* in 2013 seemed to catch the world community by complete surprise. In short, *ISIS/Da'ish* seems to have emerged from *al-Qa'ida* in Iraq, a group that found its footing in the political chaos that followed the 2003 invasion and subsequent insurgency; the split was first noticed in 2010, first as the Islamic State of Iraq (*ISI*), and then as the Islamic State of Syria and Iraq (*ISIS*). At some point, the appearance of Abu Bakr coincided with a falling out with Ayman al-Zawahiri, the apparent successor to Usama ibn Laden in *al-Qa'ida*, over strategic aims, and local tactics, one outside view has held that al-Zawahiri and company were not ruthless enough in Abu Bakr's view.[6] The final break seemed to be in June 2013. While the idea of reestablishing the *caliphate* as a ruling institution was clearly associated with ibn Laden, it was never seen as an immediate goal of *al-Qa'ida*, in this there is a clear difference with *ISIS*. Abu Bakr has subordinated international terrorism to his immediate goal of declaring a new *caliphate* and carving out territory in strife ridden parts of Syria and Iraq. On July 5, 2014, in a very dramatic moment Abu Bakr presented himself as *caliph* during the traditional afternoon prayer in the Iraqi city of Mosul. He also made the Syrian city of Ar-Raqqah or Raqqa his current capital, both a symbolic choice and a very curious one. Raqqa is best known as the imperial residence of the great Abbasid Caliph Harun al-Rashid (d. 809) from 796 to 809 during the *Golden Age of Islam*

See Stanley Lane-Poole, <u>Saladin and the Fall of Jerusalem</u> (London: 1898; London: Greenhill Books, 2002), 158-159.

   [6] The brutality evident in Abu Bakr's actions is reminiscent of the Shia Fatimid Caliph al-Hakim (d. 1020) who gained the reputation as the "Egyptian Nero" because of his violence against Christians in Egypt, North Africa and the Levant, including an attempt to burn the Church of the Holy Sepulcher in Jerusalem, but in fact he also tormented Jews and Sunni Muslims. His abuses are cited as contributing causes of the Crusades. Ironically, al-Hakim also inspired the sect known as the *Druze* in Lebanon and Syria who face persecution by Abu Bakr. See Aziz S. Atiya, <u>Crusade, Commerce and Culture</u> (Bloomington: Indiana University Press, 1962.), 39.

essentially to get away from the congestion of Baghdad, the Abbasid capital, at arguably the zenith of Abbasid power and Islamic civilization. Abu Baker's choice more likely had to do with strategic necessity, but the history and symbolism surrounding Raqqa cannot be dismissed entirely either. There is a certain irony in the choice, Raqqa was also home to the great Muhammad ibn al-Hasan al-Shaybani (d. 807), a student of the iconic scholar of Islamic Law Abu Hanifa (d. 767), who was appointed to serve as *qadi* in that city by Harun al-Rashid. Al-Shaybani is well known for his treatises on *Siyar*, especially *Kitab al-Siyar*, and is popularly known as the *father of Islamic international law*.[7] Almost without doubt al-Shaybani would have found many of the actions of Abu Bakr and the *Islamic state* to be reprehensible and in violation of the clear tenets regarding *jihad* according to his interpretation of *Siyar*.[8]

Much of the mystery surrounding the identity and background of Abu Bakr al-Baghdadi is certainly intentional to create a necessary persona to solidify his immediate position as leader of *ISIS/Da'ish*, but also to establish an enhanced sense of legitimacy in comparison with al-Zawahiri. And in much of this Abu Bakr has achieved impressive levels of success, not a lot is known of him. His original name was Awwad Ibrahim Ali al-Badri al-Sammarai of northern Iraqi origins. He was educated in Baghdad receiving a Ph.D. in Islamic Studies (culture, the *Shari'a* and jurisprudence) and History from the Islamic University of Baghdad giving credence to the fact that he is often referred to as simply *Dr*. His choice of the name *Abu Bakr* seemed to have initial significance given that it was the name of the first *caliph* beginning the period of *al-Rashidun* in 632. However, he has subsequently assumed the name Ibrahim with the full title of *Amir al-Muminin Caliph Ibrahim* (*commander of the faithful* and *lieutenant of the Prophet*). In dramatic

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[7] See Khadduri, and Herbert J. Liebesny, eds., <u>Law in the Middle East</u> (Washington, D.C.: The Middle East Institute, 1951), 350-351.

[8] Harun al-Rashid was so impressed with *Kitab al-Siyar* that he required his two sons (al-Amin and al-Ma'mun) to read it. Again, note in particular Khadduri, <u>The Islamic Law of Nations</u> cited above.

fashion he declared himself as *amir*, prince or commander, and *caliph* in the traditional Friday afternoon prayer in Mosul, Iraq.[9]

While there is some suggestion that Abu Bakr is descended from the Quraysh tribe, and therefore may have some claim to a blood relationship to the Prophet Muhammad it would be as a distant relation and would not suffice to give any legitimacy to make a claim to be *caliph*. Indeed, such a claim would have limited credence in Sunni Islam which in original theory would necessitate a nomination and acclamation by the Islamic community, the process which produced the first three *caliphs* (Abu Bakr, Umar, and Uthman).[10] Aside from the fact that a modern *caliphate* would be a political anachronism, Abu Bakr's claim to the office would be at the least questionable according to Islamic political tradition.[11] The office of *caliph* as a political institution, Abu Bakr's main intent, actually came to an end in 1258 when the Mongols seized Baghdad and killed the reigning *caliph*. The title passed as a religious figure-head in Cairo with the Mamluk Dynasty until it was replaced by Ottoman rule in 1517.[12] The Ottoman Sultans combined the titles of *Sultan* and *Caliph* to little real effect until 1924 when Mustafa Kemal Atatürk abolished the office in Turkey. Moreover, the prospects of actually creating a sustainable *state* based on recently occupied territory in Syria and Iraq with limited income and virtually surrounded by

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[9] Much of the current detail about Abu Bakr is frankly based on something that hardly amounts to any scholarly level. *BBC News-Middle East* and the *British Forces News* (*BFBS*), may be the most reliable of recent sources, and may actually be current with or even a step ahead of Western intelligence agencies at this time.

[10] The forth caliph of the period referred to as *al-Rashidun* (the *right guided*) Ali was proclaimed as caliph by his zealous followers, the *shia tu Ali* (the party of Ali, with at the time a purely political emphasis) setting in motion events that led to civil war, the first family dynasty-the Umayyads, and the origins of the split between Sunni and Shia Islam.

[11] See W. Montgomery Watt, Islamic Political Thought: The Basic Concepts (Edinburgh: The University Press, 1968): 31-45; and E.I.J. Rosenthal, Political Thought in Medieval Islam: An Introductory Outline (Cambridge: The University Press, 1968), 21-61.

[12] Note should be made to the Umayyad *caliphate* in al-Andulus or Spain (756-929), and the Shia Fatimid *caliphate* in Egypt (909-1171) which for a time rivaled the Abbasid *caliphate* (750-1258) .

enemies is somewhat dubious.[13] To date *ISIS*/*Da'ish* has depended on funds from sympathetic families in the Arab Gulf states, limited oil revenues, and money derived as ransom for captured Western hostages, as well as plundered local resources. Its existence so far has had a good deal to do with the fact that the Republic of Turkey has virtually ignored it, allowing large scale recruiting in Turkey and avenues of supply in a porous border region, a situation that is at best fluid. The government of Turkey seems for the moment to be content to allow *ISIS*/*Da'ish* to battle the Kurds in Syria and Iraq, especially the Kurdish military force the *Peshmerga*, a scenario that is viewed critically by Turkey's allies in NATO.

The notion is hardly a new one Usama ibn Laden also called for a return to rule under a *caliphate*, and generally it is closely linked to the ideas of two of the most important spokesmen for what has been called *Islamism*, Hassan al-Banna and Sayyid Qutb, the development of a modern version of the *umma*, the traditional *community of the faithful*, or as Henry Kissinger has put it "a global implementation of the Qur'an"; a creation that flows out of the radical notion that "the Westphalian world order has lost *both* its legitimacy and its power."[14]

Three Gulf Wars, Syrian Civil War and Regional Instability

Three wars in the Persian Gulf, the lingering shadow of the Arab-Israeli Conflict, the ever-present threat of sectarian violence between Sunni and Shi'a Muslims, and the aftermath of the Arab Spring have left little

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[13] The temptation to underestimate *ISIS*/*Da'ish*, however, is great and dangerous. The Gladstone government in the United Kingdom did not take the *Mahdist* uprising in the Sudan (1881-1898) seriously enough at great cost, and the Islamic Revolution in Iran (1978-1979) was initially viewed as either a temporary phenomenon, or simply a local aberration. See Alan Moorhead, The White Nile (New York: Harper and Brothers, 1960; Dell Publishing Co., Inc., 1964), 215-308; R.K. Ramazani, Revolutionary Iran: Challenge and Response in the Middle East (Baltimore and London: The Johns Hopkins University Press. 1986); and Henry Kissinger, World Order (New York: Penguin Press, 2014), 96-145.

[14] Effectively, as al-Banna, Qutb, Usama ibn Ladin and Abu Baker would agree, "a declaration of war against the existing world order that became a foundational text of modern Islamism." See Kissinger, World Order, 118-122; and Bernard Lewis, "License to Kill: Usama Bin Ladin's Declaration of Jihad," Foreign Affairs 77: 6 (November/December 1998): 14-19.

reason for the hope of stability in the Islamic world stretching from North Africa to Pakistan. Indeed, there seems a potential threat for even worse to come.

There have been no less than three wars in the Persian Gulf since 1980, and each one has at some point been called *the Gulf War*: the *First Gulf War*, 1980-1989 between Iraq and Iran, the *Second Gulf War*, 1990-1991, following Saddam Husayn's invasion of Kuwayt, and the *Third Gulf War*, 2003-2011following the invasion of Iraq by the United States which included a lengthy and very costly period of local insurgency. The results were not what had been hoped for; Iran emerged as the major local power in the Persian Gulf, and a devastated Iraq was left on the verge of religious civil war and a possible separation into three political entities, an independent Kurdistan, a Sunni state formed in the tribal region to the west and the area around Baghdad, and a Shi'ite state in the south around Basra. Any prospect of some form of federal unity seemed totally lost during the administration of Prime Minister Nouri al-Malaki (2006-2014) who all but ignored the Kurds and the Sunni minority creating fertile ground for a branch of *al-Qa'ida* in Iraq.   It   is   given that the American invasion set in motion numerous events that could not be easily controlled even by the world's only superpower. The initial concern seemed to be the challenge to hold Iraq together, and then suddenly the game changed with the realization by a very stunned world that a new player had emerged, *ISIS* or *Da'ish*.[15]

Until 2011 Syria had enjoyed a period of relative stability with the exception of on-going irritation over Syrian support for *Hezbollah* in Lebanon, and the unresolved issue of the Golan Heights. That all went by the wayside as limited demonstrations and uprisings against Basher al-Assad turned into full-scale civil conflict across the country. The turmoil offered opportunities for a variety of groups to move into Syria in the guise of legitimate anti-government insurgents, elements of *al-Qa'ida*

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[15] See G. Michael Stathis, "The Case for *The Third Gulf War*: Placing The 2003 Iraqi War in a Proper Political Context," The Journal of the Utah Academy of Sciences, Arts, and Letters 81 (2004): 263-284.

seized the opening quickly allying itself with what had become *al-Qa'ida* in Iraq.[16]

A Fourth Gulf War?

The region barely survived the three gulf wars, only to realize that the prospects for a fourth had become imminent. Initially, *ISIS*/*Da'ish* was viewed as a new insurgent, an offshoot of *al-Qa'ida* in Iraq but little more than that. By early 2014 it had become all too clear that *ISIS*/Da'ish was a new and independent player led by a figure with messianic ambitions that were not limited to creating simple havoc via terrorist acts; Abu Bakr declared the intent to reinvent the *caliphate* and create a modern Islamic state from Iraq to Lebanon. Well-funded from abroad, well organized, capably led, and more ruthless than any other militant Islamic group, *ISIS*/*Da'ish* quickly became the focus of regional and global attention as its forces threatened Baghdad itself. One of the more recent developments regarding *ISIS*/*Da'ish* is also one of the most alarming; while *ISIS*/*Da'ish* has spread across borders in the Middle East including territory in Syria and Iraq, and certainly has made claims concerning Lebanon, it seemed to be localized to that general part of the region. In November of 2014 one of the most violent and militant Islamic groups in Egypt, *Ansar Bayt al-Maqdis* (*Supporters of the Holy House*) swore allegiance to *ISIS*/*Da'ish*, while in February a group in Libya also allied itself with Abu Bakr. These developments further accentuate the division between *al-Qa'ida* and *ISIS*/*Da'ish*, and far more importantly increase the danger of instability in Egypt, one of the most heavily populated countries in the Middle East, and in North Africa by extending its geographic reach in a considerable manner.[17]   At least one Western scholar has posited that the real problem in dealing with *ISIS*/*Da'ish* has to do with properly identifying what it actually is. Audrey Kurth Cronin suggests that *ISIS*/*Da'ish* is not a terrorist group and therefore recently

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[16] See G. Michael Stathis, with Bradley Cook, "Democracy and Islam: Promises and Perils for the Arab Spring Protests," The Journal of Global Responsibility 3: 2 (2007): 230-245.

[17] David D. Kirkpatrick, "Militant Group in Egypt Vows Loyalty to *ISIS*: Milestone for Islamic State Widens Reach," The New York Times (November 11, 2014): 1 and 14 (A).

developed counterterrorist theory will not be sufficient to deal with its threats.[18] Not to argue semantics here, but *ISIS*/*Da'ish* clearly is not a state, not yet at any rate, and is still a non-state actor. It presents new strategic and tactical challenges to be sure, but at this point it still seems to be something more akin to an organization, a well structured one, certainly more sophisticated than predecessors in the Islamic world such as the *Taliban*, *al-Qa'ida*, and *Boko Haram*, among others, but at this point the term terrorist organization is hardly incorrect. There is little disagreement about the substantial level of threat presented by *ISIS*/*Da'ish* however we choose to identify it.[19]

It is all too easy to suggest that the threat presented by Abu Bakr and *ISIS*/*Da'ish* might lead to a fourth gulf war; the fact is that it has already begun. The prospects are not at all clear. On the one hand it is almost inconceivable that the *Islamic State* will survive. But for many analysts it should not have lasted this long. The problems of sustainable support and a significant list of foes which include Basher al-Assad in Syria, a new government in Iraq, a nearly desperate Kurdish nation, a host of fearful Arab gulf states, Jordan, Egypt and a growing coalition of North American and European Allies led by the United States is not likely to end well for Abu Bakr. The key more than likely will be Turkey. If the Turks close their border and commit to the conflict as a member of NATO the conflict could be short-lived. At the moment the Turkish government seems more concerned about the *Peshmerga* and the Kurds that any possible threat from *ISIS*/*Da'ish* and perhaps this is well founded

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[18] The nineteenth century *Mahdist* uprising in the Sudan (1881-1898) led by Muhammad Ahmed, the *Mahdi* or *Expected One*, presented a similar issue, and clearly initial Anglo-Egyptian efforts to deal with it proved woefully inadequate. And for a time with its capital in Omdurman, the *Mahdist* rising was a substantial revolutionary entity, and could even have been described as a state until the Battle of Omdurman in 1898. Ironically, the Mahdi's followers came to refer to the *Mahdiyah* or the *Mahdist State*. See Audrey Kurth Cronin, "ISIS Is Not a Terrorist Group: Why Counterterrorism Won't Stop the Latest Jihadist Threat," <u>Foreign Affairs</u> 94: 2 (March/April 2015): 87-98.

[19] Cronin is quite right about a need for new strategies and tactics with *ISIS*/*Da'ish* but no it is not a *pseudo-state*. She might want to review J.L. Brierly here about what constitutes a state. And, moreover, even though Abu Bakr bandies about the term Islamic *state*, what he has called for, a *caliphate,* would not be a *state* according to the Westphalian notion, nor does he really intend it to be one. Note ibid., 88.

given that the largest Kurdish minority in the Middle East is in Turkey.[20] But there are other problems that limit Turkish intervention. The country is sharply, sometimes even violently divided between the traditional, secular Kemalists and the Islamists whose party has held the government for a number of years and are reluctant to enter a regional conflict against a fellow Sunni Muslim rising, and of course they would be blithe to do anything that could in any way further Kurdish interests in the area.

But even with a fully committed Turkey and a full array of Arab and Western allies the growing conflict is not likely to go away quietly or quickly.[21] Nor will it end without untold devastation to a region already ravaged by conflict. Indeed, it could be the beginning of a sectarian war between Sunni and Shia that could rage from Lebanon to northern India. However, such an outcome may be too simple given the complexities that make up the Middle East; a simple conflict of Islamic sects leaves out ethnic hatreds between Arab, Turk, Iranian, Armenian, and Kurd that have smoldered for centuries, nationalist rivalries between modern states, and personal animosities. The list goes on and on.

A New Map of the Middle East?

But should Abu Baker succeed in carving out a Sunni enclave across what is now Syria, Lebanon and Iraq, and should he develop the ability to hold it, there would be the need to redraw the map of the Middle East, a map that still bears the infamous stamp of the foreign map-makers who first drew up the modern borders of this region according to the *Sykes-Picot Agreement* (1916), the *Peace of Versailles* (1919) and finally the *Cairo Conference* (1921-1922).[22] Clearly *ISIS* and

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[20] For decades the Turkish government has tended to lump all Kurdish nationalist movements into one category that they have traditionally associated with the most radical Kurdish political group-the Kurdistan Workers Party, or the PKK (*Partya Karkeren Kurdistan*). Following the American invasion of Iraq in 2003 as local autonomy began to grow Turkey actually threatened military intervention if any move towards the creation of an independent Kurdish state was attempted. The *Peshmerga* (*before death* or *those who confront death*) is the modern, and rather elite, military in the Kurdish controlled area of northern Iraq.

[21] Nor should any formal alliance with the Islamic Republic of Iran be expected.

[22] Sadly, President Woodrow Wilson acquiesced to a map of the new Middle East, more or less based on the infamous *Sykes Picot Agreement*, drawn up by Prime

Abu Bakr, among other non-state actors in the area, threaten to tear up this map and substitute a regional "implementation of the Qur'an," but the results could be simply chaotic as Henry Kissinger warns "If multiple contiguous states at the heart of the Arab world are unable to establish legitimate governance and consistent control over their territories, the post-World War I Middle East territorial settlement will have reached a terminal phase."[23] Perhaps it is time for local players to draw a map for themselves, but if this is the moment the price seems inordinately high. Still, should it happen such an Islamic state would likely prove as ephemeral as Muhammad Ahmed's *Mahdiyah* and would remain a Sunni Arab creation leaving that part of Syria with strong *Alawite* ties beyond its borders, the Turkish border would no doubt be a hostile one, as would the frontier with the Shia majority in southern Iraq and the Islamic Republic of Iran where enmity would be born of religious and ethnic differences, and perhaps all of this would ultimately lead to an independent Kurdistan.[24] There are possibilities for a more realistic map of the region, but hardly one that promises peace and stability.[25]

Minister David Lloyd George of the United Kingdom, and Prime Minister Georges Clemenceau essentially in exchange for British and French support of the League of Nations, among the many compromises that led former British Field Marshall and Earl Archibald Wavell to comment "After *the war to end war* they seem to have been pretty successful in Paris at making a *Peace to end Peace*." These lines were more or less confirmed later in March 1922 at the Cairo Conference. Indeed, the only nation in the Middle East to draw up its own borders after World War I was Turkey under Mustafa Kemal Atatürk. See David Fromkin, <u>A Peace to End All Peace: The Fall of the Ottoman Empire and the Creation of the Modern Middle East</u> (New York: Henry Holt and Company, 1989; A Holt Paperback, 2009).

[23] Kissinger goes even further warning "The collapse of a state may turn its territory into a base for terrorism, arms supply, or sectarian agitation against neighbors." See Kissinger, <u>World Order</u>, 142-145.

[24] The *Alawites* or *Alawi* are a Shia Muslim sect most numerous in central Syria. Also see above Note 17.

[25] Tragically, the one change in the Middle East that could go far in producing some degree of regional stability, the creation of an independent Palestine, would probably not be part of these possible scenarios, and yet it is the one necessary event that must take place before there can be any serious anticipation of an end to the Arab-Israeli Conflict.

Recent Atrocities and Reactions

2014 proved to be both a disturbing and ominous year involving *ISIS*/*Da'ish* and numerous acts of violence and outrage in Syria and Iraq including hostage taking, hangings, crucifixions, beheadings and mass executions. But it took acts in Paris, France at the beginning of 2015 to gain the full attention of Europe, the United States and the world. The shootings and deaths that began a period of unprecedented terror on January 7, 2015 ended with twelve dead and eleven wounded. Two terrorists claiming allegiance to *ISIS*/*Da'ish* and justifying their actions on the publication of cartoons in the satirical publication *Charlie Hebdo* were killed in the process. The events inspired an emotional Paris demonstration in support of the those killed and injured and as a sign of solidarity upholding rights of expression and unity against terrorism. The French phrases *Je suis Charlie* and *Nous sommes Charlie* (*I am Charlie* and *We are Charlie*) became the rallying cries of the time. But the tragedy of Paris was hardly the end of the extreme violence marking a new year. Other events soon overshadowed the murders in France as a war against *ISIS*/*Da'ish* continued in the Middle East with little promise of anything even suggesting immediate success.

Within a month of the shootings in Paris the war against *ISIS*/*Da'ish* took something of an unexpected turn following the barbaric murder of a young Jordanian Air Force pilot, First Lt. Moaz al-Kasasbeh, who was burned alive February 5, 2015, and later after the announced death of an American aid worker, Kayla Mueller, held hostage by *ISIS*/*Da'ish* (February 10, 2015). The death of the Jordanian pilot seemed at once to inspire an emotional condemnation throughout the Arab world. Masses of demonstrators crowded the streets of the Jordanian capital of Amman, one apparently led by Queen Rania, while King Abdullah cut short a visit to the United States to return home and order the immediate execution of two *al-Qa'ida* captives, as well as the beginning of heavy air strikes against *ISIS*/*Da'ish* in Syria. In Cairo the traditional Grand Imam of Al-Azhar and former president of Al-Azhar University, Ahmed al-Tayeb denounced the execution of Lt. al-Kasasbeh and demanded that those responsible should be killed, crucified, or have their hands and legs cut off. Following the announcement of Ms. Mueller's death, on February

10, Secretary of State John Kerry issued a statement saying "ISIL, and ISIL alone, is the reason Kayla is gone. Like our friends in Jordan, our resolve is unshaken to defeat this vile and unspeakably ugly insult to the civilized world." President Barack Obama said "No matter how long it takes, the United States will find and bring to justice the terrorists who are responsible for Kayla's captivity and death." But clearly these despicable actions, along with countless others including regular beheadings, crucifixions, shootings, throwing gay men off of rooftops and stoning them, young non-Sunni women sold into slavery, are all intended to incite revulsion and anger in the West with hopes of an over the top or ill-conceived reaction that can be used by *ISIS*/*Da'ish* to further their purposes. And to a degree it has worked.

Jordan is inflamed, the President of the United States has asked for Congressional authorization to wage war on *ISIS*/*Da'ish* (even though the United States has been carrying out a bombing campaign for some months now), even Japan has considered constitutional changes to allow military action in response to the beheadings of two of their citizens. And the terrorist acts continue, most recently in Copenhagen, Denmark where shootings killed and wounded several people on February 15, 2015, and the beheading of twenty-one Egyptian Coptic Christians in Libya on the same day with a statement introducing a ghastly video: "A message signed with blood to the nation of the cross." Egypt's military regime promptly retaliated with air attacks on targets in Libya.[26]

On Monday, February 16, 2015 an under-spokesperson for the United States State Department, Marie Harf was a guest on MSNBC's *Hardball* with Chris Mathews. When asked about events involving *ISIS*/*Da'ish* she replied with comments that caused something of a firestorm in the media. The two most inflammatory statements included

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[26] On February 26, 2015, the *ISIS*/*Da'ish* member who had been given the nefarious name *Jihadi John* was identified as a British citizen, Mohammed Emwazi. Emwazi, a college graduate with a degree in computer science comes from a fairly well to do family in West London and had been on a number of intelligence watch lists. He, infamously, has been the masked figure in many of the *ISIS*/*Da'ish* execution videos seen carrying out grisly acts of murder, and has also been identified as both a brutal interrogator, and effective on-line recruiter for the terrorist group. Steven Erlanger, "Knife-Wielding 'Jihadi John' Was a Londoner, Under Watch," The New York Times (February 27, 2017): 1 and 10 (A).

one appraisal that said in effect that the United States could not kill it way out of the conflict in Syria and Iraq, and a more general comment that poverty was one of the root-causes of the rise of radical terrorism. She was sharply, and rather uncharacteristically, criticized by Mathews, and in the days that followed she was pilloried by conservative media, particularly *Fox News*. The irony is that similar statements have been made regarding terrorism and the Middle East by Mitt Romney and former president George W. Bush, and of course they were sentiments that represented the c president, Barack Obama. Surely there can be little doubt that the invasion of Iraq and the Third Gulf War served as a major contributing factor in the instability that helped give rise to *ISIS*/*Da'ish*, or that the politics of poverty have served breed desperation throughout the developing world. Ultimately, Harf may likely prove to have been quite right in her ad hoc analysis. What should be an obvious fact is that Abu Bakr and *ISIS*/*Da'ish* have clearly been trying to incite the West into what would amount to a holy war, or using Samuel P. Huntington's phrase a *clash of civilizations*, and far too many Americans seem ready to oblige his wishes and charge in with fire and brimstone but little reason. Such a reaction would of course serve immediately to bolster recruiting efforts and elevate the status of Abu Baker and *ISIS/Da'ish* in the eyes of many people in the Middle East.

There is not likely to be anything resembling a quick remedy here. But in the long run one might begin with Harf's suggestions and embellish them a bit. Perhaps the best course for the long term might even invoke the thoughts of Charles Dickens and Raymond Aron. In perhaps his most read novel, *A Christmas Carol*, Ebenezer Scrooge is confronted by the *Ghost of Christmas Present* who harbors beneath his robes two decimated children, *ignorance* and *want*, and is warned about both of them if their conditions are not noted by society. The ghost dramatically cautions that the former is the most dangerous, for on his forehead is the specter of *doom*. Regardless of the doubting opinions of much of the American media, poverty, ignorance and want are at the core of the desperation in the developing world that often turns to extremism because in the eyes of far too many, this is the only available course. Aron in his commentary regarding war in the modern age, <u>On War</u>,

cautioned that what man has to fear most is not nuclear weapons or any other technological development but simply *fanaticism* of all kinds. Here, one would suppose that Aron would bemoan the phenomenon of militant Islamic Fundamentalism, but would likely also warn about equally extreme reactions to it. His somewhat trademark solution seems very simplistic,"...the only road to wisdom lies in the rejection of all fanaticism …wisdom and moderation remain humanity's only hope…political wisdom can offer no more hopeful prospect than survival through moderation."[27]

In this sense, religion, whether, Islam, Christianity, Hinduism or Judaism, is not of itself to be blamed; but extreme even fanatical interpretations of it have plagued mankind for most of its history. It is interesting to note that it became quite apparent in mid-February 2015 that the President and his administration started to avoid use of the words Muslim and Islamic in reference to a variety of terrorist groups, but *ISIS/Da'ish* in particular, that claim to represent Islam. In remarks made at the recent *White House Summit on Countering Violent Extremism* in Washington, D.C. (Wednesday, February 18, 2015) Obama said "We are not at war with Islam. We are at war with people who have perverted Islam...They try to portray themselves as religious leaders, holy warriors in defense of Islam...We must never accept the premise that they put forward because it is a lie...Nor should we grant these terrorist the religious legitimacy that they seek. They are not religious leaders. They are terrorists"[28]   And while sincere religious fervor must not be totally discounted, even Islamic scholars, such as Ahmed al-Tayeb, have denounced the extreme behavior of *ISIS/Da'ish* as actions not consistent with Islamic tradition, taking positions not that far removed from President Obama's. Neither Dickens nor Aron, Harf, or even President

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[27] Raymond Aron, <u>On War</u>, Terence Kilmartin, trans. (New York: W.W. Norton and Company, 1968), 74, 109, and 120-121.
[28] Expectedly, Obama was roundly criticized by the political right as being at the very least naive, if not somehow overly sympathetic to radical and militant Islam. Peter Baker and Julie Hirschfeld Davis, "On Terror, Gentle Hand or Iron Fist: Inherent Tension in U.S. Call to Action," <u>The New York Times</u> (February 20, 2015): 1 and 12 (A).

Obama seem emotionally satisfying to many at this time, but that should not diminish the ultimate worth of what they have said.

Conclusion

For centuries the tomb of Salah al-Din has beckoned people from the Islamic world as well as the West because of his legacy as a just and tolerant, indeed a chivalrous leader, as the embodiment of all that is good in Islam. He united and revived the Islamic world in the face of foreign invasion. There was no need for terror in his world; his compassion was far more dramatic. Again, we remark at the irony that his tomb is located so near the center of this new and terrible storm in the Middle East. The forces and events that produced Abu Bakr and *ISIS*/*Da'ish* are clear enough, as are the brutal portents of this regime. The realities set against such an eventuality are also fairly obvious, but history does not always follow obvious or expected paths. What remains more obvious than anything else is the tragic potential for more violence, destruction and bloodshed in a region that has seen more than its share. There is now no doubt as to the beginning of a new war in the region, one that will cross numerous borders and involve even a greater number of belligerents, one that is likely to be a fourth Gulf war. What ultimate impact it will have on the current maps of the area remain unclear, but certainly to some extent they may have to be redrawn in light of new political realities.

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WHY DO AMERICANS AND CANADIANS VIEW THEIR DUTY TO VOTE SO DIFFERENTLY?

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Over the last century voter turnout in Canada has generally been higher than the United States. For the most part, this may be explained though the higher sense of civic duty that Canadians report through national surveys. This paper presents two possible reasons for the higher sense of duty in Canada. The first is a structural hypothesis based upon the differences of the political systems. The second is a cultural hypothesis examining the differences between the people. Results suggest that the differences in duty are indeed cultural, but it is not clear what aspects of culture are causing these differences.

Looking at voter turnout for the last century among Canada and the United States, we see staggering differences. According to Elections Canada, voter turnout averaged about 71% from 1911 through 2011 in Canada. Meanwhile, voter turnout in the United States averaged around 56% during a similar time period, 1912 through 2012. This implies that on average Canadians are about 15% more likely to vote than Americans. Even comparing only recent data, from 2000 onwards, during which time Canadian turnout has decreased to an average turnout of about 62%, this is still 6-7% higher than the U.S. average during the same time. This difference in turnout may be explained through citizen's views of voting as a civic duty.

Previous research suggests a strong linkage between those who believe voting to be a duty and electoral participation (Blais and Achen, 2010; Blais, 2000; Cambell, Gurin and Miller, 1954; Downs, 1957; Riker

and Ordeshook, 1968). However, we know little about why this sense of duty is so different between Americans and Canadians. While Canada and the United States are both western democracies, enjoying similar political freedoms, and similar economic status, we sometimes forget about some of the fundamental differences between the two countries and the consequence those differences can have in the understanding of voting behavior. These differences are both structural elements of governance as well as cultural differences. But do either of these types of differences affect an individual's sense of civic duty and therefore their likelihood to vote?

This purpose of this study is not to reexamine the influence of civic duty on voting, but instead attempt to expand upon previous theories on the possible causes of this civic duty. Knowing that civic duty is higher in Canada[29], and that prior research suggests that seeing voting as a civic duty is a predictor for turnout, this paper presents two possible reasons for why higher levels of civic duty are found among Canadians versus Americans. This study will discuss the relationship between civic duty and voting, examine the existing theories of the causes of civic duty, present evidence to suggest that the variation between civic duty in Canada and the United States cannot be well explained by the existing theories, and present two possible new theories for the difference in civic duty. The first is a structural theory based upon the differences of the political systems, suggesting that differences in feelings of civic duty are manifested due to differences in governance and voting systems. The second is a cultural theory that suggests there are fundamental differences in political culture that we cannot easily explain, which will be tested by examining the different effects of various characteristics on civic duty within each country.

Civic Duty and Voting

Often as political scientists, we look at turnout results and wonder why so many people are not voting and what can be done to get non-voters to the polls. However, sometimes the question is reversed, as Blais

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[29] Based on 2011 survey data, 51% of Americans viewed voting as a duty, as compared to 81% of Canadians.

and Young (1999) suggest, "Why so many people vote is surely the most puzzling paradox in rational choice theory." This puzzle stems from the work of Anthony Downs. Downs concludes that between physical and information costs, as well as the extremely small probability that a single voter will determine the outcome of an election, voting is irrational (Downs, 1957). Therefore, voting is irrational, but still so many people do it. While there have been multiple rationales for why people vote, the strongest rational has been that people vote when the benefits outweigh the costs.

A quick review of the calculus of voting suggests that a person will vote when the reward (R) in the utility of voting is positive. R is positive when the benefits (B) an individual receives from the success of their preferred candidate times the probability (P) that the citizen's vote will bring about the benefit outweigh the costs (C) associated with voting. This is expressed as $R > BP - C$. Given that the costs of voting are relatively low compared to possible benefits, the important aspect of the equation is the probability the vote will make a difference, or more so the belief of the voter that their vote matters, often referred to as affect.

In Downs' work he also suggests that a voter's desire to support democracy as a system may actually influence an individual to vote. This need to support democracy, or a duty to vote, has been explored theoretically over the years, but it was not until over a decade after Downs that Riker and Ordeshook (1968) started to examine what factors may influence a person's individual level of civic duty. They suggest a new calculus of voting that includes the satisfaction that can be derived from the act of voting itself (D), so that the equation is expressed as $R > BP - C + D$. These satisfactions include: "1) satisfaction from the compliance with the ethic of voting, 2) satisfaction from affirming allegiance to the political system, 3) satisfaction from affirming a partisan preference, 4) satisfaction of deciding, and 5) satisfaction of affirming one's efficacy in the political system" (Riker & Ordeshook, 1968). Together they make up what we would consider civic duty, hence the use of "D." Once the value of D is taken into consideration, voting appears to be much more rational. Additionally, this sense of duty becomes the theoretical driver of voting.

What Influences Civic Duty?

Higher levels of duty may explain the higher levels of turnout in Canada as compared to the United States, but what influences this civic duty. We typically think of the factors that would influence a person's sense of duty to vote to be rather universal, or at least we have yet to think that they may not be. Recently, Andre Blais (2013) suggested that patriotism rather than structural effects explain the differences in voting behavior, and while I agree that patriotism could influence feelings of civic duty, we have not yet ruled out structural effects. Meanwhile, there are other possible explanations that need to be evaluated.

Feelings of satisfaction, derived from the duty to vote, may actually be linked to individual level socioeconomic variables as well as feelings towards others, an individual's perception of their role in society, and an individual's interest in politics. While such assertions have yet to be tested, and are not the direct subject to be tested here, a number of examples come to mind that seem to satisfy this assumption stemming from characteristics such as age, income, trust, and political efficacy. 1) An older or more educated person may be able to better internalize voting as an ethic than someone with less knowledge of the history of voting. 2) Older men may feel a strong sense of duty given the history of political socialization suggesting that politics is a man's world, or younger women may feel a sense of duty due to a desire to change this perception. 3) Older people may find more satisfaction from affirming allegiance to a political system that they have lived in for years as opposed to a younger person just beginning to understand how the political system affects their life. 4) Higher income individuals may also feel more allegiance to the political system given their success under the system versus perceived lack of success under a different political system. 5) Meanwhile, a person who lacks trust in others may gain increased satisfaction from affirming a partisan preference or even being part of the decision making more generally. 6) Perhaps most importantly, a person that believes their vote will matter is more likely to derive satisfaction from affirming their efficacy though voting.

This last assumption is particularly important if we wish to test other factors that may influence a person's sense of duty. Prior research

supports this concept to some degree as metrics of age and efficacy have been used previously to capture a person's sense of civic duty when a direction question was unavailable (Lacy & Burden, 1999). If these factors are indeed statistically associated with a person's sense of duty, they provide a baseline to test if other factors are as well. However, the socio-economic conditions such as age, race, gender, education, and income may have varying effects across cultures given different histories of political socialization.

Over the years, research and related experiments that work to influence an individual's sense of civic duty in order to increase the likelihood of turnout have gotten more attention than efforts in trying to understand the factors causing the satisfaction voters could be getting from voting (Blais & Young, 1999; Kam, 2007; Gerber & Rogers, 2009). These studies focus on what works to bring about people underlying sense of duty rather than explain the factors that contribute to it. Meanwhile, political scientists have re-opened the examination of the underlying behavior issues at work with a focus on the concept of the benefits to others. The argument is that an individual's sense of obligation to others, or for the well-being of their community as a whole, influences the decision to participate (Blais, 2000; Fowler & Kam, 2007; Lowen 2010). This could possibly be thought of as a satisfaction from helping others. Despite these studies, the literature is still lacking in studies to examine if there are other possible factors that can influence civic duty.

New Theories on Civic Duty

There are two possible influences on civic duty that this paper seeks to test. The first is to test a theory of structural influence. Does the structure of the political institution have an effect on an individual's sense of duty? This structural theory based upon the differences of the political systems, suggesting that differences in feelings of civic duty are manifested due to differences in governance and voting systems. The second is a cultural theory that suggests there are fundamental differences in political culture that we cannot easily explain. This theory will be tested by examining the different effects of various characteristics on

civic duty within each country. Both of these theories will be further elaborated upon later, but before either theory can be tested it is important to explain how civic duty is measured and to show that these are indeed specific country effects.

Measuring Civic Duty

The simplest way to get a sense of an individuals' level of civic duty is by asking if they see voting as a duty or a choice. While there are other ways to get at understanding civic duty more generally, this question provides insight respondent's mindset about voting and for this study we are concerned with how duty relates to voting behavior. However, even this simple question comes with complications.

Despite the question's simplicity, respondents may interpret this question in various ways. The problem with this metric though is the dichotomous nature of the answer set. The respondent can only choose "duty" or "choice" and there is no way to know if respondents see voting as a combination of the factors, and if so which they weigh more heavily. Therefore, with this question you can only separate respondents into high and low sense of duty as opposed to multiple levels. Further issues can arise more so for individuals who are not sure how to interpret the question or when an individual's interpretation differs from the researcher's.[30]

A work around for these individual level problems would be to look at average levels of duty among groups where by the specific traits

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[30] Some people may not understand the difference between voting being viewed as a choice or as a duty. For example an individual may feel peer pressure to vote, as their friends and family are voting and thus they feel compelled to vote as well. Would such a person see voting as a choice or a duty? From a researcher stand point, this would be satisfaction from the act of voting, and thus fall into the civic duty category or (D) metric. However, the respondent may feel that they do not have a "duty" to vote, in the sense of moral obligation, but rather that they are making a "choice" to vote and select that answer thus creating an error in how a researcher would interpret the data. Other respondents may feel that voting has elements of both choice and duty. For example, an individual may feel that voting is part of their civic duty, but selects "choice" as they know voting is not a required act or perhaps because they feel that not all people should vote, i.e. only well informed voters should vote. Once again, the data may not be as simple to interpret as it should be. For any individual person it thus becomes difficult to determine what factors are leading to this sense of duty.

of individuals are less imperative to understanding sense of duty as opposed to group level characteristics. Therefore, in this study duty will be used to compare people in groups whereby no one group should be more or less likely to misrepresent their response more than another group. Additionally, the study will utilize the average sense of duty between groups of individuals.[31]

Data & Methods

This study uses a data set created from two distinct surveys in order to analyze respondent's sense of duty in Canada and the United States. Data about Canadians comes from the 2011 Canadian National Election Survey (CES), while data about Americans comes from the 2011 Evaluations of Government and Society Study of the American National Election Survey (EGSS). Both data sets are nationally representative samples of their respective countries. The combined sample utilized here has a total of 1985 respondents, 981 Americans and 1004 Canadians. Variables of interest include the socio-economic characteristics, as well as measurements of affect, interest in politics, trust, and satisfaction with the current government.

Using data from both the 2011 CES and the 2011 EGSS, out of the 2024 total respondents, 1,317 perceive voting as a duty rather than a choice. Out of the 1,004 Canadians in the sample, 815 perceive voting as a duty. Of the 981 Americans in the sample, 502 see voting as a duty. On a scale of 0 to 1, Canadians had a mean duty score of .81 with a standard deviation of .39 while Americans had a mean duty score of .51 with a standard deviation of .50. A two-sample t-test confirms through statistical

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[31] The dependent variable, sense of duty, is coded 0 or 1 based upon if respondents feel voting is a choice or duty respectively. The questions asked in each survey differ but are comparable. The CES asks, "People have different views about voting. For some, voting is a DUTY. They feel that they should vote in every election. For others, voting is a CHOICE. They only vote when they feel strongly about that election. For you personally, is voting FIRST AND FOREMOST a Duty or a Choice?" while the EGSS asks "Different people feel differently about voting. For some, voting is a **duty** – they feel they should vote in every election no matter how they feel about the candidates and parties. For others voting is a **choice** – they feel free to vote or not to vote, depending on how they feel about the candidates and parties. Do you feel voting is a duty or a choice?" The emphasis is as found in original questionnaires.

significance at a level of p<.01, with a t-value of 14.924. Not only are these values not equal, but Canadian sense of duty is statistically and substantively higher than American sense of duty as theorized.

Given limitations of the data available, as people are rarely asked about how they derive their satisfactions from voting, we must test the assumption stated earlier of the linkage between socio-economic characteristics and potential means of deriving satisfaction from voting. This will allow us to see if such characteristics are indeed associated with an individual's sense of duty. To do this, a probit analysis is conducted, model 1, using the previously mentioned SES related variables as well as other variables which could influence a sense of civic duty The socioeconomic variables of interest are of age, education, gender, income and race are coded using standards commonly found in political science.[32]

Other variables of interest include measurements of affect, interest in politics, trust, and satisfaction with the current government. Affect is coded dichotomously based upon if the respondent feels that

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[32] Age is coded as the respondent's age in years at the time of the survey. Education is coded from 0 to 3 based upon completion of various levels of education in an attempt to control for the different number of years and schooling times some Canadians are exposed to where 0 is less than High School, 1 is completion of High School, 2 is some college and 3 is completion of college. Students who completed Cégep are coded as 2. Gender is coded as female or male, 0 or 1 respectively, based upon respondents self-identification. Income for both all respondents is coded on an 18 point scale utilizing the scale as found in the EGSS. The scale is 0 = less than $5,000, 1 = $5,000 to $7,499, 2 = $7,500 to $9,999, 3 = $10,000 to $12,499, 4 = $12,500 to $14,999, 5 = $15,000 to $19,999, 6 = $20,000 to $24,999, 7 = $25,000 to $29,999, 8 = $30,000 to $34,999, 9 = $35,000 to $39,999, 10 = $40,000 to $49,999, 11 = $50,000 to $59,999, 12 = $60,000 to $74,999, 13 = $75,000 to $84,999, 14 = $85,000 to $99,999, 15 = $100,000 to $124,999, 16 = $125,000 to $149,999, 17 = $150,000 to $174,999, and 18 = $175,000 or more. CES respondents provided income in thousands of dollars and are coded into these groups respectively. Respondent's race is coded in a variety of ways. For the initial study respondents are coded as being of either being minority or non-minority, or given the majority races of countries, white or non-white, but with some caveats. American respondents who identified as white and of "Hispanic or Latin" origin are coded as minorities. Canadian respondents identifying as anything other than "English" or "Canadian" were classified as minority. This includes "French" and "French Canadian" given the differences in both culture and political history among these two groups. Race is self-identified for all respondents. Americans are further coded dichotomously as Hispanic/Latin or not, as well as Black or not. Canadians are further coded as French identifiers if they self-identified as "French or French Canadian."

they have the ability to affect government. In the CES, respondents are asked if they strongly agree, agree, disagree, or strongly disagree with the statement, "People like me don't have any say about what the government done." Responses of disagree or strongly disagree were coded 1, while agree and strongly agree were coded 0. In the EGSS, respondents were asked, "How much can people like you affect what the government does? Great deal, a lot, moderate amount, a little, not at all." Responses of "great deal," "a lot," and "moderate amount" were coded 1, while responses of "a little" and "not at all" were coded 0. Interest in politics is measured on a scale of 0 to 4, where EGSS respondents identified as either "Not interested at all," "Slightly interested," "Moderately interested," "Very interested," or "Extremely interested" respectfully. CES respondents answered on an 11 point scale where "zero means no interest at all and ten means a great deal of interest." CES respondents were re-coded from 0-4 where 0 & 1 corresponds with a score of 0, 2 & 3 corresponds with a score of 1, 4 & 5 corresponds with a score of 2, 6 & 7 corresponds with a score of 3, and 8, 9 & 10 corresponds with a score of 4. Trust of others is measured in nearly the same way in both the CES and the EGSS, where a 1 indicates that "Most people can be trusted" while a 0 indicates a lack of trust. The CES states this as "need to be very careful when dealing with people" while the EGSS states this as "You can't be too careful in dealing with people," but the meaning is similar.

In this study, satisfaction of government is best measured through leader likeability scores. While a governmental approval style score would be more desirable, in the data set available they are not very comparable. [33] Approval scores look more at satisfaction of the leader doing their job in the United States and the satisfaction with the government under the specified leader in Canada, therefore they are difficult to compare. Meanwhile the likeability scores just looks at how

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[33] The EGSS asks respondents if they "Approve of the way Barack Obama is handling his job as President?" while the CES asks "How satisfied are you with the performance of the federal government under Stephen Harper?" Therefore the EGSS question gets at how a respondent feels about the leader's performance while the CES question may reflect either a respondent's feeling about the leader's performance or the government in general.

much the respondent likes the leader, making them easier to compare.[34] Both options clearly come with their own issues, but for the purposes of this comparative study, likeability has fewer issues.[35] However, both the likeability and the approval metric are utilized in the models.

Table 1 provides an outlay of descriptive statistics of the data. Means and standard deviations are provided for both the American and Canadian respondents as well as combined information about the sample. A quick glance shows that for many of the as socio-economic status variables, the means are similar suggesting comparable samples. In addition to the mean differences in sense of duty, there are many substantive differences between the countries regarding the mean values of affect, interest in politics, trust of others, leader likeability and satisfaction. Assuming random sampling, these differences alone suggest that the two countries have a rather different political culture.

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[34] Likability of Obama is measured on a seven point scale by the EGSS where respondents choose among: dislike a great deal, dislike a moderate amount, dislike a little, neither like nor dislike, like a little, like a moderate amount, and like a great deal. Likeability of Harper is done using a feeling thermometer of 0-100 on the CES. The CES data are thus re-scaled from 0-6 to match the possible answers of the EGSS data.

[35] While likeability may not measure performance, the two questions are at least measuring the same thing. Regardless, as will be shown later, the results of analysis are similar using either variable. Additionally the correlation between this two metrics is very high at 0.8561.

Table 1. Summary Statistics

Variable	American	n = 981	Canadian	n = 1004
	Mean	Std. Dev.	Mean	Std. Dev.
Voted	0.81	0.39	0.95	0.23
Age	49.95	16.58	58.53	14.30
Education	1.82	1.02	2.04	0.99
Gender	0.49	0.50	0.49	0.50
Income	10.16	4.18	11.96	3.84
Race / Minority	0.17	0.38	0.05	0.21
Affect	0.55	0.50	0.62	0.48
Interest in Politics	2.37	1.12	2.76	0.95
Trust Others	0.41	0.49	0.55	0.50
Duty	0.51	0.50	0.81	0.39
Leader Likeability	3.02	2.29	2.54	1.88
Satisfaction	1.66	1.42	1.34	0.89

Model 1 examines the effects of these variables on duty:

(1) $\text{Duty} = \beta(\text{Age}) + \beta(\text{Education}) + \beta(\text{Gender}) + \beta(\text{Income}) + \beta(\text{Minority}) + \beta(\text{Affect}) + \beta(\text{Interest}) + \beta(\text{Trust}) + \varepsilon$

Then to test the universality of duty, another probit analysis is calculated, this time controlling for the respondent's current country. Using model 2 we can see if there are specific country effects relating to an individual's sense of duty. If the country variable is significant, there are indeed country effects.

(2) $\text{Duty} = \beta(\text{Age}) + \beta(\text{Education}) + \beta(\text{Gender}) + \beta(\text{Income}) + \beta(\text{Minority}) + \beta(\text{Affect}) + \beta(\text{Interest}) + \beta(\text{Trust}) + \beta(\text{Country}) + \varepsilon$

Analysis of the Data

Table 2 displays the results from models 1 and 2 listed above. Model 1, as predicted, confirms the assumption that the socio-economic and other variables are indeed associated with sense of duty. This validates their use in place of the five sources of satisfaction outlined by Riker and Ordeshook. All the variables are statistically significant in the model at the $p<.05$ level, and their direction follows along with some of the predicted assumptions. For example, older respondents are more likely to see voting as a duty; as are more educated and higher income individuals. Men are less likely to see voting as a duty as compared to women. Minorities are less likely to see voting as a duty, which could be due to minority disinterest in politics. Moreover, interest in politics and affect are positively associated with sense of duty, as predicted. While trust in others is associated with sense of duty, the direction is opposite of what is expected, whereby a less trusting person would feel more obligated to vote, but that is not evidenced.[36] It should be kept in mind that exactly why these characteristics are significant is somewhat out of the scope of this study. Their use here is as control variables, as any country differences may be because of individual level variation rather than system differences.

In model 2, a control for the country the respondents are from is added. The country variable is negative and statistically significant, which in this model suggests that Americans are less likely to see voting as a duty than a choice, even controlling for the other variables from model 1. This implies that there is some country effect on a sense of duty to vote. Additionally, including this variable causes race to become statistically insignificant suggesting that any race based effects on duty are due to individual level variation within countries.

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[36] Models were run without the trust variable due to an inability to explain the effect and results were similar. Therefore models reported include the trust variable given its statistical significance.

Table 2. Predictors of Sense of Duty

	Model 1		Model 2	
Age	**0.009**	***	**0.004**	**
	0.002		0.002	
Education	**0.134**	***	**0.133**	***
	0.033		0.034	
Gender	**-0.166**	***	**-0.148**	**
	0.062		0.063	
Income	**0.030**	***	**0.015**	*
	0.008		0.009	
Race / Minority	**-0.242**	**	**-0.120**	
	0.098		0.100	
Affect	**0.301**	***	**0.306**	***
	0.064		0.065	
Interest in Politics	**0.215**	***	**0.194**	***
	0.031		0.032	
Trust	**0.231**	***	**0.207**	***
	0.064		0.065	
American			**-0.670**	***
			0.067	
Intercept	*-1.370*		*-0.520*	
	0.160		*0.183*	
Number of obs	1985		1985	
Pseudo R2	0.1073		0.1472	

*** P<.01, ** P<.05, * P<.1

Explaining Country Effects

Now that is has been confirmed that there are indeed country effects, it is important to explore the potential structural effects or cultural effects within each country's political environment which could be influencing the levels of civic duty. The structural explanation implies that differences in the structure of the political systems of the countries will influence civic duty, while the cultural explanation posits that it is internal political cultural effects that influence the country's average

sense of duty. Each of these two theories will be explained and tested in turn.

Structural Theory

As mentioned previously, the political cultures of Canada and the United States are often believed to be similar. If this was true, then the difference in average sense of civic duty between the two countries must be due to structural political differences rather than individual level differences. The biggest structural difference in elections between the two countries would be the use of the parliamentary system in Canada which better allows minor parties to be represented at the federal level. But why would this government structure lead to differences in sense of duty? I posit that the structure is not causing an increased sense of civic duty directly, but rather the way we think of civic duty is currently underspecified. Despite identifying what sounds like a rather exhaustive list of ways to achieve satisfaction from the act of voting itself, Riker and Ordeshook (1968) state, "Doubtless there are other satisfactions that do not occur to us at the moment." There may in fact be a sixth source, where by individuals get a benefit from voting due to the satisfaction of helping to replace a disliked government.

The implication is that people who are dissatisfied with their leader would be more likely to view voting as a duty. This can be seen as a desire by the individual to create positive change in the political system, or register their protest towards the current regime, as opposed to getting a benefit from the success of their preferred candidate. Some people may be quick to suggest that voting when the leader is disliked would figure into the benefits metric in the calculus of voting. I however, argue that it fits into the duty metric. Such a duty can arise in a person when they feel that the political system is failing in its duty to provide for its people. This feeling can thus be manifested when an officeholder is disliked due to their performance. Of course, voters do not just vote because of one singular aspect of benefits, be they from the act of voting or the potential outcome of the election, but rather, more likely, due to a mix of these influences.

Consider how a voter wishing to change government plays into the calculus of voting. When there is an opportunity in an election to vote for a challenger from whom an individual would knowingly get a benefit from them being elected, it would be strategic for that individual to vote for that person. Assuming the perceived benefits outweigh the costs, this would also be rational. If this is not the case, a person may still vote for a challenger to do their part, or their civic duty, in punishing an incumbent. This is rational when the amount of satisfaction from participation outweighs the direct benefits to the voter of the incumbent staying in office (D - C > B), when there is no perceived benefit of the incumbent staying in office (D - C > 0), or when there is no perceived chance of the challenger winning (D - C > 0). In cases where B does matter from a party rather than an individual standpoint, this sense of duty to change government could lead to participation in a primary election. However, it is questionable how often and to what extent people put this much thought into whom they are voting for. Therefore, there are factors, such as dissatisfaction with the system, whereby people feel that they should vote against the current government but not know so much who they should vote for instead. As some have put it, duty (D) might get the voter to the booth, but then the benefits (B) lead to who the voter chooses once in there (Jones & Hudson, 2000).

The structural element comes into play for testing this theory of leader likeability as an influence on viewing voting as a duty. While the above argument provides for a theoretical grounding for why such influence may exist, the natural experiment given the political structures of the United States and Canada allow us to test for it. These political structure differences are actually a remnant of political history combined with structural elements of the legislative bodies. While both countries both have "winner take all" systems within each voting district to select members of the respective legislative bodies, Canada's parliamentary system allows for a third party to have some power on a national stage, and Canada as a federal union, whereby the provinces retail greater autonomy than the state of the United States, serve as centers of opposition to the federal government (Wrong, 1957).

In the United States with its two-party system, citizens are for the most part relegated to a decision between two candidates for any electoral office, and thus only a minority of voters should be dismayed by the outcome. Meanwhile in Canada, given the multi-party system that has more or less existed for the last several generations, it is likely that only a minority of voters will favor the outcome of a federal election. While there has been some work to see how Riker and Ordeshook's (1968) "Calculus of Voting" would apply to the Canadian system of government, the "duty" part of the equation is mostly ignored (Black, 1978).

In the 2008 Canadian federal election, the party in power, the Conservative Party, ended up with a minority, about 36%, of the vote and in the 2008 American National Elections, the Democratic party as well as the Democratic presidential candidate, Barack Obama ended up with a majority, with Obama receiving about 53%, of the vote and the Democrats receiving 53.6% of the seats in the House of Representatives. Given that the percentages of votes for the President and the percentages of house seats won by the Democrats is so similar, this makes for a good year to compare to the Canadian parliamentary system. If a sense of duty to vote was actually a sense of duty to unseat the current government, we would expect to see Canadian sense of duty scores to be higher than American sense of duty scores. The data support this assertion as Canadians have a lower average leader likeability score of 0.423 versus the average leader likeability in the United States of 0.502. This implies that on average, Canadians like their leader 8% less than Americans. This difference may be the cause of the higher sense of duty among Canadians.

In most cases a voter might be driven by this sense of duty to change government, as well as possibly other benefits emanating from the act of voting, i.e. civic duty (D) more generally, to participate. It can be difficult to untangle the values of (B) and (D) in order to determine why exactly a person is deciding to vote and to what extent each of these aspects are playing a role. Therefore, it is even more difficult to try to break apart the various aspects of satisfaction a voter gets from fulfilling

their sense of duty. However, in order to test the role of a sense of duty to change government, we must do just that.

Testing the Structural Theory

Model 3 allows for a test of the hypothesis that country effects may be due to these aforementioned structural differences and the influence of leader likeability.

(3) Duty = β(Age) + β (Education) + β (Gender) + β (Income) + β (Minority) + β (Affect) + β (Interest) + β (Trust) + β(Country) + β(Leader Likeability) + ε

(4) Duty = β(Age) + β (Education) + β (Gender) + β (Income) + β (Minority) + β (Affect) + β (Interest) + β (Trust) + β(Country) + β(Approval) + ε

Table 3 shows the results from models 3 and 4. When the leader likeability or satisfaction variable is added to the analysis, we see no significant effects. Therefore leader likeability is not related to a sense of duty and thus the hypothesis about sense of duty to vote being a sense of duty to change government is not supported.

Table 3. Structural Theory Results

	Model 1		Model 3		Model 4	
Age	**0.009**	***	**0.009**	***	**0.009**	**
	0.002		0.002		0.002	
Education	**0.134**	***	**0.135**	***	**0.134**	***
	0.033		0.033		0.033	
Gender	**-0.166**	***	**-0.169**	***	**-0.167**	**
	0.062		0.062		0.062	
Income	**0.03**	***	**0.03**	***	**0.03**	***
	0.008		0.008		0.008	
Race / Minority	**-0.242**	**	**-0.225**	**	**-0.238**	**
	0.098		0.1		0.1	
Affect	**0.301**	***	**0.301**	***	**0.301**	***
	0.064		0.064		0.064	
Interest in Politics	**0.215**	***	**0.212**	***	**0.214**	***
	0.031		0.031		0.031	
Trust	**0.231**	***	**0.232**	***	**0.231**	***
	0.064		0.064		0.064	
Leader Likability			**-0.013**			
			0.015			
Approval					**-0.005**	
					0.026	
Intercept	*-1.37*		*-1.327*		*-1.36*	
	0.16		*0.167*		*0.168*	
Number of obs	1985		1985		1985	
Pseudo R2	0.1073		0.1076		0.1073	

*** P<.01, ** P<.05, * P<.1

Cultural Theory

Given that the structural theory does not seem to hold much weight, we are relegated back to the concept of political culture as a possible explanation. Perhaps a sense of duty is manifested in different ways within different cultural groups. When considering the differences between Canadians and Americans, one major difference could be

stemming from the multiculturalism of Canada itself while a second could be due specifically to the influence of French-Canadian culture which serves as a strong political minority and developed from a difference political culture of Non-French Canadians whom are perhaps more similar to Americans.

There are two steps in examining the cultural hypothesis. First, we should expect the predictors of duty in the United States and Canada to be different. This would imply that the predictors used in the model are indeed what lead to a sense of duty to vote, and since the average level in each country is different, the predictors should be of different value. Second, the predictors of duty for French Canadians should be shown to be more dissimilar from Americans than Non-French Canadians.

If culture is indeed the reasons for differences in a sense of duty to vote, the predictors of civic duty should be different among the two countries as we know that there exist political culture differences between the two. One major difference is Canada's embrace of multiculturalism as well as its different style of patriotism (Cook, 2006). For example, national identity itself can influence policy decisions as pointed out by Miller (2006), which addresses the roll of multiculturalism in social policy. Meanwhile differences in Immigration policy seem to have both a national and a cultural influence as the views of French-Canadians are not always in line with those of Canadians as a whole (Citrin, Johnston, & Wright, 2012). Moreover, French-Canadians may exhibit a specific or different patriotism, or a different amount of patriotism (Dexter, 1923).

Therefore, if patriotism was the only cultural factor at play, there should be at least some difference between French-Canadian sense of duty to vote as compared to Canadians as a whole. Meanwhile if multiculturalism in general is at play, there may be differences in regards to the impact of the racial/minority group variable.

Testing Cultural Theory

In order to determine the universality of sense of duty, model 1 from above was re-run but separating out the Canadians and Americans into separate groups. These models are displayed in Table 4

Table 4. Cultural Theory Results

	American		**Canadian**		**Canadian**	
Age	**0.006**	*	**0.000**		**0.000**	
	0.003		0.003		0.003	
Education	**0.121**	***	**0.136**	***	**0.135**	***
	0.046		0.051		0.051	
Gender	**-0.154**	*	**-0.136**		**-0.143**	
	0.085		0.096		0.096	
Income	**0.013**		**0.014**		**0.015**	
	0.011		0.013		0.014	
Race / Minority	**-0.090**		**-0.169**			
	0.115		0.215			
Affect	**0.289**	***	**0.276**	***	**0.264**	***
	0.091		0.097		0.098	
Interest in Politics	**0.248**	***	**0.116**	**	**0.120**	**
	0.044		0.049		0.049	
Trust	**0.296**	***	**0.096**		**0.112**	
	0.089		0.097		0.097	
French Canadian					**0.157**	
					0.116	
Intercept	*-1.400*		*0.007*		*-0.086*	
	0.204		*0.308*		*0.313*	
Number of obs	981		1004		1004	
Pseudo R2	0.1023		0.0409		0.0422	

*** P<.01, ** P<.05, * P<.1

Here we can see that the predictors of duty are actually different in each country, as expected, but not in the ways that were expected. In both countries education, affect, and interest in politics are statistically significant at the $p<.05$ level. However, the substantive effects of education, affect, and interest in politics are significantly higher for Americans than Canadians. Additionally, for Americans the variables of

age, gender and trust as also statistically significant at the $p<.05$ level. The race/minority variable is insignificant in both models.

A comparison of the pseudo R-values for each of these two models suggests that the variables in the model do a much better job of predicting a sense of duty among Americans than the same model does among Canadians, with values of 0.1023 and 0.0409 respectively. This implies that there must be some unaccounted for variable that likely influences sense of duty in Canada more so than in the United States.

In order to further tease out these potential cultural difference, the model with Canadian respondents is run again to determine if controlling for the French culture/patriotism, as well as possible desires for Quebec independence by French Canadian voters, influence their sense of duty to vote. However, as seen in Table 4, utilizing a French culture specific identifier variable has no effect on the statistical significance of the other variables, is not itself significant, and leads to almost no change in the r-squared value. This implies that French Canadians and Non-French Canadians equally see voting as a duty and not a choice, and that being a member of one of these cultural groups as opposed to the other leads an individual to have a similar level of a sense of civic duty.

A series of models was also run utilizing interactions between the French culture specific identifier and the variables of affect, interest in politics, and trust of others, and none of the interaction terms were significant in any of the models. This implies that French-Canadian specific political culture is not influencing the overall levels of Canadian's sense of duty to vote.

Discussion

Some research goes as far as to suggest that the act of voting is based primarily on a sense of duty (Blais & Young, 1999). However, it is not clear where this sense of duty comes from and what could influence an individual's sense of duty. This paper provides confirmation of the suggestion made by Andre Blais (2013) that political differences between Canada and the United States extend past that of institutional systems but also questions if they indeed have to do with fundamental attitudes of the people. In line with the cultural theory, and mentioned previously, Blais

(2013) proposes that patriotism is the cause for this unexpectedly high turnout. However, patriotism can be measured in many ways and often these various metrics are not associated with increased political involvement (Huddy & Khatib, 2007). Moreover, nationalism and patriotism are problematic variables for cross country analysis (Davidov, 2009). Perhaps future research can better untangle these metrics and provide for a test of the second half of Blias' theory, which would extend upon the cultural theory presented here.

In the meantime, this study joins the existing discussion on duty and turnout by further ruling out the structural theory and shedding some light into potential cultural explanations. While the association between high degrees of civic duty and subsequent turnout may at times be taken for granted, a sense of duty may not be enough for some people. In a recent qualitative study of Canadian youth, despite understanding the importance of voting as a "key element of democratic governance, a hard-won democratic right, and a duty of democratic citizenship," they still view voting as an "ineffective means of civic engagement and have largely decided to opt out of it" (Chareka & Sears, 2006, p. 536).

In the early 1900s voting was emphasized as a duty of citizens of the United States, overtime this duty was questioned, and today the discussion seems non-existent in American academia (Sherrill, 1925; Taliafero, 1927; Mayo, 1959). Perhaps this helps explain the issues of diminishing turnout in the United States and potentially diminishing turnout in the future in Canada.

While this study has provided some answers, it has also provided more questions. As expected, we see that Canadians are more likely to view voting as a duty than Americans. Additionally, the analysis shows that while some of the predictors of duty for Canadians and Americans are the same, their effects are not. Both the structural and cultural hypotheses put forward in this study have failed to explain why the average sense of duty is higher in Canada. A likely explanation is that there are other issues at play. These factors could include civic education, other more specific cultural aspects, aspects of political history, or even social network dynamics. While this study has attempted to increase our understanding what derives a person's sense of duty, further research that

is willing to continue to challenge current assumptions are required to better parse out these potential effects.

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REFLECTIVE BOOK REVIEW OF COLLISION COURSE: FEDERAL EDUCATION POLICY MEETS STATE AND LOCAL REALITIES

Collisions on the nanoscopic scale result in ground-breaking new scientific discoveries in the field of physics. Collisions within the political spectrum, on the other hand, tend to result in less desirable outcomes. In the field of public education, specifically, conflict arises when ambitious federal leaders go head-to-head with the individual managers responsible for implementing policy. The underlying reasons for the friction between such divergent political perspectives form the basis of Paul Manna's book, *Collision Course: Federal Education Policy Meets State and Local Realities* (2011).

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Just as a particle accelerator would be implemented in the aforementioned physics example as the framework for the super-collider, political collisions occur within certain constructs, as well. Manna (2011) illustrates three key factors in shaping the nature of political collisions regarding public education policy: 1) the evolving ambitions of federal policymakers over time; 2) the multiple (and varied) attempts by subsequent administrations to adapt and reform federal education policy; and 3) the institutional and political fine print inherent with actually implementing the policy.

Manna's thesis boils down to the conflict between the parties responsible for operating the complex machine that is K-12 public education and the federal lawmakers who evaluate the specs of that machine. To take this illustration further, former President George W. Bush's No Child Left Behind (NCLB) initiative was constructed as if the federal government wrote a standard owner's manual for one model type

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of machine, yet in reality, the states and territories operated dozens of different models. Instructions on how to troubleshoot an isolated problem on one model type might not be valid for other models.

Essentially, Manna implies, NCLB struggled because its structure was inverted from the onset. Ideally, the federal government would set clear and uniform expectations, and then permit state and local governments to design their own systems of implementation—where the federal government issued the model number and let the state and local systems write the owner's manual, to borrow the earlier example. Instead, processes were dictated at the federal level while goal setting was handed down to the states and local government entities. Manna notes that individual school districts and educators, as local enforcers of the NCLB mandates, were ultimately the ones "who had to translate those policy requirements into concrete actions" (p. 68).

When direction is unclear, problems develop at many points along the route between implementation and evaluation. Some school districts used too large sample sizes, which skewed the statistical representation of the data. Many states requested waivers for various reasons. School districts expressed concerns about under-performing students who had legitimate reasons for being behind their peers. All of these factors—and many more—caused fender benders and head-on collisions between various levels of government as they sought to document and validate their achievements under NCLB mandates.

Rather than place all of the blame on the federal government for failure to create policies that are applicable across the board or to criticize state and local entities for their inability to implement such policies, Manna suggests that some of the conflicts that arise in the public education policy arena are predictable and avoidable. He takes issue with the construct of how policies are designed more so than individual players who fell short of the goal.

Collision Course is one of several education policy-related works attributed to Paul Manna. As an associate professor of government at the College of William & Mary, he is well versed on issues pertaining to NCLB and other issues concerning federal and state education policy. To his credit, he is also a former high school teacher, so he lends the

perspective of someone who has had boots on the ground. He knows the rigors of the classroom, not only at the university level, but also in a secondary setting. Instead of speaking from a purely theoretical or historical viewpoint, Manna offers a well-rounded approach.

The *Journal of Public Administration Review and Theory* featured a review of *Collision Course* by Elizabeth Rigby of George Washington University. Rigby's summary portrayed an overall positive appraisal of the Manna text while sharing little personal opinion of the book. Rigby highlighted ways in which *Collision Course* addressed positive and negative aspects of NCLB and emphasized the two overarching theories of NCLB—the theory of accountability and the theory of administration. In particular, Rigby honed in on the conundrum between promoting accountability at the federal level and designing an administrative system capable of handling the burden of implementation at the state and local levels. Without clearly articulated goals at the federal level, accountability efforts—including NCLB—have the potential to deteriorate into merely symbolic gestures with political motives. Rigby noted that *Collision Course* turned the spotlight onto these unintended consequences while not unduly criticizing the role of policymakers at the federal level.

Three informal testimonials on the publisher's website echoed Rigby's assessment of Manna's balanced approach (Henig, Vinovskis & Wong, 2011). Henig noted that *Collision Course* encouraged readers to have a broad perspective regarding roadblocks concerning school reform. Vinovskis referenced Manna's even-handed discussion of both the criticisms and successes of NCLB, particularly the suggestions for policy reform. Wong praised the Manna text as filling the need for a cohesive overview of the issues inherent with NCLB from a sole author's viewpoint.

As the text notes, no federal education policy prior to or since George W. Bush's administration has been as optimistically heralded nor as vehemently opposed as NCLB. For this reason, *Collision Course* is a relevant choice for public policy courses because it provides a foundational context for one of the most important federal education policies of all time.

Evaluation of *Collision Course*

One of the key criticisms of NCLB as it came up for reauthorization in 2007 was the assertion that the policy was an unfunded mandate. In other words, the federal government demanded action and measurable results but withheld the financial resources to make such an endeavor viable. Manna offers insights from both sides of the argument in his assessment. Notably, he provides the standard definition for an "unfunded mandate," which boils down to two factors: 1) whether participation is voluntary, or 2) if participation is a prerequisite for federal financial assistance. In the case of NCLB, states were not required to participate, but failure to do so would result in an inability to receive federal funding. Like clicking "I Agree" to accept the Terms of Service in order to install a new software program, states accepted NCLB's mandates by default when they accepted federal funds.

Manna also references a longitudinal poll to highlight the changes in public perceptions about federal involvement in education. In 1980, President Jimmy Carter's last year of office, a national poll revealed that a paltry nine percent of the American public favored the federal government as having the highest influence over public schools. Local governments won over with a resounding 68 percent, while states came in a distant second place with 15 percent. Fast-forward to 2008, when the same poll indicated that only 46 percent of people preferred local influence, compared to 30 percent at the state level and 20 percent at the federal level. Between 1980 and 2008, support for state and federal involvement in public education doubled in both categories.

Not only did the winds of public support shift in favor of enhanced federal influence over public education, but also the international climate with its emphasis on technology brought with it a sense of urgency that an American education was not worth what it used to be (Meyer & Baker, 1996). Students in the U.S. were lagging behind in critical skills, such as science and math, to keep America competitive on a global scale. It comes as little surprise, then, that a measure such as NCLB with its stringent mandates would garner initial, widespread kudos. As Manna notes, education advocates exist on all sides of the political spectrum, thanks in large part to "the diverse landscape of

institutions that govern American schools and the overall nature of American federalism" (14). In fact, one of the George W. Bush administration's strongest selling points was the bi-partisan support it received in the conception phase. Such acclaim was not to be long-lived, but NCLB did begin with a strong rally base.

Manna points out five areas of strength that the federal government has the potential to contribute to public education. While he shares historical references to justify his point, the same strengths could also work as catalysts to perpetuate the problems of accountability and administration. The first strong suit that Manna mentions is the federal government's visibility as a news source. While this is true on the surface, speaking as a former journalist, I respectfully submit that the morning headlines and evening soundbytes are but a fraction of the news. Success stories about children who perform well in school are not as appealing, from a news perspective, as heart-wrenching reports of students who barely scrape by, despite the highly visible odds stacked against them. The federal government does have a powerful media platform, but it also carries a lot of sway regarding the content it elects to share.

Secondly, Manna brings up the carrot-and-stick analogy as a reference to the federal government's purse strings. Certainly, federal grant programs have been quantifiably effective in bridging the accessibility gap between socio-economic groups over the years. However, states have come to rely on federal funding—sometimes to their detriment. Some schools have little choice but to accept federal funding, particularly in regions where federal property, such as military bases or large national parks, take up space without contributing to the tax base (Center on Education Policy, 2011). While Manna points out that federal funding is only a small portion of most schools' budgets, in times of economic distress, every penny counts. When some of those pennies come with strings attached, however, they become more difficult to use.

The third strength that the federal government offers to state and local school systems is its ability to influence action. This can be positive, in the form of productive incentives, but as some critics of

NCLB have noted, incentives can also have negative results (such as the teaching-to-the-test issue mentioned further in this report).

In a similar vein as the first point, the federal government's fourth strength pertains to the dissemination of research findings. From a scholarly perspective, research is an important investment for guiding future policies and demonstrating transparency through unbiased data. Unfortunately, as mentioned in an earlier section, the process of data collection can be skewed, which warps the results significantly. Furthermore, the holder of the purse (in this case, the federal government) dictates the types of research desired. This can cause bias because less popular subjects—or perhaps topics that might be critical of the federal government—may be less inclined to obtain research dollars.

The fifth strength is perhaps the weakest of all of Manna's examples of federal influence over public education. He mentions the ability of the federal government to set the stage for change to occur by creating an encouraging climate. He even admits that this so-called strength is limited by human nature, saying that "it would be folly to construct federal policy relying on such better angels among us" (p. 161). In other words, people are often more compelled to do the right thing if they are incentivized to do so, rather than trusting the goodness of their hearts or motives.

Manna's writing style is easily readable and organized well. He mentions in the Preface that the audience for the book is broad, and the text has application in the classroom as well as in the field. He does seem to take special care to present an even-keel discussion, which helps reduce bias in the text, yet in doing so, he offers little opinion of his own. He notes the structural complications of NCLB—its convoluted administration and accountability measures, in particular—but he steers clear of being perceived as agreeing with one side over the other.

I agree with Manna's position that NCLB was crafted with an inherent flaw in the balance between administration and accountability, but I would have liked to see more attention given to the root of these problems. Namely, state and local governments have an unhealthy reliance on federal financial support, for the most part. Furthermore, there seems to be a growing expectation that public schools are not only

educational but also cultural and social in scope. If we, as the American public, expect public schools to raise our children with the value systems and principles that we, as parents, should be instilling in them at home, then there will be little time for teachers to focus on anything else but the critical components of the next standardized test.

Relevance to the field

Manna notes two negative consequences from NCLB as a warning for future policymakers to consider. First, NCLB (perhaps inadvertently) encouraged practices that lessened academic quality and expectations. These reductions happened because of the second consequence—schools began focusing on meeting technical rules rather than the spirit of the law because bureaucratic rules were expanded so unrealistically. One cliché says that instructors "teach to the test" rather than provide a thorough education.

The question, then, is what must suffer in order for gains to be realized? Manna explains that the cost of educational success in the form of increased test scores generated a fear "that meeting short-term objectives for achievement, which could have produced gains, may have encouraged states to develop accountability systems that distorted teachers' critical tasks" (p. 137). Among those who suffer are the highest achieving students who get lost in the shuffle when the focus shifts primarily to underachieving students whose lack of proficiency drags down the school's overall rating.

As Conklin and Weil (1997) remarked concerning such complex problems, "The pain and frustration are so pervasive they seem inevitable." I know personal stories of public school teachers who are passionate about their careers but feel stunted in their ability to teach because of the time and effort required to meet standardized testing obligations.

Future federal education policy must take into consideration how adequately state and local governments will be able to implement the mandates. Bearing in mind the need to approach policy with realistic expectations, Etzioni's classic mixed-scanning method could be a useful tool. "Mixed-scanning provides both a realistic description of the strategy

used by actors in a large variety of fields and the strategy for effective actors to follow" (Etzioni, 1967). Manna points out that lawmakers must realize the constraints of federal power. "With such an acknowledgement, the vast majority of influence over the nation's schools would still reside in state and local governments" (p. 163).

To return to the super-collider example, it took decades to envision and design particle accelerators, and new discoveries are still on the horizon. At 36 years old, the U.S. Department of Education has witnessed six Presidential administrations with vastly different views on the role of the federal government in public education. I would be interested in reading an update to Manna's text that takes into consideration the accomplishments and critiques of President Barack Obama's "Race to the Top" initiative for K-12 education reform. There is always room for student achievement levels to improve, but it will take a cohesive effort between all levels of government and both sides of the party line, which is a challenging feat that is not merely limited to education policy.

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THE STATE OF THE UNION ADDRESS: CONSTITUTIONAL RESPONSIBILITY EVOLVES INTO A TOOL OF PRESIDENTIAL POWER

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From Lincoln's solemn and reverent "Gettysburg Address" which has served as the inspiration for entire books to the dramatic and inspirational "I have just been shot" speech that Theodore Roosevelt delivered with a would-be assassin's bullet lodged in his chest and his blood spilling onto his shirt, the history of Presidential speeches is a long and sometimes colorful one. However, the speech that is delivered with the most consistency and, in the modern era, receives the most attention from the media and the general citizenry is the annual State of the Union Address. Today's State of the Union Address is a nationwide presidential spectacle, complete with pomp and majesty that is seldom seen in today's political environment. Guests of honor, extensive television and radio coverage, and prolonged analysis, commentary, and recyclable sound bites attend every State of the Union Address in modern memory. But it wasn't always this way. The State of the Union Address (SoU) has gone through a very long process of changes and modifications since George Washington delivered the first one in 1790. By looking at the general history of SoU addresses and analyzing patterns and trends contained in SoU addresses from four different Presidents (Washington, Lincoln, FDR, and Obama) throughout the nation's history, these changes, as well as several similarities present across the board, will be made clear. In addition, a consideration of the use of these addresses as a tool of meaningful presidential power and influence will be examined and advisement will be offered for future presidents on how to maximize the utilization of this opportunity to affect national policy.

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From Politicians to the Common Man

Article II, Section 3 of the Constitution of the United States presents the President with the responsibility to "from time to time give to the Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient…" This responsibility was initially carried out by our first president, George Washington, and it was he who established the precedent that "from time to time" be interpreted as an annual obligation. And so, with few exceptions, each president has delivered an address to a joint session of Congress every year since the first one was delivered in 1790.

However, there have been many changes in just how this obligation has been met. Washington and Adams, the first two presidents of our nation, delivered the addresses as speeches in person. Jefferson, on the other hand, broke from this pattern and opted to submit his yearly address as a written report citing concerns that a personal address before a joint session of congress bore too many hallmarks of British monarchy. This new tradition of sending a written letter lasted clear until 1913 when President Wilson renewed the original precedent of giving the SoU address as a speech. While this departure from about 100 years of tradition was received with shock, it rather rapidly evolved into a powerful tool in the president's ever-expanding arsenal.

Technology did much to aid this evolution. Before Wilson's bold move, the written message was analyzed and reported on by newspapers and politicians, but it never really commanded any serious public attention. It wouldn't take long for that to change. Within 10 years of Wilson's first personal address, Calvin Coolidge became the first president to broadcast the SoU address over the radio waves and the speech became much more readily accessible and digestible by the general public. With the introduction of televised coverage with Harry Truman in 1947, and later with live web streaming with George W. Bush in 2002, the audience grew dramatically in scope and now the annual speech commands an audience of millions of citizens ("State of the Union Address" n.d.).

This new exposure to the public provides presidents with a nearly unprecedented opportunity to speak over the heads of congress and address the people directly. Hand in hand with this development came a change in how presidents used language. Where once the audience for these speeches was only the members of congress, now the average citizen had to be considered. EJ Fox, Mike Spies, and Matan Gilat analyzed hundreds of presidential speeches and showed that as technology was developed to include the common man, the reading level of these speeches began to drop significantly (Fox et al., 2014.). "In the early Republic, presidents could assume that they were speaking to audiences made up mostly of men like themselves: educated, civic-minded landowners. These, of course, were the only Americans with the right to vote. (Fox et al., 2014)" This led to speeches written at a level equivalent to a PhD. Modern speeches, on the other hand, must be accessible to the majority of citizens in order to exercise the influence intended, and so the average reading difficulty of these speeches has dropped to around a 9th grade level. This change is significant in that without it, large amounts of the population today would be unable to engage with the topics discussed.

While still serving the purpose of informing congress on the state of the union, the long, detailed, and difficult written economic reports and budget analyses have become a thing of the past and in their place has risen a type of "political theatre" (Smith, Whitehead III, Melo, & Inch, 2014, p. 14). Ted Halstead, author of the book "The Real State of the Union" believes that the State of the Union Address has become "…an exercise in self-congratulatory rhetoric and showmanship, loaded with snappy sound bites and made-for-television tributes to special guests planted in the audience" (qtd. in Smith et al., 2014, p. 14). While some may cry foul at the drama and presidential fanfare accompanying the addresses today (some may even argue that the modern SoU addresses vindicate Jefferson's concern about monarchical similarities) the modern nature of the SoU addresses has undoubtedly increased the president's power and influence in shaping the direction of policy development.

Power and Popularity

When speaking directly to the public, the president is able to exercise influence directly on the constituents of the assembled congress. This may often be perceived as an 'end-run' around the obstacles of having individual congressmen report presidential theories of policies to their constituencies and provides a direct, unfiltered communication from the president to the people. The people, after hearing a charismatically charged speech, may be influenced to place pressure on their representatives and congressmen to support the policy changes and reforms suggested in the speech.

While this influence and ability of the president to put pressure on lawmakers is potent, it comes with a few caveats. In a study conducted by John Lovett, Shaun Bevan, and Frank R. Baumgartner they showed that presidents can, in fact, exercise a certain amount of influence over congressional agendas and policy work both through congressional and public powers at play following the SoU address, but only if they're popular with the public:

> …Consider presidents with low levels of popularity. No congressional leader, no matter from which party, will tie his or her own fate to that of such an actor. Rather, even members of the presidential party may follow agendas completely unconnected to that of the president. …We expect congressional leaders simply to ignore presidents who are unpopular. …Where presidents command high levels of popularity among the voting public, roles are reversed. …When popular presidents emphasize…the economy or environmental initiatives, committee chairs will follow suit. (Lovett et al., 2015, p. 26)

This observation illustrates that real, effective influence can be gained from a successfully executed State of the Union Address, but that such influence depends directly on the popularity of the president. An unpopular president has little hope of making waves, no matter how well written and eloquent the speech may be.

It's important, also, to make a distinction about the kind of influence that a president can wield through speeches such as the State of the Union address. It would be untrue to make the claim that presidents

affect any sort of actual influence in terms of passing legislation. That particular process lies within the realm of purely congressional powers. The influence that matters here, is rather the influence over congressional agenda setting. When a president brings up matters of policy in SoU addresses, those matters are almost guaranteed to find a place on the congressional schedule, although their actual passage into national law and policy is not as sure. In fact, from 1935 to 1996 97.6 percent of legislative initiatives put forward by the president made their way onto the legislative agenda, and the SoU address is one of the largest occasions for publically proposing and suggesting matters of legislative importance (Lovett et al., 2015, p. 3).

Here it is interesting to also note that while the effectiveness of a president's attempts to guide the legislative agenda through the SoU address is closely dependent on the popularity of the president before the address, those presidents who hope for a boost in popularity resulting from the address itself are looking in the wrong place. According to an article by Jeffrey M. Jones which makes use of years of Gallup poll data, presidents tend to actually lose popularity immediately following the address. In recent history, the only president who has managed to avoid this outcome is Bill Clinton who received an average 3 percentage-point increase in popularity across his seven SoU addresses. Carter, Reagan, and George W. Bush all lost one point, and George H. W. Bush managed to lose 4 points across his addresses (Jones, 2010). While a president shouldn't reasonably hope to increase his popularity through his address, at least he ought to take some solace in the fact that his popularity is not likely to drop significantly either. This only shows that the popularity of a president should be carefully cultivated before the address in order to ensure any sort of influence over congressional agendas, and that he cannot rely on any influence gained through any sort of overwhelming popular response to the SoU address, as that is unlikely to occur.

In addition to showing that the effectiveness of a president's SoU is his/her popularity, Lovett, Bevan, and Baumgartner also show that any influence wielded as a result of the address comes with something of an expiration date. Even with the most popular of presidents, the power over congressional agendas and attentions wanes after about three months

(Lovett et al., 2015, p. 23). While this seems like a rather short amount of time, three months of affecting a divided congress can be a powerful asset to a president's agenda and immediate influence of this caliber is hard to come by any other way.

Patterns and Evolutions

So assuming a president is popular, how might he or she organize their SoU address so as to capitalize on this unique opportunity? There have been three sequential arguments that have been identified as common among many State of the Union addresses, particularly those in the modern era. These arguments tend to occur more than once per address, and once one is made aware of them, they are easily identified. First comes a public meditation on value(s), then the president assesses the information and issues in association with the value(s), and finally the president makes the policy recommendations that are in line with his agenda addressing these issues (Shogan, 2015, p. 5). By identifying these arguments in past SoU addresses, one can observe how powerful and persuasive they can be.

George Washington: Establishing the Precedent

While the pattern is far more evident in modern president's addresses, even George Washington used elements of this pattern in the first ever State of the Union address. In it, Washington spends some time praising the virtues of the pursuit of knowledge and the "promotion of science and literature (Washington, 1790)". He then lays out very clearly the benefits of America holding this value close:

> To the security of a free constitution it contributes in various ways - by convincing those who are intrusted [sic] with the public administration that every valuable end of government is best answered by the enlightened confidence of the people, and by teaching the people themselves to know and to value their own rights; to discern and provide against invasions of them; to distinguish between oppression and the necessary exercise of lawful authority; between burthens proceeding from a disregard to their convenience and those resulting from the inevitable

exigencies of society; to discriminate the spirit of liberty from that of licentiousness - cherishing the first, avoiding the last - and uniting a speedy but temperate vigilance against encroachments, with an inviolable respect to the laws. (Washington, 1790)

He follows this immediately with a recommendation to either aid preexisting schools and "seminaries" or establish a national university to further promote the education of Americans. He believed that the promotion of the education of the people was one of the most important endeavors of the new nation, and that only through such education and general pursuit of knowledge could a democratic system of government be successful. Here we see a rough example of the pattern. Washington speaks highly on the value of knowledge for the people, then illuminates specific benefits concerning it, and then recommends to congress a way to secure and promote the value.

Abraham Lincoln: Power of Presidential Policy Proposal

Abraham Lincoln's second State of the Union address provides another example. As the only example used here of a SoU address delivered as a written letter and not an oral speech, the length and detail of the report are significantly greater than the others. In it, a good part is dedicated to the issue of slavery. This address came close on the heels of the Emancipation Proclamation and he uses this opportunity to strengthen his administration's position as well as propose practical legislation to facilitate the liberation of those in slavery. When approaching the topic, he emphasizes that unity is the only way for the nation to survive and prosper. He elaborates at length concerning the value of keeping the Union together and calls slavery the "only substantial dispute (Lincoln, 1862)". Lincoln shares census data and other information that is intended to address many of the concerns expressed about the liberation of the slaves. Questions of employment and relocation of the slave population are addressed and answered with this data. Lincoln also provides one of the most specific examples of policy suggestion. Given the written nature of the document, he outlines the entire proposed policy for "compensated emancipation" which is what he proposed as middle ground. Unfortunately, due to the extremely controversial nature of the issue at

the time, compensated emancipation was never successfully enacted at the national level, but was adopted in DC and only narrowly defeated in a few states. This notwithstanding, reading Lincoln's words and impassioned arguments for compromise and resolution is strikingly powerful and shows the influential power of the document.

FDR: The Beginning of Soundbite Speeches

Franklin D. Roosevelt, one of the early presidents of the modern era, was facing escalating conflicts between our allies and the Axis powers when he delivered his 1941 State of the Union address, also commonly known as the "Four Freedoms Speech". Here we can begin to see much more clearly what has become the modern style used in the SoU address. He speaks of the respect for the rights of man and how that value, inseparable from our nation, must be applied in our foreign policy as "a decent respect for the rights and dignity of all nations, large and small (Roosevelt, 1941)". Roosevelt goes on to state that through this respect, we, as a nation, fully support those who fight against oppression by "aggressor nations". After firmly stating this support with clear and powerful language, Roosevelt appeals to Congress to provide funds to escalate the productions of armaments and war materials to be sent to those allies fighting in Europe.

The most famous part of this speech, however, is when he introduces the Four Freedoms: the freedom of speech and expression, the freedom of worship, the freedom from want, and the freedom from fear. With bold, forceful, and unwavering language, Roosevelt builds the firm foundation upon which much of our attitudes towards foreign policy have been built in the time since (Roosevelt, 1941). These kinds of statements (memorable, simple, and strong) will become a staple of SoU addresses and presidential speeches in general in the modern era. For example, Lyndon B. Johnson's 1964 State of the Union address that introduced the "War on Poverty", and George W. Bush's 2002 State of the Union address that identified a terrorist "axis of evil" both make use of powerful, yet simple language to convey equally powerful ideas and action.

Barack Obama: Speaking to the People

As a final example, the most recent 2015 State of the Union Address given by Barack Obama paints perhaps the clearest picture of these patterns and evolutions. Known as a charismatic speaker, Obama wastes no time before appealing directly to the sentimentality of the people. He first states "…Tonight, I want to focus less on a checklist of proposals, and focus more on the values at stake in the choices before us," before beginning a personal story of Rebekah and Ben Erler of Minneapolis and their struggle in the economic downturn. He shares the struggle of a young, newlywed couple forced to work long hours apart and make tremendous sacrifices to provide for their family during the trying times. Here Obama is making a direct appeal to the people. This story is full of emotion and many, many average citizens can directly relate themselves to the situation being described. He praises the couple's strength in the face of adversity and acknowledges that they are not alone in their struggles; many in America share in their trials with them.

Obama skillfully uses this example to illustrate many of his points on the economy: Job growth, the need for improved childcare services, and tax breaks for the middle class. He speaks of the determination and sacrifices made by those going to school, or going back to school in order to better provide for their families. He uses the familiar and relatable circumstance of being a student in debt, and uses it to emotionally fuel his plan for free community college tuition. It becomes blatantly clear, to those who take the time to notice, that the address to congress has become almost an afterthought. He is speaking to the American people.

In order to even further promote the accessibility of the material to the common man, the online video of the address is augmented with graphs, pictures, and additional statistics that help to back up the arguments and policy reforms that Obama puts forward. Through use of simple, easily understood language, moving, relatable stories, and a pervading and penetrating sense of optimism and sincerity, Obama lays out a series of recommendations and goals that seem not only ambitious and groundbreaking, but entirely possible. This is the power of the modern State of the Union address.

Content Determined by Term Progress

Not all State of the Union addresses are created equally. The address is not a sterile unchanging constant, but rather it changes and adapts based on the problems and concerns that exist in the nation at the time it is delivered. Similarly, the address will change based on when in the president's term it is delivered. Usually in the first SoU address given by a president, the administration's stance on various matters of policy are established, and modern presidents request, on average, 42 policy changes in the first speech (Shogan, 2015, p. 8). This serves to guide the administration's agenda, and demonstrate that it will be an active and productive term. This high level of policy activity in a SoU address wanes as the term continues. However, the prevalence of credit-taking statements and self-congratulation rise. This is particularly evident in election years. The president is, in many ways, using the State of the Union address in these instances to attempt to highlight note-worthy accomplishments of his administration in order to promote himself as a viable candidate for a second term. Once a second term is won, the address changes depending on the president himself, and while some maintain high levels of credit-claiming and policy recommendations and others scale back, one constant feature is that the focus shifts to defense and foreign affair matters. It is suggested by some that this is due to a president wishing to leave behind a legacy in the second term. The suggestions for policy reform will sometimes be a bit more far-reaching and may even serve to guide or influence whoever follows as the next president.

Opposition Response

The recommendations and goals put forward by presidents during the State of the Union address, regardless of term, do not go unquestioned or without criticism. In fact, whichever party the president does not belong to has an almost immediate opportunity to begin voicing some of these concerns and criticisms. This comes in the form of the opposition response. Started in 1966 when Senator Everett Dirksen and Representative Gerald Ford provided a Republican reply to Lyndon Johnson's address, the opposition response has become another major

aspect of the spectacle surrounding the SoU address (Shogan, 2015, p. 12). This response allows the opposition party to respond directly to the material in the president's address and often the speeches, although shorter, follow similar themes. Both the SoU address and the opposition response are known for their calls for bipartisanship and cooperation. The opposition utilizes the opportunity to lay out their own agenda as well, just as the president does during the SoU. It also allows the opposition party to give their take and provide additional perspective on those issues which the president focused on during his address.

The opposition response is commonly utilized by the opposition to promote or showcase up and coming political stars, introduce new leaders, or feature potential presidential candidates. The format also varies slightly from year to year. Sometimes it features a single speaker, other times multiple politicians have provided their comments and critiques. In recent years, the opposition response has pushed even further towards incorporating advances in modern technology and social media by explicitly calling for input from citizens by way of Twitter and Facebook. Just as with many aspects of our government, the opposition response has developed as a kind of counterbalance to the SoU itself as a way for the party not in power to voice their own take on the state of the nation.

Media and the "Bully Pulpit"

The opposing party isn't the only entity that responds to the president's words. Within minutes of the speeches conclusion, and often before the speech is entirely over, the internet and news media begins dissecting, summarizing, criticizing, praising, and repeating the content of the SoU for the masses. The power of the modern media within the political system is impossible to overstate and the history of its progression is full of examples of the power it can wield. Where once newspapers would provide front page, full reproductions of a president's speech with little to no commentary or dissection, in the modern age such additional content from journalists and reporters is practically unavoidable. Michael Beschloss, historian and author of several political books had this to say in an interview for a Washington Post blog:

> Even a half century ago, when a President wanted to give an Oval Office speech, it was broadcast on all major networks in prime time -- and without talking heads before and afterwards deconstructing what he said. But by the 21st century -- thanks to cable TV, the Internet, social media and public skepticism about everyone and everything -- a President's voice has lost its primacy. He is out there competing with everyone else for attention and respect. (Cillizza, 2013)

Beschloss makes an excellent point here. While the president still wields impressive influence through his various speeches (particularly the SoU address), the days of the unquestionable and unassailable "bully pulpit" may be largely behind us. The inundation of various niche reporting and news sites, political blogs, talk show firebrand personalities, internet comment sections, and 24-hour news cable channels provide the average citizen with much more variety of opinion and many different interpretations and spins on the words of the president than has ever before been available and with much greater speed and ease of access. This does a lot to dilute the potency and monolithic nature of the "bully pulpit" of years past.

Some may say that the introduction of this filter between the president and the people may be a welcome restraint or limitation on the direct influence the president may otherwise exercise over the general public. The use of the "bully pulpit" has been a topic of criticism and uneasiness for some political theorists and citizens for nearly as long as it's been a recognized political tool of influence. The ever-present give and take of opinions and free criticism of those in positions of great influence and power which are made possible by the modern advances in information technology and media ought to help assuage the worries those people may hold. Still others believe that it is an important and useful tool that the president has a right to which is now being diffused through the over-prevalent media and political commentators. Those people may see the slant and spin used by the media as a corruption of the president's intent which ultimately serves to curtail power that he has a right to exercise.

While the modern media may serve to temper the singular nature of presidential influence in some ways, the influence which the president wields through speeches such as the SoU address is still a powerful and important tool. While the days of the "bully pulpit" may be diminishing, the president still retains his ability to influence congressional agenda setting and other avenues of power previously discussed.

Conclusion

Future presidents who wish to use this political stage to further their agenda have much to learn from those who came before them. He or she must try to maintain a high public popularity rating particularly right before the address. Simple, clear language ought to be used so as to avoid confusion and make the arguments as accessible as possible to the common citizen. Whenever possible, he or she ought to try and tie the policies they're pushing for into common national values such as perseverance, sacrifice, patriotism, resourcefulness, bravery, or ambition. The more he/she can connect with the people's emotions, the more of a lasting impact the address will have on the people. It is also recommended that presidents fully utilize advances in technology such as Twitter and enhanced web coverage that could serve to broaden the audience even farther. The more people the audience reaches, the more influence the president can exercise.

The State of the Union Address began merely as a dictated responsibility of the President outlined in the constitution. But as the years have marched on, the men who have shouldered that responsibility have taken advantage of the opportunities that have presented themselves and turned the address into an impressive display of presidential power and influence. Using the strategies and examples outlined in this paper, a president would be equipped to capitalize on the opportunity to influence the agenda of the country and bring about the changes that they believe are necessary.

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The Injustice of Justice

Equal justice under law is an important concept upon which the U.S. Justice system is based. It is a simple concept that is theoretically sound. In perception, it implies that justice is impartial to all. It promises equal treatment under the law regardless of age, race, economic circumstance, gender, or national origin. Unfortunately in practice, it is imperfectly administered, especially for the poor. This note will chronicle the disadvantages that the poor experience when arrested. Specifically we look at the difficulty the poor have in getting legal representation and posting bail, as well as the inequities that arise in sentencing, granting parole, and finally in their life after a conviction. Finally, several steps to help alleviate this prejudice against the poor are offered.

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Popularized by the theme song, 'Keep your eye on the sparrow' from the 1970's cop show "Baretta" is the saying: "Don't do the crime if you can't do the time!" It implied that justice is impartial to all who break the law, i.e., equal treatment under the law regardless of age, race, economic circumstance, gender, or national origin. Unfortunately the research shows that for the poor this is not the case. There are numerous examples throughout the U.S. where a person of wealth has a distinct advantage within the criminal justice system. The following quote from Jeffrey Reiman, a noted author of social justice, puts the disadvantages of being poor in perspective: "For the same criminal behavior, the poor are more likely to be arrested; if arrested, they are more likely to be charged; if charged, more likely to be convicted; if convicted, more likely to be sentenced to prison; and if sentenced, more likely to be given longer prison terms than members of the middle and upper classes."[i] This note chronicles the disadvantages of being poor from arrest, to legal

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representation, to posting bail, to sentencing, to parole, and finally to life after a conviction.

1. The Arrest

Many studies document the fact that the poor make up a greater percentage of the population of those arrested than any other sector. It is also noted that arrests are overwhelmingly concentrated in poor urban neighborhoods (Clear, 2007; Clear, Rose, & Ryder, 2001; Fagan, West, & Holland, 2003; Harris, Evans, & Beckett, 2010; Travis & Waul, 2004; and Travis, 2005). Western and Pettit (2010) document the unevenness of the justice system from the viewpoint of race and education. For instance, the rate of incarceration among African American men without a high school diploma was 37 percent versus the general population at 0.76 percent. Whites, from the same category, although not as high showed an unacceptable rate of one in eight incarcerated. Their finding suggests that education is not only a link to getting out of poverty, but also getting out of jail. Even juvenile arrests are biased to the poor. In surveys of youth, Williams and Gold (1972) and Thornberry (1973) document the uneven treatment of juveniles from different economic status. Their surveys show that for the same offense and similar criminal backgrounds, the poor were more likely charged. Additionally these surveys reveal that the higher the social class the youth came from, the more likely the charge was handled informally with a private discussion with the child's parents.

2. The Right to a Lawyer or Not

The next instance of unequal justice occurs after an individual is arrested or questioned for a crime. The accused will be read the Miranda Warning: "You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to an attorney. If you cannot afford an attorney, one will be provided for you. Do you understand the rights I have just read to you? With these rights in mind, do you wish to speak to me?"[ii] But what does it actually mean "If you cannot afford an attorney, one will be provided for you?" It depends on where you were picked up for questioning and for what offense.

Although the Miranda Warning seems straight forward, it is not without its caveats. For instance, who determines if you cannot afford a lawyer? Or when will this lawyer be appointed? The following example from Brazas (2015) illustrates this point. In a Georgia district court, a judge refused to assign free counsel regardless of the dire financial straits of the accursed. The claim was that the State of Georgia just does not have the funds to pay for these lawyers. Brazas also states that although this is the extreme end of the spectrum, free legal counsel is limited. For instance, it does not apply to traffic court for a speeding ticket, nor for parking fines, nor for small claims court appearances. The right to legal counsel only applies to cases in which you are charged with a crime in which potential jail time may apply. There is no constitutional right to legal representation for a plaintiff in a civil case that parallels the right of a criminal defendant. The only option available is that a person may choose to bring or defend a civil case without using a lawyer. As in a criminal case, the person is said to act pro se (i.e., on one's own behalf), usually to their own detriment. Pro se parties in civil cases − and pro se debtors and creditors in bankruptcy cases − are much more common than pro se criminal defendants.

In spite of a Supreme Court ruling guaranteeing legal representation, a Wall Street Journal article written by Emshwiller and Fields (2014) highlighted the fact that about one in four misdemeanor defendants facing jail time are not represented by a lawyer. The authors find that in some jurisdictions the rate can run as high as 60 percent. Another disturbing fact found in the article is that in many jurisdiction, misdemeanor cases take an average of less than three minutes (some as short as 30 seconds) to adjudicate and generally include a guilty plea. Natapoff (2006) cites the high rate of cases that are pleaded out with limited consultation with a court provided attorney. She shows an example of the shortcomings of defense offerings to the poor through a contract lawyer from Burlington, Washington with a staggering annual caseload of 1,000 misdemeanors. This count has since been limited by the courts to a still overwhelming 500 cases. In an article from the online site, Mother Jones, Levintova, Lee, and Brownell (2013) reinforces the

overworked public defender citing average workloads of 3,035 work hours (i.e., a year and a half of work that needs to be done within a year).

According to the website FindLaw, the key determinant to qualify for free legal assistance is being poor. But how poor does a defendant have to be? The threshold for poor is resolved by the courts, or more specifically by a judge. The presiding judge, typically at the arraignment, will make that decision after obtaining sources of wealth: wages, assets owned, and other sources of support. Sometimes this is done on the spot; other times the defendant will have to provide proof justifying a financial hardship. Once the supporting documents are supplied, the judge has three options: (1) deny your request for free counsel; (2) share the cost of the attorney (i.e., "partial indigency" where the defendant will be represented by a court-appointed lawyer, but will be ordered to reimburse the state for a portion of the costs); or (3) provide you with free counsel.[iii]

If the court does appoint you legal counsel, who will actually represents you? Typically, it will be a public defender or a contract lawyer. This could be good or bad. It's typically just the luck of the draw. But no matter how good the attorney is, most public defenders and contract lawyers are overburdened having to juggle too many cases. Another option used on a limited number of cases is representation from a lawyer working 'pro bono'. Many lawyers take on a limited number of 'pro bono' cases as a way of giving back something to the system. Legal services, organized at the county or state level, may also provide free representation.[iv] In addition, some law firms also provide free representation due to an interest in a particular kind of case (for example, cases in which someone alleges that his or her civil rights or liberties are being infringed) or a particular type of party (for example, children, war veterans, or people of a certain nationality or ethnicity).[v] Plaintiffs in special types of cases−notably personal injury and medical malpractice−often seek out lawyers to represent them on a contingency basis, which means that the lawyer gets paid only if the plaintiff wins the case. In contingency-fee cases, the lawyer and client agree at the outset what percentage of the plaintiff's damages the lawyer will get. This negotiation is heavily slanted towards the law firm, since the poor client has little to bargain with.

According to the special report from the Indigent Defense Series titled "Contracting for Indigent Defense Services" (Spangenberg et al, 2000), more counties, regardless of the state in which they are located, are switching some public defender responsibilities to the contract lawyer model as a way to contain costs. This report documents that there are good and bad contract systems. The three top reasons noted for deficient contract systems include (1) placing cost containment over quality; (2) creating incentives, such as payment by case, that encourage plea bargaining (i.e., pleading guilty, although often to a lesser charge) rather than go to trial; and (3) relying on lawyers with fewer qualifications and less training to undertake the majority of the workload. This report also illustrates an example of the worst case scenario from Jones County, Mississippi in 1992. Two lawyers were contracted to handle indigent cases for $32,000 ($13,000 per lawyer plus $6,000 for expenses). Unknown to the lawyers accepting this award were 400 pending felony cases held over from the previous contracted lawyer. The lawyers had to sue the State of Mississippi to compel the county to limit the caseload and to increase the funding.

The above report defines an effective contract system as one that institutes a system of checks and balances by setting minimum attorney qualifications, setting workload/caseload caps, and providing oversight and monitoring on an ongoing basis. An example cited of a system that incorporates these positive aspects was established as a statewide system in Oregon. The contract process is overseen and monitored by the Indigent Defense Services, a division of the State Court Administrator's Office. The system insures a minimum standard statewide by incorporating quality controls. By tracking quantity, quality, and costs over time, Indigent Defense Services is better able to solicit and award bids for future work to qualified applicants.

Tabarrok (2012) outlines the process to get a court-appointed lawyer to represent you. First the accused must ask and then provide details about his/her financial situation that show he/she is unable to hire a private defense attorney. In many states, the accused first must fill out an application and pay a fee to request a public defender. In general, the process starts during your arraignment before a judge. Tabarrok also

notes that besides financial hardship, other factors that enter into the judge's decision to appoint free counsel include the seriousness of the alleged crime and the probable length of the trial. The longer the expected length of the trial, the more leeway the judge has in granting free counsel due to the ultimate cost of paying for one's own counsel.

If the judge grants an attorney for the arraignment, this is not necessarily the same attorney who will provide representation during a trial. Some courts may postpone the arraignment until the lawyer selected will be able to offer representation throughout the case. In addition, some courts also like to delay future court dates and lawyer appointments until the accused's financial situation can be investigated to see if he/she truly qualifies for a court-appointed lawyer. In many cases without legal representation, the accused will be incarcerated until the trial.

Thus, the rich in most cases will get better representation: better lawyers, better expert witnesses, and better private detectives. Versus the poor who are represented by harried public defenders or contract lawyers. Oaks and Lehman (1970) documents that public defenders win dismissals or acquittals only 17%; assigned lawyers 18%; and privately hired attorneys 36%. They also note that in a majority of cases, the assigned lawyer will just bargain for a lesser crime and have the defendant plead guilty. They do not have time to represent all the eligible individuals through a trial. In a similar article, Eaglin (2013) cites that ninety four percent of all criminal convictions in state courts are the result of plea bargains; the comparable number in the federal system is 97 percent. She further documents the disadvantage of the poor in going to trial is that the prosecutor has a wealth of assets: funds for expert witnesses and the use of state police (or other police agencies including the FBI in federal cases) for gathering evidence, witnesses, and analysis. The poor, even if they can afford an attorney, certainly cannot match these types of resources.

3. Navigating the Bail Process

Again the rich have the advantage as they can afford bail; the poor usually cannot. Table 1 shows the various options available for satisfying bail requirements. The simplest is to just post the entire amount

of bail. Of course this is not usually an option for these in the lower end of the wealth spectrum. The second option is a bail bond which requires posting 10% of the bail amount. Although this option is more practical, it does come with a higher cost. The 10% posting is forfeited to the bail bondsman as a fee for posting bail. Being released on one's own recognizance is a low cost option, but one that probably will not be offered without a good lawyer. Paying 10% of the amount to the court in the form of a surety on the bond is an alternative to using a bail bondsman. Although the payment is returned, there is a fee that has to be paid to the courts. The size of the fee is dependent on the court. There is no standardization. The final option is to place property up as collateral for the bail. Again, the poor have few options available since most do not have the property to post.

Table 1. Posting Bail: What are your options?

	What is Paid to the Court?	Who Makes the Payment?	What Happens if All Court Appearances are Made?[a]	What Happens if the Accused Fails to Appear in Court?
Bail	Entire amount of bail is paid to the court.	The accused, the accused's family and/or the accused's friends.	Court refunds entire bail payment.	Accused forfeits bail; a warrant may be issued for the accused's arrest.
Bail Bond (also known as Surety Bonds)	Typically 10 percent fee is paid to bail bondsman who, in turn, pledges money to the court and agrees to be responsible for the debt. In the case of accused of federal offenses, the fee may be as high as 15 percent.	A commercial bail bondsman, who is in the business of posting bond for a fee. The accused, the accused's family and/or friends will pay the bondsman's fee.	No money is refunded. The initial payment is a fee to the bail bondsman.	Bondsman may hire bounty hunter to locate the accused and bring him to court. The bondsman can sue the accused to recover any money that may have been forfeited to the court.
Release on One's Own Recognizance	No upfront monetary payment, but accused promises to attend future court proceedings, and promises that he or she won't engage in illegal activity, or other activities as determined by the court.	No one.	No money to refund.	The accused owes the entire amount set as bail. A warrant may be issued for the accused's arrest.
Surety on the Bond	10 percent of the total bail is paid directly to the court. (Surety on the bond is often used in jurisdictions that prohibit bail bondsmen.)	The accused, the accused's family and/or the accused's friends.	Court returns the 10 percent payment.	Initial payment is forfeited. Warrant may be issued for the accused's arrest.
Property Bond	A piece of property, typically worth 150 to 200 percent of the bail, is posted to guarantee the accused will return to court.	The accused, the accused's family and/or the accused's friends will be responsible for paying the fees associated with a property bond.	The accused, the accused's family and/or friends are released from the obligations of the property bond. The associated fees are non-refundable.	The court may force the sale of the pledged property to satisfy the requirement of the bail. A warrant may be issued for the accused's arrest.

Source: http://criminal.lawyers.com/criminal-law-basics/posting-bail-what-are-your-options.html?page=2

Lewis (2013) cites that in New York City, three quarters of the inmates awaiting trial are there because they have been unable to post bail. Most spend days or weeks in jail before their trial date, but some unfortunate individuals can spend months incarcerated. He also reports that only twelve percent of defendants are able to make bail at arraignment. Similarly, Short (2013) reveals that in New Jersey, forty percent of those in jail are there because they failed to post bail, often at levels of $2,500 or less. Although this percentage is on the high side, similar results can be found in the other forty-nine states. She also noted that fifty-three percent of all felony defendants are incarcerated prior to trail and that the key factor was a failure to post bail.

4. Judgments: Cost you may or may not be able to pay

The increased use of fines and fees has been justified as a means of funding an overburdened justice system. With the exponential expansion of prison populations, there are fewer options for the court systems. The U.S. prison population is one of the highest in the world (Young and Brown, 1993). Thus, fees and fines are being used more often to balance the books. Offenders must now pay at least part of their cost. The hyped benefits of fines versus imprisonment cannot fully justify the size and categories included. These touted benefits of fines include: (1) just as effective as incarceration in curtailing crime; (2) can be delivered consistently overtime; (3) are punitive; (4) are flexible enough to be adjusted to the circumstances of each case; and (5) are easy to measure the outcome or the completion of the punishment. But fines have little penalty value for affluent offenders, while invoking extreme hardship on the poor. One key factor with fines and fees is that there may be no penalties for nonpayment. You can't make payments if you don't have a job. And if the fees are too high, there is no incentive to get a job if most of your salary will be withheld.

Examples of monetary costs are provided through the Washington State Superior Courts and are summarized in Table 2 from Harris, Evans, and Beckett (2010). The basic right to be judged by a jury of your peers comes with a cost. For instance, the fee to have a 6-person jury trial is $125. This fee increases to $250 for a 12-person jury. Most costs occur

only if there is a conviction, such as a $50 per day charge for prison time and $100 per day for jail time. All those convicted of a felony and certain misdemeanors must have their DNA placed on file at a cost of $100. Similar finding are shown in Table 3 for counties in Pennsylvania. For instance, just for filling out a fingerprint card, the charge ranges from 8 to 18 dollars. The DNA filing ranges from 8 to 90 dollars. There is no standardization. Each county charges what they want and justifies it as a means for balancing their budgets.

Table 2. **Authorized Monetary Sanctions**

Obligation Type	Amount Specified	Applicable Cases
Payment to victims:		
Victim penalty assessment	$500	Mandatory of all felony convictions
Restitution	Up to twice the offender's gain or the victim's loss	Felony convictions involving injury to person or loss of property
Fees:		
Bench warrant	$100	Bench warrant issued
Filing fee	$200	All felony convictions
Court appointed attorney fee	Not specified	Defense attorney provided by state
Deferred prosecution	$150	Prosecution deferred
Crime lab fee	$100	Lab work performed
DNA database fee	$100	DNA entered into database
Jury fee	$125 6-person jury $250 12-person jury	Cases adjudicated at jury trial

Interlocal drug fund	Variable	Most felony drug convictions
Incarceration costs	$50 per prison day $100 per jail day	Conviction resulting in confinement sentence; cost of pretrial supervision
Emergency response	Actual costs	Vehicular assault and homicide
Extraction fee	Actual costs	Extradition involved
Extension of judgment fee	$200	Judgment after 10 extended years
Fines:		
VUCSA fine	$1000/$2000	Drug convictions
Domestic violence penalty	Up to $100	Domestic violence convictions
Other fines	Not specified	All

Source: Harris, Evans, and Beckett (2010)

Note: VUCSA (Violation of the Uniform Controlled Substance Act)

Table 3. Sample costs and fees charge by counties in Pennsylvania

Type	Cost Range
Non-Dui Court Costs	$52 − $300
DUI Court Costs	$24 − $311
Bench warrant	$4 − $200
Court/clerk fee	$5 − $200
Fingerprint card	$8 − $18
Bail administration fee	$3 − $50
DUI fee	$50 − $525
Crime lab fee	$40 − $90
Blood analysis fee	$15 − $112
DNA fee	$8 − $90
Drug testing fee	$5 − $90
Psychological evaluation fee	$158 − $185
Supervision fee (monthly)	$25 − $60
Electronic monitoring fee (daily)	$2 − $15

The aim of these financial penalties is to hold the offender accountable for his/her actions. Unfortunately, the costs of this accountability extend much further than the intent of the law. Although fines, fees, and restitution were originally designed to be punitive, the courts seem to have taken the punitive aspects too far in terms that the punishment now exceeds the crime, especially for the poor. The majority of those convicted of crimes are indigent and unable to pay the obligations imposed by the courts (Patel & Philip, 2012). Other sanctions that penalize the poor are forced counseling as a requirement for parole or probation. Often the costs are covered by insurance, but the offender still has to pay co-pays and deductibles. What if you don't have insurance? Who pays is decided on a case by case basis by the courts. Table 4 shows a state by state summary of a NPR survey of fees charged

to defendants for common government services. The four categories included in the survey are electronic monitoring (49 states), probation/supervision (44 states), public defender/legal costs (43 states), and room and board for jail/prison (41 states). Table 4 (column 5) also shows that these fees have steadily increased in costs since 2010 in 48 states.

Table 4. State-By-State Court Fees

State	Electronic monitoring[1]	Probation or supervision	Public defender or legal costs	Room and board[2]	Increased civil and/or criminal fees since 2010
Alabama	✔	✔	✔	✔	✔
Alaska	✔	✔	✔	✔[c]	
Arizona	✔	✔	✔	✔	✔
Arkansas	✔	✔	✔	✔	✔
California	✔		✔	✔	✔
Colorado	✔	✔	✔	✔	✔
Connecticut	✔		✔	✔	✔
Delaware	✔	✔	✔	✔[c]	✔
Florida	✔	✔	✔	✔	✔
Georgia	✔	✔	✔	✔	✔
Hawaii		✔		✔[c]	✔
Idaho	✔[c]	✔	✔	✔	✔
Illinois	✔	✔	✔	✔	✔
Indiana	✔	✔	✔	✔	✔

Iowa	✔c	✔	✔	✔	✔
Kansas	✔	✔	✔	✔	✔
Kentucky	✔	✔	✔	✔	✔
Louisiana	✔	✔	✔	✔	✔
Maine	✔		✔	✔	✔
Maryland	✔	✔	✔	✔c	✔
Massachusetts	✔	✔	✔	✔c	✔
Michigan	✔	✔	✔	✔	✔
Minnesota	✔	✔	✔	✔	✔
Mississippi	✔	✔		✔c	✔
Missouri	✔	✔	✔	✔	✔
Montana	✔	✔	✔	✔	✔
Nebraska	✔	✔			✔
Nevada	✔	✔	✔		✔
New Hampshire	✔	✔	✔	✔	✔
New Jersey	✔c		✔		✔
New Mexico	✔c	✔	✔		✔
New York	✔c	✔		✔	✔
North Carolina	✔	✔	✔	✔	✔
North Dakota	✔	✔	✔		
Ohio	✔	✔	✔	✔	✔
Oklahoma	✔	✔	✔	✔	✔

State					
Oregon	✔[c]	✔	✔	✔	✔
Pennsylvania	✔[c]	✔		✔	✔
Rhode Island	✔[c]	✔			✔
South Carolina	✔	✔	✔		✔
South Dakota	✔	✔	✔	✔	✔
Tennessee	✔	✔	✔	✔	✔
Texas	✔	✔	✔	✔	✔
Utah	✔	✔		✔	✔
Vermont	✔[c]	✔	✔		✔
Virginia	✔		✔	✔	✔
Washington	✔	✔	✔		✔
West Virginia	✔	✔	✔	✔	✔
Wisconsin	✔	✔	✔	✔	✔
Wyoming	✔[c]		✔	✔	✔

Notes

1. **Electronic monitoring:** In Idaho, Iowa, New Jersey, New Mexico, New York, Rhode Island and Vermont, a "supervision" fee goes toward electronic monitoring costs. In Oregon, Pennsylvania and Wyoming, electronic monitoring fees are charged by counties rather than the state.

2. **Room and board:** Most states charge for room, board and cost of care. (Some states use the phrase "cost of care" to include room costs as well as medical.) Alaska, Delaware, Hawaii, Maryland and Mississippi charge inmates for room and board if they're employed (inside or outside of the facility). Alaska also charges inmates — regardless of employment status — for utilities. Massachusetts charges a haircut fee.

Source: Brennan Center for Justice; Bureau of Justics Statistics; "The Political Economy of Application Fees for Indigent Criminal Defense" by Ronald F. Wright and Wayne A. Logan; Fordham Law Review; National Conference of State Legislatures; Seton Hall

Legislative Journal; National Center for State Courts; Interstate Commission for Adult Offender Supervision

Credit: Emma Anderson, Alyson Hurt and Joseph Shapiro / NPR

      ✔   Yes

      ✔[c]   Yes, with caveats

      ☐   No

5. Jail Time: Over Represented by the Poor

The PEW Center reports that one in every 100 adult residents in the United States now lives behind bars making the U.S. Prison system the highest on a per capital than any other country in the world (PEW Center for the States, 2008). But minorities, especially poor minorities, represent the highest concentration of inmates. For instance, Uggen, Maanza, and Thompson (2006) find that ⅓ of all adult African-Americans have been convicted of a felony. Further refinement shows that nearly 60% of African-Americans without a high school diploma (another indication of being poor) have spent time in prison (Pettit & Western, 2004). From the on-line article "Myth: The criminal justice system is not biased against the poor," it is documented that America's prisons do not represent a true cross section of society.[vi] Although the facts are dated (1991), they represent similar findings in today's societal mix. Based on annual income 54% of the prison population had annual incomes of less than $10,000 (vs median income of $20,469); unemployed before arrest 33% (vs national average of 6.7%); and no high school diploma 65% (vs national average of 22%).

The effect of incarceration is not limited to the convicted individual. It extends to family members: disabling effects on families due to the loss of an income to support a family; lack of a parent to supervise children; an inappropriate role model; and reinforcement that law enforcement officers are to be feared. It affects the types of employment opportunities once the individual returns to society, as well as, the effects (socially, emotionally, and physically) on the individual's health both while incarcerated and upon his/her return to society. Thus

even when an individual has served his/her time, the effects of a conviction can be felt long afterwards.

Harris, Evans, and Beckett (2010), through extensive interviews with a sample of ex-offenders, show three ways in which indebtedness adversely affects the poor. First, it reduces the family's income. For example, if the individual convicted is a head of household, then the family also loses out on lost wages. If he/she was paying child support, this also stops. Second, it limits access to opportunities and resources (housing, credit, transportation, and employment). And third, it has the potential to increase the likelihood of future involvement with the criminal justice system. Harris et al also note the impact on the offender's health. Since prisons are not the healthiest environments, the incarcerated individual has a much higher probability of suffering from poor health. In some prisons/jails the prisoner is even charged for using health care (Sykes & Piquero, 2009). This financial cost forces many prisoners to forgo health treatment in order to save money at the detriment of their long-term health.

Another contrast between the haves and the have not's is the advent of the pay-to-stay jail model. Under this scenario, an inmate can pay for an upgrade. Currently, this option has only been found in California at city/county jails. For example, in Fullertown, California an upgrade available to those convicted of non-violent misdemeanor crimes costs $100 per day, plus a one-time processing fee of $100 paid in full on the first day of their sentence.[vii] Within this program, men serve their sentence in the Fullertown City Jail as inmate workers. Requirements include:

- Sentences are served on consecutive days, to include weekends.
- Pay-To-Stay Inmates are housed separate from all other inmates and will have minimal contact with non-sentenced inmates.
- Pay-To-Stay Inmates assist with minor chores (i.e., cleaning, laundry, trash removal).
- Applicants to this program who are unwilling or unable to follow the rules and instructions given by the jail staff will be dismissed from the program and will have to serve the remainder of their sentence at Orange County Jail.

Fremont, California offers a similar option for $155 per day plus a $45 processing fee. The inmate is housed in a modern, clean and efficiently operated jail facility, as opposed to serving their sentence in the Alameda County Jail. Benefits include separate sleeping quarters from all other inmates and access to day room areas, showers, and inmate phones.[viii] Other examples include Huntington Beach (at $150 for the first night and $100 for each subsequent day); Arcadia (at $100 per day); and Torrance (at $99 per day). Some programs like Fullerton even allow cellphones.

6. Fines and Other Costs: The Accumulative Effects

Just being arrested can lead to a financial hardship. In a New York Times article, Butterfield (2004) quantify that some jails charge up to $100 per day for the cost of detention plus booking fees even before adjudication. Anderson (2009) shows that judges can also charge for indigent defense counsel, but most have a refund policy if the accused is not convicted.[ix] Butterfield cites a case in which the federal court ruling was needed to right this wrong in Cincinnati. The ruling forced the refunding of over $1 million in room fees from those not convicted. Additionally, unpaid legal financial obligations may be subject to interest costs, surcharges, and/or collection fees not only from the courts, but from other criminal justice agencies such as departments of corrections and even private companies contracted for supervising probation and drug tests (Levingston, 2008). See Kish (2015) for a summary of judgment interest rate levels by states. Judgment rates are the legal interest rate limit that can be charged.

Examples of penalties for nonpayment of debt incurred through the criminal justice system vary by state. For instance, Bannon, Nagrecha, and Diller (2010) reveal instances where courts in Michigan can revoke probation or impose incarceration on those who fail to pay their debt. In Florida offenders are required to pay for their cost of prosecution irrespective of their ability to pay. In Virginia, individuals who fail to pay their debts to the court have their drivers' licenses suspended, which then make it hard to maintain employment, further enhancing their inability to pay. North Carolina tacks on $25 for late payments and $20 for an installment payment plan. Missouri allows

individuals the option of spending time in jail to reduce their debt at a rate of $10 per day. Note this is a voluntary action since incarcerating an individual for being too poor to pay his/her debt is not constitutionally permissible. But if you are found by the courts to have the means and still fail to pay, you will be jailed or fined even more.

The Social Security Administration links their database directly into the databases of each state for warrants. Any bench warrant from a felony conviction automatically causes a stoppage of benefits. No disability insurance benefits will be paid to any individual who for any part of a month is confined to a jail, prison, or other penal institution or correctional facility for conviction of a felony, unless that individual is actively and satisfactorily participating in a vocational rehabilitation program which meets certain requirements.[x]

In addition to fines and court costs, offenders may have other obligations such as child support or restitution to their victims. Restitution is a major component of the criminal justice system. It has been estimated to be over $50 billion in 2011.[xi] Cohen (1995) documents that less than half ends up being paid. But restitution is mandatory within the federal court system regardless of the offender's ability to pay (Dickman, 2009). The use of restitution is applied selectively and depends on the offense. For example, felony convictions have a 14% rate. Other offenses range from 6% to 26%: 13% for violent offenses; 26% for property offenses; 6% for drug offenses; and 6% for weapons offenses (Durose & Langan, 2003). The priority for any payments within the criminal justice system are (1) child support; (2) special assessments; (3) court-orders restitution; (4) fines and court costs; (5) state and local court obligations; and (6) other federal government obligations. One of the pitfalls of restitution is that most offenders do not know how the amount was calculated, thus it lessens its effect as a deterrent and increases the hostility towards the courts and law enforcement in general (Cohen, 1995).

Another discriminatory practice within the prison system that is based more on resources then class structure is employment opportunities, but which impacts the poor disproportionately. Thus, there is a need to open up more opportunities for employment during their

imprisonment. Currently only a few lucky federal prisoners may gain employment while serving their time. Approximately 16% of work-eligible inmates work for a government owned corporation Federal Prison Industries (FPI). This corporation was established by Congress on June 23, 1934 to provide job skills training. It has been shown that those that participate in the program are more adaptable when they are released and stay out of trouble while serving their time. FPI does not offer highly skilled jobs or high wages. Pay levels start at 23¢ and progress to $1.15 per hour. To obtain the more lucrative pay scale the inmate must possess a high school diploma or General Educational Development (GED) certificate, thus encouraging participants to attempt to better themselves while serving their time. Many states also offer employment opportunities at similarly meager pay scales. Additionally, part of the wages earned is set aside to pay off the inmate's financial obligations.[xii] Crowe (2008) reports that skilled positions, such as working in a manufacturing plant or building furniture helps those convicted of crimes turn their lives around. Nevada, a leader in skilled labor programs within the prison system, has the lowest recidivism rate in the nation at six percent.

Conclusion

As stated in Harris, Evans, and Beckett (2010), the disadvantages of being poor are compounded throughout justice system. Not only does it affect the offender (and often the accused offender) but his/her family (both immediate and expanded). It affects his/her opportunities for employment or a career. Thus, it affects earnings potential and the opportunities for advancement. It affects housing prospects including location and type. A guilty charge with imprisonment can have both short-term and long-term implications to one's health (mental and physical). Therefore, even a minor conviction could have long range effects on an individual.

It has been shown that the effects of crime are different for the rich versus the poor. The poor do not have access to the best legal representation; sometime to even adequate representation. They do not have adequate resources to pay their fines, thus placing an additional

burden on their families since the funds needed to pay these fines must come from somewhere such as rent and food.

But what can be done? A few simple reforms would improve the lot of the poor immensely.[xiii] Eliminate the mandatory minimum prison sentences for petty or low level drug offenses which accounts for a huge percentage of crimes charged against the poor. Change the bail process by releasing those accused of non-violent crimes that do not pose a public safety factor on their own recognizance. Increase funding for education and training, so that poor can gain meaningful employment and are not tempted by the rewards of crime, especially within the drug trade. By lowering the number of criminals, the costs associated with the criminal justice system will be reduced. This in turn will reduce the pressure to pass these costs on to those that fall on the wrong side of the law.

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[i] See "Myth: The criminal justice system is not biased against the poor" www.huppi.com/kangaroo/L-CJSpoor.htm extracted from Reiman (1990).

[ii] June 13, 1966: U.S. Supreme Court-Miranda v Arizona.

[iii] http://criminal.findlaw.com/criminal-legal-help/how-to-obtain-a-court-appointed-defense-lawyer.html

[iv] http://criminal.findlaw.com/criminal-rights/are-you-entitled-to-a-court-appointed-attorney.html

[v] Pro bono publico: A Latin phrase meaning "for the good of the public".

[vi] www.huppi.com/kangaroo/L-CJSpoor.htm

[vii]

http://www.cityoffullerton.com/depts/police/programs/jail/pay_to_stay.asp

[viii] See the following websites:
http://www.fremontpolice.org/index.aspx?nid=313;
http://www.huntingtonbeachca.gov/government/departments/pd/divisions/investigation/PayandStayProgram.cfm?cross=true&department=police&sub=online_services&page=jail_pay&CFID=10574596&CFTOKEN=9e1dcd29733cb10d-1497BDCB-E4E0-3D72-AAEB75686D46E69F;
http://www.ci.arcadia.ca.us/home/index.asp?page=1708;
http://www.torranceca.gov/TPD/7192.htm;

[ix] This was supported by U.S. Supreme Court ruling: Fuller v. Oregon, 417 U.S 40 (1974).

[x] See section 202(x)(1) of the Social Security Act and 20 CFR 404.468:
http://www.socialsecurity.gov/OP_Home/rulings/oasi/27/SSR87-02-oasi-27.html

[xi] National Center for Victims of Crime 2011:
http://www.victimsofcrime.org

[xii] http://www.bop.gov/inmates/custody_and_care/unicor.jsp

[xiii] Others support these types of initiatives such as the ACLU (http://www.aclu.org) and the Drug Policy Alliance (http://www.drugpolicy.org).