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Contents

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Advisor's Note

Dear Reader,

Twenty years ago, Jacob Sommer and Tom Mesaros approached me with the idea of establishing a student journal of history at what was then Utah Valley State College. I agreed to act as faculty advisor while Jacob and Tom took the initiative to solicit papers, edit submissions, and put the collection into publishable form. They also came up with the name, *Crescat Scientia*. The first edition appeared in April 2003. New waves of student authors and editors have compiled annual issues with fair regularity since then and I have remained the faculty advisor for most of this stretch, although many things have changed in the past two decades.

Last spring Bethany Pineda took up the mantle of editorship. She presided over a fine edition of the journal. But not being content with that achievement, Bethany sought to turn *Crescat* into a biannual publication, comprising fall and spring issues. Now with the editorial help of Keira Swift, she has fulfilled that vision. Their efforts have markedly expanded opportunities for UVU history and political science students who aspire to have their academic writing go to print. I earnestly hope that future journal editors can maintain the high standard set by this year's leadership.

Join me in congratulating Bethany and Keira, their editorial staff, and especially the contributing authors, on the publication of this inaugural fall issue of *Crescat Scientia*.

May knowledge grow,

Keith Snedegar
Faculty Advisor

Editor's Note

"History is not a burden on the memory but
an illumination of the soul."
Lord Acton

If my ventures into the annals of history have taught me anything, it is that there is no such thing as a universal experience. For some, the sheer possibility of stories to be uncovered may seem daunting. Historians, on the other hand, see this challenge as a gateway into the past in order to better understand our present and to better prepare for our future. The papers in this celebratory anniversary edition reflect a few of the destinations that history can take us, whether it be the early modern Mediterranean, revolutionary France or twentieth-century Iran. Coupled with insightful articles from the political science department, this edition of Crescat promises to teach us all something new.

Crescat Scientia has the privilege of being able to celebrate its 20th birthday. This edition would fail to exist without the work of previous UVU historians and political scientists whose words gracefully shepherd our generation of scholars into life outside of undergraduate degrees. I am incredibly grateful for our team of editors who have done fantastic work in preparing this edition for publication. Special thanks to my Co-Editor-in-Chief Bethany Pineda for her long-suffering dedication, and to Professor Keith Snedegar, who has provided invaluable guidance to the editors of Crescat since its inception.

Let knowledge grow, and let history be heard!

Keira Swift,
Co-Editor-in-Chief
Crescat Scientia

Feminism in the French Revolution: The Role of Olympe de Gouges and Impact of Her Writings

Trisha Dalecki

The French Revolution is viewed as a remarkable event and turning point in history for a number of reasons. It brought forth many new ideas to European culture including nationalism, reduced religious power in politics, and more rights to the individual person. These were monumental strides in the nineteenth century and have greatly shaped further development going forward. An often-overlooked aspect of this revolution, in addition to the newly introduced concepts pushed by the revolutionaries, was the conception of feminist ideas and the advocation for women's rights.

Olympe de Gouges, born in 1740's France, is arguably one of the most influential women of the feminist movement that took place during the French Revolution. The Revolution began in 1789 following a flood of Enlightenment ideas, a decline in the reputation of the royal family, financial trouble throughout the country, poor harvests, and the calling of the Estates General. In August of that same year, philosopher and writer Jean-Jacques Rousseau composed *The Declaration of the Rights of Man and Citizen*. This document laid out the principles of the upcoming revolution, but women were excluded from the declaration. As a response to this misogynistic ostracization,

in 1791 Olympe de Gouges published a similar document that she titled *The Declaration of the Rights of Women and Female Citizens*. She passed away just two years later, but her words made a lasting impact throughout the remainder of the revolution and in shaping social and cultural development in Europe in the century that followed.

The publication of de Gouges' declaration helped push the ideas of the revolution forward by involving the women of France in the movement. Though the outcome of the French Revolution did not result in the right for women to vote or hold public office, it did open many additional social and political opportunities that previously would not have been possible. The role of women and their rights had already been long debated by the time the late 1700s came around. Historian Jane Abray brings this point to light, saying that

> since the Renaissance, indeed since the Middle Ages, French women—and men—had argued for equality of legal and political rights for the sexes. Women's education, her economic position, and her relationship to her father and husband had all been worked overtime after time.[1]

It was high time for a feminist movement, and de Gouges gave women a strong foundation to build upon.

Prior to the onset of the French Revolution, the role of women surprisingly wasn't completely obsolete. Before the beginning of the moderate phase of the Revolution, a meeting of the Estates General took place. The Estates General was a political group representing the three estates of French society: the nobility, the clergy, and everyone else. They were called upon at this time to make financial changes in response to the fiscal predicament caused by the Seven Years' War, aiding patriots across the seas in the Revolutionary War, and tax issues taking place locally. Some women were able to play a minor role in these discussions, and "according to the king's summons

1. Jane Abray, "Feminism in the French Revolution," *The American Historical Review* 80, no. 1 (1975): 43. https://doi.org/10.2307/1859051.

of the Estates-General women in religious orders and some noblewomen could send representatives to the Estates. A few women of the Third Estate, particularly widows, managed to participate in some of the primary assemblies."[2] This particular meeting of the Estates General in 1789 was a turning point for French society. The Third Estate refused to disband and chose to make a new French constitution. In July of that year, the Storming of the Bastille took place followed closely by the publication of Rousseau's *Declaration of the Rights of Man and Citizen* in August, which laid out the principal foundation of the Revolution.

Leading up to the year 1789, feminism had already begun to take a turn from being a passive advocation to "specific proposals about education, economics, and legal and political rights."[3] In addition to these demands, feminists also began to lay claim to the right to vote. A French philosopher by the name of Marquis de Condorcet backed these efforts, and as Abray tells us "He reasoned that women, since they were not allowed to vote, were being taxed without representation and would be justified in refusing to pay their taxes."[4] This evolvement of thought acted as a springboard for the feminist movement we see later in the French Revolution and set the stage for Olympe de Gouges to help break through the barrier.

In addition to being known for her feminist declaration of the Revolution, de Gouges also made a name for herself during her lifetime as a playwright. Her first play to be published and performed was *Slavery of Blacks*, where "the tension dramatized [between] the marginalized daughter/slave and patriarchal authority, is explicitly expressed as the tension between the marginalized woman writer and cultural authority."[5] She used her platform to appeal to women's rights, but it was not without controversy and backlash. De Gouge wrote this first play in

2. Abray, "Feminism in the French Revolution," 44.
3. Abray, "Feminism in the French Revolution," 45.
4. Abray, "Feminism in the French Revolution," 45.
5. Marie Josephine Diamond, "The Revolutionary Rhetoric of Olympe de Gouges," *Feminist Issues* 14, no.1 (1994): 7. doi:10.1007/BF02685649.

1782 and submitted it anonymously to a comedy franchise which accepted it, though it was never performed until 1789 and then closed after only four performances due to mixed reviews.[6]

The career of Olympe de Gouges in writing plays led to her political involvement as the Revolution began. She often used her plays as means of conveying ideas to the public, and also published letters and pamphlets calling the people to action. In 1788, she published a letter in the *Journal General de France* that proposed a voluntary tax by the people in order to save the state from its impending financial crisis.[7] Unfortunately, she was criticized and mocked for her suggestions and attempts to play an active political role. Diamond explains de Gouges' perspective, saying that "she became increasingly aware that to be a woman meant not being heard or being reviled for speaking."[8] However, this did not discourage her from her continued efforts. She continuously called for the unification of women against the harsh gender roles placed upon them by the men in their society. And de Gouges, at last, saw success upon the publication of her famous document *The Rights of Women and Female Citizens* following the onset of the French Revolution.

Along with her history in writing and political interest, what motivated Olympe de Gouges to write her most notable feminist political document was the article previously published by Jean-Jacques Rousseau that spearheaded the French Revolution, *The Rights of Man and Citizen*. Born in 1712, Rousseau played a major role in this period and the events leading up to the French Revolution. He had a revolutionary viewpoint on human equality, and it's said that "Rousseau understood the historical progress of inequality to be 'necessary' in the sense that it was path-dependent in explicable ways, but yet subject to human action: a belief that makes room for political agency even amidst the influence of historical forces."[9] However, he had

6. Diamond, "Revolutionary Rhetoric," 5.
7. Diamond, "Revolutionary Rhetoric," 9.
8. Diamond, "Revolutionary Rhetoric," 12.
9. Ryan Patrick Hanley, "Rousseau's Three Revolutions," *European Journal of Philosophy* 29, no. 1 (2021): 107. doi:10.1111/ejop.12568.

quite the tendency toward a more misogynistic point of view and excluded women in this push for equality. His stance was such that women lived an existence dependent on men. In an article by Paul Thomas about Rousseau, author Zillah Einstein makes a criticism: "for [him] the promise of independence and equality for men requires the subordination of women. In trying to deny women her natural power, Rousseau renders her powerless. In trying to strengthen man, he weakens woman."[10] Despite this, Rousseau remained a powerful and influential figure of this time, and his authoring of *The Rights of Man and Citizen* can be credited with kicking off the French Revolution and outlining the key movements fought for throughout the Revolution. In light of the significance of Rousseau's published document, Olympe de Gouge saw a need for further reform, thus inspiring the creation of her own document. She supported these revolutionary ideas, but her writings expanded to include women and their rights specifically, which is something Rousseau had entirely omitted.

Both declarations consist of similar and essential revolutionary ideals, some of which include freedom, equality, an ethical justice system, non-discrimination, security of rights, and a number of other ideals that still shape French society today.[11] De Gouges added upon these listed ideals by broadening them to be more inclusive—specifically to women. For example, in the first article of his declaration, Rousseau states that "Men are born and remain free and equal in rights. Social distinctions may be founded only upon the general good."[12] De Gouges rephrases this statement similarly by saying that "Woman is born free and remains equal to man in rights. Social distinctions can only be based on common utility."[13] In the following articles

10. Paul Thomas, "Jean-Jacques Rousseau, Sexist?" *Feminist Studies* 17, no. 10 (1991): 199. https://doi.org/10.2307/3178331.

11. Jean-Jacques Rousseau, "The Declaration of Rights of Man and Citizen," in *The French Revolution and Human Rights: A Brief Documentary History*, ed. and trans. Lynn Hunt (New York: St. Martins, 1996), 77–79.

12. Rousseau, "Rights of Man and Citizen," 1.

13. Olympe de Gouges, "Declaration of the Rights of Woman and Female Citizen," in, *Tolerance: The Beacon of Enlightenment*, ed. Caroline Warman, 1st ed. (Cambridge,

she writes, not only does she persist in clarifying that rights be granted to women as well, but also resolves that women should be held to the same accountability as men in regard to criminal and social justice. This is an important nuance of her writing, as it shows her call for total equality on every spectrum in societal participation and legitimizes her stance of both men and women playing an equal role.

A unique idea presented by de Gouges specifically is how she views the rights of property ownership. This is one of the principles pushed for by Rousseau, but de Gouges in her seventeenth article pushed for equality of this right as well, saying that

> property belongs to both sexes, whether together or separate; for each individual, it is an inviolable and sacred right; no persons may be deprived of it, for it is the true patrimony of Nature, except when public necessity, as attested in law, manifestly requires it, and on condition of just compensation, payable in advance.[14]

This was an extremely bold idea for the time period, seeing that property ownership was a challenge for some men to gain a right to. But de Gouges had a vision of true equality that would someday be realized, and she did not allow the societal standards of the time to quiet her cry for justice as she wrote *The Declaration of Rights for Women and Female Citizens*.

The initial document, written by Rousseau, had extreme significance in the French Revolution and the resulting events. It served as a preamble to three separate French constitutions in 1791, 1793, and 1795. It mirrored many of the principles written in the United States Constitution and advocated passionately for individual rights and liberties. Perhaps the most notable accomplishment of the declaration was the ending it brought to the long-ruling monarchy of France and brought forth a new age of government and society that persists into the modern day. Additionally, prior to the Revolution, French society was heavily segregated into three estates as stated previ-

2016), 50.

14. de Gouge, "Rights of Woman," 51.

ously: the clergy, the aristocracy, and the common people. The *Declaration of Rights of Man and Citizen* called for a breakdown of this hierarchy and a new era of equality among the citizens of France.

After the meeting of the Estates General where the Third Estate (commoners) felt it unjust that their votes were outweighed despite their numbers, rumors began floating around that the king was planning to overthrow the Third Estate. This sent the common folk into a panic which led them to the Storming of Bastille (a place that was considered to symbolize royal tyranny) in July of 1789. Peasants also began to rise against their superiors, demanding greater equality, as the summer wore on and the *Declaration of Rights of Man and Citizen* was born out of France's National Constituent Assembly. What was taking place in France was giving hope to many revolutionaries across Europe, and by 1792 wars were taking place over this new desire for individual rights and freedoms.

The ideas fought for and the concept of the revolution, however, were not new. Sandrine Bergès tells us that "Philosophers of the eighteenth century were deeply concerned with the possibility of human progress, and . . . this was closely meshed with the hope that a revolution and a new form of government would help this progress along."[15] The people of Europe, specifically France, were ready and eager for change, and their discontent came to a head in the form of wars for revolution.

Controversy certainly did not end at the beginning of the Revolution. Olympe de Gouges, after publishing the *Declaration of Rights of Woman and Female Citizen* in 1791, was arrested not long after in July of 1793. According to author Janie Vanpée, de Gouges had been distributing political pamphlets boldly voicing her opinion since 1788, and

> at a time when very few women acknowledged writing novels, let alone political tracts, when even fewer

15. Sandrine Bergès, "Olympe De Gouges Versus Rousseau: Happiness, Primitive Societies, and the Theater," *Journal of the American Philosophical Association* 4, no. 4 (2018): 434–435. doi: http://dx.doi.org/10.1017/apa.2018.26.

> women succeeded at having their plays produced, de Gouges' willingness to engage so publicly in two of the arenas traditionally reserved for men flouted convention and risked reprisal.[16]

Her will and desire to openly share what she believed was right allowed the feminist movement to become a part of the French Revolution, though she suffered the most unfortunate consequences as a result of her bravery.

How then did Olympe de Gouges and her bold revolutionary actions affect the women in France at this time directly? Not much is known about the nuances of female life during this period, despite the amount of studies that have been conducted. Because of this, there is significant debate about women and their experience during the French Revolution. Author Lindsay Parker tells us that

> the literature on women and gender has tended to address three large questions. The most fundamental question is whether women had a revolution at all. Some historians analyze political rhetoric to show that women made few gains in equality, and they highlight the struggle that feminists encountered when advocating female suffrage.[17]

Though the change in the level of equality for women was minimal, a revolution was undeniable. The thoughts, ideas, and efforts made on behalf of women's rights during the French Revolution created a fundamental footing for the future of feminism to take off and make big strides in society.

One of the key points that were used to reason for revolutionary ideas being applied only to men, was the societally supposed superiority of the male gender. White males were seen as the "dominant species" due to skull size, while women and those of African descent had smaller skulls, thus indicating a

16. Janie Vanpée, "Performing Justice: The Trials of Olympe de Gouges," *Theatre Journal* 51, no. 1 (1999): 47. http://www.jstor.org/stable/25068623.

17. Lindsay A.H. Parker, "Family and Feminism in the French Revolution: The Case of Rosalie Ducrollay Jullien," *Journal of Women's History* 24, no. 3 (2012): 40. doi:10.1353/jowh.2012.0027.

"lack of development."[18] Though this argument lacks credibility initially, a male philosopher and women's rights activist at the time of the French Revolution by the name of Condorcet further invokes the error by establishing clear equality between men and women. He states:

> There is complete equality between women and the rest of men; if this little class of men were set aside, inferiority and superiority would be equally shared between the two sexes. Now since it would be completely absurd to limit the rights of citizenship and the eligibility for public offices to this superior class, why should women be excluded rather than those men who are inferior to a great number of women?[19]

Condorcet makes a clear point about how although men are perceived as more educated than women, that only applies to a very small group of men. Many women are just as capable, if not more, so the citizenship bias should not be based on gender. Women played a societal role in their day-to-day lives, just as their male counterparts.

Looking at the life of Olympe de Gouge and others like her at this time perhaps gives an even more authentic story of how life was for women in this time period. Parker explains this, saying:

> Biographies of female revolutionaries are dedicated to some of the most public women who pushed the limits of their sex in the political sphere. Manon Roland, Olympe de Gouges, and Charlotte Corday come to mind. Their lives also illuminate the texture of the feminine experience of the Revolution as it was actually lived, rather than as it was prescribed by male elites.[20]

All too often, the experience of the average woman in this time

18. Lisa Beckstrand, "Olympe de Gouges: Feminine Sensibility and Political Posturing," *Intertexts* 6, no. 2 (2002): 191. https://link.gale.com/apps/doc/A93210406/LitRC?u=utahvalley&sid=ebsco&xid=60f31fb1.

19. Condorcet, "On the Admission of Women to the Rights of Citizenship, 1790." In *The French Revolution and Human Rights: A Brief Documentary History,* ed. and trans. Lynn Hunt, (Boston, 1996), 120.

20. Parker, "Family and Feminism in the French Revolution," 41.

period was not made known as their voices were silenced by the overbearing thoughts and opinions of misogynistic men.

However, there are several accounts made by the average French woman of the revolutionary period that can provide some perspective of their role and circumstances in day-to-day life. An example of this can be seen in the writings of Rosalie Jullien, a bourgeois Parison who wrote a collection of hundreds of letters throughout her lifetime detailing her experiences. They give insight into her private life and dealings, thus offering a rare vantage point for the reader to gain a better understanding of female life at this time. Parker tells us that "Rosalie devoted considerable space in her letters to describing her personal relationships and her role as wife and mother. Her writing attested to her devotion to her husband and emphasized his leadership in their home."[21] This illustrates the importance of the time of stereotypical gender roles, though the shift in her life and responsibilities during the Revolution did become clear. Her life changed significantly during the Revolution as she made efforts to protect her son from the violence taking place by educating him and securing opportunities for him through familiarity with those in strong political leadership positions. Additionally, "Rosalie also became a family counselor. When it was time to vote for a new Legislative Assembly in August 1791, unable to vote herself, she instructed her husband to vote for 'men like Aristotle . . . Virtuous people.'"[22] This exemplifies the increasing involvement and influence of women as the Revolution progressed, which can be largely attributed to the efforts of women like Olympe de Gouges.

Olympe de Gouges did all she could to incorporate women as well as enslaved black people in the progressive goals of the revolution. Looking back at her efforts, we revere them with boldness, seeing as:

> She was the only woman actively participating in the Revolution who accepted the challenge of operating

21. Parker, "Family and Feminism in the French Revolution," 42.
22. Parker, "Family and Feminism in the French Revolution," 47.

> under such public scrutiny . . . To us, [her] call for women to unite, to consider themselves as a disenfranchised group, to voice collectively their rights and opinions, to present themselves as a group with a right to political representation, seems strikingly progressive and audacious.[23]

Though at the time it was not particularly surprising to hear feminist rhetoric, what made de Gouges stand out was her insistence on representation for her writings when most women would choose to remain anonymous.

Incredibly, four of de Gouges' plays made it to the stage during the time of the Revolution, and all four of them dealt with serious controversial issues that society was facing at the time. It was said that while her plays were largely political, her political pamphlets were very theatrical.[24] With all of her published works, she fought greatly for representation. Vanpée tells us that

> as a woman, de Gouges did not have as ready and access to the podium of the assembly as did the (male) legal representatives of the nation or other government officials. She circumvented this problem by having some of her pamphlets read by the current presiding secretary in front of the assembled representatives.[25]

Olympe de Gouges was determined for her message to be heard, which is why she has been known through history as a strong feminist icon. This did not come without further challenges though. Being so bold in the public eye brought a lot of scrutiny upon everything she said and did:

> As a woman audacious enough to participate in the public discourse, and to insist on being heard, de Gouges discovered that she had to defend not only her political ideas and positions, but more often the authenticity of her texts, her literary capabilities, and the morality of her personal life.[26]

23. Vanpée, "Performing Justice," 53.
24. Vanpée, "Performing Justice," 56.
25. Vanpée, "Performing Justice," 57.
26. Vanpée, "Performing Justice," 58.

Not only was she constantly battling for representation and to be heard, but this battle she engaged in forced her to constantly be on the defensive not only for what she believed but for who she was.

After her arrest, Olympe de Gouges was brought to trial in November of 1793. Determined that her testimony and writings would prove her innocence, she was eager for this trial to take place.[27] However, her hopes were proven false and she was found guilty and sentenced to death. She was executed the next day, "but not without taking one last opportunity to address the crowds who had gathered for the spectacle of her execution. From the scaffold, gazing at the spectators with defiance and confidence, she exclaimed 'Children of the Fatherland, you will avenge my death.'"[28] She lived and died theatrically, eternally determined for her voice to be heard amongst the patriarchy that believed women should be silent.

27. Vanpée, "Performing Justice," 64.
28. Vanpée, "Performing Justice," 65.

The Case for Natural Law in The Modern World

Matthew V.L. Drachman

The Fugitive Slave Act of 1850 required that slaves caught in northern states had to be returned to their masters within the south, and that southern slave owners were entitled to enter northern states in order to pursue escaped slaves.[1] Slavery was an institution that has left a permanent scar in America's history, and one that our nation still feels the pain of to this day. Despite resistance to the passage of the law—and the fierce opposition of abolitionists to slavery as a whole—the institution of slavery was protected by law and many southerners considered it to be their right to keep and own slaves. When Mississippi seceded in the lead up to the American Civil War, delegates of the state said within their Declaration of Secession

> our position is thoroughly identified with the institution of slavery—the greatest material interest of the world. Its labor supplies the product which constitutes by far the largest and most important portions of commerce of the earth. These products are peculiar to the climate verging on the tropical regions, and by an imperious law of nature, none but the black race can bear exposure to the tropical sun . . . There was no choice

1. "Fugitive Slave Acts," *History*, Updated February 11, 2020, https://www.history.com/topics/black-history/fugitive-slave-acts

> left to us but submission to the mandates of abolition, or a dissolution of the Union, whose principles had been subverted to work out our ruin.[2]

Slavery and its horrors were once protected by law in this country and was deemed moral by its application through these laws. Which brings up a millennium old question that is the subject of many jurisprudence theories: does written law make an action moral, and furthermore can laws be moral? There were many in the south that argued that upholding their right to own slaves dealt with the constitutional powers given to states and not the federal government, while abolitionists invoked a philosophical argument for natural law.

Natural law theory dates back to the classical era of philosophy, with Aristotle being called the father of natural law. The theory centers around the idea that there is a higher law than what is created by man, laws that God has inspired or revealed to men that are natural and true. Thinkers like Aristotle thought that these natural laws could be discovered through empirical analysis and careful study of the world. When Christian thinkers began to work with the concept like Thomas Aquinas, an Italian priest, there was a distinction made between divine law and natural law. In other words, natural laws were able to be discovered by man, and through time could reflect God's divine law as reflected through scripture.[3]

Natural Law theory centers around moral principles, and that laws made by man are not the final say when it comes to whether an action is right or not. As Aquinas would argue, laws that seek to force people to do unjust things are likewise unjust laws. In his famous work, *Summa Theologiae*, he likewise claims that people are not obliged to follow unjust laws:

> A tyrannical law, though not being according to reason,

2. "A Declaration of the Immediate Causes Which Induce and Justify the Secession of the State of Mississippi from the Federal Union," *The Avalon Project* (1861), accessed April 6, 2022, https://avalon.law.yale.edu/19th_century/csa_missec.asp

3. C. P. Banks and D. M. O'Brien, "Classical Theories of Jurisprudence" in *The Judicial Process: Law, Courts, and Judicial Politics*, 2nd ed. (West academic Publishing: 2020), 56–59.

> is not a law, absolutely speaking, but rather a perversion of law; and yet in so far as it is something in the nature of a law, it aims at the citizens' being good. For all it has in the nature of a law consists in its being an ordinance made by a superior to his subjects, and aims at being obeyed by them, which is to make them good, not simply, but with respect to that particular government.[4]

This sentiment is expressed by famous abolitionist Fredrick Douglas, in his writings calling upon the federal government to recognize the rights of both free people and of all slaves in the south. At an address to the Colored Convention in Rochester in 1853 he said:

> We ask that as justice knows no rich, no poor, no black, no white, but, like the government of God, renders alike to every man reward or punishment, according as his works shall be—the white and black man may stand upon an equal footing before the laws of the land.[5]

Natural Law theory laid the foundations that the U.S. Constitution would be built upon. Through the writings of John Locke and others, natural rights began to take shape in the American ethos, and recognized as not bestowed by government, but by God. Thomas Jefferson famously stated within his *A Summary View of The Rights of British America*: "a free people [claim] their rights, as derived from the laws of nature, and not as the gift of their chief magistrate."[6]

Over time, as our society has grown more secular, legal positivism—meaning man's law decides what is normal based on the social norms of a society—has become a more dominant jurisprudence that many adhere to, and is taught in many law schools today. This is problematic and finds many weak-

4. Thomas Aquinas, "Question 92" in *The Summa Theologiae of St. Thomas Aquinas*, ed. and trans. English Dominican Province (1920; repr., New Advent, LLC: 2017). https://www.newadvent.org/summa/2092.htm.

5. Frederick Douglass, *Claims of Our Common Cause Address of the Colored Convention held in Rochester, July 6–8, 1853, to the People of the United States*, (Rochester: 1853), https://rbscp.lib.rochester.edu/4368

6. Thomas Jefferson, *A Summary View of the Rights of British America*, (London: 1774), 41.

nesses when it comes to the realm of mortality and creating law. For how can things such as slavery in the United States and systematic oppression of the Jews in Nazi Germany be justified as moral simply because it was legislated to be? It is the single biggest critique that natural law theorists levy against Positivism, that people will not obey laws they deem immoral.

Despite the siege laid against it, Natural Law Theory remains relevant in a world focused on man's law and finds advantages over competing jurisprudences in the modern era. I will argue that there are major holes within legal positivism that can be only addressed with recanalization of some, if not all, ideas of Natural Law, and show the importance of virtue and morality when creating law. Finally, I wish to address the common secular arguments that are made against natural law, and why faith isn't necessarily needed with natural law principles.

The Failures of Legal Positivism

H.L.A. Hart, who was a prominent positivist thinker during the twentieth century, attempts to address the criticism I discussed in the introduction of this paper. Positivism gained much of its basis from the writings of Jeremy Bentham.[7] His main philosophy on the matter was that law and morality should be kept separate, and that people obey or disobey laws not by whether they are morally good or not, but if they receive pleasure or pain while doing so.[8]

Bentham's legal theory depends on his work in Utilitarianism, which is doing the thing that will give the most people the most amount of pleasure. Laws are created because they will give the most people pleasure. Take laws against murder for example, a law preventing murder will give the majority of people pleasure, as most of us are not murders and don't want to be killed. Now when remaining in that context, positivism seems to stand without struggle. However, let us keep applying that principle to things that may not be morally right, but would

7. Influences also include John Austin, however for the sake of this paper we will focus on Jeremy Bentham

8. Banks and O'Brien, "Classical Theories of Jurisprudence," 56–59.

give the most amount of people pleasure. For example, laws that discriminate against minority populations, does this not fit the bill for giving "the most" amount of people pleasure? Bentham's standard leaves the door open for laws that protected discrimination in the south, systematic oppression of the Jews in Europe, and theft of those not within the majority. This criticism is a hard one for positivists to bridge, and in order to prevail in their argument positivists must show that the aim for laws to be absent of morality can bring about the same results as what natural law argues, or that law can truly be absent of morality. For what brings people to follow laws that are unjust?

This is what H.L.A. Hart attempts to explain. Hart addresses this criticism in his book *The Concept of Law*, where he believes that laws were sets of rules that came about through social conventions, or through social context. Governed by both Primary rules, which creates legal duties which lay legal guidelines for how people should behave, and Secondary Rules, which are statutes that address power. Despite that claim, however, Hart acknowledges that morality has a minimal role to play when it comes to creating laws and that they overlap with legal behavior.[9]

That concession is critical when it comes to understanding how the positivist argument cannot meet its two burdens of proof. To address the latter burden, if morality plays a minimal role in drafting law, is it not saturated or conceived through morality? Let us take murder for example, are we to believe that we have laws against murder simply because it gives a majority of us pleasure to be safe, or that murder goes against the moral principle of many? What about rape? Can we not honestly say that it is unnatural to do, and that we draft laws against this action due to this, or that a majority of people find pleasure in these laws that have been enacted? What if those who found pleasure in such things as murder or rape made up the majority of people? Would that make those actions moral or natural? This is truly the failure of positivism, believing that man's law,

9. Banks and O'Brien, "Classical Theories of Jurisprudence," 60–61.

to whomever drafts, can say what is right and wrong, when naturally that is not so.

The former burden that positivism must overcome, often made by natural law theorists against positivists, concerning the nature of why people follow laws is not easy to overcome, and I would say impossible given history. Positivists believe that fear of pain, as Bentham argues, is what men and women are motivated by when they follow or violate laws.[10] However, how can we ignore the countless examples of those who defied laws simply because they were unjust, without regard for their own safety? Civil rights activists during Jim Crow, the American Colonists at Boston Harbor, the smugglers of the underground railroad. All examples of those who ignored risk, or fear of pain, in disobedience to man's law.

In a famous debate between Hart and theorist Lon Fuller, the men discuss an example in which a woman was tried in West Germany for the death of her husband during the Nazi Regime. Per Nazi law, the woman reported that her husband had made critical remarks of the Third Reich. Fuller argued that convicting the woman would be unjust, as the Nazi law was invalid due to its ends, which being the suppression of thought. Hart had argued that the woman was in the right, and that the laws of the time must be respected regardless of what its ends were:

> The unqualified satisfaction with this result seems to me to be hysteria. Many of us might applaud the objective, that of punishing a woman for an outrageously immoral act, but this was secured only by declaring a statute established since 1934 not to have the force of law, and at least the wisdom of choices.[11]

Thus, when we ignore the undeniable fact that laws are conceived through moral thought and action, we deprive ourselves of a vital role that we play in shaping society. Through

10. Banks and O'Brien, "Classical Theories of Jurisprudence," 59–61.
11. H.L.A. Hart, "Positivism and the Separation of Law and Morals," *Harvard Law Review* 71, no. 4 (1958): 619. https://doi.org/10.2307/1338225.

natural law, and divine law as Aquinas would say, we have had a road map of what good and just laws look like. Through these laws, virtue may be upheld and supported.

The Importance of Virtue and Morality in Law

Let us first ask ourselves, is it moral to steal? Moral to kill (note that I do not say murder)? How about to lie? At first glance they may seem to have clear answers, however, what if you lied to protect your friend from an axe murder (a famous Kantian example),[12] or you killed someone in self-defense, or you stole bread to feed your family? All these things muddy the waters of what is right and wrong, which is why Natural Law brings advantages over competing Jurisprudences. Law and morality are one in the same in classic natural law, and through Aquinas's expansion of the philosophy, we can see the importance of Virtue and Morality in law making and judging.

To answer the introductory question, there are gray areas that should be considered in lawmaking and judging. Morality is tied with intention and determining such can find whether something is a violation of not just law, but natural law. Judges and juries have discretion in many common law nations to impose sentences they see fit for the crimes committed. Someone who steals because they enjoy it, for example, gets higher sentences than someone who stole bread to feed their family; but theft in a general sense is considered morally wrong, and thus laws reflect that truth as opposed to making exceptions. It is up to the judge or jury to make those moral restrictions when applying the law. Take homicide for example, did you mean to kill the person? Was it revenge or self-defense? These criteria are vital to determining these things, morality is vital in shaping it. The *State of Wisconsin vs. Rittenhouse* case displays this, we make laws to protect the right to self-defense.[13] Bringing that

12. Helga Varden, "Kant and Lying to the Murderer at the Door . . . One More Time: Kant's Legal Philosophy and Lies to Murderers and Nazis," *Journal of Social Philosophy* 41, no. 4 (2010): 403–21. https://philpapers.org/archive/varkal.pdf

13. State of Wisconsin vs. Kyle Rittenhouse, (August 27, 2020). *New York Times Database.* https://int.nyt.com/data/documenttools/kyle-rittenhouse-criminal-complaint/

full circle, would it be just to create a law that discriminates against someone based on skin color? According to natural law that would be unjust, for it is unnatural to do so as Aquinas identifies.[14] Tyranny is no recipe for being just.

Let us also examine the idea of natural rights, or that at birth we are entitled to rights bestowed upon us by no government, but by God himself. No government has a right to take those away from us. Is that not a beautiful thing that those rights are assumed, and not given us by men in power? If they were, man could simply abolish them just as they introduced them. Without divine protection, or assumed protection, these natural rights would soon be encroached upon by those seeking power, as examples throughout history have shown. It is moral to uphold these natural rights, as they benefit all of us.

All laws, regardless of whether they are laws about taxes or whatever else, are founded within morality. For example, is it moral to tax the poor or to tax alcohol? What about traffic laws, is it moral to allow driving practices that could lead to the deaths of people? No matter how you slice it, Hart's concession was accurate, all laws have the essence of morality within them.

These principles of natural law give it advantages over other jurisprudences. The ability to say that there is a right or wrong, or at least a reason to follow the law or to disobey it, allows for much more breathing room when it comes to law and human nature. If we examine the ideas of federalism, that there is a higher power over local precedents, with checks and balances on each, natural law has a distinct advantage of having the highest law being one to check all laws beneath. If a man-made law is drafted that violates natural law, there is an assurance of why it is so.

A common counter argument against this concept is who gets to decide what is natural and unnatural? It is perhaps the second strongest argument against natural law that exists (the first we will discuss in a moment). "Natural to whom" is a com-

8f4a5b31354d0478/full.pdf

14. Aquinas, "Question 92." https://www.newadvent.org/summa/2092.htm.

mon question, such as animals or plants? In both cases we find animals killing each other for pleasure, rape or incest, or a variety of other things. As humans, however, what sets us apart from the rest is our ability to reason, to tell the difference between right and wrong. I argue this gives us a higher standard of what is natural. In my opinion, natural law is reasoned through what laws have been taught by God, though using a secular lens, are we not using a moral structure of prevention of intentional harm? Asking, "is what I am doing intentionally doing something to harm myself or others?" can quickly discern what is natural or unnatural. Humans are social creatures; we do not naturally seek to destroy each other but to form groups or pairs. It is only through conditioning and animal instinct that we seek paths that will pin ourselves against one another.

This begs the question of why people would disobey natural law in the first place? If natural law is built into all of us, then why do so many people disobey it? Or make laws going against it? This is something that I will concede that finding an answer to is difficult. However, I will offer an explanation regarding the matter. I genuinely believe that man is not bent on destroying one another, but simply wishes to help one another. However, we are exposed to an imperfect world, a world filled with cruelty and fortune. Aquinas concedes within *Summa Theologiae* that humans allow emotion to cloud reason, which is essential in discovering just law. In an unfair world, there will always be desires for revenge or punishing those beneath you, but we must be better than that.

Natural law has an advantage over other forms of Jurisprudence because it not only has a sure way of discerning between right and wrong and being able to answer why one should disobey or follow law, but also because it serves as a check on man-made law that would seek to violate or harm others in disregard to what is moral and right. In other words, to know what you are born with is to know what is being taken away.

Secular Counter Argument to Natural Law

The strongest argument that critics of natural law theory

make is that it requires someone to believe that there is a God. This conflicts with the idea in secular thought that one does not need to either practice religion or believe in a god in order to be a good and moral person. Likewise, man can make moral law on his own accord. In an article published by *The New York Times Magazine* entitled "Religion and Science," Albert Einstein once asserted that

> a man's ethical behavior should be based effectively on sympathy, education, and social ties and needs; no religious basis is necessary. Man would indeed be in a poor way if he had to be restrained by fear of punishment and hopes of reward after death.[15]

This is a commonly held belief among those who will quarrel with the idea that morality comes from divine inspiration or enforcement. Likewise, due to natural law's common association with the divine, many with this mindset will critique natural law, as its reliance on the divine discredits it among those who do not believe in God. However, I argue that the belief in natural law is not necessarily exclusive from secular thought.

Let us approach this topic with the assumption that the viewpoint of Einstein and others is true, that one does not have to be religious or believe in God to be moral. Now that God is out of the picture, if morality can be found within man naturally, is that not natural inspiration? Thomas Aquinas made this distinction in *Summa Theologiae* that there was a difference between divine law and natural law.[16] As I mentioned earlier, natural law was man's manifestation, through reason, of laws that were divine. However, if we remove God from the equation, can we not reason that there are universal laws that man can discover are wrong? Murder, rape, genocide, fraud, etc. Are we to say that if man's law were not in place that all of mankind would engage in such heinous actions? You cannot make the point that morality is separate from law and believe that morali-

15. Albert Einstein, "Religion and Science," *The New York Times Magazine*, November 9, 1930.

16. Thomas Aquinas, "Question 94." https://www.newadvent.org/summa/2094.htm

ty naturally exists without addressing why someone would obey an immoral law.

To this point, a secular thinker would also have to concede that if they had not believed in natural laws, then likewise they would not believe in natural rights, that rights are given by man as opposed to naturally. So, then we must agree that there are at least a few things that are recognized to be natural laws even among secular thinkers, and those laws are based on their morality concerning those things.

Conclusion

Throughout this paper, I have made the assertion that natural law has its place in the modern world and has advantages over other jurisprudences that exist. As the world has grown to be more secular, we find ourselves longing for the interpretation of a political ethos that has kept the American experiment from falling into dismay for the last two hundred years. We have examined the failures of positivism, how its lack of strength on issues of morality would leave the door open to tyranny and chaos. We have looked at how natural laws' ability to answer why someone should follow a law, and a judge's interpretation and moral reasoning can be crucial in making law gives itself a distinct advantage over other jurisprudence such as positivism. We have also addressed a key issue among natural law, which being how does it tie in with those who do not believe in God.

In light of these points, I argue that natural law is still relevant in a world that is increasingly departing from traditional thoughts of how someone can be a good moral person. Likewise, on how we as a society can create better laws that shape our nation as a whole, and the next generation as a result.

For four years, America fought a civil war in order to wash the nation clean of its original sin, slavery. Since the nation's baptism of fire, we have had moral quarrels with each other on a variety of laws and issues, and through those trials and tribulations we have found ourselves with the nation we have today. Many of those guiding principles of natural rights, morality, and equality can trace their roots back to concepts made

from natural law. In a world dead set on stripping God's law and natures word on the matter, we find ourselves looking back on what has created the functioning republic that so many look up to, and so many have come to admire. Is there a place for natural law in this age? If the republic wishes to survive, I would say so.

Francisco de Coronado and the Colonization of the Northern Frontier

Nicholas Jensen

In 1540, an ambitious group of about three hundred soldiers along with 2,000 servants, friars, and allies set out from their staging grounds at Compostela, in the northern province Nueva Galicia, Nueva España. Francisco Vázquez de Coronado would lead this expedition with the goal to locate and secure the mythical Seven Cities of Cibola, the rumored North American equivalent of Tenochtitlan, for the glory of Spain and his benefactor, the viceroy of Nueva España, Antonio de Mendoza.[1] The men who volunteered or were selected for this expedition ranged from professional soldiers down to the indigenous servants and slaves who had no say in the matter. Many were seeking wealth through resource exploitation in the form of gold or silver mines. Some, however, were seeking glory by spiritual means, such as the friars within the ranks who were bringing the Catholic Church to the unreached people of the northern frontier. Others sought wealth in any form it could be had, material or otherwise, such as in gaining notoriety or honor in warfare, or through potential labor exploitation and the enslavement

1. Though Spanish naming conventions of the time would refer to Coronado and others by their proper surnames (i.e., Vázquez) for the purposes of this essay I will be using more modern, English naming schemes of the twenty-first century.

of the peoples in the northern frontier. Despite the various backgrounds, priorities, and goals of Vázquez de Coronado's expeditionary force, the ultimate goal was wealth acquisition by any means necessary, and when gold and silver were not found, priority shifted to the commodification of the native population through subjugation and enslavement. The common perception of both the Indigenous population and those of mixed ancestry was one of exploitable value, either through labor exploitation, or through furthering the narrative of saving the savage for the glory of the Catholic church. This would be the beginning of Spanish colonization in its northern frontier.

By studying the many correspondences written by members of the expedition, the official *relacións* or narratives of their venture, the limited record from the Native American perspective, and even the proposed route for the expedition, historians have pieced together a multifaceted history of the expedition to better understand the goals and ambitions of the expeditionary force. While these historians may at times be at odds with each other, they generally agree upon the purpose of the expedition. In 1539, viceroy Antonio de Mendoza sent Fray Marcos de Niza and another friar—who eventually left de Niza due to illness—Esteban de Dorantes,[2] a black slave who had been on previous expeditions in the area, and an unnumbered and unnamed group of Native Americans to be returned to their people in the north.[3] Their goal was to confirm the rumors of the Seven Cities of Cibola with the native inhabitants of the area, and to report back to Mendoza the feasibility of a larger expedition to later follow. For all intents and purposes, de Niza was successful; he reported the existence of the first of the Seven Cities and, despite his conflict with the Indigenous peoples in the area and the death of Esteban, de Niza anticipated much to gain in from his initial foray in the northern territory.[4]

2. Also referred to as Estavan, Estevanico, and Mustafa Azemmouri in various accounts and texts.

3. Herbert Eugene Bolton, *Coronado: Knight of Pueblos and Plains* (Albuquerque: The University of New Mexico Press, 1990), 9.

4. Marcos de Niza, "Document 6: Narrative Account by Fray Marcos de Niza, August

With de Niza's return to Mexico City, preparations for the 1540 expedition were quickly finalized. Viceroy Mendoza would fully fund this expedition in the hopes of a similar outcome to that of Cortés' successful conquest and plundering of Tenochtitlan. A soldier and member of Coronado's 1540 expedition, Pedro de Castañeda de Nájera wrote his report and history of events in the 1560s.[5] This report would become the official source of the expedition, as it covered not only the events that Castañeda would have personally witnessed, but also events that he would have learned about second-hand. Historians and archeologists Richard Flint and Shirley Cushing Flint see the expedition not as a gold rush into the northern frontier, but a methodical diplomatic mission of trade. Flint and Flint argue that Viceroy Antonio de Mendoza's primary goal, in addition to wealth acquisition in the northern frontier, was also to find possible trade routes to these large mythical cities and beyond to even as far as Asia.[6]

Flint and Flint argue that the Spanish were still seeking to complete Columbus' route to the Asian spice market. By doing so, they point out that the main concern for the Spanish was monetary gain.[7] This refocusing of perspective has long been the topic of discussion among historians. Historian Andrés Reséndez, in his book *The Other Slavery: The Uncovered Story of Indian Enslavement in America,* makes similar claims but in the perspective of human trafficking rather than diplomatic trade.[8] Reséndez argues that though for much of the twentieth-cen-

26, 1539," in *Documents of the Coronado Expedition, 1539–1542*: *"They Were Not Familiar with His Majesty, nor Did They Wish to be His Subjects,"* ed. and trans. Richard Flint and Shirley Cushing Flint (Dallas, TX: Southern Methodist University Press, 2005), 75.

5. Pedro de Castañeda, "Document 28: The Relación de la Jornada de Cíbola, Pedro de Castañeda de Najera's Narrative, 1560s (copy, 1596)," in *Documents of the Coronado Expedition, 1539–1542: "They Were Not Familiar with His Majesty, nor Did They Wish to be His Subjects,"* ed. and trans. Richard Flint and Shirley Cushing Flint (Dallas, TX: Southern Methodist University Press, 2005) 378-493.

6. Richard Flint and Shirley Cushing Flint, *A Most Splendid Company: The Coronado Expedition in Global Perspective* (Albuquerque: University of New Mexico Press, 2019), 87.

7. Flint and Flint, *A Most Splendid Company,* 328.

8. Andrés Reséndez, *The Other Slavery: The Uncovered Story of Indian Enslavement in America* (Boston: Houghton Mifflin Harcourt, 2016).

tury, historians explained American Indian hostility toward the Spanish as religious contempt, the instances of violence and revolt are better understood in the context of the Spanish enslavement of the native populace.[9] For Reséndez, the Spanish presence in North America was primarily focused on gaining wealth through not only taxation of their newly gained population, but also through labor exploitation and enslavement of Native Americans to work in existing mines in central and southern Nueva España. With this mind, we turn now to the expedition's official departure in February of 1540.

When examining the geographical route that Coronado and his men took, the work of historians Herbert Bolton and John Francis Bannon are useful. Bolton and Bannon both make claims similar to Reséndez and Flint and Flint, in that they argue the Spanish conquest in its northern territories mirrored those within their southern ones. By examining the works of Castenada, de Niza, and others among Coronado's entourage, they argue that the Spanish lust for gold in previous expeditions in South and Central America were carried over into North America as well.[10] Challenging the ideas of their day, Bolton, and later Bannon, laid the foundation for the concept of the northern Spanish Borderlands. When the Seven Cities of Cibola proved to be severely lacking in the rumored gold and jewels, Coronado would turn northeastward in search of yet another mythical city named Quivira. Pushing further into the Mississippi River Valley, in search of what has been equated to El Dorado, Bolton and Bannon argue that gold and other such resources were the main drive and aspirations of Coronado and his expeditionary force.[11] The main issue with this theory is that gold was never found in these borderlands, yet the Spanish presence in these lands would continue for decades and even centuries until challenged by the encroachment of

9. Reséndez, *The Other Slavery*, 169.

10. Bolton, *Coronado: Knight of the Pueblos and Plains*, 14. John Francis Bannon, *The Spanish Borderlands Frontier, 1513–1821* (New York: Holt, Rhinehart and Winston, 1970), 18.

11. Bolton, *Coronado: Knight of the Pueblos and Plains*, 284.

other European settlers.

This seeming lack of wealth is what many historians have since focused on. Colin Calloway, a professor and historian of Native American studies, examines in his book *One Vast Winter Count the Native American West Before Lewis and Clark* the history of the American West from the perspective of its first inhabitants. Making use of the rich oral traditions, material cultures, and written narratives of the many native peoples, Calloway argues that the "West is not a land of empty spaces with a short history; it is a vast winter count, where many peoples etched their histories continuously from times beyond memory."[12] Calloway demonstrates that this region, which the Spanish were steadily moving into, was not empty and devoid of people or value, but rather the opposite. Calloway refocuses the expedition in this new light: while the Spanish may have been looking for wealth in the form of gold and silver, what they found was wealth in the form of people and their exploitable labor.

Here it must be stated why many of these historians tend to view Coronado's expedition through the lens of the writings left by the expedition itself. While this does give a very one sided view of history, as pointed out by Edmund Ladd, an anthropologist and archeologist, the native perspective, specifically that of the Zuni, is often kept only in an oral tradition.[13] Ladd along with Joseph P. Sanchez, author and director of the Spanish Colonial Research Center at the University of New Mexico, reveal how much historians must rely on the writings and *relacions* of those a part of the expedition. Sanchez, arguing from an archeological perspective, states in an essay,

> Archeological evidence is scant, for the expedition left few physical traces. Even when found, Spanish colonial artifacts can seldom be dated precisely and, given the intense Spanish activity throughout the Greater South-

12. Colin G. Calloway, *One Vast Winter Count: The Native American West Before Lewis and Clark* (Lincoln: University of Nebraska Press, 2003), 21.

13. Edmund J. Ladd, "Zuni on the Day the Men in Metal Arrived," in *The Coronado Expedition to Tierra Nueva: The 1540–1542 Route Across the Southwest,* ed. Richard Flint and Shirley Cushing Flint (Colorado: University Press of Colorado, 1997), 225.

> west, especially between 1540 and 1680, they are extremely difficult to identify in relation to each of the expeditions of the period.[14]

Even Calloway, who attempts to write the history of the west from the perspective of its indigenous peoples, concedes that much of what we know of precontact people groups in this area that "the Spaniards left glimpses of an Indian world that at this distance we can perhaps only imagine."[15] The Spaniards ultimately deemed their conquest of the New World a priority, and the history of the native inhabitants would be rewritten within that context. These people were nothing more than another means at gaining wealth, a resource to be exploited and—as in the case of the Aztec, Incan, and Mayan peoples—plundered and pillaged. To say differently of the 1540 expedition is to misunderstand the goals of the Spanish in the Americas.

Coronado's expedition has long been associated with, and misconstrued as, a search for a city of gold, Cibola or even El Dorado. However, as demonstrated thus far, many historians have begun to question this motivation. When rumors of vast interconnected cities in the wilds of the northern frontier spread throughout Nueva España and Europe, many, including Viceroy Antonio de Mendoza, saw this as an opportunity for trade rather than conquest. Author, cartographer, and astronomer William Hartmann addresses this in a 1997 essay: "When news leaked out in Mexico City in the late summer and fall of 1539 that Marcos [de Niza] had actually found a major northern trade center, the population was agog."[16] Hartmann attempts to reconcile the rumors of a major city in the northern frontiers

14. Joseph P. Sanchez, "A Historiography of the Route of the Expedition of Francisco Vázquez de Coronado: General Comments" in *The Coronado Expedition to Tierra Nueva: The 1540–1542 Route Across the Southwest,* ed. Richard Flint and Shirley Cushing Flint (Colorado: University Press of Colorado, 1997), 31.

15. Calloway, *One Vast Winter Count*, 119.

16. William Hartmann "Pathfinder for Coronado: Reevaluating the Mysterious Journey of Marcos de Niza" in *The Coronado Expedition to Tierra Nueva: The 1540-1542 Route Across the Southwest,* ed. Richard Flint and Shirley Cushing Flint (Colorado: University Press of Colorado, 1997), 77–78.

of Nueva España with the real intentions and motivations for the expedition. By focusing on fray Marcos de Niza, the man long accused of lying about a city of gold, Hartmann shows that the reality of the expedition was not as simple as treasure hunting in the desert, but was a search for wealth in any form.

The historiographical tradition surrounding the Coronado expedition is one that has changed over the centuries. Despite the lack of material culture and perspectives on the part of the Indigenous peoples that the expedition claimed to come into contact with, the current challenge to historians is to overcome this lack of primary source material in order to tell the complete history of the events. By examining the primary sources left by those within or connected to the expedition, historians can better understand not only the goals and aspirations of the Spanish colonizers, but also their perceptions and attitudes toward the native inhabitants of the northern frontier. The goal of this essay is to examine these primary sources within the context of the research and theories of the many who have previously studied the expedition. A clear picture of the motives and goals of these explorers and colonizers can be gained through the examination of the *relacións* and correspondences left by many who made the march to North America with Coronado in 1540.

Considering the challenges and theories outlined above, this essay will attempt to present a clearer understanding of the perceptions of the native peoples that played a role in the expedition, namely how the members of Coronado's expedition saw both the northern frontier and its people as an exploitable resource. In order to understand why these accounts are one sided, it is important to recognize the biases in the sources that are available while also using them to gain insight into areas where there are little to no other sources available. By examining the primary sources left by Coronado and his men in light of the work of previous historians, archeologists, and anthropologists, the goal and priority of the expedition becomes clear; to locate and acquire wealth in any form by any means necessary in the

northern frontier of Nueva España.

To start, it would be beneficial to understand the composition of the expeditionary force. Knowing the background of the expeditionary force is essential to understand what they recorded and why. While soldiers and men-at-arms may be concerned with gaining wealth and honor, the Franciscan friars, who focused on spreading their message and religious culture to the native population, make mention of the groups of people they encountered. An important document here is the muster roll of the expedition that dates to February 22, 1540, just days before the expedition officially began.[17] The muster roll was taken at Compostela in the province of Nueva Galicia of Nueva España. Typical of any muster roll, it is a list of individuals' names, rank, and any weapons and horses they were bringing. However, despite the scribes' claim that "the muster was conducted of all the people who are going to the land newly discovered by Father Provincial fray Marcos de Niza," the roll only includes 289 men.[18] As pointed out by Flint and Flint, "most glaring absent is any mention of the at least 1,300 natives of central and western Mexico . . . who made up the great bulk of the expedition."[19] This significant an oversight can hardly be a simple misnumbering and reveals how the Spanish viewed those among the unnumbered. So why were only about three hundred individuals counted?

To understand this question, it is important to understood how the Spanish viewed and interacted with the native populations of the Americas. Spanish definitions of identity were more complex than simple skin color, and, due to no regulations against interracial marriages, a complicated caste system

17. Juan de Cuevas, "Document 12: Muster Roll of the Expedition, Compostela, February 22, 1540," in *Documents of the Coronado Expedition, 1539–1542: "They Were Not Familiar with His Majesty, nor Did They Wish to be His Subjects,"* ed. and trans. Richard Flint and Shirley Cushing Flint (Dallas, TX: Southern Methodist University Press, 2005), 135–63.

18. De Cuevas, "Document 12," 139.

19. Richard Flint and Shirley Cushing Flint. *Documents of the Coronado Expedition, 1539 –1542: "They Were Not Familiar with His Majesty, nor Did They Wish to Be His Subjects,"* (Albuquerque: University of New Mexico Press, 2012), 135.

formed around mixed race individuals.[20] Those at the top of this hierarchy were those of pure descent from Spain and its European holdings, while those of mixed American Indian or African descent would be lower within the system. This explains not only why the many slaves and servants were not counted among the soldiers and friars, but also how the Spaniards viewed not only those among their ranks, but also the inhabitants of the northern frontier that they would encounter along their trek. This leads to an important document from 1510 in which this caste system found its origins.

Going back half a century, a decree by the monarchs of Spain deemed it necessary that in all dealings with Indigenous peoples a proclamation—which amounted to a list of demands—was to be read to them. The *Requerimiento of 1510*, as it came to be known, states that any who resist the Spanish conquest and fail to recognize the sovereignty of the monarchs would be left to the will of the conquistadors. In effect, this put any Indigenous nation who opposed Spanish occupation outside the social system the Spanish were attempting to establish. The document further states that the Spanish will "powerfully enter into your country" and "take you and your wives and your children, and shall make slaves of them," and "the deaths and losses which shall accrue from this are your fault, and not that of their Highnesses, or ours, nor of these cavaliers who come with us."[21] This hostility was the norm in the treatment of both conquered native peoples as well as those yet to be contacted by the Spanish.

Prior to fray Marcos de Niza's preliminary expedition in 1538, Antonio de Mendoza, viceroy of Nueva España, sent a letter of instructions for de Niza. In addition to keeping record of the Indigenous people he would come in contact with, Mendoza also instructs him "[to observe] the quality and fertility of [the land], its temperateness, the trees, plants, and domestic

20. Calloway, *One Vast Winter Count*, 205.

21. Council of Castile (Spain), *Requerimiento*, 1510, trans. The National Humanities Center, 2011.

and wild animals there may be; the type of land, whether it is broken or level; the rivers . . . [and] the rocks and metals which are in it."[22] As Bolton points out, Mendoza had ambitions for the northern frontier since his viceroyalty began in 1535.[23] With rumors of a vast wealth to be had within the region, his instructions to de Niza reveal his ambitions. However, it is also clear that though he hoped for signs of precious metals, he was also aware of the people that inhabited the land. Mendoza would have regarded these Native Americans as part of his new viceroyalty, a resource that he could extract tribute, taxes, and labor from.

In his *relacion* concerning his first expedition into the frontier, fray Marcos de Niza describes his encounters with several of these native groups. Learning of great wealthy cities to the north, de Niza anticipates hope not for the spread of his faith to these people, but for the vast wealth that could be gained.

> Having shown them some pieces of metal which I carried . . . [the native informants] picked up the gold metal and told me that there are jars made of that among those people of the valley and that they wear certain round objects made from that [same] gold hanging from their noses and ears.[24]

From this description of an interaction between de Niza and a native group he encountered, it can be assumed where his priorities lie in his exploration. His narrative goes on to describe how he and Esteban began to hear rumors of what equated to a great empire of cities in the interior of the continent. The rumor of the Seven Cities of Gold would find its origin here in Marcos de Niza's account, despite his lack of reference of any gold being in the cities.[25] It is clear from his

22. Antonio de Mendoza, "Document 6: The Viceroy's Instructions to Fray Marcos de Niza, November 1538," in *Documents of the Coronado Expedition, 1539–1542: "They Were Not Familiar with His Majesty, nor Did They Wish to be His Subjects,"* ed. and trans. Richard Flint and Shirley Cushing Flint (Dallas, TX: Southern Methodist University Press, 2005), 66.

23. Bolton, *Coronado: Knight of Pueblos and Plains*, 51.

24. Marcos de Niza, "Document 6" 68.

25. Hartmann "Pathfinder for Coronado," 77

narrative that Marcos de Niza was seeking wealth in any form on the northern frontier.

Although Marcos de Niza was writing from a perspective as a Franciscan friar, comparing him to other members of the expedition shows a commonality in their work. Two anonymous *relacións* give insight into how the expeditionary force carried themselves through uncharted lands and their dealings with the native peoples they encountered.[26] The "Relación del Suceso" and the "Traslado de las Nuevas" both recall such interactions. Though each describes different interactions with *ciudades* or native cities, similarities between the two stand out. In both accounts the Coronado and his men were met with hostility by Indigenous people, and both resulted in skirmishes between expeditionary forces and the native inhabitants.[27] What stands out in these two accounts is how the native peoples were described as preparing for battle as soon as the expedition was spotted by them.

The native peoples' response to the Spanish presence in their lands is one that is not surprising but noteworthy. Though the *ciudades* of the northern frontier had no previous direct contact with the Spanish, from tales passed from their southern neighbors and from what few previous forays the Spanish did take into the area, they knew them to be their enemies.[28] The writer of the "Relación del Suceso" notes that when they came to the first city of Cibola, "some of them came out against us in war, and the rest stayed fortified in the *pueblo*. It was not pos-

26. Though both authors of these accounts are unknown, it is conferred by scholars that Document 22 would have been written by either a horseman or a footsoldier within the ranks and Document 29 by a scribal secretary. For further insight see Flint and Flint, *Documents of the Coronado Expedition*, 289 and 497.

27. "Document 22: Traslado de las Nuevas, 1540," in *Documents of the Coronado Expedition, 1539–1542: "They Were Not Familiar with His Majesty, nor Did They Wish to be His Subjects,"* ed. and trans. Richard Flint and Shirley Cushing Flint (Dallas, TX: Southern Methodist University Press, 2005), 292. "Document 29: Relación del Suceso, 1540s," in *Documents of the Coronado Expedition, 1539–1542: "They Were Not Familiar with His Majesty, nor Did They Wish to be His Subjects,"* ed. and trans. Richard Flint and Shirley Cushing Flint (Dallas, TX: Southern Methodist University Press, 2005), 497.

28. For further reading into these past excursions see Calloway, *One Vast Winter Count*, 121–32.

sible to conclude peace with them, although [peace] was eagerly sought."[29] If the word of this scribe is to be taken, then diplomatic relations was attempted on the part of Coronado, yet it is also clear that they were well prepared for any conflict. In this particular instance, after a short skirmish and siege of the city, the pueblo surrendered and fled leaving their homes and grain for the Spaniards to take.[30] Though the mythical gold of the city was yet to be located, the Spanish would push further northward in search of it, conquering and securing any resources and people that they came in contact with along the way.

To further understand the motives and goals of the expedition, one needs to look no further than its leader and its benefactor. Writing in 1541 to the king of Spain, Coronado describes his coming to the area he called Quivira.[31] Having found no sign of valuable ore in Cibola, his native guides directed him eastward in search of another mythical city of gold. What was different in this account from those described above, is in how the Spaniards and the native peoples (referred to as Querechos by Coronado) interacted. In a reversal of previous encounters, no instances of violence or even disagreement occur. This is due to the lack of any value that the conquistador sees in the land and its people. He states that people were "as uncivilized as all those I have seen and passed until now," and the "plains so without landmarks that it was as if [they] were in the middle of the sea."[32] Essentially, Coronado's letter states the total unusefulness of the land and its people, recommending resources and effort to be better applied in other areas of the Spanish province. It is telling of Coronado's ambition that when nothing of value is seen to be gained, he pursues peace with the Indigenous peoples and recommends no further excursions into

29. "Document 29," 497.
30. "Document 29," 498.
31. Francisco Vázquez de Coronado, "Document 26: Vázquez de Coronado's Letter to the King, October 20, 1541," in *Documents of the Coronado Expedition, 1539–1542: "They Were Not Familiar with His Majesty, nor Did They Wish to be His Subjects,"* ed. and trans. Richard Flint and Shirley Cushing Flint (Dallas, TX: Southern Methodist University Press, 2005), 317–25.
32. Coronado, "Document 26," 319–20

the area. This mentality toward the land and its people can be seen in direct correlation to the instructions given by his benefactor, Antonio de Mendoza.

The Viceroy's appointment of Coronado as the de facto leader and general of the expedition in January of 1540 was not only an official declaration and bestowment of power, but also an outline of duties that the expedition was to follow. Interestingly, this decree by Mendoza specifically states that in all dealings with the native inhabitants of the northern frontier, Coronado was to pacify them whilst protecting them from any abuse.[33] While it is clear from other *relacións* that violence between the pueblos and the expedition did occur, it was understood by Coronado and Mendoza that by sending this expedition they were claiming the land and all its inhabitants for the possession of Nueva España and Spain in general. Any resistance to this would be met with retribution as laid out within the *Requerimiento*. Though Spain had a general claim of this territory, the goal of this expedition was to start the process in which the land and its people would become effective and useful resources for the empire. By pacifying and subjugating the people of the unexplored territory, Mendoza hoped to make use of an otherwise useless territory.

If the primary goal of Coronado's expedition was to secure a mythical city of gold, then, to put it simply, his mission was a failure. However, as demonstrated by primary documents and the work of historians in the last century, mere gold was not the primary goal of Coronado. Rather, using the rumors of a city of gold, Mendoza and Coronado pushed into the northern frontier in search of any value that could be had. Historians have debated whether this was to secure trade routes, to enslave entire populations, to colonize and spread their religious culture, or to secure all material resources to be had. In this

33. Antonio de Mendoza, "Document 9: The Viceroy's Appointment of Vázquez de Coronado to Lead the Expedition, January 6, 1540," in *Documents of the Coronado Expedition, 1539–1542: "They Were Not Familiar with His Majesty, nor Did They Wish to be His Subjects,"* ed. and trans. Richard Flint and Shirley Cushing Flint (Dallas, TX: Southern Methodist University Press, 2005), 110.

essay it has been shown that the various goals and ambitions of the expedition can be summed up by simple wealth acquisition in any form. Some members sought to spread their religious culture and gain notoriety in doing so, while others truly sought a mythical city of gold. Through the interactions with the native peoples of the northern frontier, a simpler picture is uncovered. Coronado's expedition of 1540 was the beginning of Spanish colonization in the region, and like other instances of Spanish colonization, the goal of the expedition was to extract all wealth of any kind that could be had from the territory in any and all its forms. From tributes and taxation to the enslavement of the Native Americans, the colonization of this region began in 1540.

The Judiciary's Protective Role of Civil Rights in the Twentieth Century

Dallas Karren

The United States has experienced a unique and, at times, unfortunate history in dealing with balancing the interests of equality and freedom. Efforts to correct injustices largely take place in the second half of the twentieth century. The ideal perspective that the legislature would hold the main responsibility for preventing or rectifying abuses of civil rights has not always proven accurate. More cases than should have been necessary regarding civil rights and liberties have and continue to come before the Supreme Court. While discrepancies are inevitable, these cases would not have reached the "court of last resort" if the societal and political systems in place had properly executed their role and the laws and actions of Congress had been upheld as they were intended. The rights of the people would have been denied or delayed if the Court didn't step in. However, some of the Court's previous actions limited the equal protections and missed opportunities to appropriately expand its afforded protections in some instances.

Arguably, the greatest attempt by Congress in recent history for the promulgation of liberty and equality in the twentieth century was the passage of the 1964 Civil Rights Act, the goal of which was to solidify the earlier attempts of the Reconstruction

era and previous Civil Rights Acts, further engraining them into American society. While the legislature established a basis for equality through the Civil Rights Act, it has been the Courts that have upheld and determined the rights afforded under it in dozens of discrimination cases, even as recent as *Bostock v. Clayton County* and *Obergefell v. Hodges*.[1] Implementing the desired effects of the Civil Rights Act and other liberties has been a long undertaking of sorting out where the laws have fallen short due to narrow adherence and improper application.

Before heading into a defense of the Court, it is proper to first scrutinize an area in which it heavily burdened the civil rights movement, as previous Court readings of the Fourteenth Amendment would affect future landmark decisions and the application of equality before the law. In *Heart of Atlanta Hotel Inc. v. United States*, the constitutionality of the 1964 Civil Rights Act would be challenged due to the Court's derelictions.[2] While a relatively successful case in terms of civil rights advancement, the opinion of the Court upheld the "State Action Doctrine" precedent prohibiting congressional regulation of private actions. This decision allowed for continued discrimination and circumvention of equality. However, what ought to have been the final ruling did, at least, appear in the concurring judgments, where Justice Douglas argued "our decision should be based on the Fourteenth Amendment, thereby putting an end to all obstructionist strategies and allowing every person—whatever his race, creed, or color—to patronize all places of public accommodation without discrimination."[3]

Doing so would have been justified by congress' power to enforce legal equality under Section V of the Fourteenth Amendment and would have cemented solidity into the Equal Protection Clause. Sustaining the constitutionality of the 1964 Civil Rights Act under the Commerce Clause proved significant in abolishing acts of the southern legislatures such as the

1. Bostock v. Clayton County, 590 U.S. ___ (2020); Obergefell v. Hodges, 576 U.S. ___ (2015).
2. Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241 (1964).
3. *Heart of Atlanta*, 379 U.S. at 286.

Jim Crow laws. However, the Court missed another opportunity by not utilizing its discretionary power of judicial review in *Heart of Atlanta* to expand and clarify the broadness of the Equal Protections and Privileges or Immunities Clauses of the Fourteenth Amendment, which were stripped by preliminary Courts. This expansion would have conclusively provided a stronger basis for egalitarianism in a much sooner and perhaps less tragic way.

As a consequence, throughout the American narrative multitudes would not possess the same quality of life, protections, or privileges enjoyed by the rest of society, which would leave African Americans and other minority groups in American society effectively less than citizens. Liberties and privileges as simple as being able to freely choose a spouse or romantic partner would continue to be oppressed by a collection of state enacted anti-miscegenation statutes that criminalized interracial marriage and intimacy. These congressionally enacted laws such as the Racial Integrity Act of 1924 and certain inherently unequal state statutes wouldn't be revoked until *Loving v. Virginia* and *McLaughlin v. Florida*, respectively.[4]

Even so, the actions of the Court in various cases throughout this time strengthened the existing conceptions of rights and created new unenumerated ones from the legal penumbras of the Constitution. This would lead to a reversal of the narrow interpretations of the Fourteenth Amendment and equal protection taken by earlier courts such as in the *Slaughterhouse* and *Civil Rights Cases*. These cases essentially nullified the Civil Rights Act of 1875 which Melvin Urofsky argues had attempted to give all citizens "full and equal enjoyment" of services and facilities notwithstanding race or color and "aimed to protect African Americans from deprivation of the minimal rights of citizenship."[5] The Court, furthermore, began to take opposite positions on human rights to those it had taken previously

4. Loving v. Virginia, 388 U.S. 1 (1967); McLaughlin v. Florida, 379 U.S. 184 (1964).
5. Urofsky, Melvin I. "Civil Rights Act of 1875." *Encyclopedia Britannica*, February 22, 2022. https://www.britannica.com/topic/Civil-Rights-Act-United-States-1875. See also Slaughterhouse Cases, 83 U.S. 36 (1872); Civil Rights Cases, 109 U.S. 3 (1883).

in cases such as *Korematsu*, *Hirabayashi*, or the infamous *Dred Scott v. Sanford*.[6] This occurred as the Court began to shift its focus from economic regulations to protecting the people. It had largely avoided concentrating on this since its previous decisions, like that of *Barron v. Baltimore*, excluded the Bill of Rights from being applicable to the states.[7] As a result, matters concerning civil rights were generally left to the states until the adoption of the New Deal and the gradual inclusion of the Bill of Rights into all forms of government and society. As Judge Antonin Scalia noted in 1989, "the law grows and develops . . . not through the pronouncement of general principles, but case-by-case, deliberately, incrementally, one-step-at-a-time."[8] This opening of the courts is significant because whereas the Constitution infers that the democratic political process is the appropriate avenue for change, individuals that are substantially and concretely harmed do not need to await legislative action before asserting their fundamental rights. This also means rights that are violated despite existing legislation also can be adjudicated in the high court to achieve—or at a minimum, request—relief.

Throughout the later 1900s the Court was frequently thrown into the position of defending equalities and civil rights either by ruling against discriminatory laws or confronting challenges presented to the actions of Congress. The proper treatment of and policies towards oppressed demographics and peoples was a central issue during this time. Segregated schools and Jim Crow laws were previously upheld by *Plessy v. Ferguson*, even though separate facilities were inherently unequal and often of lower quality due to education being locally funded and controlled.[9] Fortunately, the Court later discredited the "separate but equal" doctrine through its famous ruling in *Brown v.*

6. Korematsu v. United States, 323 U.S. 214 (1944); Hirabayashi v. United States, 320 U.S. 81 (1943); Dred Scott v. Sandford, 60 U.S. 393 (1856).

7. Barron v. Mayor & City Council of Baltimore, 32 U.S. 243 (1833).

8. Antonin Scalia, "The Rule of Law as a Law of Rules." *The University of Chicago Law Review* 56, no. 4 (1989): 1177.

9. Plessy v. Ferguson, 163 U.S. 537 (1896).

Board of Education.[10] Although this was an important move for civil rights, as Congress did not yet retain the power to regulate private action segregation was still largely justified and persisted via *de facto* and *de jure* means in other places in American society. However, the Court continued to erode segregation and uphold equality, both before and after the 1964 Civil Rights Act, with cases such as *Bailey v. Patterson* in 1962.[11] The 1964 case *Katzenbach v. McClung* presents an example wherein the scope of "commerce" within the Constitution's Commerce Clause was read to include a broader range of establishments with the aim to ensure fuller and more equal access for minority populations.[12] The state action doctrine would further change with time as seen in *Jones v. Alfred H. Mayer Co.* wherein the Court held that the federal government has the ability under the Civil Rights Act to prohibit private parties from engaging in discriminatory housing practices.[13] The Court would later defend and aid efforts to lift the socioeconomic status of minorities through upholding affirmative action policies in *Regents of Univ. of California v. Bakke*.[14]

Although the Civil Rights Act outlawed discriminatory action on the basis of race, color, religion, sex or national origin, the Court would still later be forced to reiterate that Title VII of the Act protects more than just prejudice against racial classifications and is understood to prohibit gender discrimination in *Price Waterhouse v. Hopkins*.[15] This, again, shows how the efforts of Congress were not as accepted or adhered to as they were intended to be; however, it would be unjust to not acknowledge that Congress eventually expanded the Civil Rights Act to be more comprehensive of fundamental liberties. Nonetheless, as Justice Scalia notes, "judges handle individual cases [while] the

10. Brown v. Board of Education of Topeka, 347 U.S. 483 (1954).
11. Bailey v. Patterson, 369 U.S. 31 (1962).
12. Katzenbach v. McClung, 379 U.S. 294 (1964); see also U.S. Const. art. VIII, §8, cl. 3.
13. Jones v. Alfred H. Mayer Co., 392 U.S. 409 (1968).
14. Regents of Univ. of California v. Bakke, 438 U.S. 265 (1978).
15. Price Waterhouse v. Hopkins, 490 U.S. 228 (1989).

legislature generalizes."[16] It was therefore up to the judiciary to interpret and protect these individual rights.

The Court also came through with protections for democracy and representation during this period. Though Congress passed enhanced protections for civic inclusion and participation in open elections through the Voting Rights Act of 1965, these rights wouldn't be fully honored on their own without intervention of the Supreme Court. This is because not only were the provisions circumvented following its passage, but the southern state legislatures practiced various forms of exclusion and discrimination prior to its passage such as literacy tests, property qualifications, and grandfather clauses. These measures actively attempted to restrain the ability of African Americans to exercise voting rights by endorsing explicitly restrictive language in legislation and government practices.

Poll taxes, such as the one implemented in Georgia, discriminated against low-income individuals, including African Americans. These fees are obviously a violation of the Equal Protections Clause of the Fourteenth Amendment, which the Court would also use to establish equal representation via the "one person, one vote" doctrine in *Evenwel v. Abbott* or inclusion of all peoples, not only eligible voters, in *Reynolds v. Sims*.[17] Despite Congress banning poll taxes on the federal level through the Twenty-Fourth Amendment in 1964, similar measures were not enacted at the local level until *Harper v. Virginia State Board of Elections* in 1966.[18] This, and other rulings related to limited access to the ballot, was important as exclusion in any form of democracy almost always negates and disregards the interests of the minority. Control over representation and civic inclusion left alienated populations subject to the will of the majority. The capacity to participate in frequently held free elections is an essential part of representative government and a basic right of any citizen. Subsequently, in later decades the Court's decision

16. Scalia, "Rule of Law," 1176.
17. Reynolds v. Sims, 377 U.S. 533 (1964); Evenwel v. Abbott, 578 U.S. ___ (2016).
18. Harper v. Virginia State Bd. of Elections, 383 U.S. 663 (1966).

on California Proposition 8 protected one minority group from the perceived tyranny of the majority by upholding a district court ruling that fundamental liberties cannot be voted away.[19]

In the latter half of the twentieth century, the Court revived the Substantive Due Process (SDP) doctrine on the grounds that, according to Thomas Lewis and Bruce Ackerman, "due process includes a substantive component that 'provides heightened protection against government interference with certain fundamental rights and liberty interests.'"[20] This is a crucial distinction made by the Court in safeguarding civil rights as "the liberty of the Due Process Clause [clearly] encompasse[s] more than 'mere freedom from physical restraint or the bonds of a prison.'"[21] This expansion of natural rights into codified positive laws proved to be a positive contribution to societal equality and liberty, particularly those that were not previously considered to be important.

The seven to two decision in *Griswold v. Connecticut* further broadened the legal conception of privacy and personal rights.[22] This established precedent would lead to further privacy, equality, and freedom of choice cases such as *Roe v. Wade*, *Planned Parenthood v. Casey*, and *Lawrence v. Texas* which overruled the previous holding in *Bowers v. Hardwick*.[23] Regardless of an individual's personal viewpoints or morals on the merits of the cases, the Court upheld and expanded the Due Process Clause, the Fourteenth Amendment, and other protections through these cases. In promulgating and upholding the SDP and natural law doctrine, early twentieth century justices "were convinced that they were protecting the natural rights of the individual against

19. Hollingsworth v. Perry, 570 U.S. 693 (2013).

20. Bruce Ackerman, *We the People*, Cambridge: Harvard University Press, 1991. Quoted in Thomas Tandy Lewis, "The Ironic History of Substantive Due Process: Three Constitutional Revolutions," *International Social Science Review* 76, no. 1/2 (2001): 21.

21. Munn v. Illinois, 94 U.S. 113, 136 (1876) (Field, J. dissenting opinion). Quoted in Lewis, "Due Process," 23.

22. Griswold v. Connecticut, 381 U.S. 479 (1965).

23. Roe v. Wade, 410 U.S. 113 (1973); Planned Parenthood v. Casey, 505 U.S. 833 (1992); Lawrence v. Texas, 539 U.S. 558 (2003); Bowers v. Hardwick, 478 U.S. 186 (1986).

arbitrary deprivations by the government."[24]

Such a philosophical approach would prove invaluable in expanding and upholding constitutional, criminal, and procedural due process rights as well. The system is, after all, intentionally designed to favor the accused and offer a presumption of innocence until proven guilty beyond a reasonable doubt. Some of the constitutional rights that the Court upheld included the right to confrontation, juries, no cruel and unusual punishments, the right to state-appointed counsel for defendants who cannot afford an attorney, unlawful search and seizure, as well as freedom from self-incrimination leading to the conception of what are known as "Miranda rights" through *Miranda v. Arizona*.[25]

Furthermore, the First Amendment has been upheld exceedingly well and continually valued as one of the most fundamental rights enumerated in the Constitution. Included in this single amendment are the different and broad rights to freedom of religion, speech, press, and association, all of which are fundamental and invaluable aspects of any prosperous and free nation. In recent decades, the Court has also heard dozens of First Amendment cases on various aspects and subjects. In *Tinker v. Des Moines Independent Community School District*, the Court used its discretion under judicial review to rule that students do not "shed their constitutional rights . . . at the schoolhouse gate."[26] The Court further exercised its constitutional powers of judicial review to protect political speech in *Ladue v. Gilleo* and *Arizona State Legislature*.[27] The issue presented in *Flast v. Cohen* ultimately opened the doors for expanded standing and, therefore, greater governmental accountability for inappropriate use of taxpayer funds.[28] The First Amendment was again

24. Lewis, "Substantive Due Process," 24.

25. Miranda v. Arizona, 384 U.S. 436 (1966). See also Gideon v. Wainwright, 372 U.S. 335 (1963); Mapp v. Ohio, 367 U.S. 643 (1961).

26. Tinker v. Des Moines Independent Community School District, 393 U.S. 503, 506 (1969).

27. City of Ladue v. Gilleo, 512 U.S. 43 (1994); Arizona State Legislature v. Arizona Independent Redistricting Commission, 576 U.S. ___ (2015).

28. Flast v. Cohen, 392 U.S. 83 (1968).

upheld in the 1985 case *Estate of Thornton v. Caldor, Inc.* when the court ruled that laws granting workers the right not to work on their observed sabbath violated the constitutional imperative that laws "not foster excessive entanglement of government with religion, . . . [and] not advance or inhibit religion."[29] A recent claim for equality and equal representation occurred in *Pleasant Grove City v. Summum*, wherein the Court held that government speech is also protected and the Court circumvented the removal of all displays yet protected the public from being forced to accept any and all donated (and perhaps discriminatory or crude) forms of speech.[30]

The First Amendment would also be read in terms of a state interest in protecting the public safety. Although it restricted the Free Exercise Clause, *Employment Division v. Smith* protected society from religious claims becoming a behavioral "blank check" whereby causing others harm and violating their constitutional rights could be justified.[31] Similarly, *Schenck v. United States* limited dangerous speech intended to result in crime or unrest.[32] The many interpretations of the First Amendment were all made with the aim to protect vital American interests, and while not always perfect, the rights and liberties of the amendment have flourished well in American legal jurisprudence.

Indisputably, certain legislative acts held a vital role in advancing the American decree that "all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."[33] However, many state actions or statutes were pervasive in nature and designed to subdue certain groups. These laws came to be scrutinized by the High Court and were struck down as contrary to the supreme law of the land and the nation's foundational principles of freedom, equality, and opportunity.

29. Estate of Thornton v. Caldor, Inc., 472 U.S. 703 (1985) at 708.
30. Pleasant Grove City v. Summum, 555 U.S. 460 (2009).
31. Employment Division v. Smith, 494 U.S. 872 (1990).
32. Schenck v. United States, 249 U.S. 47 (1919).
33. United States' Declaration of Independence (1776).

The United States has frequently mended past decisions or deeds with corrective actions decades later; this is a sure indication that, historically, our legal system has failed to secure every American's liberties or, at times, outright violated them. Due to regional politics and legal limitations, there were many instances in which the laws simply did not meet expectations. The early narrow readings of the Court, combined with select repressive social and political systems throughout the United States' history, has often failed to fully distribute immunities and free enjoyment of privileges equitably among all persons. However, the US has regularly proven dedicated to promoting equal rights. While Congress essentially provided the basis for civil rights, it can be argued that it was the later Court system that upheld and enhanced them, thereby implementing the existential purpose of government to "establish Justice, insure domestic Tranquility . . . promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity."[34] It may be argued that the decisions made by the Supreme Court were not entirely enforceable, but regardless, they provided standards that shaped the way the U.S. has dealt with civil rights.

34. United States Constitution, Preamble (1787).

Liberty for the People:
France and the Separation of Church and State

Heidi Shomaker

The French laïcité is the term that describes the secularization of France. Today, the French government is one that does not allow for any influence by religion. This was not always the case. The French Third Republic made the separation official with the Law of 1905, "La République ne reconnaît, ne salarie ni ne subventionne aucun culte." (The Republic does not recognize, neither pays nor subsidizes any worship.)[1] Before 1905 the French people were governed by their republic and the Catholic church. However, the French people did try to establish a separation before 1905, during the revolution of the late eighteenth century; when the French third estate, made up of the common people, declared the Catholic church being involved in the government was inconsistent with the people's rights. They fought to write the church out of government and took possession of the property of the church. However, this separation did not last long.

The French people during the revolution worked hard to secure themselves rights and liberties they felt they were owed as Frenchmen. It was obvious to them that having a govern-

1. Emile Loubet, "Partie Officielle," J*ournal Officiel de la République Française,* December 11, 1905, 7205. https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000000508749

ment without the influence of a church was imperative if they were going to enjoy the liberties and equality they wanted. The French people attempted many times to restrict the authority of the church in the state. The Catholic Church did not appreciate any of those attempts and doubled down, using manipulation to secure its place at an equal level with the secular government. After just a few generations, France finally saw the Law of 1905 officially keep a state sanctioned church out of France and secured the chance for the people to finally enjoy the rights, liberties, and equality they were hoping for.

The French Revolution and the Law of 1905 were over one hundred years apart. While they had drastically different policies and evolved quite differently, the revolution had significant influence on the Law of 1905. Although the revolution was about more than just separating church from state, it was a significant point of conflict because the people suffered oppression at the hands of the state sanctioned church. Sophia MacLehose, writing in the early twentieth century, discussed indepth about the similarities and differences of the Law of 1905 and the Revolution of 1795. MacLehose writes that the Church in the late eighteenth century was subject only to the crown and had hardly any interference with regards to its wealth.[2] Further, MacLehose states "To her [the Catholic church] was entrusted the care of popular education—her certificates of baptism were necessary to prove all civil rights, her clergy were immensely powerful, her religion entirely dominant in France."[3] The citizens of France could only prove their nationality through their baptismal certificates; to be French on paper, one had to be Catholic as well.

For the French people to have the liberty they sought, including civil rights determined by the *Declaration of the Rights of Man*, they needed to make the separation of church and state a priority. The declaration was written in 1789 to describe the

2. Sophia MacLehose, "Separation of Church and State in France in 1795," *The Scottish Historical Review* 4, no. 15 (1907): 298, https://www.jstor.org/stable/25517856.
3. MacLehose, "Separation," 299.

liberties Frenchmen felt they deserved. The document was approved by the National Assembly of France in 1789 and was meant to declare that the perceived mistreatment of men in the third estate was no longer acceptable. The eleventh article in the declaration states, "The free communication of ideas and opinions is one of the most precious of the rights of man. Every citizen may, accordingly, speak, write, and print with freedom, but shall be responsible for such abuses of this freedom as shall be defined by law."[4] Being free to have ideas different from the Catholic Church and to be able to share them publicly was an essential part of the liberty argument for the eighteenth-century Frenchmen. The document declares sixteen other articles of liberty which vary from being equal in rights to free exercise of religion, and to being innocent until proven guilty. These are foundational expectations for the rights of man.

To show that separation of church and state was necessary for the liberty of the French people as written in the *Declaration of the Rights of Man*, it is important to understand the intentions of control the Catholic Church had during this time. As the French people began pushing against the tyranny of the control, the Church worked hard to convince the people of the need for church influence in the regime. Popes from the Catholic Church would make official statements in written letters called encyclicals. These documents shed light into the intentions of the papacy during this time. In an encyclical dated November 1, 1885, Pope Leo XIII declared in fifty statements the intention the Church had. It is clear from the encyclical that their intentions were to be and stay a powerful and controlling part in the lives of the French people. In direct contrast to the desires of men to have rights, Pope Leo XIII stated, "the liberty of thinking, and of publishing, whatsoever each one likes, without any hindrance, is not in itself an advantage over which society can wisely rejoice."[5] This statement from the Pope shows

4. "Declaration of the Rights of Men and of Citizens," *American Museum, or Universal Magazin*e 12, no. 3 (1792): 160–61, https://search.ebscohost.com/login.aspx?direct=true&db=h9h&AN=34861295

5. Leo XIII, "Immortale Dei," *Vatican website*. November 1, 1885. https://www.vati-

the contradicting views on governance for the French people. The Church did not approve of free press or even freedom of thought. It was, therefore, essential for the French government to have a separation of church and state for the people to have these rights.

After the revolution, Napoleon Bonaparte and Pope Pius VII signed into agreement the Concordat of 1801. This law gave the church back its property and rights as the state church and allowed for Catholicism to be practiced in public and stated the government would not interfere.[6] The Church did not have all the benefits it had before the revolution, as we learn from Othon Guerlac, who was a professor at Cornell University at the start of the twentieth century. In a paper on the separation in France and its effects on the people, Guerlac writes, "this church, which was once half mistress of the realm, which, a generation earlier, could force the state to put anyone to death for an offence against the faith and make nonconformists and free-thinkers tremble before her."[7] The Church was not as powerful under Napoleon but its seat in civil authority was reestablished by the Concordat. This quote also reemphasizes the need the people had to break away from the Church to have the liberty of free-thinking.

As the French Third Republic's time neared in the governing offices of France, the Church's privileges as the official church of France once again began to wane. Because of this, the Church fought hard to stay in power in France. Timothy Verhoeven, a historian of anticlerical, anti-Catholic histories, authored a paper on the influence the United States had on the separation of church and state in France, "'An Encouraging Precedent': The United States and the Separation of Church and State in France, 1832–1905," in which he states "shorn of

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can.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_01111885_immortale-dei.html.

6. First Consul of the French Republic, The Concordat, France. 1802. https://www.napoleon-series.org/research/government/diplomatic/c_concordat.html.

7. Othon Guerlac, "The Separation of Church and State in France," *Political Science Quarterly* 23, no. 2 (1908): 261, https://www.jstor.org/stable/2141325.

state support, the ecclesiastical hierarchy would lose much of its power to intimidate the faithful, and the power of the church would fragment."[8] If the Catholic Church lost its status as state church, it would lose its power over the people. The Church would work to see to it that the power it held in France would not end. The priority for the papacy was to have authority over the people and not to allow the people the rights they wanted.[9]

The Catholic Church desperately wanted to keep its power over the French people. As the French Third Republic began to earnestly put forth ideas that would separate church and state for the last time, Pope Leo XIII continued to voice his opinion on the matter. In his encyclical letter of 1885, Leo XIII states:

> as no society can hold together unless someone be over all, directing all to strive earnestly for the common good, every body politic must have a ruling authority, and this authority, no less than society itself, has its source in nature, and has, consequently, God for its Author. Hence, it follows that all public power must proceed from God.[10]

The Pope is suggesting there is a God, and the pope is directly in line with God; God has given the pope the authority and therefore the Church should be the governing body or at least in charge of who is placed in the authority over the state. This declaration of religious supremacy is verified also by Stephen M. Davis, associate director at Harvard Law School in Corporate Governance. In his book, *Rise of French Laïcité: French Secularism From the Reformation to the Twenty-first Century* he discusses the secularization of French government. He writes about the events leading to the Law of 1905 and how the law has affected the decline of religiosity in France since 1905. Davis writes, "from the time of the conversion of the Roman

8. Timothy Verhoeven, "'An Encouraging Precedent': The United States and the Separation of Church and State in France, 1832–1905," F*rench Historical Studies* 38, no. 3. (2015): 454, doi:10.1215/00161071-2884663.
9. Maurice Goguel, "The Religious Situation in France," *The Journal of Religion* 1, no. 6 (1921): 562, https://www.jstor.org/stable/1195572.
10. Leo XIII. "Immortale Dei." (1885).

emperors to Christianity to the official separation of church and state . . . the Church held or sought political power and declared itself as the only true religion as found in Holy Scriptures."[11] Holding the position that they were the only church with divine authority meant they could manipulate the people to do what they said in the name of God.

The allegation of the Pope being the only one with authority from God was difficult for the public to handle, as it took away their voice. In the *Declaration of Rights of Man* it states that they should have the freedom of religious belief.[12] This right would not be accessible if the governing party was elected by an ecclesiastical hierarchy. The rights of religious beliefs would be impeded since not all may believe in a god, not all may believe in the Catholic God, or not all may believe the Catholic Church speaks for God. If there is no separation of church and state, and the church has authority or say in who is governing, the liberty of the people is curbed.

The French Third Republic was not in the business of removing all religion from France, however they were determined to create a safe place for all to practice religion according to their own desires and to leave civil regulation out of the hands of any one church. Maurice Goguel, a Dean at the Protestant Faculty of Theology in Paris, and a professor during the first half of the twentieth century, wrote an article about the religious circumstances in France fifteen years after the Law of 1905. This paper investigates two main events that had caused the religious situation at the time: one being the Law of 1905 and the other being World War I. Goguel emphasizes his theory that the framers of the Law of 1905 were not trying to be hostile towards religion and "did not yield to the demands of anti-religious passion but made a sincere and loyal attempt at a liberal solution. They desired to create a regime which should assure

11. Stephen M. Davis, *Rise of French Laïcité: French Secularism From the Reformation to the Twenty-First Century* (Eugene: Pickwick Publications, 2020), https://search-ebscohost-com.ezproxy.uvu.edu/login.aspx?direct=true&db=e025xna&AN=2586530&site=eds-live.

12. "Declaration of Rights of Man," (1792).

genuine religious liberty."[13] Goguel further concludes that the Church was not eager for liberty but for domination.[14] The people and the framers of the Law of 1905 demanded liberty, not theocracy and the two could not be had at the same time.

The *Declaration of the Rights of Man* explains how Frenchmen thought laws should be made; they should be the desire of the public and every citizen should be allowed to participate either personally or through a representative.[15] Allowing citizens to make laws which would apply to all people is the best way to assure general liberties are given to everyone. Allowing the Church to make the laws is ignoring the voice of the people. It has already been addressed that the Church deems freedom of thought to be something that people should not rejoice over. Without separation of church and state, the people would not have the right to voice legislative opinions or have representatives that they share opinions with. All opinions would be that of the church.

There are many rights that man should be afforded. One of them, as stated in the *Declaration of the Rights of Man*, is the idea that

> Liberty consists in the freedom to do everything which injures no one else; hence the exercise of the natural rights of each man has no limits except those which assure to the other members of the society the enjoyment of the same rights. These limits can only be determined by law.[16]

Once the people have had the right to voice opinions and participate in lawmaking or in having their representatives participate in lawmaking, they have a system that supports the liberty of the people. This declaration above shows the people wanted the ability to do and think whatever they wanted, so long as it did not affect someone else's rights or cause injury to another and each member of society would be given the same protection

13. Goguel, "The Religious Situation," 562.
14. Goguel, "The Religious Situation," 562.
15. "Declaration of Rights of Man," (2008).
16. "Declaration of Rights of Man," (2008).

under the law.

The Church did not feel the same way about the liberty addressed in this declaration. In Pope Leo XIII's encyclical of 1885, he defends the violent history of the Catholic Church:

> The Christian religion was moreover commonly charged with being the cause of the calamities that so frequently befell the State, whereas, in very truth, just punishment was being awarded to guilty nations by an avenging God.[17]

Pope Leo XIII is saying that religion, though having been blamed for horrendous acts in the past, was only doing what God justly told them to do. The French people could not have guaranteed rights to do as they wanted if the Church ever deemed what they wanted to do as against God. Otherwise, the Church could justify violent acts against the people, all in the name of punishment from God for guilty behavior.

To have the full benefit of rights and liberty, France could not have a state sanctioned church as for it to stay in power, a church may do anything. It is impossible to prove that there is a God and that that God truly does sponsor one specific church. Because of these things having a church at the head of a state or in charge of an entire nation goes against all liberties. Even if there were a way to prove there is a God, and that God only supports the Catholic Church, it would still take away the rights of people to have the Church in charge of any civil legislation or policy. The Church should oversee only church matters and only be in charge of the moral beliefs of those people who consciously and willingly abide by the policies of that religion. Any attempt of a church to control more than the moral teachings of the people who choose to follow them is unlawful. These examples from France and the people who demanded the separation of the church and state verifies these statements. Without separation of church and state, French people could not enjoy the liberty, equality, and rights they deserved.

17. Leo XIII. "Immortale Dei." (1885).

How Iran Turned Against the United States

Alysa Warlin

Many Americans believe that the Iranian anti-United States sentiment stems from the ideological differences between the two countries. However, the history of Iran proves otherwise. Iran has existed for over 2,500 years, starting as the Great Persian Empire, and eventually becoming its own country in 1930. Throughout its history, Iran has seen many different forms of leadership, including the Qajar Dynasty. It was during the rule of the Qajars that foreign countries would begin to take hold of Persian territory. Starting in the 1800s, powerful western countries began using Persia, and the world, as a chess board during an era that was known as "The Great Game." Western countries saw the world as a chess board and would often take over other states that were seen as strategically significant to them.

Foreign states used Persia for financial gain while allowing its leadership to remain largely intact. It was during this time that Persian rulers, or Shahs, would make concessions that not only effected the freedom of Persian citizens, but also their very way of life. Meanwhile, the Shahs would take part in the wealth that these foreign countries offered without sharing it with their people. The result was great suffering among the Persian people.

It wasn't until the Second World War that the United States of America would even become a part of the tale that is now modern-day Iran.

This paper argues that the groundwork for anti-United States sentiment in Iran was laid during the nineteenth and twentieth centuries due to the concessions made by Iranian shahs to Great Britain and Russia, progressive policies that moved the country towards western ideals, and foreign government interference in Iranian internal affairs.

Concessions

Centuries of shahs' concessions to foreign governments in return for wealth lead to an anti-United States sentiment within Iran, which culminated in the events of the 1979 revolution and can be seen through current rhetoric used by Iranian leadership today, including lumping the United States in with the rest of Europe when discussing 300 years of colonialism. As early as the nineteenth century, Great Britain and Russia were forcing shahs, like Fath 'Ali Shah, into concessions. As Ervand Abrahamian describes in *Iran Between Two Revolutions*, treaties made by Fath 'Ali Shah with Great Britain and Russia granted commercial agreements to the two countries. These capitulations allowed Britain and Russia to import goods without tariffs, travel around the country without paying taxes, and freedom from Shari'a Law court jurisdictions. In the nineteenth century, tobacco made up a large part of the Persian economy.[1] In 1890, while Russia and Great Britain were competing for Persia, Nasir Al-Din Shah signed secret concession granting Great Britain control of the tobacco trade. Markus Schlotterbeck wrote about the Iranian protests following the announcement of this concession in the "Iranian Resistance to Tobacco Concessions, 1891–1892." It is important to note that this concession was made without the knowledge of any Persian citizens. Many Persians found out about this concession through a newspaper. Due to the large number of protests, Nasir Al-Din Shah had to abandon the

1. Ervand Abrahamian, *Iran Between Two Revolutions* (Princeton: Princeton University Press, 1982).

concession in 1892 and pay back a large amount of money to Great Britain.[2] These protests were said to be the start of the Constitutional Revolution (1905–1911).

Persian shahs made many more concessions prior to the Constitutional Revolution. Abrahamian notes that total imports increased by eight times during the Great Game.[3] In 1901, Nasir Al-Din Shah gave away an oil concession to Great Britain. This would result in protests within Iran and a coup in 1953 that would have long lasting implications for foreign diplomacy in Iran. The oil concession, eventually culminating in the Anglo-Persian Oil Company, was under British control until long after World War II.[4] Younes Parsa Benab wrote about more concessions that were given away in "The Origin and Development of Imperialist Contention in Iran; 1884–1921." In the Treaty of Turkomanchai, Persia gave tariff autonomy to Russia. Along with this, Persian shahs also signed an agreement that allowed Russia to build a railroad within Persia, which had little to no infrastructure at the time.[5]

All the concessions that the shahs made gave wealth to Persia, but this wealth was not utilized for the betterment of the people of Persia. Abrahamian wrote about where this money went during the Great Game, claiming that while the shahs were making concessions to Great Britain and Russia, they were pocketing the revenue for themselves, so the quality of life of Persian citizens was not improving. Abrahamian also noted that the western economic penetration into Persia threatened the Persian way of life including but not limited to bazaars, commercial interests, and the rise of a Middle Class. This is especially true with Nasir Al-Din Shah. Prior to the Constitu-

2. Markus Schlotterbeck, "Iranian Resistance to TOBACCO Concession 1891–1892," last modified July 16, 2009. https://nvdatabase.swarthmore.edu/index.php/content/iranian-resistance-tobacco-concession-1891-1892

3. Abrahamian, *Iran Between Two Revolutions*.

4. Nikki R. Keddie, *Qajar Iran and the Rise of Reza Khan 1796–1925* (California: Mazda Publishers, 2012).

5. Younes Parsa Benab, "The Origin and Development of Imperialist Contention in Iran; 1884–1921," last modified November 10, 2022. https://www.iranchamber.com/history/articles/origin_development_imperialist_contention_iran1.php

tional Revolution, he gave more infrastructure rights to foreign powers while also educating his people in western ideologies.[6] Badi-oz-Zaman, a poet during the 1900s, wrote about the evils of western powers in "The Iran of Yesterday and The Iran of To-Morrow." In the poem, oz-Zaman alludes to the fact that Europe was taking over the trade in Iran while Iranians where losing their power. Oz-Zaman said that Europe "is playing at the expense of the heavens" and "will eventually fall and Iran will be happy," presumably meaning Iran will become powerful.[7]

All the uprisings during the Great Game ultimately ended in the Constitutional Revolution, where the people of Persia hoped that a government body would stop the corrupt Qajar dynasty and the concessions given to foreign countries.[8] However, the leaders that came after the Qajar dynasty also had dealings with foreign powers. Throughout the Great Game and afterwards, the Persians were exceedingly displeased with the concessions that were given to Great Britain and Russia. This, combined with the profits the Qajar Dynasty kept for themselves, showed the beginning of anti-foreigner feelings within the country. This would pave the way for anti-United States sentiment and cultural trauma in the future.

Ron Eyerman describes cultural trauma as when something so painful happens to a group of people that it will tear the framework of society, changing how future generations view things and causing the people within the society to look for someone to blame.[9] The events leading up to the Constitutional Revolution can be described as painful for the people of Persia and it effected how Iranians saw foreign interference in their country when the 1979 Revolution took off.

Westernization

In the 20th century, Persia became more "westernized."

6. Abrahamian, *Iran Between Two Revolutions*.
7. Badi-oz-Zaman, "The Iran of Yesterday and the Iran of To-Morrow," in *Poets of the Pahlavi Regime*, ed. Dinsah J. Irani (Bombay: 1933), 180–84.
8. Abrahamian, *Iran Between Two Revolutions*.
9. Ron Eyerman, "Cultural Trauma and the Transmission of Traumatic Experience," *Social Research: An International Quarterly* 87, no. 3 (2020).

However, the progressive policies that were passed and the taxation of the lower-middle class led to powerful uprisings that saw a striking turn away from any form of western ideals. The Constitutional Revolution marked a period where Persians hoped to have a say in how they would be governed. This shows how western-leaning Persians were at the time. It is also important to note that at this time Persians were being educated through western institutions. Abrahamian wrote that the introduction of western ideologies into Persia disrupted the fragile relationship between the Qajar rulers and its people. From the education of Persians rose the "intelligentsia," a new middle class whose outlook on the world didn't come from a shah's divine right, but to the "inalienable rights of the people." The middle class that followed shah ideologies became known as the "traditional middle class."[10]

In fact, Ali Ansari discusses how the Persian government that was established following the Constitutional Revolution was modeled after a western style government in "Iran and the 'Old Enemy.'"[11] The democratic system that was put in place in 1911 did not succeed as the Persians wanted it to. By 1921, many Persians felt that they were being ruled by a weak leader which paved the way for Reza Shah to come to power. When Reza Shah rose to power, he attempted to instill nationalism within the country.[12] Of note, nationalism was firmly established in western ideologies by the nineteenth century. Keddie notes in the book *Qajar Iran and the Rise of Reza Khan: 1798–1925* that before Reza Khan (later known as Reza Shah Pahlavi) made himself shah, he had already begun to nationalize the country by taking away tribal autonomy. Keddie also mentions that Reza Khan's government hid the European origins of the nationalist changes by referencing the nationalist glorification of pre-Islamic Iran. Following Reza Shah's true consolidation of power in 1925, he was able to embark on full modernization

10. Abrahamian, *Iran Between Two Revolutions*.
11. Ali Ansari, "Iran and the 'Old Enemy,'" *History Today* 69, no. 1 (2019).
12. Keddie, *Qajar Iran*.

and western-leaning policies that made up early twentieth century Persia and Iran.[13]

Iranians and the Ulama (Iran's religious leaders) were not truly upset with the modernization until Reza Shah's son, Muhammed Reza Shah, took power in 1941. Following World War II, Keddie discusses the upheaval that was seen in Iran in *Modern Iran: Roots and Results of Revolution*. The Iranian government started to tax the people, in some cases unfairly, to help pay for government expenditures while also holding a monopoly on wheat that was well below free market price. In addition to this, Muhammed Reza Shah was paying western workers more than Iranians. Finally, Muhammed Reza Shah made many social reforms that greatly differed from Islamic traditions, including the changing of the Islamic calendar and giving women the rights to hold office, vote, and not be divorced for illegitimate reasons.[14] All of these western ideas only proved to Iranians that the western way of life was not helping them flourish but instead digging them deeper into hardship. However, Iranians did not become anti-western solely due to the failings of leaders.

Foreign Dominance

Throughout history, western governments have meddled in Iranian affairs. This has further pushed Iranians towards anti-western sentiment. The penetration of western governments in Iran began in the nineteenth century when Russia and Great Britain attempted to use Persia as a game piece on the chess board as well as sources of income for both these great nations.[15] Parsa Benab even went as far as to say that Persia had lost its national identity and was divided into political spheres of support for Russia and Great Britain by the end of the Great Game and into World War I.[16] Abrahamian described how the treaties that were made during the Qajar Dynasty made the country

13. Keddie, *Qajar Iran*.
14. Nikkie R. Keddie and Yann Richard, *Modern Iran: Roots and Results of Revolution* (Connecticut: Yale University Press, 2003).
15. Abrahamian, *Iran Between Two Revolutions*.
16. Parsa Benab, "Imperialist Contention in Iran."

beholden to Russia and Great Britain, paving the way for those countries to become more involved in Iran's domestic affairs.[17] During World War I, even though Persia was never a part of the war, it was occupied by Turkish, Russian, and British forces. Keddie discussed how during the war the majority of Persians were pro-German. Due to this, Russia took Persian land all the way up to Tehran before British and French forces pushed them back. However, many of the Iranian government officials, or Majles, had fled to Ottoman-controlled areas and established a separate government for defense against the Russians. This second government was supported by pro-German forces and many Persians. According to Keddie, by the end of 1918, Russian and Ottoman forces withdrew from Persia and left only British forces behind in control of the capital.[18]

During this period, poets like Seyyed Ahmad Adib Pishavari portrayed Britain as "the old fox" that could not be trusted, underscoring the complete distrust for western powers in World War I, which devastated the economy and the people of Persia and led to the rise of Reza Shah.[19] Keddie states that many Iranians today feel the February 1921 coup that put Reza Shah in power was orchestrated by the British government. In truth, Britain did not play as large of a role as many may think. However, this documents the views of Iranians regarding western interference into their domestic affairs.[20] Following World War II, the U.S. was present in Iran and could be found throughout Tehran. In "Explaining the Long-Term Hostility between the United States and Iran: A Historical, Theoretical and Methodological Framework," Nils Jordet describes U.S. presence in Iran following World War II as likely reminiscent of Russian/Britain presence and led to Iranians feeling vulnerable to foreign pressures.[21]

17. Abrahamian, *Iran Between Two Revolutions*.
18. Keddie, *Qajar Iran*.
19. Parham Pourparsa, "Why Is Britain an 'OLD FOX' in Iranian Media Rhetoric?" *BBC News*, 25 Aug. 2015, www.bbc.com/news/world-middle-east-34052821.
20. Keddie, *Qajar Iran*.
21. Nils Jordet, "Explaining the Long-Term Hostility Between the United States and Iran: A Historical, Theoretical and Methodological Framework," (Ph.D. dissertation, Tufts University), 13. www.nato.int/acad/fellow/98-00/jordet.pdf.

In 1953, British and U.S. intelligence agencies (MI6 and CIA, respectively) took more direct action in handling their issues with Iranian government. Leading up to 1953, then Prime Minister Mosaddeq attempted to nationalize Iranian oil and cut Britain out of the oil deal. In response to this, MI6 and CIA staged a coup that exiled Mosaddeq and allowed Muhammed Reza Shah to fully consolidate power and end the constitutional monarchy that had been operating since the early 1900s. This also gave a cut of the oil revenue to the U.S. and Britain.[22] Jordet discussed how the coup in 1953 essentially overthrew a democratically elected leader, making Iranians feel as if they were no longer allowed to decide their future for themselves, just like prior to the Constitutional Revolution.[23] Muhammed Reza Shah's consolidation of power lead to extremely hard times for Iranians, when loved ones would go missing during the night and the country lived in fear. One of the ways Muhammed Reza Shah was able to make people disappear and take away individual freedoms was through a secret police force known as the Savak, which the United States' FBI helped to organize.[24] Following the Revolution of 1979, Supreme Leader Khomeini likened the U.S. to "the Great Satan," reminiscent of Badi-oz-Zaman's likening of Britain to the devil.[25] Foreign governments have been in Iran since the nineteenth century. This has laid the groundwork for today's anti-western sentiments.

Counter Argument

Some would view anti-western sentiment, especially that which is directed at the United States, as being solely due to the Coup of 1953 and the harboring of Muhammed Reza Shah after the 1979 revolution.[26] While these actions did not help

22. Keddie and Richard, *Modern Iran*.

23. Jordet, "Hostility Between the United States and Iran," 13–14.

24. Immigration and Refugee Board of Canada, "Iran: Information on SAVAK," *Immigration and Refugee Board of Canada* (1 January 1991), IRN7544. https://www.refworld.org/docid/3ae6aaa724.html

25. Jordet, "Hostility Between the United States and Iran," 9. Oz-Zaman, "The Iran of Yesterday and the Iran of To-Morrow," 180–84.

26. Alex Ward and Zach Beauchamp, "9 Questions About the US-Iran Crisis You

the anti-U.S. sentiment seen in 1979 and beyond, these actions alone would not be enough to cause a whole society to be so fiercely against a nation. Especially to the point where its leaders can continually call on the cultural trauma they've endured as a scape goat for their own problems. Truly, the anti-U.S. sentiment was centuries in the making, even before the United States came into the global arena. Russia and Great Britain were using Persia as its own personal staging area in a chess game against each other. While doing this, these powerful countries ensured that they were profiting and that the shahs were not sharing their wealth with their own people, but actively taking away their livelihood.[27] Heading into World War I, Britain and Russia occupied Persia and fought against the people, stripping them even more of their power.

Following World War I, Britain supported the formation of a new Persian government. During World War II, Britain and Russia once again occupied Iran and forced Reza Shah out of power. Finally, after World War II, the U.S. stepped into the global arena and ensured that Britain would keep their hold on Iranian oil with the coup in 1953.[28] All of the events prior to the entrance of the U.S. in Iranian history can be seen as traumatic to a group of people and a society who, no matter what form of westernized government they tried, could not seem to stop the interference of foreign governments. This ultimately led to cultural trauma, cumulating in anti-U.S. sentiment.

Conclusion

The United States has played a small role in the history of Iranian discord with foreign powers. Anti-foreigner sentiment was established well before the U.S. came onto the scene with the Great Game and the two World Wars. Additionally, weak shahs that overextended their power also led to anti-foreigner

Were too Embarrassed to Ask," *Vox* (Vox Media, LLC.: January 13, 2020). https://www.vox.com/world/2020/1/13/21051794/us-iran-soleimani-ukraine-airline-questions.

27. Abrahamian, *Iran Between Two Revolutions*.

28. Keddie and Richard, *Modern Iran*.

sentiment within the country. All of the foreign interference leading up to World War II laid the groundwork for anti-U.S. sentiment. Iran was likely in the throws of cultural trauma when the Iranian Revolution took place and was able to place the blame on the U.S. rather than everything that had occurred in the past. Today, Iranian leaders are able to pull on that same feeling to push their issues onto to the shoulders of the United States. Iran likely feels that any U.S. interference in Iranian affairs is an attempt to gain control like Britain and Russia in the nineteenth and twentieth centuries. Should the U.S. attempt to show Iran that they are not like the colonial powers of the past through a commitment to allow Iran to handle their own affairs, and through an issued statement apologizing for the mistakes of the past, this may open dialogue for the normalization of United States and Iranian relations.

Contributors

Trisha Dalecki is currently a senior at Utah Valley University and is working toward a degree in History and Social Studies Education. She received an Associate degree in History and Political Science last year, and really enjoys the field of studying history. She looks forward to being able to teach future middle or high school students about historical events, and would love to further her own knowledge one day by attending graduate school. After changing her major many times throughout her college career (finance, nursing, elementary education, and finally to history education), history is something Trisha has truly enjoyed learning. Nothing is more fascinating to her than how analyzing history from a variety of perspectives can change our interpretation of events that have taken place throughout the reign of humanity. In addition to history, Trisha enjoys cleaning, hiking, being outside, and spending time with her husband and daughter that was born this last spring. She also really enjoy learning about dinosaurs and other prehistoric elements, and did briefly consider being a paleontologist before finding out they spend many hours in the hot sun digging for fossils with infrequent success.
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Matthew Drachman was born and raised in Salt Lake City, Utah, and has loved service in all varieties and forms. Since he was little, he would tell his mother that all he wanted to do was to help people. He is currently studying to obtain a Bachelor of Science degree majoring in Political Science concentrating in American Government, and minors in Communications and Constitutional studies. He currently has an Associate of Science degree in Humanities and Social Sciences. Through his education, he hopes to one day enter into public service through studying law; eventually obtaining a J.D. and L.L.M.. Matthew is an active member of the Church of Jesus Christ of Latter-day Saints. He credits his faith for the role it has played in shaping his life, along with his loving mother, father, and brother. In his free time, Matthew loves horse racing. As he will tell you the Kentucky Derby is the Superbowl at his house. Matthew also loves studying history, painting, gaming, reading, and writing letters the old fashioned way, with a wax seal and feather quill. Truly, an accurate way to describe Matthew is that he is an old soul living modern times.
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Nicholas Jensen was born and raised in a small town in Utah and discovered a passion for history at an early age. This would lead to him enrolling at Utah Valley University to pursue a Bachelor degree in History. Currently he is employed at the school in the Center for Constitutional Studies working with the Pembroke College at the University of Oxford. On the rare occasions when he is not in the campus library, Nic can be found crocheting at his home in Salt Lake City or perusing the local coffee shops and thrift stores.
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