CRESCAT SCIENTIA

JOURNAL OF HISTORY



UTAH VALLEY UNIVERSITY

CRESCAT SCIENTIA

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Utah Valley University
Department of History and Political Science
800 West University Parkway
LA 030
Orem, Utah 84058
Phone: (801) 863-8487
Fax: (801) 863-7013

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We invite all current students to submit their manuscripts for review and possible publication. Works submitted must be thematically related to history and politic science. To submit a manuscript, deliver a complete version of the manuscript with cover sheet to the UVU History Department Office (LA 030). Submissions should be written in accordance with the notes and bibliography documentation style from the Chicago style of citation. Submissions must be between five (5) and twenty-five (25) pages in length. The manuscript should be accompanied by a disk that includes a soft copy of your manuscript. Please note that any desired alterations should be made prior to submission. Editors will check for spelling errors and layout problems, not for substantial revision opportunities. All papers are chosen through a double blind selection process by student editors.

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CRESCAT SCIENTIA

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Editor-In-Chief Rachel Gifford

Assistant Editors
Pam Gardner
Rachel Gardner

Technical Editor Annalisa Corell

Faculty Advisors
Dr. William W. Cobb, Jr.
Dr. Keith Snedegar

Published annually for the Utah Valley University Department of History and Political Science

Utah Valley University, Department of History and Political Science 800 West University Parkway, Orem, Utah 840057 Phone: (801) 863-8487 Fax: (801) 863-7013

FACULTY NOTES

Dear Reader,

I take singular pleasure in introducing this issue of Crescat Scientia as it is dedicated to the senior member of our department, Professor F. Dennis Farnsworth. Dennis has served this institution for forty years. Along the way, he introduced Chinese language study, helped create the Faculty Senate, and launched the Honors Program. More importantly, he has ably taught many thousands of students; and, incredibly, he seems to remember all of their names! This volume is a small offering of gratitude for someone who has given so much to so many, and who has acted as if he were giving everything to each recipient. No Utah Valley faculty member has been more student-centered. How appropriate, then, that Rae Gifford, the 2012 Outstanding Student of the Year in History and Political Science, should be editor-in-chief. Rae and her editorial staff have assembled a robust and diverse collection of writing that represents a high standard of attainment. The authors and editors should be proud of their exceptional work.

It is a wonder to contemplate the legacy of an educator full of years and the potential of students full of energy. I hope both come to mind in surprisingly revelatory ways as you leaf through this volume.

May Knowledge Grow, Keith Snedegar

FACULTY NOTES

To our readers:

Since the days when Utah Valley State College first emerged from its community-college status in the 1990s, the institution has increasingly fostered opportunities that encourage students, staff, and faculty to engage with their disciplines and with the wider community through a variety of channels: e.g., conferences, interdisciplinary programs, performances, study abroad, and student journals.

And such has been the goal of Crescat Scientia since its inception in 2003. Although the department has provided resources, guidance, and encouragement, it is the student editorial team that has been central to its success as a platform for historical research and articles on a wide range of topics.

Thank you to all who have contributed, and especially to editorin-chief Rae Gifford and her student colleagues. The fruits of those countless hours of promoting, reading, vetting, workshops on the craft of journal production, revisions, and editing, lie in the pages that follow. Enjoy!

William W. Cobb, Jr., Ph.D. Professor and Faculty Advisor



The mediocre teacher tells.
The good teacher explains.
The superior teacher demonstrates.
The great teacher inspires.
William Arthur Ward

&°€

We would like to dedicate this edition of the Crescat Scientia to Professor F. Dennis Farnsworth. For forty years he has educated the minds and enriched the lives of our students.

Thank you for inspiring us all!



ACKNOWLEDGEMENTS

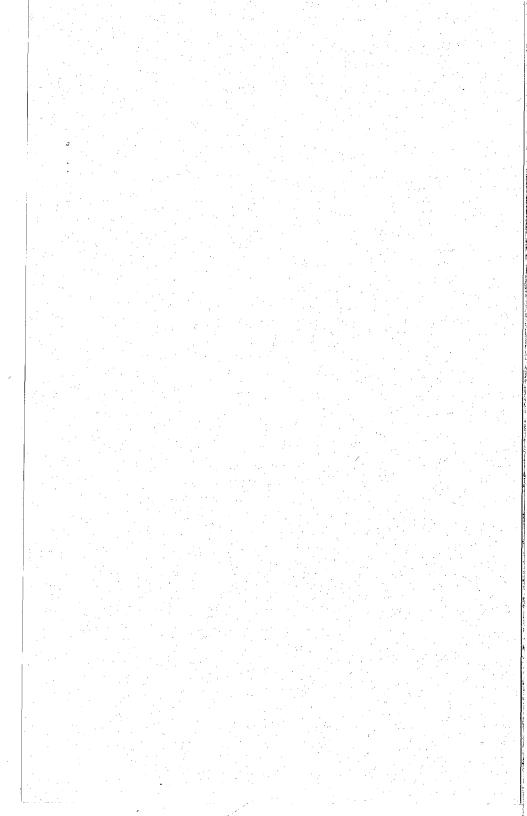
The editors of *Crescat Scientia* would like to take a moment to thank all those who came together to make this journal possible.

First and foremost, our heartfelt thanks goes to our faculty advisors Dr. William W. Cobb, Jr. and Dr. Keith Snedegar. Without their guidance and input the journal would never have succeeded. We also need to recognize the History and Political Sciences' Administrative Assistant, Paula Wankier, without her none of the little things would have happened.

There were so many who helped us over the hurdles of editing and publishing. We give special thanks to the UVU English Department and especially Dr. Scott Hatch. Dr. Hatch took us under his wing and guided us on the long journey to becoming an excellent journal. There are not enough words to describe our gratitude for his patience, wisdom, and skills. We would also like to thank the editors of *Touchstones*, *Warp and Weave*, and *Essais*, for all of their help and support through the publishing process. Without their friendship and support we could not have completed this journal on time.

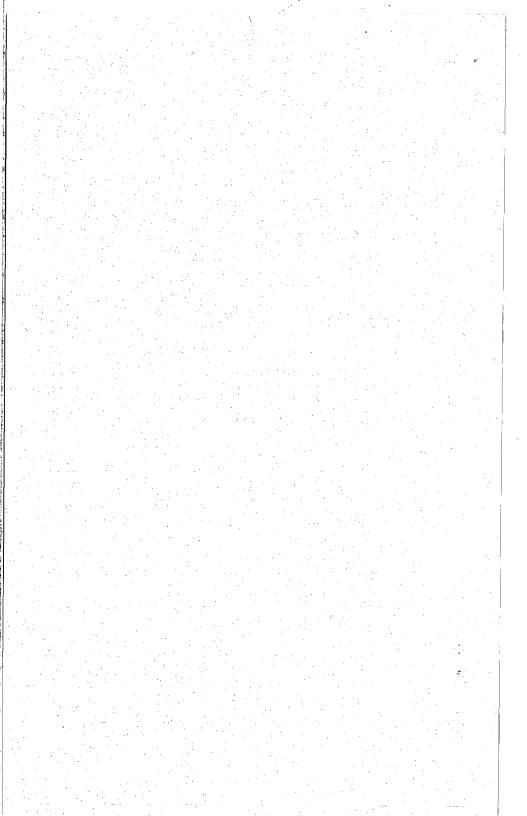
We would also like to acknowledge both Dr. Mel Thorne and Sandra Thorne from BYU for all of their help. Mel provided a one-on-one training session with our staff and Sandra patiently answered questions about citations. Without their guidance and experience we would still be lost.

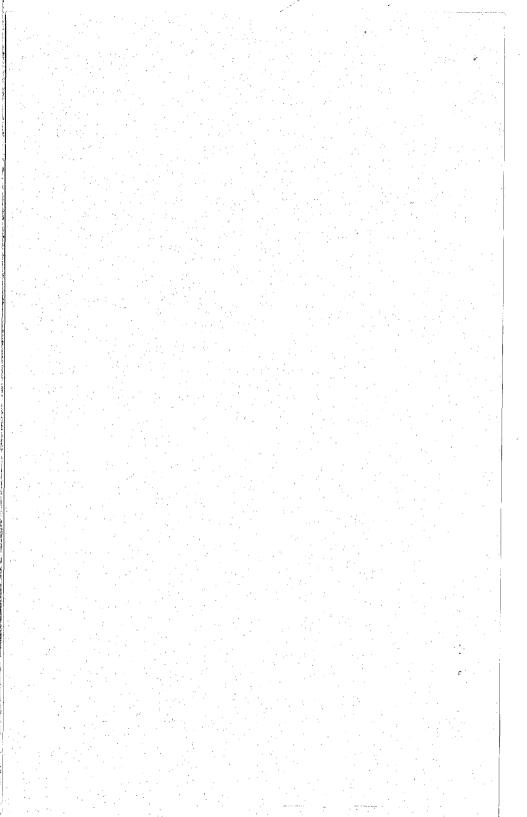
Finally, we would like to express thanks, not only to all those who submitted their work, but also to those who put in countless volunteer hours reading submissions, editing, source checking, and helping put this journal together. Without all of you it would not have been possible to turn out the 2012 edition of *Crescat Scientia*. Thank You!



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EDITOR'S NOTE

"History isn't just dry dates and statistics. History is human. History can be a great source of strength and affirmation. An aid to navigation, especially in dark and dangerous times."

David McCullough¹

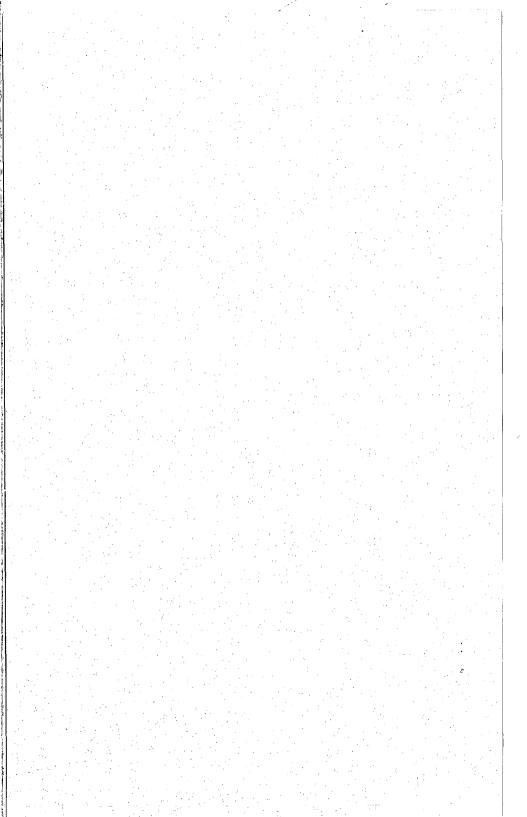
Our goal this year was to provide a broad view of the students that fill our classrooms. Therefore, this year's History and Political Science students have written of the past, the present, and the future. This journal takes its readers from feudal Rome to the future demographics of our global population; from political discussions on the post-Soviet Era to cultural discussions on the importance of Jazz to the Civil Rights Movement.

Through such a broad lens, we see each new discovery is built on the knowledge of the past. Knowledge which we have learned here at the feet of our professors. Each lesson a student learns, each topic they internalize, provides the basis for the life they will lead. The futures of our students are as varied as the topics in this journal and the professors here have helped guide the future of our world. For "those who are taught, do. Those who teach, shape the future."²

Rachel Gifford Editor-in-Chief

David McCullough, In the Dark Streets Shineth: A 1941 Christmas Story, performed December 2009 (Stevens Point, WI: Shadow Mountain, 2010), DVD.

² Suzanne Brockmann, Frisco's Kid (Ontario: Mira, 1997), 206.



UTAH VALLEY UNIVERSITY'S STEADFAST BEACON OF LEARNING

The metaphor of a lighthouse beacon is a powerful symbol; its light guides ships away from danger or toward a safe port. It is useful to teach those seeking a worthy endeavor for their lives' work to seek such a beacon for guidance. In the world, there are people who have a natural ascendency to the status of beacon. These people are natural conveyances to illuminate, inspire and teach others to pursue a higher course. They naturally spend themselves in the service of others.

Over the last four decades students who have attended Utah Technical College (UTC), Utah Valley Community College (UVCC), Utah Valley State College (UVSC) and Utah Valley University (UVU) have had the opportunity to sit at the feet of one of those beacons. Professor Franklin Dennis Farnsworth Jr. has dedicated his life to the endeavor of improving students' lives. Since 1971 he has influenced students to seek the higher course.



Dennis Farnsworth began his life in humble circumstances, which is often the best crucible for character development. The oldest child in his family, Dennis was born in 1941 in Pioche, Nevada where his father worked as a miner. With the unfortunate economic times of the era, his father moved the family many times to follow work when Dennis was a mere toddler. These travels would force the family out of Nevada into southern Utah, where they lived

¹ James Farnsworth (son of Dennis Farnsworth), telephone interview by Barry P. Maxfield, February 25, 2012.

in Parawon, Paragonah, New Harmony, Kanarraville, New Castle, and Cedar City before finally settling in Adamsville to work the extended family's farming operation.

In this environment, a young Dennis learned a strong work ethic as he worked on the family farm. Besides tending to the family cattle, he tended his siblings and made sure they got on and off the school bus without any problems. Just as important as his strong work ethic, this environment gave him time to become curious about books and learning. At age seven, as Dennis grazed the family cows along the state roads, he would read books, including the Webster's Dictionary, Pinocchio, The Wizard of Oz, Pilgrim's Progress, and Black Beauty. His love for learning was complimented by responsibility.

Dennis developed strength of character based in hard work. As a youth, he helped his father build an additional room onto the family home. The addition added 300 square feet to their home, bringing the house to a total of 900 square feet. It was in this house that a family of ten would be raised.

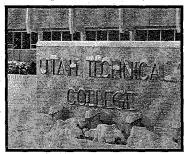
In addition to his love of learning and hard work, Dennis was curious about the world around him and had a sense of adventure. As a 15-year-old Explorer Scout, Dennis would adventure down the rapids of the Colorado River. There were also the times, as a contemplative young man, where he spent time riding a horse bareback, searching the hills for Juniper posts, which were used to build and maintain fences on the family ranch.

After graduating from Beaver High School in 1959, Dennis enrolled at Brigham Young University (BYU), Provo, Utah in psychology. At BYU, he befriended trade students from the Utah Trade Technical Institute in his Church of Jesus Christ of Latter-day Saints (LDS) Student Ward. This piqued his interest in the trade school located in Provo. Dennis studied at BYU for a year and was then called to the Southern Far East (Asia) LDS Mission in 1960. It was somewhat of an indeterminate mission call as that part of Asia is quite large. Dennis spent two weeks in the LDS Mission Home, at which time he received training and met many LDS General Authorities. He was then assigned to serve a mission in Taiwan. The sights of Asia were refreshing to a young man from rural Utah. When Dennis landed in Hong Kong on his way to Taiwan, he was fascinated by the British style double-decker busses. He served in Taiwan for two and a half

years, where the Taiwanese people would call him President Kennedy, as they thought he looked like the newly elected US President.

Dennis completed his mission honorably and returned to Utah where he enrolled at BYU in the summer of 1963. His initial choice of psychology was changed to English. For two and a half years, Dennis worked diligently to graduate early, which complicated his life, as the military draft was in full force. Dennis was drafted into the army and was sent to serve in the Korean Demilitarized Zone (DMZ). He completed his degree, but entered active military service before the graduation ceremony at BYU. Dennis was finally able to attend his graduation ceremony in 1968 when he received his bachelors of arts in Asian studies. He would then go on to obtain an MA in international administration.

After graduation, Dennis moved to Washington to work in Seattle, returning to Provo in September of 1971.2 In November of the same year, Dennis found himself unemployed. Recalling his experience with the students of Utah Trade Technical Institute, he decided to apply for a job at that institution, which had been re-named Utah Technical College. He interviewed with Grant Cook, Chairman of General Education. At the conclusion of the interview, Cook asked Dennis if he could start the next day, which was a Friday. Cook explained there had been some instructors who had vacated their positions suddenly and the position needed to be filled immediately.



Dennis started his teaching career by instructing two sections of General Psychology on the "land locked 13 acre campus"3 located between University Avenue and 150 East, across from BYU in Provo. The campus was already at fullcapacity, with psychology classes being taught in overflow trailers.

Dennis was surprised by the academic component at a technical college. Much of the academic backbone of UVU today was already in

² James Farnsworth, telephone interview.

³ Dennis Farnsworth, interview by Dr. Mark Bezzant, January 19, 2009, "Historical Interviews: Dennis Farnsworth," AR 152.5, Box 19, E. Mark Bezzant Collection, George Sutherland Archives, Utah Valley University Library, DVD.

place in 1971. In September of 1972, Dennis was offered a full-time contract.⁴

Over his vast teaching experience, Professor Farnsworth has taught 35 different courses, served as President of the Faculty Senate, and was Teacher of the Year in 1976 and 1988 for General Education. Professor Farnsworth was also the Founding Director of the Honors Program at UVCC in 1984.

The Honors Program was a project that Professor Farnsworth undertook because he felt it was a necessary retention tool for the high achieving students entering UVCC, as many such students were coming to UVCC instead of BYU. The Honors Program offered reading and writing intensive classes that would appeal to academic achievers. It was a "labor of love," Dr. Farnsworth says, as it made him happy to do something for the students. The first honors student graduated during the Kerry Romesburg Administration. At the graduation ceremony, when President Romesburg announced the honors student's name, someone in the crowd started to clap extremely loudly. Romesburg's immediate comment was "Dennis, we thank you for that applause." In 1994, Professor Farnsworth relinquished his position as Honors Program Director to return to school to pursue his doctorate.



Dennis is proud of student accomplishments, citing the large number of student awards over the many years. He is particularly proud of the *Americanism Educational Leaders* (AEL) essay writers who have won awards for their essays. He has advised this project since 1995 and is very proud of the students who have won \$15,500 dollars in cash awards in that time. Dennis notes with pride "many of my students would be 'A' students at

⁴ Ibid.

⁵ James Farnsworth, telephone interview.

⁶ Dennis Farnsworth, "Historical Interviews"

⁷ Ibid.

⁸ Ibid.

Harvard or Yale." He was also the founder of the Chinese Language Program and the American Heritage Program on campus, the advisor for the Utah Technical College student newspaper *The Tradewinds* during the 73–74 school year, and co-founder of Affirmative Action at UTC in 1975. Dennis Farnsworth is a veritable walking encyclopedia of UVU's evolution, with an amazing recollection of the school's history during his 40 years of service. 11

Dennis resolved a long time ago to know all his students by name, and every semester keeps this resolution. He can call each of his students by name, in the classroom or in the halls. If any student were to ask Professor Farnsworth for advice he would say: "make the most of your opportunities" and "seek to learn while they are here [at UVU]." He believes it is important to ignite a passion for life-long learning, a notion he seeks to instill in his students.

Professor Farnsworth's civic sense caused him to serve his nation as well. In 2001, after 35 years, he retired from the Army Reserve at the rank of Chief Warrant Officer. Twenty-eight of those years were spent in Military Intelligence. Dennis was married to Viola Farnsworth, a love story that has been celebrated since 1972. Viola was his joy. She shared his passion for education and earned a bachelor of arts in speech and drama and an MCD or masters in communicative disorders, both from BYU. Viola was always supportive of Dennis, in both his academic and military careers. They believed that teamwork was essential in marriage and spent a lot of time laboring in each other's behalf. Viola passed away on January 23, 2011.¹⁴ They have five children; Lance, James, Nathaniel (late), Victoria and Wayne, and seven grandchildren.¹⁵

⁹ Ibid.

¹⁰ James Farnsworth, telephone interview.

¹¹ Ibid.

¹² Dennis Farnsworth, "Historical Interviews"

¹³ Ibid

¹⁴ James Farnsworth, email message to author, March 5, 2012.

¹⁵ James Farnsworth, telephone interview.

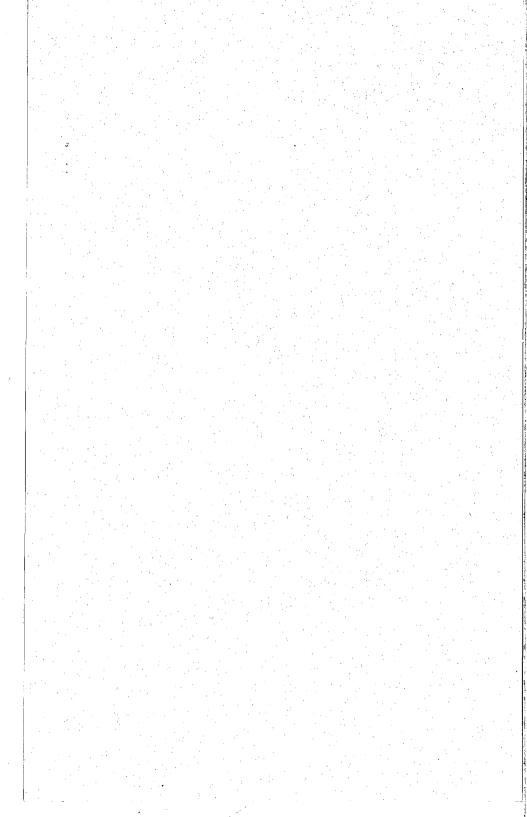


In 2012, Professor Farnsworth will celebrate his 40th year of service to the faculty and staff at the various permutations of UVU. But most important of all, his service was to those thousands of students whose lives he has touched. Dennis Farnsworth is a beacon of knowledge, encouragement, hope and guidance through the rocky shoals of an education that launches a future. His guidance is what remains with a person as they navigate the

challenges of life. Professor F. Dennis Farnsworth is a powerful to beacon to follow.

AUTHORS: BARRY AND RAELEEN MAXFIELD

RESEARCHERS: BRIAN WESTOVER AND PEGGIE KIGER



THE TRANSITION TO FEUDALISM

KYLER WILLIAMSEN

or many people, the transition from classical Roman society of the ancient world to the medieval feudal society of Europe is not understood—the Roman Empire collapsed and mysteriously produced the kingdoms of the Middle Ages. In reality, this transition was the result of a combination of many factors. While many scholars have addressed these factors individually, rarely has the relationship between them been demonstrated.

During the fourth century, weakening political and military power forced the emperor Diocletian to enact reforms in an attempt to save the Roman Empire. His reforms restructured the governmental bureaucracy, the army, and the tax structure within the Empire. Inflation exacerbated the economic crisis of the late Empire and contributed to the deterioration of the army. Christianity, introduced to the Roman Empire centuries earlier, caused civil strife across the Mediterranean. The acceptance of Christianity by emperors Constantine and Theodosius fundamentally changed society, both Roman and barbarian alike. Together, these developments of the fourth and fifth centuries produced the feudal system of the Middle Ages with which most people are familiar.

The Roman army of the fourth century faced several problems. Weak military leaders prevented the army from maintaining the level of discipline that had previously been one of their biggest advantages, and this cost many lives in blunders like the Battle of Adrianople in AD 378. Arther Ferrill, a noted classical historian, explains how at Adrianople the incompetent emperor Valens decided to pursue an attack on the invading Goths under their general, Frittigern, rather than wait for the reinforcement of the Roman general Gratian who

was en route. Such arrogance and haste had become the norm for the Roman military.

Perhaps the greatest detriment to the Roman legions was the diffusion of military tactics and knowledge to their traditional enemies, the German speaking peoples beyond the Rhine and Danube. As these peoples were allowed to immigrate into the Empire, they were often given citizenship in exchange for military service. This military service taught them Roman tactics and strategies, which had previously been Rome's greatest advantage over the numerically superior Germanic barbarians. "As discussed in the account of the great Roman defeat at Adrianople, the Romans' once-superior legions lost their domination as the German recruits learned Roman military tactics and discipline; at the same time, internal Roman discipline declined." Faced with a lack of internal discipline and an enemy using Roman tactics, the Roman armies capitulated and hereafter primarily pursued a defensive war.

In an attempt to maintain a secure frontier against the Germanic barbarians, Diocletian changed the organization of the army itself. From the earlier legions of six thousand men, Diocletian created smaller, more mobile legions of around one thousand men. However, this reorganization, as well as a call for more men in arms, was extremely expensive. Diocletian subsequently reformed the tax structure within the Empire, attempting to revive the dying Roman economy.

The taxes enacted by Diocletian created a need for an overhaul of the collection process. Previously, the position of tax collector had been sold to the highest bidder, who in addition to the salary of the position recouped his losses by appropriating some of the tax money for himself. Diocletian sought to resolve this issue by restructuring the bureaucratic offices. The new officers were called *curiales* and were required to collect a quota of taxes mandated by the emperor. To avoid the loss of funds due to corruption, the government would force the *curiales* to [pay] the difference out of their own pockets after the quota was not met. In consequence of the severe responsibilities of the office

¹ Arther Ferrill, *The Fall of the Roman Empire* (London: Thames and Hudson, 1986): 60-64.

² John M. Riddle, A History of the Middle Ages: 300-1500. (Lanham, MD: Rowan & Littlefield Publishers, Inc. 1986), 27.

³ Ibid., 21.

of the *curiales*, the emperor Diocletian "made their office hereditary and a criminal offense to shirk their duties." This helped to ensure that *all* of the tax revenue entered imperial coffers and prevented a future dearth of public officials. Meanwhile, another form of taxes evolved from the soldiery along the Germanic border. Unable to meet the total cost of his new border armies, Diocletian authorized an unprecedented practice: he allowed the soldiers to exact their salary from locals, in the form of confiscated food and other chattel.

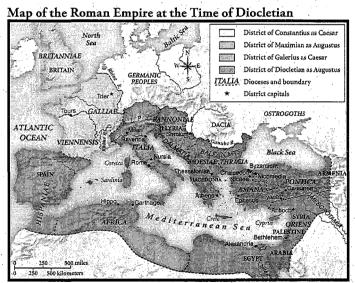
Inflation further crippled the dwindling Empire. As the Romans imported goods from China, Indonesia, and India, more and more Roman currency, made from gold and silver, began hemorrhaging out of the Empire. The result was a lack of metal money (solidi) to pay Diocletian's new and expensive taxes, which were often more than half of one's earnings. The inflation, coupled with these new taxes, wreaked havoc upon the economic structure of the Empire. Diocletian, seeing these problems, allowed for taxes to be paid in kind or services rendered. These services and kind were still to be paid to the curiales. To ensure these taxes were paid, whether through cash, kind, or service, the curiales hired bands of armed men to collect the taxes. Another cause of inflation was an act of Diocletian that replaced the copper coins with coins made from other less valuable metals. As medieval historian John M. Riddle acutely explains, "What followed was that bad money drove good money out of circulation, and the result was inflation."5 It is clear, then, that the primary causes of inflation in the fourth century was valuable money being driven into private savings within the Empire and foreign markets, while money made from inferior and less valuable metals remained in circulation within the Empire.

Diocletian made further attempts to strengthen the Empire by reorganizing its administration. Prior to the administrative reforms of Diocletian, both politicians and military men gained public office and military rank simultaneously, the one promoting with the other. This circular promotion granted these military politicians great power, which was often used to usurp the current emperor. Diocletian sought to resolve this problem by creating a "complete separation of

⁴ Ibid.

⁵ Ibid.

administrative and military functions." In the most famous of his reforms, Diocletian created what was known as the Tetrarchy, in which the Empire was divided into an Eastern and Western region. Each of these regions was also split and governed by two emperors. In each region there was a senior emperor called an Augustus, and a junior emperor called a Caesar. Of the two Augusti, Diocletian was the senior. In theory, each Augustus was to train his Caesar to become Augustus. And the junior Augustus would then be trained by the senior Augustus to replace him after a set time in office. Through reorganization of the Empire's internal borders, he sought to concentrate power in the imperial throne, not in individual citizens who had so often disrupted imperial power. By reducing the size of each region, Diocletian eliminated the personal power of the provincial proconsul.



The four Districts subdivided into the Dioceses; Each District was comprised of three Dioceses. The Districts from West to East are: Galliae, Italiaet Africa, Illyricum, Oriens. Map by Coppermine Photo Gallery, an open source project released under the GNU/GPL terms (2008).

Each of the old provinces was dismantled and the borders were redrawn, replacing the provincial proconsul with a Tetrarch. Riddle explains how the old provinces were reorganized into twelve dioceses

⁶ Ibid.

that were overseen by vicars (*vicarii*). Each vicar reported to the Tetrarch over his diocese. Each diocese was subdivided into several provinces (*provinciae*), each governed by a president (*praesides*). While this administrative reform streamlined the bureaucracy within the Empire, it failed to resolve one crucial issue: the threat of ambitious or popular generals usurping imperial power.

To address this issue, Diocletian restructured the military in the same manner that he had the civic structure. "[Diocletian] followed the same structure [as the civic reforms] with a parallel military command. Each province had a duke (dux; plural: duces) or count (comes)." These counts and dukes were solely responsible for maintaining secure borders, leaving the taxation and administration of justice to the vicars and presidents. This reorganization kept the military power spread over a wide range of men and out of reach of a single leader. While this restructuring largely kept the imperial throne safe from ambitious generals, it also inadvertently weakened the Empire by preventing exceptional military leaders from rising to the top of command. The resulting vacancies left only weak emperors to defend the Empire.

Another problem for the Empire—Christianity—originated in the Levant, at Jerusalem. Christians were persecuted with varying severity until the Edict of Milan, enacted in AD 313 by the emperor Constantine, in which he proclaimed religious tolerance across the Empire. The emperor Theodosius, in AD 380, proclaimed that Catholic Christianity was the official state religion of the Empire. Since the end of the first century, Christianity had been as varied and divided as the regions in which it was found. The issue over which they argued was posed in many different ways but was quite simple:

Differences soon emerged and focused on the central issue of the Christian religion: the nature of Christ.... Was the 'Son of God' really God? And if so, how could this be if there is only one God? Simply put the two related issues

⁷ Ibid. It is important to note that the new provinces were much smaller than the older bureaucratic region of the same name, and the two should not be confused.

⁸ Ibid.

that were to trouble Christianity in its long history were the divinity of Christ and the nature of the Godhead.9

The mainstream view was that Christ was of the same substance as the Father, while Arius, an Alexandrian deacon who claimed that Christ was only of similar substance to the Father, led the opposition in AD 318.

The conflict between orthodox and Arian views frequently climaxed in outbursts of violence. This violence, which started in Alexandria, quickly spread to cities in Palestine, Syria and even Constantinople, which was by this time the capital of the Eastern Roman Empire: "Constantine . . . could not ignore the problem and sent an envoy to Alexandria in a vain attempt to resolve this doctrinal dispute [the nature of Christ]. The envoy reported that more than one person's skull had been fractured in the street fighting over the nature of Christ's relationship to the Father." It was precisely this religious based violence that was so troubling to the imperial throne. Christians threatened to create civil war across the Empire in an already turbulent age. The results of this violent dissention were the expulsion of Arius from the Empire and the convening of the Council of Nicaea in AD 325 by Constantine himself.

Within the Catholic Church, the argument was settled with the Nicene Creed and the Athanasian Creed, which reads, 'ItaDeus Pater, Deus Filius, Deus SpiritusSanctus, Et tamen non tres dii, sedunusestDues, '1--'Thus, God the Father, God the Son, God the Holy Spirit, yet not three gods but one God.' However, the conflict was not over; after his exile, Arius travelled to Northern Europe and introduced his Arian brand of Christianity to the barbarians beyond the Roman Empire. When these Germanic peoples eventually immigrated into the Empire, the conflict sparked anew.

When Christianity was introduced to the Roman Empire and officially adopted by the emperor Theodosius, the Christians

⁹ F. Donald Logan, A History of the Church in the Middle Ages. (Oxford: Routledge, 2002), 9.

¹⁰ Riddle, Middle Ages, 41.

¹¹ Internet Medieval Sourcebook, s.v. "QuicunqueVult, or the Creed of St. Athanasius," accessed November 1, 2011. http://www.fordham.edu/halsall/source/quicumque.asp. The translation from Latin is the author's own.

adopted a structure for their clergy similar to the restructured civic administration. "When the Christian church was organized after this period [of Diocletian's reforms], it followed the same administrative structure; each civitas (city) became a diocese led by a bishop."12 An expert analysis helps to explain the change Christianity brought to the Roman Empire:

> Few other times in the world's history have witnessed a greater change in the values of a culture . . . The change can be seen as a shift of focus from this world to the next, from the material to the spiritual, from the temporal to the eternal . . . But values changed as ideals changed, and a powerful counterweight to earthly concerns manifested itself.13

The concise appreciation of the situation by Riddle is a marvelous summary of what was happening. Rather than a focus on politics, discipline, and glory for the individual and the state, people began to consider their future in the eternities. The gradual decrease in concern for the well being of the state was a major contributing factor to the collapse of the Roman Empire. As the church grew in importance, it provided a new source of power and prestige in the Middle Ages.

While the abovementioned factors contributed to the collapse of the Roman Empire in the West, they also laid the foundation for the feudal society of the medieval period. The inflation of Diocletian's era and his burdensome taxes were the beginning of the economic transformation from imperial to feudal. The taxes levied by Diocletian quickly exhausted what little coinage was had among the citizens of the Empire. Yet the Empire still needed funding of some sort to finance the growing army.

Diocletian allowed for taxes to be paid to the local curiales in kind, primarily food and animals, but also textiles. As kind dwindled, a new means of paying these burdensome taxes was needed. Citizens began to swear a certain number of days of service or labor per year to their curiales to pay their dues to the imperial throne. As the demand for

¹² Riddle, Middle Ages, 21. It should also be noted that the Latin term civitas implies a city of substantial size. The larger cities would have been led by bishops, while the smaller villages would only have had priests (sacerdotes).

¹³ Ibid., 34.

taxes continued, the people were left with fewer days available with which to pay this debt. An unusual practice began to compensate for this unpaid debt: people began to swear labor payments on behalf of their children and grandchildren. This was the beginning stage of serfdom, a hallmark of the feudal system of the medieval centuries. Serfs were peasants, sworn to their local lords in indentured servitude. These taxes, passed down from generation to generation, resulted in the common people being tied to the land they worked, striving to free themselves from an impossible debt.

Additionally, Diocletian inadvertently bound the future aristocracy to the land. By making the office of the *curiales* "hereditary" and a "criminal offense" should the *curiales* "shirk their duties," ¹⁴ Diocletian bound these public officials to their posts as efficiently as the officials themselves bound the serfs. This declaration of heredity for the *curiales* grew to encompass not only the new aristocracy of the tax collectors, *duces* and *comes*, but also the artisans and merchants. The military also followed suit, and the roles of duke, count, and others became hereditary.

The new administrative structure created by Diocletian prepared the way for the small fiefs and dukedoms of the Middle Ages. With a duke established by Dicletian over each province in the Empire, the local military control was readily at hand, and the dukes and counts seized local power as the central government collapsed. The situation is adequately described in the following passage:

As the civilian authorities became less important in this turbulent age, their titles, excepting vicar, fell into disuse. The military titles, on the other hand, persisted into the middle ages (and beyond), and dukes and counts were often the only real power in a region as the central government weakened.¹⁵

The natural progression from a centralized imperial government to the localized and independent dukedoms is apparent. Once the Empire had completely collapsed in the West, the dukes had little trouble cementing their position of power and authority over their provinces. As the civilian offices, such as the *curiales*, fell into disuse,

¹⁴ Ibid., 21.

¹⁵ Ibid.

their function as tax and dues collectors passed from civic to military offices. Thus the dukes and counts of the Middle Ages continued to accept the service of the serfs, who were still tied to the land. However, the practice of swearing fealty to a superior was not the exclusive practice of peasants to their local lords.

As individual dukes and counts grew in power, the inevitable attempt of reconquest began, and a form of indentured servitude began among the noble class. When a noble would acquire the lands or property of other nobles or would give his own lands to others, the system of oaths and bonds that followed was called vassalage. Carl Stephenson, in his work *Medieval Feudalism*, gives us an excellent description of what being a vassal (Latin *vassus*) actually meant, stating, "vassalage was an honorable relationship between members of a warrior class." More specifically, the act of creating a vassal involved agreements by both parties. We see, then, that the *duces* and *comes* of the Late Roman Empire fit this description perfectly.

Interregional trade had largely collapsed by the fifth and sixth centuries because of the taxes and inflation of the previous centuries, and as a result, society had become mostly agrarian. The new focus on agrarian lands produced and fuelled a desire among the dukes and nobles to acquire arable land, which might in turn produce profit. In a vassal relationship, Stephenson explains, the lord (dominus) would give a portion of his land or property to his potential vassal.¹⁷ In this act of transferring ownership of valuable land to another, the land was called a gift, or beneficium. In return, the vassal would swear fealty to his new lord. Stephenson elaborates, "To become a vassal, a man had to appear before his future lord and render to him the service technically called homage (Latin homagium, from homo) and fealty (Latin fedelitas)."18 Stephenson continues, describing a ceremony in which the vassal kneels before his lord, placing his own hands in those of his lord, and swears that he will defend him "against all men who live or die." The lord, with equal formality, accepts the homage, raising the vassal from

¹⁶ Carl Stephenson, Mediaeval Feudalism. (Ithaca: Cornell University Press, 1942), 10.

¹⁷ Ibid., 7.

¹⁸ Ibid., 18.

¹⁹ Ibid.

the ground and kissing him on the cheek as a sign of trust. Lastly, the vassal would reconfirm his promises with an oath upon the Gospels of the New Testament.

This practice of swearing a vassal was a direct result of Germanic immigration. As Stephenson explains:

To derive it [vassalage] from the Romans seems quite impossible. In spite of all the Latin words that came to be adopted . . . medieval vassalage remained essentially a barbarian custom, strikingly akin to that described by Tacitus as the *comitatus* (Companions, i.e. of the warlord).²⁰

We can see, then, that the practice of swearing oaths and services had diffused from the Germanic immigrants of the fourth and fifth centuries to the Roman nobility and that the practice had become both widespread and common among both high and low classes by the inception of the Middle Ages.

It is important to remember that Christianity, an organization outside the restructuring of the Roman positions, also grew in power during the transitional period from empire to feudalism. Christianity inadvertently preserved portions of the Roman Empire through the Middle Ages. Having been aligned along the established borders of the Roman dioceses and provinces, the Catholic Church was able to maintain an impressive efficiency in collecting donations from its members. Christianity was unique in that the many donations received from its members had given it great strength and power by the fifth and sixth centuries. This power came from the absence of state taxes on the church, which allowed its coffers to swell even more with each century. Just as the dukes had grown in power with the decline of central imperial control, the church acquired lands and power at a similar rate. The result was that the city bishops had enormous wealth and exercised great power over the populations they served and were generally free from political restraints, excepting those originating with the Pontiff in Rome.

The transition from the ancient classical to the feudal medieval began primarily with the reforms Emperor Diocletian enacted to save the Empire. His economic reforms served only to aggravate the inflation plaguing his empire and established a system wherein

²⁰ Stephenson, Mediaeval Feudalism, 10.

peasants became reliant on their appointed officials. The heirs to these appointed offices continued to exert control over the peasants throughout the Middle Ages, giving rise to serfdom. His reformation of the military prevented capable generals from defending the Empire and inadvertently set in motion the development of feudal nobility by placing *duces* over the provinces, which developed into the medieval dukedoms. The interaction of dukedoms helped to develop the vassal system under which the nobility of the medieval period functioned. Christianity, while persecuted at its outset, later became the dominant and official religion of the Empire. Its status as the state religion exempted it from the taxation that ruined the Roman Empire, leaving the church wealthy and powerful as it moved into the Middle Ages. In conclusion, the feudal society of the Middle Ages was a direct result of the reforms that collapsed the Roman Empire.

BIOGRAPHICAL NOTES

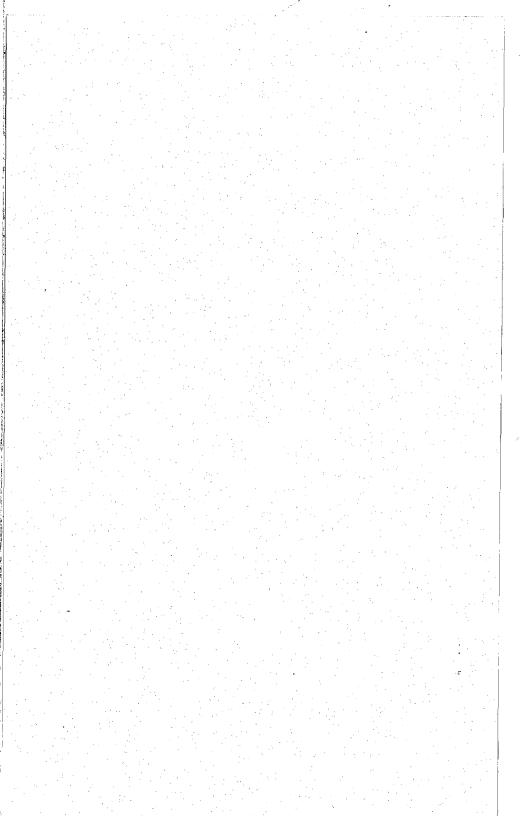
Kyler Williamsen is currently a senior at Utah Valley University (UVU). He will graduate in the spring of 2013 with a bachelor of arts in history, and a minor in languages. As a medieval historian, Kyler has had the opportunity to study multiple languages, including Italian, Latin, German, and French. Kyler is the current vice president of the UVU chapter of Phi Alpha Theta, the National History Honors Society. He has also written history curricula for Brigham Young University's Independent Study Program.

After completion of his baccalaureate degree, Kyler intends to pursue a master's and doctorate degree at Western Michigan University. With these degrees, he would like to teach Medieval European History at the university level.

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MODERN ECONOMIC GROWTH: A CASE STUDY OF THE RISING ECONOMIC POWERS OF CHINA, INDIA, AND BRAZIL

JORDAN GREENE

conomic growth and opportunity have been the focus of major politics for centuries. Philosophers have come from all walks of the political spectrum arguing for their theories of economics and politics and how it is that nations and people come to obtain their prosperity or how they could achieve a better life. These arguments have lead masses of people to battle against each other and blood has been shed in the hopes of achieving a better world in which the people could find themselves in more desirable circumstances. After centuries of arguments there is still no complete consensus among scholars and politicians about what the best system is.

China, India and Brazil have recently begun a rapid ascent to world economic power from poverty, we will look at economic development in terms of the approach these three countries have taken in developing a better life for their citizens. We will examine some of what scholars have believed to be the root causes of this economic growth and prosperity to see if there are similarities despite the vastly different economic and political systems used in these countries. China, India and Brazil are very different countries, but we will look to see what they have in common with how they have achieved this prosperity given their various resources, government systems and differing cultures.

We will begin with an examination of each state individually looking at their recent political history and economic development. As we examine these aspects of China, India and Brazil we will search for what scholars believe to be the root causes of their economic growth. Some of the variables suspected to be the causes of such great economic development are deregulation of the market, education, capital for the citizens to invest in and spend money, and foreign investment in the markets. Although each of these states has differences we can attempt to see what exactly causes an economy to boom in the midst of mass poverty.

China: A Brief Political and Economic History &

First, let us examine the story of China, whose newly emerging economic power is intriguing for many because of the stark contrast in their approach to economics from the United States.

China has a history reaching back thousands of years to approximately 210 BC when the era of "dynasties" started. According to the United States' State Department, China went from one dynasty to the next until AD 1911. Just before 1911 the Qing Dynasty was in power and the nation was failing. Population boomed and economic disparity increased. Dissatisfied with the leadership and policies of the government, some of the nation's military officers, students, and scholars rose up in revolution. They placed many of the Qing officials in high-ranking positions in the government in order to overthrow the current regime without civil war.¹

The nation was nevertheless fragmented in this time period and the newly created Chinese Nationalist People's Party attempted to unite China under one banner and one ideology. The Chinese Nationalist People's Party (also known as the Kuomintang or KMT) made an alliance with the new Chinese Communist Party (CCP) as they strove to unite the country. Eventually the leader of the KMT, Chiang Kaishek, turned against the CCP and killed many of its leaders. The CCP and its followers fled to the west where they established a headquarters for resistance. The war between the CCP and the KMT raged for years even during the invasion of Japan in World War II. After the Japanese defeat in 1945 the struggle raged on and the CCP occupied most of the country. The KMT was forced to flee the country to the island of Taiwan where even to this day the KMT party claims that it is the actual governing body of China.²

US Department of State, "Background Note: China," Bureau of East Asian and Pacific Affairs, September 6, 2011. http://www.state.gov/r/pa/ei/bgn/18902.htm.

² Ibid.

Mao Zedong was the leader of the CCP and became the ruler of the People's Republic of China in 1949. Mao followed the Soviet model of communism as he sought to rebuild the nation after decades of exhausting conflict. The Chinese Communist Party remains in total control of the government today even though there have been several reforms in the last 80 years. Mao sought to use massive government control and regulation to stimulate growth in the economy. The results were disastrous as the population exhausted itself in making manufactured products that were not marketable in foreign economies. In the 1960s Chinese leaders named Deng Xiaoping and Liu Shaoqi sought to reform the economic policies of the state to allow for more growth and innovation. Mao claimed that Xiaoping and Shaoqi were ruining the republic by bringing capitalistic systems back from the West. Mao then launched a political slur campaign against the reformists and the country fell into turmoil once again. The economy continued to slack as another wave of conflict swept the nation. After Mao Zedong's death in 1976, Hua Guofeng came to power and reinstated Deng Xiaoping to his positions in the government, and Deng again sought economic reform. He believed that economic growth should be sought above all else even if capitalist measures were needed.3

In the late 1970s some of Deng's policies were enacted, enabling farmers to own land and small private businesses to open, but in the late 1980s the Communist Party took control over the economy after a demonstration in Tiananmen became heated. To stem the demonstration the government used military forces and opened fire on the demonstrators to quell what they perceived a social instability leading to civil war. After martial law was decreed and government control over different sectors of the economy like land ownership and small ownership of small businesses was reinstated once again, economic growth was quelled and the economy floundered. Despite the complaints about economic issues in the 1980s, scholars found that there was hope shining in remote parts of the Chinese economy. In his article, China's Other Path Yasheng Huang examined the levels of income growth and consumption in rural parts of China in recent decades. As many theorists and economists believe, the middle class is a healthy sign of a strong economy. During the "market-freeing

³ Ibid.

reforms"⁴ of the late 1970s many impoverished Chinese citizens found ways to better their standard of living. Since the rural Chinese were able to partially own land and start and own small businesses, their income levels grew and thus their consumption levels increased as well. The economy began to boom in these rural regions of China where at least half of the total population lived. Of this decade of growth Huang says in his article,

What is the difference between then and now? Two words: rural entrepreneurship. In the 1980s, in the wake of Chinese leader Deng Xiaoping's 1978 market-freeing reforms, businesses based in the hinterlands were at their most vibrant and China's domestic consumption grew rapidly. That had a twofold effect. First, new jobs and rising incomes were created for the rural Chinese multitude, who were then able to spend even more on goods and services. Second, the growing appetites of rural consumers attracted the attention of entrepreneurs eager to sell to them. The hottest economic action was in the nexus of manufacturing and services simple processed foods and small manufactured goods that these entrepreneurs could peddle to rural consumers and, more important, their richer urban cousins.

Huang contends that economic growth was championed by the rural entrepreneurs and was snuffed out when the government took back control of their small businesses and reinstated strangling policies on the economy. One policy that leads to this growth was that of private finance and allowing some forms of "informal" finance. This allowed the entrepreneurs to obtain small loans from family and friends or small organizations, which allowed them to have the capital they needed to start a small business. Also in his research Yasheng Huang found that education was a large factor. He found that during the 1980s those who pursued their entrepreneurial ambitions tended to be better educated than those who did not. High school level education was considered a luxury for the rural people, but those who had that basic education were found to be more economically ambitious and successful. Huang

⁴ Yasheng Huang, "China's Other Path," Wilson Quarterly 34, no. 2 (Spring 2010): 59, http://www.jstor.org/stable/20700693.

⁵ Ibid.

actually compared this factor with the rising economic power of India in the 1980s. He claims the reason why these rural farmers in China turned to entrepreneurialism while those in India did not was due to the difference in the average level of education among rural citizens. This evidence leads to Huang's conclusion; "Academic research shows that human capital, not physical capital, is always the more critical enabling factor in economic growth."

Another important factor in the growth of China's economy is that of reformed Chinese policy which allowed foreign companies to capitalize on the cheap labor in China. Large manufacturing corporations rapidly sent jobs to China to lower their production costs and increase their margins. Foreign companies dumped money into China and many of the impoverished Chinese found work and weekly wages however miniscule. As western interests poured money into China, the Chinese government began to have higher levels of capital to invest in foreign markets as well as use subsidies to make domestic markets have a huge advantage in the foreign marketplace.

During the 1990s the economy dragged again as government imposed oppressive taxes and reclaimed property rights from its citizens, but in the more recent decades China has once again turned to market capitalism in an effort to stimulate its economy. China is officially still a communist state run by the Chinese Communist Party, but as we have seen in recent years, China has used markets very effectively to bring capital to the country. Robert Dreyfuss says in his article *China in the Driver's Seat* that China has successfully lifted hundreds of millions of people (and counting) out of "desperate poverty."

The Chinese Model &

Many advocates for the liberal modernization theory are beginning to feel threatened by China's economic growth. Since the Cold War, theorists have argued that democracy and capitalism are the most functional systems of government and economics. They submit that as technology and communication spread, democracy and capitalism will likewise spread. The collapse of the communist Soviet Union was

⁶ Ibid., 61.

⁷ Robert Dreyfuss "China in the Driver's Seat," *Nation* 291, no. 12 (September 20, 2010): 12. Academic Search Premier.

proof to many scholars that open markets and democracy were the best systems mankind has been able to develop. China is now showing the world that a strong mercantilist style system can work very well for a developing nation.

The CCP has maintained a firm grip on the nation and the economy, but has increasingly allowed for private property ownership and foreign investments. To empower the Chinese economy, the government from the People's Republic of China has implemented powerful subsidies in the sectors of the economy they want to see grow and block out foreign competition. Using subsidies the government has been able to lower costs for manufacturers of green technology as well as computer and high technology. This makes it easy for foreign consumers and companies to purchase Chinese goods at lower prices. Chinese manufacturers have started putting foreign companies out of business because it is so much cheaper to do business with the Chinese than with manufacturers based in other countries. This obviously can create resentment between the Chinese companies and foreign companies and many are calling for economic sanctions and tariffs against China to compel them to trade fairly with the rest of the world.8

One critique of the Chinese model questions how the Chinese government has such a large amount of capital to build infrastructure and subsidize economic growth. As Yasheng Huang says, "... many observers failed to ask a basic question: 'Where did the government of such a low-income country get the money to finance all this impressive urban infrastructure?' The answer: rural China." Huang points out that it was the impressive growth of the middle class economy from which the Chinese took their capital. On the backs of peasants and factory workers the Chinese have been able to take massive taxes on the money produced by the rural farmers and the manufacturers that foreign companies invest in. Now, using the money that they have extracted from the large amount of cheap labor the other companies found in China, the People's Republic of China has very effectively manipulated the economic system in their favor.

Another negative critique of the Chinese model is given by Suisheng Zhao in his article "The China Model: Can It Replace the Western

⁸ Ibid., 12.

⁹ Huang, "China's Other Path," 63.

Model of Modernization?" Zhao points out first that the Chinese approach lacks any moral guidance. China suffers from corruption, lack of democracy, human rights, and rule of law. 10 These flaws make the Chinese model less appealing and seemingly unsustainable to many people. According to Zhao, the magnificent economic growth of China will be short-lived. The Chinese officials are not considering the long-term effects of how China is going about stimulating its economy. Many of the poor citizens of China are staying very poor while the rich are becoming exceedingly rich and this can quickly lead to political unrest and instability. Throughout history the relevance of Maslow's Hierarchy of Needs has become more and more solidified. As China's people begin to have sufficient food, water, and shelter they will begin to turn to self-actualization and seek more political freedom. The repressive government of China will not be able to hold back its people's desire for freedom after they no longer spend all their time on survival. Although China's approach to economic growth has had astounding success, many believe that the success will be short lived. Others simply condemn China for the moral cost of their growth as it relates to the Chinese people.

Brazil: A Brief Political and Economic History &

Brazil is another country that has impressed the world recently with its economic growth and appears to be emerging as a powerful economic state in the international community. Brazil is very different from China in that it has been a functioning democracy since 1989. The Portuguese who colonized the area in the 1500s and took control from the indigenous people ruled Brazil. After the Portuguese lost control of the country in 1882 it continued to be plagued by corruption and multiple military coups which made progress and economic stability difficult to achieve. During the mid twentieth century the Brazilian government tried to stimulate the economy by focusing the

¹⁰ Suisheng Zhao. 2010. "The China Model: Can It Replace the Western Model of Modernization?" *Journal of Contemporary China* 19, no. 65 (June 20101): 434 Academic Search Premier.

¹¹ Ibid., 435.

¹² US Department of State, "Background Note: Brazil." Bureau of Western Hemisphere Affairs, November 30, 2011, http://www.state.gov/r/pa/ei/bgn/35640.htm.

¹³ Ibid.

majority of their efforts on domestic industry and manufacturing. The economy of Brazil in the late 50s and early 60s experienced sharp growth, but there were unforeseen problems with the Brazilian strategy. The goods produced by domestic markets required the companies to import many other types of goods such as machinery, cars and trucks for transportation. Importation outweighed exports and the economy leveled out and stagnated once again because they could not export the same value of goods that they were importing. The military regime of the early 1980s continued to try and force the economy of Brazil to develop in the ways they believed would increase the independence of Brazil's economy from the rest of the world. One such strategy was "import substitution." This is a policy that strives to favor domestic products while restricting purchasing of foreign made products. The restrictions on the economy brought stifling inflation and economic disorder leading the economy to flounder.14 While certain industries like concrete manufacturing boomed for a short time, the economy collapsed again when imports exceeded exports. The economy seemed to consistently trade one imported dependency for another, and the economy remained underdeveloped.

After the first successful democratic election in 1989, the new regime decided to approach the inflation and struggling economy with a new policy. They removed many restrictions on free enterprise, and attempted to increase competition and domestic consumption. Only a few of these plans worked because many of the people in the public sectors of the economy took defensive measures to protect themselves from the decline in income they would have from the new plan. These defensive measures undercut the plan and not allowing new policies to function correctly. The next president and his cabinet once again strove to implement new policies as they realized that large reform was the only way to combat the raging inflation.

Ironically, because the Brazilian economy was diversified because of the past regimes failed attempts to decrease Brazil's dependence on foreign imports, the nation weathered the storm of the 2008 financial

^{14 &}quot;Brazil in Brief: The Economy." The Consulate General of Brazil in Hong Kong and Macau, accessed December 8, 2011, http://www.brazil.org.hk/ehtml/about_ was_econ.htm.

^{15 &}quot;Brazilian Economy," Embassy of Brazil in Wellington, accessed December 8, 2011, http://www.brazil.org.nz/page/brazilian-economy.aspx.

crisis fairly well. In the economics newspaper The Economist an article was released called "This Time it will be Different," in which the author argues that there are three aspects of Brazil's economy that will prove that the Brazilian economy will not be obliterated by its high dependency on foreign imports and markets. First, domestic demand for goods is high. Credit is able to grow and be extended to more citizens than before. Thus the consumption rate of the average citizen is increasing which strengthens the economy. Second, the Brazilian economy is well integrated into the world economy. They are not too dependent on any one nation or industry and so the hope is that even if a nation is unable to purchase a manufactured good from Brazil, they will continue to buy other Brazilian goods. The example given is that if China stops buying steel from Brazil they would continue to buy bananas. The third reason given by The Economist is the newly restructured central bank which is much more transparent and independent from the government than it has been in the past. In earlier times the central bank would just increase exchange rates when the economy was failing, which would kill growth.¹⁶

In another article published by *The Economist* in 2009, the author expresses great hope for the economy of Brazil. The article cites a report from The Brazilian Institute of Geography and Statistics (IBGE) says that the number of middle class income citizens increased from 42% in 2004 to 52% in 2008. These higher income levels bring more credit and thus more consumption to the traditionally poorer regions of Brazil. The article also points to other sources of growth. An expansion of employment by public sector institutions, and wealth redistribution programs like Bolsa Família has aided poor families to begin to stable incomes and level of capital. Bolsa Família is a program in which cash is transferred from the more rich families in Brazil down to the lower income families. This has obviously closed the gap between the rich and poor in Brazil, but the more economically successful families understandably don't appreciate the increased taxes. As the poor in Brazil begin to consume more, income levels will

^{16 &}quot;This Time It Will All Be Different." *Economist* 386, no. 8563 (January 19, 2008) Academic Search Premier.

^{17 &}quot;A Better Today," *Economist* 393, no. 8657 (November 14, 2009) Academic Search Premier.

continue to increase and more Brazilians will rise out of poverty in the wave of new economic opportunities.

The Brazilian Model 🖘

Obviously the approach to economic growth has been very different from that of China. Although the same stiff control of the economy by the government in China was reflected by the military regimes of Brazil, we can see that as the government opened up sectors of the economy to private ownership, economic conditions improved. The ideals of liberalism permeate Brazilian society much more than Chinese society. One similarity in ideology though is that of collective equality. The political ideology behind Communist China is that the government seeks equality among its citizens much more than it cares about individual rights and protections. In Brazil they have also sought more equality via social programs like Bolsa Família.

It is arguable that the economic growth in Brazil will be much more sustainable than that of China because of the higher level of individual freedom there. History has shown that as people continue to improve their economic situation they begin to turn towards political issues concerning their freedom. In China democracy has been adamantly rejected and peaceful protestors have even been killed. Many claim that it will only be a matter of time until the Chinese government cannot suppress its population's desire for political change. In Brazil, democracy allows much greater access to the government and laws by the people thus increasing their satisfaction with the regime rather than fomenting protest and rebellion. The Brazilian economy is finally leveling out, and it appears the government is letting the market regulate itself now that it has a more stable base and less dependence on specific foreign goods or markets. The United States State Department says about Brazil's current economic situation that, "For the first time, a majority of Brazilians are now middle-class..."18 and

The Brazilian economy's solid performance during the 2008 financial crisis and its strong and early recovery, including 2010 growth of 7.5%, have contributed to the country's transition from a regional to a global power. Expected to grow 3.5% in 2011 and 4.0%

^{18 &}quot;Background Note: Brazil."

in 2012, the economy is the world's seventh-largest and is expected to rise to fifth within the next several years.¹⁹

India: A Brief Political and Economic History &

India is another example of rapid economic development amidst a massive, impoverished population. According to the US State Department India's economy is expected to return to around 9% GDP growth rate despite the downturn in 2008 and 2009. Although the current growth in India is impressive, a large majority of India's population has been poor for decades. Like China, India is an ancient civilization. In the 1850s the British Empire took imperial control over India. After struggling against British rule using nonviolent resistance and non-cooperation championed by Mohandas Gandhi, India became a democratic republic in 1950. Much like Brazil, India struggled with economic development mixed with corruption and political violence over the last 60 years. ²¹

India's economy was heavily regulated between 1969 and 1974 and the inabilities of the government to meet the demands of their ever more mobilized population lead to more market liberalization from 1975 to 1990.²² Rahul Mukherji points out a comparison of the Chinese liberalization in the late 70s and 80s with that of India. He says, "The difference between India and China was that it was politically tougher for Mrs. Gandhi (1980–84) and her successor and son Rajiv (1984–89) to undo the economic legacy built from the late 1960s than it was for Deng to undo the legacy of Mao."²³ Mukherji says that the liberalization process was a gradual one in India in which they slowly dismantled controls whereas in China, because of the powerful capacity of the communist government, they were able to quickly do away with the regulations that impeded economic growth. Another correlation between India and China is that of education.

¹⁹ Ibid.

²⁰ US Department of State, "Background Note: India," Bureau of South and Central Asian Affairs, November 8, 2011, http://www.state.gov/r/pa/ei/bgn/3454.htm.

²¹ Ibid.

²² Rahul Mukherji. "The State, Economic Growth, and Development in India." *India Review* 8, no. 1 (January 2009): 83, Academic Search Premier.

²³ Ibid., 89.

As pointed out earlier by Yasheng Huang, education has been a critical part of the entrepreneurial spirit of the Chinese and the most recent economic boom in India can greatly be attributed to this as well. In the 1990s India began allowing foreign investment in their economy. Since then, like in China, large western corporations have been outsourcing jobs to the Indian population because the cost of labor is so low there. Some of the more substantial technology companies such as Oracle have been sending jobs to India "like crazy," says Clinton Greene, a Senior Director of Customer Support at Oracle.²⁴ India has invested money into educating its citizens especially in the technology industry. The demand for cheap, educated labor is extremely high in today's highly competitive global technology market. According to the US State Department: "India is capitalizing on its large numbers of well-educated people skilled in the English language to become a major exporter of software services and software workers..."25 As more foreign money and foreign companies flock to India to find cheap labor Indians will find more jobs and income. The theory follows that as Indians have stable income they will spend more, increasing their consumption and allowing for even more local business to boom. The state department is very optimistic for the Indian population in regards to their economic well-being. In regards to the growth of the middle class the State Department's website says, "Estimates are that the middle class will grow tenfold by 2025."26

The Indian Model ❖

Much like Brazil, India has sought economic growth first through strong regulation and economic control of market sectors. As the economy changed and altered in unperceived ways the governments of India and Brazil moved toward more open market liberalization. As foreign companies were allowed to capitalize on the population's willingness to work for cheap, money was pumped into the economy. As the impoverished population began to have a stable income, they were able to increase their purchasing power, further stimulating the

²⁴ Clinton Greene, Interview with Jordan Greene at Clinton Greene's Residence, December 9, 2011.

^{25 &}quot;Background Note: India."

²⁶ Ibid.

local economic growth. The middle class rises in these countries and the economy flourishes. Mukherji says in his article, "What are the drivers of India's growth? Industrial de-licensing after 1991 allowed Indian private companies to produce whatever they liked in almost all areas, without the need for a license."27 The deregulation allowed for small business entrepreneurs to produce whatever they wanted to increase their profitability. The relief from regulation allowed the middle class to create businesses and products that were marketable to each other. As money is exchanged at a greater rate, the economy continues to grow. In India, some of the social programs promoting education have helped greatly while other economic control systems appear to be holding back economic growth. 28 As India seeks to protect its market and promote the wellbeing of its citizens it continues to strive for a balance between open markets and social programs promoting Indian interests. As we can see from their approach, investing in the education of the middle class has been a very important part of the recent economic boom in India.

What can we deduce? -

Observing the recent economic developments of China, Brazil, and India there are a few things that we can conclude have been essential in their growth. First, basic high school education of the work force is indispensible. Both India and China have demonstrated the power of education both because it fosters entrepreneurs and attracts industries that require a work force with a higher level of technological competence. Even with just the high school level education the Chinese entrepreneurs in the 1980s had we can see the potential for economic success that is achievable from an educated work force. India is another great example of the power of education. The level of technical competence in many Indians today, massive technology companies like Oracle and Apple have flocked to India providing jobs and income and unprecedented levels for the Indian population.

Second, deregulation of certain market sectors opens up the economy for potential growth. We saw in all three cases that as the government allowed citizens to determine what they would like

²⁷ Mukherji. "Development in India," 92

^{28 &}quot;Background Note: India."

to produce the citizens created products and service marketable to each other. Third, initial capital for starting small businesses is also critical. In Brazil this was achieved through social programs like unemployment and wealth redistribution. In China private lending was allowed and small businessmen could borrow the money they needed to get a business off the ground. In Brazil credit was used to increase consumption now that many of the poor people have at least some capital to expend and lenders are thus more willing to loan money as well.

The fourth source of these economic booms was that of foreign investment. As local governments allowed for foreign investment, companies from abroad were allowed to capitalize on populations willing to work for low wages. Foreign money pumped into the economy created new jobs, allowing for impoverished people to create sustainable incomes for themselves, create their own businesses, and support other small businesses in their communities. Fifth, the governments of the countries strategically sought for future demand. China and India both actively pursued the technology industry and incentivized their workforce to be educated in the field. China and India are positioning themselves to be some of the world's largest technology producers. These three countries have very rich histories and diverse cultures. Their approaches to government differ from one another, especially that of China, but we can see some similarities in the way their economies have been able to boom. In the future we may see many developing economies follow the same tactics and history leads us to believe that they will have success. Citizens of the world who are seeking greater economic opportunity and growth should seriously consider what can be done to actually achieve this end without causing destructive side-effects. Governments who are seeking to better the standard of living for their citizens should look for ways to promote the conditions that have been identified in the cases of India, Brazil and China. Essentially we must look to empower the people. As we invest in the education and purchasing power of the citizens as well as allow the demand for their abilities to be unrestrained, the people will be empowered. When the people can create goods and services marketable to each other and offer their skills to other sources of income like foreign investors. As the people are empowered with purchasing ability and education the economic growth we all seek after will be realized.

BIOGRAPHICAL NOTES

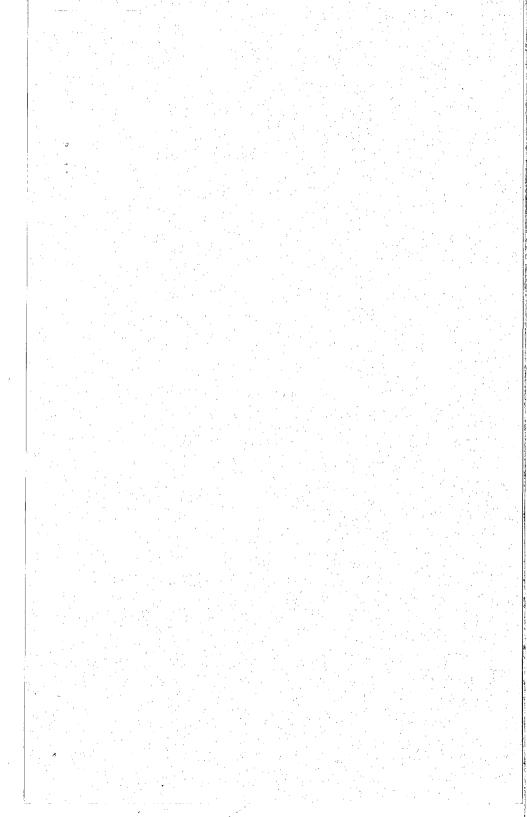
Jordan Greene grew up in Livermore, California. After high school graduation Jordan moved to Utah to go to Utah Valley University. It was during high school and his freshmen year of college that Jordan became interested in world affairs and political science. Though he admits that the interest may have started after the events of September 11, 2001.

Jordan served an ecclesiastical mission for the LDS church, which provided an opportunity to learn Spanish. Since returning in 2009, he has been studying international relations and a mix of criminal justice, economics, and peace and justice studies. Jordan plans on spending his life working in world affairs and doing his best to create better circumstances for as many people as possible.

If you enjoyed this article, you might also enjoy:

"History of Utah Money" by Dean R. White, Crescat Scientia, 7 (2009): 203–209.

"The Economic and Social Aftermath of the Black Death in England" by Tiffany L. Knoell, *Crescat Scientia* 5 (2007): 39–5.



A Religious Role in Reverse: The Military Chaplaincy

REBEKAH COUSINS

eligion and warfare have been intertwined for millennia, though these separate perspectives often conflict in goals and assumptions. Wars have been fought to assert particular religious ideologies; however, the United States asks its military chaplains, arguably those with the strongest convictions and emotions about religion, to set aside their attachment to their particular religion in order to serve the needs of a wide variety of belief systems. Chaplains have been present in the efforts of warfare for millennia. Their duties in warfare are much more complicated and demanding than a civilian ministry, and they experience the stress and danger of war alongside the soldiers they serve. Because their presence is intended to benefit the troops, they often must set aside their personal beliefs and individual welfare in order to best serve their unit. Though they will encounter those who do not share their religious beliefs, their duty is lay aside prejudice and worldview to best help others.

In the United States, the existence and role of military chaplains is related to the Establishment Clause of the First Amendment. Though the First Amendment prohibits the government from endorsing a particular religious view, it also guarantees the right to worship freely. Since the military, as an extension of the government, may disrupt the soldiers' usual religious observance, they must provide for the soldiers' religious needs. In an interview with Jesse Merriam, Robert W. Tuttle noted that in Abington School District v. Schempp, a court case concerning Bible reading in public schools, it was argued Bible reading was inappropriate because children have opportunities to read the Bible at times other than in school, and Bible reading in public schools becomes a government endorsement of religion. The

court then contrasted the school children with military chaplains, considering chaplains to be a suitable application of the Establishment Clause, because military duty may take soldiers into isolated areas where they cannot access civilian religious leaders and observances. Tuttle concludes by opining that contemporary courts would most likely state military chaplains are permitted but not required under the Establishment Clause, so long as they are providing for needs the soldiers cannot fulfill themselves. Because the Constitution guarantees the free exercise of religion, the military provides the means for the soldiers under its command to worship as they please to the best of their ability under the circumstances of their location and their mission.

Military chaplains are religious officials that are employed by the military to provide for the religious needs of the soldiers. In order to be accepted as a military chaplain, one must be "sensitive to religious pluralism and able to provide for the free exercise of religion for all military personnel," but the Army also stipulates "each chaplain ministers according to the tenets of his or her distinctive faith community." The military cannot force a chaplain to perform or administer services that are not of their own religion, but they are required to provide for the proper worship of other faiths. Christine Miller, a former Navy chaplain, recalls in a letter to the editor of *Church & State* how she ensured that Protestant sailors had what they needed for prayer groups and that Jewish sailors had access to kosher food, especially for Passover Seder. She considered these efforts a part of her duty despite the fact that she is Lutheran. Chaplains are also not permitted to attempt to convert those in their care.

In Kateoff v. Marsh, a federal appeals court stated that chaplains are not permitted to proselyte to troops or their families and dismissed

¹ Robert W. Tuttle interviewed by Jesse Merriam, "Accommodating Faith in the Military," *The Pew Forum on Religion & Public Life*, (July 3, 2008), http://www.pewforum.org/Church-State-Law/Accommodating-Faith-in-the-Military.aspx

² Careers & Jobs, s.v. "Chaplains," Go Army.com, accessed November 3, 2010, http://www.goarmy.com/careers-and-jobs/browse-career-and-job-categories/administrative-support/chaplain.html

³ Ibid.

⁴ Christine Miller, "Military Chaplains and Diversity," *Church & State* 58, no 11 (2005): 20, Academic Search Premier.

the case, the primary goal of which was to have the Army Chaplain Corp declared unconstitutional. Because the chaplains are employed and provided by the military, any proselytizing on their part could be construed as a military endorsement of a particular religion or the military forcing religious participation. 5 It can be difficult for chaplains to separate this aspect of their role from their duties in a military setting. In the Civil War bringing people to God and converting them was an accepted part of the chaplains' job and many saw it as their duty. They participated in baptisms for those about to go into battle and channeled the revivals that sprang up across the South. As one chaplain declared, "...I did it in order to win souls."6 This attitude is no longer permitted among military chaplains today. Although my primary focus is to explore the challenges faced by contemporary military chaplains, a history and account of the evolution of the role of the military chaplain is useful in discussing this topic. The history of an idea provides a more complete understanding of its current form, and the military chaplaincy as it appears today is simply another stage in the evolution of the concept of military chaplains, which fluctuates as assumptions are questioned. Much about the government and soldiers' attitudes toward and the role of military chaplains has changed, not in small part due to complaints and debate about the role of religion in a government-sponsored body.

Most of the controversy surrounding military chaplains arises from two phrases in the First Amendment that seem to oppose each other. One of these phrases prohibits Congress from creating any law "respecting an establishment of religion," and the second forbids Congress to prohibit "the free exercise" of religion. The second permits for the existence of military chaplains, but the first prohibits them from any activity that may imply the military's endorsement or enforcement of a particular religion. Recently, the use of faith-specific prayers has called into question whether or not the military has been obeying the implications of the first phrase. To avoid this conflict, the U.S. military has mandated that its chaplains use inclusive prayers, prayers

⁵ Steven R Obert, "Chaplains, Censorship, and the First Amendment," U.S. Naval Institute Proceedings 132, no.12 (2006) Academic Search Premier.

⁶ Charles Holt Dobbs, "Trying It On," in *The Spirit Divided: Memoirs of Civil War Chaplains* ed. John Wesley Brinsfield, Jr., 1st ed. (Macon, GA: Mercer University Press, 2005), 88.

that avoid reference to a specific set of beliefs, in multi-denominational mandatory settings. The military cannot mandate a chaplain's words in a voluntary religious setting, such as a religious service; that would violate the "free exercise," clause of the First Amendment, not to mention the chaplain's right to free speech, also found in the First Amendment. In public settings, such as military ceremonies, the military's support of the chaplains means that chaplains could be seen as an extension of the military. To avoid the appearance of endorsing or forcing religion, the military requires inclusive prayers in these settings. Recently a Navy chaplain named Gordon Klingenchmitt has embarked on a campaign to permit chaplains to pray as they please in all settings, claiming the military is encroaching on the chaplains' individual rights;7 however, a chaplain's presence is for the benefit of the soldiers. Chaplains, though representatives of specific religions, have an obligation to restrict the display of their own personal beliefs in order to meet the needs of the soldiers in the units they serve.

Chaplains are responsible for the welfare of all the soldiers whatever form that welfare takes. Inclusive prayers will not detract from this responsibility, but faith-specific prayers will, and the needs of the troops overrule the complaints of the chaplains. Though it may be particularly difficult for a chaplain to enable or permit the practices of a religion not their own without comment because a large part of their duty as a religious specialist is to encourage and exhibit their own religion, the legal reason for their existence is to provide for the free exercise of religion for the soldiers.

Despite the challenges and controversy raised by the topic of nondenominational prayer, chaplains prove their willingness and ability to overlook religious differences when faced with death. When someone is dying, the debates about chaplains' right are set aside and the chaplain does not hesitate to overlook religious differences and do for the dying what the dying desires, including rituals from another set of beliefs. The use of religion in battle is often related to the imminence of death when one is on a battlefield. Chaplain Donald E. Gnewuch in his article "A Sociology of Death and Dying" for the Military Chaplains' Review affirms, "An important aspect of the ministry of the chaplain to the dying involves dealing with the

⁷ Obert, "Chaplains, Censorship and the First Amendment," 22-24.

spiritual life and health of the dying person."8 On combat missions, chaplains have reported an increase in the number of soldiers who asked them to pray with them, and even those with no religious affiliation asked for confession and communion.9 For those with beliefs that require ministering by a religious specialist for the afterlife to be favorable, a military chaplain is essential, especially in war, when death is a matter of course to accomplish an army's goals. To some, death is only conquerable and salvation is only attainable with divine aid, which is symbolized by the presence of the chaplain. Confidence in the chaplain's ability to guide their souls after death allows soldiers to fight with more courage, and it also comforted the chaplains in the face of battle, as recounted by Jeremiah Snyder in his paper, "Let Us Die Bravely," when a chaplain administers absolution and last rites to a dying solider. 10 The component of death in warfare not only makes the presence of chaplains reassuring, but for some people chaplains are necessary for the welfare of their soul.

Because of the variety of views of death and the afterlife among religions, a chaplain's duty towards the dying may require them to set aside their own personal beliefs about the divine and the afterlife. Chaplains do for the dying what the dying desire. Because they are responsible for many people, many of whom do not share their faith, this may require them to stretch outside of their own religious morays. A rabbi may recite passages from the Qur'an to a dying Muslim; a chaplain of any denomination may administer last rites to a Catholic, say traditional Hebrew prayers for a Jew, or simply pray on the behalf of a Protestant. Chaplains in the Civil War were often given the

⁸ Donald E. Gnewuch, "A Sociology of Death and Dying," in *Death and Dying Spring*, ed. John J. Hoogland and Joseph E. Galle III (Staten Island, NY: Military Chaplains' Review, 1976), 67.

⁹ Christine R. Barker and Ines-Jacqueline Werkner, "Military Chaplaincy in International Operations: A Comparison of Two Different Traditions," *Journal of Contemporary Religion* 23, no. 1 (2008): 47–62, doi:10.1080/13537900701823037.

¹⁰ Jeremiah Snyder, "Let Us Die Bravely: United States Chaplains in World War II," *Undergraduate Research Journal at UCCS* 2, no.1 (2009): 113–14, http://ojs.uccs.edu/index.php/urj/article/viewFile/44/63.

¹¹ Dan Ephron, "One Flag, Many Faiths," *Newsweek* 149, no. 19 (May 7, 2007): 34, Academic Search Premier.

¹² Snyder, "Let Us Die Bravely," 121.

personal effects of soldier about to enter or already embroiled in battle for safekeeping and to pass on to loved ones if the soldier died, which exhibits the trust that accompanies the title of chaplain. Many chaplains reported directly to field hospitals, where they were employed in caring for the wounded both spiritually and physically. They baptized and administered the sacrament to the condemned who asked for it, many of them deserters. Civil war chaplains also visited and administered sacraments to enemy wounded and prisoners. When the dying are brought to the chaplain he or she is willing to overlook differences of faith and instead do everything in their power to aid and comfort the dying, including overlooking their own religious convictions in favor of another's. Though their participation in the military requires a chaplain to balance his or her loyalty between duty and religious belief, chaplains are willing to comfort the dying in any way available to them.

Another dilemma that faces the contemporary chaplaincy is recent complaints from students at military academies that their superiors have exerted pressure on them to participate in religious activities. Robert W. Tuttle, when being interviewed by James Merriam, cautioned against confusing encouragement to participate in optional religious services with required attendance at mandatory military events. Tuttle notes that most disputes involve "social pressure rather official requirements." ¹⁶

This trend is especially concerning to those in the military without any religious affiliation. The military has instructed its chaplains to attend to the religious needs of all personnel, which includes respecting the rights of nonbelievers, 17 but atheists and the non-religious still feel pressured and discriminated against. Some of them have formed The Military Association of Atheists and Freethinkers. This organization

¹³ John Wesley Brinsfield Jr. ed., "Ministry on Campaigns," in Brinsfield, *The Spirit Divided*, 100.

¹⁴ Francis Milton Kennedy, "Chancellorsville and Gettysburg," in Brinsfield, *The Spirit Divided*, 142, 146, 148.

¹⁵ James B. Sheeran, "Field Hospital at Chancellorsville," in Brinsfield, *The Spirit Divided*, 158-59.

¹⁶ Tuttle, "Accommodating Faith."

¹⁷ Ibid.

expresses their desire to aid chaplains in understanding their point of view, which stresses the chaplains' duty to serve all members by protecting non-theist beliefs and working against discrimination. They provide a pledge that chaplains can sign to prove their intent to uphold these duties. They support the addition of secular chaplains to the military, with the same responsibilities as faith chaplains, 18 and some countries have begun to provide Humanist and other nonreligious chaplains. 19 These arguments stress that people seek chaplains for counsel and advice and trust their discretion, and these qualities can still be present in the absence of religious discussion. Though atheists and non-religious soldiers may present a particular frustration to someone as immersed in religion as a chaplain is required to be, their legal duty is to provide for the counsel and comfort of every soldier, not chastisement for a different opinion. They are also morally obligated to provide what comfort it is in their power to give, even that of practicing a religion different from their own.

Entering military service involves a loss of social support, as one is physically removed from family, friends, and even familiar geography. Not only are they no longer able to rely upon the support system they once did, the nature of the tasks they have been sent to accomplish are often dangerous and high-pressure, making for a stressful environment. This is another reason chaplains are deemed necessary, as they represent a person or group specifically set aside to aid the soldiers in dealing with these problems. Even those with no religious affiliation seek the counsel of chaplains because they can count on the chaplain's discretion.

One of the many ways a chaplain's job differs in a military setting (as opposed to a civilian setting) is the length of time that a supplicant and a chaplain may be able to spend talking together, which affects the depth of the relationship and the quality and degree of success the chaplain is able to attain in counseling. Jeremiah Snyder quotes Chaplain Wuest, who says, "the basic fundamental for the chaplain to succeed in the duties of his office is that he be a good and sympathetic

^{18 &}quot;Chaplain Outreach," Military Association of Atheists and Freethinkers, accessed November 4, 2010, http://www.maaf.info/chaplain.html.

¹⁹ Barker and Werkner, "Military Chaplaincy in International Operations," 47-62.

listener."²⁰ Because chaplains are responsible for many people, many of whom are not of their faith or who are not religious, basic counseling and advice are their primary duties to the soldiers who are far from home, in dangerous situations, and who may be unable to do anything about their problems but talk about them.

Death or disability means transport from the community of active military duty, and the military chaplain has a limited amount of time to counsel the family of a soldier killed in action or a wounded combatant before they are transferred. When the chaplain tries to relate to a solider about the grief of a loss, they are aware that their own relationship with the soldier will soon end. The nomadic nature of the military makes the job of a chaplain difficult, but religion can provide a sense of community to the uprooted solider who may not recognize the people around him or her but will recognize the religious service and manner of worship. Chaplains often serve people who are strangers to them and with whom they may never become familiar. They are also responsible for hundreds of people over the course of their career. Though the nomadic nature of the military makes it hard, it is essential for the chaplain to see the supplicant as a person, not a stranger.21 Unlike a civilian ministry, in which a religious specialist would deal with the local community and those familiar to them, in the military a chaplain must relate to hundreds of new faces and make an impression upon them in a short time.

The job of chaplain is stressful and their goal of achieving cohesion within their unit is not easy. Chaplains are responsible for the spiritual health of soldiers and their families, a group of people that can reach 1500 individuals, ²² far more than they would be expected to administer to in the civilian world. The nature of military service often requires chaplains to be in dangerous situations, and unlike the soldiers they serve, they are unarmed. Currently most armies restrict chaplains' access to weapons because the Geneva Convention lists chaplains as

²⁰ Snyder, "Let Us Die Bravely," 120.

²¹ Eugene E. Allen, "The Military Way of Death and Ministry," in Hoogland and Galle, *Death and Dying Spring*, 17–22.

²² Careers & Jobs, s.v. "Chaplains."

noncombatants.²³ However, in the Civil War there were chaplains of both sides who felt it was their duty to enter battle and fight with their regiment, despite the official stance of both sides that chaplains were noncombatants.²⁴ The chaplains of today still feel that duty to their troops and many will accompany their unit wherever they go, including combat. They recognize their influence upon the soldiers' morale and sense of unity. These stressors take their toll upon chaplains, and occasionally they come to detest the enemy that is causing the pain and death that surrounds them. It is their responsibility to care for the dead, including ministering at the funeral, and they are directly involved in each loss. However, they push down their own feelings and discourage their soldiers from hatred; they pray and aid wounded enemy combatants as an example to those they serve. 25 This is almost a direct contradiction to the army's attitude toward the enemy; another thin line military chaplains must walk in their duties toward their religion and their military.

In addition to loyalty to their troops, chaplains are also loyal to their church, which can come into conflict with their role in the military. Many churches have a pacifist stance, or at least disapprove of violence, and if the church and state disagree about the military's actions, it causes a dilemma for chaplains. Even when a church publicly disapproves of the military's actions, generally the church administration will not withdraw their support of the military chaplains and they would not consider removing them. Though there may be questions about whether a situation could arise in which chaplains may feel morally compelled to refuse to accompany troops, when asked in a study conducted by Christine R. Barker and Ines-Jacqueline Werkner, most felt that their loyalty to their troops outweighed any qualms they may have.²⁶

In his discussion of World War II U.S. Chaplains, Jeremiah Snyder asserts that after World War I, churches in America were embarrassed about the enthusiasm with which they supported the war after realizing

²³ Roy John Honeywell, *Chaplains of the United States Army* (Washington: Office of the Chief of Chaplains, Dept. of the Army, 1958), 8, 253.

²⁴ Brinsfield, "Ministry on Campaigns," 95.

²⁵ Snyder, "Let Us Die Bravely," 124-25.

²⁶ Barker and Werkner, "Military Chaplaincy in International Operations," 57-58.

the toll it took upon the soldiers sent to fight. When World War II began to loom on the horizon, most churches either refused to become involved or actively opposed the war. Their vehemence was only abated by the attack on Pearl Harbor. Nonetheless, many chaplains still struggled with the idea of war and felt that it was "irreconcilable with religion." Some even questioned their beliefs after witnessing the horrors of war. But they were motivated by patriotism and the belief that their presence was essential to the physical and spiritual welfare of the soldiers. 28

Though as religious specialists it may be particularly difficult for military chaplains to acknowledge or condone a religion not their own, especially since a large part of a civilian religious specialist's duty is to be an example and encourage a particular faith, the reason for the existence of the military chaplaincy is the service of the soldiers. It is their responsibility to enable the soldiers to take comfort in their faith, whatever form that may take. Chaplains are brought in to provide spiritual and religious guidance, but they are asked to subordinate their own personal convictions to serve the soldiers and the larger purpose of the army. In spite of this, they accomplish their demanding and often contradictory duties skillfully, and their patience and tolerance is an example to the wider community. Despite the contradictions and controversy which surround spiritual leaders in a secular army, the position of the military chaplain is both beneficial and worth understanding because if they cannot accomplish tolerance here, in a stressful setting that not only fosters but requires cohesion and trust, there is no hope for rest of us to accomplish the same.

²⁷ Snyder, "Let Us Die Bravely," 115.

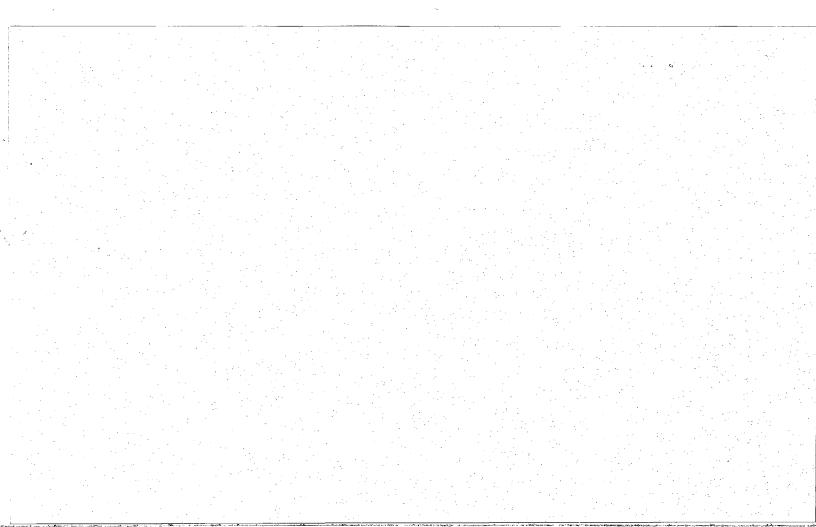
²⁸ Snyder, "Let Us Die Bravely," 124–25.

BIOGRAPHICAL NOTES

Rebekah Cousins is currently a junior at Utah Valley University. She is pursuing a double major in history and anthropology.

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THE SUPREME COURT'S INFLUENCE IN AMERICA: A HISTORICAL REVIEW OF JUDICIAL INFLUENCE ON ABORTION LAW

STEPHEN M. SWENSEN

hroughout the last half century abortion has been subjected to heightened controversy throughout the United States affecting individuals, families, religious groups, politics, and the law. Since 1973 different abortion cases have come before the Supreme Court for judicial review, and after long and tedious analysis, new abortion law has been implemented into everyday American life. This review of judicial law making will focus on how the Supreme Court's various decisions concerning abortion legislation has influenced, affected, and changed American life. As well as showing the Court's increasing impact on abortion law, the following points will be addressed: First, the history and controversies surrounding abortion, second, political ideologies and their influences on judicial rule making, third, State and Federal abortion legislation, and fourth, the Supreme Court's involvement.

Since the nineteenth century abortion has grown in its influence within US law making. Prior to the Civil War no indictment would take place for an abortion if the female consented to an abortion prior to "quickening." By the beginning of the Civil War there was set in motion a persuasive anti-abortion movement, which affected legislation by insisting states implement or revise their laws to prohibit

¹ Quickening in this contest refers to when in the stage in gestation fetal movement is felt.

abortion at all stages of pregnancy. By 1967 forty-nine states as well as the District of Columbia classified abortion as a felony.²

Since the significant case of *Roe v. Wade* in 1973 abortion has taken an influential and often controversial role in the political arena. Prior to *Roe v. Wade*, abortion was not a national issue, but rather was determined by State legislation. Lewis and Shimabukuro in *Political Almanac* give an overview of abortion laws prior to *Roe v. Wade*.

According to the National Organization for Women, during the early part of the twentieth century nearly fifty percent of maternal deaths came about because of the performance of an illegal abortion. During the 1950s and 1960s it has been estimated that up to 1.2 million illegal abortions took place. These procedures were often extremely dangerous killing as many as one hundred and sixty to two hundred and sixty women per year.³

As the issue of abortion became more polarized, it started to take an increased role in politics by questioning the intention of the Constitution. The issue revolves around both a woman's right to privacy and the desire to protect the rights of the unborn child. The wide spectrum of political views on this issue reflects strong opinions about abortion on both sides of political ideology.⁴

On the forefront of many federal or state political campaigns, the topic of abortion is ever present. Due to the political divide on abortion, the Supreme Court is very much influenced in its decision making because the justices bring their personal beliefs with them into the Court. Justices come into their judgeships with certain political ideologies in place, which are certainly influenced by the political spectrum. Over the last few decades partisanship has become increasingly contrasting in ideological opinions concerning abortion.⁵ Democrats have become increasingly pro-choice, while Republicans

² J. Lewis and Jon O. Shimabukuro, "Abortion Law Development: A Brief Review". Almanac of Policy Issues, January 28, 2001, http://www.policyalmanac.org/culture/archive/crs_abortion_overview.shtml.

^{3 &}quot;Before and After Roe," National Organization for Women, November 2002 http://www.now.org/issues/abortion/roe30/beforeafter.html

⁴ Doug Linder, "Right to an Abortion" Exploring Constitutional Conflicts, http://law2.umkc.edu/faculty/projects/ftrials/conlaw/abortion.htm.

⁵ Benjamin Highton, "Policy Voting in Senate Elections: The Case of Abortion," *Political Behavior*, 26, no. 2. (June 2004): 181.

have strongly voiced their pro-life stance. We have seen, especially since the 2000 presidential election, that the issue of abortion has created a wide chasm between Republicans and Democrats.⁶

Republicans lean toward a pro-life position and have voiced that opinion since 1976. The Republican Party has stated in its platform:

[Republicans] believe the unborn child has a fundamental individual right to life which cannot be infringed. We therefore reaffirm our support for a human life amendment to the Constitution, and we endorse legislation to make clear that the Fourteenth Amendment's protections apply to unborn children. We oppose using public revenues for abortion and will not fund organizations which advocate it. We commend those who provide alternatives to abortion by meeting the needs of mothers and offering adoption services. We reaffirm our support for appointment of judges who respect traditional family values and the sanctity of innocent human life.⁷

In complete contrast, the Democratic Party has stood firm upon its view of pro-choice by stating its respective view within its 2000 and 2004 platforms:

[Democrats] believe in the privacy and equality of women, we stand proudly for a woman's right to choose, consistent with *Roe v. Wade*, and regardless of her ability to pay. We stand firmly against Republican efforts to undermine that right. At the same time, we strongly support family planning and adoption incentives. Abortion should be safe, legal, and rare. 8

Democrats stand behind the right of every woman to choose. We believe it is a constitutional liberty . . . Our goal is to make abortion more rare, not more dangerous.

⁶ E.G. Carmines and J. Woods, "The Role of Party Activists in the Evolution of the Abortion Issue," *Political Behavior*, 24, no. 4. (December 2002): 361.

⁷ Republican Party Platforms, "Republican Party Platform of 1992," *The American Presidency Project Online*, Gerhard Peters and John T. Woolley eds, August 17, 1992 http://www.presidency.ucsb.edu/ws/?pid=25847.

⁸ Democratic Party Platforms, "Democratic Party Platform of 2004," *The American Presidency Project Online*, Gerhard Peters and John T. Woolley, eds., July 26, 2004, http://www.presidency.ucsb.edu/ws/?pid=29613. Italics added.

We support contraceptive research, family planning, comprehensive family life education, and policies that support healthy childbearing.9

It is easily pointed out that both parties in the past sixty years have become more and more extreme in their views of abortion rights and regulation. Edward Carmines and James Woods point out that the Democratic and Republican parties are both as extreme in views as the other. Democrats are clearly suspicious of any reform or restrictions that would limit abortion access. Al Gore even pledged during his 2000 presidential campaign that he would nominate only pro-choice justices to the Supreme Court.¹⁰

Due to the fact that abortion legislation today is extremely influenced by ideology, those same ideological influences end up affecting the judicial branch. It seems that state and federal legislation end up on the desk of the Supreme Court for judicial review whenever there is an abortion conflict.

The Court's influence on abortion law begins, in a minor way, at the state level. State legislation varies within the federal code for abortion. Lawsuits begin, and are appealed within each individual state regarding abortion law. Roe v. Wade came about because of the conflict between state laws nationwide. There was no set national standard for abortion law at the time. All law was determined by the particular state. At the time, Texas had a criminal law in effect, which made it "a crime to 'procure an abortion,' as therein defined, or to attempt one, except with respect to 'an abortion procured or attempted by medical advice for the purpose of saving the life of the mother."

Prior to *Roe v. Wade*, states had their own statutes involving abortion. Thirty of the fifty states had made abortion illegal in the state with no exceptions. Only four states allowed abortion upon request; and the other sixteen states had varying statutes concerning abortion dealing with the safety of the woman or with reasons of how

⁹ Democratic Party Platforms,"Democratic Party Platform of 2000," *The American Presidency Project Online*, Gerhard Peters and John T. Woolley, eds., August 14, 2000, http://www.presidency.ucsb.edu/ws/?pid=29612.

¹⁰ Carmines and Woods, "The Role of Party Activists", 362.

¹¹ Roe v. Wade, 410 U.S. 113 (1973), http://www.law.cornell.edu/supct/html/historics/USSC_CR_0410_0113_ZO.html.

the women became pregnant (Refer to Table 1). Consequently, there were many women traveling to different states or outside the country in order to get an abortion.¹²

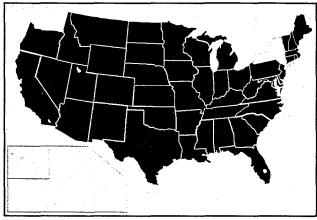


Table 1: Abortion Laws Nation-Wide Prior to Roe v. Wade

Red= Illegal.

Purple Legal in the Case of Rape.

Blue Legal in the Case of Endangering Women's Health.

Green-Legal in the Case of Endangering women's Health, Rape, Incest, or Likely Damaged Fetus.

Yellow= Legal upon Request.

Source: Stateline Organization, Abortion Pre-1973, http://www.stateline.org/live/ViewPage.action?siteNodeId=136&contentId=121780

At the federal level we have seen new and revised legislation concerning abortion take effect with each new congress. In 2003 the Congress, backed by President George W. Bush, created the Partial-Birth Abortion Ban Act of 2003. This act "Amends the Federal criminal code to prohibit any physician or other individual from knowingly performing a partial-birth abortion." The bill also allows abortion to be completed "when necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury." The Bill was introduced into Congress in February 2003 and was signed into law by President Bush the following November. It passed through Congress by a 64–33 margin, once again showing that the

¹² Norma L. McCorvey and Andy Meisler, I am Roe: My Life, Roe v. Wade, and Freedom of Choice (New York: Harper Collins, 1994), 73–75.

^{13 &}quot;Senate Vote On Passage: S. 3 [108th]: Partial-Birth Abortion Ban Act of 2003," Civic Impulse, LLC, http://www.govtrack.us/congress/vote.xpd?vote=s2003-51.

¹⁴ Ibid.

¹⁵ Ibid.

party holding majority in the legislative and executive branches pushes its ideological preference into American law. Later in this review we will discuss in detail the circumstances surrounding three of these prominent abortion cases and how they have influenced American life through case law.

Over the last sixty years abortion legislation seems to be inseparably connected with bench law (laws created by case outcomes). The Supreme Court has reviewed abortion cases and congressional legislation surrounding abortion often since *Roe v. Wade.* When the court makes a ruling on abortion, it in turn affects individual opinions of the Court's influence in America. This gives the Supreme Court more power as it makes new laws from the bench.¹⁶

In regards to abortion, the opinions of women matter most because abortion affects a woman directly if she chooses to terminate her pregnancy. However, women tend to believe that the entire process in creating abortion law is outside their control and that legislation and bench law never takes their opinions into consideration. In 1993 authors Amar Jesani and Aditi Iyer stated, "Women and their right to determine their sexuality, fertility, and reproduction, are considerations that have seldom, if ever, been taken into account in the formulation of policies related to abortion." The bottom line is that the judicial branch does indeed have substantial control on the issue of abortion. *Roe v. Wade* is the case that started the abortion movement of the twentieth century; it has become the go-to case for most abortion issues that have come before the Supreme Court. It is nearly impossible to research any abortion case without *Roe v. Wade* coming into the framework.

Roe v. Wade is one of the most influential cases on abortion in America. In June of 1969, Norma McCorvey found out that she was pregnant with her third child. She wanted an abortion, but could not

¹⁶ Charles H. Franklin and Liane C. Kosaki, "Republican Schoolmaster: The U.S. Supreme Court, Public Opinion, and Abortion," The American Political Science Review 83, no. 3 (September 1989): 751.

¹⁷ Amar Jesani and Aditi Iyer, "Women and Abortion," *Economic and Political Weekly* 28, no.48 (November 27, 1993): 2591.

because of Texas' anti-abortion laws. ¹⁸ Friends and family counseled her to claim it was rape in order to get an abortion legally; however, this would not work because there was no police report claiming the rape had taken place. She then attempted to receive an illegal abortion, but upon arrival, she found the police had closed it down. ¹⁹ Finally, she was referred to young attorneys Linda Coffee and Sarah Weddington. Weddington would soon argue one of the most controversial cases in the history of women's rights before the United States Supreme Court. ²⁰

In 1970, Weddington and Coffee filed suit in the US District Court of Texas for Norma McCorvey, who went under the alias of Jane Roe. The defendant in the case would be the District Attorney for Dallas County, Henry Wade, who would represent the state of Texas in the lawsuit. McCorvey did not claim her pregnancy to be the result of rape, but rather asserted the right to have an abortion upon request, which opposed the Texas criminal abortion law.²¹

The District Court ruled in favor of McCorvey on the merits of the case. However, it did not grant her any equitable remedy against the enforcement of the state abortion laws. The ruling was appealed and made its way up to the Supreme Court's bench in October 1972.²² Sarah Weddington would argue the motion before the Burger Court²³ with Robert Flowers, an Assistant District Attorney of Texas, arguing the case for the appellee.²⁴ The appellants claimed that abortion is a right that all women have under the Ninth Amendment of the Constitution, since abortion is a right, which is "not enumerate[ed] in the Constitution" and also "shall not be construed to deny or disparage

¹⁸ This is in reference to the Texas Criminal Abortion Law that was in place prior to the ruling of *Roe v. Wade*. This law made any abortion within the boundaries of the State of Texas illegal.

¹⁹ McCorvey and Meisler, I am Roe, 114-15.

²⁰ Career Bios, "Sarah Weddington," 2008, http://www.career-bios.com/law-politics/sarah-weddington/.

²¹ McCorvey and Meisler, I am Roe, 73-75

²² Ibid., 139.

²³ The Burger court consisting of: Chief Justice Warren Burger, Associate Justices William Douglas, William Brennan, Jr., Potter Stewart, Byron White, Thurgood Marshall, Harry Blackmun, Lewis Powell, Jr., and William Rehnquist.

²⁴ Roe v. Wade, 410 U.S. 113 (1973), http://www.law.cornell.edu/supct/html/historics/USSC_CR_0410_0113_ZO.html.

others retained by the people."25 This made the ability to request an abortion, by means of the Constitution, a right afforded to all women.

Weddington began oral arguments by demonstrating how making abortion illegal can cause problems where the life of the woman might not necessarily be in danger until it is too late. Weddington stressed how important it is to make abortion legal throughout the nation in order to protect women in extreme circumstances, stating in her argument:

I think it's important to note the range of problems that could be presented to a doctor. The court, for example, cited the instance of suicide, if a woman comes in alleging that she will commit suicide. Is it then necessary for him to do or can he do an abortion for the purpose of saving her life? Or, is that a situation where he has to have something more? I think all of those questions cannot be answered, at this point.²⁶

Weddington continued her argument by pointing out all the different possible outcomes that could make it extremely difficult for a doctor to perform an abortion if it was, in fact, the best option. She continued by pointing out Jane and John DOE, the alias for the married couple in the *Roe v. Wade* case. She continued, "This brings up the married couple in our case. The woman in that case had a neurochemical condition. Her doctor had advised her not to get pregnant, and not to take the birth control pills." However, she did get pregnant and, in the same boat as Ms. McCorvey, could not obtain an abortion as desired. Ms. Weddington proceeded:

She was using alternative means of birth control, but she and her husband were fearful that she would become pregnant and that, although the neurochemical condition would impair her health, evidently her doctor did not feel that she would die if she continued the pregnancy. And certainly they were very concerned about the effect of the statute, and her physician seemed uncertain about its

²⁵ US Constitution Amendment IX.

²⁶ Roe v. Wade, 410 U.S. 113 (1973), The Oyez Project at IIT Chicago-Kent College of Law, http://www.oyez.org/cases/1970-1979/1971/1071_70_18.

²⁷ Ibid.

implications. The doctors in our state continue to feel that our law is vague. ²⁸

Weddington also pointed out that because of the Texas statute on abortion, women who seek an abortion cannot be prosecuted, therefore turning to illegal abortion as a means to perform an abortion with little or no consequences legally, which at the same time would carry possible risks of severe infections, permanent sterility, and the possibility of death. Some women had even turned to self-abortions as an option, which may lead to the most dangerous outcome of illegal abortions: the death of the woman.²⁹ This points out the importance of a woman's right to have an abortion and to not simply hide the issue by making abortion illegal. Weddington makes the point that it is important to avoid legislation, which could lead to dangerous activities such as illegal abortions and self-done abortions. She claimed the Texas law was doing just that.

As the case continued the question was posed: does the fetus also have a right to life? Is the fetus a person protected under the Constitution? Robert Flowers, advocate for the appellee, began his argument with these words, "It is the position of the state of Texas that upon conception we have a human baby, a person within the concept of the Constitution of the United States and that of Texas also," pushing for the conservative view that the fetus does in fact have rights under the Constitution of the United States.

The Supreme Court was then given the power to decide what the Fourteenth Amendment of the Constitution defined as a human being. Would an unborn fetus be afforded those same rights to live, and therefore save it from being aborted; or rather would the woman have the right to request an abortion? On January 22, 1973 the Supreme Court ruled in favor of Roe with a vote of seven to two. Justice Blackmun would deliver the opinion of the court, which stated:

We forthwith acknowledge our awareness of the sensitive and emotional nature of the abortion controversy, of the vigorous opposing views, even among physicians, and

²⁸ Ibid.

²⁹ Íbid.

³⁰ Ibid.

of the deep and seemingly absolute convictions that the subject inspires . . .

We find it unnecessary to decide whether the District Court erred in withholding injunctive relief, for we assume the Texas prosecutorial authorities will give full credence to this decision that the present criminal abortion statutes of that state are unconstitutional.³¹

The outcome of the case gave women the right to have an abortion nationwide (within the first trimester of the pregnancy). As it became law it changed the makeup of the nation. This case gave women a right under the Fourteenth Amendment that they hadn't had up to that point in US history.

Consequently the ruling of the Supreme Court has been the foundation of many other court cases and opinions concerning abortion throughout the last half century. Many abortion cases since 1973 can be traced back to *Roe v. Wade*; however, it is interesting to note the fluctuation between public opinion concerning the trimester rule laid out in *Roe v. Wade* agrees with the political ideology in power at the time of the given opinions shown in Chart 1. Speculation

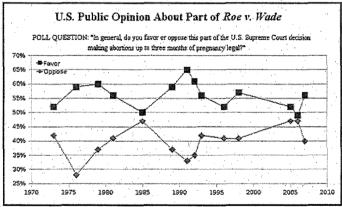


Chart 1: SUPPORT for the Roe v. Wade decision that made abortions legal during the first three months of pregnancy has hit its lowest level since 1985, a Harris Interactive poll shows. U.S. adults are now almost equally split on the ruling, with 49% saying they favor it, and 47% opposing, according to the poll. Harris has surveyed Americans on abortion since 1973.

Source: The Wall Street Journal, U.S. Public Opinion About Part of Roe v. Wade: 2006 data, http://online.wsj.com/public/resources/documents/info-harris0503.html

³¹ Roe v. Wade, 410 U.S. 113 (1973), http://www.law.cornell.edu/supct/html/historics/USSC_CR_0410_0113_ZO.html.

might be made that the reasoning behind this is due to the ideological preference of the president and congress in power, which the people of the United States vote into office. It is important to keep in mind that these same individuals voted into political office are in turn the ones who appoint and vote on Supreme Court Justices.

After *Roe v. Wade*, abortion and the problems surrounding it became an issue the Supreme Court would continue to address. President Ronald Reagan pushed to have pro-life justices appointed. He accomplished his goal by elevating William Rehnquist to the position of Chief Justice and by appointing Sandra Day O'Connor, Antonin Scalia, and Anthony Kennedy.³² Despite Reagan's conservative intentions, Kennedy and O'Connor turned out to often be "swing" votes within the Supreme Court. This upset many political conservatives, who felt that Justice O'Connor as well as other conservative justices should vote strictly upon conservative party lines.³³ This then would affect the outcome of *Planned Parenthood v. Casey* because it was supposed that the Supreme Court was composed of fairly conservative justices at the time; however, the outcome would not fully represent that conservative ideology.

In 1982 The Pennsylvania State Congress put into state legislation the Pennsylvania Abortion Control Act of 1982. This piece of legislation was later amended in 1988 and 1989. The amendments were the cause of the lawsuit *Planned Parenthood v. Casey*. The first amendment clarifies that except in cases of "medical emergency", a woman seeking an abortion must give her informed consent prior to the abortion procedure, and must be provided with certain information at least 24 hours before the abortion is performed, 34 simply meaning that a woman seeking an abortion must wait 24 hours after she requests an abortion in order for the procedure to be performed. The second amendment clarified that a minor cannot obtain an abortion without the informed consent of one of her parents; judicial bypass option if the

³² David M. O'Brien, "Why Many Think That Ronald Reagan's Court Appointments May Have Been His Chief Legacy," *George Mason University's History News Network*, April 3, 2005, http://hnn.us/articles/10968.html.

³³ Ibid.

^{34 &}quot;Pennsylvania's Abortion Control Act," People for Life Organization, http://www.peopleforlife.org/cttl_act.html.

Planned Parenthood v. Casey was one of the first cases that would have the opportunity to overturn *Roe v. Wade.* Many politicians and citizens with pro-choice ideology were worried that it would be overturned, because over the last decade Reagan and Bush had appointed six of the nine justices.⁴² It is important to note, due to the commonly known historical evidence that most presidents try and appoint justices who believe in the same ideologies they do. Presidents Reagan and Bush Sr. were very conservative presidents, creating a supposedly conservative court, which worried liberals.⁴³

The arguments began with Kolbert pointing out the importance of Roev. Wade in the rights of women nationwide and that the Constitution provided the highest level of protection for a woman's childbearing decisions. This outcome has "enabled millions of women to participate fully and equally in society. The genius of Roe and the Constitution is that it fully protects rights of fundamental importance." She pointed out the fundamental issues that the Planned Parenthood organization believe, as found in their mission statement:

[It is] the fundamental right of each individual, throughout the world, to manage his or her fertility, regardless of the individual's income, marital status, race, ethnicity, sexual orientation, age, national origin, or residence . . . We believe that reproductive self-determination must be voluntary and preserve the individual's right to privacy. 45

As the arguments continued, Kolbert pointed out that this case was about a woman's right to privacy and that this right was upheld by

^{42 &}quot;Biographies of the Current Justices of the Supreme Court," Supreme Court of the United States of America http://www.supremecourt.gov/about/biographies.aspx.

⁴³ O'Brien, "Why Many Think That Ronald Reagan's Court Appointments May Have Been His Chief Legacy."

⁴⁴ Planned Parenthood v. Casey, 505 U.S. 833 (1992), The Oyez Project at IIT Chicago-Kent College of Law, http://www.oyez.org/cases/1990-1999/1991/1991_91_744.

^{45 &}quot;Mission Statement," Planned Parenthood Federation of America, http://www.plannedparenthood.org/about-us/who-we-are/vision-4837.htm.

Roe v. Wade. She simply showed the importance of Roe v. Wade in the lives of American women, since it gave rights never before granted.⁴⁶

In contrast, Solicitor General Preate argued that *Roe v. Wade* did not give women the right to an abortion on demand (which is true, the case itself did not give abortion on demand privileges). The Pennsylvania statute created necessary regulations needed to protect the state and women, while allowing them the right to an abortion. Attorney Starr also argued the point that the Pennsylvania legislature was justified in placing these requirements on a woman seeking an abortion.⁴⁷

The outcome of the case had the potential to reverse *Roe v. Wade* because the Supreme Court was seen as a conservative court at the time. Justice O'Connor wrote the opinion finding that all the amendments, except the Husband Notification clause, were constitutional, for the reason that the remaining lawful amendments had not created an undue burden to the woman. The Supreme Court stated in its opinion that "the spousal notice requirement . . . places an undue burden on a woman's choice, and must be invalidated for that reason." The Court concluded by stating the importance of not over-stepping its mandate to interpret the Constitution:

Our Constitution is a covenant running from the first generation of Americans to us and then to future generations. It is a coherent succession. Each generation must learn anew that the Constitution's written terms embody ideas and aspirations that must survive more ages than one. We accept our responsibility not to retreat from interpreting the full meaning of the covenant in light of all of our precedents. We invoke it once again to define the freedom guaranteed by the Constitution's own promise, the promise of liberty.⁴⁹

⁴⁶ PlannedParenthoodv. Casey, 505 U.S. 833 (1992), The Oyez Projectat IIT Chicago-Kent College of Law, http://www.oyez.org/cases/1990-1999/1991/1991_91_744.

⁴⁷ Ibid.

⁴⁸ Planned Parenthood v. Casey, 505 U.S. 833 (1992). http://www.law.cornell.edu/supct/html/91-744.ZS.html.

⁴⁹ Ibid.

In contrast Professor Chris Whitman points out that this was a moral issue as much as it was a constitutional one. He stated, "Casey preserved Roe while suggesting that most state restrictions on abortion will survive constitutional scrutiny. This is a consequence... of plurality's failure to appreciate the depth of the moral conflict involved."50

One of the more recent cases is *Gonzales v. Carhart*, which consists of conservative legislative and executive branches attempting to control abortion rights by putting extremely controversial federal restrictions into place. This case once again shows how the judicial branch ends up reviewing almost every form of legislation on abortion created by Congress. *Gonzales v. Carhart* would turn out to be as controversial as *Roe v. Wade* and offer the chance for the Supreme Court to uphold or dismiss Federal abortion legislation.

In 2003, the Partial Birth Abortion Act banned the right to perform a partial birth abortion. Also know as D&X abortion (or Intact D&E Abortion), which is defined as an abortion that is typically performed in the late stages of the second or third trimesters. D&X abortions are performed when the uterine cervix is dilated and the death of the fetus takes place as it passes through the birth canal.⁵¹

Dr. Leroy Carhart and other doctors who perform these abortions sued the national government to try and overturn the law. They claimed that this ban would create "undue burden on to the right to an abortion as defined by the Supreme Court in *Planned Parenthood v. Casev.*"52

As the case began the Federal District Court ruled the act to be unconstitutional. It was then sent to the Eighth Circuit Court of Appeals which "ruled that the ongoing disagreement among medical experts over the necessity of intact D&E; abortions was sufficient to establish that the Act was unconstitutional without a health exception."53 Eventually, the Supreme Court would agree to hear the

⁵⁰ Chris Whitman, "Looking Back on Planned Parenthood v. Casey," *Michigan Law Review* 100, no. 7, Centennial Issue (June 2002): 1980.

⁵¹ Mirriam-Webster Online, s.v. "Dilation and Extraction," http://www.merriam-webster.com/medical/dilation+and+extraction.

⁵² PlannedParenthoodv. Casey, 505 U.S. 833 (1992), The OyezProjectatIIT Chicago-Kent College of Law, http://www.oyez.org/cases/1990-1999/1991/1991_91_744.

⁵³ Ibid.

case. The main question being asked was whether the Partial Birth Abortion Act was in fact constitutional. Dr. Carhart claimed that it was not constitutional on the grounds that it "[violated] personal liberty protected by the Fifth Amendment because the Act lacks an exception for partial-birth abortions necessary to protect the health of the mother," once again going back to *Roe v. Wade* and the right of privacy to obtain an abortion.

The oral arguments before the Supreme Court began in November 2006. U.S. Solicitor General Paul Clement argued on behalf of the United States Government, while Attorney Priscilla Smith represented Carhart. General Clement opened by pointing out the right that Congress had to enact this bill into law. He stated:

Congress held six hearings over four different Congresses and heard from dozens of witnesses in determining that partial birth abortions are never medically necessary, pose health risks, and should be banned. Under familiar principles of deference to congressional fact finding, those determinations should be upheld as long as they represent reasonable inferences based on substantial evidence in the congressional record. That standard is amply satisfied here.⁵⁶

Clement continued by claiming that the evidence that came before congress clearly showed that the use of partial birth abortions was never medically necessary and that there were safer alternatives.⁵⁷ He concludes by stating, "Congress was entitled to make a judgment in furthering its legitimate interests that they were going to ban a particularly gruesome procedure that blurred the line between abortion and infanticide."⁵⁸ Solicitor General Clement explained how Congress accepted abortion in the traditional sense but banned any partial birth abortions. General Clement claimed that the difference

⁵⁴ Ibid.

⁵⁵ Gonzales v. Carhart, 550 U.S. 124 (2007), http://www.law.cornell.edu/supct/html/05-380.ZO.html.

⁵⁶ Gonzales v. Carhart, 550 U.S. 124 (2007), The Oyez Project at IIT Chicago-Kent College of Law, http://www.oyez.org/cases/2000-2009/2006/2006_05_380.

⁵⁷ Ibid.

⁵⁸ Ibid.

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⁵⁷ Ibid.

⁵⁸ Ibid.

between traditional abortion and D&X abortion is substantial enough that a ban on D&X abortion was necessary because of the increased danger to the mother. When performing a D&X abortion, only about a third of them are successful, therefore creating a higher risk to the mother's life when such abortions take place.⁵⁹

The extent of the argument focuses on whether the D&X procedure is dangerous and whether it is right for Congress to ban it. Does it hinder a woman's rights under the Fifth and Fourteenth Amendments? Smith began her argument by focusing on what the Circuit Courts had decided: That such an abortion law does in fact hinder the rights of woman under the Constitution. Justice Kennedy in turn asked Ms. Smith this question:

If there is substantial evidence that other procedures or alternate procedures are abatable, alternate to D&X, is your response that, although they're available as a matter of science, as a matter of medical expertise, they are not available because hospitals don't allow the patients to be admitted?⁶⁰

Ms. Smith then pointed out that many hospitals nationwide didn't offer abortion as a blanket procedure. Only some hospitals will offer abortion because of a given medical condition of the mother who is pregnant. Justice Kennedy then pointed out "the fact that any number of hospitals don't allow the procedure is also indicated, indication that there is a medical opinion against [D&X abortion]."61 As the oral arguments continued, approximately 36 minutes into proceedings a citizen observer began yelling out incoherently and protesting the abortion case being heard, once again demonstrating how ideologically divided and tense the issue of abortion was and still is today. 12 In Solicitor General Clement's rebuttal, he pointed out that any D&X abortion is wrong, since it takes place after the first fetal movement has been felt. He pointed out that there is a living being

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Gonzales v. Carhart, 550 U.S. 124 (2007), The Oyez Project at IIT Chicago-Kent College of Law, http://www.oyez.org/cases/2000-2009/2006/2006_05_380.

⁶² Ibid.

inside the woman's womb and that is evident by the fetal movements, which is foreign to the woman's body. The actions of a D&X abortion should not be protected by the Constitution, but rather banned. The Court submitted the case the following April and it was soon after decided in favor of Clement with a close ruling of five to four. Which in turn ruled the Partial Birth Abortion Act to be constitutional. Justice Kennedy wrote the opinion of the Court, stating:

Respondents have not demonstrated that the Act would be unconstitutional in a large fraction of relevant cases . . . We note that the statute here applies to all instances in which the doctor proposes to use the prohibited procedure, not merely those in which the woman suffers from medical complications. It is neither our obligation nor within our traditional institutional role to resolve questions of constitutionality with respect to each potential situation that might develop . . .

Respondents have not demonstrated that the Act, as a facial matter, is void for vagueness, or that it imposes an undue burden on a woman's right to abortion based on its over breadth or lack of a health exception. For these reasons the judgments of the Courts of Appeals for the Eighth and Ninth Circuits are reversed.⁶⁴

This case once again demonstrates the importance of the Court in making and reviewing Congressional legislation. Without the court, The United States would be a victim to the ideologies of congress because of the lack of checks and balances. However, we can clearly see that some of those ideologies seep into the court; yet, time and time again, the Justices prove that they can remove their personal political preferences in order to bring about reform.

More often than not, abortion is an issue that seems to rest on the Supreme Court's bench for review. This controversial issue is in many ways controlled by the Supreme Court, which in turn makes the Supreme Court the legislative body concerning abortion. The Supreme Court is a powerful branch of the Federal Government, one

⁶³ Ibid.

⁶⁴ Gonzales v. Carhart, 550 U.S. 124 (2007), http://www.law.cornell.edu/supct/html/05-380.ZO.html.

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that can affect the laws that govern this Nation. This high court is a powerful influence in legislation creation, a power that should never be overlooked.

BIOGRAPHICAL NOTES

Stephen Mark Swensen, 23, is a political science major at Utah Valley University with an emphasis in political philosophy and public law. He has always been interested in history and how it affects us on a daily basis; especially, with respect to the law and the changes that shape America. Stephen was raised in American Fork, Utah, by his parents Mark and Cindy Swensen, and is the older of two children. Stephen is married to Kelsi Swensen. He will be attending law school fall 2013.

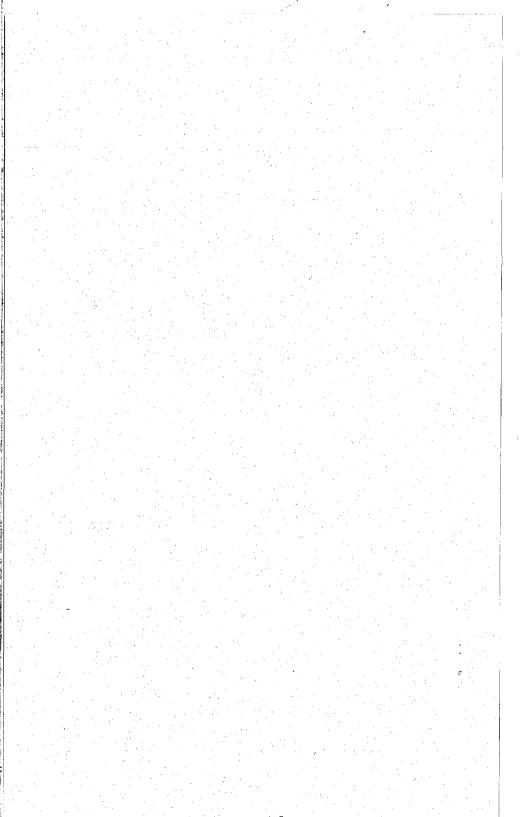
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THE CROSSROADS OF SLAVERY IN THE UNITED STATES

KATHRYN ROBBINS

Slavery is a centuries old practice, which enabled one race or class to have physical ownership over human beings of another race or class due to a justification that the enslaved individual held one or more components of inferiority. The argument used in the southeastern portion of the United States was the favorable economic benefit slavery produced. While that reasoning was accurate, the moral, ethical, and religious implications of slavery overshadowed the benefits that the cheap labor source yielded in the agrarian South. At the risk of damaging the capitalistic values of slavery, which the colonies labored diligently to acquire, slavery would have to be terminated. Oppression was pulling apart the nation. The concept of Manifest Destiny was also pushing forward, and, with the expansion into western territories, new capitalist endeavors were being established. Maintaining the balance between slave and free states was causing friction in western progression.

Unified parties, such as the Quakers, and individuals like Harriet Tubman drew together in a common cause to terminate the negative image on the proud, strong, sovereign nation of the United States. The wicked practice of slavery needed to be expunged. The abolishment of slavery became a turning point in American history as it further demonstrated the strength of people determined for freedom from all that oppressed them, both slaves and free.

History of Slavery ❖

Slavery was not a concept conceived in the American Colonies. Africans were introduced to the American colonists in 1619 when a Dutch warship landed in Jamestown, Virginia for repairs and supplies.

The ship's load contained a shipment of slaves from Africa. With no other products of value to trade, it seemed only logical that the sailors barter their human cargo for supplies and repairs.

Prior to the colonization of the Americas, empires and kingdoms all over the world held slavery as a common practice. It was a deeprooted component of many societies and cultures. Throughout history the ownership of slaves indicated both "individual and national wealth and power." Generations before the colonists settled the New World, the Spanish, English, and other European groups practiced slavery. Prior to the fifth century, Romans and Muslims both acquired their slaves from North Africa. In Egypt, Ghana, and Mali, slavery was also an accepted element in society. Europeans had been using slaves from the Slavic areas, the Black Sea, and West Africa to work on sugar plantations in the Mediterranean during the fifteenth century. To conclude that slavery in the United States was solely the invention of the European settlers of the eastern coastline would be a preposterous assumption.

Similar to other cultures, which used slavery as a work force, American colonists attempted to utilize the local natives for slavery as well, however; the experiment was not without difficulty. Europeans had previously come to the conclusion that it was best to keep slaves at a great distance from their country of origin. Away from their homeland they would not be familiar with the geographical landscape and have no political or social ties. American colonists quickly realized the value of that lesson. Native Americans were knowledgeable regarding their homeland. These indigenous enslaved were able to escape their captors into the vast forests of the area. Their upbringing gave them the expertise to disappear and avoid further enslavement. This difficulty was compounded by the Native American vulnerability to European disease and overwork by their slave masters. The colonists had to look

¹ James Oliver Horton and Lois E. Horton, Slavery and the Making of America (Oxford: Oxford UP, 2005), 27.

² Ibid., 21.

³ Ibid., 13-14, 21.

⁴ William Loren Katz, Breaking the Chains: African-American Slave Resistance (New York: Atheneum, 1990), 4-5.

⁵ Horton and Horton, Slavery and the Making of America, 21.

elsewhere for their labor source. The importation of human beings from distant locations became a strategic decision in the success of an enslaved workforce.

Ira Berlin, the author of Generations of Captivity, stated that, "no history of slavery can avoid these themes: violence, power, and labor."7 The means by which the slaves were brought to the Americas was an inhumane process that highlights Berlin's words. The Middle Passage referred to the route ships would sail from Africa to the Americas. Africans were packed into an overcrowded ship in unsanitary conditions and with insufficient food. No hygienic system existed to dispose of human waste. Kept below the decks, the Africans were chained together, with hardly any room to turn themselves. Sickness, such as dysentery plagued the future slaves. Some were too sick to eat; others decided not to eat at all in order to starve themselves to death. Many sought an opportunity to jump overboard, drowning themselves rather than facing a tormented life of enslavement. The death rate on these slave ships ranged from fifteen to thirty-three percent.8 Although the slave traders were cognizant that such inhumane conditions would cause a significant percentage of death during the journey, the calculated risk still yielded more profit than a ship not stocked tightly with human cargo.9

Economic Elements of Slavery -

With the promise of monetary enterprise, Christopher Columbus was given the charge to voyage west. Columbus's main objective in his venture, to find a westward trade route to the West Indies, was motivated by supply and demand. Spices and other trade goods were desired commodities, and therefore Queen Isabella funded Columbus's voyages to the New World with the notion they would make money. 10 Queen Elizabeth I of England also wanted economic growth in

⁶ Katz, Breaking the Chains, 4–5.

⁷ Ira Berlin, Generations of Captivity: A History of African-American Slaves (Cambridge: Belknap of Harvard UP, 2003), 3.

⁸ Horton and Horton, Slavery and the Making of America, 35.

⁹ Katz, Breaking the Chains, 6.

¹⁰ Benjamin Keen and Keith Haynes, A History of Latin America (Boston: Houghton Mifflin/Harcourt, 2009), 55.

the realm of trade by increasing the amount of exports that went out of England and decreasing the amount of imports. Colonizing the Americas fit nicely into her plans to continue strengthening the trade structure of England.¹¹ The countries that sought to colonize the Americas all had the same desire to use unsettled lands to gain economic capital. Using slavery as a cheap labor source made the southern colonies very wealthy and increased the potential for trade with other countries. Slavery in the America Colonies was also an economic benefit to countries in active trade with the colonies.

Eli Whitney's invention of the cotton gin in 1793, made the process of separating the cotton fibers from the seeds significantly quicker. The previously difficult cotton crop became a highly profitable one. With more cotton being planted the need for slaves to pick the cotton grew as well. This innovative machine caused an increase in the availability of cotton, which caused the price to decrease, which in turn made cotton a product of high demand. Economically, any product that is in high demand is a profitable one. The same concept can be applied to the slave trade. Slaves were a coveted product for which buyers paid a substantial amount of money. Supply and demand for slaves only encouraged growth in the industry. Additional workers were needed to labor the growing acres of cotton fields. The necessity for laborers influenced slave traders to bring more Africans to the American Colonies.

Slave owners heavily influenced southern society. The act of owning slaves was part of culture and indicated high stature. ¹³ Plantations grew labor-intensive crops such as rice, indigo, tobacco, and cotton. Slaves were the perfect low-cost labor source. With the escalation of slavery, economic benefits increased within the southern colonies of the United States. This monetary increase also meant that those who traded with the colonies benefited from the outpour of products, Britain, Southern Europe, and the West Indies being the three major importing areas to

¹¹ James A. Henretta and David Brody, *America: A Concise History* 4th ed (Bedford/St Martins, 2010), 32.

¹² Katz, Breaking the Chains, 21.

¹³ Roger Blomquist, "American Conflicts" (lecture, Utah Valley University, Orem, Utah, November 18, 2011).

benefit.¹⁴ "Slave ownership was the largest single economic interest in the United States."¹⁵ The average value of an unskilled slave in the year 1860 was \$1800. The cost of that same slave adjusted to reflect today's money would equal \$37,000, with the price increased approximately 20 times since 1860. The financial value of a slave was very high, making the plantation owner a very rich individual.¹⁶

Conversely, there were also negative financial aspects of slavery. In the North, taxes were being used to enhance towns and small cities with infrastructure such as libraries and public schools. In the South tax money was used for a very different agenda. As slavery grew the need to build jails for slaves and to fund officers to police those slaves arose. The economic benefits of slavery did, however, outweigh the negative aspects. There was no statute or law in the South that did not benefit the slaveholder.¹⁷ The estimated cost of feeding a plantation that contained about 100 slaves was, on average, \$17.50 a year per 100 slaves, which could be considered a rather inexpensive cost for a labor force of that size. 18 The cost included necessities such as clothing and food, however; it must be noted that clothing was only given to adults and even then clothing was insufficient, food was provided in inadequate amounts, health care was unheard of, and the housing barely sheltered slaves from the elements. Plantations owners justified slavery; declaring it was not only beneficial for both blacks and whites, but also an "economic necessity." Slave owners even discussed the idea that lower class whites would benefit from participating in slavery.¹⁹

Abolitionist Movements -

A very well spoken, anonymous black man, representing the common slaves thoughts, questioned the practice of slavery, saying,

¹⁴ Gary M. Walton and Hugh Rockoff, *History of the American Economy* 10th ed (Mason, OH: South-Western, 2005), 70.

¹⁵ Katz, Breaking the Chains, 20.

¹⁶ Walton and Rockoff, History of the American Economy, 253.

¹⁷ Katz, Breaking the Chains, 21-22.

¹⁸ Robert Worthington Smith, "Was Slavery Unprofitable in the Ante-bellum South?," *Agricultural History* 20, no. 1 (Jan., 1946): 62, http://www.jstor.org/pss/3739349.

¹⁹ Katz, Breaking the Chains, 21-22.

"Do the Rights of nature cease to be such, when a Negro is to enjoy them?" Antislavery movements were already taking hold in the early 1700s and both blacks and whites alike had an abhorrence for slavery. Among the white colonists, Quakers were the foundation of the abolitionist crusade and started voicing their opinions about slavery in 1730. The action of enslaving another human being went against their religious beliefs. The Quaker denomination would excommunicate its members if they refused to release their slaves. Anthony Benezet, a member of the Quaker abolitionist movements, published an anti-slave trade pamphlet, which circulated around the New England area. 21

In addition, slaves were not waiting on Whites to free them from the oppressive nature of slavery. The slaves were taking action, taking a stand, and most importantly making the ownership of slaves difficult for the plantation heads. There were instances of slaves murdering their masters, setting fire to stables with horses inside, poisoning wells, poisoning their masters, and demolishing crops. ²² Famous abolitionist Harriet Tubman was divinely inspired by Christianity to free slaves. She was willing to defend freedom at any cause even if she had to kill for it. She sang the spiritual "Go Down Moses" to declare her arrival to slaves in the areas she visited. They called her Moses, after the biblical prophet who lead the Israelite slaves out of bondage. Tubman was not the only motivated individual taking a stand against slavery. There was another Christian-associated group by the name of the Nights of Tabor who worked to free slaves. ²³

Slaves who had escaped the grips of slavery found ways to assist others still in bondage. Fredrick Douglass and Harriet Tubman are well known figures among the many faceless who established the prominent escape route for slaves known as the Underground Railroad. This organized system of refuge and escape used code terms paralleling actual railroad jargon. Terms such as "conductors" were used to describe individuals who would aid runaway slaves, "rails"

²⁰ Horton and Horton, Slavery and the Making of America, 51.

²¹ Ibid., 50.

²² Katz, Breaking the Chains, 52-54.

²³ Ibid., 76.

were known as the safe routes, and "stations" was the code word for safe houses.²⁴

Uncle Tom's Cabin, written in 1852 by Harriet Beecher Stowe, succeeded in providing the profound impact America needed to release itself from the older perspectives of an acceptable slavery, and shifted to a newly acquired viewpoint of the actual disgrace of slavery. This collection of fictional stories regarding the life of a slave named Tom depicted a slave in a compassionate light, which had never before been accomplished. The impact of this novel was so great that even Abraham Lincoln "... addressed Stowe as 'the little lady who started this big war,' meaning the Civil War."²⁵

The Repercussions of Emancipation &

Strong American leaders and political figures were opposed to slavery but they could find no means to justify the act of keeping another human under bondage. Thomas Jefferson, a slave owner, indicated that slavery was "a perpetual exercise of the most boisterous passions, the most unremitting despotism."26 Patrick Henry, who was also a slave owner, was no less adamant regarding slavery, stating that "Every thinking honest man rejects slavery in speculation, how few in practice? Would anyone believe that I am Master of slaves of my own purchase? I am drawn along by the general inconvenience of living without them; I will not, I cannot justify it."27 Abraham Lincoln announced; "I believe that the right of property in a slave is not distinctly and expressly affirmed in the Constitution."28 The issue of social acceptance comes into play and when money is involved the topic of economic stature becomes an important factor. The South truly was prospering because of slavery. Southern plantation owners did not want to discontinue a practice that was making them wealthy. Economics was not the only issue. Change is most often times a burden and the southerners did not want to let go of a culture they had embraced; a culture they felt they could not live without. Change

²⁴ Horton and Horton, Slavery and the Making of America, 132, 137.

²⁵ Ibid., 154.

²⁶ Berlin, Generations of Captivity, 3.

²⁷ Katz, Breaking the Chains, 21.

²⁸ Horton and Horton, Slavery and the Making of America, 168.

is not easy and takes work. When one's livelihood was based upon slavery the prospect of losing that way of life would be terrifying. It is no surprise that the South reacted as it did to the looming threat of slavery becoming outlawed.

The action of emancipating the slaves left Abraham Lincoln in constant contemplation. It was an issue often discussed and revisited from the beginning of his presidency. Lincoln stated on one occasion, "If I could save the Union without freeing any slave, I would do it . . . and if I could save it by freeing all the slaves, I would do it."29 After careful examination of the subject Lincoln reached a resolution. The decision was not made based upon moral implications but upon the need to reunify the South with the North. It was of great importance to the United States to remain as such, a united nation. Two small nations rather than the one large nation would leave America weak and an easy target for invasion from outside countries. On September 22, 1862, Abraham Lincoln announced the passing of the Emancipation Proclamation, which would go into effect on January 1, 1863.30 The proclamation was directed toward the states that were not in the Union. It stated that slavery would be legally abolished, however, if the South withdrew of their secession, slavery could be maintained.31 The southern states refused and the fight continued.

The Civil War ended in 1865 with the North emerging as the victors.³² Although slavery had ended, the South managed to find loopholes that enabled them to maintain a form of slavery. These loopholes are better known as the Black Codes and later Jim Crow Laws. When the Black Codes and Jim Crow Laws took effect in the South, they brought back the oppression of slavery. Black Codes instilled restrictions on the former slaves and with these codes slavery was reintroduced into society in all fashions except by name. These laws enabled Whites to still have a substantial amount of control over the former slaves and yet supposedly upheld the freedoms that the Emancipation Proclamation provided. Black Codes made it nearly impossible for a newly "free" African-American population to create a

²⁹ Henretta and Brody, America: A Concise History, 423.

³⁰ Horton and Horton, Slavery and the Making of America, 192.

³¹ Henretta and Brody, America: A Concise History, 423.

³² Ibid, 436.

solid foundation in life and government. Due to these codes, ex-slaves owned no land, could not read, and did not know any other way of living other than plantation work. The unfortunate circumstances of the ex-slaves lead to sharecropping. The former slaves would work on a plantation owner's land and live on the land. "Personal bonds and debt replaced the chains of slavery and plantation owners could control their labor forces almost as completely as slaveholders had controlled theirs." The southern states had discovered a way to return Black labor into nation which recently outlawed the act of slavery.

Many blacks left the South both during the end of the Civil War and after. They now had the opportunity to leave the confinements of slavery and the plantations on which they had spent most, if not all of, their entire lives. Farms in the South decreased in size, cotton became more labor intensive. All of these factors contributed to the decrease of the southern economy. It was not until the 1940s that the South started to break free from the negative economic effects that the abolishment of slavery imposed on it.³⁴

The abolishment of slavery was a decisive movement in United States history because it transformed America. This great nation once again united in a cause reconfirmed extraordinary characteristics of freedom, democracy, and a solid foundation of power. The United States was not just a place of economic interest other countries could use for their gain; it was the land of freedom that Thomas Jefferson established with the Declaration of Independence. It is the manner in which the strong leaders, within the United States, responded to the oppressive events in American history that made the United States unique from any other country in the world. Determined individuals break free from the struggle and become strong leaders resolute for a triumphant conclusion that will refine the nation. With each crossroad of perplexing challenges America had emerged stronger, becoming a tenacious nation.

Slavery had been a part of global history for centuries prior to being introduced into the Americas. The ownership of a human being was rarely viewed as a disgrace or immoral, it presented itself throughout history in various forms such as; serfdom, indenture, and

³³ Horton and Horton, Slavery and the Making of America, 214.

³⁴ Walton and Rockoff, History of the American Economy, 281.

outright slavery. Cultural expectations and economic benefit pushed nations to find a cheap labor source. Mirrored with the United States, other countries matured out of slavery in their own time. Even though the termination of slavery in the United States was not out of moral concerns the revulsion that a large number of Americans had for slavery helped magnetize individuals and parties in a united cause. It may not have been the same united cause that Lincoln was focusing on, but the disgust for the practice of slavery did fuse individuals together. Americans fought courageously, refusing to surrender the rights they believed they deserved and striving for freedom to become their own nation, free from the clutches of Britain. Freedom from the oppression of human rights is embedded within the foundation of America and was carried on in the movements founded to free the American slaves. The abolishment of slavery was part of the promising progression of the United States.

BIOGRAPHICAL NOTES

Kathryn (Kat) Robbins was born and raised in Providence, Rhode Island. She studied classical music at the Community College of Rhode Island obtaining an associate degree in music performance with an instrumental focus on classical guitar. In 2005, Kat moved west to Utah and worked as an entrepreneur for five years, managing start up Internet marketing businesses. She started her bachelor degree for history education at Utah Valley University in 2010 and will be graduating in 2013.

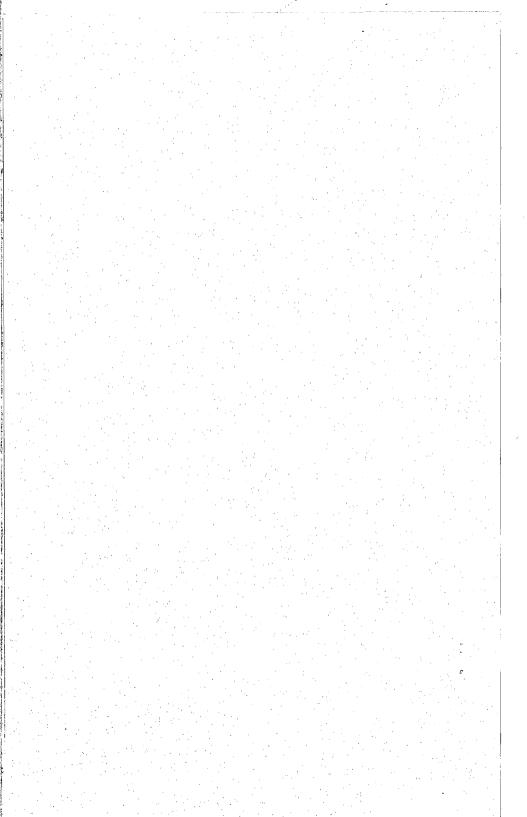
Kat believes that by studying history and the amazing leaders who shaped the past we can learn a great deal about ourselves. She hopes to inspire students with her lessons and instill the confidence that they too can change the future. Kat stands firmly in her convictions and agrees with Dr. Martin Luther King Jr. that, "Our lives begin to end the day we become silent about things that matter."

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A Superpowers Crossroads: The United States Perilous Global Future After the Afghan War

JEREMY RUPPE

fghanistan and its neighboring Central Asian nations, namely Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan, and Turkmenistan, have been caught up in a global chess match since the days of the world-spanning empires of the Nineteenth century. Due to the United States decade-long war in Afghanistan, the fate of this region has now become intertwined with the United States global future. With Europe, Russia, and China all competing for prominence in these former "Silk Road" lands, a new version of this continent-spanning "Great Game" has begun. These large empires are seeking to incorporate these once thriving trade centers into their zones of influence. Afghanistan and Central Asia have always been a vitally strategic location due to being a crossroad between East Asia and Europe. This, along with the presence of massive amounts of energy and mineral resources, makes the region of supreme geo-political importance to today's global powers.

Unfortunately, there are many in the United States who cite fiscal and national exhaustion of global adventurism as a pretext for a complete exit from Afghanistan following the ten year-fight against the Taliban and Al-Qaeda. The Obama administration has mistakenly taken these grumblings seriously in an effort to use the Afghan drawdown as a political victory in the 2012 re-election campaign. At the same time, the administration practices a rhetoric-heavy policy of "Reset" relations with Moscow, where Washington opposes, with words instead of actions, the Kremlin's claims of "privileged" zones

of interest in Central Asia and other post-Soviet territories.¹ These failures of leadership have severely shaken prospects for a US role in the region, as well as putting the US global future in question.

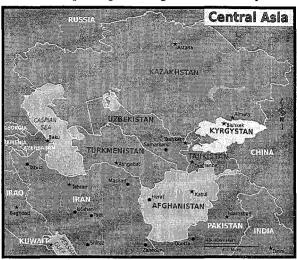


Image: Map of Central Asia. Map by Cacahuate, Creative Commons Attribution-ShareAlike version 1.0 (2007).

Solutions do exist, both cost-effective and non-military, which the US can implement to ensure its continued influence and presence in this important region. These solutions could also provide stability and even progress for the impoverished Afghan/Central Asian people.² The United States can promote development in Afghanistan by engaging the Central Asian states, as well as Russia and China, to re-link themselves to the Afghan economy, in order to ensure a more secure and prosperous future for the entire region.

The main key for the United States to achieve long lasting stability in Afghanistan is building economic ties between Afghanistan and the Central Asian states. The resurgent importance of Central Asia to major global powers lies in its wealth of natural resources, primarily energy resources. There is, however, a broader possibility for further

¹ Ariel Cohen, "Reset the Russian Reset Policy," Wall Street Journal, Aug 11, 2010, http://search.proquest.com/docview/741290127?accountid=14779.

² S. Frederick Starr, "A 'Greater Central Asia Partnership' for Afghanistan and Its Neighbors," *Silk Road Papers* (Central Asia-Caucasus Institute) March 2005.

development in the region than simply the use of Afghan/Central Asian resources. Centuries ago, these lands were home to enormously successful merchant nomads. These nomads created the richest and most advanced societies of the early Middle Ages by stimulating an open and cosmopolitan area of trade and intellectual discussion. Many of today's philosophical and scientific principles were first explored and shared with the rest of the world by Persian scholars hailing from today's Central Asian region.³ By promoting trade links between Afghanistan and Central Asia, the United States will aid both areas in rediscovering their roots as cosmopolitan centers of intellectual discussion and economic interchange; thus allowing goods and ideas to flow south to the weary US war in Afghanistan.

Unfortunately, many external obstacles must be overcome in order to stabilize the regions rampant poverty and strife. One example is Russia's monopoly over exports out of Central Asia due to their control of the old Soviet transit system. Kazakhstan's massive oil trade to both Europe and China, which makes up two-thirds of the trade for the entire region, passes almost entirely through the Russian network.

Rampant corruption in the Central Asian governments themselves is another tremendous challenge, as it is understood that playing Russians, Chinese and Westerners against each other allows a measure of influence. Afghanistan's northwestern neighbor, Uzbekistan, was an important transit route for US personnel and supplies at the beginning of the war in Afghanistan. Following human rights concerns in Uzbekistan, and US criticism regarding the Andijon massacre in 2005 in particular, the Uzbeks responded by expelling Coalition forces from the strategically important K2 military base.

This relationship has become tenuous, interfering not only with supplies for the war effort, but also with economic investment and general bilateral cooperation. "Whereas Western energy companies have shunned Uzbekistan due to its stifling political atmosphere and arbitrary commercial practices, the Chinese have been more willing

³ S. Frederick Starr, "Rediscovering Central Asia," *The Wilson Quarterly*, (Summer 2009): 2.

⁴ John Daly, "Central Asia's Energy Chessboard," World Politics Review (December 22, 2008); http://www.worldpoliticsreview.com/.

⁵ François Godemont, ed., Introduction to *China Analysis: The New Great Game In Central Asia*. (September 2011): 1.

to assume political and economic risks, especially in the short-term, to secure a more enduring energy supply in the long term." Thus, the United States must walk a fine line as it engages corrupt authoritarian governments for the sake of regional economic progress, while also advocating for democratic principles of human rights and political freedoms.

With the whole world competing against each other for influence in the region, the fact that Central Asia is an up and coming economic prize to be won over has not been lost on its own people. The Central Asians are very much aware that they are a needed strategic location for the US in Afghanistan, and that their huge energy reserves are being looked upon hungrily by Europe and China as alternatives to unstable Middle Eastern oil.⁷

As such, playing the great powers against each other has become a major part of each Central Asian nation's foreign policy. The US must understand this as it seeks to reconcile its foreign policy distractions over the last decade in order to stabilize the situation in Afghanistan. While the United States was viewed favorably at the onset of the War in Afghanistan as a helpful outsider with no imperial ambitions, the US change of focus to Iraq for much of the last decade has eroded confidence that America is truly concerned about progress in Afghanistan or Central Asia. This is one reason Kazakhstan and Kyrgyzstan still consider their Russian neighbor as their closest friend and ally. This has also encouraged Uzbekistan and Turkmenistan to rebuff US reform efforts and to strike out independently to circumvent Russia's old imperial stranglehold on the region by building ties with China and Iran.

Despite lost goodwill in the region, the US can still achieve long-term influence by developing Afghanistan's infrastructure, communication, transportation, and economic links with Central Asia. Though many nations feel uncertainty towards the United

⁶ Richard Weitz, "Uzbekistan's Growing Role in Beijing's Central Asian Strategy," China Brief 9, no. 1 (2011): 13.

⁷ Ibid.

⁸ David Shambaugh and Michael Yahuda, *International Relations of Asia*. (USA: Rowman and Littlefield Publishers, 2008), 241.

⁹ Weitz, "Uzbekistan's Growing Role," 13.

States' long-term regional intentions, the US is still viewed across the Asian continent as the "least distrusted power", which "does not want their territory and does not want to dominate them." Though America is a global power, Asians do not view it as having imperialist desires. The United States must reinforce this view over the next decade. Broadening US policy from an emphasis on the Afghan war to the more comprehensive goal of regional political and economic interconnection will not only stabilize the Afghan war zone, but transform it and its' neighbors into a highly productive and friendly region.

While being the least distrusted power can open doors with the Central Asians, the US must also take into account the fact that Russia has considered Central Asia part of its historical sphere of influence ever since the Nineteenth century. Any long-term US presence in the region would cause great anxiety in Moscow. Thus, the Russians must be shown that a larger US role in fostering economic ties between Afghanistan and Central Asia will inevitably bring increased trade and growth for Russia.

Europe is a rapidly growing export market for Russian-delivered Central Asian energy. Europe needs this energy as a vital alternative to unstable Middle Eastern imports, and current reliance on Russian energy supplies covers about twenty-five to thirty percent of European oil and natural gas demands. ¹² The vital connecting infrastructure from Afghanistan to its northern Central Asian neighbors only requires minimal bridges and roads, as the old Soviet network will enable Afghan goods to then reach regional markets and beyond.

In addition to building bridges and roads to transport Afghan goods out to the world, Afghans are also eager to demonstrate that their country is no longer an obstacle to world trade and investment. Trade through Afghanistan to Southern Asia is being looked upon as a massive opportunity for a prosperous Afghan future. Turkmenistan finalized in December 2010 a US-coordinated agreement to build a southern pipeline, known as T.A.P.I. (Turkmenistan-Afghanistan-Pakistan-India), which will pass through Afghanistan and Pakistan

¹⁰ Shambaugh and Yahuda, International Relations of Asia, 94.

¹¹ Ibid., 240.

¹² Daly, "Central Asia's Energy Chessboard."

to India. "Turkmenistan has been actively on the lookout to build alternate [pipeline] routes [that avoid Russia,] and the route through Afghanistan has been the most feasible and economical." While security will definitely be an issue for the pipeline in Afghanistan and Pakistan, "given the tremendous economic and financial benefits that arise both in Afghanistan and Pakistan as a result of the hefty transport fees reaching hundreds of millions of dollars a year and the related employment generation, it is expected that the governments involved will do their utmost in providing security to the pipelines that will be buried deep underground." In addition to being vital to the participant nations' future economic growth, T.A.P.I. is also a critical component to a successful US withdrawal, meaning its security will also be a top priority for NATO forces.

The importance of "T.A.P.I. as an integral part of U.S. strategy in Central Asia" cannot be overstated. This pipeline could assist not only the Central-South Asian area, but also US strategic goals such as "block[ing] Iranian gas exports, boost[ing] Afghanistan's income through transit fees, and assist[ing] Afghanistan, Pakistan, and India in settling their energy problems and stabilizing political relations." Killing several birds with the one stone that is the T.A.P.I. project could dramatically increase US leverage in the region, "strengthen[ing] U.S. influence at the expense of that of Russia and China."

While linking Afghan/Central Asian economic infrastructure is the main key to long term Afghan success, it will not succeed without engaging the regional great powers. Russia's primary concern, that it maintain control over the northern trade routes, will not be diminished by a greater US-led economic investment in the region. Rather, Russia will benefit from the increased trade. On the other hand, involving China in regional solutions for Afghanistan and greater Central Asia

¹³ Mehdi Rezaie, "Unlocking the Potential in Afghan-Turkmen Relations," Outlook Afghanistan, May 31, 2011, http://outlookafghanistan.net/topics.php?post_id=729.

¹⁴ Ibid.

¹⁵ Jean-Pierre Cabestan, "Energy Cooperation Between China and Central Asia" in China Analysis: The New Great Game In Central Asia, ed. François Godemont. (September 2011): 7.

¹⁶ Ibid.

¹⁷ Ibid.

will be more complicated than simply working toward greater trade relations. The resource hungry Chinese dragon is seeking to emerge as the most powerful element in the Central Asian region, possibly threatening not only the United States position in Afghanistan/Central Asia, but also the US role as a global superpower. With the Afghan security situation dominating the entire Central Asian region, however, it is vital for every country involved, especially trade heavy China, to secure a stable Afghanistan that is peacefully interconnected through commerce with its neighbors.¹⁸

In an attempt to prove to its Asian neighbors that its rise as an economic superpower does not forebode expansionist imperialism, China has refused to militarily assist the US-led NATO mission in Afghanistan. China has limited its involvement in the Afghan war to economic projects, refusing even to allow non-lethal supplies over its airspace.¹⁹ This is due to historical complications; while Central Asia's modern connection has been with Russia, anciently all of Asia revolved around the often expansionist Imperial Chinese Kingdom. Because of this, even after independence from the USSR, Central Asia has not reestablished strong links with China, viewing its economic rise with incredible suspicion.

The fact that the United States is the least distrusted outside power can enable it to assure the Central Asians that the looming Chinese economy can be beneficial. China has huge stakes in Central Asia, namely energy security, investment opportunity, and alliance building. With its explosive economic expansion over the last few decades, China has had to secure more energy resources to feed its ravenous economic machine. Chinese economists' project they will need to import eighty percent of their energy by 2020, and the Middle East is surely not an answer for China due to its political and religious instability concerning Chinese leaders wary of their own unruly religious separatists.²⁰

¹⁸ Richard Weitz, "Is China Freeloading Off The U.S. Military's Work In Afghanistan and Iraq?" *The Huffington Post*, August 15, 2011, http://www.huffingtonpost.com/2011/08/15/china-military-afghanistan-iraq_n_927342.html.

¹⁹ Ibid.

²⁰ François Godemont et al. "The New Great Game In Central Asia," *China Analysis*, ed. François Godemont. (September 2011): 11.

Oceanic distances pose another serious problem for Chinese dependency on Middle Eastern oil, as modern China has never been a powerful naval force. Expanding its fledgling naval operations around the world has brought tension between China and Taiwan, which inevitably involves the United States.²¹ While China must protect its oil imports from pirates, a strengthened Chinese Navy heightens the looming possibility of a mutually disastrous conflict with the United States over Taiwan. Thus, Chinese unease over a reliance on naval expansion is understandable.²² According to a senior fellow at the Center for Strategic and International Studies in Washington, "As [China] develops their military capacities, they have to be very careful not to use them in ways that scare the neighbors."²³ Thus, the logical conclusion [for both the US and China] is to look westward overland to the energy rich nations of Central Asia.²⁴

As strategically complicated as it may appear, the Pentagon has decided to accept economic help in Afghanistan wherever it can find it, even from the self-serving Chinese. While the Chinese may not be actively aiding the counter-insurgency campaign, China's investment in infrastructure projects "generates employment for Afghans outside the narcotics or terrorism industries, and that increases the resources available to its beleaguered government." The huge Chinese run copper mine near Kabul, as well as Chinese built oil drills are the basis for a growing network of Chinese built roads and rail systems to transport these raw materials back to factories in the western provinces of China. These transportation links will also eventually link Afghanistan not only to China, but also the rest of Central Asia.

While Chinese investment in Afghan infrastructure may be decisive in rebuilding Afghanistan, the United States must take great

²¹ Graham Ong-Webb, "How Far Will China's Navy Reach?" International Relations and Security Network (ISN), March 15, 2011, http://www.isn.ethz.ch/isn/Current-Affairs/.

²² Ibid.

²³ Peter Ford, "Rise of an Economic Superpower: What does China want?" Christian Science Monitor, November 5, 2011, http://www.csmonitor.com/World/Asia-Pacific/2011/1105/The-rise-of-an-economic-superpower-What-does-Chinawant.

²⁴ Weitz, "Is China Freeloading."

²⁵ Ibid.

care in how it involves China in regional solutions. While expanded influence and trade in Afghanistan and greater Central Asia is viewed as logical and even necessary by the Chinese, a US presence in the region is not.

Over the last decade, China has sought to advance its security and political interests and counter the US presence in the Afghan/Central Asian region by forming China's first formal alliances. The Shanghai Cooperation Organization (SCO) was founded with Russia in 2001 and includes all the Central Asian states except Turkmenistan. While Afghanistan is not yet a member of the SCO, Russia announced in October 2011 it would support Afghanistan in becoming an SCO member state. ²⁶

The growing SCO alliance has been termed a "win-win" by the Chinese government, a common phrase used in placating its neighbors into trusting them. China needs Afghan/Central Asian energy and resources to lessen reliance on vulnerable oceanic shipping lanes. Greater Chinese economic ties with Afghanistan/Central Asia would also open huge export venues to industrial sectors. Many "have insufficient capacity to meet internal demand" requiring the importation of seventy percent of consumer goods in some areas.

While the SCO is currently an economic union, there is concern in the West that the Chinese will one day expand it into a security union similar to NATO, which "would be able to veto U.N.-based intervention in the region as well as carry out its own security actions." With the SCO eyeing extending memberships to Pakistan and India in addition to Afghanistan, a future regional security bloc similar to NATO is not entirely hypothetical. This is especially disconcerting considering the SCO is already preparing for "the disorder left in Afghanistan after the eventual U.S. withdrawal." 29

²⁶ Mir Agha Samimi, "Russia backs Afghan bid for SCO membership", *Pahjwok Afghan News*, October 22, 2011. http://www.pajhwok.com/.

²⁷ Marie-Helene Schwoob, "Economic cooperation beyond the energy sector" in *China Analysis: The New Great Game In Central Asia*, ed. François Godemont. (September 2011): 9.

²⁸ François Godemont, ed., "Economic cooperation beyond the energy sector" in *China Analysis: The New Great Game In Central Asia.* (September 2011): 2.

²⁹ Jérôme Doyon, "Strengthening the SCO" in *China Analysis: The New Great Game In Central Asia*, ed. François Godemont. (September 2011): 5.

While entering the SCO could bring many benefits for Afghanistan, left unchallenged by the US, the Chinese-led SCO will take the lead in building regional alliances for the Afghans. This will jeopardize the solvency of Afghanistan's nascent democracy, which has been fought and bled for by tens of thousands of American and Afghan soldiers.

The dramatic and global geo-political effects caused by the war in Afghanistan cannot be underestimated. Though the war began primarily for US national security reasons, it has nevertheless plunged the fate of the entire greater Central Asian region, and possibly the world, into the hands of the United States. If Central Asian nations become economically subservient to China, it will diminish their independence and sovereignty to a reliance on China's arbitrarily authoritarian ideological path. If the United States leaves Afghanistan isolated and friendless, in a state of disorder for the Chinese-led SCO to clean up, the US will effectively hand over its position as a global superpower to the Chinese in one ill-conceived, shortsighted move.

Fortunately for the United States, there are major obstacles for the fulfillment of the Chinese vision of an Asian regional alliance. There are major trust issues between each of the states of Central, South and East Asia.³⁰ Competing interests between Russia and China could potentially derail the SCO.³¹ Historical animosity has led to very little cooperation between the Asian powers, making the prospect of uniting them a possibly insurmountable obstacle. This is especially true for a nation like China, which, while having the most interconnected economy in the world, is the loneliest of powers due to every other nation's expectation of being betrayed by it at some point.³²

According to David Shambaugh, director of the China Policy program at George Washington University, "China's diplomacy is cost-benefit-oriented; not dealing in terms of global public goods...It's a very self-interested country, looking after themselves." 33 China's great

³⁰ Shambaugh and Yahuda, 249.

³¹ Ariel Cohen, "Washington Ponders Ways to Counter the Rise of the Shanghai Cooperation Organization," Eurasianet.org, 2006, http://www.eurasianet.org/departments/insight/articles/eav061506.shtml.

³² Ford, "Rise of an Economic Superpower."

³³ Ibid.

weakness in developing regional alliances is its own political system. Shambaugh's opinion is that, for now, "China is a power in terms of its resources, but it's not a power in terms of its appeal...it's not a model, not a magnet others want to follow."³⁴

The role of the United States as a free and external balancer to the Afghan/Central Asian "Great Game" can potentially bring the strengths of each of these powers together to ensure stability and development for the entire region. Chinese investment projects can jumpstart the task of building and integrating Afghanistan's economy. Russia can allow Afghan/Central Asian goods easy access the rest of the world. The United States will be required, however, to ensure that this regional integration occurs for the benefit of every nation, especially Afghanistan and the land-locked Central Asian states. To accomplish this, the US must actively push for a new regional alliance, the third key to stability in Afghanistan.

S. Frederick Starr, Chairman of the Central Asia-Caucasus Institute at Johns Hopkins University's School of Advanced International Studies, has been advocating the creation of a US led "Greater Central Asian Partnership" (GCAP) since the early days of the US war in Afghanistan. Starr's GCAP is envisioned as the truly unifying body for Central Asia and Afghanistan by doing what the other regional unions are not. No other country or international agency has a program in place which trilaterally covers political, security and economic development with a focus on Afghanistan in all of the five former Soviet states of Kazakhstan, Kyrgyzstan, Uzbekistan, Turkmenistan and Tajikistan.³⁵

Independence and sovereignty are some of Afghanistan and Central Asia's main concerns, as they have been controlled and fought over by so many outside powers for so long. The United States, through the GCAP, would primarily emphasize the sovereignty of each participant nation, while demonstrating to the Central Asian nations that economic connection with each other and Afghanistan would create a stronger whole. Regional economic interconnection will then lead to stronger individual nations. The GCAP will also show the

³⁴ Ibid.

³⁵ S. Frederick Starr, "A Partnership for Central Asia," Foreign Affairs 84, no 4 (2005): 5. http://www.jstor.org/stable/20034428.

entire region, from the Central Asians, to Russia and China, that the US is committed to the long-term interests of Central Asia.

The GCAP would pose no threat to Russia's or China's legitimate activities in the region, but it is understandable that Russia or China might object to its creation. Both countries would perceive, correctly, that the GCAP signified a longer-term U.S. interest and presence in the region - and a break on the realization of their own aspirations, insofar as those aspirations run counter to the sovereignty and viability of the regional states.³⁶

Starr highlights that GCAP's success would be its flexibility, with each participant nation able to be involved in any way it feels comfortable: economic, military, political or any combination of the three. Thus traditionally neutral countries like Turkmenistan, which has avoided almost every regional alliance to include the SCO, would be welcome to participate in whatever GCAP program they like. Hopes are that these added ties will later open broader political doors.37 Combining military cooperation with economic unity, over time, would allow the so far unsuccessful US-advocated shifts towards regional liberal democracy to eventually occur. The GCAP could also include observer states such as Russia and China; South Asian nations such as Pakistan and India, as well as US-led coalition nations with investments in Afghanistan. Consolidating the US's disparate Afghan programs and multiple Central Asian bilateral arrangements into the overarching GCAP program, would increase economic development in Afghanistan. This then would secure the stability and prosperity that the entire Greater Central Asian region seeks.38

Through the US led GCAP, radically innovative ideas could be re-considered at the highest levels of the US and Afghan governments. This would provide the opportunity to implement new regional

³⁶ Firat Purtas, "The Greater Central Asian Partnership Initiative and its Impacts on Eurasian Security," Journal of Central Asian and Caucasian Studies 3, no. 5 (2008): 9, http://www.usak.org.tr/dosyalar/dergi/PUGIhBN9V839TsCY68Y3JUSQVFNTLv.pdf.

³⁷ Starr, "A Partnership for Central Asia," 7.

³⁸ Starr, "A 'Greater Central Asia Partnership' for Afghanistan and its Neighbors," 19.

solutions to the Afghan War and the Central Asian Great Game. One such promising idea is a debt reduction plan for every nation willing to invest in Afghan infrastructure. This idea originated with Professor Asylbek Aidaraliev, President of the International University of Kyrgyzstan. On November 11, 2011, during a presentation on Sustainable Mountain Development to students and faculty of Utah Valley University, Professor Aidaraliev illustrated how crippling Central Asian debts are interfering with regional integration. His solution, implementable under Starr's proposed US-led GCAP, would allow Central Asian national debt owed to international financial organizations and certain other countries, to be subtracted by the cost of any Afghan infrastructure project completed by a Central Asian nation.

Under this plan, numerous regional concerns could be solved at once. First, Central Asian nations would be greatly motivated to assist in the rebuilding of Afghanistan's infrastructure. With bridges from Tajikistan, rail lines from Uzbekistan, and Kyrgyzstani electrical transmission lines, Afghanistan is slowly becoming more connected with its neighbors. With the encouragement of this investment-fordebt reduction plan, many more of these regional projects will be able to employ Afghan and Central Asian workers while lessening the crippling debt burden held by the Central Asians. With stable regional employment, the people will be far less inclined to violently radicalize, not only in Afghanistan but across the entire Greater Central Asian region.

The GCAP as the final key for long term victory in Afghanistan must enable not only the economic rebuilding of bridges and railroads, but also foster the reformation of ideas that will enable the rebirth of the old Afghan/Central Asian Silk Road's merchant success. Starr asserts, "The idea of a fresh flowering of Central Asia may seem a distant prospect, but it is not impossible, especially if Central Asians become more familiar with their rich heritage and draw from it relevant lessons for the present." Central Asia has a bright history from which to base its future prosperity. "Between [the years] 800 and 1100 [a] pleiad of Central Asian scientists, artists, and thinkers made their region the intellectual epicenter of the world. Their influence was felt from

³⁹ Starr, "Rediscovering Central Asia," 11.

East Asia and India to Europe and the Middle East."40 Many of the brilliant scientific achievements of the Middle Ages, which today we attribute to Muslim Arabs, were in reality due to a "huge constellation of ethnically Persian or Turkic geniuses in mathematics, astronomy, medicine, geology, linguistics, political science, poetry, architecture, and practical technology—all of whom were from what today we call Central Asia."41

Modern Afghans/Central Asians must be reminded of the ancient lessons taught by living on a thriving trade route. Their ancestors were exposed to innumerable languages, religions and ideas; making it normal in everyday life to analyze, explore, and incorporate new ideas. As centuries passed and the youthful vibrancy of Islam changed from being a dynamic religion of scientific experimentation into a hardened orthodoxy, the free exchange of ideas crumbled just as the old Silk Road trade roads had crumbled. Central Asia's experience under Imperial Russia only entrenched its poverty.

Ancient Afghanistan/Central Asia's key to success was openness and the free movement of people and their goods and ideas; it was the decline of these that led to its strife and poverty. Reestablishment of these things can secure prosperity for the region and close friendship with the facilitator of these changes. Secretary Clinton's October 2011 regional visit to promote the "New Silk Road" approach advocated by Starr signaled only the first step towards fostering expanded trade to heal the region's many wounds. 42 Many more steps must be taken to revitalize both the infrastructure and the openness of ideas in the region.

Professor Aidaraliev's on-going Sustainable Mountain Development Initiative is an example of governmental and cultural exchange across the international spectrum that is bridging ties between the strife and poverty stricken Central Asian region and the rest of the world. In the United States, Utah Valley University (UVU) has hosted numerous governmental and cultural exchanges, under the auspices of the United Nations, through which personal relationships have been

⁴⁰ Ibid., 3.

⁴¹ Ibid., 2.

⁴² Joshua Kucera, "Central Asia: Can Expanded Trade Pacify an Unsettled Region?" Eurasianet.org, October 31, 2011, http://www.eurasianet.org/node/64419.

forged between those working for a brighter future for Afghanistan and Central Asia. A successful example of these exchanges occurred during Afghan Ambassadors to the United Nations, Dr. Zahir Tanim and Ahmad Faqiri, visits to UVU in October and November 2011. Professor Aidaraliev's debt reduction plan was brought to the attention of both Ambassadors, who expressed enthusiasm for the plan. Both Ambassadors were committed, along with Professor Aidaraliev and UVU, to reinvigorate Afghanistan/Central Asia as a region capable of economic and intellectual exchanges with mountainous communities all around the world.

The challenge before the United States is to think of these peoples not as pieces on a chessboard to be exploited, but rather as potentially innovative and productive societies. "The better alternative is to acknowledge that somewhere in the DNA of these peoples is the capacity to manage great empires and even greater trading zones, to interact as equals with the other centers of world culture, and to use their unique geographical position to become a link and bridge between civilizations."⁴³

Certainly there are incredible hurdles to overcome to achieve a renewed cosmopolitanism for Greater Central Asia. Serious conflicts divide the individual nations comprising the region, and several have lingering tensions due to past wars. Many of Afghanistan's neighbors are exploiting the international community's rebuilding efforts with little care for Afghanistan's well-being. Trade barriers are typically heavy in this area where trust is in extremely short supply.

Costs of squandering this historic opportunity are simply too great to both Greater Central Asia and the United States. If the US does not work to forge the disparate Central Asian nations into a unified Greater Central Asia Partnership, all the sacrifices of time, money and lives lost in Afghanistan will have been in vain. The Chinese-led SCO will take control of Central Asia simply for its raw materials, costing the liberty of the Central Asians, as well greatly diminishing the US's global influence.

⁴³ Starr, "Rediscovering Central Asia," 11.

⁴⁴ George Gavrilis, "Why Regional Solutions Won't Help Afghanistan," Foreign Affairs October 18, 2011, http://www.foreignaffairs.com/articles/136598/george-gavrilis/why-regional-solutions-wont-help-afghanistan?page=show.

⁴⁵ Daly, "Central Asia's Energy Chessboard," 2.

If, however, the US engages the entire region of Central Asia, as well as China and Russia, in its new Greater Central Asian Partnership, the innovative merchant success of the old Silk Road crossroads between East and West will be reborn. The United States will have secured some semblance of victory in its long war to deny a harbor for terrorists in Afghanistan. This comprehensive approach will ensure the region remains stable and prosperously integrated in a united global society for decades to come.

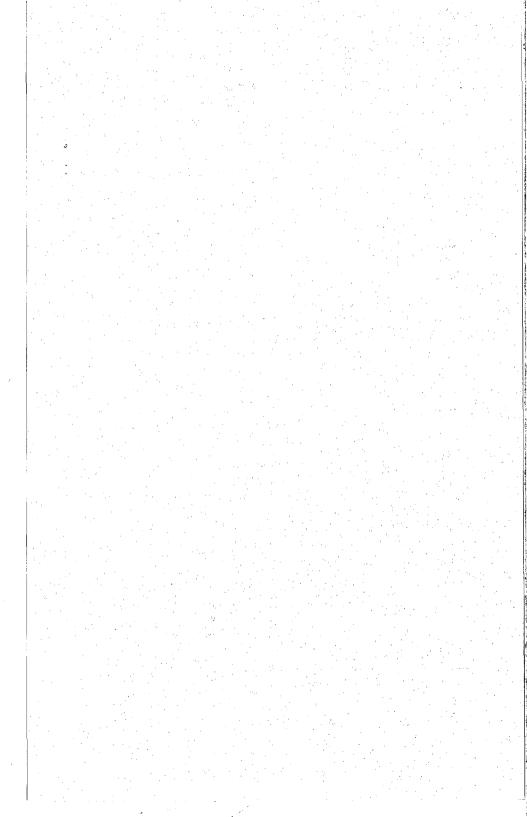
BIOGRAPHICAL NOTES

Jeremy Ruppe has been studying the international world since the events of 9/11 shattered him from his teenage bubble of ignorance and complacency. He spent numerous years overseas, first as an LDS missionary in Ecuador, and then as a combat-deployed Marine to Afghanistan's lawless southwestern regions. He is fascinated by international human interaction, and the small and simple things that bind mankind across distant civilizations and languages.

Jeremy is currently pursuing an international relations degree at Utah Valley University. He hopes his degree will prepare him to be involved with and influence events taking place on the world stage.

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JAZZ MUSIC: INFLUENTIAL ELEMENT OF THE CIVIL RIGHTS MOVEMENT

ROBERT LISTER

usic has been used as a tool of expression, an emotional outlet; it has been used as a way to communicate, educate, entertain, nurture, praise, divide and unite. Entertainment is the one element that almost all music shares. It is why music is so popular and a song can become part of history. Historically, African American music has been known for its unique musical stylings that tell a story or portray an emotion. During the slavery period in the United States, slaves sang songs in code to communicate warnings. Some African American music contains stories used to educate the young of their culture's rich history. There are few cultures other than the black culture that have provided as much music that unites people of different races and creeds while at the same time segregating groups. Rap, a form of music that originated in African American culture, for example, has morphed over the years to include byproducts that can unite and divide.

Long before the development of Rap music, black culture had created a culturally defining form of music. It has served as a political tool and a uniting element of cultures and nations, yet it continues to remove those that are racially prejudiced. Jazz music has had an international influence and played a large social role in the United States, particularly with the Civil Rights Movement.

In the early 1870s the Fisk Jubilee Singers were created. This is the first time that any form of black music, in this case an arranged Negro folk spiritual, was introduced to white audiences. The group consisted of eleven men and women, most of whom were former slaves, and was led by George White. Prior to this, folk spirituals were sung with a certain revelry and enjoyment that made them unique. One requirement to belong to the Jubilee Singers was that the foot stomping

and freelance vocals, commonly part of prior performances, were not allowed. "Singing spirituals in the field is one thing, singing them to sophisticated [read *white*] audiences was something else" according to Louis Silveri.¹

Another form of early black folk music is the Blues. By 1910, vaudeville acts were creating a sound that appealed to the downtrodden former slave and entertained the all-white audiences the vaudeville shows were designed for. Much of the early popular Blues recordings involved a female singer backed by a small ensemble performing a song that was commercially written. This, however, was not the origin of the Blues. The Blues is rooted in pain, misery, and suffering and is often sung by a single man playing a single instrument, most likely a guitar. The Blues provided an emotional outlet for the performer to tell a story, often sad, and express his feelings. The Blues would go on to have a very large influence in the evolution of Jazz music as a tool for expression.

During the time of the Jubilee Singers and the Blues, a new music was forming in New Orleans. Ragtime, also called Dixieland Jazz, was a unique sound that appealed to both black and white audiences. Much like the Blues and folk spirituals, it told of the plight of the black man in America, either with words or with pure emotion coming out of the instrument. It is believed that the sound, very distinctive in nature, was developed by cornetist Buddy Bolden sometime around 1900. Bolden's sound was well known for the improvisational elaboration of melodies, for being very loud, and for his deep feeling for the Blues. Because of the success of Bolden's sound, brass bands of the time began to admit "ear" musicians and routiners, which brought a more original sound that was heavily Blues-inflected to the arrangement.

Along with the African American musicians in New Orleans, there existed an entirely separate culture: the Creole. The Creoles of color were usually catholic, French-speaking, and lighter colored compared to their African American counterparts. They were often classically trained musicians that had an ear for improvisations. Often called "Uptown musicians" because of their location of residence in New Orleans, Creole's were known for their musical literacy and instrumental mastery that created a very polished, fresh sound. Because

¹ Mellonee V. Burnim, *The Garland Encyclopedia of World Music*, ed. Ellen Koskoff, vol. 3 (New York: Garland Publishing, 2001), 628.

of racial tensions in New Orleans and the failing of Reconstruction, any person with as little as 1/32 of black ancestry were considered black, regardless of appearance. This allowed for a large population of colored people from Creole ancestry, once recognized as being above the black man but now viewed as an equal, to play a large role in the creation of what would later become Jazz. Probably the most recognized musician of the style, Louis Armstrong, was of Creole ancestry.

Jazz is a confluence of European, Creole, and African music traditions. European tradition comes in the areas of harmony and instrumentation. The term Jazz was first used to describe the music coming out of Chicago around 1915, although it was later recognized to have most likely originated in New Orleans. Joachim Berendt describes Jazz as "a form of art music which originated in the United States through the confrontation of blacks with European music."2 While he is partially correct, this is a very simplistic definition. More so than any other American music, Jazz is extremely complicated in its roots. Improvisation is a key element in Jazz music which makes it appealing to artists. It allows for an outlet of feelings and emotions to be expressed in ways other than just words. The raw emotions expressed in Jazz differed from those expressed in most forms of European music. However, the instrumentation of early Jazz lies within its European influences. It is likely that the expressiveness of Jazz would be primitive without its European ties.

A Jazz artist's mood and personal experiences come out in every performance and each performance can be different depending on the performer's mood at the time. This is why Jazz became such a great tool to express feelings about the mistreatment of blacks, from its creation to its peak in the 1960s. One of the first and most notable artists to use Jazz for this purpose was Billie Holiday. In her song titled "Strange Fruit" Holiday sings about one particular atrocity happening in the south:

Southern trees bear a strange fruit,

Blood on the leaves and blood at the root,

Vladimir Bogdanov, Chris Woodstra, Stephen Thomas, and Erlewine eds., All Music Guide To Jazz: The Definitive Guide to Jazz Music, 4th ed. (San Francisco, Backbeat Books, 2002).

Black Bodies Swinging in the Southern breeze,

Strange fruit hanging from the poplar trees.3

Although Columbia Records, Holiday's regular record label, refused to record the song due to the content, it was eventually recorded and released by Commodore Records. "Strange Fruit" became an anthem for the anti-lynching movement and contributed greatly to the early activism in the civil rights cause. The song, which was originally written as a poem in 1939 by Able Meeropol, became identified with Holiday as one of her most popular.

Quite possibly the most famous Jazz musician in the world is Louis Armstrong. Armstrong, also known as Satchmo, recorded a song titled "(What Did I Do To Be So) Black and Blue?"

I'm white inside, but that don't help my case 'Cause I can't hide what is on my face I'm so forlorn. Life's just a thorn My heart is torn. Why was I born? What did I do to be so black and blue?

I'm hurt inside, but that don't help my case 'Cause I can't hide what is on my face How will it end? Ain't got a friend My only sin is in my skin What did I do to be so black and blue?

Recorded in 1929, it asks a simple question that no one would answer. Although the songs message is very strong, Armstrong spent most of his career dealing with the civil rights issue in a more subtle manor. He was often called an Uncle Tom, a term often used to describe a black man who will do anything to stay in good standing with white society, including betraying his own people. This perception came mostly because he would willingly play to white only audiences. It wasn't until 1957 that Satchmo was fully recognized by his peers as a proponent of the civil rights cause.

³ John Chilton, Who's Who of Jazz, 3rd ed.(New York: Da Capo Press, 1985): 11–13, 40, 150–51.

⁴ James Heintze, ed., *Perspectives on American Music since 1950* (New York: Garland Publishing, 1999), 141–50.

In 1954 the unanimous decision of the Supreme Court of the United States in the case of Brown v. Board of Education called for the desegregation of schools. The landmark decision led to a court order in 1957 to integrate the public schools in Little Rock Arkansas. Parents of black children were met by mobs of angry white demonstrators when they attempted to bring their children to school. Governor Orval Faubus made a promise to keep the schools segregated and backed his promise with the Arkansas National Guard. Armstrong watched the events unfold from his hotel room in North Dakota and found them deeply disturbing. When interviewed, later in the evening, by a reporter for a North Dakota local newspaper Armstrong let his tongue fly—holding nothing back. The story that appeared over the news wire was controversial. Armstrong, who had always been rather reserved with his comments, referred to President Dwight D. Eisenhower as "two faced" and criticized him for allowing "an uneducated plowboy", Governor Faubus, to run the national government. 5 Armstrong was quoted as saying, "The way they are treating my people in the South, the government can go to hell."6 Armstrong was scheduled to travel to Europe as a goodwill ambassador for the United States in the coming months but now refused to go, stating, "The people over there ask me what's wrong with my country, what am I supposed to say?"7 The effects of his statement were made worse when he was asked to comment on the published reports and if he wanted to retract any of his statements. After reading the reports, Satchmo said: "That's just fine. Don't take [anything] out of that story. That's just what I said and still say." He then wrote the word "solid" and signed the bottom of the account he had read.8

Armstrong's comments caused a national uproar, both in support of and in opposition to Armstrong. A national boycott of Armstrong's music and concerts was called for by radio stations and promoters. Both Armstrong's music and the music of those who supported his

^{5 &}quot;Louis Armstrong, Barring Soviet Tour, Denounces Eisenhower and Gov. Faubus," *New York Times*. September 19, 1957, http://www.nytimes.com/books/97/08/03/reviews/armstrong-eisenhower.html.

⁶ Ibid.

⁷ Ibid.

⁸ Heintze ed., Perspectives on American Music, 141.

stance were banned from radio stations. Some musicians were not in a position to openly support Armstrong, but several, such as Marian Anderson, stated they would never play before a segregated audience again. Armstrong had spent his entire career to this point quietly pioneering the idea of desegregated audiences, but he now had the support of others committed to doing the same.

The idea of refusing to play before segregated audiences was not new. Duke Ellington had been doing this for years. As long as Ellington was the leader of his own Jazz orchestra, it was in the contracts that they would not play in front of segregated audiences. Ellington chose to be subtle in his handling of civil rights issues. In the 1930s, in order to avoid Jim Crow Laws in the South, Ellington rented three train cars so all members of his band could travel together. Ellington was often criticized for his subtlety, and many felt that a black man of his status should do more. I would argue that Ellington's music did more than it gets credit for. Through his music Ellington conveyed the black experience in America. He referred to Jazz music as "African American classical music" that fueled Black Pride. Ellington provided the soundtrack for several plays that challenged the treatment of blacks in the entertainment industry and told the history of blacks through music.

Like Holiday and Armstrong, other artists used song lyrics to make a statement, some peaceful and some not. In "I Wish I Knew How It Would Feel to be Free", a song written by Jazz musician and teacher Billy Taylor, Nina Simone sings with true heartfelt emotion:

I wish I knew how it would feel to be free, I wish I break all the change hold in me, I wish I say all things that I should say, Say um loud, Say um clear, for the whole round waiting to hear.

I wish I could share all the love that's in my heart, Remove all the bars that keep us apart, I wish you could know what it means to be me, Then you'd see and agree that every man should be free.

I wish I could give all I'm longin' to give, I wish I could live, like I'm longin' to live,

⁹ Chilton, Who's Who of Jazz, 11-13, 40, 150-51.

I wish I could do all the things that I can do, Though I'm way over due, I'd be startin' a new.

Although penned in 1954, the piece did not enjoy popularity until the Civil Rights Movement of the late 1950s and throughout the decade of the 1960s. The title expresses one of the fundamental themes of the movement: the wish to live free and with dignity in the United States.

Other Jazz musicians provided social commentaries through their music. Charles Mingus and Max Roach produced albums that were very strong in their criticisms of the treatment of blacks. Charles Mingus was well known for being angry and vocal about the issues. In response to the events of 1957 in Little Rock Arkansas, Mingus recorded some attention grabbing lyrics in "Fables of Faubus":

Oh, Lord, don't let 'em shoot us
Oh, Lord, don't let 'em stab us
Oh, Lord, don't let 'em tar and feather us
Oh, Lord, no more swastikas!
Oh, Lord, no more Ku Klux Klan!

Name me someone who's ridiculous, Dannie [Dannie:] Governor Faubus Why is he so sick and ridiculous? [Dannie:] He won't permit integrated schools. (Mingus: Then he's a fool)

Boo! Nazi Fascist supremacists/Boo Ku Klux Klan!

Name me a handful that's ridiculous. Dannie Richmond? [Dannie:] Bilbo. Faubus. [Unintelligible]. Rockefeller. [Unintelligible]. Eisenhower Why are they so sick and ridiculous? [Dannie:] Two, four, six, eight [All:] They brainwash and teach you hate!¹⁰

Columbia Records recognized the lyrics as very incendiary and refused to record the song. Mingus continued to perform the song in clubs and eventually recorded the song, with the help of Candid Records. The song served as a strong civil rights statement through the

¹⁰ Marc Myers, "Jazz and the Civil Rights Movement," *JazzWax*, May 27, 2009, http://www.jazzwax.com/2009/05/charles-mingus-fables-of-faubus.htm.

1960s and was used as a rallying cry for change. Max Roach recorded We Insist! Freedom Now Suite in the 1960s, which also served as rallying cry, but, more importantly, provided a gauge for the heightened efforts of the Civil Rights Movement.

While the use of words serves as a means of portraying one's point, it is not the only way. About 1960 a new sound, labeled free Jazz, made its way into the mainstream. Ornette Coleman developed a sound that strayed from the chorus structure that existed in Jazz music. Many critics thought this would be the demise of Jazz, while others found it fresh and emotional and an important evolution of the music. Regardless of the critics, it was adapted by many musicians of the time and was seen as a revolutionary social critique, a spiritual awakening, and a new found freedom. For many listeners, the change in the music was taken as a sign of civil disobedience.

Amiri Baraka, poet, playwright, and critic viewed free Jazz as an expression of the black musician's century long struggle within racism in America. Her book, *Blues People*, was the first major book, by an African American author, to view black musical history in a sociological and culturally contextual fashion. While Barka viewed free Jazz as a new form of expression, some notable African Americans viewed free Jazz musicians as lazy, sloppy, youngsters that wanted to take short cuts. Particularly observers from the Nation of Islam were very critical, even accusing free Jazz artists of pandering to white audiences. While free Jazz did create some dissension it was seen by most as a new way to express the frustration that the African American had, and was still suffering through.

Musicians were not the only people associated with Jazz that affected the Civil Rights Movement. Barney Josephson opened a club in New York called The Café Society that featured both black and white musicians in 1938. More importantly than what musicians played in the club, Josephson made sure that both black and white patrons were treated the same, making it the first fully integrated night club in the country. This was unheard of at the time, and he suffered greatly for it but never changed his stance on the issue. Many of the great Jazz musicians of the time played at The Café Society at the request of Josephson. In 1947, the club closed after business declined due to criticism from local news papers about Josephson's political views.

Arguably, no one was more responsible for the success of Jazz internationally than Willis Conover. Conover provided an international platform for Jazz musicians through his radio program, Voice of America Music, USA. He produced Jazz shows at the White House and produced festivals, television shows, and movies that were all fully integrated for both performers and patrons. His efforts were primary in helping to break down the color barrier that existed in music. He kept Jazz music popular worldwide, provided a fan base for the music, and provided musicians a platform to keep performing. Conover was instrumental in the US Governments efforts in the 1950s and 1960s to send Jazz musicians, black and white, to Europe on diplomatic missions for the US State Department. Concerts in Europe were not segregated and often sold out. Any musician that performed in Europe in front of a fully integrated audience and then came back to America to perform in front of segregated crowd knew what they were missing. This continued to fuel the fire for desegregation in all clubs and had a lasting influence on all aspects of the Civil Rights Movement.

BIOGRAPHICAL NOTES

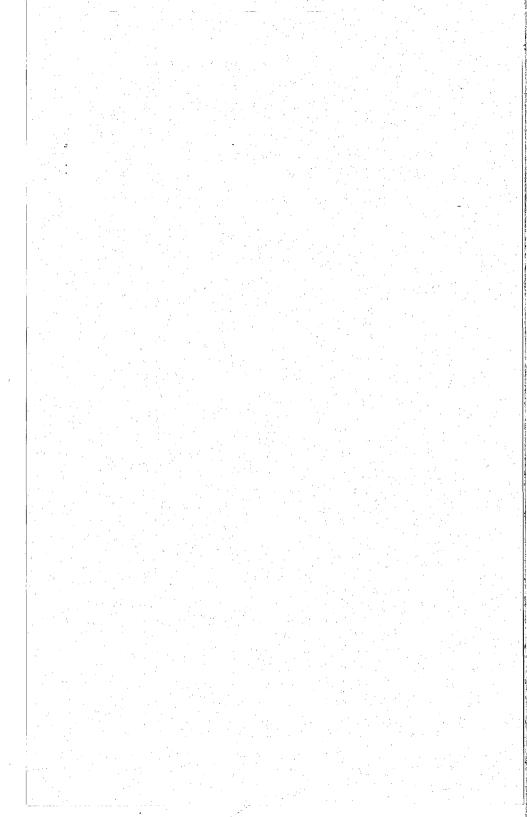
Robert Lister is a student of history, graduating from Utah Valley University in April of 2012. Not wanting to be just a student of history, Robert is pursuing a teaching career with hopes of sharing his knowledge and experience with upcoming generations. With help from his wife, Lisa, and his two boys, Jacob and Nathan, Robert has been able to achieve his goals. Robert hopes to continue to research, write, and teach as long as people will allow him to do so.

Robert would like to issue a special thanks to the editors, Rae, Rachel, and Pam especially, for without them he would have given up a long time ago.

If you enjoyed this article, you might also enjoy:

"Ethos and the Power of Music in Ancient Greece" by Amberly D. Page, *Crescat Scientia* 3 (2005): 17–29.

"Dance as a Tool of State: In Anticipation of the Olympics 2008 in China" by Meredith Ashton, *Crescat Scientia* 6 (2008): 53–63.



CHIEF JUSTICE ROGER TANEY: HIS COURT AND THE QUESTIONS OF SLAVERY AND PRESIDENTIAL POWER

EVERETT TENNEY

he Chief Justice of the United States is a person entrusted with the honored task of heading the Supreme Court, a judicial body charged with guiding the country along its path by ensuring a close connection with the Constitution in order to protect the citizenry from overreaches by a government created to serve the needs of those citizens. While the justice system does not give the Chief Justice power to act unilaterally in any situation, the position commands respect and great influence amongst the Associate Justices, though not always admiration. Chief Justice Roger Taney held his position as the head of the Supreme Court for twenty-eight years, navigating through three decades of rampant partisan politics, territorial expansion, and even civil war. Two recurring themes of Taney's court were the catalysts of the Civil War: the questions of slavery and the interactions between free states and slave states. While Taney spent the first two decades leading a conservative, pragmatic court that adroitly addressed the issues at hand, he would spend the last several years as Chief Justice in the contempt of the majority of his countrymen because of the infamous Dred Scott decision. Despite this black mark on his legacy, Taney's dedication to his work enabled him to soldier on, and the Civil War provided him an opportunity to challenge what he saw as gross usurpations of power by President Lincoln. Taney's court was largely a model for success, despite the one black mark inevitably tethered to his legacy as Chief Justice. By following the most important court cases of his tenure, thereby understanding the man himself, it is easier to extrapolate the indelible impact that Taney had on his country.

Roger Brooke Taney was born on March 17, 1777 in southern Maryland. His ancestors rose to prominence in the region through the lucrative tobacco trade, gradually accumulating an impressive amount of land that by Taney's time would see his family recognized as part of the local aristocracy. Taney was his father's second son, and as such, education was imperative to his development since the common practice of primogeniture dictated that he would not inherit the estate. Roger's father wished his son to be a lawyer and provided his son ample support with a succession of tutors who prepared him for admittance to Dickinson College at the age of fifteen. After three years of dedicated study, he graduated as class valedictorian, yet he would spend three more years of study in the chambers of Judge Jeremiah Chase before he would be admitted to the bar in 1799.

While building a thriving law practice, Taney was also quietly building a political career. He lacked the charisma necessary to incite a crowd towards his cause, but his father's contacts and Taney's own strong reputation as a lawyer served him well. After serving a rather unremarkable term in the Maryland House of Delegates, Taney won a five-year term in the state senate in 1816. During this time, Taney's personal attitude towards slavery was more sympathetic, owing in large part to his mother's influence. Taney quietly freed most of his own slaves and provided financial assistance to some of his older slaves while also volunteering his time in protecting free blacks from abduction by unscrupulous whites seeking to sell them into slavery.2 In defending a preacher accused of inciting the public through condemnation of slavery, Taney clearly asserted his view of slavery by stating, "A hard necessity, indeed, compels us to endure the evil of slavery for a time... It cannot be easily or suddenly removed."3 Contrary to the portrait of Taney painted by northerners and abolitionists during his Supreme Court tenure, Taney was not a supporter of slavery as a practice, but rather a supporter of the right of citizens in different states to choose for themselves. Taney believed that slavery would eventually run its

James F. Simon, Lincoln and Chief Justice Taney: Slavery and the President's War Powers (New York: Thomas Y. Crowell Company, 2006), 1-7.

² Ibid., 7–9.

³ Ibid., 11.

course and fade from practice, but the economy in the southern states could not survive without it for the time being.⁴

Taney was appointed Attorney General of Maryland in 1827, after nearly three decades of practicing law. Years of work in the courts had finally rewarded Taney with the recognition of political office on merit alone, a position that would expedite his rise to judicial prominence over the course of the next ten years. The year 1828 would provide a heated presidential campaign between Andrew Jackson and John Quincy Adams, with Jackson successfully challenging the incumbent. After Jackson had found it necessary to purge his cabinet of its more intransigent members, Taney was appointed Attorney General of the United States. Taney was an admirer of Jackson, perceiving him as an "honest and independent" man. His legal opinions regarding slavery for the administration would echo his later sentiments in the Dred Scott Supreme Court case that blacks were an underclass subservient to whites and that any privileges enjoyed by blacks were "accorded to them as a matter of kindness and benevolence rather than of right." "6"

The most important issue during Taney's time in the presidential cabinet was the re-charter of the Bank of the United States. Originally crafted by Alexander Hamilton, the bank had degraded into a powerful, independent entity that was being employed by its chairman, Nicholas Biddle, in order to serve his personal needs and those of his friends. Frustrated with his cabinet's obstructive stance on the issue, Jackson deposed his Secretary of the Treasury and appointed Taney to fill the position in 1833. By this time the bank crisis was deepening, as Biddle was using his influence in attempts to control the nation's financial markets.7 Bitter political battles ensued between the president and Congress, leading to the republican controlled Congress refusing to confirm Taney's position as Secretary of the Treasury. This political discord forced Taney to leave the cabinet after eight months of duty. Taney's republican enemies then struck a second time when Jackson appointed him as an Associate Justice on the United States Supreme Court in 1835, and they again defeated the motion to

⁴ Ibid., 12.

⁵ Ibid., 14.

⁶ Ibid., 16–17

⁷ Ibid., 19–24.

confirm the appointment. After the elections of 1835, however, when the Democrats made significant gains in senate seats, Jackson would have the final say, appointing Roger Taney as the Chief Justice of the Supreme Court after the death of John Marshall earlier in the year.⁸ Taney's appointment was confirmed on March 15, 1836, and the fifth Chief Justice of the United States began his twenty-eight year tenure on the nation's highest court.⁹

Charles River Bridge v. Warren Bridge &

In Chief Justice Taney's first Supreme Court session, two distinct constitutional values were at odds regarding transportation across the Charles River in Massachusetts: the protection of private contracts¹⁰ versus the promotion of public welfare.¹¹ The case had been argued twice before in the Supreme Court under Chief Justice John Marshall, yet the absence of one of the seven justices in each case led to a deadlocked three-to-three decision. The case argued in Taney's court was closely watched on the national level as party lines split the opinion amongst legislators and justices with the Whigs supporting private enterprise and the Democrats supporting the public welfare.¹²

The Charles River Bridge contract was given by the state legislature of Massachusetts to a private company tasked with constructing a bridge across the Charles River to replace the ferry service with a more efficient means of travel. The company was granted forty years of toll collection in return for building the bridge, and that period was later extended by an additional thirty years. As the population of Massachusetts grew rapidly, however, residents began to complain about excessive tolls and poor service, and the company that ran the bridge declined to address the issues. In response, the state legislature chartered another bridge a mere one hundred yards away that would take tolls until the time the construction was paid for and then become a state-owned structure. Proprietors of the first bridge sued the state,

⁸ Dean Acheson, Fragments of My Fleece (New York: W.W. Norton & Company, Inc., 1971), 138–39.

⁹ Simon, Lincoln and Chief Justice Taney, 25-26.

¹⁰ U.S. Const. art. I, § 10

¹¹ U.S. Const. art. I, § 8

¹² Simon, Lincoln and Chief Justice Taney, 29-30.

seeking to halt the construction of the new bridge as it considered the rival structure a breach of the contract that the company held with the state.¹³ As the aforementioned circumstances of absent justices hampered the expedience of the judicial process in this case, it was six years after the initial court case that Taney's court heard arguments, and as a result, the competing bridge had already been built and was also already free since tolls had exceeded the construction cost.¹⁴

The main argument for the prosecution¹⁵ maintained that the second contract issued by the Massachusetts State Legislature was a breach of the first contract, as the initial contract "implicitly forbid [sic] the state legislature from authorizing the construction of a second bridge that would compete and drain profits from the first."16 The argument further insisted that the contract for the Charles River Bridge be interpreted broadly to grant operational exclusivity to the original bridge, as failure to do so would leave private contracts vulnerable to the whims of legislators who sought public acclaim at the expense of private contractors. This position became the crux of the argument, as the scope of interpretation became the main point of contention between the Justices. Conversely, the defense argued that although the charter for the original bridge was a contract, nowhere in the charter did it specify that the company would be granted monopolistic rights to the river. Due to this lack of specificity, the more nebulous inferences of the contract must be construed narrowly, since granting implied monopolies to transportation companies would leave regional transportation at the mercy of private investors instead of the government.17

In a four-to-three decision, Taney sided with the majority, as well as with the defense, who argued that granting implied monopolies in construction contracts would result in a situation where if "a turnpike road from one town to another had been made, no railroad or canal"

¹³ Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, 36 U.S. 420 (1837).

¹⁴ Simon, Lincoln and Chief Justice Taney, 30-31.

¹⁵ Ibid., 31. The prosecutor was Daniel Webster, a man who had previously called Justice Taney a 'pliant instrument' of President Jackson.

¹⁶ Ibid., 32.

¹⁷ Acheson, Fragments of My Fleece, 145-46.

between these two points could afterwards be established." Such a reality would severely restrict the development of transportation infrastructure at a time when the borders of the United States were rapidly expanding westward. While Taney's decision is clearly influenced by his association with Jacksonian democratic thought, this important case secured the welfare of the general public against aggressive corporate interests regarding the awarding of contracts. While the Court's decision was a simple four-to-three majority, a vast majority of Americans supported the decision they viewed to be in their best interest. 19

Prigg v. Pennsylvania 🐟

Just a few short years afterwards, Taney's Supreme Court would hear the first important slave case of what would become a recurring theme of his court. The case of Prigg v. Pennsylvania came before the Supreme Court in 1842. For the first time, the Chief Justice would render an opinion on slave-related law, a topic that would dominate the next two decades of Supreme Court jurisprudence. Pennsylvania, similar to other free states, passed laws requiring slave owners to show proof of ownership before extraditing runaway slaves back to their home states. A citizen of Maryland, Edward Prigg, had crossed into Pennsylvania in order to recapture a runaway slave. After capturing the slave he appeared before a Pennsylvania judge to claim the slave legitimately; however, the judge presiding did not grant Prigg the ability to extradite the runaway. Convinced that he had the legal right, Prigg decided to leave for Maryland. After some negotiation between the two states, Prigg returned to stand trial in Pennsylvania for kidnapping and was convicted. In his appeal to the Supreme Court, the issue that arose was one of federal court legitimacy and the sovereignty of federal law over state law.20

The state law at issue here was the aforementioned law requiring rigorous proof of ownership from a slave owner seeking to capture a runaway slave. A federal law regarding fugitive slaves, known as the

¹⁸ Proprietors of Charles River Bridge v. Proprietors of Warren Bridge, 36 U.S. 420 (1837).

¹⁹ Simon, Lincoln and Chief Justice Taney, 34.

²⁰ R. Kent Newmyer, *The Supreme Court under Marshall and Taney* (New York, NY: Thomas Y. Crowell Company, 1968), 124–125.

Fugitive Slave Act, had been on the books since 1793. This statute enabled the process of "removing the said fugitive from labor to the state or territory from which he or she fled."²¹ The question before the Taney court was whether the Pennsylvania law was an "unconstitutional impediment to the enforcement of the federal Fugitive Slave Law,"²² hence the question of judicial supremacy. By ruling in favor of the Pennsylvania statute, the Supreme Court would effectively hinder its own ability to function as the supreme judicial authority. While this attempted usurpation was not as egregious an overstep as the court would face in *Ableman v. Booth*²³, the implications of a ruling for the state statute were clear. Therefore, in a unanimous decision, the court struck down the statute as unconstitutional, as it found that the strict provisions of the law for claiming runaway slaves attempted to abrogate the federal law on the matter.²⁴

Luther v. Borden &

In a rare escape from the traditional slavery-related theme of influential cases brought before the Taney court, Luther v. Borden concerned the government of the state of Rhode Island and the ability of the Supreme Court to rule on matters of government structure. The political situation in Rhode Island during the 1840s was extremely volatile. The charter government of the state had limited suffrage to freeholders since its inception as a republican entity, and a great portion of the disenfranchised populace finally rebelled, setting up a rival government in 1842 and claiming legitimacy as the only true political construct of the people. The charter government responded by declaring martial law in the state in order to suppress the rebellion. The plaintiff in this case was a Rhode Island citizen who was seized by the militia and whose home was searched in the raid. His argument maintained that since the charter government was no longer the

²¹ Fugitive Slave Act of 1793, 1Stat. 302 (1793)

²² Newmyer, The Supreme Court under Marshall, 41.

^{23 1859} case in which the Wisconsin Supreme Court attempted to overrule federal judicial authority.

²⁴ Charles Warren, ed., *The Supreme Court in United States History*, vol. 2, 1821–1855 (Boston: Little, Brown and Company, 1926), 84.

legitimate governmental entity of the state, its actions were null and void, and thus the declaration of martial law was illegal.²⁵

The question that the Supreme Court was tasked with answering was which government had legitimacy for the state of Rhode Island. The Democratic Party supported the rebellion as an expression of the will of the people, and the Whigs supported the chartered government as the legitimate democratic institution of the state.26 Despite the pressures from the public and politicians at large to resolve the issue, Taney resolved in his published opinion to stay true to the principles of his conservative court. Taney adroitly sidestepped the issue by invoking the duties of the Supreme Court designated by the Constitution, noting that since the court was given responsibility for "passing judgment upon the acts of the state sovereignties, and of the legislative and executive branches of the federal government,"27 then naturally "This tribunal, therefore, should be the last to overstep the boundaries which limit its own jurisdiction."28 Taney concluded that the government of Rhode Island must be chosen by the citizens of that state, and any dispute in the legitimacy of the government must be resolved through the mechanisms of political power and not that of the courts.29

Taney's skillful deferment was quickly becoming a theme of his court as conservative pragmatism led to a measured response to several highly political issues that were brought before the court. Taney's prior reputation as a Democratic Party lackey was by now forgotten, and the court was increasingly seen as an impartial tribunal for conflict resolution. With antagonism over slavery coming once again to the forefront of the national conversation, Taney would need to draw on his court's legitimacy and reputation to continue to mediate an increasingly volatile issue.

²⁵ Ibid., 186-88.

²⁶ Ibid., 188-91.

²⁷ Luther v. Borden, 48 U.S. 1.

²⁸ Ibid.

²⁹ Acheson, Fragments of My Fleece, 147.

Strader v. Graham 🗞

The next major slavery case would come just two years after Luther v. Borden, as divergent state slave laws were once again brought into conflict. In Strader v. Graham, argued during the 1851 Supreme Court term, the slavery question was once more brought into the forefront of public consciousness. At issue once again was the status of slaves in free states. In this case, slaves owned by Dr. Christopher Graham of Kentucky had been allowed to travel to neighboring states to practice their skills as musicians. However, a man named Strader aided the slaves in fleeing Kentucky to Ohio, which was a free state, and Dr. Graham sought to reclaim his property. Taney's court was again faced with a volatile situation regarding the slavery question during a time of escalating hostility between pro- and anti-slavery factions.³⁰ Strader's argument, in defense of his actions, invoked the laws of the state of Ohio prohibiting slavery, as well as the Northwest Ordinance of 1787 that decreed, "There shall be neither slavery nor involuntary servitude in the said territory."

Ironically, Graham's case was supported by the same article of the Northwest Ordinance, referring to new territories as it went on to say that "any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service." This statute is important to the function of the law, as without it any slave escaping to a free territory would become free as soon as he or she crossed the border. In a judicious example of pragmatism, Taney's opinion on the case in writing for a unanimous court was that the determining power of the status of slaves belonged to their home states, and as such, the Supreme Court had no jurisdiction to rule. Taney's summation concluded in saying that "In every view of the subject, therefore, this Court has no jurisdiction of the case, and the writ of error must on that ground be dismissed."

Once again, Taney's court had dodged the opportunity to rule decisively on the slavery issue, opting instead to interpret the case as narrowly as possible in a conservative approach. Thus far in his

³⁰ Simon, Lincoln and Chief Justice Taney, 92-93.

³¹ Newmyer, The Supreme Court under Marshall, 126.

³² Strader v. Graham, 51 U.S. 82.

tenure as Chief Justice, Taney had consistently employed a pragmatic approach in his rulings, despite the contentiousness of the political atmosphere that was rife with partisanship as the slavery issue caused constant aggravation between disparate national factions. Yet during this time of hyper-partisanship, Taney was gaining the respect of men once vehemently opposed to his appointment as Chief Justice, such as Henry Clay.33 Clay visited Taney several years after his appointment and effusively stated "Mr. Chief Justice, there was no man in the land who regretted your appointment to the place you now hold more than I... I am satisfied now that no man in the United States could have been selected more abundantly able to wear the ermine which Chief Justice Marshall honored."34 This respect and admiration was well earned, and there were members of the government who began to clamor for the Supreme Court to finally resolve the question of slavery in the Union. As slavery issues continued to divide the country, Taney would eventually decide to oblige those who sought a definitive answer with his opinion for the majority on a case that would leave an indelible mark on his court and its legacy.

Dred Scott v. Sandford &

By 1857 the question of slavery was threatening to fracture the Union. Abolitionists in the North were developing violent factions, and southerners had developed a near xenophobic view of northerners and their slavery agenda. For years the Supreme Court under Taney navigated this combustible situation, yet it seems that with *Dred Scott v. Sandford*⁵⁵, Taney was determined to provide a definitive ruling on the slavery issue. Taney's southern sympathies were a direct result of his firm belief in state's rights, as he saw the more populous northern states attempting to dominate the national agenda. Taney also bristled at "the condescending attitude of northern politicians toward the South and their assumption that they were morally superior to

³³ Simon, Lincoln and Chief Justice Taney, 43. Taney maintained resentment for his old opponent, relishing in Clay's defeat in the 1844 presidential election.

³⁴ Ibid., 42-43.

³⁵ Ibid., 105. The defendant, Sanford, had his name misspelled by the court reporter

southerners."³⁶ His indignation finally boiled over, and the Dred Scott case provided Taney with an opportunity to cross the boundary from judicial pragmatism to judicial activism.

Dred Scott was an African slave under a man named Dr. John Emerson who resided in Missouri. As Emerson moved to Illinois and then to the Louisiana Territory, Scott accompanied him, living for three years in the free state of Illinois and two years in the Territory, where slavery was prohibited. When Dr. Emerson died in 1843, Scott sought his freedom from the estate but was denied his request, and he subsequently filed suit in the Missouri state courts. ³⁷ After a protracted legal battle over several years, the Supreme Court of Missouri declared that Scott was still a slave, undoubtedly influenced by the inflammatory attitudes between slaveholders and abolitionists during the 1850s. ³⁸

After the defeat in Missouri, Roswell Field, the attorney for Scott, employed a controversial strategy, as he re-filed the case in Federal District Court instead of applying straight to the Supreme Court and Chief Justice Taney. This maneuver was an attempt by Field to reargue the case on a federal level, instead of arguing an appeal that could only be adjudicated in the context set forth from the rulings of the lower courts. In order to file in Federal District Court, Field had to do two things: he needed to convince the court that Scott was a citizen with a right to sue, and he also needed to have a case involving citizens of two separate states. This last point was a jurisdictional issue that was only made possible through happy coincidence, as the caretaker of Dr. Emerson's estate had recently moved to New York. With this development, Field hoped to convince the court that Scott had the standing necessary to sue in federal court. 40

Convincing the court that Scott was a citizen of Missouri was a daunting task for Mr. Field. Under the second section of the third

³⁶ Ibid., 94.

³⁷ Earl M. Maltz, *Dred Scott and the Politics of Slavery* (Lawrence, KA: University Press of Kansas, 2007), 61–63.

³⁸ Robert C. Baron, ed., Soul of America: Documenting Our Past, Vol. 1, 1858 –1993 (Golden, CO:Fulcrum Publishing, 1994), 236.

³⁹ Maltz, Dred Scott, 73.

⁴⁰ Ibid., 70–72.

article of the constitution, jurisdiction for federal courts extends to cases involving "citizens of different states." Field argued Scott's case for citizenship based on the fact that Missouri granted him standing as a citizen of the state in his legal battles there, thereby granting him status in federal court. Judge Robert Wells eventually agreed with Fields, as he could not come to a position denying the standing of Scott as a black man since he would also be denying that blacks could be sued themselves in court.⁴¹

As a slaveholder himself, Judge Wells was not a sympathizer to Scott's case. Judge Wells instructed the jury to find for the defendant, citing the Supreme Court case of *Strader v. Graham* in his reasoning. ⁴² A slave leaving his home state in order to reside in another with his master was still bound by the laws of his home state, and the federal judiciary had not the authority to dictate state law that did not directly contradict federal law. Field promptly filed an appeal to the Supreme Court, and the stage was set for an ideological showdown between pro- and anti-slavery agendas that would threaten to plunge the country into civil war. After two decades of careful pragmatism, the most infamous case of Chief Justice Taney's career would destroy his standing amongst his contemporaries and greatly damage his legacy.

The Supreme Court case would decide the same two questions as the lower federal court. Did Scott have standing in federal court? And more inflammatory for national politics, was Dred Scott a free man or a slave? After hearing arguments from the plaintiff and the defendant, the Justices would not rule for two months, as four Justices were firmly entrenched on each side of the argument, and Justice Samuel Nelson would not cast a deciding vote. 43 A unanimous vote ordered the case reargued the next year and also requested an answer to more particular questions regarding the issues at hand. Despite these instructions, the re-argument would also include an incendiary national issue: the constitutionality of the Missouri Compromise. 44

⁴¹ Ibid., 75.

⁴² Ibid., 73.

⁴³ Simon, Lincoln and Chief Justice Taney, 106.

⁴⁴ Ibid., 114.

While the Missouri Compromise had been repealed by the Kansas-Nebraska Act⁴⁵, the issue remained at the forefront of the political spectrum because of the idea it represented. The Missouri Compromise admitted Missouri as a slave state to the Union while declaring that no more states from the Louisiana Territory could be admitted as slave states.⁴⁶ Thus, Congress claimed a right to legislate slavery for future states, a contention that the southern states hotly contested. Keeping an even amount of slave and non-slave states was important in maintaining a political balance in Washington to prevent the northern states from imposing their will on the South. The Dred Scott case would provide an opportunity for the Supreme Court to decide whether Congress could legislate on the slavery issue, and Taney would take full advantage.

During the months between arguments in the Dred Scott case, conditions around the country grew even more dire. Violence erupted in Kansas over slavery issues, and a northern congressman was brutally caned on the Senate floor by one of his southern colleagues.⁴⁷ Tempers flared beyond reason, and there were many people hoping for a definitive ruling on the issue, but partisan ideology had split the court. After the re-argument of the case, the Justices would be sharply divided over the scope of their ruling. Initially the court decided to rule simply on the slavery issue, affirming the Missouri Supreme Court's decision that Dred Scott remained a slave. Two abolitionist Justices vowed to write dissenting opinions supporting the right of Congress to outlaw slavery in the territories. This flagrant rebellion⁴⁸ ruptured the compromise, and the five southern justices on the court sought to rule that the Missouri Compromise was unconstitutional, reassigning the majority opinion to Chief Justice Taney.⁴⁹

Taney's Dred Scott opinion would destroy his political standing and haunt his career long past his death, although he would never

⁴⁵ Kansas-Nebraska Act of 1854, 10 Stat. 277 (1854)

⁴⁶ The Missouri Compromise, March1, 1820.

⁴⁷ Maltz, Dred Scott, 109.

⁴⁸ Simon, *Lincoln and Chief Justice Taney*, 117. Expansive dissents were unusual at this time in the court's history, as the normal procedure was simply to record objections or to silently acquiesce.

⁴⁹ Ibid., 117–18.

renounce his opinion on the case. On the issue of citizenship, Taney found that "the plaintiff in error is not a citizen of Missouri in the sense in which that word is used in the Constitution."50 This ruling threw out the Federal Circuit Court ruling and reverted the case back to the Missouri Supreme Court decision. It would seem the case would then be moot since the court ruled it did not have the jurisdiction to decide the case, but Taney was resolved to strike a victory for the South. Taney continued on the issue of citizenship for blacks, asserting that blacks free or otherwise were "forever destined to remain in a degraded status in civilized society and could never rise to the level of national citizen."51 Taney attempted to support his argument by asserting that the founding fathers had never intended the phrase "all men are created equal" to include the African race. Taney's argument relied on thinly supported interpretation from federal and state statutes, and consequently, was treated most derisively by scholars and the country at large.52

Taney then attacked the now legally irrelevant Missouri Compromise in an egregious case of judicial activism. He declared the Missouri Compromise unconstitutional on the grounds that Congress had no legal right to decide the slavery issue for the residents of the territories and future states. Taney's ardent belief in state's rights held that Congress could only hold the issue in trust until a territory applied for statehood and could subsequently have the citizens of the new state decide for themselves on the issue of slavery.⁵³ This argument came into direct conflict with a ruling by Chief Justice Marshall, half a century earlier in *American Ocean Insurance Company v. Canter*, which stated that Florida (still a territory) was "governed by that clause of the Constitution which empowers Congress to make all needful rules and regulations respecting the territory."⁵⁴ This departure from precedent was yet another striking characteristic of the unusual judicial advocacy Taney displayed in his opinion on the Dred Scott case.

⁵⁰ Dred Scott v. Sandford, 60 U.S. 393 (1856).

⁵¹ Simon, Lincoln and Chief Justice Taney, 121.

⁵² Baron, Soul of America, 240.

⁵³ Ibid., 238-39.

⁵⁴ American Ocean Insurance Company v. Canter, 26 U.S. 511 (1828).

The third issue in Dred Scott was whether Scott remained a slave. Citing his prior decision in Strader v. Graham, Taney declared that Scott was indeed a slave, as slaves crossing the borders of other states are still governed by the laws of their home state. This third finding was hardly a surprise, but the first two infuriated northerners and southerners alike. Scholars almost universally panned the decision as partisan chicanery based on paper-thin documentation and strained reasoning. The majority of Americans were simply appalled at the strong-armed backing of slavery by the Chief Justice, who until recently had a reputation for jurisprudence. However, Taney had not altered his opinions in order to make this ruling. Taney had long suppressed his partisan views and southern sympathies in order to stick to a constitutionally based court, but Dred Scott had finally exposed his views to the nation at large.55 In his Dred Scott opinion, Chief Justice Taney had attempted to solve the slavery issue once and for all but had instead ignited a combustible social situation that would culminate with the outbreak of the Civil War just four years later.

Ableman v. Booth &

After the disastrous reception of the Dred Scott decision, the public had forgotten two decades of jurisprudence by Taney, and the Supreme Court desperately needed to restore its legitimacy as well as its reputation for impartiality towards partisan causes. In 1859, a major challenge to the authority of the Supreme Court was brought before Taney and his colleagues. This challenge erupted in the state of Wisconsin in 1854 when an abolitionist named Sherman Booth learned of the local arrest of a runaway slave and incited a mob to batter down the jail, free the slave, and send him to Canada via Lake Michigan. Booth was later arrested for his part in the violence, yet the movement he instigated led to a firestorm of abolitionist sentiment across the state. Booth appealed to the Wisconsin Supreme Court, declaring that the Fugitive Slave Act was unconstitutional and thereby his incarceration was illegal.⁵⁶

A judicial crisis ensued when the Wisconsin Supreme Court agreed with Booth that the Fugitive Slave Act was unconstitutional. It also

⁵⁵ Newmyer, Supreme Court under Marshall, 137-38.

⁵⁶ Simon, Lincoln and Chief Justice Taney, 158-59.

declared that state courts retain the right to nullify federal statutes, as well as saying that federal courts could not supersede the authority of state courts. Wisconsin was confident enough in its superiority that in the ensuing appeal to the Supreme Court, the only arguments made before the Justices were made by the Attorney General of the United States in support of federal power, as no representative of the state of Wisconsin showed for the hearing.⁵⁷ Thus the stage was set for another dramatic state power versus federal power conflict. The attempted usurpation of federal authority by the Supreme Court of Wisconsin challenged the very idea of the Union, in that it claimed sovereignty over all aspects of the state's interactions. The capitulation of the United States Supreme Court to this ruling would undermine any federal statute, and it would effectively grant the same ability to every other state.⁵⁸

Taney delivered the unanimous opinion of the court in a complete, constitutionally based argument supporting the supremacy of the Supreme Court in all matters related to the Constitution. In his opinion, Taney details his vision of the intentions of the framers of the Constitution for a federal government able to function effectively as an arbiter between the states as well as between the federal government and the states in regards to applicable law. "No power is more clearly conferred by the Constitution and laws of the United States than the power of this court to decide, ultimately and finally, all cases arising under such Constitution and laws."59 Taney's opinion in this case was necessary to preserve the already tenuous position of the federal government in a time of zealous states rights advocates and militant abolitionist movements in the North. While his opinion was derisively received along partisan viewpoints, the Supreme Court had once again faced a crucial constitutional issue with unanimity and force. Two years later, on the doorstep of war between the Union and the Confederacy, Taney issued one more opinion regarding fugitive slaves.

⁵⁷ Ibid., 159.

⁵⁸ Warren, ed., The Supreme Court, 336-37.

⁵⁹ Ableman v. Booth, 62 U.S. 506 (1858).

Kentucky v. Dennison &

Kentucky v. Dennison (1861) involved a slave girl who was allowed by her master to travel east to visit her mother in Virginia. While stopping in Ohio to board a different train, the girl was seized by abolitionists and declared free by the Ohio Supreme Court. Kentucky demanded that Ohio surrender the man accused of freeing the slave to stand trial against the laws of Kentucky. The governor of Ohio refused, as the laws of his state did not declare the man's act a crime, and abolitionist sentiment was near its boiling point as the Civil War neared. Kentucky then appealed directly to the Supreme Court, which served as the designated arbiter between state issues.⁶⁰

Taney's decision was reminiscent of the technique employed by John Marshall in Marbury v. Madison at the turn of the century. Marshall ruled that President Thomas Jefferson and Secretary of State James Madison must deliver judicial commissions made by the outgoing President John Adams; however, he did not order them to do so, as he conceded that he lacked the proper authority. 61 This judicial scolding eliminated a government confrontation as Jefferson could merely ignore the ruling. Taney took a similar approach with the governor of Ohio, lecturing him on his responsibility to extradite the prisoner but refusing to order the governor to do so, as he lacked the enforcement power. Once again, Taney sought a diplomatic solution to a complex national problem, yet the subdued tone of the ruling can be largely attributed to the contempt most of the country held for the court in the wake of the Dred Scott decision. Civil war seemed imminent, and there was little public interest in how the court ruled. Northerners would deplore it as an inept attempt by the Chief Justice to continue pushing his pro-slavery agenda, and southerners would be "expressing bewilderment at the impotence of the Supreme Court to enforce the Fugitive Slave Law."62

The decision in *Kentucky v. Dennison* is not particularly notable for its impact on the enforcement of the Fugitive Slave Laws of 1793 and 1850 since the Civil War would break out just one month later, but rather, it is important because of the inherent weakness in the

⁶⁰ Simon, Lincoln and Chief Justice Taney, 180.

⁶¹ Marbury v. Madison, 5 U.S. 137 (1803).

⁶² Simon, Lincoln and Chief Justice Taney, 181.

ruling that perfectly encapsulates the weakness of the Union at that particular point in history. Southern states were seceding and federal power was being challenged at every turn. It would take four years of bloody internecine warfare to secure the Union and forever cement the supremacy of the federal government. However, Justice Taney would be a staunch opponent of the usurpation of powers by President Lincoln during the Civil War, in particular, the suspension of habeas corpus as a defense against secessionists. While he was branded as a southern sympathizer and had little clout during the war, Justice Taney's strong resistance to what he viewed as abuses of executive power would help to somewhat redeem his memory as a defender of civil rights, despite his ruling in the Dred Scott case. His first conflict with President Lincoln would arrive shortly after the war began, as Taney challenged the implementation of martial law in the state of Maryland. 63

Ex parte Merryman 🐟

With martial law declared in Maryland, President Lincoln charged the military with arresting suspected secessionists and holding them indefinitely without due process. The proximity of Maryland to the Confederate States fostered an environment of sabotage and subterfuge, and Lincoln saw this suspension as necessary for national security. John Merryman was a wealthy landowner and state politician who was charged with "burning railroad bridges and destroying telegraph wires."64 The military arrested Merryman in the middle of the night, and he was held at Fort McHenry without trial. His lawyers appealed to Taney, sitting on the bench for the Federal Circuit Court in Maryland, for a writ of habeas corpus. Taney granted the writ, commanding that General Cadwalader appear before the court to explain the unlawful detention of a US citizen by the military. Cadwalader twice declined to appear before the court saying only that he "is authorized by the President to suspend the writ of habeas corpus at his discretion, and, in the exercise of that discretion, suspends it in this case, and on that ground refuses obedience to the writ."65 Taney well understood that since the general was a member of the military

⁶³ Ibid., 186-87.

⁶⁴ Ibid., 186.

⁶⁵ Ex parte Merryman, 17 F. Cas. 144 (MD. 1861).

based in a military installation, the court had no means by which to compel him to appear.

Frustrated by the lack of cooperation and what he saw as an affront to basic civil rights, Taney would deliver a direct challenge to President Lincoln and his exercise of wartime power.66 Taney's published opinion in Ex parte Merryman was a blistering rebuke of the flagrant usurpation of power by Lincoln's presidency. The president had no constitutional authority to suspend the writ, Taney argued, since the clause that authorizes the suspension is found in the ninth section of the first article of the Constitution, which describes the power of the Legislative Branch and makes no mention of the executive. 67 That section states, "The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it." Lincoln's cabinet interpreted this particular section quite differently, as Lincoln and his attorney general cited "cases of rebellion" in particular in defending the president's actions in defense of the Union. Taney was not through with his denouncement after this one issue, however, and he went on to enumerate several important duties of government that were not granted to the president, such as making treaties with foreign nations or appointing offices of government without the approval of Congress.68

The Prize Cases &

Aside from the issue of habeas corpus, another important issue concerning presidential power was brought before Justice Taney, this time in the United States Supreme Court. At the outbreak of the Civil War in April of 1861, President Lincoln ordered a blockade of every major southern port in order to cut-off trade and military supplies to the South. Taney viewed this action as constitutionally illegal, as he saw the blockade as an act of war, and according to the Constitution, war must be declared by Congress. Taney's interpretation of the blockade was supported by contemporary international law, which viewed a blockade as "a militant act by one belligerent against another." Even

⁶⁶ Newmyer, Supreme Court under Marshall, 145.

⁶⁷ Merryman, 17 F. Cas. at 144.

⁶⁸ Simon, Lincoln and Chief Justice Taney, 191-92.

⁶⁹ Ibid., 207.

after Congress declared the blockade legal a few months later, the issue of the legality of the blockade was raised by the owners of four ships seized by the Union Navy in a challenge simply referred to as *The Prize Cases*.70

In four separate instances, a ship attempting to cross the blockade was intercepted, seized, and taken to a northern harbor. In differing suits that were combined to make the Supreme Court case, the ship owners would claim that their property had been illegally seized since Congress had not declared war, and thus there was no justifiable reason for their property to be taken. While it was made clear with Ex parte Merryman that Lincoln was not afraid to dismiss the opinion of the court when he saw fit, this particular challenge to the president would have more severe ramifications regarding the war with the Confederacy.

For the first two years of the Civil War, President Lincoln and his Secretary of State William H. Seward had gone to great lengths in order to paint the Civil War as a conflict between a sovereign nation and insurgents, rather than two competing nations. The reason this interpretation was so important to the administration was that it kept foreign nations from providing economic and military aid to the South since it deprived the South of being recognized as a sovereign nation. If the Supreme Court declared the blockade illegal, it would damage the ability of the president to maintain this stance since it recognized the South as a sovereign nation and also decided the president did not have the authority to declare war against such a nation.

In a five-to-four decision, the court ruled that the seizures of the ships were legal, as the president retained the right as Commander-in-Chief to act pursuant to the nation's interest in times of crisis. His declaration of war was also ruled legitimate since, as Justice Grier wrote for the majority, "The president was bound to meet it [the insurrection] in the shape it presented itself, without waiting for Congress to baptize it with a name." This notion maintains that when a hasty response to a national issue is needed, the president must be able to act in response. Grier also contested the notion that war was

⁷⁰ Ibid., 205-06.

⁷¹ Newmyer, Supreme Court under Marshall, 145-46.

⁷² The Prize Cases, 67 U.S. 635 (1862).

only a state between two sovereign nations, claiming that war "may exist where one of the belligerents claims sovereign rights as against the other." With a carefully worded opinion for the majority, Justice Grier provided Lincoln's administration a supporting argument for their actions both at home and on the international scene.

Justice Taney was part of the minority in this case, and although he did not write the dissenting opinion, he carried rather strong views on the subject. In Taney's eyes, Lincoln had unilaterally usurped presidential power with the suspension of habeas corpus, and the blockade, as well as the war being carried out against the southern states, was a gross injustice. Taney had long been a proponent of state's rights and had maintained that the southern states had a right to secede from a Union in which the northern states were imposing their will.74 In his last important confrontation with the administration, Taney had failed to gather enough support amongst his colleagues once again. Taney had been all but blacklisted as a southern sympathizer, and the Civil War along with his opposition to Lincoln would rob him of any real influence in the last years of his life. Still, Taney would continue to dutifully perform his tasks for the nation until the slow decay of time took his life in the year 1864, with the conflict he abhorred so much still raging on.

Throughout a legal career that spanned eight decades, Roger Taney had proven his remarkable brilliance as a logic-based legal assessor. He constantly won over opponents with his brilliance and would stay true to his personal beliefs while also excluding them from the majority of his decisions⁷⁵ and focused instead on the law itself. Taney would likely have been renowned as one of the greatest Chief Justices the United States has ever had were it not for his abysmal Dred Scott opinion. The buildup towards the Civil War was beyond any one man to defuse, yet for many years Taney skillfully asserted the law when necessary and kept his opinions constrained to only those questions cogent to the case at hand. When war did break out in 1861, Taney stood staunchly in the face of oppression, as he saw it, and challenged the most powerful man in the Union on multiple occasions,

⁷³ Warren, ed., The Supreme Court, 384.

⁷⁴ Simon, Lincoln and Chief Justice Taney, 220-21.

⁷⁵ Dred Scott v. Sandford was a clear exception.

attempting to preserve and maintain the civil rights of the citizens of the United States. While his later opinions would begin to lean more towards his southern sympathies due to the internecine nature of a Civil War, the vast majority of Taney's opinions were closely tethered to the Constitution and served the country well in a time of crisis.

BIOGRAPHICAL NOTES

Everett Tenney is currently a general history major at UVU, graduating in April 2012 with a bachelor of arts in history and a minor in political science. An expatriated Texan, he has lived in Utah for several years, working through school as a non-traditional student for the majority of that time. Everett has always had a keen interest in history and a particular affinity for the classical and medieval periods. After graduation, he plans on attending graduate school to pursue a master's degree in international relations, focusing on national security and diplomacy.

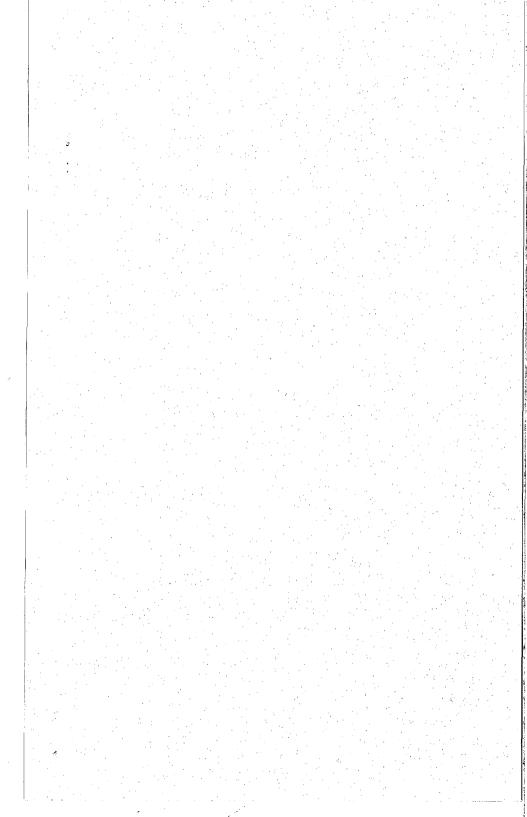
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International Issues with the Articles of Confederation

J. Brook Anderson

When the United States was a new nation, the world was keeping a close eye on their radical new idea of government. Some were expecting the United States to fail, while others hoped for a great achievement in a new form of government. As the world waited, the founders of this new nation were still trying to determine what roles the state and federal governments should play and what the rights and powers of either government should be. Prior to the Articles of Confederation, many of the states had been acting as independent agents on the global scene by signing treaties with other countries and imposing their own international laws, tariffs, and taxes.¹ These practices were a risky way to do business, as European merchants did not always know what tariff to expect, or even if they could afford to do business when they would come to an American port.

Disputes with international trade were not the only problems to be found within the Articles of Confederation. There were many issues with the Articles, but these complications were not intentional. The Articles were a reflection of the times. Americans were so afraid of a central power trying to dictate their lives that they stripped any real power from the central government. By not being able to regulate trade and taxes, Congress was not able to run an effective government.

¹ Chevalier De la Luzerne to Comte de Vergennes, 6 May 1783, in The Emerging Nation: A Documentary History of the Foreign Relations of the United States under the Articles of Confederation, ed. Mary A. Giunta, vol. 2 1780–1789 (Washington DC: National Historical Publications and Record Commission, 1996): 112–14.

Background &

At the time of the Articles of Confederation's ratification in 1777, the United States had already broken away from Britain and was fighting a war for independence. The French aligned themselves with the rebel states and assisted politically and financially in the formation of a stable government. This was a mutually advantageous relationship because America's economy, which was based on exports of raw materials, could greatly enrich France's attempt to catch up with Britain in the manufacturing industry. France's decision to aid the infant country was also influenced by its centuries old animosity toward Britain.

The United States' relationship with France was very beneficial to the new nation, and this relationship gave much needed aid (financial aid specifically) so that the US could continue the work of forming a new country. As the US worked to develop a nuanced government, trade, commerce, and international relations were essentially the same area of political policy.² This means that when John Adams and Benjamin Franklin were negotiating peace treaties in France, they were also negotiating trade rights, international commerce issues, and securing loans to keep the war effort and the United States economically afloat. Back in Philadelphia, the writers of the Articles were trying to factor in Adam and Franklin's efforts and how those efforts would affect the laws on not just international concerns, but on domestic matters as well. International concerns would help define the Articles as well as accentuate the necessity of the Constitution.

Taxes 🗞

All charges of war, and all other expenses that shall be incurred for the common defense or general welfare, and allowed by the United States in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States.

Arricle VIII

The process and reason for taxation were contentious under the Articles of Confederation. This is understandable since this was the

² Paul Holbo, s.v. "Trade and Commerce," in Encyclopedia of American Foreign Policy: Studies of the Principal Movements and Ideas, ed. Alexander DeConde, 2nd ed. (New York: Charles's Scribner's Sons, 1978) 945–47.

same generation that rallied behind no taxation without representation. There was such a legitimate hesitancy toward levying taxes that the manner in which the government would raise revenue is explicitly addressed in the Articles. After the perceived heavy taxes that the colonists experienced while living under British rule, the writers of the Articles were very explicit in their policy of limiting how the federal government could tax. Basically, Congress could not tax in any form, and the only way to raise revenue was to ask the states to contribute what they could. Congress also could not institute a tariff on foreign imports because the Articles state that Congress cannot control commerce of the states.3 After accruing huge debts because of the war effort, Congress repeatedly asked the state legislatures for funds, but each state had its own war debts to pay. They valued their own financial crisis over any federal troubles. As a result, little money came from the states. The only thing that kept Congress afloat and paid for the Continental Army was loans: first from wealthy Americans and from France, then from Dutch Bankers.4

Many of the congressional letters sent to American ambassadors in Europe were concerning the United States' debt. The ambassadors received requests to try to get loans from European allies. While not always an easy thing, men like Benjamin Franklin and John Adams were able to secure such funds with the promise of being able to pay them back after the war concluded.' Regrettably, raising the capital to pay even the interest on these loans proved to be difficult under the Articles of Confederation. Robert Livingston expressed such apprehension in a letter to John Adams: "Congress is constantly employed in discussing the means for a regular payment of the Interest, and the gradual discharge of the principal of their debt." There were very few days that Congress was not debating about the national debt.

³ Articles of Confederation, Article IV, http://www.ourdocuments.gov/doc.php?doc=3

⁴ Mary A. Giunta, ed., Introduction, The Emerging Nation, 1-3.

⁵ Benjamin Franklin and Gravier de Vergennes, "Loan Contract between King Louis XVI and the United States, 16 July 1782," in Giunta, *The Emerging Nation*, 31–35.

⁶ Robert Livingston to John Adams 15 September 1782, in Giunta, *The Emerging Nation*, 49–50.

The United States was unable to raise taxes effectively, so the appearance of the United States was damaged to potential allies abroad, particularly those that Adams and Franklin were actively petitioning for loans to keep the government afloat. Benjamin Franklin expressed his dismay when he said:

Our people certainly ought to do more for themselves. It is absurd, the pretending to be Lovers of Liberty while they grudge paying for the Defense of it... that your newspapers acquaint the World with this, with the nonpayment of taxes by the people and with the nonpayment of interest to the creditors of the public the knowledge of these things has hurt our Credit.⁷

It would have been hard for Adams and Franklin to go to potential creditors and ask for money when there was newspaper evidence that they might not get paid back. The American cause was being damaged by their newspapers.

There was much concern about receiving payment after creditors read in American newspapers about the debt debates going on in Congress. One of the main creditors, France, was repeatedly questioning and demanding payment.⁸ French diplomats such as Chevalier de la Luzerne would frequently petition Congress for payments, only to receive nothing. After one of the many attempts to compel the states to pay any form of permanent funds, the president of Congress, Thomas Mifflin, wrote Luzerne to try to calm French fears of nonpayment.⁹ Luzerne was very aware of what was happening and not happening in Congress since he not only saw it first hand when visiting Congress, but also was reading it in the newspapers (like everyone else). After witnessing the lack of power that Congress had over the states, Luzerne went to each state and negotiated with them individually to get them to pay money to Congress. Luzerne's arrangements allowed foreign loans to be met each month so that the

⁷ Benjamin Franklin to Robert Morris 23 December 1782, in Giunta, *The Emerging Nation*, 62–63.

⁸ Chevalier De la Luzerne to Robert Morris, 15 March 1783, in Giunta, *The Emerging Nation*, 74–76.

⁹ Thomas Mufflin to Chevalier de la Luzrene, 21 April 1784, in Giunta, *The Emerging Nation*, 345–46.

war effort could financially continue. 10 Though not always successful, Luzerne was able to get some money out of the states in this manner. Unfortunately, this hurt the image of the United States in the eyes of the French leaders and might have caused them to withdraw support if they had not been too involved to step back and let the US fail. The Articles of Confederation, therefore, put foreign allies in an odd position. In order to maintain diplomatic and economic ties, they had to compensate for the Articles shortcomings by becoming involved in domestic issues.

France was not alone in trying to cover the shortcomings of the Articles of Confederation. Financial aid from overseas was not always quick to cross the Atlantic, and therefore, it took the help of private citizens to raise the capital that Congress could not. During the last couple of years of the American Revolution, a group of patriotic wealthy investors formed a private bank in Philadelphia to try to help pay for the war expenditures. While there were some initial problems, the new bank became a success and raised funds to help pay off war debts. The bank became so useful that after the Constitution was established the bank was given the first charter to become a national bank.¹¹

Treaties &

The United States in congress assembled, shall have the sole and exclusive right and power of determining on peace and war... of sending and receiving ambassadors—entering into treaties and alliances provided that no treaty of commerce shall be made whereby the legislative power of the respective States shall be restrained.

Se Article IX

Before the Revolution, Britain did all treaty negotiations and signings for the United States. After the Declaration of Independence was signed, the Continental Congress formed a committee whose purpose was to outline a process in which the United State would handle matters with other countries. In particular, their purpose was

¹⁰ Chevalier De La Luzerne to Comte de Vergennes, 12 March 1784, in Giunta, *The Emerging Nation*, 313–14.

¹¹ Simeon E. Baldwin, "American Business Corporations before 1789," *The American Historical Review* 8, no. 3 (April 1903): 458, http://www.jstor.org/stable/1832729.

to create a mechanism for forming treaties, which was called the Plan of 1776. One of the first treaties signed by the United States using this template was the Treaty of Amity and Commerce with France in 1778. The Plan of 1776 was a method that would be used throughout the Articles and into the Constitution.

With a template and a provision in the Articles of Confederation, the Congress now had the right to negotiate treaties, but the writers of the template and Articles could not foresee all the issues surrounding them. One such issue was the rights and due process of foreign nationals. One example of this is the Longchamps affair.

In the spring of 1784, in Philadelphia, a French ex-patriot by the name of Longchamps showed up on the doorstep of the French minister, Chevalier de la Luzerne. Longchamps came requesting that Luzerne recognize his own title of Chevalier, which Longchamps had given himself when he came to America. Luzerne would not consent to this request, and Longchamps left in anger. Two days later, Luzerne's secretary, Piere Francois Marbois, saw Longchamps on the street, and an argument started that soon became a fight. According to Luzerne, the fight was heated and physical enough for Longchamps to call out for someone to hand him a gun. After the fight had stopped, Longchamps ran away. Eventually Longchamps was captured, and Luzerne requested that he be extradited to France in order to face his crimes.

What happened next cost Longchamps two years of his life in a Pennsylvanian prison. While there were treaties of friendship and trade with France, the United States had no extradition treaty. There were no federal laws in the Articles for how to handle a legal situation with a foreign national, so it became a matter of jurisdiction. Since Congress did not want any legal issues with state rights with Pennsylvania, they passed the matter to the Pennsylvanian Supreme Court. They determined that since there was no extradition treaty he would be put to trial the same way any American would. Longchamps was tried and convicted of assault and sentenced to two years in prison. Luzerne,

¹² Edmund C. Burnett, "Note on American Negotiations for Commercial Treaties, 1776–1786," *The American Historical Review* 16, no. 3 (1911): 579, http://www.jstor.org/stable/1834838.

¹³ Chevalier De la Luzerne to John Dickinson, 19 May 1784, in Giunta, *The Emerging Nation*, 374–77.

however, wanted Longchamps tried in France, so he had Marbois ask Congress for extradition. Congress had John Jay, then the Secretary of Foreign Affairs, look into the matter. Jay concluded that the Articles did not give Congress the legal right to override the Pennsylvanian ruling. Since there was no treaty, Pennsylvania had the final say in the matter, not the federal government. Longchamps was forced to fulfill his sentence of two years in prison.

Even if Congress had been able to quickly write up a treaty of extradition for foreign nationals during the Longchamps affair, there were other legislative hurdles that Congress would have had to deal with. The Articles of Confederation gave Congress the power to negotiate treaties, but treaties did not go into effect until nine out of the thirteen states approved them. Many of the States felt they needed to be included and consulted on many, if not all, international issue, and some even felt they needed to have their own ambassador or representative with each European ally. Logistically, negotiations would have proved difficult if every arbitration had to have thirteen representatives to one foreign minister. There is some logic to this irrational idea. Each state felt a reluctance to let just one unified voice speak for them because of the way British rule had previously prevented them from having a voice.

The fear the states had in losing the ability to have a say in government is one of the reasons why a super majority vote was needed to pass all legislation. This majority had to have at least nine of the thirteen states. If at least nine states did not vote for a bill, treaty, or any other form of legislation, then that legislation did not pass. Treaty negotiation is always a challenging endeavor, particularly when a super majority is needed to get anything passed. This issue became apparent when Congress tried to negotiate a treaty with Spain in 1785. To understand the difficulties with this treaty, an explanation of one of the clauses in the Treaty of Paris (1783) is required. As part of the negotiations in the Treaty of Paris, the American delegation made sure that British owned lands up to the Mississippi river would become

¹⁴ John Jay, "Report on the Longchamps Affair, 16 February 1785," in Giunta, *The Emerging Nation*, 554–56.

¹⁵ J. B. Duroselle, s.v. "Treaties" in Encyclopedia of American Foreign Policy: Studies of the Principal Movements and Ideas, ed. Alexander DeConde, 2nd ed. (New York: Charles's Scribner's Sons, 1978).

part of the United States. ¹⁶ While the potential economic benefits of western expansion were an exciting prospect, the Spanish neighbors to the west of the Mississippi were not as enthused.

Spain had been losing its grip on its American colonies and was desperate to maintain what it still had. Spain's foreign trade policy up to this point was that its American colonies could only trade with each other and with Spain. This policy was not necessarily the actual practice of the Spanish American colonies, as trade with the States had been going on illegally for some time. Needless to say, Spain did not recognize that the eastern side of the Mississippi belonged to the United States, as was stated in the Treaty of Paris. Spain felt that both sides of the river belonged to Spain and did not want to allow United States citizens to trade along the Mississippi. Negotiations started immediately between John Jay and the Spanish diplomat Diego Maria de Gardoqui to try to come to some sort of resolution concerning trade along the Mississippi.

Jay and Gardoqui were already prior friends. They had met in the Spanish royal court while Jay was pursuing United States' interests in Spain. Despite their friendship, both represented a group that wanted completely different things. Spain wanted complete control over all of the Mississippi and to be able to dictate every form of trade along the river. The US also wanted trading rights on the river but was willing to share this important trading route with Spain. After a year of negotiations, Jay presented a treaty that would give the US special privileges in European Spanish ports, and Spain would have exclusive rights to the Mississippi. While seven of the thirteen states approved the treaty, it was not able to pass since nine votes were required. This vote was along sectional lines, as Northern states voted yes since they would better benefit from trade relations with European Spanish ports, but southern states like Georgia voted no. Southern states had the most to gain from using the Mississippi as a commercial shipping

¹⁶ Treaty of Paris (1783), article 2, 2, http://www.ourdocuments.gov/doc.php?flash=true&doc=6.

¹⁷ Giunta. "Introduction" 4.

¹⁸ Don Diego de Gardoqui to Conde de Floridablanca 23 August 1785, in Giunta, The Emerging Nation, 764–65.

¹⁹ Lester H. Brune, s.v. "Jay-Gardoqui Negotiations", in *Dictionary of American History*, ed. Stanley Kutler, 3rd ed. (New York: Charles Scribner's Sons, 2003).

lane. Because a super majority was required, the Jay-Gardoqui treaty could never be passed. It was not until after the Constitution was ratified that the issues with trade and the Mississippi were able to be resolved.

Considering such perty arguing among the different states and their inability to obtain a majority vote on treaties, many European powers had a legitimate concern as to whether the United States government, and the nation itself, would exist for an extended amount of time. The European countries that the United States was trying to form treaties with viewed this experiment with significant skepticism and were uneasy about economic interests in the US. Many of the treaties that the US initially signed with European nations had clauses stating that the states would follow the provisions placed in the treaty even if the United States did not survive. Even those living in the US did not know if the American experiment would work or if each of the states would quickly secede and try to form their own unique governments. Unity of a single nation under one flag was not a foregone conclusion during the early years.

The states were not always happy with treaties, and some would try to counteract certain clauses in treaties by passing conflicting laws in their own state legislatures, like Virginia's reaction to the Treaty of Paris. Within the treaty is a clause that states all debts owed to Britain before the war had to be settled by a specific deadline. Virginians had a lot of debt with Britain due to the nature of the boom-and-bust tobacco crop. The boom-and-bust tobacco crop happened when times were good. Tobacco would grow and make the farmer a good profit, but as the market became flooded with good tobacco, the price would go down. In order to continue to make a profit again, farmers would take out loans from British merchants and bankers so they could buy more land to grow more tobacco. Tobacco was not always profitable, and many Virginian tobacco farmers became heavily in debt because of it.

Virginians were hesitant to pay any debts to anyone that had accrued before, during, and after the American Revolution because they were afraid of what the British creditors would do to the debtor's property and to the debtors themselves. There was a common practice that many creditors would take the debtor's land, resell it, and then throw the debtors into prison. What someone had worked their

whole life to obtain could be gone very quickly. It was said that, "For when a man owed money to a British merchant he would spare no pains to collect from his own debtors in Virginia in order to make payment." In order to try to prevent further debt, the Virginian state legislature passed several laws to try to curtail the Treaty of Paris. This upset the British and made Congress look weak. While the Articles of Confederation gave Congress some legislative power in treaty making, the Articles did not have any legal mechanism to enforce such power, leaving the states to pass whatever legislation they wanted that contradicted federal legislation. In the end, the states could pass whatever they wanted, and Congress had no one to overturn or enforce federal treaties over state laws.

Privateers and Pirates &

Nor shall any State grant commissions to any ships or vessels of war, nor letters of marquee or reprisal, except it be after a declaration of war by the United States in congress assembled.

∽ Article VI

During the Revolutionary War, trade with Britain only reduced slightly. This was due to the number of ports and lands the British controlled, illegal trading practices in the West Indies, and piracy or privateering.²² With international trade so important to the economy of the US, piracy was something that needed to be controlled. The difference between a pirate and a privateer depended on perspective. A privateer was someone who would raid the ships of a belligerent nation but would need to have a letter of marque from an opposing nation or state. A letter of marque was a document given to a person that would give them the legitimacy to attack and seize a foreign ship, making that person a privateer for that particular country and granting some base of legality that piracy lacked. These marques were typically given during times of war, but many were also given during times of peace.

²⁰ Winifred J. Losse. "The Foreign Trade of Virginia, 1789–1809," The William and Mary Quarterly Third Series. 1, no. 2 (1944): 161–178, http://www.jstor.org/stable/1921886.

²¹ Ibid., 161–178.

²² Paul Holbo, "Trade and Commerce", 945-47.

When the owners of a vessel wished to have her commissioned as a privateer or obtain a letter of Marque, they presented to the states authorities a petition, in which the essential information concerning the vessel and the purpose of the owners was stated. If commission was granted, the owner posted a bond guaranteeing in general terms that their privateer would conduct herself in accordance with the legal regulations established for such vessels. When these formalities had been completed, the authorities handed to the commander his commission.²³

During the war, just about anyone with a ship could get a marque since those people were the ones who would have all the risk as opposed to a navy that the government would have some assumption of responsibility for. A pirate was different from a privateer because he was an individual who was raiding ships for his own self-interest and did not have a letter of marque. Despite having a letter of marque, it only gave protection from the government that the privateer obtained the marque from. If captured by a belligerent nation, a marque would not always protect the captured individual from falling victim to the laws against piracy. Essentially, one nation's pirate just may have been another nation's privateer.²⁴

One of the issues with piracy and the Articles of Confederation was brought up by John Jay in a report he wrote to Congress. He points out that the legal system set up by the Articles allows for trials of the pirates/privateers but does not stipulate punishments. There were no federal laws to convict pirates, and there was no congressional power or legal mechanism to enforce such laws.²⁵ Since there was no federal punishment, any state could charge whatever penalty they perceived to be just. This had international economic implications. After all, who would want to trade with a country that could not protect their economic interests and allowed their merchandise to be stolen? With

²³ Sidney G. Morse, "State or Continental Privateer?" *The American Historical Review* 52, no. 1 (October 1946): 69, http://www.jstor.org/stable/1845069.

²⁴ Violet Barbour. "Privateers and Pirates of the West Indies," *The American Historical Review* 16, no. 3 (1911): 529–66, http://www.jstor.org/stable/1834836.

²⁵ John Jay, "Report to Congress Regarding Reasons for an Ordinance on Piracy, 29 September 1785," in Giunta, *The Emerging Nation*, 833-35.

no consensus under the law, relations with other countries could have been harmed through the lack of a cohesive federal legal code.

Other legal issues with privateering included that of jurisdiction. Before the formation of the Continental Congress, states granted the marques to privateers. The Massachusetts legislature passed an act granting privateer commissions in 1775, as did Rhode Island. Once the Continental Congress was formed, these individuals were absorbed or had to reapply into the Congress's privateers. That was where a problem formed.

Privateers were private individual who did not like having a federal power trying to control them and dictate their actions. As the privateers saw it, they were fighting just that kind of tyranny. Also, if there were any legal issues with the privateers, it would fall to the state courts to deal with them. There was no legal precedence that allowed Congress to be the one to deal with privateers. This was a power the state courts enjoyed, however, since they could decide what to do with the booty the privateer had collected. If an international incident of privateering arose, the foreign ministers sent to handle their citizens would have to try to collaborate with the state that had jurisdiction, and that foreign minister would also have to follow that particular state's laws. The lack of clarity in jurisdiction laws often upset foreign ministers, as with the Luzerne in the Longchamps affair mentioned previously.

While piracy at home was a problem for the United States, piracy abroad was also a difficult issue. The Barbary States in Northwest Africa were particularly notorious for their piracies. It was such a problem that John Jay recommended Congress arm U.S. merchant and privateer ships in order to fight force with force. Congress wisely did not follow this recommendation, since it would have been too costly an effort, and the United States lacked the manpower or the money for such an undertaking at the time.²⁷ When a treaty was signed between Morocco (which was part of the Barbary States at the time) and the US, much of the treaty was devoted to the prevention of piracy between the two nations. In fact, most treaties the United States initially made with foreign powers had clauses in them that included

²⁶ Morse, "State or Continental Privateer?" 68–70.

²⁷ Louis Guillaume Otto to Comte de Vergennes, 8 October 1785, in Giunta, *The Emerging Nation*, 846–47.

making piracy and privateering illegal in order to protect each nation's merchant ships.²⁸

Article XI: Canada 🗞

Canada acceding to this confederation, and adjoining in the measures of the United States, shall be admitted into, and entitled to all the advantages of this union; but no other colony shall be admitted into the same, unless such admission be agreed to by nine States.

Article XI

During the Constitutional Convention, many issues originating with the Articles of Confederation that had carried over to the Constitution were argued and discussed with the exception of one: the Canadian issue. Unlike the Articles, in the Constitution there is no open invitation for Canada to join the United States. Between the signing of the Articles and the signing of the Constitution, something had changed in American politics. When the Articles of Confederation were initially being written, there was fear in Congress that Canada would become a base of operations for Britain against the United States. A solution to this perceived dilemma was a public provision and invitation extended to Canada to join with the United States. If Canada were a part of the US, then there would be no base for the British, and the fear of a British invasion from the north would become a moot point.²⁹ To better understand, how Article XI came about, one must go back further in Canadian and American history.

After the Seven Year's War, Canada became a British colony despite a large French-speaking Catholic population. Much has been written about the Seven Year's War, but all tensions between the colonists, the British, and the French did not end with this war. Many colonists lost their homes during this conflict, and anger towards both the French and Britain continued in the following decades. There was also a religious conflict between the French Catholics and the Protestant colonists. While there were many Catholics living in the American colonies, they were overshadowed by the Protestant population.

²⁸ Moorish-American Treaty of Peace and Friendship, section 15, 19–20, http://avalon.law.yale.edu/18th_century/bar1786t.asp#art15.

²⁹ Murray G. Lawson, "Canada and the Articles of Confederation," *The American Historical Review* 58, no. 1 (1952): 39–54, http://www.jstor.org/stable/1844786.

Back in England, Parliament was not concerned with the religious tensions between their colonists. They were more concerned with how to pay for the debt accrued during the Seven Years War and how to maintain their authority over the colonists. In June of 1774, Parliament passed what would be known in the colonies as the Intolerable Acts. Included in the Intolerable Acts was the Quebec Act. This act changed the boundaries of Canada down to the Ohio River and legalized Catholicism. This change did not go over well with the thirteen colonies, which were already bitter about trade restrictions and new taxes. For the next few years, the First and Second Continental Congress would send letters, resolutions, and emissaries to Canada to try and keep good relations. They also wanted to try to recruit the Canadians to join the revolution and secede from Britain.³⁰ Canada did not feel the same about Britain as the States did and preferred to remain as neutral as possible during the Revolutionary War, as did many Native Americans who lived in Canada.31

One idea about Article XI is that it is about reservations that Canada could be used as a war base of operations for the British. In a letter to James Warren, John Adams expressed this fear:

The Unanimous Voice of the Continent is Canada must be ours; . . . The Importance of Canada arises from this, and occasions our remarkable Unanimity at present in deciding the Affairs of it: In the Hands of our Enemies it would enable them to influence all the Indians upon the Continent, and perhaps induce them to take up the Hatchet and commit their Robberies and Murders upon the Frontiers of all the southern Colonies, as well as to pour down Regulars, Canadians and Indians, together upon the Borders of the Northern.³²

^{30 &}quot;Address of Continental Congress to Inhabitants of Canada, May 29, 1775" in Witness to America: A Documentary History of the United States From Its Discovery to Modern Times, eds. Henry Commager and Allan Nevins (1949; repr., New York:Barnes & Noble Books, 1996), 91–92.

³¹ John Adams to James Warren, 18 February 1776, in *Warren-Adams Letters*. vol. 1 (Boston: Massachusetts Historical Society, 1917), 206–8, http://www.archive.org/details/letterscorrespond00warrich.

³² Ibid., 208.

There was an underlying fear that French Canadians and the Native Americans would join forces again and fight the British colonists, just like they did in the Seven Year's War. While this did not happen, the fear remained with many members of Congress.

Article XI was added to the Articles of Confederation in its entirety on the day that the Articles were ratified by Congress on November 15, 1777. There was still hope that Canada would join the United States, but alas, while the Articles were translated in French, there was no great effort to distribute them across Canada. There was little effort because there was a low literacy rate in Canada at that time. These factors contributed to why written correspondences to Canada never bore revolutionary fruit.

Article XI became a moot point by the autumn of 1778. The military campaigns in the north were ending, and the fears of a British military base of operations in Canada ended. Since the Articles had been ratified in 1777, there was no desire to change the Articles while waiting for the states to ratify, so Article XI remained. Inasmuch as Article XI had its origin in the tense military situation of the first few years of the Revolutionary struggle, when the harassing fear that Canada might become "a nest of hornets on our back that will sting us to the quick" was rife, it is not surprising that the Constitution—which was conceived in a time of peace—does not contain any provision for the admission of Canada into the Union. Benjamin Franklin and John Jay pushed for Canadian independence, but in the end, they were not successful. Britain was not going to free all of its American colonies just yet.

Even after the signing of the Constitution, international trade issues persisted. There was animosity concerning British trade constrictions put on the US, such as the banning of all imports of American manufactured goods and the closing of trade with the British West Indies.³⁸ With a revolution and wars brewing in Europe,

³³ Lawson, "Canada and the Articles of Confederation," 48.

³⁴ Ibid., 51.

³⁵ Ibid., 53.

³⁶ Ibid., 53.

³⁷ Duroselle, "Treaties," 963.

³⁸ Holbo, "Trade and Commerce," 946.

the United States would have to decide their role on the international scene. There was economic turmoil in the States, but the new Congress was quick to deal with it. With congress now having powers to tax, one of the first substantial legislations passed under the Constitution was the Tariff Act of 1789, which put a tariff tax on imports coming into the US that were not US ships. It also provided a mechanism for future tax regulations on imports.³⁹ The signing of treaties continued, and as a more stable system of government was formed, more European countries wanted to sign commerce treaties with the US. There was a post revolution depression, but the economy would prove to flourish in the coming years. By the end of the colonial era, only six American business corporations remained. During the Articles of Confederation, only one was added, but between the signing of the Constitution and 1800, two hundred more American corporations came into being.⁴⁰

The Articles of Confederation tried to create cohesion in commercial policies, but problems still persisted. There were many international issues with the Articles of Confederation, particularly when it came to the questions of taxes, trade, treaties, and pirates. Each of these problems was unique. Even before the Articles were signed into law, the founding fathers expressed concern about the Articles' effectiveness, but the nation needed a time of weak national government to determine why they needed a national government at all. The time under the Articles of Confederation was a required growing period for the United States.

³⁹ William Hill, "Protective Purpose of the Tariff Act of 1789," *The Journal of Political Economy* 2, no. 1 (1893): 54-57, http://www.jstor.org/stable/1819831.

⁴⁰ Baldwin, "American Business Corporations before 1789," 459.

BIOGRAPHICAL NOTES

J. Brook Anderson, RSPGT is a senior at Utah Valley University pursuing a degree in history.

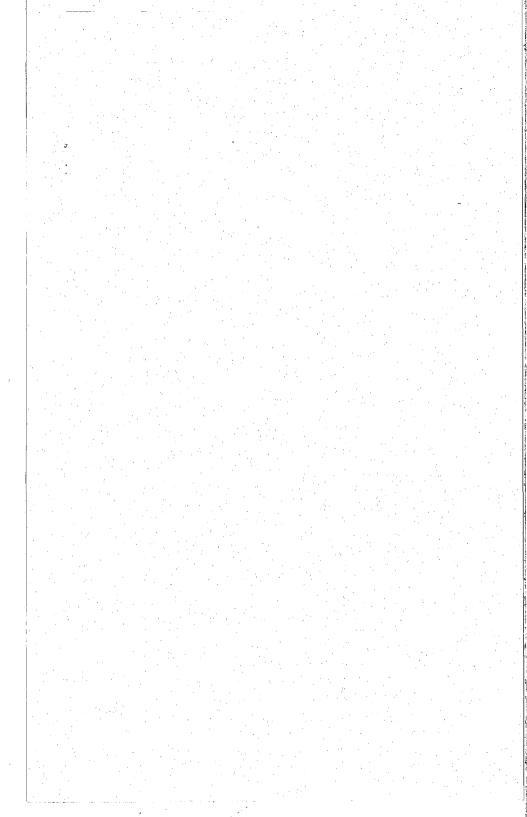
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Demographic Winter: Global Population Aging and Economic Realignment

BARRY McLerran

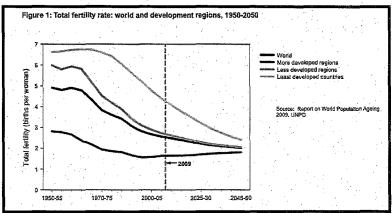
pervasive trend now grips the world, and the effect is being felt mostly in the developed world but will spread to the developing world, bringing both opportunity and danger. Population aging is a natural result of falling fertility combined with longevity gains, but the dramatic fertility decline over the past fifty years follows a huge baby boom generation. Now, as that generation is reaching retirement age, the multiplied effect will challenge the world's economies for decades to come by changing the entire global economic landscape and impacting real estate, job markets, consumption, economic growth, pensions, health care, and taxation. All of this, of course, has significant geopolitical implications.

Understanding Demographics and Population Aging -

Demographics are the statistical characteristics of human populations (as in age or income), but demographics also deal with the economic, social, cultural, and biological relationships affecting populations. Understanding the current and future demographic makeup of its population is important for any state in order to anticipate, among other things, the needs for infrastructure, education, health care, and projected pensions, as well as predict future economic conditions. If a government sees a huge increase in births over a decade, it knows it will have to plan for more educational facilities and that it will likely see an economic impact from increased spending, business creation, and increased tax revenue. If it foresees a huge increase in the numbers entering retirement, there will be a need for adjustments

in social security, taxation, and budget requirements. The relative balance of different age groups within a population is an important component of demographics and is affected by such factors as fertility, mortality, longevity, and migration.

Falling Fertility



For the past fifty to sixty years, fertility (the number of births per woman) in the world has fallen by almost 50%. The world's total fertility fell from 4.95 births per woman in the early 1950s to 2.52 by 2010. In the more developed regions, they went from 2.81 to 1.66 (41% drop), in the less developed regions from 6.01 to 2.41 (60% drop), and in the least developed countries from 6.54 to 4.41 (33% drop).

These figures are particularly significant when seen in light of population replacement. Replacement fertility (the number of births per woman needed to replace the population) is estimated to be 2.13 children per woman. This figure is generally accepted as replacement fertility for the developed world. Taking into consideration differences in mortality, replacement fertility would be higher in the developing world and significantly higher in the least developed countries. It has been estimated that the developed regions of the world fell below the replacement level of 2.13 around 1975. Some countries have already

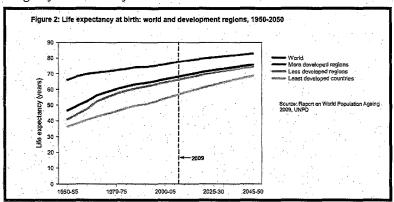
¹ United Nations "World Population Prospects: The 2010 Revision," Department of Economic and Social Affairs/Population Division, April 2011, http://esa.un.org/unpd/wpp/index.htm.

² Ibid.

begun to depopulate. By mid-century, thirty-nine countries will have decreased in population—a 14% decrease in Germany and Japan, and a 28 to 40% decrease in Russia and Ukraine." Russia's 142 million people today will decrease to one hundred million by around 2050. While the less developed regions of the world have not yet fallen below 2.13, it should be remembered that replacement fertility is actually higher for those regions, though no official replacement estimate has yet been put forth.

There are many reasons why fertility is declining worldwide, but when one looks at the data, it is clear that as people become more prosperous, have better education, and better access to health care (particularly reproductive healthcare), they have fewer children. Another result of these factors is that people start living longer.

Longevity and the Baby Boom

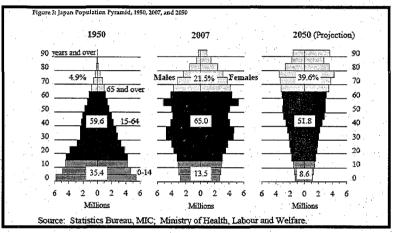


Fertility has declined by almost 50% worldwide, yet the world's population just hit seven billion and is projected to reach as high as nine billion by mid-century. If the world's total fertility is 2.52, it has been falling steadily since 1950, and is projected to continue falling, how could we still be projecting such a large increase in the

Jane Sneddon Little and Robert K. Triest "Seismic Shifts: The Economic Impact of Demographic Change: An Overview," in *Conference Series 46*, (Boston: Federal Reserve Bank of Boston, June 2001): 23, http://www.bos.frb.org/economic/conf/conf46/conf46a.pdf.

⁴ Barabara Crossette and Richard Kollodge, The State of World Population 2011, (New York: UNFPA, 2011), 43–63, http://foweb.unfpa.org/SWP2011/reports/ EN-SWOP2011-FINAL.pdf.

population? The answer is that people are living longer because of improved health care. "It's not that people are breeding like rabbits," says Nicholas Eberstadt, Henry Wendt Chair in Political Economy at the American Enterprise Institute, "it's just that they're not dying like flies." Longevity induced by a health explosion accounts for almost all of the population increase today. Since 1950, life expectancy has increased globally by twenty-one years. A person born in the more developed regions is expected to live eleven years longer than one born in the less developed world, yet life expectancy in the developing world has increased 24.5 years since 1950.



In a world of ever advancing health care, instead of dying, people keep living longer. As fertility declines, the population will continue to grow. This sets up a scenario where the ratio between the young and the old, once a pyramid with the mass of the population being younger and filling the bottom of the pyramid, is turning upside down so that the top, filled with the elderly, is growing wider while the bottom is growing narrower. Japan, in a more advanced stage of aging, is a good example.

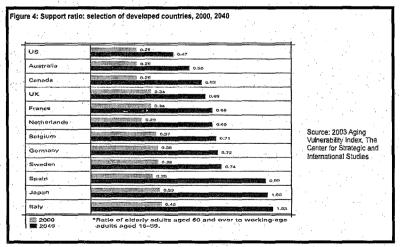
⁵ The New Economic Reality: Demographic Winter, Directed by Rick Stout, (Bountiful, UT: SRB Documentary, 2010) DVD.

⁶ United Nations, "World Population Ageing 2009," Department of Economic and Social Affairs/Population Division, (New York: United Nations, December, 2009):
6, http://www.un.org/esa/population/publications/WPA2009/WPA2009_WorkingPaper.pdf.

This population aging is particularly weighty if one takes into account the baby boom generation, from about 1945 to 1965. While not every country in the world experienced a baby boom, much of the developed world did. This means much of the developed world is entering an era of rapid aging, and this inverted age structure has serious consequences.

The Support Ratio

In most countries, care of the elderly falls on the working young, whether through a government pension system by taxation such as social security, or through more direct domestic support. Either way, the relative numbers of working age to elderly in need of support is referred to as the support ratio. Many countries are rapidly heading into a position where fewer and fewer young people are asked to support an ever-increasing population of elderly. The percentage of elderly in the world is expected to double over the next fifty years, and though today the highest percentage of elderly are found in the developed countries, aging will happen at a much faster pace in the developing world. In the latter half of the century the highest concentrations of elderly needing support will be in the less developed countries.⁷ This doubling of elderly will put tremendous strains on individual households and on the economies of entire countries.



Economics 101

Most people don't stop to think about the human component of economics. Without production of course there can be no gross domestic product, one of the basic measures of any economy. Without people providing the human capital component, there is no production. Human capital is key to any country's economy, which is why governments spend millions of dollars on the education and training of their people. "Any country that doesn't have substantial investment in its people," says Gary Becker, 1992 winner of the Nobel Prize in Economics and author of *Human Capital*, "will not be able to become a modern or a rich economy." If human capital is a key component to any economy on the production side, what happens to an economy when, because of falling fertility, it has fewer and fewer workers and a shrinking supply of innovators?

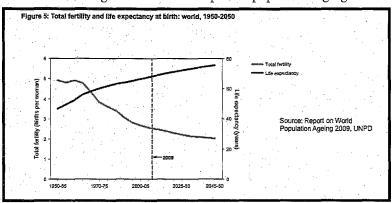
Another basic economic component is consumption. The final purchase of goods and services in an economy is done for the most part by or for people. Ultimately, people are the reasons things are produced. Consumption in the life of an individual increases from birth and is estimated to peak around age fifty. It is important to compare this spending wave to the age demographics in populations. For most of the world's history, the bulk of people were in the increased spending part of the wave. As fertility continues to decline to well below replacement levels and longevity remains the same or, more likely, increases, the population of the world will age. The ratio between those spending the most and those spending the least will change, weighing more and more heavily on the declining side of the spending curve. Many of the world's economies will contract as the numbers of the young, those producing and consuming the most, begin to decline relative to the aging population. In addition, the cost of supporting a person over sixty-five, born by public pension systems and an ever shrinking base of taxpayers, is roughly two and a half times greater than the cost of supporting a person under twenty years of age.9

⁸ The New Economic Reality.

⁹ United Nations, "Replacement Migration: Is it a Solution to Declining and Ageing Populations?" Department of Economic and Social Affairs/Population Division, (USA: United Nations, March, 2000): 97.

Population Aging Around the World -

Different countries around the world are aging at different rates, but there are meaningful similarities among groups of countries. The closest similarities in fertility rates, longevity, and aging, are among the common socioeconomic classifications of developed and developing countries. Looking at these classifications individually can inform an assessment of the global economic impact of population aging.

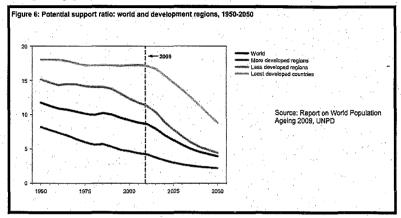


The Developed World

As discussed earlier, people who are more prosperous and have more education and better access to health care tend to have fewer children. Thus, the developed world started down the path of falling fertility during the industrial revolution. As food production, healthcare, education, transportation, communication, and other technologies advanced, fertility began to fall and life expectancy began to rise. So the population began to age.

After the baby boom generations of developed countries reached their peak spending years, starting around 1995, pressure on economies has increased. As this generation decreases their spending, begins to simply their lifestyles, and decreases their spending habits, real estate markets are being glutted, putting downward pressure on prices and stalling new construction. Europe's fertility decline is among the worst in the developed world, so their population aging is happening faster. The support ratio in these countries is the vanguard of the developed world's decline (Figure 6). Future outlays for care of the elderly will consume the GDP of developed countries, but these demographic

disparities have already begun to cause capital shortages and risk of defaults, most notably in recent days across Europe, spilling over and hampering growth everywhere.¹⁰



The developed world has challenging days ahead, likely marked by deficit spending and higher taxes. The difficulties may be moderated somewhat if developed countries find ways to derive benefit from what the developing world still has: large populations of young. Migration from the developing countries into Europe has helped to replace labor lost to the extremely low fertility rates of native Europeans. This infusion of young people, who are mostly male (though sometimes females or even entire families), have helped bolster both the labor force and the birth rates. This immigration is important not only for the direct addition of numbers into the workforce, but also for the added children that will contribute to future labor. Even with this immigration, Europe has been unable to achieve anything close to what has been termed "replacement migration." The fertility rates are still at a dangerously low 1.38, far below the 2.13 needed to replace the population. The amount of immigration into developed countries that would be needed both to offset the decline in working age population and to prevent the countries from aging is highly unlikely to be achieved, even with the most open and encouraging immigration

¹⁰ Global Aging: Opportunity of Threat for the U.S. Economy? Hearings on S. Session I, Before Special Committee on Aging, 108th Cong. (2003) (Testimony of Paul S. Hewitt, Program Director of Global Aging Initiative Center for Strategic and International Studies) http://aging.senate.gov/publications/2272003.pdf. Hewitt predicted these conditions would prevail.

policies.¹¹ Germany alone would need 24 million new immigrants over the next forty years just to keep the level of the working age steady.¹² Immigrants in the United States have been sufficient to help maintain a roughly replacement level fertility rate, for without immigration it is estimated that the U.S. fertility rate would be at 1.8; however, there are indications that fertility rates among immigrants already in the U.S. are falling,¹³ and fertility rates in the source countries are falling at remarkable rates also, which may indicate a significant deceleration in future migration. In any case, immigration is insufficient to prevent the population aging that the U.S. will experience.

The Developing World

	U.S. LDC	s World Europe*	Japan	China	India	
2000	35.5 18.	,	41.2	30	23.7	
2050	39.1 26.		53.1	43.8	38	1.
Increase	. 3.6 8.	3 9.7 11.8	11.9	13.8	14.3	
% change	10% 469	% 37% 31 %	29%	46%	60%	

Fertility rates in the developing world are falling, but many of these countries are still way above replacement fertility. They still have a large population of potential young workers. By looking at the year 2000 in Table 1 we can see that the less developed countries have a significantly younger population with a median age of 18.2 in the less developed countries (LDCs), for example, compared to the worst of the developed world, Europe, at a median age of 37.7. So even though they are aging at a more rapid pace than the developed world (a 46% increase in the median age by 2050 versus Europe at a 31% increase in

¹¹ United Nations, "Replacement Migration."

¹² Spiegel Staff, "The Great Contraction: Experts Predict Global Population Will Plateau," [German] *Der Spiegel* 44 (31.10.2011), http://www.spiegel.de/international/world/0,1518,795479,00.html.

¹³ Emilio A. Parrado, "How High is Hispanic/Mexican Fertility in the U.S.? Immigration and Tempo Considerations," *Population Studies Center Working Paper Series*, Population Studies Center, University of Pennsylvania. (June 22, 2010): 4.

age), because they are starting out so much younger, and because their fertility rates are still higher, by mid-century they will still have a good supply of the working aged. This could spell significant opportunity for the developing countries of the world and lead to other opportunities for the developed world, particularly the United States. However, with fewer state-sponsored pension programs present in the less developed regions of the world, these countries will be less prepared as their populations age, and since population aging is happening faster in developing countries, they will have less time to become prepared. Migration from these countries is contributing to falling fertility as breadwinners are off working in developed countries. Remittances have been valuable to source country's economies, but remittances are not as valuable to a country as expanding commerce. Remittances help maintain, but skilled labor and entrepreneurs help an economy to expand. So fertility decline combined with worker migration will eventually bring rapid aging to countries whose economies could be less prepared than were those of the developed world.

A Pervasive Problem

The Executive Summary of the United Nations Population Division report on World Population Ageing 2009 called population aging unprecedented, pervasive, profound, and enduring. It is unprecedented because, in all of human history, never has the world seen the number of elderly exceed the number of children. This has already happened in the developed world and will happen worldwide as soon as 2045. It is pervasive in that it will impact every country in the world. All over the world populations are steadily aging as fertility continues to decline and people continue to live longer. The problem is profound in that it will impact almost every aspect of human life including things social, economic, medical, and even political. The well-being of people everywhere will be affected. Population aging is enduring in that the proportion of the elderly to the young is steadily rising and will continue to rise well into the latter part of this century.

Global Economic Implications &

Population aging will affect countries differently depending upon where they are in the aging process and where they are in economic

¹⁴ United Nations "World Population Ageing 2009," viii.

development. Much of the developed world has already started into the aging process, and these economies are generally advanced, like Japan and the countries of Europe. There are countries in the developing world that have recently emerged as expanding economies and have not yet started the aging process, like China, but that will age rapidly once they begin. There are countries like India in the developing world that are very young (median age) and have rapidly expanding economies. Economies like this will not experience population aging for another fifty years or more. Finally, there are less developed countries such as some Arab and many African countries that have high fertility rates, so they now have and will have for most of the century a significant youth population, yet they will also have a rapidly increasing population of elderly. All of these differences suggest that while the overarching problem of population aging may be the same, the economic implications will differ, presenting both hazards and opportunities.

Advanced Economies

At this writing, Europe is still struggling with a debt crisis. In a world of interconnected economies, a shock to one is felt by all, especially if that one is an advanced economy. The advanced economies have long established welfare systems and old-age health and pension assurances. Just the G-7 countries alone (Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States) represent 53% of the global GDP, have total fertility rates averaging only 1.57 (well below replacement), and are aging. All of these countries are deeply in debt — both in external as well as internal government debt. So as these countries struggle to meet their obligations to their aging populations, these outlays consume their GDP, cause capital shortages, and risk defaults on their debt. The repercussions are felt worldwide. Japan, more advanced in aging, managed early on to keep comparatively clear of external debt, but now its government debt is at 208% of its GDP.15 The 2003 Demographic forecasts revealed, "Unfunded pension liabilities of the G-7 countries are roughly equal

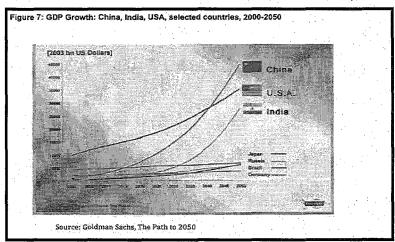
¹⁵ Central Intelligence Agency (CIA), *The World Factbook Online*, s.v. Country Comparison: Public Debt, https://www.cia.gov/library/publications/the-world-factbook/rankorder/2186rank.html.

to world GDP." This picture has become bleaker since 2003 and is resulting in higher retirement ages, higher taxes, continued deficit spending, and stalled or contracting economies.

Expanding Economies

			. 12			
	U.S. Europe*		Japan	China	India	
2000	35.5	37.7	41.2	30	23.7	
2050	39.1	49.5	53.1	43.8	38	
Increase	3.6	11.8	11.9	13.8	14.3	
% change	10%	31%	29%	46%	60%	
*Includes all E	irope plus	Russia (47 countri	es)		:

China and India's economies are rapidly expanding. A look at their demographics explains part of the reason. They both have very large populations and the median age of their populations (Table 2) are much lower than Europe or even the US. A much higher percentage of their population is of working age. They have recently developed necessary infrastructure and because they have a huge supply of labor resources, their GDPs are on a precipitous rise (Figure 7). These countries (and there are other countries that could be included, such as Brazil), could



¹⁶ Sylvester J. Schieber and Paul Hewitt, "Demographic Risk In Industrial Societies," World Economics 1, no 4, (2000): 28.

focus on building their human capital, eliminating their government debt, and further developing their economic systems. This should include restructuring their old-age pension and health care benefits to prepare for the day when they will go into rapid aging. For China, this will begin sometime after 2030. Because of the sheer size of their population, they may begin to feel the effects before then. India is much younger, but as can be seen by looking at the percentage change row in Table 2 on the previous page, it has the fastest rise in median age of any country or region listed. Like China, once they begin the aging process, it will come upon them very rapidly. Today's rapidly expanding economies have a relatively short window of opportunity to prepare for the consequences of aging in which the developed world is becoming engulfed.

Developing Economies

Though fertility rates are falling in all regions of the world, there are a large number of developing countries that will not experience population aging until late in this century. Yet, if they continue their present rate of fertility decline, "in middle-income and some rapidly developing lower-income countries the number of years in which a large, young working population can be counted on to fuel development may be fleeting".17 As these countries' fertility falls, they will first experience a period of demographic bonus, in which their labor pool will be large, child dependency will decline, and the largest portion of their population will be in their productive years. The labor pool in these countries (the eighteen to thirty age group) is exploding, and is expected to grow by the hundreds of millions, especially in the Arab and African countries. For these countries, this will be a period of great opportunity for substantial economic growth. This of course requires the development of commerce and industry, which requires trained and educated people. These countries must focus on education, training, and the creation of jobs, which also will depend on political stability and political will. It will also depend on investment capital flowing from the more developed economies. For this to happen, the developing countries must create and establish the physical and educational foundation for a legally and politically safe and productive investment environment. This includes a framework

¹⁷ Crossette and Kollodge, The State of World Population 2011, 43-63.

of sound economic policy, banking, and regulatory structure. If they should fail or falter in this, resulting in massive unemployment of the young working age, it could turn to unrest and radicalism, as it has historically done, and unravel attempts at progress and reform. The developing economies have time and can gain from the hard lessons learned by the more advanced economies. They can structure their economic systems to provide for the likely day when they too will enter a phase of population aging.

Geopolitical Implications ❖

Population aging is a global problem. Even if the developing world were not following the same path of declining fertility, just the impact on the global economy caused by capital shortages, default risks, recessions, and bank failings in the developed countries make it a global problem. While the repercussions are not exclusively economic, the economics will dominate and color perceptions and the construction of solutions. When there is economic recession or even long term economic contraction in entire regions of the world, there are bound to be security risks attached. It is a political reality that when a country's economy is in collapse or in a depressed state, they are vulnerable to opportunism by an aggressive neighboring country, as well as susceptible to political upheaval from within.

Demographic imbalances bring natural political risks. China's one-child policy has resulted in a gender imbalance because when a family is only allowed to have a single child, the preference has been for a boy, because in China's culture the boys will be able to support the parents in their old age. So girl children have been aborted and deserted on a massive scale, causing a gender imbalance where an estimated 23 to 25 million males will never be able to marry a Chinese

woman.¹⁸ Many young men, social scientists, and political scientists are concerned about negative social repercussions. By 2020 at least 13% of young males in China will not be making the transition to family commitment. It is believed this will result in social instability, violent crime, and many other criminal and antisocial behaviors. There is even reason to believe that paramilitary groups would form, creating a security risk both within China and to neighboring countries.¹⁹ There are other countries in Asia as well that have this same gender imbalance problem.

There are also the political conflicts that can naturally arise from economic competition. As the developing countries' economies expand during the time that they are experiencing a demographic bonus, they may find themselves intensely competing with other developing economies over natural resources, capital, and economic ties. A recent example of this is China and India. As their economies have expanded, they have crossed each other in areas such as the resource-rich South China Sea and in the establishment of economic relationships with other countries in the region. These clashes have not come to blows, but in the future other developing countries in other parts of the world, struggling to take their place in the second wave of development, may be willing to defend their economic interests by force.

Another demographic reality in the developing world, particularly in the Arab world and in Africa, is the huge population of young. The concern about civil unrest among the young has already been mentioned, should jobs not be created and should unemployment and indigence be their lot. Some have posited that this very thing has significantly contributed to the recent Arab Spring and in Tunisia

¹⁸ Dr. Valerie M. Hudson (Professor of Political Science at Brigham Young University), interview by Barry McLerran, 2007; China's One-Child Policy: The Governments Massive Crime Against Women and Unborn Babies, Hearings on H.R. Session 1, Before Subcommittee on Africa, Global Health, and Human Rights, 112th Cong. 22–38 (2011) (Testimony of Valerie M. Hudson, Professor, Department of Political Science, Brigham Young University), http://foreignaffairs.house.gov/112/68446.pdf. Dr. Hudson gave an incisive treatment of the implications of China's gender imbalance in her testimony; much of what has been said here was sourced from that testimony and from the author's personal interview with Dr. Hudson.

in particular. This phenomenon has certainly had cross-boundary political effect.

With the developed countries having a labor deficit and aging populations, and with the developing countries being labor-rich and not aging until much later, there is significant opportunity for mutually beneficial cooperation. The developed countries have the financial capital, the technological and educational resources, and the expertise that are needed by the developing countries to take quick advantage of their demographic window. The developing countries have a large working-age population that can become the skilled human capital, not in an exploitive sense, but in a partnership. In fact, "the shifting of capital has the tremendous potential to dramatically increase the productivity rates in the underdeveloped economies of the world in the coming decades," says Sylvester J. Scheiber, PhD, VP of Watson Wyatt Worldwide. Raising productivity in the poorer nations of the world should produce tremendous increases in their standard of living comparable to what the developed world experienced after World War JT_20

This kind of cooperation will take enormous effort and incredible political will. It will likely call for unprecedented cooperation between governments, businesses, financial institutions, intergovernmental organizations, and nongovernmental organizations. But the opportunities for human development, not just economic development, are exceptional. If it is possible to accomplish the economic expansion of the poorer countries while re-stabilizing the economies of the developed countries through their period of population aging, could we come out the other end into a world where there are very few poor countries left?

The world has entered a historically unprecedented phase of population aging. This has come through a combination of dramatically falling fertility below replacement levels, and substantial increases in longevity. Demographers and social scientists understand many of the reasons why fertility has declined, but most agree it is difficult to see

²⁰ Global Aging: Opportunity of Threat for the U.S. Economy? Hearings on S. Session I, Before Special Committee on Aging, 108th Cong. (2003) (Testimony of Sylvester J Schieber, Ph.D., Vice President of Watson Wyatt Worldwide), http://aging.senate.gov/publications/2272003.pdf.

how the trend will reverse itself. By around 2065 it is predicted there will be so much of the world far enough below replacement fertility that worldwide population will begin to decline.

It takes human capital to produce, it is people who are the consumers, and it is people who are the innovators. So what happens when you have fewer and fewer people? And what if this happens at the same time a huge baby boom generation is going into their retirement years? The result is contracting and stalled economies.

Population aging means a tremendous imbalance between the working age population in their peak producing and consuming years, and the elderly in need of support, and this is happening all over the globe. The developed world is already entering this phase and, as a result, is beginning to experience capital shortfalls, default risks, rising deficits, and may even experience semi-permanent recession.

The developing world is feeling the impact of what is happening to the richer countries, but though their fertility is falling at a faster rate, they were so much higher to begin with that many of them are still way above replacement levels. These countries will not experience aging until much later in the century. This gives the developing world a window of opportunity to create a new framework, not only to provide for their elderly when the time comes, but also for sound economic policy, banking, and regulatory structures, preparatory to an infusion of capital from the developed world, to begin a period of tremendous economic expansion. This investment will benefit the developed world, helping to bring a return on investment that can bolster retirement funds that would otherwise drain the GDP of developed countries.

In addition, if international migration can be better managed to strike a balance that benefits both the developed and the developing worlds, then developed economies can be maintained during a period of aging while providing means and education and skill development for migrant populations, and developing economies can benefit from human capital development and economic expansion while avoiding a brain drain.

All of this will take extensive international cooperation and tremendous political will to bring both the developed world and the developing world through this pervasive problem of global population aging.

BIOGRAPHICAL NOTES

Barry McLerran transferred to Utah Valley University (UVU) from the University of Virginia where he was majoring in international relations. His major at UVU is political science with a concentration in political philosophy/public law.

Barry has been Director of the National Crisis Center for the Deaf and the Virginia Relay Service for the Deaf, Director of Humanitarian Aid for Family Action Council International, served on the United Nations NGO Committee for the Tenth Anniversary of the International Year of the Family, Executive Director of Family First Foundation, and was a delegate to the Doha International Conference for the Family.

Barry is a producer of documentary films. His film, *The Lost Civilizations of North America* won Best Multicultural Documentary at the International Cherokee Film Festival. His *Demographic Winter* film series has been shown in international conferences around the world, in European Parliaments, and at many university campuses. *The New Economic Reality: Demographic Winter* was recently aired on BYU Television.

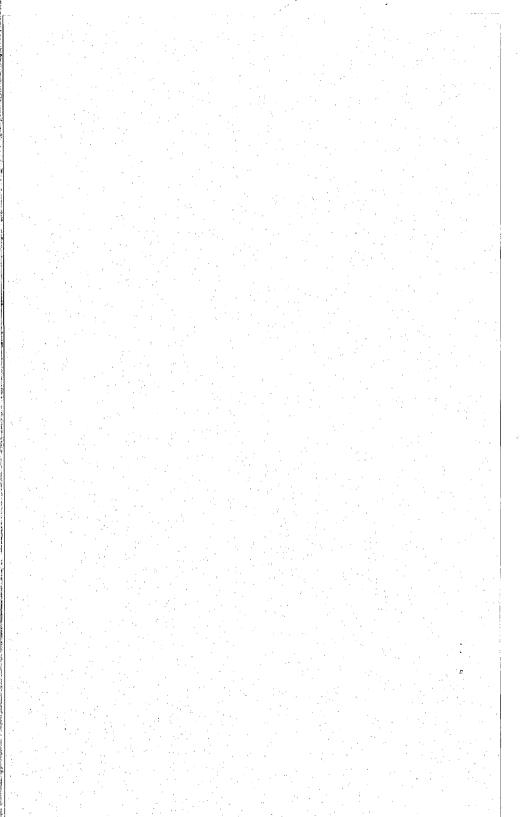
Barry and his wife Mary currently live in Orem, Utah. They raised their five children in Virginia and have seven grandchildren.

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Demographic Winter 😘 177



THE CAVE OF MACHPELAH: A STUDY

Dr. Alexander T. Stecker

n the twenty-third chapter of the Book of Genesis there is an account of the death and burial of Sarah, wife of Abraham. This single biblical chapter is told in extreme detail and filled with legalized jargon and double talk. It should be noted that other texts telling the same story have added a few twists. Josephus in his Jewish Antiquities states that Rachel was buried in Hebron, that Abraham's dealings were with the Canaanites not the Hittites, and that the purchase was from a native named Ephraim.1 In the Book of Jubilees, the death of Sarah was a trial/test for Abraham to see if his soul was patient.2 In the Zohar, it was Adam who, after leaving the Garden of Eden, saw a light emanating from the Garden of Eden and dug a cave. This cave would become the cave of Machpelah where Adam and his wife, Eve, would be buried. All the patriarchs and matriarchs, with the exception of Rachel, would be buried in the cave of Machpelah as well.3 In Ginzberg's Legends of the Jews there are some major differences. The most notable being that Sarah did not die of old age but because Satan had tricked her into believing that her husband had sacrificed their son Isaac. After she had searched for Isaac's body, Satan informed her that, "... I spoke falsely unto thee..." your son lives and because of this

Josephus, Jewish Antiquities, Trans.H. St. J. Thackeray, Loeb Classical Library ed. (Cambridge: Harvard University Press, 1930), I:xiv, 237.

² The Book of Jubilees, in The Apocrypha and Pesudepigrapha of the Old Testament, R.H. Charles, ed., vol. 2: Pesudepigrapha (1913; repr., Oxford: Clarendon Press, 1963) 19.1-9.

³ The Zohar, trans. Daniel C. Matt, Pritzker ed., vol. 1, (Stanford: Stanford University Press, 2004), I:57b.

news, "...her soul went out through joy..." A rather interesting change can be found in the *Targum Onkelos*, a supposed Aramaic translation of the Hebrew Torah. Abraham came back from the "mountain of worship" to find his wife dead, with no reason given.

When King David wished to purchase the threshing floor of Araunah the Jebusite, as found in 2 Samuel 24:18–25 is a similar story to that of Abraham. In both stories the back and forth negotiating is in a formal legal language, the "double talk" of the negotiating is most instructive. In both stories a man of power offers to buy a parcel of land from one of the pre-Israelite inhabitants of the land. In both cases the land is offered as a gift but refused and in the end it is purchased at an inflated sum.

The story begins:

Genesis 23:

- 1. And Sarah was an hundred and seven and twenty years old: these were the years of the life of Sarah.
- 2. And Sarah died in Kirjath-arba; the same is Hebron in the land of Canaan: and Abraham came to mourn for Sarah, and to weep for her.⁶

Sarah dies at the age of 127, thirty-seven years after the birth of Isaac. According to the biblical text she died in the city of Kirjatharba, which, the author informs us, was called Hebron at the time of the authors writing. Hebron was also one of the dwelling places of Abraham.

Genesis 13:

18. Then Abram removed his tent, and came and dwelt in the plain of Mamre, which is in Hebron, and built there an altar unto the Lord.

⁴ Louis Ginzberg, ed., *The Legends of the Jews*, vol. 1, (Philadelphia: The Jewish Publication Society of America), 286ff. There are many differences but I have given only the major ones.

⁵ The Targums of Onkelos and Jonathan Ben Uzziel: On the Pentateuch with fragments of the Jerusalem Targum from the Chaldee, trans. J.W. Etheridge, (New York: Nabu Press, 1868), Genesis 23:1.

⁶ All scriptures in this article are from the King James Version. Italics are mine.

⁷ The ancient name of Hebron is also found in Judges 1:10; Joshua 15:13.

Since Abraham was not a landowner, to bury Sarah he needed to negotiate for a burial place, which led to the haggling between two men of power, with its double talk, and double meaning. One is reminded of Achilles when he states, "I detest the doorways of death, I detest that man who hides one thing in the depths of his heart and speaks forth another..."

Genesis 23:

- 3. And Abraham stood up from before his dead, and spake unto the sons of Heth, saying,
- 4. I am a stranger and a sojourner with you: give [sell] me a possession of a burying place with you, that I may bury my dead out of my sight.

The 'sons of Heth'¹⁰ are spoken of as native inhabitants of Hebron. Latter Ezekiel regards the "Amorites" and the "Hittites" as original dwellers of the area.¹¹ Abraham describes himself as a resident alien, or a person that has no land to call his own, but dwells among you.¹² Here he wishes to underscore for legal purposes his independent status and his dependence upon the local landowners for a burial place.¹³ Cyrus H. Gordon shows that this was an unusual transaction. It was

⁸ For an understanding of this double talk see: Meir Sternberg, "Double Cave, Double Talk: The Indirections of Biblical Dialogue," in "Not in Heaven": Coherence and Complexity in Biblical Narrative, Jason P. Rosenblat and Joseph C. Sitterson, ed., (Bloomington: Indiana University Press 1991): 28-57.

⁹ Homer, *Iliad*, trans. A.T. Murray, Loeb ed. vol. 9 (Cambridge: Harvard University Press, 1999), 310.

¹⁰ Genesis 23:3.

¹¹ Ezekiel 16:3,45. Also see: Johan van Seters, "The Terms 'Amorite' and 'Hittite' in the Old Testament," *Vetus Testamentum*, vol. 22, fasc. 1, (January 1972): 64-81.

¹² This phase of a 'stranger sojourner' is also found in Lev. 25:3; I Chron. 29:15. For a fuller discussion see: Herbert Ryle, *The Book of Genesis* (Cambridge Bible for Schools and Colleges), rev. ed., (Cambridge: Cambridge University Press,1914), 246; John Skinner, *A Critical and Exegetical Commentary on Genesis*, 2nd Ed., (Edinburgh: T & T Clark, Edinburgh, 1930), 336; *Anchor Bible: Genesis*, trans. E.A. Speiser, ed., (Garden City: Doubleday, 1964), 170.

¹³ Robert L. Cohn, "Negotiating (with) the Natives: Ancestors and Identity in Genesis" *Harvard Theological Review* vol. 96, no.2, (April 2, 2003): 159.

not routine for an "alien" to acquire land. The text reads, "...give me a possession..." this word give (Hebrew ntn) must also carry the meaning to sell. It appears twice in verses 9 and 11 and it appears again in verse 13. Most of these indicate selling not giving. From the start of this negotiation it is clear that Abraham intends to purchase the burial ground.

Genesis 23:

- 5. And the children of Heth answered Abraham, saying unto him,
- 6. Hear us, my lord: thou art a mighty prince among us: in the choice of our sepulchres bury thy dead; none of us shall withhold from thee his sepulchre, but that thou mayest bury thy dead.

The salutation to Abraham is unique "thou are a mighty prince", but this is a poor translation, a more accurate translation from the Hebrew would read, "Hear us prince of God" [Hebrew adoni nsi elohim]. They in turn give him a choice of burial plots, but Abraham insists on a separate resting place for his wife. A place that he would own; for he does not want to be indebted to these people and wishes to maintain his independence. Thus he must haggle with them for the burial site, and his independence will come at a price. To obtain his desire Abraham will use the three P's: politeness, politics, and profits.

Genesis 23:

7. And Abraham stood up, and bowed himself to the people of the land, even to the children of Heth.

The term used here "the people of the land" [Hebrew: Am haaretz] carries with it greater significance for this phraseology means the city council. To obtain a free holding among the "children of Heth" would be impossible without the consent of the local established authority.

¹⁴ Cyrus H. Gordon, "Abraham and the Merchants of Ura" *Journal of Near Eastern Studies* vol. 17, no. 1, (January 1958): 29.

¹⁵ The Hebrew Lexicon states that can be used to "pay money for something" see ntn in Wilhelm Gesenius, *A Hebrew and English Lexicon of the Old Testament*, Francis Brown, ed., trans. Edward Robinson, (Oxford: Clarendon Press, 1952).

¹⁶ For a fuller discussion of this term 'Am haaretz' see Mayer Sulzberger, *The Am ha-aretz, the Ancient Hebrew Parliament: A Chapter in The Constitutional History of Ancient Israel* (Philadelphia: J.H. Greenstone, 1910).

Genesis 23:

- 8. And he communed with them, saying, If it be your mind that I should bury my dead out of my sight; hear me, and intreat for me to Ephron the son of Zohar,
- 9. That he may give [sell] me the cave of Machpelah, which he hath, which is in the end of his field; for as much money as it is worth he shall give [sell] it me for a possession of a burying place amongst you.

Abraham makes a legal formal request of the city council that they intercede and request "Ephron the son of Zohar," the owner of the land where the cave is to be found, to sell the land to him. He describes in detail where the cave is: "the end of his field." He does not wish any more land then is necessary. If he bought the larger piece of land he would no longer be a "stranger and a sojourner" or resident alien among them. Instead he would be a part of that community, which Abraham did not wish to be. In one of his articles, Manfred Lehmann states that, according to Hittite Law, Abraham did want to assume feudal responsibilities by the purchase of the large piece of land.17 However Gene M. Tucker argues that this was not the case. Instead, Tuckers argues that the whole play on legal issues can be explained by the simple rules of the day and the standards that were in place at the time. 18 The use of caves for burial at that time was a common practice. The expression "...for as much money as it is worth..." should be translated as "...at the full price..." This same usage is also found in I Chronicles 21:22,24 when David purchases the threshing floor which is later to be the place where the temple will be built. The formula seems to mean that the transaction is for cash. This same expression can be found in Akkadian and Mari, as well as in Neo-Babylonian deeds.19

Genesis 23:

10. And Ephron dwelt among the children of Heth: and Ephron the Hittite answered Abraham in the audience of

¹⁷ Manfred R. Lehmann, "Abraham's Purchase of Machpelah and Hittite Law" Bulletin of the American School of Oriental Research [BASOR], 129, (February, 1953): 15-18.

¹⁸ Gene M. Tucker "The Legal Background of Genesis 23" Journal of Biblical Literature [JBL] vol. 85, no. 1 (March, 1966): 77-84.

¹⁹ See Speiser, Anchor Bible: Genesis, 70.

the children of Heth, even of all that went in at the gate of his city, saying,

The fact that this negotiation is being conducted "at the gate of his city", is again repeated in verse 18. In those days many legal transactions were conducted at the gate of the city. An example of this is found in the Book of Ruth when Boaz, wishing to claim Ruth for a wife, goes to the city gate to do so.²⁰ As with all legal transactions there was a need for witnesses, those that were in attendance at the city gate filled that need.

Genesis 23:

11. Nay, my lord, hear me: the field give I thee, and the cave that is therein, I give it thee; in the presence of the sons of my people give I it thee: bury thy dead.

Here Ephron makes a generous offer, but as Sternberg in his article argues, in his generosity lies a more sinister motive: greed.²¹ This offer is hollow for it has little meaning. Ephron knew full well that Abraham wanted to maintain his independence and therefore he could not accept the offer.

Genesis 23:

- 12. And Abraham bowed down himself before the people of the land.
- 13. And he spake unto Ephron in the audience of the people of the land, saying, But if thou wilt give [sell] it, I pray thee, hear me: I will give thee money for the field; take it of me, and I will bury my dead there.
- 14. And Ephron answered Abraham, saying unto him,
- 15. My lord, hearken unto me: the land is worth four hundred shekels of silver; what is that betwixt me and thee? bury therefore thy dead.

The price of the cave and its land is announced and it is an excessive amount, as was the land that David purchased. Wiseman, in his book on the Alalakh Tablets, tells us that whole villages were sold for prices that ranged from 100 shekels to 1,000 shekels. The price depended

²⁰ Ruth 4. See Also: E. A. Speiser, "'Coming' and 'Going' at the 'City' Gate" Bulletin of the American School of Oriental Research [BASOR] no. 144 (December, 1956): 2023.

²¹ Sternberg, "Double Cave, Double Talk," 31-32.

upon the territory and the income involved. The weight of the shekel would be different because it varied from one area to another.²² But 400 shekels for a parcel of land containing a cave seems to be excessive. King Omri, the King of Israel, gave 6,000 shekels for the entire site where he would build his capital city.²³ Jeremiah purchased a burial site near Jerusalem for only 17 shekels.²⁴ King David purchased the threshing floor and the oxen of Araunah for 50 shekels of silver.²⁵

Genesis 23:

16. And Abraham hearkened unto Ephron; and Abraham weighed to Ephron the silver, which he had named in the audience of the sons of Heth, four hundred shekels of silver, current money with the merchant.

The price is weighed out, "...current money with the merchant..." means at the current merchant rate. As there were no coins of standard weights at the time, the value was determined by the weight agreeable to all parties involved. This usage was common in Old Babylonian texts. It can be seen in the Eshnunna Laws, for in item #41 we read, "...shall sell the beer for him at the current rate." ²⁶

Genesis 23:

17. And the field of Ephron, which was in Machpelah, which was before Mamre, the field, and the cave which was therein, and all the trees that were in the field, that were in all the borders round about, were made sure

18. Unto Abraham for a possession in the presence of the children of Heth, before all that went in at the gate of his city.

19. And after this, Abraham buried Sarah his wife in the cave of the field of Machpelah before Mamre: the same is Hebron in the land of Canaan.

²² Donald J. Wiseman, *The Alalakh Tablets* (London: British Institute of Archaeology at Ankara, 1953) tablets 52 ff.

²³ I Kings 16:24.

²⁴ Jeremiah 32:9.

²⁵ II Samuel 24:24.

²⁶ James B. Pritchard.ed., Ancient Near Eastern Texts Relating to the Old Testament (Princeton: Princeton University Press, 1963): 153.

20. And the field, and the cave that is therein, were made sure unto Abraham for a possession of a burying place by the sons of Heth.

In this segment the cave has been purchased and it is transferred to the new owner. Lehmann would have you accept that this in accordance with Hittite laws and deeds of property.²⁷ But we need not search that far, as this transaction is normal for this period of time.²⁸ The purchase was witnessed and attested to by the inhabitants of the city, at the city gate. It was a legal and binding transaction. Abraham purchased the cave, and maintained his independence from the "children of Heth." It would not be long before Abraham would be buried in the same cave.²⁹ The only other time that the cave is mentioned in scripture is the burial of Jacob.³⁰

Abraham had lived for many years among the inhabitants of Canaan and had maintained his independence. Then his beloved wife, Sarah, died and with her death came the necessity to bury her. He would have to negotiate the purchase of a cave for the burial. The negotiations began on a formal level but underneath all of the double talk is the real story, Abraham wanted a burial spot, but did not want to be indebted to the local people. He wanted to maintain his independence. On the other hand the owner of the cave, one Ephron the son of Zohar, wants to sell the cave for the highest price possible, while still saving face. In the end it is greed that determines the price, and Abraham must pay the high price.

Beyond this simple story is a greater story. The Rabbis of old wanted to link this cave with Adam and created a myth that Adam and Eve were the first burial in the cave. In time all of the patriarchs and their wives were buried here, with the one exception of Rebekah. It is interesting that when Joseph, who had been sold into Egypt, was returned to his homeland he was buried elsewhere. Today both Jews and Muslims hold this cave in high esteem.

²⁷ Lehmann, "Abraham's Purchase of Machpelah and Hittite Law," 77-84.

²⁸ Tucker, "The Legal Background of Genesis 23," 82-84.

²⁹ Genesis 25:7-10

³⁰ Acts 7:15-16

BIOGRAPHICAL NOTES

Born in Brooklyn, New York, Dr. Alexander T. Stecker is currently an adjunct faculty at Utah Valley University in the Department of History. He has taught World Civilization, modern Middle East, and Jewish History. He earned his BA and an MLS from Brigham Young University, an MA from Brandeis University in Judaic studies, and a Ph.D. from Hebrew University of Jerusalem.

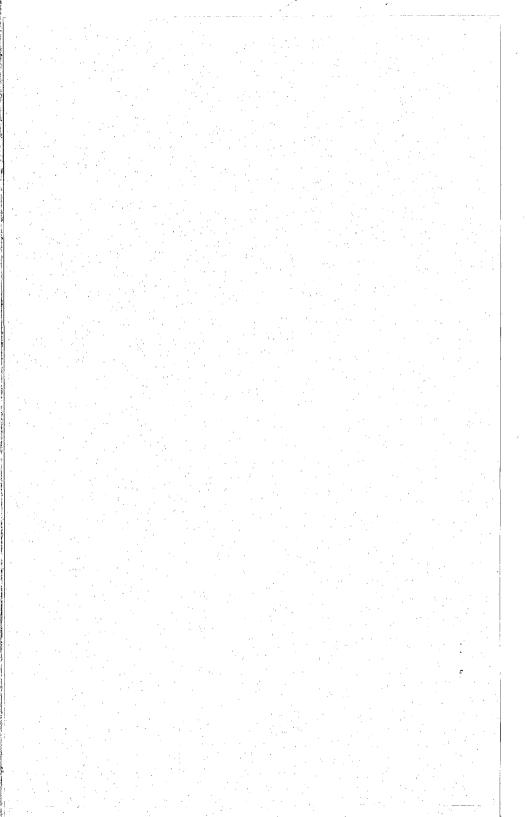
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Comparing The Republics Of Armenia, Azerbaijan, and Georgia in the Post-Soviet Era, 1991–2011

TROY BRADLEY

he Caucasus is both a mountain range that physically divides Europe and Asia and a larger region of two parts: the North Caucasus (a region in Russia) and Transcaucasia or the South Caucasus, comprised of Georgia, Armenia, and Azerbaijan.

The countries of the South Caucasus were united for nearly seventy years under one common political, military, and security system. The presence of the strong Soviet Empire meant that the republics had little to worry about until this uniting "political phenomenon" vanished with the collapse of the Soviet Union. The fledgling republics had to face the world without the capabilities, influence, experience, and structure of the world superpower they had been living under.²

Armenia, Azerbaijan, and Georgia have long and rich histories full of conflict and survival. They survived seventy years of communist rule under the Soviet Union, and are still in the infant stages of their independence. Their survival is being tested now as they each are currently facing conflicts that threaten their existence. These three republics have made substantial progress in the twenty years since the collapse of the Soviet Union and the beginning of their independence, yet they still have a long way to go. Each has adopted a constitution and each has amended it to allow for more freedoms.

¹ Michael B. Bishku, s.v. "Caucasus" in Oxford Encyclopedia of the Modern World, ed. Peter N. Stearns, (Oxford University Press, 2008).

² Anush Begoyan, "National Concepts of Security and the Problem of Integration in Transcaucasia," *Iran & The Caucasus* 10, no. 2 (2006): 287–88, http://www.jstor.org/stable/4030929.

They have adopted democratic forms of government with a president and a parliament. The three states continue to enact reforms that help them more fully integrate into a modern society. Armenia, Azerbaijan, and Georgia have each experienced great economic growth in recent years, as well as slowdowns resulting from the worldwide economic crisis. They seem poised to continue their growth as they overcome their challenges and as the world economy gets running again. The South Caucasus has the attention of many nations around the world, especially those surrounding the region such as Russia, Turkey, and Iran. The republics play a balancing game with their individual interests and the interests of their neighbors and the major players in the world. They look to these major actors for support and acceptance and they join international organizations to help them gain support and validation of their interests. Peace and stability are the main goals for Armenia, Azerbaijan, and Georgia. Although there are gigantic obstacles in their paths, the future has much promise for each country if they can learn from their pasts and work together for the betterment of the region.

History ❖

Transcaucasia has been an important region throughout history. The South Caucasus states served historically as a trade and transport "land bridge" linking Europe to the Middle East and Asia.³ Because of its location as a crossroads, the region is one of the most diversely populated in the world.⁴ The South Caucasus is surrounded by Russia, Turkey, Iran, and the Black and Caspian seas (see Figure 1). Also because of its location, major empires in history were enticed to take control of the area during their conquests.⁵ Due to its strategic geographical importance and wealth of natural resources, the leading political actor in the area, Russia, started imposing its control in the

Jim Nichol, "Armenia, Azerbaijan, and Georgia: Political Developments and Implications for U.S. Interests" (Washington, D.C.: Congressional Research Service, 2011): 1. http://assets.opencrs.com/rpts/RL33453_20110415.pdf.

⁴ Bishku, "Caucasus".

⁵ Nichol, "Armenia, Azerbaijan, and Georgia," 1.

eighteenth century. Under Russian rule, the people were expected to speak Russian instead of their native tongues, but many held on to their nationalism and native culture. This nationalism sustained the



Figure 1. Map of the Caucasus. Source: http://upload.wikimedia.org/wikipedia/commons/ thumb/f/fe /Caucasus-political_en.svg/2000px-Caucasus-political_en.svg.png (accessed November 30, 2011).

native Caucasians until the three small nations briefly gained their independence following the fall of the Tsarist Russian Empire to the Bolsheviks in 1918.7 Armenia, Azerbaijan, and Georgia would face life under another powerful empire when the Red Army invaded in the early 1920s and the countries fell to the Soviets.8 Under Soviet rule, the three nations were originally grouped together as the Transcaucasian Soviet Federal Socialist Republic from 1922 until 1936 when each area

⁶ Daniella Irrera, "Enlarging the Ring of Friends: Lessons From the European Neighborhood Policy in the South Caucasus," Standing Group on the European Union, 4 (Riga, Latvia: Fourth Pan-European Conference on EU Politics, 2008), 2.

⁷ Bishku, "Caucasus."

⁸ Nichol, "Armenia, Azerbaijan, and Georgia," 1.

was designated as a separate Soviet republic, in part because of their efforts to modernize and adopt European practices and processes in addition to their cooperation with and lack of resistance to the Soviet practices.⁹

Armenia

The landlocked Republic of Armenia (*Hayastani Hanrapetutyun*) has an area of 11,484 square miles (29,743 square kilometers) in Southwest Asia. Armenia's population was estimated at around three million in 2010. Armenia's population was estimated at around three million in 2010. Armenia those, almost ninety-eight percent are ethnic Armenian, and there are approximately seven million in diaspora around the world. Armenia is the 142nd largest country in terms of area, and the 137th largest in terms of population. The capital, Yerevan, has over one million residents. The official language is Armenian, spoken by almost ninety-eight percent of the population, and the state religion is Armenian Apostolic, a Christian denomination, practiced by nearly ninety-five percent of the country. Armenia has one of the highest literacy rates in the world with ninety-nine-and-one-half percent of the population literate.

Armenia is one of the oldest civilizations in the world and formerly covered much of the Caucasus region and the Anatolian peninsula. In the year AD 301, Armenia was the first nation in the world to officially convert to Christianity. The nation historically experienced intermittent and transitory periods of sovereignty, but also fell under the rule of powerful conquerors like the Roman, Byzantine, Arab, Persian,

⁹ Dennis R. Papazian, s.v. "Armenia" in Oxford Encyclopedia of the Modern World, ed. Peter N. Stearns, (Oxford University Press, 2008).

¹⁰ Barry Turner, ed., The Statesman's Yearbook 2010: The Politics, Cultures and Economies of the World, 146th ed. (New York: Palmgrave Macmillan, 2009), 110.

¹¹ Central Intelligence Agency (CIA), *The CIA World Factbook 2011* (New York: Skyhorse, 2010), 32.

¹² Turner, Statesman's Yearbook, 110.

¹³ CIA, World Factbook, 32.

¹⁴ Turner, Statesman's Yearbook, 110.

¹⁵ CIA, World Factbook, 32.

¹⁶ Papazian, "Armenia."

Ottoman and Russian empires. Armenia declared its independence from Russia in 1918 following the Bolshevik Revolution, but again fell to a powerful empire when the Soviets captured the country in 1920.

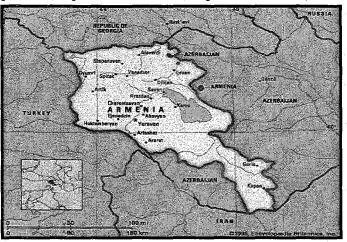


Figure 2. Map of Armenia. *Source*: http://members.tripod.com/sheridan_devon/Large%20Maps/ armeniamap.htm (accessed November 30, 2011).

Currently, Armenia and Azerbaijan are in a heated disagreement over the territory of Nagorno-Karabakh—a region within the territory of Azerbaijan that has an overwhelming Armenian population—which was given to Azerbaijan by Stalin and the Soviet Russians in 1922.¹⁷ The two countries went to war with each other after Nagorno-Karabakh declared its independence in 1992, and declared a ceasefire—not a resolution—in 1994.¹⁸ The Organization for Security and Cooperation in Europe (OSCE) continues to mediate the dispute over Nagorno-Karabakh.¹⁹

Azerbaijan

Republic of Azerbaijan (Azarbaijchan Respublikasy) has a total recognized area of 33,430 square miles (86,600 square kilometers) and a population of approximately 8.3 million, over eighty percent of which are Azeri with the remainder being Armenians, Russians,

¹⁷ CIA, World Factbook, 31, 45.

¹⁸ Turner, Statesman's Yearbook, 159.

¹⁹ CIA, World Factbook, 34.

Georgians, and numerous other small ethic groups.²⁰ Azerbaijan is the 112th largest country in terms of area, and has the 91st largest population.²¹ The capital, Baku, has nearly two million inhabitants. Azeri is the official language, and they adopted the Latin alphabet after abandoning use of the Cyrillic alphabet in 2001.²² Nearly ninetynine percent in the country are literate.²³

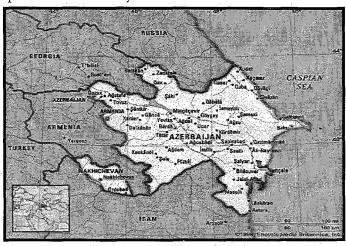


Figure 3. Map of Azerbaijan. *Source*: http://members.tripod.com/sheridan_devon/Large%20Maps/azerbaijanmap.htm (accessed November 30, 2011).

Azerbaijan was settled as early as four hundred thousand years ago. The location of Azerbaijan has been a factor in its turbulent history. Azerbaijan is a country with a majority-Turkic and majority-Muslim population with over ninety percent of Azeris practicing Islam, mainly Shia, but religious affiliation is still nominal in Azerbaijan and the percentage for actual practicing adherents is much lower. The area had been under the rule of Mannaeans, Medes, Assyrians,

²⁰ Turner, Statesman's Yearbook, 160.

²¹ CIA, World Factbook, 45-46.

²² Turner, Statesman's Yearbook, 160.

²³ CIA, World Factbook, 46.

²⁴ A.M. Mannion, s.v. "Azerbaijan" in Oxford Encyclopedia of the Modern World, ed. Peter N. Stearns, (Oxford University Press, 2008).

²⁵ CIA, World Factbook, 46.

Persians, Macedonians, Turks, Arabs, Ottomans, and Russians.²⁶ The Azerbaijani Democratic Republic became the first secular state in the Islamic world in 1918, gaining recognition by the Paris Peace Conference in early 1920.²⁷ Azerbaijan's original existence as an independent state was short-lived; from 1918 until the rise of the Soviet Empire in April 1920.²⁸ The Soviets had great interest in the oilrich area, and incorporated Azerbaijan into the Transcaucasian Soviet Federal Socialist Republic in 1922.²⁹ The biggest crisis for Azerbaijan today is the conflict with Armenia and the associated detrimental political and economic effects of war with a neighbor.³⁰

Georgia

The Republic of Georgia (Sakartvelos Respublika) has a total land area of 26,900 square miles (69,700 square kilometers) and a population of about 4.6 million. Over eighty percent of the population is Georgians, but it is also comprised of Azerbaijanis, Armenians, Russians, and other small groups. ³¹ Georgia is the 120th largest country in both land area and population. ³² Tbilisi, the capital, has roughly one million inhabitants. The official language is Georgian, but Russian, Armenian and Azeri can also be heard in the country. ³³ Most Georgians are Orthodox Christian. ³⁴

Present day Georgia was created from the territory of the ancient kingdoms of Colchis and Kartli-Iberia. ²⁵ Jason and the Argonauts are supposed to have gone to Colchis (in Western Georgia) to steal the Golden Fleece. Georgia and Armenia are historically tied together, through common lineage from Noah (through his descendants Hayk,

²⁶ Turner, Statesman's Yearbook, 159.

²⁷ Mannion, "Azerbaijan."

²⁸ CIA, World Factbook, 45.

²⁹ Turner, Statesman's Yearbook, 159.

³⁰ CIA, World Factbook, 246.

³¹ Turner, Statesman's Yearbook, 503.

³² CIA, World Factbook, 246.

³³ Turner, Statesman's Yearbook, 503.

³⁴ CIA, World Factbook, 247.

³⁵ Ibid., 246.



Figure 4. Map of Georgia. *Source*: http://members.tripod.com/sheridan_devon/Large%20Maps/georgiamap.htm (accessed November 30, 2011).

father of the Armenians, and Kartlos, father of the Georgians) and common language (Georgians are claimed to have spoken Armenian up until the Kartuli language was created following the conquest of Alexander the Great).36 Georgia was another historically early state to officially convert to Christianity; they did so in the 330s. Like Armenia and Azerbaijan, Georgia also fell under the rule of the Persian, Arab, Turkish, Ottoman, and Russian empires.³⁷ Although conquered, Georgian kings and princes managed to maintain a degree of local autonomy under Alexander the Great, Roman, and Islamic rulers. The nation was united for the first time under Russian rule providing Georgians the ability to receive European educations and develop a deeper sense of their own national uniqueness and the value of their own culture. This led Georgia to become the Caucasian state that most closely resembled an early European feudal society. With the collapse of the Russian empire, Georgia found three years of independence as a democratic republic.³⁸ Georgia, like the other states in the South Caucasus, was absorbed by the Soviet Union in 1921, and remained

³⁶ Ronald Grigor Suny, s.v. "Georgia" in Oxford Encyclopedia of the Modern World, ed. Peter N. Stearns, (Oxford University Press, 2008).

³⁷ CIA, World Factbook, 246.

³⁸ Suny, "Georgia."

under Soviet control until the dissolution of the empire seventy years later.³⁹ Even though Stalin was from Georgia, his native countrymen were not spared from his brutal administration.⁴⁰ The country grew industrially and culturally under the Soviet rule, but was limited in all aspects by the communist regime.⁴¹ Georgia currently faces threats to its sovereignty and northern territory. As independence was again realized by Georgia, crisis arose from the Russian-backed separatist regions of Abkhazia and South Ossetia.⁴²

Independence ≪

All three peoples can point to periods of past autonomy or selfgovernment. After the Russian Empire collapsed in 1917, all three states declared independence, but by early 1921 all had been reconquered by Russia's Red Army. 43 Armenia, Azerbaijan, and Georgia were separate, official Soviet Socialist Republics from 1936 until the countries became independent again in 1991.44 After the fall of the Soviet Union, each of the republics asked for, and easily obtained, their independence. 45 Following the collapse of Communism, ninety-nine percent of Armenian voters supported a breakaway from the Soviet Union,46 and Armenia officially declared its independence on September 21, 1991.47 Just prior to the disintegration of the Soviet Union, Azerbaijan had strong nationalistic independence sentiment in 1990 that communist leaders tried, unsuccessfully, to suppress by sending twenty-six thousand troops to the capital, and on August 31, 1991 the Azerbaijani Parliament adopted a declaration of independence. An act establishing state independence of the Republic of Azerbaijan was passed on

³⁹ CIA, World Factbook, 246.

⁴⁰ Turner, Statesman's Yearbook, 502.

⁴¹ Suny, "Georgia."

⁴² Turner, Statesman's Yearbook, 502.

⁴³ Nichol, "Armenia, Azerbaijan, and Georgia," 1.

⁴⁴ Mannion, "Azerbaijan."

⁴⁵ Irrera, "Enlarging the Ring of Friends," 2.

⁴⁶ Turner, Statesman's Yearbook, 110.

⁴⁷ CIA, World Factbook, 31-32.

October 18, 1991.⁴⁸ Georgia formally declared its independence on April 9, 1991, and after the collapse of the Soviet Union, each republic was officially recognized internationally as an independent state.⁴⁹ Now that these states were independent, they each decided to complete the transition from communism and become more politically democratic. Despite new independence the richness of natural resources and the magnitude of its geographical position let the South Caucasus be more than a group of transition countries, they remained important in the world.⁵⁰

Government and Politics &

In the post-Soviet era, the former Soviet republics in Transcaucasia experienced rapid waves of political freedoms and democratization connected with their newfound independence. They continue to advance the progress of democratic principles as they integrate more fully into the free world. The three countries have adopted similar constitutions and forms of democratic governments with presidents and parliaments. Each of the countries has granted universal suffrage to citizens age eighteen and older.⁵¹ Armenia adopted its original constitution in July 1995.52 Through a national referendum, Armenia reformed its constitution in 2005 to meet European Union standards.53 Azerbaijanis adopted their constitution in November 1995, and reformed it by referendum in August 2002.54 Georgia's constitution, adopted in August 1995, defines Georgia as a presidential republic with federal elements.⁵⁵ In May 2010, the constitutional commission agreed on amendments to slightly reduce the power of the president and increase the powers of the legislature and prime minister. This will slightly alter the structure and procedure of government beginning

⁴⁸ Mannion, "Azerbaijan."

⁴⁹ CIA, World Factbook, 247.

⁵⁰ Irrera, "Enlarging the Ring of Friends," 3-4.

⁵¹ CIA, World Factbook, 32.

⁵² Turner, Statesman's Yearbook, 110.

⁵³ CIA, World Factbook, 32.

⁵⁴ Turner, Statesman's Yearbook, 160.

⁵⁵ CIA, World Factbook, 247.

with the next presidential election scheduled for October 2013.56 The states of the South Caucasus look to the advanced democracies in the world for guidance and for examples of how democracy should work.

Armenia

Armenia is a presidential republic with a unicameral parliament.⁵⁷ Their directly-elected presidents serve five-year terms and they elect a 131 member National Assembly (*Azgayin Zhoghov*), of which ninety members are elected by party list and forty-one chosen by direct election. The major parties are the Republican Party of Armenia (the party of President Sargsyan, and nearly half of the National Assembly), Prosperous Armenia, Armenian Revolutionary Federation, Rule of Law, and Heritage parties.⁵⁸

Armenia held presidential and National Assembly elections after declaring independence and ratifying their constitution, choosing Levon Ter-Petrossian as their first president. President Ter-Petrossian was reelected in 1996 in disputed elections that had very serious irregularities as observed by the OSCE. Ter-Petrossian resigned in 1998 due to the Nagorno-Karabakh conflict, and Robert Kocharian succeeded him as President. Nagorno-Karabakh native Serzh Sargsyan, who was Prime Minister under President Kocharian, beat Levon Ter-Petrossian and others in a landslide during the 2008 presidential elections, which were observed to be fair by the OSCE.

Azerbaijan

Azerbaijan is also a presidential republic with a unicameral parliament. Their parliament, a 125 member National Assembly (*Melli-Majlis*), has one hundred members that are elected from regional districts. The remaining twenty-five seats are distributed proportionally by political party. Elections are a major challenge in the country, and international observers continually report that

⁵⁶ Nichol, "Armenia, Azerbaijan, and Georgia," 30.

⁵⁷ Irrera, "Enlarging the Ring of Friends," 8.

⁵⁸ Turner, Statesman's Yearbook, 110-11.

⁵⁹ Ibid., 110.

⁶⁰ Turner, The Statesman's Yearbook 110-11.

⁶¹ Irrera, "Enlarging the Ring of Friends," 8.

Azerbaijan's election results are questionable at best and most likely invalid, repeatedly failing to meet international standards. The major parties in Azerbaijan are the New Azerbaijan (the party of the president and a majority in the parliament), Azerbaijan Hope, Great Order, and All-Azerbaijan Popular Front parties; Azerbaijan has many independents in their National Assembly. 62

Azerbaijan started their independence with a proverbial rotating door for their first presidents. Their first president, Avaz Mualibov, had to flee the capital in 1992 because of unrest attributed to his failed domestic policies. Following Mualibov's departure, the Popular Front of Azerbaijan took control and appointed Abülfaz Elcibay as president. His short presidency was haunted by the continuation of ethnic strife between Azeris and Armenians, casualties from skirmishes between the two nations, and threat of civil war; Elcibay fled the country when Azeris rose up against him and Russia withdrew support. 63 Then, in mid-1993, the National Assembly appointed popular and progressive Heidar Aliyev, of the New Azerbaijan Party and the respected leader of the autonomous republic of Nakhichevan, as president of Azerbaijan, who was confirmed by a general election later in the year.⁶⁴ Aliyev oversaw the signing of a ceasefire in May 1994 between his country and Armenia over the Nagorno-Karabakh conflict (in 1996 Nagorno-Karabakh was accorded autonomy, but remains part of Azerbaijan.) The same year an oil deal was struck between Azerbaijan and a consortium of major oil companies. 65 Aliyev was reelected president in 1998, in elections that were criticized by international observers. Aliyev presided over Azerbaijan until his resignation in 2003 due to health concerns (he died shortly after leaving office,) but before leaving office, he appointed his son to replace him. Heidar's son, Ilham Aliyev officially won the presidency in 2003 in elections that were again criticized by international observers as sub-standard processes, and was reelected in 2008 with nearly ninety percent of the vote due to a boycott of the elections by the major opposition parties.66

⁶² Turner, Statesman's Yearbook, 160.

⁶³ Mannion, "Azerbaijan."

⁶⁴ Turner, Statesman's Yearbook, 159.

⁶⁵ Mannion, "Azerbaijan."

⁶⁶ Turner, Statesman's Yearbook, 159-60.

Georgia

Similar to its bordering South Caucasus states, Georgia is also a presidential republic with a unicameral parliament. They are governed by a president who serves a maximum of two five year terms and a 150-member Supreme Council consisting of seventy-five members elected in single-seat constituencies and seventy-five by proportional representation who serve four-year terms. The major political parties are the United National Movement (the party of the president), National Council, New Rights, Christian Democratic Movement, Labor, and Republican parties. The Republic of Georgia also has many independents—their Prime Minister is an independent.

The history of Georgia's presidents extends nearly twenty years back into the reign of the Soviet Union. Eduard Shevardnadze became the leader of the Georgian Communist Party in 1972, and his policies prompted nationalisst like Zviad Gamsakhurdia to express their opposition to the communists and "Russification."71 After gaining independence, the Republic of Georgia was first ruled by Zviad Gamsakhurdia, who was the last leader of the Georgian Soviet Socialist Republic.72 Gamsakhurdia first won office in multiparty elections in 1990, and then was elected as the first president of the Republic of Georgia in 1991; Gamsakhurdia eventually committed suicide after a failed military campaign to unify the territory.⁷³ He was replaced by his Soviet predecessor, Eduard Shevardnadze, after a civil war.74 Shevardnadze wasn't immensely popular, and in response to his increasing and obvious corruption and electoral manipulation, he was ousted in the bloodless "Rose Revolution" in 2003 and replaced by Mikhail Saakashvili.75 Saakashvili has worked to curtail corruption,

⁶⁷ Irrera, "Enlarging the Ring of Friends," 8.

⁶⁸ Turner, Statesman's Yearbook, 503.

⁶⁹ CIA, World Factbook, 247.

⁷⁰ Turner, Statesman's Yearbook, 503.

⁷¹ Ibid., 502.

⁷² Suny, "Georgia."

⁷³ Turner, Statesman's Yearbook, 502-3.

⁷⁴ Suny, Georgia.

⁷⁵ Turner, Statesman's Yearbook, 503.

lessen the influence and presence of Russia within the territory, and build ties with the United States. He was reelected in 2008. Georgia, especially under President Saakashvili, has been very pro-western.

Political Reform -

The nations of Transcaucasia have made a lot of progress, yet still have a long road ahead of them as attested to by the NGO Freedom House,

In 2010 Armenia and Georgia ranked as 'partly free,' while Azerbaijan ranked as 'not free,' in terms of political rights and civil liberties. Armenia and Azerbaijan were assessed as having very restricted political rights, where elections have been marred by serious irregularities. Armenia's government was assessed as slightly better in respecting civil liberties than was Azerbaijan's, where the media have been severely restricted. Georgia was assessed as improving in civil liberties over the past year due in part to increasing media diversity.⁷⁹

The nations have implemented many reforms already. Armenia, Georgia, and Azerbaijan have ratified new constitutions and promoted electoral reforms, they have agreed to discussions about old territorial disputes and dormant conflicts, and they have regularized the military presence on their own territories. ⁵⁰ They all still need to reduce electoral irregularities, address major issues of voter fraud and intimidation, and promote freedom in their national elections. ⁵¹ While they all still struggle with combating political and economic corruption, Georgia has taken important steps forward in fighting corruption and poverty. Although they have made much progress regarding democratic

⁷⁶ Suny, "Georgia."

⁷⁷ Turner, Statesman's Yearbook, 503.

⁷⁸ Begoyan, "National Concepts of Security," 294.

⁷⁹ Nichol, "Armenia, Azerbaijan, and Georgia," 24.

⁸⁰ Irrera, "Enlarging the Ring of Friends," 3.

⁸¹ Nichol, "Armenia, Azerbaijan, and Georgia," 25-26.

fairness, the OSCE insists that all three countries need to continue to take action to meet international standards for democratic elections.⁸²

Major Obstacles

A key obstacle for Armenia and Azerbaijan is their territorial conflict. Armenian leaders are focused on the Karabakh problem and the threat of Turkey and Azerbaijan, taking attention away from other important issues and concerns, and the number one political priority for Azerbaijan is the resolution of the Karabakh problem.83 When the two nations are focused on what the other is doing in regards to the Nagorno-Karabakh conflict without attempting to come to a resolution, they are wasting time and energy that could be better spent on other solvable problems. Despite the stalemate in the conflict, there is some progress being made. US leaders applaud Armenia's efforts to improve relations with Turkey and encourage continued democratization and the establishment of a more inviting business and investment climate. US government officials praise Azerbaijan for its progress in democratization and respect for human rights since its independence but concede that they can continue improvements, citing restrictions on the media and civil society, and requests that Azerbaijan continue its efforts to further implement democratic reform and increase protections for human rights.84 In Georgia, President Saakashvili has announced new democratization initiatives as a means to strengthen Georgia's sovereignty and independence and thereby prevent Russia from subverting Georgia's statehood. In their most recent elections in 2010, the OSCE noted that Georgia had made progress toward meeting international voting standards, but still had significant remaining shortcomings including deficiencies in the legal framework, its implementation, an uneven playing field, and isolated cases of election-day fraud.85

⁸² Irrera, "Enlarging the Ring of Friends," 6-9.

⁸³ Begoyan, "National Concepts of Security," 291.

⁸⁴ Nichol, "Armenia, Azerbaijan, and Georgia," 3.

⁸⁵ Ibid., 30.

Economy ≪

Along with political transformations, the collapse of the Soviet Union and subsequent national independence brought extensive change to the economies of Transcaucasia. The economies of all three South Caucasus states greatly declined in the early 1990s, affected by the dislocations caused by the breakup of the Soviet Union, conflicts, trade disruptions, and the lingering effects of the 1988 earthquake in Armenia. Even now the economies remain fragile. The economies of both Armenia and Azerbaijan have been hurt by their unresolved conflict over Nagorno-Karabakh. 87

Armenia

Armenia is facing a blockade in the east by Azerbaijan and in the west by Turkey, in support of Azerbaijan.88 Their economic growth has been hindered as a result of its border with Turkey, a wealthy neighbor, being closed since the end of the Nagorno-Karabakh ceasefire in 1994.89 The lack of official relations with Azerbaijan and Turkey is a serious danger for Armenia's economic development because closed borders lead to lower economic development, inflow of foreign capital, and participation in regional economic projects. 90 Armenia was a thriving Soviet Socialist Republic-doing as well as or better than most of the Soviet republics during the period of Communist rule—with strong industrial, educational and cultural foundations.91 President Ter-Petrossian began economic cooperation with many of the other Soviet republics and joined the CIS.92 Despite a scarcity of natural resources other than metals, small territory, and land-locked geographic position, Armenia's economy was one of the fastest growing in the world in recent years, but due to the worldwide financial crisis, the economy transitioned from double-digit growth to double-digit

⁸⁶ Nichol, "Armenia, Azerbaijan, and Georgia," 23.

⁸⁷ CIA, World Factbook, 31.

⁸⁸ Papazian, "Armenia."

⁸⁹ CIA, World Factbook, 31.

⁹⁰ Begoyan, "National Concepts of Security," 290.

⁹¹ Papazian, "Armenia."

⁹² Turner, Statesman's Yearbook, 110.

decline in 2009; however, they expect to continue above-average economic growth once the main effects of the crisis have passed.⁹³

Around twenty to twenty-five percent of Armenia's GDP is from agriculture, thirty-five percent from industry, and forty to forty-five percent from services.⁹⁴ Construction also plays a large role in the country's economy.95 Around forty-six percent of the labor force is in the agriculture sector, sixteen percent in industry, and thirty-eight percent in services. 6 Agricultural development is limited by the small size of most farms and outdated technologies that hinder productivity gains.97 The official unemployment rate as of 2007 was estimated at just over seven percent although a survey conducted in 2007 by the National Statistical Service of Armenia using the methodology of the International Labor Organization found that the government had been grossly underestimating the real unemployment rate, giving reason to doubt the accuracy of the official statistics.98 With aide from the IMF and World Bank, most of the agricultural land and business enterprises have been privatized.99 Armenia's major economic strengths are low-tomoderate inflation and rapid GDP growth in recent years. Armenia's main weaknesses are falling real output in 2009, strong dependence on remittance income and foreign investment, falling commodity prices, the collapse of the housing market and accompanying decline in the construction sector, and significant trade deficit. Armenia's economic opportunities are semi-reliant on their neighbors. If Turkey and Armenia can reconcile their differences, there would be a great prospect for a new export market and cheap imports. Armenians face a

⁹³ CIA, World Factbook, 33.

⁹⁴ Turner, Statesman's Yearbook, 111.

⁹⁵ Business and Finance Consulting (BFC), "Analysis of the Financial Sector: Georgia, Armenia and Azerbaijan," August 1, 2009 (Zürich: Oesterrichische Entwicklungsbank AG), 3, http://www.oe-eb.at/en/osn/DownloadCenter/projects/Final-Report-Analysis-Financial-Sector-Armenia-Azerbaijan-Georgia. pdf

⁹⁶ CIA, World Factbook, 33.

⁹⁷ BFC, "Analysis of the Financial Sector," 4.

⁹⁸ CIA, World Factbook, 33.

⁹⁹ Turner, Statesman's Yearbook, 111.

major threat with the possibility of severed transport links with Russia in the event of renewed Russian-Georgian conflict.¹⁰⁰

Azerbaijan

Azerbaijan continues to have, and is projected by the World Bank to remain, one of the fastest-growing economies in the world, which is greatly attributed to substantial foreign investment, rising prices of several commodities, and flourishing oil production and exports. 101 Azerbaijan's economy is dominated by industry, especially petroleum extraction, refining, and petrochemicals. Agriculture is also a large factor, accounting for about one-third of the economy. 102 Azerbaijan experienced the highest GDP growth in the world in 2006 and 2007, because of the sharp increase in oil prices and the opening of the new Baku-Tbilisi-Ceyhan pipeline in 2006. High oil prices help to mitigate the effects of the economic crisis on the country. 103 One major detriment to its economy is the fact that Azerbaijan has no trade relations with Armenia and ships oil around its neighbor instead of through it.¹⁰⁴ Azerbaijan took important steps to lower poverty rates and bolster monetary assets that have buffered the effects of the worldwide financial crisis. Most importantly they set up a special fund for accumulating oil revenues for long-term investment projects and keeping them from distorting the economy. Because of this fund and their substantial oil production, Azerbaijan did not have to borrow from international financial markets. This is a huge economic advantage over states that financed their economic growth by going into debt.105

Azerbaijan's GDP is comprised of about six percent agriculture, sixty percent industry, and thirty-four percent services. ¹⁰⁶ Oil is Azerbaijan's main export with up to sixty percent of its GDP from oil, but only about one percent of the labor force is employed in the oil

¹⁰⁰ BFC, "Analysis of the Financial Sector," 6-7.

¹⁰¹ Turner, Statesman's Yearbook, 161-62.

¹⁰² Mannion, "Azerbaijan."

¹⁰³ BFC, "Analysis of the Financial Sector," 8.

¹⁰⁴ Bishku, "Caucasus."

¹⁰⁵ BFC, "Analysis of the Financial Sector," 8–10.

¹⁰⁶ CIA, World Factbook, 47.

sector. ¹⁰⁷ Roughly forty percent of Azerbaijanis, a majority of the labor force, are employed in the agriculture sector. The unemployment rate is between six and ten percent. Azerbaijan's economic strengths are that it has had the highest GDP growth rates in the world in recent years and that it has a stable national currency and substantial foreign currency reserves. Its weaknesses are its high degree of dependence on oil and gas exports, the uneven territorial distribution of economic activities, and a high level of influence of state in the private sector combined with monopolies and cartels in certain industries. The Azerbaijani government could create bright opportunities by investing in regional development and support for non-energy sectors. Azerbaijan faces the threat of decrease of oil prices, escalation or restoration of conflicts with its neighboring states Armenia and Georgia, and devaluation of national currency. ¹⁰⁸

Georgia

Georgia is a small lower-income transition economy. After independence in 1991, civil war and the loss of markets in the former Soviet Union led to economic collapse. 109 Among post-Soviet transitional economies, Georgia had the worst declines seeing a ninety percent drop in exports and seventy percent drop in output. 110 The economy was damaged by bad relations with Russia and other political and socio-economic factors. 111 Georgia's economy is mainly based on agriculture, but some industry was developed under Soviet rule, most notably the Rustavi steelworks. 112

Georgia's GDP is comprised of about twelve percent agriculture, twenty-six percent industry, and sixty-two percent services. The unemployment rate is around thirteen percent. 113 The years 2004 to 2009 saw a great increase of foreign investment legitimizing the efforts of the Saakashvili administration to liberalize the economy and leading

¹⁰⁷ Turner, Statesman's Yearbook, 161.

¹⁰⁸ BFC, "Analysis of the Financial Sector," 11-13.

¹⁰⁹ Turner, Statesman's Yearbook, 505.

¹¹⁰ Ibid., 505.

¹¹¹ CIA, World Factbook, 247.

¹¹² Suny, "Georgia."

¹¹³ CIA, World Factbook, 248.

to strong economic performance over that time period. However, the economy is still feeling the effects of armed conflict with Russia and the global economic crisis. The agriculture sector continues to decline, even though more than half of the labor force remains employed in that sector. Georgia's economic strengths are continued support from the international community and controlled inflation. Their weaknesses are a slow recovery from the global recession, infrastructure damage from the recent war with Russia, and heavy dependence on remittances from Russia combined with an enormous trade deficit resulting primarily from weak manufacturing and agricultural sectors. Although warming relations with Russia could lead to better economic opportunities and lessening the trade imbalance, Georgia faces the threat of an uncertain future and expectations of further economic decline.¹¹⁴

GDP

In terms of GDP, the three countries are in around the middle of the pack. Azerbaijan's GDP rose from \$78.71 billion in 2008 to \$86 billion in 2009, the third highest growth in the world, resulting in Azerbaijan being the seventy third wealthiest country in the world. Countries with similarly sized economies include Libya, Sudan, Bulgaria, Tunisia, the Dominican Republic, and Croatia. 115 2009 saw a decline in Georgia's GDP from \$21.82 billion in 2008 to \$20.29 billion, making Georgia the 122nd wealthiest country in the world.116 Georgia's economy is similar to that of the Democratic Republic of the Congo, Gabon, Madagascar, Mozambique, Brunei, and Burkina Faso. Armenia's GDP also declined in 2009, at \$16.18 billion, down from \$19 billion in 2008, ranking Armenia at 132nd in the world. The economy of Armenia is similar to the economies of Chad, Mali, and Laos. The major economies in the region are: Russia, eighth largest in the world at \$2.2 trillion, Iran, number seventeen at \$876 billion, and Turkey, number eighteen at \$863 billion. The top two economies

¹¹⁴ BFC, "Analysis of the Financial Sector," 14-16.

¹¹⁵ CIA, World Factbook, 47.

¹¹⁶ Ibid., 248.

in the world, the European Union and the United States at over \$14 trillion each, also exercise influence in the South Caucasus.¹¹⁷

Oil and Natural Resources

The area is rich with natural resources, especially oil and natural gas that attract the interest of other countries.118 Azerbaijan is the world's tenth largest oil extractor and seventh largest oil exporter. 119 Azerbaijan's economy has benefitted from oil reserves onshore and in the Caspian Sea since the 1870s, when Azerbaijan became one of the first nations to begin oil production. 120 By the early twentieth century half the world's oil production was supplied from Baku, but that total has dwindled to less than one percent. 121 Azerbaijan's economy has been bolstered by an increase in oil production following the lowest point of production in the late 1990s, which helped the GDP grow over thirty-five percent. 122 The capital of Azerbaijan, Baku is at the center of oil exploration in the Caspian 123 and ninety percent of the country's GDP is concentrated in or near Baku, while only fifty percent of the population lives in the region. 124 Again proving the extent and importance of the Nagorno-Karabakh conflict, oil exports fell as much as twenty percent during the war with Armenia, and only started rising in the years after the ceasefire of 1994.125 In 1994 the government signed a production sharing agreement with foreign oil companies in Turkey, Europe, and the United States to develop oil deposits in the Caspian Sea and transport the oil from Azerbaijan to Turkey via Georgia avoiding the cheaper direct route through Armenia. 126 Oil in the region is concentrated in Azerbaijan and the Caspian Sea, in areas

¹¹⁷ Ibid., 33.

¹¹⁸ Nichol, "Armenia, Azerbaijan, and Georgia," 1.

¹¹⁹ BFC, "Analysis of the Financial Sector," 8.

¹²⁰ Mannion, "Azerbaijan."

¹²¹ Turner, Statesman's Yearbook, 159-62.

¹²² Mannion, "Azerbaijan."

¹²³ Turner, Statesman's Yearbook, 162.

¹²⁴ BFC, "Analysis of the Financial Sector," 9.

¹²⁵ Begoyan, "National Concepts of Security," 291.

¹²⁶ Turner, Statesman's Yearbook, 161–2.

controlled by Azerbaijan, which is known to have oil reserves of at least one billion barrels and estimates range as high as seven billion barrels, with further potential in offshore fields.¹²⁷ In addition to its own oil production, Georgia benefits from Azerbaijan's petroleum production through the pipeline that transports Azeri oil via Georgia to Turkey.¹²⁸ Georgia has overcome the chronic energy shortages and gas supply interruptions of the past by renovating hydropower plants and by increasing reliance on natural gas imports from Azerbaijan instead of from Russia. Georgia has estimated oil reserves of thirty-five million barrels.¹²⁹ Armenia has no oil or gas reserves, produces no oil or gas, and must import every barrel of oil and all the natural gas it uses.¹³⁰

Oil is not the only natural resource in the South Caucasus. Armenia has mineral deposits of copper, zinc, aluminum, molybdenum, marble, gold, and granite and forests cover about ten percent of the country.¹³¹ Azerbaijan produces grain (wheat and barley), fruit, vegetables, cotton, tea, tobacco, and silk.¹³² It also has mineral deposits of iron, bauxite, manganese, aluminum, copper ores, lead, zinc, precious metals, sulfur pyrites, nephelene syenites, limestone, salt, cobalt, and iodine-bromine and forests cover about twelve percent of the land area.¹³³ Georgia has natural deposits of manganese, barites, clays, gold, diatomite shale, agate, marble, alabaster, iron, other ores, building stone, arsenic, molybdenum, tungsten, and mercury" and forests cover nearly forty percent of the country.¹³⁴

Industry

Industry is a major part of the region's economies. Armenia's chief industries are chemicals, producing mainly synthetic rubber and fertilizers, the extraction and processing of building materials, ginning-

¹²⁷ Mannion, "Azerbaijan."

¹²⁸ Turner, Statesman's Yearbook, 503-05.

¹²⁹ CIA, World Factbook, 247-48.

¹³⁰ Ibid., 34.

¹³¹ Turner, Statesman's Yearbook, 112.

¹³² Mannion, "Azerbaijan."

¹³³ Turner, Statesman's Yearbook, 162.

¹³⁴ Ibid., 505.

and textile-mills, carpet weaving and food processing, including winemaking.¹³⁵ Crude oil extraction and refining is Azerbaijan's main industry. It also produces metals, cement, chemicals, building materials, timber, synthetic rubber, salt, textiles and food, especially fish. Azerbaijan's non-oil industries (namely construction, service industries, and agriculture) are also growing rapidly.¹³⁶ Georgia's industry was responsible for about twenty-four percent of its GDP in 2002. There is a metallurgical plant and a motor works as well as factories for processing tea, creameries, and breweries and textile and silk industries. Georgia produces cement, nitrogenous fertilizer, flour, ferroalloys, footwear, alcohol, and cigarettes.¹³⁷

Poverty

Although there are vast riches in the South Caucasus, not everyone is participatory in the spread of wealth. Despite reforms that have produced growth in the economy and allowed them to join the ranks of middle income countries, Armenia still has a high poverty rate, around twenty-five percent according to the IMF.138 Poverty, along with economic insecurity, is a major cause of Armenians leaving their country. 139 Increased economic growth has led to a reduction in the poverty rate in recent years, and the IMF expects further reduction of the poverty rate to twenty percent by 2012 (down from twenty-five percent in 2008), using the national poverty line of \$2.30 per day. The outlook is a little more positive when using the World Bank's latest poverty standard of \$1.25 per day, because only about eleven percent of Armenians live below that poverty line. In its newly adopted strategic policy document, 'Sustainable Development Program', the Armenian government plans to reduce their poverty rate to fewer than seven percent by 2021, and to eradicate extreme poverty by 2015, based on the government's poverty definitions. 140

¹³⁵ Ibid., 112.

¹³⁶ Ibid., 161-62.

¹³⁷ Ibid., 505-06.

¹³⁸ BFC, "Analysis of the Financial Sector," 2, 5.

¹³⁹ Begoyan, "National Concepts of Security," 290.

¹⁴⁰ BFC, "Analysis of the Financial Sector," 5.

Poverty levels have gone down in Azerbaijan as oil production has risen, but there is still much to be done to spread the wealth. ¹⁴¹ Despite vibrant recent economic performance and low debt ratio, much of the population remains in poverty and corruption is endemic. ¹⁴² Official reports show that the poverty rate in Azerbaijan plummeted from nearly fifty percent in 2006 to between eleven and thirteen percent in 2009. This was mostly due to rapid economic growth and the successful implementation of the national poverty reduction program. ¹⁴³

The World Bank reports that over thirteen percent of Georgians live in poverty, earning less than \$1.25 per day (as of the 2005 report), but the Georgian government officially lists their poverty rate at fifty-four percent.¹⁴⁴

Foreign Assistance

The countries receive a lot of outside help through trade. Armenia mainly imports and exports manufactured goods. Armenia's main import suppliers are Russia, Belgium, United Kingdom, and USA, and main export markets are Belgium, Israel, Germany, and Russia. Armenia is the benefactor of foreign aid and remittances from the Armenian diaspora. Armenia benefits from the balance of interests of the three centers of influence: the European Union, Russia, and the US. Azerbaijan imports machinery, power, cereals, steel tubes, sugar, and sweets from mainly Russia, UK, Turkey, Turkmenistan, and Germany. Although petroleum related products are Azerbaijan's chief trade item, it also exports cotton, chemicals, tobacco, beverages, air conditioners, wool, and refrigerators mainly to the markets of Italy, France, Israel, Russia, and Turkey. Azerbaijan receives considerable funds from foreign investors, yet not as much as Armenia or Georgia and, therefore, is more immune to the economic crises of other

¹⁴¹ CIA, World Factbook, 45.

¹⁴² Turner, Statesman's Yearbook, 162.

¹⁴³ CIA, World Factbook, 47.

¹⁴⁴ BFC, "Analysis of the Financial Sector," 14-15.

¹⁴⁵ Turner, Statesman's Yearbook, 111-12.

¹⁴⁶ BFC, "Analysis of the Financial Sector," 6.

¹⁴⁷ Turner, Statesman's Yearbook, 162-3.

nations, particularly Russia. 148 Although Russia has imposed economic sanctions on Georgia, it remains a major trading partner as most of Georgia's imports are from Russia, Turkey, UK, and Azerbaijan and most of their exports went to Turkey, Turkmenistan, Russia, and Armenia. 149

Growth and Obstacles

The states in the South Caucasus have made incredible economic progress in recent years as they implement reforms and strive to become more business-friendly, and they have reaped wonderful rewards from their efforts. Continuing their efforts and sustaining their progress should give them strength to overcome challenges and foster increased growth. Following reforms in 2001 to strengthen the business environment and promote exports and investment Armenia's economy experienced five consecutive years of double-digit growth. 150 Armenia has made progress in the last twenty years in implementing some economic reforms, including privatization, price reforms, and prudent fiscal policies, but geographic isolation, a narrow export base, and pervasive monopolies in important business sectors hinder Armenia's growth and sustainability, especially during the global financial crisis. Armenia will need to pursue additional economic reforms in order to regain economic growth and improve economic competitiveness and employment opportunities, especially given its economic isolation from two of its nearest neighbors, Turkey and Azerbaijan. 151 Azerbaijan needs to find solutions to some fundamental problems that hinder further economic growth, such as insufficient diversification of output, a low degree of economic diversification, high levels of corruption, and the existence of formal and informal monopolies in many economic sectors. As evidence of its economic progress, Azerbaijan was rated the number one business environment "reformer" in 2009 by the World Bank Group's annual series Doing Business due to many business reforms that are getting the attention of

¹⁴⁸ BFC, "Analysis of the Financial Sector," 10.

¹⁴⁹ Turner, Statesman's Yearbook, 505-6.

¹⁵⁰ Ibid., 111.

¹⁵¹ CIA, World Factbook, 33.

foreign investors. ¹⁵² Despite their recent successes, Azerbaijan has made only limited progress on instituting market-based economic reforms. Pervasive public and private sector corruption and structural economic inefficiencies remain a drag on long-term growth, particularly in non-energy sectors. ¹⁵³ Georgia has made huge strides toward privatization of the economy and has made many reforms to quash corruption. ¹⁵⁴ The Georgian government has reduced the number of taxes, simplified the tax code, reduced the number of licenses required to open a business, and reduced import duties helping Georgia become one of the easiest places to do business according to the World Bank's 2008 *Doing Business* report. ¹⁵⁵ Because of these reforms and other efforts to make the country more business-friendly, the World Bank labeled Georgia as the world's number one reformer in 2006. ¹⁵⁶

Ties to the World ≪

The fall of communism left Armenia, Azerbaijan, and Georgia on their own; they had to look outside for support and assistance. After the collapse of the Soviet Union in 1991 post-communist states were confronted first with the issue of survival as an independent state and then with the choice of strategic orientation. The "political elites" of the young sovereign states had to make their decision between pro-Russian- or pro-Western alternatives for their future foreign policy development. In the case of Azerbaijan and Georgia, the choice is in favor of the West, while in the case of Armenia it is in favor of Russia. 157

Armenia is using a complementary policy balancing the development of ties with both Russian/CIS security structures and the US/NATO although the main focus is their relationship with Russia, countering the political and religious influence of Turkey in the

¹⁵² BFC, "Analysis of the Financial Sector," 8-12.

¹⁵³ CIA, World Factbook, 47.

¹⁵⁴ Turner, Statesman's Yearbook, 505.

¹⁵⁵ BFC, "Analysis of the Financial Sector," 14.

¹⁵⁶ Turner, Statesman's Yearbook, 505.

¹⁵⁷ Begoyan, "National Concepts of Security," 293–95.

region. ¹⁵⁸ Armenia has no official relations with Turkey or Azerbaijan. ¹⁵⁹ In Armenia's view, Turkey is perceived as a threat to the region; there is a long history of negative relations between Armenia and Turkey, especially due to Turkey's anti-Armenian and pro-Azerbaijani policies that have left Armenia isolated in the neighborhood. ¹⁶⁰ A major factor in Armenian everyday life and decision-making is the fact that Armenia and Azerbaijan are technically still at war. ¹⁶¹ Georgia also knows about conflict and an uneasy relationship with a powerful neighbor. Georgia and Russia have strained relations due to Russian support of the breakaway regions of Abkhazia and South Ossetia. ¹⁶²

Reliance on external powers does not and, most importantly, cannot create more security and stability in the region in the current state of affairs. Instead, the region gets involved in a larger regional power game and becomes a "battle field" for the external powers competing for more and broader influence in the region. ¹⁶⁵ It is a balancing act for the South Caucasus, building relations with other countries without becoming the rope in a tug-of-war. There is much interest in the region from very powerful and influential countries. Apart from global powers like the US and the EU, which obviously have strong and direct influence on regional security dynamics, the three neighboring players (Russia, Iran, and Turkey) also have their own roles in and perceptions of the region. ¹⁶⁴

International Organizations

The nations of Transcaucasia have joined many international organizations in an effort to support their security, stability and national interests. Most notably, each is a member of the United Nations, World Bank, IMF, Council of Europe, OSCE, NATO Partnership for Peace, European Bank for Reconstruction and Development, and the Black Sea Economic Cooperation; Armenia and Georgia are members

¹⁵⁸ Ibid., 289.

¹⁵⁹ Bishku, "Caucasus."

¹⁶⁰ Begoyan, "National Concepts of Security," 290.

¹⁶¹ Turner, Statesman's Yearbook, 111.

¹⁶² Begoyan, "National Concepts of Security," 293.

¹⁶³ Ibid., 288.

¹⁶⁴ Ibid., 295.

of the World Trade Organization and the Asian Development Bank; Azerbaijan is a member of the Islamic Development Bank; Armenia and Azerbaijan are members of the Commonwealth of Independent States, while Georgia aims to gain full membership in NATO.¹⁶⁵

In late 1991, most of the former Soviet republics, including Russia, formed an organization known as the Commonwealth of Independent States, or CIS, in order to coordinate intercommonwealth relations and to provide a mechanism for the orderly dissolution of the Soviet Union. 166 Armenia and Azerbaijan are founding members; Georgia eventually joined the CIS is 1993 after originally declining membership, but withdrew in 2009 due to conflict with Russia. 167

Russia

As the dominant power in the region, Russia naturally has vital interests in the Caucasus region and maintains fragile and complicated relations with the states in the South Caucasus. ¹⁶⁸ The policy of Moscow in the immediate post-Soviet era was to maintain good relationships with the newly independent States as the self-proposed immediate and privileged interlocutor. ¹⁶⁹ Russia is interested in mutually advantageous trade and economic relations with the states of the region, as well as the use of their transport capacities, but the most important aspect of Russia's economic interests is the production and shipment of regional energy resources. ¹⁷⁰ Concerning the energy sector, Russia tries to play a dominant role in future oil and gas production and transportation in the Caspian Sea region. ¹⁷¹ After Vladimir Putin was elected president in 2000, Russia appeared to place great strategic importance on increasing, or at least maintaining, influence in the South Caucasus

¹⁶⁵ Turner, Statesman's Yearbook, 159-62.

¹⁶⁶ CIA, World Factbook, 752.

¹⁶⁷ Turner, Statesman's Yearbook, 162.

¹⁶⁸ Begoyan, "National Concepts of Security," 295.

¹⁶⁹ Irrera, "Enlarging the Ring of Friends," 3.

¹⁷⁰ Begoyan, "National Concepts of Security," 296.

¹⁷¹ Nichol, "Armenia, Azerbaijan, and Georgia," 9.

region.¹⁷² Russia gets involved with any unsettled ethnic conflicts because it shares a border with the region.¹⁷³

Armenia has close security and economic ties with Russia.¹⁷⁴ There is a Russian military presence in Armenia of over three thousand troops.¹⁷⁵ Armenia is the only state in Transcaucasia that welcomes Russian troops, because they see Russia as the only power able to prevent Turkish influence in the region.¹⁷⁶ Russia has promised to ensure Armenia's national security and supplies more modern weaponry for Armenia's armed forces.¹⁷⁷ Russia, the largest foreign investor and single-country trade partner of Armenia, is interested in deepening established economic ties as well as protecting its interests in the Caucasus.¹⁷⁸ Armenia is very dependent on Russia for commercial and governmental support.¹⁷⁹

Azerbaijan signed a treaty of friendship and co-operation with Russia in 1997. Azerbaijan is leery of the close relationship between Russia and Armenia, and tries to balance their ties to Russia with their distrust of Russia. Azerbaijan was the first Eurasian state to get Russian troops to withdraw in 1993. Religion is a key factor in Azerbaijan's relations with Russia, because, even though Azeris are moderate Muslims and extremists aren't popular in the country, Russia views Islamic fundamentalism as a growing threat to the region and does not like the idea of Iran gaining any influence in the world. 181

Georgia is the least friendly to and accepting of Russia out of the three Transcaucasian states. Georgia has long tried to end the Russian military presence on its soil. Relations between Russia and Georgia are tense due to Russia's support of the separatist regions of

¹⁷² Ibid., 6.

¹⁷³ Begoyan, "National Concepts of Security," 296.

¹⁷⁴ Nichol, "Armenia, Azerbaijan, and Georgia," 7.

¹⁷⁵ Turner, Statesman's Yearbook, 111.

¹⁷⁶ Begoyan, "National Concepts of Security," 290.

¹⁷⁷ Nichol, "Armenia, Azerbaijan, and Georgia," 7.

¹⁷⁸ BFC, "Analysis of the Financial Sector," 6.

¹⁷⁹ CIA, World Factbook, 33.

¹⁸⁰ Turner, Statesman's Yearbook, 159.

¹⁸¹ Nichol, "Armenia, Azerbaijan, and Georgia," 7-8.

South Ossetia and Abkhazia. President Saakashvili has taken a hard stance against Russian involvement in the regions. Russia had troops stationed in Georgia proper as late as November 2007, and sent active troops in response to military action against South Ossetia; even after a withdrawal, Russia keeps troops as a buffer zone around Abkhazia and South Ossetia. It is important to Georgia for Russia to remove its military presence from Georgian territory and lessen Russian influence in the area. Is 4

The United States

America is another global power with interest in the South Caucasus. The United States recognized the independence of all the former Soviet states in 1991. The US created close ties with Armenia and Georgia because of democratic principles and pro-American leaders. The United States has pushed for peaceful resolutions to the ethnic conflicts between Armenia and Azerbaijan and between Georgia and the secessionist regions within its territory. One possible reason to why the US is involved in the region is the desire to lessen and contain Russian and Iranian influence. 185 The United States is the largest bilateral aid donor by far to Armenia and Georgia. 186 Armenia is one of the biggest recipients of US government aid. 187 The US focuses on promoting democratic and economic development in the region; US policy is strongly influenced by a very effective pro-Armenian lobby in America. 188 US companies have made many investments into the oil production in Azerbaijan. 189 Azerbaijan has created political and economic ties with western states that share common interests, especially the United States, in order to create a

¹⁸² Begoyan, "National Concepts of Security," 293.

¹⁸³ Turner, Statesman's Yearbook, 503.

¹⁸⁴ Begoyan, "National Concepts of Security," 293.

¹⁸⁵ Nichol, "Armenia, Azerbaijan, and Georgia," 1-2.

¹⁸⁶ Ibid., 31.

¹⁸⁷ Turner, Statesman's Yearbook, 111.

¹⁸⁸ BFC, "Analysis of the Financial Sector," 6.

¹⁸⁹ Irrera, "Enlarging the Ring of Friends," 8.

balance against the partnership of Russia and Armenia. ¹⁹⁰ The United States continually affirms that Azerbaijan is an important bilateral partner. The US has a strategic partnership with Georgia and states that our two countries share a vital interest in a strong, independent, sovereign, unified, and democratic Georgia and supports Georgia's full integration into Western culture and organizations such as NATO, as well as supporting Georgia's economic growth and capacities as a state. President Obama has reiterated his firm belief that Georgia's sovereignty and territorial integrity must be respected. The support has also been reciprocal, each state of the South Caucasus pledged support for the United States following the September 11th attacks, and each state has sent troops to Iraq and Afghanistan. ¹⁹¹ The West is held in high esteem by the three states.

The European Union

In terms of political and economic development, all three countries of the South Caucasus have declared their willingness to participate and are very active in the process of European integration. 192 The European Parliament appointed an EU Special Representative for the South Caucasus who is tasked with assisting Armenia, Azerbaijan, and Georgia in the realization of political and economic reforms, to prevent civil conflict and prepare for the return to peace, helping with foreign relations, and increasing awareness and significance of the EU in the countries. 193 The EU, like the US is very influential in the region in terms of aid, trade, exchange, and other ties and looks to deepen ties, integrate the area into the West, and help it become peaceful, stable, and democratic. 194 The South Caucasus is one of the regions in which the EU desires a stronger and more active interest according to the European Parliament. The EU entered into partnership and cooperation agreements with Armenia, Azerbaijan, and Georgia in 1996.195 The European Union is interested in closer integration with

¹⁹⁰ Begoyan, "National Concepts of Security," 292.

¹⁹¹ Nichol, "Armenia, Azerbaijan, and Georgia," 3-5.

¹⁹² Begoyan, "National Concepts of Security," 295.

¹⁹³ rrera, "Enlarging the Ring of Friends," 5.

¹⁹⁴ Nichol, "Armenia, Azerbaijan, and Georgia," 11.

¹⁹⁵ Irrera, "Enlarging the Ring of Friends,"-5-7.

Armenia to protect regional security, safeguard energy supplies, and prevent migration from economically underdeveloped areas. ¹⁹⁶ Georgia seeks more and closer links with the West and closer cooperation and integration in European institutions. According to Georgia's National Security Council, the highest priority of Georgian foreign policy is to achieve full integration in the European political, economic, and security structures, thus fulfilling the historical aspirations of the Georgian nation to participate fully in the European community. Georgia's attraction to Europe, the US, and NATO is seen as a measure to lessen Russia's importance and influence in the South Caucasus. ¹⁹⁷ The South Caucasus represents one of the most important areas around Europe. It seems to be vital for the EU's future energy security. ¹⁹⁸

Iran and Turkey

Iran and Turkey, two emerging regional powers, also have keen interest and pursuits in the South Caucasus. Iran wishes to regain influence and rebuild cultural relationships in former Persian territory. 199 There is a gas pipeline between Iran and Armenia, through which Iran exports natural gas into Armenia to help satisfy Armenia's consumption needs as well as to generate electricity for Iran and Georgia.200 Iran's goals in the South Caucasus include discouraging Western powers such as Turkey and the US from gaining influence, ending regional instability that might threaten its own territorial integrity, and building economic links.²⁰¹ Turkey also aims to lessen the influence of Russia and the west in the region. Turkey enjoys having a gateway to Central Asia—the Turkic world previously closed to Turkey through the states of Transcaucasia. Turkey looks to the independence and territorial integrity of the South Caucasus as vital to the security and stability of the whole region and Central Asia. Azerbaijan and Turkey have strong relations with each other stemming

¹⁹⁶ BFC, "Analysis of the Financial Sector," 6.

¹⁹⁷ Begoyan, "National Concepts of Security," 293-94.

¹⁹⁸ Irrera, "Enlarging the Ring of Friends," 13.

¹⁹⁹ Begoyan, "National Concepts of Security," 296.

²⁰⁰ CIA, World Factbook, 33.

²⁰¹ Nichol, "Armenia, Azerbaijan, and Georgia," 10.

from common culture, language, and religion.²⁰² Turkey seeks good relations with Azerbaijan and Georgia and some contacts with Armenia, while trying to limit Russian and Iranian influence. Azerbaijan views Turkey as an ally and a balance to Armenia's ties with Russia. Georgia keeps open relationships with both Turkey and Iran because of the substantial number of Georgians living in those countries, and also because Turkey is an important trade partner, especially regarding the oil and gas pipelines that run through their countries. Regarding the Nagorno-Karabakh conflict, Turkey and Armenia have showed signs of progressing toward a mutual resolution, but talks continue to stall as both sides posture and balk at any real solutions.²⁰³ Iran and Turkey see potential new markets for their exports, potential suppliers of raw materials for their industries, and generally potential partners in economic cooperation of all kinds, particularly in the energy sector although these opportunities are limited: in the case of Turkey, by its uneasy relations with Armenia and continuing economic and political blockades of the country; and in the case of Iran, by its anti-Western policies and US economic and political suppression of Iran.²⁰⁴

Turmoil

The area is the nexus between East and West and is a place of interest for the most important regional actors like Russia, Iran, and Turkey. It is also the core of several global threats like Islamic radicalism, separatisms, drug trafficking, and instability. 205 Transport and communications obstructions and stoppages have severely affected economic development in the South Caucasus and stymied the region's emergence as an East-West and North-South corridor. There is a lot of interstate economic conflict in the region. Armenia is blocking Azerbaijan from Nakhichevan, Russia is restricting trade and ties with Georgia and limiting Azerbaijan's access to world shipping channels. Russia sometimes cuts off gas to Georgia and blocked their trade route with Armenia during the 2008 conflict. Also, Turkey closed its border

²⁰² Begoyan, "National Concepts of Security," 292, 297.

²⁰³ Nichol, "Armenia, Azerbaijan, and Georgia," 9-10.

²⁰⁴ Begoyan, "National Concepts of Security," 297.

²⁰⁵ Irrera, "Enlarging the Ring of Friends," 13.

with Armenia in 1993 and limits Armenia's ability to import vital energy and raw materials.²⁰⁶

Future Goals and Challenges &

Each of the republics of the South Caucasus faces significant challenges to their future stability and growth. Territorial, ethnic, and religious conflicts all threaten to unravel the progress that the countries have heretofore experienced. Energy plays a significant role in the stability of the region, and Azerbaijan especially struggles with energy issues.

Armenia began the twenty-first century as the most stable nation of Transcaucasia, with the fastest growing economy of the three states. That stability is in jeopardy because of its economic isolation and conflict with its neighbors. Armenia's future progress depends on settlement of the Nagorno-Karabakh conflict and the lifting of the Turkish and Azerbaijani blockades.²⁰⁷

The loss of the Soviet yoke and newfound independence paved the way for the resurgence of Islam. Although Azerbaijanis have openly accepted the Islamic faith, Iran has helped increase the influence of the fundamentalist Islam movement, including the training of Islamic militant groups. There are some other fundamentalist groups who wish to form a separate state, and others wish to create an Azerbaijani Islamic state.²⁰⁸ There are many other obstacles in Azerbaijan's path, including the need for stepped-up foreign investment in the nonenergy sector and the continuing conflict with Armenia over the Nagorno-Karabakh region. As Azerbaijan advances, they downplay and actually lessen the importance of trading with the former Soviet republics, while building economic and political ties with Turkey and Europe; Azerbaijan's long-term prospects will depend on world oil prices, the location of new oil and gas pipelines in the region, and their ability to manage their energy wealth to promote sustainable growth in non-energy sectors of the economy and spur employment. 209

²⁰⁶ Nichol, "Armenia, Azerbaijan, and Georgia," 23-24.

²⁰⁷ Papazian, "Armenia."

²⁰⁸ Mannion, "Azerbaijan."

²⁰⁹ CIA, World Factbook, 47.

Georgia faces many challenges. Georgia struggles with an internal ethnic conflict with the Autonomous Republics of Abkhazia and South Ossetia. 210 Their tax base has eroded which led to a decline in the budget surplus and an increase in public borrowing needs. 211

The states in the region will continue to have obstacles. Their histories are full of hardships, conquering armies, political and economic strife, and ethnic conflict. Their histories are also filled with stories of survival and overcoming their obstacles. The ethnic diversity of the region's population contributes to the instability of the South Caucasus.

Considering the fact that the South Caucasus is a region where the 'state-to-nation asymmetry', as Benjamin Miller calls it, is particularly strong, the region will always be vulnerable to conflicts.

The state-to-nation imbalance provides an underlying motivation for war and, therefore, makes certain regions more war-prone than others. The state-to-nation imbalance refers to the degree of compatibility between the existing division to territorial states and the national aspirations and political identification of the people. . Considering the size (territory, population, economy, military power, and political influences internationally) of the regional states in comparison with the size of external players, it is not difficult to see that the regional entities have very little power to influence the policies of external players and instead are being manipulated into bigger security games. 212

The states of the South Caucasus haven't fully partaken in peace, stability, and economic development since the Soviet collapse in 1991 because of ethnic conflicts. The republics are faced with ongoing budgetary burdens of arms races and caring for refugees and displaced persons. ²¹³ With histories full of conflict and survival, it is reasonable to suspect that the countries of the South Caucasus may never see peace, but may also survive whatever comes their way.

²¹⁰ Begoyan, "National Concepts of Security," 293.

²¹¹ CIA, World Factbook, 248.

²¹² Begoyan, "National Concepts of Security," 298-99.

²¹³ Nichol, "Armenia, Azerbaijan, and Georgia," 12.

There are many problems in the region. Political corruption is a substantial problem, Armenia and Georgia have high levels of corruption and Azerbaijan's levels are very high.²¹⁴ The states have adopted modern democratic constitutions, but they need further reform and progress for political stability. The governments of the countries need to continue improving human rights, eliminating voting irregularities, and promoting truly free elections (with the help of the OSCE). Conflicts are rampant. The nations have to focus on closer regional integration and cooperation. Security comes from defining your territory.²¹⁵ Armenia and Azerbaijan have to resolve their conflicts. The Karabakh problem threatens the internal stability of both Armenia and Azerbaijan.²¹⁶ Only a peaceful, negotiated settlement can bring the prospect of a better, more certain future to the people who used to live in the territories and those who live there now.217 Georgia must resolve its territorial issues and conflict with Russia. Georgia looks for resolution by pledging to use peaceful means and to not use force, except for self-defense. All sides made mistakes and miscalculations but they must focus on the future.²¹⁸ It is vitally important to keep the balance between Russia and the West.²¹⁹ The countries must also improve the trade imbalance and lessen their dependence on foreign assistance. They must continue to cooperate with other countries, especially the powers in the region, while protecting their national interests. Such cooperation will bolster regional security and balance. Cooperation should come not only after conflicts are resolved, it should rather serve as a way to resolve them.²²⁰ The relationships between the countries are complex but the states will survive, they always have. The future is bright as long as the countries learn from their past.

²¹⁴ Irrera, "Enlarging the Ring of Friends," 8-9.

²¹⁵ Begoyan, "National Concepts of Security," 288, 293.

²¹⁶ Ibid., 292.

²¹⁷ Nichol, "Armenia, Azerbaijan, and Georgia," 15.

²¹⁸ Ibid., 21-23.

²¹⁹ Begoyan, "National Concepts of Security," 295.

²²⁰ Ibid., 301.

BIOGRAPHICAL NOTES

Troy Bradley grew up in Clearfield, Davis County, Utah. He attended Clearfield High where he enjoyed working on the debate and tennis teams, and participating in the National Honors Society, Humanities Club, and German Club. After high school, Troy spent two years in Armenia on an ecclesiastical mission.

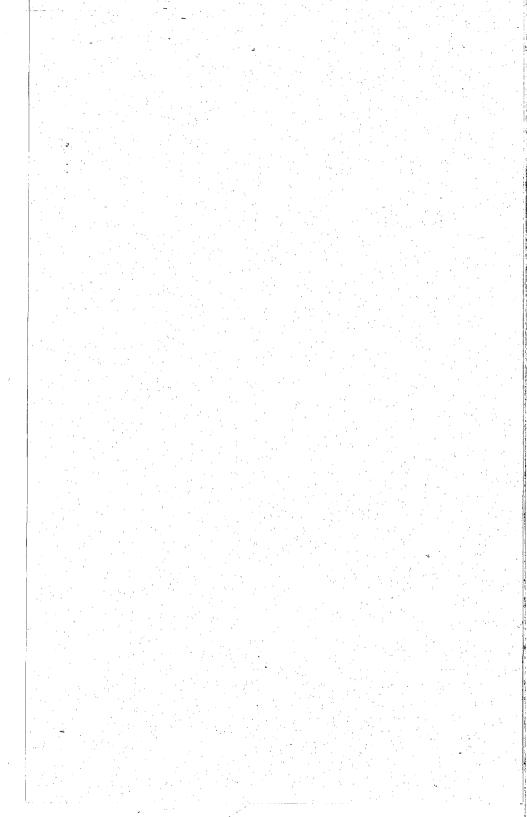
Troy graduated with honors from Utah Valley University (UVU) in December 2011 with a bachelor of science in political science with an emphasis on political philosophy and public law. While at UVU, he contributed to the Report on North American Sustainable Mountain Development written in preparation for the United Nations Rio+20 Summit. Troy served as a volunteer coordinator and trainer for the Utah Colleges Exit Poll during the 2010 general election. He also volunteered at a local high school program helping students and their parents communicate and progress toward graduation.

Troy is currently a graduate student at the University of Southern California pursuing a master of public administration degree from the Sol Price School of Public Policy with a focus on nonprofit management. He is also a certified mediator in the State of Utah. His career goal is to be an administrator at a nonprofit organization, and possibly start his own nonprofit venture.

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