

# **THE NEW SCHOOL**

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# TABLE OF CONTENTS

Digitally Mobilizing the Arab Youth: <i>Network Literacy, Political Participation and Social Engagement in Kuwait</i> by Haya B. Alghanim	<b>1</b>
War Without Civilians: <i>The Use of Human Rights Discourse to Legitimize Unlawful Drone Strikes</i> by Emily Brease	<b>21</b>
Self-Sacrificial Resistance: <i>Hunger Strikes, Self-Immolation, Suicide Missions and the Shift of Power Relations</i> by Teresita Cobian	<b>45</b>
Leo Tolstoy & Restorative Justice: <i>the evolution from nonviolent teachings to modern reform</i> by Grace Gall	<b>57</b>
Wel-scare: <i>Everyday Anti-immigrant Narratives as Drivers of Welfare Reform in Denmark</i> by Patrick Gallen	<b>83</b>
Motivations and Marketing: <i>Why Aren't Young People Voting and How Do We Get them to Vote?</i> by Nicolas Quaid Galvan	<b>101</b>

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Lang Court Yard, 65 West 11th/ 66 West 12th Street, The New School. Photo by Haya B. Alghanim

# Digitally Mobilizing the Arab Youth: Network Literacy, Political Participation and Social Engagement in Kuwait

by Haya B. Alghanim

## Introduction

Post-2008, with the rise of mobile technology, and post-2011, with the aftermath of the Arab Spring, what does it mean to be 'politically aware' and 'politically active' for Arabs in the digital age? This paper focuses on examining the youth of Kuwait, particularly the Arabs of the Arabian Peninsula under the age of 34. The conception of cyberpolitics gained momentum in the Middle East and North Africa (MENA) as the modes of engagement with media and technology developed among the Arab millennials. I focus particular attention on Internet communication, as it is the primary medium that young people use. By the same token, the formal methods of political participation and social engagement in Kuwait are neither appealing nor productive to a group that has developed lifestyles and interests that are a far cry from the conservative cultural norms of their societies. To state a few of the digital practices explored in this paper, Young Kuwaitis use the Internet frequently for the purposes of communication, social networking, education and entertainment. The Internet has contributed to changing almost all aspects of modern life for Kuwaitis, but my direct focus in this paper will be on the change the Internet has contributed to on the political public sphere in Kuwait.

I've examined the issue by conducting a survey on Kuwaitis between the ages of 14 and 34.<sup>1</sup> When formulating my survey, I was mainly interested in understanding the ways young Kuwaitis engage with the Internet socially and politically. The objective of the survey was to gain insight about whether the subjects of my survey act politically online, how they act politically online, and where they stand on political affairs in Kuwait. By combining my interests in network and political literacy, I aim to find the bridge between the digital and political in Kuwait through their answers. Through the survey responses, I've found that political engagement needs to be personalized and digitized in Kuwait for the youth to be motivated to become politically active.

The cyberpolitical<sup>2</sup> strategies of online mobilization and online deliberation adopted in the Arab Spring rely on traditional participatory tactics and test the effectiveness of formal tactics when practiced between mixed media. The hyperactive nature of online platforms makes it difficult for conversations on social issues to stay relevant, resulting in every moment or online presence to appear temporary (Lim & Kann 2008). Online lifespans are extremely short (Florence 2015), but what remains static and has continued to prove its operational influence in the MENA region are the life expectancies of the dominant social media platforms, notably Facebook, Twitter and Instagram. The social issues that are sometimes discussed online are long-term problems, while attention to them comes in short bursts. I've chosen the Internet as my medium of choice to encourage engagement through inquiring about the lack of political participation among Kuwaiti youth, assessing the ineffectiveness of observed democratic practices in Kuwait, and

surveying the interests of the most connected demographic in Kuwait. If we understood how Kuwaiti youth engage with the Internet, we would better understand what functions of the Internet can be used to support the Kuwaiti youth to get politically and socially involved.

## Part I: Networked: Internet and Digital Participation

In this section, I analyze the frameworks of Internet participation, network culture and digital literacy as essential concepts. Kuwaiti millennials have been connected since the rise of communication technology, but the rise of mobile technology has successfully resulted in an almost fully technologically networked population between the ages 14 and 34 (Kononova & AlHabash 2012, Kaposi 2014). In the Middle East, mobile penetration has passed the 100 per cent mark (Middle East Market Review 2011). According to the International Data Corporation, "Kuwait has one of the highest ratios of smartphones per person in the world, with about 1.6 smartphones shipped annually per person. It is these trends that are helping to drive smartphone penetration in the country. Kuwait has a 4G network covering the whole country, and this superb infrastructure presents a significant opportunity for smartphone manufacturers. According to GSM Association, Kuwait's mobile broadband penetration rate sits at a high 77%, which presents a clear opportunity for heavy data usage" (International Data Corporation 2015).<sup>3</sup> Sales in mobile-cellular subscriptions in Kuwait peaked at 2008, even though the services were available prior. From 2000 to 2008, mobile-subscriptions remained under the 2 million mark, but in 2008 subscriptions soared resulting in over 6 million in 2012 (Figure 1). In this way, the existing dependency of Kuwaitis on communicative technologies is a direct result of the mobility of the devices.

The principal role the Internet plays in contemporary society directs my emphasis on the prominence of digital literacy. Kuwaitis are personally invested in global Internet culture from various social and economic aspects. However, they generally do not use the Internet to learn about or participate in politics. Today, being digitally literate and politically participating online is an essential factor of engagement with the rise of political campaigning, deliberation and mobilization taking place online (Bennett & Segerberg 2012, Castells 2009, Lathrop & Ruma 2010, Lim 2008 & 2015, Mackinnon 2012). What does it mean to be digitally literate, be an active citizen online and be networked among the society, and how can we use the tools of the Internet politically?

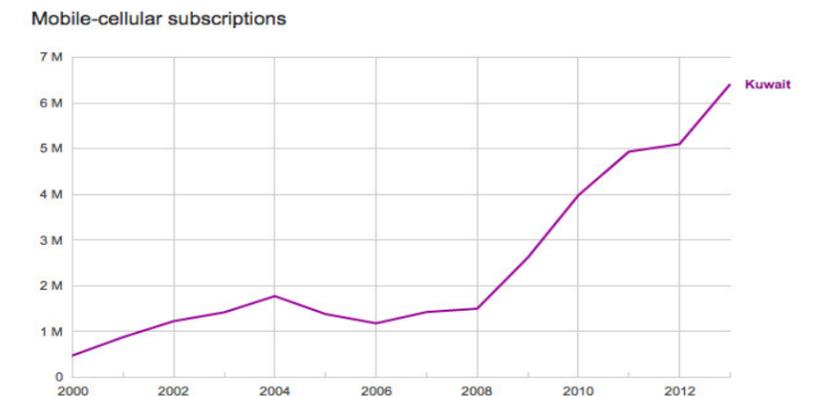


Figure 1. Mobile cellular subscriptions in Kuwait. Data Source: International Telecommunications Union.

The Internet is a multi-dimensional medium. It is affordable to access, especially via mobile phone, and it is a practical medium in its portability. As such, the Internet is a more likely venue for young people to discuss social and political concerns than on one-dimensional traditional technology. The communicative nature of Internet technology encourages people to become digitally and participatory literate due to the reliance of contemporary life on Internet connectivity.

Online networks have extreme flexibility and mobility that transcend the traditional boundaries of society and the state (Castells 2009). Manuel Castells defines networks as “complex structures of communication constructed around a set of goals that simultaneously ensure unity of purpose and flexibility of execution by their adaptability to their operating environment” (Ibid, 21). In fact, the network society can act as a new type of social structure (Ibid, 20). Through the adoption of these networks that can be utilized to reform society, citizen users can directly redevelop, restructure and eventually recreate society.

Online publication and social media reporting can be used as tools for political engagement through the new media toolkit of connection (Pesce 2011). Of the ‘hyper-political’ notions discussed by Mark Pesce in *Hyperpolitics* (Pesce 2011), the concepts of hypertext and hyperlinking have contributed greatly to participation in the realm of online publication. Hyperlinking can be used as a source of accountability and reference in journalism. Being able to link information and sources exhibits the accuracy of information, and users are able to witness constant accountability of information in its immediacy. Networked users can publish online, making independent online publishers less liable and not traditionally necessitated to legitimize information (Dashti 2009). Additionally, the roles of independent online journalists and bloggers have been established around publicizing news that has already been reported and communicating the information through reposting. Networked users can also comment, discuss and directly interact with the publication through its digital form.

The Internet is not naturally or developmentally a public sphere, but it can host them. We as users design, develop and deliberate on the online public spheres we give weight to. The Internet, as a medium in its foundation, does not enhance the political change, the conversation, or even the deliberation. Merlyna Lim and Mark Kann claim that “it’s misleading to suggest that online deliberation and online mobilization practices have really deepened democracy” (Lim & Kann 2008, 100). Deliberation and mobilization are facilitated by the people or the groups that channel the medium towards those purposes. Once digitally literate and networked, users can politically and socially contribute by designing, developing, or deliberating online.

## Part II: Kuwaiti Political Landscape

Kuwait’s head of state, its ‘Emir’, is a member of the ruling family, AlSabah. Though Kuwait is similar to its fellow Gulf Cooperation Council (GCC) states, Bahrain, Oman, Qatar, Saudi Arabia and the United Arab Emirates, in its monarchy, the political structure of Kuwait remains participatory in its nature. Historically, Kuwait is different from other GCC states in its democratic development (Elbadawi & Kubursi 2014). In association with the

early settlers of the coast of the peninsula, the AlSabah family came to leadership centered on public support (Ghabra 2014). Subsequently, the family’s support shifted from the merchant and marine communities to a more tribal backing.

Kuwait is a ‘semi-democratic’ constitutional monarchy, with a society that was formally tribal in its structure before the establishment of the state and its institutions. Kuwait’s society still remains tribal in its nature. Tribes make up 60% of Kuwait’s population (Ibid, 4), and a large part of that population has made up the employees of the public sectors and the social institutions. The term semi-democratic describes Kuwait’s embodiment of both authoritarian and democratic qualities (Quigley 1983). While political power remains in the hands of the emir and his family, the participatory component of the Kuwaiti democracy is carried out through its parliament, the National Assembly. Established in 1963, Kuwait’s parliament is the state’s legislature, which consists of fifty publicly elected members (MPs) (Kinninmont 2012). Concerning Kuwait’s semi-democratic status, the state has not developed its democratic traditions since 1962, nor has it amended the constitution to uphold its democracy. Kuwait’s constitution was established in 1962, and hasn’t been revised nor adjusted since (Ghabra 2014). “Democracy in Kuwait goes by many names, from “part time democracy,” to “truncated democracy,” to “interruptible democracy,” and even to “bedouinocracy” (Elbadawi & Kubursi 2014).<sup>4</sup>

Within the domain of political parties and political representation in Kuwait, the only sides to choose from are either pro-government or the de facto opposition (Kinninmont 2012). Political standpoints are either on the far right, representing the socially conservatives, or the far left, representing the liberals. Tribes have dominated the political system by the support of the ruling family. The term tribal, in liberal Kuwaiti society, is associated with the ideologies of the far right, notably conservatism and Islamism. The political domination and presence of tribes and right-winged groups is threatening to the democratic practices of Kuwait and the development of such practices. All participatory politics in Kuwait is conducted through the state’s legislative branch, the National Assembly. The parliament has the power to either hinder or further the interests of the ruling family. In Kuwait’s political structure, there are fiscal incentives for members of parliament to endorse legislation that uphold bureaucratic agendas. Nevertheless, the democratic entity formed to represent the Kuwaiti people is used as a tool to further the legislative interests of the monarchy.

The states of the Arabian Peninsula are not keen on the term ‘democracy’. The movement striving for democracy during the Arab Spring resulted in the damaging of the infrastructure, economy, and political stability of the region. When thinking about the prevalent idea of democracy in the Middle East, Kuwaitis and the people of the Gulf fear the ‘radical liberalism’ of the West. The social dynamics of western societies that travels with this theme of democracy conflicts with the conservative nature of the aristocratic and religious societies of the Gulf. However, the governments’ fears are not so much over the secularity or social dynamics of the West, but more over the demise of their power and fall of the royal families. Furthermore, “[o]pponents of democracy use their criticisms of the Kuwaiti example to argue that democracy is not appropriate for the Gulf, while proponents take a more positive view of the Kuwait experience or argue that further democratization is needed to make it function better” (Kinninmont 2012).

The culture of complacency among Kuwaitis is fairly a result of the ineffectiveness of the parliament as a representation of democracy. The public suspicion of democracy in the Arab world began with the American pursuit of Iraq (Worth 2008) and was cultivated in the riots of the Arab Spring. Even though the power of governance does not rest with the people in Kuwait, citizens believe sticking with the status quo is a better alternative than a disruptive Arab Spring-style revolt. What is even more unacceptable than Kuwait's semi-democratic status is this title that I've deemed on Kuwait, its 'semi-networked' status. In comparison to the constricted democratic practices observed by Kuwaitis since the establishment of the state and the monarchy, their network practices are not as exclusively restricted.

Contrary to the selective political rights granted to the citizens of Kuwait, Kuwaitis have a certain personal jurisdiction over their networked connectivity. Although the government's ministries regulate these network channels of communication, Kuwaitis have contributed to building the fundamental structure of their networked society as citizens in pursuit of social advancement and economic development. Kuwaitis have learned and adopted these technologies in social and economic affairs. Kuwaitis are not blocked out from networked channels, from communicating with other societies, groups and people, nor from exposing themselves to new ideas and the pursuit of education. However, the Kuwaiti public's selectiveness in how much they've adopted of the available and accessible network channels has caused its semi-networked status. Kuwait, constantly referred to as semi-democratic, is also semi-networked.

Despite the few political practices Kuwaitis choose to observe democratically, the government of Kuwait, for the most part, is the authoritarian regime it pretends not to be. Noting to the formal opportunities to participate politically in Kuwait through the National Assembly, many young Kuwaitis also make the choice not to participate. Attempts of the National Assembly have constantly failed, substantiating its ineffectiveness as a democratic practice within Kuwait's autocratic regime. Despite the several reasons why young Kuwaitis aren't collectively politically engaged and participatory, there is an increasing political awareness among Kuwaitis (Ghabra 2014, 18).

### Part III: Arab Digital Culture + The Kuwaiti Media Landscape

In order to assess the political dynamics and Internet culture of the Kuwaiti youth, we need to grasp the media landscape of Kuwait. The government's ministries, specifically its Ministry of Information and Ministry of Communication, regulate media outlets and communication channels in Kuwait. In Kuwait, social media is the most commonly used feature of the Internet. Kuwait has a vibrant digital culture as the Internet plays a substantial role in contemporary Kuwaiti society through its communicative forms.

The State of Kuwait acknowledges that the majority of their population is the "youth". Kuwaitis, male and female, between the ages of 25-29 and 30-34 make up the largest age groups of the total population (Figure 2). Kuwaitis under the age of 34 make up roughly 60 per cent of the population and Kuwaitis between the ages of 14-34, the target audience of the Ministry of State for Youth Affairs, make up 35 per cent of the population (Ministry of State for Youth Affairs 2016). The Ministry of State for Youth Affairs is

the designated governmental institution for youth initiatives and subsidies. However, the youth do not turn to the ministry with their critical social concerns, especially since the services and administrative methods of the public sector are generally deemed ineffective and outdated as they remain offline.

Before tackling the topic of why the youth aren't politically engaged, the relationship between technology and organization in the context of Kuwaiti lifestyle

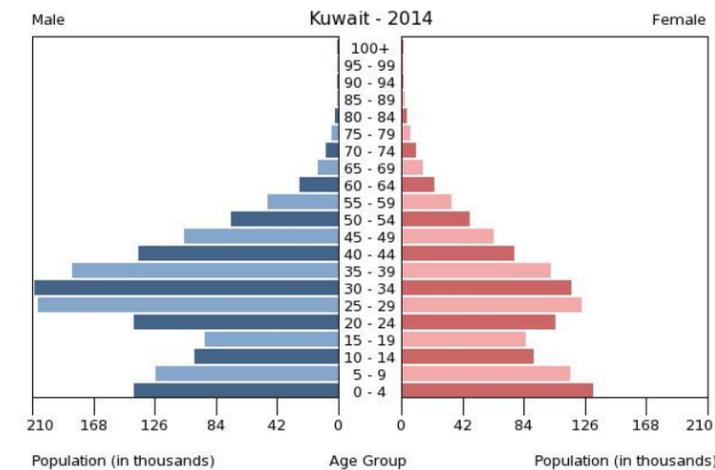


Figure 2. Kuwait population in 2014. Data source: Central Intelligence Agency World Factbook.

needs to be unpacked. The first step to getting young people politically involved is figuring out how to personalize their political engagement. The personalization of Kuwaiti politics can and should be achieved through the active online presence of the youth. Once the users are politically engaged, organizations and platforms for deliberation and mobilization can be designed and strategized within the medium. Generally, Kuwaiti political parties and civil society organizations are not prevalent in the political conversation and activity that takes place online. Organizations, parties and individuals that have adopted digital outreach tactics and cyberpolitical advancements have contributed to effective online political activity in Kuwait.

The Internet has allowed for underrepresented and marginal communities to claim spaces online and open up the discussion on their issues. This has been immensely progressive for women's rights and the mobilization of gender equality advocacy groups in the Middle East. For instance, the Abolish 153 movement is a campaign, community and coalition that mobilizes online to promote the rights of women in Kuwait and the greater Middle East.<sup>5</sup> The campaign's platform is based on raising awareness of violent patriarchal practices against women that are embedded in the legislation of Kuwait, more specifically Article 153 of the Kuwaiti Constitution which states, "that any man who surprises his mother, sister, daughter or wife in an unsavory sexual (zinna) act with a man and kills her or him or both will be treated as committing a misdemeanor punishable by a maximum of 3 years jail time and/or a fine of 3000 rupees (KD 225)" (Abolish Article 153 2016). Based online through a social media presence and expanded offline through public events, the Abolish 153 movement is an effective example of political resistance in Kuwait that operates through digital design, deliberation and mobilization.

Expanding on Kuwait's semi-networked status, Kuwait is a semi-networked society because it is overwhelmingly socially networked, over any other form of networked identity. Kuwait's socially networked society has definitely enhanced the efficiency of affairs related to businesses and quality of life. Established in 2013 by the Streamline Marketing Group and Rawafid Media, the Kuwait Social Media Summit is an annual event

centered on social media strategy for government and commercial entities (Social Media Conferences 2014).<sup>6</sup> The summit's program consists of master classes and panels on the marketing, management, policy and organizational tools of social media. Based on the networking opportunities available, the entrepreneurial spirit and success Kuwaitis have shown in online business developments, but not so much in communicative improvements to address the social concerns of the public interest.

Communication networks have dominated Kuwaiti society in the way they influence social life. With a community-based lifestyle, the social networking feature of communication networks is what came natural to Kuwaitis. The mass-self communication of Kuwait emerged from the mobility of the Internet, more than its rise (Internet Society Global Internet Report 2015). Noting back to the rise of mobile-cellular subscriptions, the rise in Internet penetration grew at the same pace as a direct result of accessibility on mobile devices. The rise in Internet connectivity peaked in 2003 and again in 2008, resulting in approximately 75% Internet penetration by 2013 (Figure 3). The digitization of communication further enhances the quality of life in Kuwait by digitizing pre-physical interactions among Kuwaitis, and at times, completely digitizing intimate relationships.

In consideration of the constraining social dynamics of Kuwait, the restrictions that have grown around its social structure have fueled the sectarian and political divide among the Kuwaiti people. Issues involving the society, religion, politics and economics are so intertwined in the Middle East, effective deliberation and mobilization can't take place without the filtering of the collective goals. In such conservative societies concentrated on wealth and exceedingly dependent on satisfaction and comfort, structural change is inherently opposed.

Public representation remains an unchallenged civil right of Kuwaiti citizens, due to the narrow opposition to the lack of freedom of expression. The issue of complacency is crucial in pointing out the absence of political deliberation in Kuwait, since conversations and gatherings generally take place in the luxury and safety of the private space. However, it is important to note that there is a growing political enthusiasm among the youth in the new media approach to political movements. As dialogue shifted from offline to online spaces alongside the rise of mobile communication in Kuwait, personal expression and public representation grew as a necessity among online users.

The Kuwaiti government has used the Internet for service advancements, interface development, and information technology awareness, but not for purposes related to

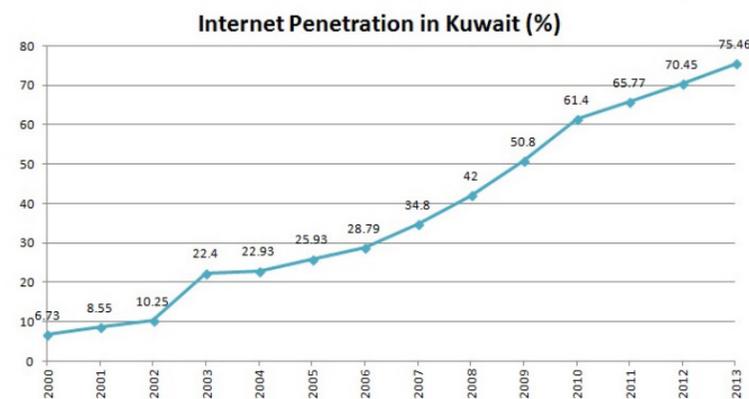


Figure 3. Internet penetration in Kuwait. Data source: International Telecommunications Union (via Kaposi 2014).

citizen political engagement. Public Eservices include online information inquiry, complaints, registration and application processes, and the payment of fees, bills and fines through the Kuwait Government Online Portal (KGO), a national project of the Kuwait Central Agency for Information Technology (CAIT).<sup>7</sup> In pursuit of political engagement initiatives online, the KGO hosts a page dedicated to 'National Project for Raising Awareness in Information Technology'. The project "aims at promoting a digital culture that helps in building a comprehensive Information Technology-Based society".<sup>8</sup> The communicative tools of the Internet are available to the government, but the political tools of the Internet appear to be undesirable to them, based on their networked choices. Of the public resources that already exist on the topic of the Internet and information technology, they are extremely biased to show the dangers and dark side of the digital and networked world, with extremely outdated resources.<sup>9</sup>

After the cyberpolitical mobilization of the Arab Spring, the Internet is analogous to freedom to the Kuwaiti government and its fellow GCC states. In light of the instances when the Internet was optimized for the means of political resistance, the Kuwaiti government limits how much of the medium they will adopt and support in political affairs. The government agencies' selectiveness in how much of the country they network has also contributed to the semi-networked society of Kuwait.

#### Part IV: The Group and Space: The Kuwaiti Youth and The Public Sphere

"In 2011, in the heady time of the Arab uprisings across the region, Kuwait entered a new and challenging era driven by youth movements and grassroots opposition forces committed to government reform" (Ghabra 2014, 2). These youth movements were communicated through online channels, recorded and reported on online news platforms and weblogs. The language of the Arab Spring crossed borders in 2011 that redefined the notions of mobilization and the public sphere in the MENA region.

Jurgen Habermas defines the public sphere as a network for communicating information and points of view in which democratic deliberation takes place (Habermas 1996, 360). Participation can occur in the private space, but is limited in its outcomes without the mobilization into the public space. A significant amount of Kuwaiti life exists the private space, resulting in a lack of the collective necessity to keep the physical public sphere alive.

In Kuwait, the 'traditional public sphere' for deliberation and mobilization, that endured offline, has ceased to exist. Other than one designated curb for protests in front of the National Assembly, Al-Erada Square<sup>10</sup>, civil disobedience and oppositional rhetoric is threatening to the safety of Kuwaiti citizens and their civil rights. As Manuel Castells puts it, "[w]hen there is separation between an interventionist state and a critical civil society, the public space collapses, thus suppressing the intermediate sphere between the administrative apparatus and the citizens" (Castells 2009, 31). In this way, the separation between the interventionist state and civil society exists in Kuwait and the public space is deteriorating. The relationship between Kuwaitis and the government lacks transparency, accountability and efficiency. People have grown to distrust the government as the communicative gap between the citizens and their government widens in the digital age.

Young Kuwaitis have turned to social media and weblogs to express their political opinions and concerns within Kuwaiti society. Though the Kuwaitis that turn to the Internet for political expression are a minority, there are several liberal groups that have gained the mainstream media, the government, and society's attention. To state a few, these liberal groups in Kuwait include the Democratic Forum (Al Manbar Al Dimuqrati) and the National Alliance (Al Tahaluf Al Watani) who seek equality, democratization and participation in government formation (Ghabra 2014).

In the way that free speech is highly regulated on print publications in Kuwait in its offline setting, there are also extensive physical limitations to the mobilization of people in the highly restricted physical public sphere. Kuwait's online public sphere started with online journalism in 2006, as a response to the parliament's demands to change the electoral voting system of the National Assembly, Kuwaitis had to go online to publish and receive the latest news on the issue (Dashti 2009, 1). The rise of online journalism, also known as citizen journalism, in Kuwait is a direct outcome of the press restrictions and biases (Ibid). The Internet was used as an effective political communication tool through online journalism starting 2006 in Kuwait, and has been turned to when political disputes arise since.

Online journalism sparked the establishment of the online public sphere in Kuwait, paving the path in connecting Kuwaitis to the global public sphere. The public sphere is essential in the development of democratic political culture, especially in maintaining Kuwait's democracy. Interconnecting the national, transnational and global tiers and facilitating interaction among users through common accessible networks can form a stronger democracy in Kuwait (Dahlgreen 2005). The interactivity of online journalism makes it approachable, engaging, and primarily grass roots. The Internet offers what print journalism sometimes lacks in real time news and citizen reports. In addition to the real time news, users can acquire immediate responses and start conversations on the topics or issues reported. In Kuwait, online deliberation and mobilization sprouted out of the collaborative sphere of online journalism and further developed on the interactive platforms of the Internet.

It is crucial to note that there is a distinction between the Internet as a public sphere and a public sphere of the Internet in assessing the discourse on the public sphere in the context of the Internet. The Internet as a public sphere represents the combination of all the e-communities and public spheres of the Internet, whether they host forms of deliberation specific to the Internet or traditional representations of the public sphere. The Internet as a public sphere is a disputable statement; rather, it should be represented as a host of public spheres. In Kuwait, the inclusive medium of the Internet is a host of the public spheres that could not exist offline.

It could be argued that network technologies can possibly contribute to the fragmentation of public life, which includes the breakdown of traditional social institutions and traditional offline networks (Kahn & Kellner 2005). Communicative technologies facilitate modes of connection and drive engagement, rather than work towards fixing the fragmented society. As it eradicates the sovereignty of the physical and enhances the virtual experience, the Internet can potentially fragment (offline) communities. How-

ever, many of the current online communities that have developed and continue to live on the Internet, would cease to exist offline if deprived of a collaborative public sphere. In response to these arguments, taking the restrictive social constraints of the Middle East into account, the Internet can enhance public life and dialogue by hosting the spaces that motivate discussion.

Can the Internet structurally alter the political process in Kuwait? The Internet can possibly contribute to the development of the modes of democratic action in Kuwait. With reference to online political activity, there aren't many risks in deliberation in Kuwait. The risks and danger lie in the mobilization process, when the opposition is taken into practice. Turning to the public spheres of the Internet would be the most constructive approach for the Kuwaiti political deliberation and mobilization to redevelop and expand.

### Part V: Can We Do It?: Bypassing the Roadblocks to the Networked Society

Complacency and censorship are the greatest obstacles to the Kuwaiti networked society. In this section, I evaluate the major setbacks to achieving the networked society in Kuwait. In the context of Kuwait, there lies a social impairment created by the restrictions posed on Internet access by the government and the actions citizens that are complacent with their lives in restricted societies, or lack thereof.

Young Kuwaitis are unable to express their political concerns effectively, due to the lack of formal and informal opportunities for political participation. When asked if they consider themselves politically active online in the survey, 70% of 330 respondents said they do not consider themselves politically active on the Internet, and 30% responded that they do consider themselves politically active on the Internet (Figure 4). The lack of online political engagement among the youth in Kuwait explored in the survey can be directed to two main causes, complacency and censorship, based on the current social and political structure of Kuwait. Even when turning online to voice political concerns, there is a limit to the political expression of Kuwaitis through enforced regulations on electronic crimes.

The Ministry of Communication is responsible for regulating and controlling the distribution of all communicative technologies and service providers in Kuwait. Kuwait's Minister of Communications, who was also the Minister of Religious Endowment and Islamic Affairs, "announced in February 2008 that the government plan[ed] to present a new law for monitoring and regulating Web sites and blogs, including surveillance adding to the current laws on censorship and electronic crimes, "with the aim of protecting public order, ensuring respect for decency and preserving the values of Kuwaiti society" (Open Net Initiative).<sup>11</sup> Censorship and surveillance were introduced in Kuwait in 2008 as a direct result of the extensive rise in Internet penetration through mobile devices. The notions of censorship and surveillance expanded in Kuwait in the height of the Arab Spring in 2011 and continue to be enforced in 2016.

Do you consider yourself politically active on the Internet?

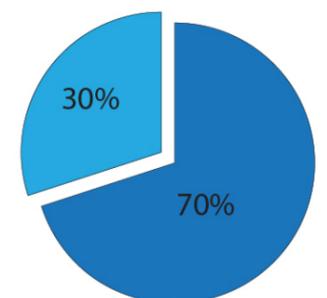


Figure 4. Data source: Research Survey

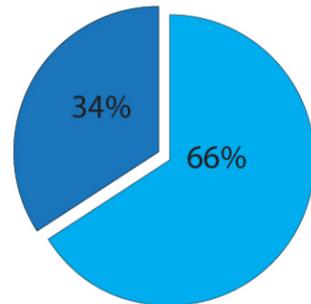
Kuwaiti millennials are unaware of their political participation rights and the extent of their political expression. The prevailing public impression of civic participation is dependent solely on voting for candidates in National Assembly elections or directly participating by running for the parliament. There are no direct disincentives to participate politically in Kuwait, but there are no incentives either. The disincentives for political expression in Kuwait are primarily legal punishments against speech and actions of resistance and civil disobedience. In regulating civil disobedience online, Kuwait's Cybercrime Law "expand[s] the reach of existing prohibitions on print publications to virtually all dissemination of information through the Internet, including online journalism and private use of social media and blogs" (Human Rights Watch 2015). Approved in June 2015 by the National Assembly, Article 7 of the new law "imposes a punishment of up to 10 years in prison for using the Internet to "overthrow the ruling regime in the country when this instigation included an enticement to change the system by force or through illegal means, or by urging to use force to change the social and economic system that exists in the country, or to adopt creeds that aim at destroying the basic statutes of Kuwait through illegal means" (Human Rights Watch 2015).<sup>12</sup>

Is the networked society more frightening to the Kuwaiti government or the Kuwaiti people? With cases of right-winged politicians and religious extremists using the Internet for the advancement of their administrative agendas, the political potential of the Internet can be regulated against the Kuwaiti citizens. The destructive rhetoric of oppositional groups taking the stage of online political expression can result in increasing surveillance and censorship legislations before any of the available tools are utilized constructively. However, at the same time, "the inherently decentralized character of the technology makes it relatively difficult to control or censor" (Lim & Kann 2008, 82).

While censorship can limit accessibility and engagement, such regulations are limited in what they can restrict online. The Internet is an entity that is almost impossible to control by the nature of the network (Lim & Kann 2008). The lack of mobilization in Kuwait is a direct result of the lack of motivation and political engagement. In view of the free speech and press restrictions in Kuwait extended to electronic crimes, where do Kuwaitis stand on their political expression? With such limitations on free speech, political participation is hard to fully achieve in a culture of discouragement.

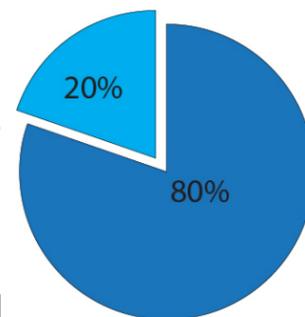
In the case of Kuwait, it is difficult to envision a future for the obsolete traditional institutions in the networked society. Consequently, if the government is not willing to embrace a systemic change, tactics to bypass the social institutions need to be adopted by citizens until these traditional institutions are digitally developed. Kuwaitis need

**Do you consider yourself politically aware?**



**Figure 5.** Data source: Research Survey

**Do you consider yourself politically active?**



**Figure 6.** Data source: Research Survey

to figure out the path towards collective change in order to reach the networked society. The generation that can and should achieve that change is the networked youth, the target of my research survey.

Skeptics and traditionalists would suggest that the Internet does not naturally foster democracy, which is why it has only contributed to progressive change sometimes and failed other times. Once more, the Internet's strength lies in how it is utilized and optimized, not in its raw form. The technology isn't vital to social change, but the users determine the possible outcomes of the medium. While the Internet may not facilitate the dialogue or mobilization, it hosts the space where it can be achieved. The Internet does enable the accessibility of information, but with the lack of digital archives and constant updating of websites and databases, the information to access is nearly absent.

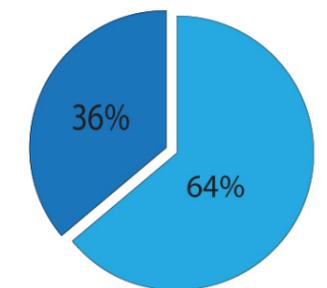
In light of the discourse on the participatory nature of online communications, is a participatory democracy right for Kuwait and the Arabian Gulf States? The answer to this question does not rely on whether Kuwait should fully embody a participatory democracy formally, however the semi-democratic aspects of Kuwaiti politics should be as participatory as possible through the accessible mediums.

### Part VI: The Survey: Methodology, Design & The Results

The survey of this case study conducted on the networked youth of Kuwait aims to find the ways Kuwaitis between the ages of 14 and 34 currently engage with the Internet, the mediums of expression and communication they use the Internet for and their dependency on these platforms. Under the section of the survey on Internet engagement, the questions are fit to the social media landscape of Kuwait. This survey was created to help understand and analyze the difference between political awareness and political activity in Kuwait and what young Kuwaitis understand of that distinction. Using the survey as a tool to assess the modes of interaction of young Kuwaitis on the Internet, I can figure out their digital comfort zone, what social concerns they have and what interests exist for political engagement.

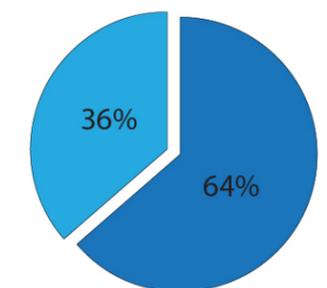
Distributed over the month of March 2016, after the final assessment of 330 responses, young Kuwaitis have shown interest on the topic of online political engagement by taking an optional survey to voice their opinions. With very few outlets for expression outside of the communicative platforms of the Internet, young Kuwaitis have voiced their concerns simply in taking the survey and contributing to the conversation. Distributed exclusively through social media, broadcast messages, and online reposts, all responses to the survey were conducted online and the majority of

**Do you follow people whom you consider politically active.**



**Figure 7.** Data source: Research Survey

**Do you respond/share their posts?**



**Figure 8.** Data source: Research Survey

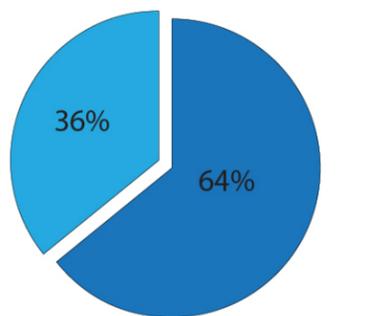
them through a mobile device. 93% of the respondents took the survey on a mobile device, while 7% completed the survey on PCs and Laptops. Mobile Internet culture plays into the social networking and communication realm of Kuwait. The Internet in Kuwait is used in the private sphere, in an immobile space on a mobile device. Physically mobilizing the Kuwaitis through tools of the Internet will be the goal of the analysis results of the survey. Its emphasis is on the data required to collectively adopt the digital public sphere into the physical public sphere in Kuwait.

The survey was designed and taken completely online. Through an interactive survey platform and only two open-ended questions at the end before submission catered to the individual concerns of the respondents, I attempted to make the survey as user-friendly as possible. With a particular attention to aesthetics, design and user experience while designing the survey, I prioritize these concepts in my discourse on Internet functions, to figure out the keys to politically mobilizing the Kuwaiti youth.

Of the 330 young Kuwaitis I surveyed, 66% consider themselves politically aware and 20% consider themselves politically active (Figures 5 and 6). An overwhelming majority of the 330 respondents claim to be aware of the political status of Kuwait, but do not participate through formal or informal means, based on their ideas of what it means to be politically aware/politically active.

64% of the survey respondents follow people they consider politically active online but do not respond or share their posts (Figures 7 and 8). The majority of the 330 survey respondents are aware of the political potential of network outlets but do not use them. 65% of these users do not voice their concerns online (Figure 9) and

**Do you feel comfortable sharing views online?**



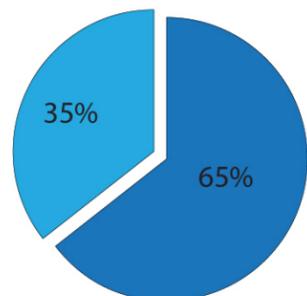
**Figure 10. Data source: Research Survey**

64% of the young Kuwaitis surveyed claim that they do not feel comfortable sharing their political views online (Figures 10).

The data on online political activity collected from the survey authenticates the fear of young Kuwaitis in having a political identity. The lack of political engagement among Kuwaiti youth can be charged by their fear of consequences. With the rise of the Internet, they have been able to increase their social presence and social interactions online, creating a space for personal expression, but have yet to test the Internet for political expression.

81% of the young Kuwaitis that have taken the survey have never been members of civil society organizations and 84% have never been involved in a civic engagement project in Kuwait (Figures 11 and 12). Only 19% of survey respondents have been a part of a civil society organization and 16% have been involved with a civic engagement project. In regards to political

**Do you voice your concerns online?**



**Figure 9. Data source: Research Survey**

participation, Kuwaitis lack political affiliation, political belonging and political organization. By engaging with civil society organizations and political parties, young Kuwaitis will have the ability to formulate their political ideas and act on them.

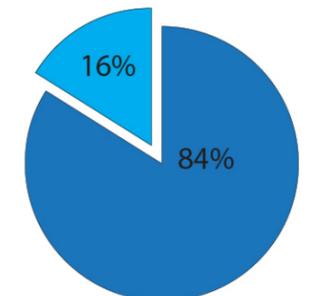
Citizen involvement and civic responsibilities need to be developed among Kuwaitis. Ideally, within the democratic practices of Kuwait, there would be a viable channel between the government and its people to address public concerns. As the offline methods are inferior to the online demands, the effective channel remains non-existent. By taking advantage of the democratic practices available and restructuring the outlets for social and political concerns, young Kuwaitis will less likely feel politically disenfranchised. Through non-governmental civic engagement projects and civil society organizations, Kuwaitis can utilize informal methods of participation to address the concerns within their semi-democracy.

There is a lack of awareness of the availability and potential of civic engagement projects in Kuwait. The networked strengths of the socially-networked Kuwaitis can and should be adapted to enhance their civic engagement by creating communication channels between concerned citizens and the existing civil society organizations. More specifically, creating a channel of access to informational resources will allow Kuwaitis to effectively mobilize through non-governmental public action, eradicating government dependency on social development.

Young Kuwaitis are not aware of the civil society organizations and social engagement projects in Kuwait. There is a disconnect among the existing civil society organizations in Kuwait in their shortfall of communication tactics to connect with each other. Also lacking in their use of communication tools, there is outreach problem between civil society organizations and the Kuwaiti public. Validated by the predominance of social media platforms in Kuwait, for young Kuwaitis, the more digital, the more attractive. Many Arab virtual communities sprouted after the connective accomplishments of the Arab Spring. The communities exist, but require organizational support in order to mobilize.

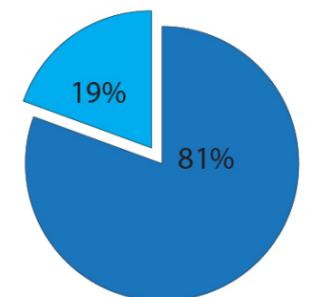
To enable innovation for civic engagement, government data needs to be publicly accessible online, "where it is more available and useful to citizens than in any other medium" (Robinson, Yu & Felten 2013, 86). With the online accessibility of data, the government becomes more transparent without attempting any legislative process of reform. One way to approach the necessity for more public engagement with civil society organizations is to shape more commons. Reframing the purposes of the current spaces for online communication and modes of engagement with existing platforms, networked

**Have you ever been involved with a civic engagement project in Kuwait?**



**Figure 11. Data source: Research Survey**

**Are you or have you ever been a member of a any Civil Society Organizations?**



**Figure 12. Data source: Research Survey**

citizens can create and inhabit more commons online.

Networks are goal-oriented open systems characterized by participatory practices. “A network is defined by the program that assigns the network, its goals and its rules of performance” (Castells 2009, 20). Developing the program and envisioning its effectiveness is dependent on the goals set. The responsibilities of organizations include locating and contacting potential participants in collective action efforts, motivating them to make private resources publicly available, persuading them to remain involved despite short-term setbacks and long-term risks, and coordinating their efforts appropriately (Bimber, Stohl & Flanagin 2009, 75). Kuwaitis may ask for participation in the formation of government, but in the very unlikely chance that any more strides towards participatory democracy would be initiated, the Kuwaiti public should turn to the Internet to bypass these inefficient practices of the existing traditional institutions.

Because networks are goal-oriented, and the goals of different networks might diverge, the effectiveness of these networks is dependent on how they cooperate. When the valuable cooperation among Kuwaitis and among networks within Kuwait is achieved, the public concerns of the competition abroad and regional development can be considered. Kuwait lacks connections among the creative and innovative within, and collective change can only result from the connection between the innovative minorities with the public. Through digital deliberation and mobilization, Kuwaitis can utilize the technological tools available to achieve the required collective reach.

On the networked goal of collective deliberation and mobilization, Kuwaitis can design the solutions based on the community’s concerns. Through deliberation, mobilization and collaboration, Kuwaiti citizens interested in political involvement can design a platform based on the common interests that drive the engagement. With an emphasis on the aspect of collective design, developers will be able to pinpoint the shared interests and goals of the targeted demographic. The platform of interest for Kuwait should be based on motivating engagement through the concept of collective problem solving. Kuwaitis comprehend the language of instant messaging and social communication best. Instead of using these mediums solely for the purposes of instant communication on relevant topics, we, as networked citizens, need to figure out the long-term solution to Kuwait’s political instability.

In designing the correct platforms and online public spaces in Kuwait, the main functions that would ensure the traffic needed are the two modes of democratic action, deliberation and mobilization (Lim & Kann 2008). Motivating the public to become a part of the conversation concerning the public interest of Kuwait can only be achieved through opening up the spaces for the modes of democratic action. Providing justifications for an online deliberative platform, space is not easily manipulated and limited in the virtual sphere as it would in the physical space.

A design approach to organizational change is not a form of civil disobedience. The design approach to the political status in Kuwait creatively embraces the struggle and confronts it. There’s an immeasurable amount of ways the Internet can be utilized in engaging citizens, and our responsibility as networked citizens is to figure out what

strategies and links can build and engage our targets. The progress of online interaction and deliberation among young Kuwaitis rely on how willing they are to engage. “Conceptualizing interaction as a dimension rather than a pair of categories is helpful for modeling change and innovation in groups, and it is especially useful for considering organizing practices associated the Internet” (Bimber, Stohl & Flanagin 2009, 81). To get the collective contribution Kuwait desperately needs, the means to turn to that has proven its effectiveness in connective action is the Internet. The logic of “connective action is the recognition of digital media as organizing agents” (Bennett & Segerberg 2012, 15).

It is essential for theorists, designers and users to apply the notions and structures of conventional politics to the online political deliberation and mobilization process. The flexibility of the Internet opens up the ways information can be published, transmitted and retained, keeping the modes of engagement widely adaptable. Based on the limits to civil disobedience in the MENA region, cyberpolitical organization and design services to reframe politics online and avoid the formal participatory methods that have failed the region.

The form and structure of the organization or network should be absolutely in the pursuit of the collective interest (Bimber, Stohl & Flanagin 2009, 72). Collective action is communicative in its nature, therefore using the Internet for its tools of communication is the basis of establishing the necessary connection between people and groups in Kuwait and shape their interaction.

As addressed in my research, most of what attracts young Kuwaitis to specific online platforms, specifically noting to the dominance of Instagram in the MENA region over Facebook in the United States, is the design of the medium. The nature of online journalism acts as a combination of all mediums, showing the popularity of some weblogs and online sources over others. The design and user experience of the mediums adopted also determine the lifespan of these platforms. Established on the predominance of social media platforms in Kuwait, for young Kuwaitis, the more digital, the more attractive. Arab virtual communities sprouted after the connective accomplishments of the Arab Spring, but require resilient organizational support in order to mobilize.

## Conclusion

Furthermore, I suggest that young Kuwaitis with access to communicative technologies adopt tools of the Internet to encourage network literacy, social engagement and political participation through interactive platforms. Such action can be taken the same way that blogs as platforms and bloggers as individuals have taken over the political public sphere of the Internet in the MENA region and have made the Internet a networked necessity. Ensuring the lifetime of the organization or platform depends heavily on its maintenance. Keeping the concept of online lifespans in mind, goals and approaches in controlling digital modes of engagement and interaction may need to be shifted based on the effectiveness of the network or platform. Based on the concerns of young Kuwaitis, the goals for an organizational platform for the Kuwaiti public should be developed around the goals of political transparency, efficiency, accessibility, and connecting the disconnected.

To conclude, this paper does not condone the utopian rhetoric of the online democracy, rather it asks for the acknowledgment of the political potential of the Internet in Kuwaiti society. Utilizing the communicative toolkit of the Internet would allow users to link media dependency with political participation. The basis of such digital development is figuring out what political practices work offline and attempting to adopt effective traditional tactics online. Instead of looking at the networked society as transferring everything that exists offline to the online, there lies a greater effectiveness in the offline-online bridge. Things that are physically effective and engaging can continue to exist offline, such as the power of physical mobilization and protest culture.

In bridging the offline and the online, what is most common of online deliberation tactics adopt offline deliberative practices to the Internet (Lim & Kann 2008, 84). The integration of online tactics is effective in using technological communication to mobilize people for demonstrations and protests. The formal notions of political participation come natural to us as millennial citizens, therefore we use the techniques we've adapted to offline to new mediums online. Informal practices have resulted from the incompetence of the formal, especially with the new modes of political engagement and interaction online. Additionally, the offline world can only affect the online world by limiting its power and accessibility. Internet specialists argue that there is only so much that can be limited of Internet access, showing the online world as perpetual to the physical restraints that can be placed on the physical/offline world.

Taking advantage of the public sphere of the Internet to develop communicative platforms through goals related to increasing connective action, young Kuwaitis can channel their digital participation into the political sphere. With common social and political concerns among Arab millennials, reaching them is most effective through the medium they are most comfortable with, the Internet. By adopting a constructive approach and optimistic rhetoric, a collective optimization of the Internet in Kuwait can connect the disconnected and further interconnect among the connected to address a collapsing system.

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(Endnotes)

- 1 The ages of 14-34 are the Ministry of State for Youth Affairs' target audience.
- 2 See Philip Howard in Oxford Bibliographies Online (2011) on 'cyberpolitics' and its practice and study as a domain of inquiry into the role of information technologies and digital mediums in contemporary political life.
- 3 A 4G (fourth-generation wireless) network requires a mobile device to be able to exchange data at 100 Mbit/sec, compared to a 3G network, which offers data at much slower speeds as low as 3.84 Mbit/sec. (International Telecommunication Union).
- 4 See Elbadawi & Kubursi on Al Naqeeb (1992) on the modern authoritarian state machine and the modern tribal political structure, with direct reference to the large influence of the Bedouin communities of Kuwait.
- 5 The founding members of the Abolish Article 153 campaign: AlAnoud AlSharkeh, Lulu M. AlSabah, Sheikha AlNafisi, Amira Behbehani and Sundus Hamza. Information on the values and mission of the platform can be found at: <http://www.abolish153.org/about/>
- 6 Based on web presence of the 'Kuwait Social Media Summit', the conference might not have taken place in the same name since 2014. The detailed program of the 'Kuwait Social Media Summit' is only available for the 2<sup>nd</sup> summit hosted in 2014. Information on the summit can be found at: <http://www.socialmedia-series.com/kuwait/>.
- 7 See Kuwait Government Online Portal at [www.e.gov.kw](http://www.e.gov.kw).
- 8 List of national projects initiated by the Central Agency for Information Technology available at <https://www.cait.gov.kw/National-Projects/Official-portal-for-the-State-of-Kuwait.aspx>.
- 9 On the Kuwait Government Online portal, there is a section dedicated to information on the Internet, interacting with certain technologies, and protecting yourself in the digital age. Under this section, visitors can only download videos with certain topics pertaining to the Internet. The available videos are segments of a television talk show on Kuwaiti's national TV channel: 'Baitik'. In each segment, a returning guest of the show, professor of Computational Linguistics at Kuwait University and consultant at the Central Agency for Information Technology, Dr. Salah AlNajem, speaks to the information technology and the online services in Kuwait.
- 10 LinkTV World News via Freebase (2012) defines Al-Erada Square as "a public gathering square in Kuwait City, Kuwait located in front of the National Assembly. It is notable for being the location of Arab Spring protests in Kuwait. Among other events, it was the site of assembly of protesters who entered parliament calling for the resignation of prime minister Nasser Al-Sabah". Retrieved from:<http://news1.linktv.org/topics/erada-square>
- 11 When attempting to hyperlink back to the original article, published in the Kuwait Times under: Ahmad Al-Khaled, "Kuwait to monitor websites, blogs," *Kuwait Times*, February 06, 2008, the original article has been removed off the website: [http://www.kuwaittimes.net/read\\_news.php?newsid=Mjg5MDgw-MzQx](http://www.kuwaittimes.net/read_news.php?newsid=Mjg5MDgw-MzQx).
- 12 Article 7, Kuwait Cybercrime Law no. 63 as cited by the Human Rights Watch.

# War Without Civilians: *The Use of Human Rights Discourse to Legitimize Unlawful Drone Strikes* by Emily Brease

## Introduction

In 2011, President Obama's chief counter-terrorism adviser, John Brennan, announced that American drone strikes had accomplished a new feat previously unaccomplished in war; a weapon that would result in zero home troops and civilian deaths. Brennan told a press conference, "In fact, I can say that the types of operations... that the US has been involved in, in the counterterrorism realm, that nearly for the past year there hasn't been a single collateral death because of the exceptional proficiency, precision of the capabilities that we've been able to develop." Prominent investigative and advocacy groups reported otherwise, claiming thousands of civilian casualties have resulted from the armed drone strikes in Pakistan, Yemen, Somalia, and Afghanistan as well. Brennan's statement was representative of a larger phenomenon of the erosion of the civilian and combatant distinction by the United States government (Chamayou, 2015). With the rise of the human rights paradigm and the convergence of law, war, and politics, the United States has sought to undermine International Humanitarian Law (IHL) and liberal human rights NGOs by using "lawfare" (the use of law for realizing a military objective) to legitimize violence against civilians (Gordon, Perugini, 2015). Through the militarization of concepts internal to humanitarian law, the principle distinction of the civilian and combatant has been gradually eroded and blurred. The United States government specifically justifies its use of weaponized drones on the civilian population with the principles of self-defense, distinction, and proportionality. With these human rights concepts being the centerpiece of the Administration's defense, I will argue that through this erasure, war is becoming civilian-less.

## The Creation of Just War

Considered to be one of the most important treatises on political-military analysis and strategy ever written, Carl Von Clausewitz's *On War* marks a specific historical and socioeconomic context of war. Written between 1816 and 1830, Clausewitz's framework of politics, strategy and ethics of warfare has come to be emblematic of an epoch of war that has formed the basis of IHL. Clausewitz, a Prussian general, stressed the moral and political aspects of war and provided a dialectical approach to military analysis. *On War* was written following the medieval period with the rise of the Nation-State and prior to widespread democratic government. Historically, war was fought by many different entities, including families, tribes, religions, cities, and business enterprises. Clausewitz's theories centered on war being a military conflicts between states, focusing on classical issues of field combat, army formation, and the character of military leaders and troops. Clausewitz provided a chivalrous definition of combatants and non-combatant that conformed to a model of war fought by state militaries in orderly battlefields and formations. With the context of war concerning military conflict between states, *On War* fails

to address the conflicts of civil wars, rebellion, secession or terrorism.

Clausewitz's theories surrounding the nation-state was later defined in modernity as 'sovereignty,' and defined by Max Weber as the 'monopoly of legitimate violence' by the state. In 1648 the nation-state was first codified by the Treaty of Westphalia, which ended the Thirty Years' War. The treaty was an agreement between the major continental European states to respect the principle of territorial integrity, establishing the Westphalian principle of sovereignty that would become central to international law and prevailing world order (Bartholomees, 2010).

Modern military doctrine, organization, and norms are based on the principles established by the Treaty of Westphalia and the concepts put forth by Clausewitz. Clausewitz and other Westphalian theorists were part of the initial conception of Just War tradition, the ethical and philosophic guidelines for the conduct of war. In the nineteenth century, states began implementing treaties and protocols that followed just war tradition, forming the foundation of IHL. According to the Red Cross, IHL seeks a "balance between humanitarian concerns and the military requirements of States."<sup>1</sup> Central to IHL, is the necessity of states to differentiate between combatants and civilians, and to ensure that damage to civilians and property is proportional to military gain. In IHL, one of the key concepts of determining the legitimacy and illegitimacy of violence is the concept of the civilian (Gordon and Perugini, 2015).

## Civilian Protections

During the middle of the 19th century, nations began to codify the rules of war. This was done by several conventions, which would collectively be known as the "Hague Tradition." The Hague Convention of 1907 regulations created the foundation of international laws of armed conflict and the Hague Tradition. With The Hague Tradition resting on Clausewitzian principles of military doctrine, organization, and norms, minimal provisions of protections of civilians was provided. The regulations provided were based on the model of which wars were officially declared, battlefields were specific locations (where civilians and combatants were separated), and combatants were clearly distinguished from civilians by uniforms.

The shift to the focus of civilian protections in IHL came following World War II, with the Geneva Conventions. World War II had an exponential rise in wartime costs to civilian life and property (Talbot, 2008).

"At the end of the nineteenth century, the overwhelming percentage of those killed or wounded in war were military personnel. Toward the end of the twentieth century, the great majority of persons killed or injured in most international armed conflicts have been civilian non-combatants" (Ibid, 15).

With the disturbing results of World War II, nations recognized the need to add protections for both combatants and non-combatants. This shift happened with the four 1949 Geneva Conventions, with the fourth convention requiring military commanders to modify operation based solely on their potential effects on the civilians on the battlefield (Ibid,

17). Following the Geneva Convention, the Principle of Distinction was codified into IHL. “At the very heart of the law of armed conflict is the effort to protect non-combatants by insisting on maintaining the distinction between them and combatants” (Reisman, 2006). The principle of distinction prohibits direct attacks against civilians, requiring that the attacker must differentiate between those who are directly involved in hostilities and those who are “taking no active part in the hostilities” (Kreps and Kaag, 2012). According to Article 48 of the Protocol Additional to the Geneva Convention,

“In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives” (Ibid, 5).

States also must not launch direct or indiscriminate attacks that “are not directed at a specific military objective” and are required to “do everything feasible” to verify that a target is a military objective (Ibid, 5).

In addition to the principle of distinction, is the principle of proportionality. According to this principle, anticipated military gain must exceed the anticipated damages to civilians and their property. Article 51 (5) (b) of AP I forbid an “attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage.” This means that under international law, the unintentional killing of civilians is not illegal, but harm to civilians that clearly exceeds the anticipated military advantage, that is disproportionate harm, is illegal (Ibid, 9). Article 8(2)(b)(iv) of the 1998 Rome Statute provides an assessment to clarify the principle of proportionality; (1) the anticipated civilian damage or injury; (2) the anticipated military advantage; and (3) whether (1) was “clearly excessive” in relation to (2) (Ibid, 9). In *Just and Unjust Wars*, Michael Walzer discusses the principles of proportionality and distinction,

“A soldier must take careful aim at his military target and away from non-military targets. He can only shoot if he has a reasonably clear shot; he can only attack if a direct attack is possible . . . he cannot kill civilians simply because he finds them between himself and his enemies. Simply not to intend the deaths of civilians is too easy. . . . What we look for . . . is some sign of a positive commitment to save civilian lives . . . if saving civilian lives means risking soldiers’ lives the risk must be accepted” (Walzer, 1977).

The Geneva Conventions formed after World War II, a war in which the differentiation between civilian and combatant was fairly straightforward. Uniform-wearing combatants were fighting for states that would be party to international law and civilians were generally locked in residential areas (Kreps and Kaag, 2012). The allied carpet bombings of entire cities would be illegal under contemporary law. In addition, the allies intentionally targeted civilians and took few precautions to avoid civilian casualties, with the hope that the civilian citizens would convince their government to surrender (Ibid, 8). In their article *The Politics of Human Shielding: On the Resignification of Space and Con-*

*stitution of Civilians as Shields in Liberal Wars* Neve Gordon and Nicola Perugini write that a critique of violence is a “historical and philosophical investigation into the legal and political genealogy of the concepts that provide violence its own rationalization” (Gordon and Perugini, 2016). The civilian is a political concept and different humanitarian conventions stipulate how civilians should be protected and who is a civilian. Gordon and Perugini note that civilianhood was created and framed along racial lines, with the status of civilian only granted to the citizens of colonial powers during colonialism. With colonial subjects being outside of the sphere of application of international law, when colonial states killed the colonized they were not violating international law (Ibid, 3). Decolonization brought the universalization of civilianhood, and the category of combatant and civilian was extended to the ex-colonized.

### The Vietnam Effect

Two decades after the 1949 Geneva Conventions, global warfare drastically shifted from the Westphalian model. The Cold War emerged with the United States and its North Atlantic Treaty Organization (NATO) members directly opposing the Soviet Union and its supporting Warsaw Pact members, and the global political climate became drastically bi-polar. A key characteristic of the bi-polar world was a lack of direct conflict between the major powers. Instead, the conflicts that emerged were characterized by,

“Struggles for self-determination or other small-scale wars where nations acted as surrogates for the superpowers. These wars were not characterized by the massing of large, uniformed, state-sponsored armies, but rather by small groups of often unorganized and un-uniformed freedom fighters” (Talbot, 2008).

The Vietnam War became the first war in which the United States was accused of disregarding many of the provisions of the Geneva Conventions, it also represented a shift in the dialectic between state and soldier. The Vietnam War was a major turning point for U.S. warfare in that it began the norm for the “tendency to subordinate the use of military force to a political imperative in order to preserve American military lives” (Chamayou, 2015). The Vietnam War was the last war in which tens of thousands of U.S. soldiers died, and also massively criticized as a “war of choice.” The end of the war in Vietnam brought the shift from (sacrifice) conscription to a (choice) volunteer army and revealed the intense political consequences of dead U.S. soldiers. With the deaths of eighteen U.S. soldiers in Somalia in 1983, the phrase “Vietnam syndrome” or “no body bags” syndrome was used to account for the fear that “losses, even if minimal from the point of view of the military balance of forces, would, through their supposed effect carry an exorbitant political price” (Ibid, 128).

The 11-week bombing campaign conducted by NATO in Kosovo was “the first military campaign in history conducted in the name of human rights” (Gordon and Perugini, 2015). Intended to bring an end to the crimes against humanity being committed by a state in its own border, the campaign was the first sustained use of armed force by the NATO alliance. Named Operation Allied Force (with NATO leaders reluctant to call the campaign “war”), the bombing marked a significant turning point in the increasing

relationship of conflict and the growing human rights legal culture (Roberts, 1999). Feeling the effects of “Vietnam syndrome,” the campaign set a precedent of a new dominant ethical and political norm, seeking to appease the risk-avoidance and “no body bags” political climate. In *A Theory of the Drone*, Gregoire Chamayou writes that in Kosovo, “The Americans had indeed managed to invent warfare that inflicted zero deaths in their own camp” (Chamayou, 2015). The Americans achieved zero American ‘body bags’ through forbidding U.S. pilots to fly below an altitude of 15,000 feet-- a security distance that meant they were nearly out of the enemy antiaircraft defenses. Out of 38,004 raids, there were zero NATO deaths. However, with the ensured safety of the pilots meant a decrease of accuracy for the air strikes and an increased risk of producing civilian casualties, reversing the moral tradition of combatants rather than non-combatants having immunity from the effects of conflict (Ibid, 129). Chamayou writes, “In the name of preserving military lives, the risk of producing more casualties among civilians was accepted, even though it was those very civilians whom the operation was designed to protect” (Ibid, 129). According to Chamayou, this paradox is part of the growing fundamental regime of military violence that claims to be humanitarian, “It is a power that both kills and saves, wounds and heals, and it preforms those double tasks in a single gesture, in an integrated manner: an immediate synthesis of a power of destruction and power of caring, murder at the same time as care” (Ibid, 139). NATO’s military campaign in Kosovo epitomized the rise of the phenomenon of the hierarchical separation of value of the lives of U.S. combatants over non-combatants and the growing politicization of humanitarian principles.

### ‘Humanitarian War’

In Neve Gordon’s and Nicola Perugini’s *The Human Right to Dominate*, the authors argue the emergence of human rights being used to justify colonialism, warfare, and lethal violence against civilians, through depoliticization and legal legitimation. In the 1980’s and 1990’s, before the merge of human rights and military clout, U.S. conservatives initially rejected the expanding human rights culture. Following Kosovo, the new millennium brought human rights into contemporary global politics, as U.S. conservatives began to “alter their strategy” by embracing human rights language (Gordon and Perugini, 2016). While human rights is generally conceived as a counter-hegemonic instrument for righting historical injustices, conservatives began mirroring the techniques and strategies of liberal human rights NGOs to advance their political goals. This co-optation has extended to both liberal and illiberal forces that “appropriate and deploy human rights in a way that corroborates, reinforces and rationalizes domination instead of destabilizing it” (Ibid, 13).

Gordon and Perugini discuss the power of human rights discourses in shaping moral legal categories, arguing it can invert and subvert the definitions of the relationships of power within which they are mobilized. When deployed, human rights discourse can invert “the asymmetry of power on the ground by transforming the settler into the native and the indigenous into the invader” (Ibid, 102). In *The Human Right to Dominate*, domination is defined as “a broad array of relationships of subjugation characterized by the use of force and coercion.” The co-optation of human rights discourse justifies, produces, and reproduces domination primarily through depoliticization and legitimacy.

In *On the Political*, Chantal Mouffe makes the distinction in recent political philosophy between politics (*la politique*) and the political (*le politique*). According to Mouffe, politics is the routine of political life, “the everyday management of order, horse trading, and debate, which rests on existing structure” (Simao and Nascimento, 2014). In contrast, the political is the challenging of the social order and the expression of the irreducibility of social conflict. Together, “politics organizes the practices and institutions through which order is created, normalizing social co-existence in the context of conflict provided by the political” (Douzinas, 2013). Depoliticization is the political act of “doing away with politics” and the mediation and contestation of different interests and power struggles.

Depoliticization is the denial that decisions are made within larger discursive frames that define the parameters of the problems and possible solutions, all within a wider hierarchical configuration of social power, is denying politics (Büscher, 2013). The current deployment of human rights discourse, while implying a claim to rights, does not challenge the existing social and political structures upon which the very rights themselves are established. Regarding the depoliticizing component of human rights, Costas Douzinas argues,

“We can conclude that human rights claims and struggles bring to the surface the exclusion, domination and exploitation, and inescapable strife that permeates social and political life. But, at the same time, they conceal the deep roots of strife and domination by framing struggle and resistance in the terms of legal and individual remedies which, if successful, lead to small individual improvements and a marginal rearrangement of the social edifice.” (Douzinas, 2013)

Human Rights discourse does not rely on or reveal structural reasons for violence and uses the liberal concept of addressing systemic injustice through individual grievance. By imposing western legal and normative structures and obscuring power relations inherent in these structures, the co-optation of Human rights principles and discourse reinforces rather than challenges existing relationships of domination. Human rights are inherently political in that they are shaped and determined within a specific context of a struggle of forces. The “legitimate” definition of human rights is a result of sociopolitical relations and power structures.

While the human rights tradition originated in the West and is based on Western values, it claims universality. As human rights culture grows globally, the standard of measurement of state’s sovereignty has come to be assessed by the degree of acting in compliance with ‘universal human rights.’ Frequently, governments seeking to interfere with the domestic affairs of other states or challenge a state’s sovereignty, appeal to human rights in order to legitimize their political strategy. For example, former U.S. President George W. Bush frequently relied on human rights discourse, exceptionalism and ‘universal norms’ to call for and justify the invasion of Iraq. On March 19th, 2003 President Bush addressed the nation from the Oval Office on the commencement of military action in Iraq,

“To all the men and women of the United States Armed Forces now in the Middle East, the peace of a troubled world and the hopes of oppressed people now depend on me [...] The people you liberate will witness the honorable and decent spirit of the American military. In this conflict, American faces an enemy who has no regard for conventions of war or rules or morality” (Bricmont, 2014).

President Bush continued on his address citing military action as ‘the work of peace,’

“[T]he dangers to our country and the world will be overcome. We will pass through this time of peril and carry on the work of peace [...] We will defend our freedom. We will bring freedom to others and we will prevail” (Ibid, 14).

Similar to the ways in which international law historically was and is used to legitimize forms of violence, including colonialism, human rights is used to legitimate violence and produce a legal code of ethics. In *The Human Right to Dominate*, the authors write, “to become morally sound, civilized, and legitimate, sovereign violence has to be framed as corresponding with the standards of the new human rights regime and transmuted into a discourse of human rights” (Gordon and Perugini, 2016). Over recent decades, human rights law has become the dominant legal framework, using “lawfare” to legitimize violence against civilian populations.

In 2010, the Israeli Deputy Foreign Minister at the time, Danny Ayalon, told a press conference, “today the trenches are in Geneva in the Council of Human Rights, or in New York in the General Assembly, or in the Security Council, or in the Hague, the ICJ” (Ibid,, 61). Speaking on Human Rights Day, Ayalon denounced the “biased use of human rights” by liberal NGOs and claimed “International Human Rights Day has been transformed into terror rights day” (Ibid, 61). Ayalon was speaking of the increasing use of universal jurisdiction in international, regional and domestic courts, and the use of human rights organizations in using lawfare to challenge the legitimacy of Israel’s state violence. Lawfare, or the use of law for realizing a military objective, combines the normative ideas of just war tradition and legal legitimacy. When international human rights organizations began filing lawsuits against U.S. officials regarding state violence, lawfare began to be recognized as a threat to the U.S. government. Similar to Ayalon’s statements on lawfare, a Pentagon document commissioned by Donald Rumsfeld in 2005 titled, *The National Defense Strategy of the United States of America*, warned against the use of lawfare: “Our strength as a nation state will continue to be challenged by those who employ a strategy of the weak using international fora, judicial processes, and terrorism” (Ibid, 13). Associating legal threats to U.S. state violence with terrorism, conservatives recognized the need to reframe the narrative of human rights and human rights law.

Lawfare is intricately linked to the “war on terrorism” and the United States program of transnational-targeted killings using armed drones. The U.S. government and drone supporters have mobilized a hybrid form of lawfare and appropriated human rights discourse to provide a legitimized moral narrative and legal and policy-based rationalizations for the utilization of the drone in extra-judicial killings. Dawood Ahmed argues that in today’s age of warfare, military prowess is not sufficient and the Unit-

ed States has an “other army.” According to Ahmed, this “‘other army’ consists of potent cadres of skillful lawyers” and others in government and private institutions who are crafting all sorts of narratives in the battles to define “legality on the world stage” (Ahmed, 2013). “America’s other army” is crucial in inflicting a massive campaign of terror and death, preformed by robotic killing machines operated by pilots thousands of miles away.

## History of the Drone

The U.S. Army defines a drone as a “land, sea, or air vehicle that is remotely or automatically controlled” (Chamyau, 2014). The term “drone” is the common term for “unmanned aerial vehicles” (UAVs) that are controlled from a distance by human operators (remote control). The use of the drone militarily was primarily used in intelligence, surveillance, and reconnaissance role, until the shift in the turn of the century to a weaponized “hunter killer role.” In *A Theory of the Drone*, Gregoire Chamayou states that the best definition of drones is “flying, high resolution video cameras armed with missiles” (Ibid, 29). The United States Military primarily uses two types of aerial drones: the MQ-1B Predator and the MQ-9 Reaper. The Predator drone is used for “medium-altitude, long endurance missions” and has the capacity to employ four laser-guided Hellfire missiles. The Reaper drone is primarily used in a “hunter/killer” role and for intelligence secondarily. According to the military, the Reaper is designed to carry out the “kill chain (find, fix, track, target, execute, and assess) against high value, fleeting, and time sensitive targets” (Levs, 2013). As of 2015, the American armed forces had more than six thousand various types of drones, with 160 of those being U.S. Air Force Predator Drones.

The drone’s history stems from the twentieth century developments in remote control and robotic technologies. During the Vietnam War, the U.S. army sought to counter the heavy casualties inflicted on the U.S. Air Force by the Soviet surface-to-air missiles. In order to do this, the Air Force used reconnaissance drones to gather intelligence. With the end of the Vietnam War the United States essentially abandoned the development of drone technology. However, in 1973, the Israel Defense Forces (IDF) used drones inherited from the United States to mislead Egyptian missile operators into firing and revealing their locations. Israel continued to develop drone technology and used drones for similar purposes from 1973 against Syrian forces during the invasion of Lebanon in 1982. The metamorphosis of drones used only for intelligence, surveillance, and reconnaissance to weapons came during the NATO operations in the Kosovo War in 1999. In Kosovo the Predator drone was deployed for the first time, where it was used to film and illuminate targets by means of lasers, which allowed F-16 planes to strike the highlighted targets. The full transformation of usage of the drone came in 2001 in Afghanistan, in which Chamayou writes, “It would take a ‘different kind of war’ to make the Predator into a predator” (Chamayou, 2015). Two months after the invasion of Afghanistan, President Bush declared,

“The conflict in Afghanistan has taught us more about the future of military than a decade of blue ribbon panels and think-tank symposiums. The Predator is a good example...Now it is clear the military does not have enough unmanned vehicles” (Ibid, 29).

Almost fifteen years since the invasion of Afghanistan, the use of drone has become commonplace for both the military and the Central Intelligence Agency (CIA). The weaponized drones are routinely deployed in not only zones of armed conflict like Afghanistan, Iraq, and Syria but undeclared U.S. battlefields as well, including Somalia, Libya, Yemen, and Pakistan. Although the use of drones by the U.S. for targeted killings is estimated to have started in 2001, the U.S. only admitted to using drones in 2012, yet the program remains heavily shrouded in secrecy. The American Civil Liberties Union (ACLU) filed a Freedom of Information Act request in 2010. In the request, the ACLU asked the government to disclose the legal and factual basis for its use of predator drones to conduct “targeted killings” overseas. It also requested information on, “when, where, and against whom drone strikes can be authorized, and how the United States ensures compliance with international laws relating to extrajudicial killings” (ACLU, 2014). The CIA denied the request by refusing to confirm or deny whether the CIA drone strike program even exists. Speaking to U.S. and NATO troops, former Secretary of Defense and Director of the CIA, Leon Panetta, confirmed the CIA’s use of drones for the first time on-the-record. While he acknowledged the use of Predator drones he did not confirm that CIA Predators were conducting airstrikes (Cloud, 2015). Also in 2012, in an online chat with the White House and Google+ users, President Obama admitted the use of drone attacks in Pakistan but suggested reports of civilian casualties from the strikes are overstated. In February 2013, Senator Lindsey Graham, a South Carolina Republican on the armed services committee, stated that drone strikes had killed approximately 4,700 people. As of 2016, the U.S. government has never publicly disclosed its own count of the number of deaths attributable to drone operations outside the war zones of Iraq and Afghanistan. In addition, most drone strikes occur in remote areas that are hostile to outsiders making adequate assessments on drone strikes difficult to attain. However, independent organizations have sought to track drone strikes through media reports and on-the-ground research.

According to a 2015 New York Times article, an average of separate counts of American drone strikes by three organizations, the New America Foundation, the Bureau of Investigative Journalism and The Long War Journal, finds that 522 strikes have killed 3,852 people, 476 of them “civilians” (Shane, 2015). The Bureau of Investigative Journalism reports that Pakistan has received the most strikes, with an estimated 421 strikes since 2004, with up to 3,989 total people killed (this includes up to 965 “civilians”, including up to 207 children killed and an additional 1,738 people injured). Also, U.S. citizens as well as several other nationalities have been killed in U.S. drone strikes. The first CIA drone strike in Yemen in 2002 killed an U.S. citizen allegedly in Al Qaeda. The death of Anwar al-Awlaki in Yemen in 2011 is the first known time that a U.S.-controlled drone strike deliberately targeted and killed an American citizen. In 2013, the U.S. Justice Department confirmed that four, including al-Awlaki, U.S. citizens had been killed in separate drone strikes in Yemen, al-Awlaki’s 16-year-old son and his 17-year-old cousin. In April of 2015, the White House acknowledged that American hostage, Warren Weinstein, and Italian hostage, Giovanni Lo Porto, had been killed in a drone strike along Pakistan’s border with Afghanistan (Taylor, 2015). In March of 2016, the Pentagon confirmed that the U.S. used both unmanned drones and manned aircraft to carry out an airstrike in Somalia killing more than 150 people. Pentagon spokesman Captain Jeff Davis stated that the strike targeted “al-Shabaab training camp” and that the victims “posed an im-

minent threat” to U.S. forces in Somalia (Ackerman, 2016).

As a candidate for presidency in 2008, then Senator Barack Obama campaigned on the promise to restore proper legislative and judicial oversight to counterterrorism operations. In a campaign speech, Obama promised that as president his approach

“Will again set an example for the world that the law is not subject to the whims of stubborn rulers, and that justice is not arbitrary. This administration acts like violating civil liberties is the way to enhance our security. It is not. There are no shortcuts in protecting America” (Fung, 2014).

Despite these promises, the drone has become one of the emblems of Barack Obama’s presidency. Since taking office in 2008, President Obama has authorized nine times more drone strikes than the number during President George W. Bush’s eight years in office. According to the Bureau of Investigative Journalism, of the estimated 3,852 people killed by drone strikes, 2,464 have been killed by U.S. drone strikes while Obama has been in office, meaning that six times more people and twice as many “civilians” than those ordered in the Bush administration.<sup>2</sup>

On September 14, 2001, Congress passed the Authorization for Use of Military Force (AUMF), granting President George W. Bush broad authority to use all “necessary and appropriate force” against those whom he determined “planned, authorized, committed or aided” the September 11 attacks, or who harbored said persons or groups. armed drone strikes potentially began 2003, the U.S.’s deployment to Iraq and Afghanistan initially used counterinsurgency tactics as the primary force or strategy. Counterinsurgency dictums focused on “hearts and minds” and “calibrated force” and military counterinsurgency is characterized as, “a series of battlefield tactics (clear, hold, and build) and developmental activities intended to persuade or coerce enemy civilians into supporting counterinsurgency force.” By contrast, counterterrorism tactics “aim to decapitate guerrilla organizations by violent (or “kinetic”) measures that take no account of civilians unless they are in the line of fire, and sometimes not even then” (Khalili, 2012). The increasing use of drones marks the dangerous paradigm switch from counterinsurgency to counterterrorism techniques. Chamayou writes that counterinsurgency is above all political and paradoxically centers on the revolutionary Marxist understanding of armed violence, in which “the people remain the prize” while counterterrorism fundamentally has to do with policing and security.

### Manhunting

The distinction between counterinsurgency and counterterrorism doctrines is crucial because there is a difference in the way the enemy is conceived. In counterinsurgency, the targets are considered political adversaries to be opposed, while in counterterrorism criminals are to be eliminated or apprehended. In counterterrorism there is no analysis of the roots of hostility and its own effects on it, any political impact on the conflict is excluded (this idea is epitomized by the key phrase, “we do not negotiate with terrorists”). The drone has been elevated to the pinnacle of antipolitical-counterterrorism strategy. According to Chamayou,

“dronized manhunting represents the triumph, both practical and doctrinal, of antiterrorism over counterinsurgency. According to this logic, the total body count ...take the place of a strategic evaluation of the political effects of armed violence. Successes become statistics” (Chamayou, 2015).

The majority of strikes are against individuals whose names are not known, but for whom a ‘pattern of life analysis’ has supposedly detected persistent anomalies in normal rhythms of activity, which are read as signs of imminent threat. In 2012, it was revealed that the U.S. “in effect counts all military-age males in a strike zone as combatants, according to several administration officials, unless there is explicit intelligence posthumously proving them innocent” (Friedersdorf, 2016). In 2015, a whistleblower provided The Intercept with a cache of documents detailing the U.S. military’s drone killings in Afghanistan, Yemen, and Somalia. During one campaign in Afghanistan between January 2012 and February 2013, The Intercept reported, “U.S. special operations airstrikes killed more than 200 people. Of those, only 35 were the intended targets. During one five-month period of the operation, according to the documents, nearly 90 percent of the people killed in airstrikes were not the intended targets” (Ibid, 2016). Also in 2015, Scott Shane of the New York Times stated “Every independent investigation of the strikes has found far more civilian casualties than administration officials admit,” he wrote. “Gradually, it has become clear that when operators in Nevada fire missiles into remote tribal territories on the other side of the world, they often do not know who they are killing, but are making an imperfect best guess” (Shane, 2015).

### **Preemptive Self Defense**

With the use of drones for targeted killings clearly violating international and human rights law and the threat of lawfare, a new strategic doctrine became necessary for the U.S. to legalize its manhunting. In 2016 John Brennan stated in regards to the President’s use of drone strikes, “We have a similar view of just-war theory. The president requires near-certainty of no collateral damage. But if he believes it is necessary to act, he doesn’t hesitate” (Friedersdorf, 2016). Suspected “enemies” are targeted using a preventative strategy as opposed to the conventions of defense, meaning that enemies are eliminated before they even have a chance to strike. Drone strikes as a preventative measure not only violate the principles of distinction and proportionality, but also violate the 19th century formulation of customary international law, the Caroline test. The Caroline test, which was reaffirmed by the Nuremberg Tribunal, necessitates that preemptive self-defense must be, “instant, overwhelming, and leaving no choice of means, and no moment for deliberation” (Brooks, 2013). The drone acts as a flying and armed Foucauldian panopticon, negating principles of self-defense, reciprocity, distinction and “inflicting mass terror upon entire populations” (Chamayou, 45). In a 2012 report titled *Living Under the Drones: Death, Injury and Trauma to Civilians From US Drone Practices in Pakistan*, accounts from citizens of Pakistan’s Waziristan, a region heavily impacted by the U.S. drone strikes, were published. The accounts reflect the drone’s disregard for the principles of distinction and proportionality as well as its terrorizing effects: “They’re always surveying us, they’re always over us, and you never know when they’re going to strike and attack” (Ibid, 44). Another account states,

“Everyone is scared all the time. When we’re sitting together to have a meeting, we’re scared there might be a strike. When you can hear the drone circling in the sky, you think it might strike you. We’re always scared. We always have this fear in our head” (Ibid, 45).

After years of the U.S. government refusing to confirm or deny the existence of the drone strikes, the government’s legal justifications began to surface following significant pressure from domestic and international civil society. In order to justify and legitimize the often arbitrary and extra-judicial executions of citizens of sovereign nations within sovereign borders, the U.S. government has appropriated human rights law and discourse, using a legalistic form of argumentation. The U.S. government’s dominant narrative about the use of drones for targeted killing, is of a surgically precise and effective tool that makes the U.S. safer by enabling “targeted killing” of terrorists, with minimal collateral impacts. For example, the government insists that virtually all of those targeted by drone strikes “are linked to Al Qaeda and associated forces and pose a threat to U.S. national security.”<sup>3</sup> This narrative rests on concepts internal to humanitarian law, specifically self-defense, ‘humanitarian precision,’ and proportionality. These concepts are reframed to sanction the deployment of lethal violence, in conformity with international law, against civilians.<sup>4</sup> U.S. drone strikes currently do not respond to actual attacks, but rather seek to prevent the possibility of an emerging threat. While drone strikes are preemptive and have zero notion of reciprocity, they are commonly justified using ‘the right to self-defense.’ State Department legal adviser Harold Koh, gave a speech in 2010 in which he argued that targeted killings are a legitimate form of national self-defense. Koh stated,

“In this ongoing armed conflict, the United States has the authority under international law, and the responsibility to its citizens, to use force, including lethal force, to defend itself, including by targeting persons such as high-level al Qaeda leaders who are planning attacks,” (Hodge, 2010).

According to this idea, drone strikes outside of active combat zones, operated by pushing a button thousands of miles away, without knowledge of the target’s identity and the target unaware of their labeling, are legally and ethically justified due to one’s inherent right of self-defense.

### **Precision and Proportionality**

John Brennan’s 2011 press conference exemplified the U.S. government’s narrative of the ‘precision’ of the drone. At the conference, Brennan described the drone program in terms of its unprecedented ability to “distinguish ... effectively between an al Qaeda terrorist and innocent civilians,” and touted its missile-armed drones as capable of conducting strikes with “astonishing” and “surgical” precision.<sup>5</sup> Following the ‘precision’ narrative, in the 2012 online chat, Obama stated that he wanted to counter the perception that drone strikes were being deployed “willy-nilly,” saying,

“I want to make sure the people understand actually drones have not caused a huge number of civilian casualties. This is a targeted, focused effort at

people who are on a list of active terrorists who are trying to go in and harm Americans [...]” (Shane, 2015).

In January of 2013, a significant leak in the form of a brief written by the Department of Justice (DOJ) revealed by The New York Times, revealed that the Obama administration is deliberately misleading Americans about the drone war. The brief, which was referred to as the “DOJ White Paper,” “show that drone operators weren’t always certain who they were killing” and that al-Qaeda members were a minority of people killed by drones.

In *The Use of Unmanned Aerial Vehicles in Contemporary Conflict: A Legal and Ethical Analysis* by Sarah Kreps and John Kaag, the authors argue that technology and specifically, the armed drone, is the military’s answer to international legal constraints brought on by the increase of human rights culture. The narrative of precision of drones provided by the U.S. government is part of the deliberate efforts to shield the drone program from democratic accountability, through the argument that the precision quality enables military action to comply with the international humanitarian law principles of distinction and proportionality. With this argument, precision becomes synonymous with compliance with international principles of distinction and proportionality. Kreps and Kaag argue that the problematic nature of technology in warfare, is that the principle of distinction and the principle of proportionality require a “legal and ethical disputation” and “not simply a technological assessment” (Kreps and Kaag, 2012).

### **A ‘Necessary’ ‘Humanitarian’ Weapon**

In addition to the right to self-defense and proportionality, the rhetoric of the ‘humanitarian’ component of the drone is part of the core IHL principles used through lawfare and public discourse to legitimize the drone campaign. Despite the oxymoronic term, the drone is often argued and touted as a “humanitarian weapon.” Jeff Hawkins of the U.S. State Department stated, “There’s a war going on and drones are the most refined, accurate, and humane way to fight it” (Ibid, 15). The argument of the drone representing “a major step forward... in humanitarian technology” (Ibid, 133) centers around the previously discussed idea of its precision and its reduction of “collateral damage.”

The drone is the absolute pinnacle of projecting power without projecting vulnerability and is indicative of the full immersion of the Vietnam effect into politics. Kreps and Kaag also discuss the role of the Vietnam War in the increasing use of drones by the U.S. military. Kreps and Kaag write, “There is no blowback against a war that has no little domestic cost. Collateral damage to Iraqi or Afghan civilians does not constitute a substantial cost for the U.S. domestic populace” (Ibid, 11). The authors go on to quote John Mueller and Karl Mueller, “although Americans are extremely sensitive to American casualties, the like others, often seem quite insensitive to casualties suffered by those on the opposing side, whether military or civilian.”

When the Obama administration was asked why continued U.S. military strikes in the Middle East did not constitute a violation of the 1973 War Powers Resolution, it responded that such activities did not “involve the presence of U.S. ground troops, U.S.

casualties or a serious threat thereof” (Ibid, 11). The drone is declared to be a humanitarian weapon, because it reaches the pinnacle of the hierarchical separation of value of the lives of U.S. combatants over non-combatants. With this logic the drone does save lives, it saves American lives.

In *Frames of War: When Is Life Grievable?* Judith Butler argues that the world is divided into “grievable” and “ungrievable” lives. This division comes from cultural processes that take place in the social imaginary and regulate “affective and ethical dispositions through a selective and differential framing of violence” (Butler, 2009). Butler defines a frame as a mode of public seeing or a mode of intelligibility that determines how different kinds of human beings enter into “the realm of appearance” (Ibid, 40). The “ungrievable” are framed as never having been lives at all, because “lives cannot be apprehended as injured or lost if they are not first apprehended as living” (Ibid,1). Butler states, “If certain lives do not qualify as lives or are, from the start, not conceivable as lives within certain epistemological frames, then these lives are never lived nor lost in the full sense” (Ibid,1). Lives that are not considered grievable become a target for annihilation in order to protect those lives that are worthy of “living.”

Butler reminds that the frames through which lives are rendered lose-able or injurable, grievable or ungrievable, are “politically saturated.” The frames are an operation of power, used to enforce the distinction of grievable and not grievable. The framing of enemy combatants and civilians on the dominant discourse of terrorism has provided the justification for the suspension of human rights. With drone strikes, indefinite detention, ‘extraordinary rendition’ and torture committed on bodies considered non-human, human rights become inapplicable.

It is impossible to say if more lives have been saved through drone strikes versus ‘boots on the ground’ in the Global War on Terror, however it is possible to state that drones prevent the taking of prisoners, the collection of various forms of intelligence and do not determine legitimacy of a target. Eyal Weizman speaks to logic of lesser evil, stating “the essence of our humanitarian present, obsessed with the calculations and calculations that seek to moderate, ever so slightly the evils that it has largely caused itself” (Chamayou, 2015). The justification of drone warfare by comparison to ground forces is based in the logic of the lesser evil, the logic that Hannah Arendt warned against: “Politically, the weakness of the argument has always been that those who choose the lesser evil forget very quickly that they choose evil” (Ibid, 139).

### **Civilian Erasure**

Harold Koh stated in his 2010 speech it was “the considered view of this administration” that drone operations, including lethal attacks, “comply with all applicable law, including the laws of war” (Hodge, 2010). Drones, as precise weapons, render geographical boundaries irrelevant, and a legal strike zone is then equated with anywhere the drone strikes. With the unlimited geographical restrictions and the legitimacy of the precision of the weapon, a “legal killing” has no spatial or political limits (Gordon and Perugini, 2015). In her article *Human Shields*, Banu Bargu writes,

“As a military logic infiltrates humanitarian interest, which was once the guiding motive of the codification and regulation of armed conflict, civilian deaths tend to be folded within the attendant category of ‘collateral damage’ that is in an increasingly symbiotic and complicit discursive relationship with ‘military necessity’” (Bargu, 2013).

It has been a concerted effort to erase the civilian status of victims of U.S. drone strikes, as reflected by Brennan’s statements on civilian casualties in drone strikes. A hierarchy of civilians is produced by virtue of subscribing to the notion that civilian victims of precise weaponry constitute legitimate collateral damage. The Intercept reported that the documents provided by the whistleblower in 2015, show that the military designated people it killed in targeted strikes as “enemy killed in action” (EKIA) even if they were not the intended targets of the strike. Unless evidence posthumously emerged to prove the males killed were not terrorists or “unlawful enemy combatants,” EKIA remained their designation, according to the source (Friedersdorf, 2016).

The United States serves as a force of military violence and as a force in international law and the articulation of ethical violence for liberal regimes. Using the co-optation of human rights principles and discourse, the U.S. is able to frame state violence that traditionally violates international law, as legal and legitimate under IHL. The effect of the U.S. government’s use of lawfare and appropriation of human rights has drastically erased the principle of distinction in IHL along with the classification of civilians as a whole. Kreps and Kaag argue that the terms “terrorist,” “enemy combatant,” and “contingent threat” do not articulate the legitimacy of military targets. Instead, they argue, “In contrast, the technical capabilities of weapon systems define and “paint” these targets with ever-greater definition. As weaponry becomes more precise, the language of warfare has become more ambiguous” (Kreps and Kaag, 2012). When all civilians are potential enemy combatants or unlawful combatants, all enemy civilians become legally killable, rendering the complete erasure of the “civilian” distinction. This idea is echoed in the words of a young Pakistani man, a victim, together with his family, of a drone strike. When asked why he thought they had been attacked: “They say there were terrorists, but it was my home... There are no terrorists. It’s just common people with beards” (Chamayou, 2015). Reflecting Foucault’s ideas on the biopolitical power to “make die” in “order to live,” John Brennan, stated that he and Obama agree that, such as with the drone program, “sometimes you have to take a life to save even more lives” (Friedersdorf, 2016).

In *Modernity and the Holocaust*, Zygmunt Bauman contends that the characteristics of modern societies, often championed as signs of human progress, specifically rationality and efficiency, have the ability to undercut moral responsibility. Bauman uses the Holocaust to show how modern bureaucratic instrumental rationality, rule following, and division of labor enabled the state to commit mass killing at an unprecedented scale. For Bauman, bureaucracies create a system of moral distancing that allows for the capacity of highly rationalized, efficient and organized immoral acts,

“The civilizing process is, among other things, a process of divesting the use and deployment of violence from moral calculus, and of emancipating the

desiderata of rationality from inference of ethical norms of moral inhibitions” (Bauman, 1989).

Drones fit perfectly into Bauman’s concept of modernity. To begin with, drones represent the ultimate separation of actor and consequence. The political rationale that underlies the practice of drone strikes is that of “self defense” by “targeting a single key node in a battlefield system has second, third, n-order effects, and that these effects can be accurately calculated to ensure maximum effects.” Chamayou writes that today’s atrocities committed by states are hugely legalistic,

“They are the rule rather than the exception, not so much because the law has been suspended, but rather because it has been spelled out in accordance with the interests involved to the point where it capitulates with scant resistance. This kind of atrocity is formalistic, cold, and technically rational [...]” (Chamayou, 2015).

Some proponents of drones cite them as being advancement in ‘humanitarian technology.’ The ability to call a weapon that is designed and used to kill people “humane” shows how modernity’s clinical rationalization of cruelty leads to a moral distancing, efficiently justified by war.

### **Drone: Colonial Weapon**

In contrast to Carl Von Clausewitz claim that the fundamental structure of war is a duel of two fighters facing each other, “warfare” is now a “hunter closing in on its prey” (Ibid, 217). The transformation of Clausewitz’s warfare paradigm is manifested in perpetual violence of drone wars, in which wars are without losses or defeats and victory. The Global War On Terror is indefinite in time and indefinite in space. However, this systemic violence is not unprecedented, and in many ways it is indicative of the ‘the colonial present.’ Much of the discourse surrounding the places in which drone strikes occur, resemble a colonial narrative of colonies prior to colonization. For example, Pakistan’s Federally Administered Tribal Areas (FATA), and one the most heavily impacted locations of drone strikes, is often characterized in discourse seemingly taken from Joseph Conrad’s *Heart of Darkness*. FATA is described as a lawless, wild, uncivilized region, where undemocratic and untamed populations have little regard for western human rights. This colonial narrative is used to justify the indiscriminate death from above that terrorizes the population (Hasian, 2016). In Frantz Fanon’s *The Wretched of the Earth*, he describes the colonial world as cut in two, with the dividing line being shown by “barracks and police stations.” The policeman and the soldier “are the official, instituted go-betweens, the spokesmen of the settler and his rule of oppression”

“In the colonial countries [...] the policeman and the soldier, by their immediate presence and their frequent and direct action maintain contact with the native and advise him by means of rifle butts and napalm not to budge. It is obvious here that the agents of the government speak the language of pure force. The intermediary does not lighten the oppression, nor seek to hide the domination; he shows them up and puts them into practice with the clear

conscience of an upholder of the peace; yet he is the bringer of violence into the home and into the mind of the native”(Fanon,1965).

Fanon’s words reflect the gap in international law between colonizers and colonized, civilized and uncivilized today, which continues to carry the same logic and similar consequences of the colonial past. Humanitarian law favors the dominant (with the advantage of legal loophole, “precision” weapons and the power of framing legal ethics). Through the appropriation of human rights, the ‘clear conscience of an upholder of peace’ is maintained. With the notion of “hostile entity,” the space between the civilian body and the battlefield is erased, and violence and terror placed upon the civilians very being.

On July 1, 1916, the Battle of the Somme began and the British suffered more than 50,000 casualties, out of which 20,000 died on that single day. The war would continue for another two years, resulting in about a million casualties on all sides. By 1975, 58,209 U.S. soldiers had been killed in Vietnam. In 2006, the Israeli army stopped its attacks on Lebanon after losing about a hundred soldiers. The Iraq war was largely turned against by the majority of the U.S. population after 3,000 deaths. These numbers are indicative of major change in the mentality of the West, in which there has been an increasing reluctance to die in large numbers for one’s nation. However it is also true that as international humanitarian law has developed, the more civilian deaths have been recorded in wars. This is due to international law being ineffective and under enforced, and the militarization of concepts internal to humanitarian law (Bargu, 2013). However, these numbers also reflect the power of democratic accountability. The political fallout from the Vietnam War has had lasting effects and drastically impacted the relationship between the state and soldier.

### The Drone Leviathan

The utilization of the drone may be tied back to classical texts of government and power. In Thomas Hobbes’ Leviathan, he writes that the state maintains its sovereignty through the monopolization of violence. According to Hobbes, the state not only maintains control through the monopolization of violence, but it is the only actor that can wield legitimate violence (except in the case of self-defense). In Leviathan the natural state of man is a state of war, or a perpetual war of all against all. In order to have civil peace and social unity, according to Hobbes, a commonwealth must be established through a social contract. In order to provide a fear of punishment for breaking contracts, the commonwealth must vest power in one central, sovereign authority, with power to punish those who break the contract. Thus a state or commonwealth is responsible for protecting the security of the citizens, to ensure the common defense. Hobbes refers to the state as the ‘Leviathan,’ taking the name from the biblical sea monster and utilizes the concept of the “body politic” to describe the state. The Leviathan, or state, is described as an artificial person whose body is made up of all the bodies of its citizens, who are the literal members of the Leviathan’s body. Constructed through contract by the people in the state of nature, the power of the Leviathan protects them from the abuses of one another (Hobbes, 1904).

Hobbes’s social contract rests upon the assumption of a bordered territory; and

within that space the sovereign is free to exercise law and punishment against its citizens. The social contract of the commonwealth meant that war would be between nations rather than individuals, removing citizens from the chaos of the state of nature. The drone represents the shift to the individualization of state violence. Drones challenge the idea of the battlefield as a spatial container of violence, resulting in state violence targeting the individual through territorially unbounded man hunting. While the neo-Hobbesian “war of all against all” targeting of individuals has grown through the drone, the state benefits from the diffusion of bureaucratic accountability (or what Bauman calls ‘moral distancing’) through the weapon.

Hobbes states that the agreement of men that led to the creation of the Commonwealth “is by covenant only, which is artificial” (Ibid, 1904). The commonwealth is artificial in the sense that it is a human creation, a machine made of gears and springs. Being artificial, the commonwealth is not a law of nature; therefore the civil law can be changed by the sovereign power who must act in accordance with the subjects’ consent. According to Hobbes, the commonwealth requires the mobilization of bodies,

“And when the Defence of the Commonwealth, requireth at once the help of all that are able to bear Arms, every one is obliged; because otherwise the Institution of the Commonwealth, which they have not the purpose, or courage to preserve, was in vain” (Ibid, 1904).

Hobbes goes on to state that citizens of the commonwealth have the obligation to fight for the survival of the commonwealth, “The end of Obedience is Protection; which, wheresoever a man seeth it, either in his own, or in another’s sword, Nature applyeth his obedience to it, and his endeavor to maintain it” (Ibid, 153). However, Hobbes writes that men will not fight for the commonwealth without a good cause and the sovereign is required to make the case that the war is a necessity for survival. According to Hobbes, while the sovereign has the right to punish those who refuse, one can refuse without “injustice.”

Following the post-Vietnam shift from conscription to sacrifice and the “Vietnam Effect,” the United States has seen a decline in the willingness of citizen’s to sacrifice their lives in war time, especially in wars that are not clearly achieving meaningful and winnable goals. The drone serves as the solution to the sovereign’s issue of the refusal of the mobilization of bodies and human rights discourse provides the meaningful purpose for state violence. In order to govern, the Leviathan requires the mobilization of bodies. If the Leviathan consists of bodies, what is the essence of the state if bodies refuse and drones are mobilized in their place? The use of drones by the Leviathan is pure, unchecked violence.

In 2012 after the acquittal of George Zimmerman for the killing of an unarmed 16 year-old person of color, the Black Lives Matter movement began and America once again erupted into a conversation of structural racism and the extrajudicial killings of Black people by police and vigilantes. The prevalence of extrajudicial killing of black people has set an overwhelming precedent; the police have the right to kill certain citizens with impunity. Just like the political rationale of drone strikes, the defense for the major-

ity of prominent killings of people of color by police has been that they have felt ‘threatened.’ While drone strikes in the far corners of the globe and institutional racism and violence in America may seem disconnected, there are systemic roots from the structures of inequality that manifest in a myriad of forms of violence. After yet another fatal shooting of an African-American student, the protests in Ferguson, Missouri showed the militarization of the American police force. The police are those who wield the most direct form of state power and the distinctions between soldier and police have become increasingly blurred, as the U.S. military continues to amplify its global presence and local police forces mirror small armies.

The unchecked violence of the U.S. police force within the borders of the U.S. and the impunity shown in the state violence against those marked ‘other’ shows the self-legitimization of violence, as the state serves as the judge, jury, and executioner. The executive branch of the United States government has claimed the unchecked authority of creating “kill lists” of citizens and using lethal force on them outside of conflict zones, oversight and are not directly hostile to the U.S. These citizens are accused based on unknown determination and unknown evidence, and are not even informed of their own indictment. The drone war has severely undermined U.S. credibility, and created a dangerous global precedence with regard to extrajudicial and extraterritorial killings. Drones serve as a technological step that replaces strategy, undermining political and moral checks on a perpetual war.

Individuals targeted in the U.S. and abroad are framed as non-civilians, non-human and ungreivable through the cooptation of human rights discourse. Through principles of human rights such as self-defense and the use of lawfare and cultural frames to erase the status of civilianship, the U.S. has implemented a global campaign of violence. According to Hannah Arendt, because of the fundamental dependence of the state on bodies, it is not violence but power that is the essence of the state. In *On Violence*, Arendt writes that power is never the property of an individual, but instead belongs to a group and its existence is maintained as long as the group is maintained. “Violence,” Arendt states, “can always destroy power”(Arendt, 1970). Power can never grow out of violence and instead violence can diminish power rather than enhancing it. Arendt writes, “Nowhere is the self-defeating factor in the victory of violence over power more evident than in the use of terror to maintain domination, about whose weird successes and eventual failures we know perhaps more than any generation before us” (Ibid, 1970). Bodies serve a crucial role in destroying violence and upholding the power of the state. Bodies, unlike drones, have instinct for survival, the fear of being killed and conditioned inhibitions that provide a reluctance to kill. Clausewitz wrote that being a soldier means having moral strength, or being ready to die. For Clausewitz, a soldier who is not ready to die does not have the moral ability to kill justifiably. A drone, which is controlled thousands of miles away from the killing, makes reciprocity impossible. With the target not having access to the same technology, the result is an inequality of human lives. Bodies/civilians, unlike drones, fear reciprocity and have the power to refuse to kill. Bodies have the power to be civilians and take a political stand and resist pure violence. Given the inherent political component of human rights, the acceptance of the use of drones for targeted strikes is the acceptance of drastic moral inequality.

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## Self- Sacrificial Resistance: Hunger Strikes, Self- Immolation, Suicide Missions and the Shift of Power Relations by Teresita Cobian

“There is a difference between people who kill themselves for individualistic motives, whether pathological or acquired in response to personal catastrophes, which lead them to consider their lives as not worth living, and those who attach low value to their lives in relation to the greater value they attach to some principle, allegiance, or collective interest that transcends them.”  
(Durkheim 1953[1897] 271)

### Introduction

On November 10, 2013, Russian anarchist artist Petr Pavlensky, stripped naked in the Red Square of Moscow where he literally nailed his scrotum to the stone pavement. He titled this performance Fixation and stated that “it was a metaphor for the apathy, political indifference and fatalism of modern Russian society.”<sup>1</sup> A year later, Pavlensky sat naked on the roof of Moscow’s Serbsky Psychiatric center where he cut off his right earlobe with a kitchen knife. He remained there bleeding in silence for approximately two hours until police forcibly removed and restrained him. Pavlensky titled this piece Segregation as a protest against the use of psychiatry for political motives. When confronted by the media, Pavlensky expressed that his acts defined a political viewpoint that is intended for the media. For Pavlensky, pain implies no meaning in his actions. “All these imposed artificial structures and fears- the fear of pain, the fear of authority- dissolve and I see reality. I am in the here and now. I am alive. And I am no longer an object.”<sup>2</sup>

“The human body is something that the power mechanisms, the state and the society try to discipline through prisons and causing injuries. Working with my body I show what the state does with the society. These processes reflect and are a metaphor for what is happening with the social body. Working in public space I manage to involve the actual power mechanisms into my actions.”<sup>3</sup> Pavlensky’s peculiar method of protests reflect a clear Foucauldian view of political resistance. By sewing his mouth, wrapping himself with barbed wire, nailing his scrotum to the stone pavement, and cutting off his earlobe, all for the sake of political protest, Petr Pavlensky has successfully managed to forge his body into a instrument of resistance.

When one thinks political resistance one might associate it with labor movements, peasant revolts, equal human rights struggles, prisoner uprisings, among other actions. More generally, political resistance is considered as a collective effort to mobilize against an established order that may seem unjust in attempts for possible policy change. Then, there is the case of self- sacrificial resistance. When one considers why a person would sacrifice their life for a cause, most people associate it in terms of a martyr giving up their life for an elevated power or soldier dying for his country. This is not the case that

will be examined here. For this essay, I will be exploring specifically contemporary forms of self- sacrificial resistance, which may be associated with other terms such as political self- sacrifice, extreme forms of protest, suicide protests, political suicide and so on.

Self- sacrificial resistance isn’t necessarily a very discussed method in the realm of political resistance. Hence, only the most common methods of the protest form will be discussed. These hunger strikes, self- immolation, and suicide missions/ bombing. Furthermore, we will see the manifestation of a distinctive pattern that these methods share: the use of the body. Throughout this essay, I will explore the discourse between the body and resistance through particular cases of political self- sacrifice. My main argument will primarily focus on how self- sacrificial politics actually make sense because, as we will see, these acts turn the body from a docile subject to an active one, a similar argument to what Pavlensky states about his self mutilating performance art. In this way, people who use these forms of protest are sometimes able to invert power relations using only their bodies.

The reason why this is of relevance is because of the misconceptions about suicide protests drawn after the occurrences of 9/11 that are majorly linked with suicide terrorism and deemed as irrational. Also it is important to take into consideration the causes that motivate individuals to such an extreme as to put oneself on the brink of death or complete death for a particular cause that may reflect extremities of either oppression or corrupt political institutions. To embark in this study I will be exploring these different methods through their terminology, differentiations, the role of the body, the role of the agent, role of the media, motivations, and effectiveness in terms of what they achieve. There will be a particular focus on the most famous cases such as the notable 1981 hunger strike where Irish Republican Army prisoner Bobby Sands fasted until death to the iconic self- immolation case of Buddhist Monk Quang Duc.

### Terminology:

K.M. Fierke, in her book titled *Political Self- Sacrifice: Agency, Body and Emotion in International Relations* defines the term ‘political self-sacrifice’ as voluntary acts of bodily destruction with a political end. The ‘political’ symbolizes the objective of the sacrifice, which in most cases is the renovation of sovereign community. ‘Sacrifice’ refers to something outside the self that sacrifices for the sake of others. She will further argue that forms of political self- sacrifice such as the human bomb, hunger strikes, self- burning, and nonviolent martyrdom are shaping the emotional dynamics of the body and the context to which authorities must respond.

With the development of the new phenomenon of ‘suicide terrorism’, that was brought to light with the events of 9/11, Fierke argues that suicide terrorism is perceived through western lens as something that raises the question as to why someone would partake in a voluntary act that may result in one’s death. She explains how the term ‘suicide’ had a negative connotation and was read more as a psychological concern rather than a political one. In this case, Fierke explains that is because suicide is not usually tied in relation to martyrdom, where the suicide is conceived as a religious act of self sacrifice for a higher power. But as Fierke began to look at other acts relevant to the human

bomb, such as hunger strikes, self-burning, or nonviolent martyrdom, she recognized two recurring patterns. First, was the dispute over whether the agent is considered a criminal or terrorist or if the meaning of the act is an expression of suicide or martyrdom. Second, is the debate of whether the reason for the act was meant as a crime against the state, or as protest to human rights violations committed by the state. These patterns demonstrate the tendencies to draw fixed boundaries around bodies.

Furthermore, Fierke explains how political self-sacrifice can be perceived as a paradox of the sovereign state which is based on the prioritizing of survival. Basic Hobbesian social contract theory involves a relinquishment of individual sovereignty to an authority in return for protection and preservation. "Survival thus comes to rest on an interesting dialect between existence and non-existence, inside and outside." (Fierke 2013, 7). Fierke argues that fighting from the boundary is inherently paradoxical. "The sovereign agent fights in order to survive. The defeated or occupied community exist only by virtue of their conformity with someone else's rules. In this sense, to live by one's own rules becomes a manifestation of nonconformity.

She explains that when agents use violence, they are most likely to be labeled as 'terrorists.'

Moreover, Fierke uses Gandhi's independence movement in India as an example nonviolence tactics to reflect how he "shifted the balance, making nonconformity with the rules of the dominant power a major site of political contestation rather than a violent conflict. By eliminating violence from one side of the equation- that is, the action of resistance- Gandhi highlighted the questions 'Whose rules, whose sovereignty, and whose security?' while resolving the question of 'Whose violence?,' since this was left to the forces of authority." (Fierke 2013, 9). Moreover, Fierke makes a notable distinction that the most concerning combination of violence and self sacrifice manifests with the suicide terrorist. Unlike self-immolators and hunger strikers, the suicide terrorist deliberately takes his or her life while killing innocent victims in the process. The recent spread of this tactic has influenced the popular misconception that this form of protest is an irrational act of suicide.

## Hunger Strikes

A hunger strike, in simplistic terms, is the act of refusing to eat (usually associated with a prisoner) as a method of protest or to demonstrate a strong opposition to something. The reason why it is logical to begin with the method of the hunger strike, as opposed to self-immolation or suicide bombing, is because it comprehensively demonstrates the dynamic of the use of the body as a tool of resistance through manipulation and weaponization. On Foucault's chapter on "docile bodies," in *Discipline and Punish*, we see how the body becomes an object and target of power. This is to say, that when the body is manipulated and trained, it obeys and rises forces. Foucault argues that "docile bodies" are the ones that may be subjected, used, transformed, and improved. There are three elements that compose this process: scale of control, the object of control, and the modality of control. The scale of control, treats the body individually in a mechanic level, to develop control over its movements, gestures, attitude, and rapidity.

The object of control had to do with the internal organization and efficiency of the body. Lastly, is the modality of control, which implies constant supervision and coercion of the process of the activity in consideration of time, space, and movement. According to Foucault, these three methods may be collectively categorized as "disciplines." Which became the normative methods of domination and guaranteed the constant subjection of its forces. "Thus discipline produces subjected and practised bodies, 'docile bodies'" (Foucault 1975, 138).

The reason why it is of relevance to establish Foucault's theory of how bodies are subjected to state power is because it is the REFUSAL of the subject to occupy this docile position that manifests the body into a source of resistance. Of the best examples that represents this relationship of the body and state authority is seen with the 1981 Irish hunger strike led by Bobby Sands, the former IRA commanding officer. Allen Feldman in *Formations of Violence* explores the narrative of the body and political terror in Northern Ireland through these protests of the Irish Republican Army political prisoners held in the Maze Prison during the 1970's. Most of these prisoners were paramilitaries of the Irish Republican Army who were taken into custody for protests against the removal of political status by the British. Feldman's main focus is the occurrences of The Blanket Protest, the Dirty Protest, and the Hunger Strike. These protests were run by Bobby Sands with the collective intention of the removal of Special Category Status. In other words, the IRA's main goals constituted on being legally considered political prisoners rather than criminals.

First, with The Blanket Protest, Feldman discusses how wearing the prison uniform was the central mechanism of hierarchical incorporation in the prison. Naturally, the republican prisoners refused to wear the uniforms because it would establish a visual relation of their body with the prison. Here, Feldman points out how this refusal translates into a dynamic of resistance. "The captive under hierarchical observation is manipulated by his body's visibility; the body is thereby transformed into a text to be read by authoritative observers." (Feldman, 156). Hence, the refusal of the prisoners to wear uniforms became a refusal to enter into a compulsory visibility.

Furthermore, Feldman argues that the ability to symbolize one's body was essential to political resistance. This meant that the ability of the prisoners to alter their body, suggested an alteration to the material conditions of their incarceration. He further explains that this alteration involved the literal inversion of the body. "The margins between prison and body were submerged and erased; the cell became the extended body of the prisoners, and their bodies became their temporary prison." (Feldman, 166) The problem now arose when the prisons would enforce stricter rules and surveillance when the protests failed. Consequently, the prisoners would seek other forms of protest. In the case of the IRA paramilitaries, once the Blanket Protest failed, they began the Dirty Protest where they would smear their own feces on their cells' walls. When this method of protest didn't suffice, they initiated the Hunger Strike, where many of the prisoners met their death. Moreover, Feldman argues that when prisoners use their body as weapons of resistance, the body is altered by the many powers orienting it. This entails that the power shifts from subject and object, back and forth, due to self/other power relations. "In Foucault's model, the inmate is bifurcated through the internalization of alien disci-

plinary representations of the body and the self. He internalizes the application of alien force onto his body.” (Feldman 178) Thus, we can see a reversal of power when the prisoner uses his body as an instrument of violence. In terms of the political goals achieved of the 1981 Hunger Strike,

We can see a similar approach in Banu Bargu’s *Starve and Immolate*, where she explores the death fast struggle and the weaponization of life among the political prisoners in Turkey. During late 2000, these political prisoners initiated a hunger strike in protest of the emergence of high security prisons. In the span of a month, their hunger strike transitioned into a fast unto death and even resorted in organizing teams of death fasters to enhance their resistance. The prisoners were held in collective wards which eventually became their claim to an “alternative sovereignty,” through the weaponization of their own bodies; all in defense of the communist revolution in Turkey. “They starved and burned themselves to death. They meticulously managed their self-starvation, with precise intakes of sugar, salt, and water, and at times, vitamin supplements, in order to prolong or hasten their labor of dying.” (Bargu 2)

Furthermore, Bargu brings into question why would prisoners choose the death fast struggle as their method of resistance. She argues that the dominant form of political action is self-destruction, which includes hunger striking, death fasting, self-immolation, and suicide attacks. Bargu explains that these methods, as the basis of political action, are radical and difficult to understand. “it is self-inflicted, painful, potentially irreversible, and final, therefore existential and embroiled within a logic of sacrifice that is opposed to our conventional notions of instrumental action because it renders difficult, the achievement of political ends through means lesser than death.” (Bargu, 6) Furthermore, Bargu argues that the only way to understand why these prisoners would resort to such measures, one must place the self-destructive techniques of political action at the center to theorize how they forge their bodies into weapons.

Taking these two cases into consideration, it is of relevance to theorize the act of hunger strikes by starting with the prison. Not all hunger strikes occur in prisons, but the reason why the most notable cases studied took place in prisons is because, as Foucault states, it is a coercive and disciplinary institution and an extreme example of bodily coercion, violence, and isolation. In this sense, the prison becomes a site where the politics of the body become significantly visible.

## Self-Immolation

Self-Immolation, is generally defined as the act of burning oneself as a sacrifice. Michael Biggs, on his piece *Dying Without Killing*, draws basic dimensions on the method of self-immolation that are appropriate for the discussion. Unlike, a suicide attack, self-immolation is not meant to cause physical harm or material damage. Basically, Biggs explains that while a suicidal attack is an extraordinary weapon of war, self-immolation is an extreme form of protest. Firstly, Biggs points out basic characteristics of the act of self-immolation. First, the most common method of self-immolation is through burning oneself because it emphasizes the physical suffering. Second, as an act of protest, it is intended to be public, in the sense that it is either performed in a public space with an audience, or

it is accompanied by a written statement addressed to a political figure or to the general public. More importantly, self-immolation is motivated by a collective cause as opposed to how personal suicides are motivated by individual reasons. Biggs believes that self-immolation can be more linked to other forms of protest such as hunger strikes. But again, they are different because even though hunger strikes involve self-inflicted suffering, few have agents that have actually fasted until death. “Even when a hunger striker ‘threatens to starve to death, death can be averted by concessions. With self-immolation by contrast, death is not conditional on the opponent’s (in)action” (Biggs, 2).

The reason why Biggs believes it is necessary to make these distinctions is to prove how the method of self-immolation is a different and special case. Within his research, Biggs estimates that there have been between 800 and 3,000 individual acts of self-immolation (including non fatal attempts) in the four decades since 1963. These cases in particular were pioneered by Vietnamese Buddhist monk Quang Duc who carried out self-immolation in 1963. “They were modeled either directly on his action or indirectly on another’s action that can in turn be traced back to his. Thus, self-immolation describes a historical lineage as well as a conceptual abstraction” (Biggs, 2). This case surfaced from the conflict between Buddhists and the Diem Regime in South Vietnam. The Diem Regime was the Catholic ruling family at the time that began prioritizing the country’s Catholic minorities and began discriminating against Buddhists. In 1963, the regime established a ban on the display of religious flags in the centre of Vietnamese Buddhism, Hue. Shortly after, there was a mass demonstration where the police killed 9 protesters including children. As a result, Buddhist monks began to mobilize rapidly by organizing mass demonstrations and hunger strikes throughout the cities. Quang Duc asked to burn himself ‘as a donation to the struggle’ to promote religious tolerance and his protest and death by fire inspired many others.

Within a few years, self-immolation entered the ‘global repertoire of protest’. “His act was an unexpected combination of modern technology and religious tradition. The advent of photography- and technologies for the rapid transmission and cheap reproduction of images- made it possible for a single sacrifice to have a dramatic impact on a huge audience. (Biggs, 6). Logically, the performance was designed for maximum publicity intended for presence of journalists to communicate through media. The impact of Quang Duc’s self-immolation spread rapidly with photographs taken in the scene which made his death iconic. But as Biggs explains, what made this particular act of self-immolation memorable is how it inspired so many to imitate it.

The element of imitation inspired by another’s individual action can be explained by how self-immolation occurs in waves. “To some extent, waves can be explained by particular exogenous events, which suddenly create and exacerbate a collective grievance.” (14). This is to say, that an individual is more likely to choose this sacrifice when someone else has done so. Biggs explains that this is due to the positive feedback self-immolation produces, which can also be seen with other methods of protest such as strikes. Furthermore, those who become part of the wave in its later manifestations may be moved by despair and perhaps not concerned with the instrumental effect of their death. “Nevertheless, this huge wave of immolation provides a chilling illustration of the power of imitation.” (Biggs 15).

This brings into question as to why individuals particularly choose self-immolation as a method of protest. To understand this phenomenon, Biggs gathers evidence from written declarations of intent and comments from survivors. First, in most cases, self-immolation is a method that stems from long consideration. “The typology begins, logically enough, with ‘selfless’ motivations that stem from commitment to the collective cause. Such a commitment may be manifested in instrumental rationality—treating one’s own sacrifice as a means to advance their cause.” (21). Furthermore, Biggs concludes that two notable motivations become clear: appealing to others by virtue of an extreme act of protest, and more relevant to the overall research, “inciting potential sympathizers by provoking an emotional response.” (21). In addition to motivations oriented for the advance of their cause, there is also an appeal that can serve as a plea to change the behavior of others. For example, Quang Duc offered his life in request for the Diem Regime to demonstrate religious tolerance. “Whether or not they genuinely expected to convert their adversary, this sentiment is not frequent. More commonly, the appeal is addressed to a third party in the conflict, particularly to public opinion. Self-immolation, in other words, is a costly signal which conveys information: the depth of the individual’s sense of injustice on behalf of a collective cause (Biggs 2003 21). Furthermore, Biggs explains that the majority of the motivations for self-immolation are instrumental. This is to say, that death serves to advance the cause.

The effects have most to do with the response that self-immolation has on people. Biggs argues that because self-immolation is such an extreme act, it has the ability to convince people to believe and join a collective cause. However, self-immolation can also produce an opposite effect where the cause is discredited by others. Overall it generates a collective response. This brings up the question as to why should self-inflicted death have any influence at all. In response, Biggs presents how self-immolation provides two prominent images: “the victim who is innocent and the hero who braves death.” A protester killed by police is a victim, but has not willed the ultimate sacrifice. A suicide bomber may be seen as a hero, but hardly as a victim. Self-immolation carries so much emotional power because it inspires sacrifice and also provokes outrage. The latter may seem paradoxical because the victim killed himself why blame anyone else for the death? (27) He argues that the most significant acts of self-immolation continue to evoke a response, long after the event. However, this reintroduces the question of whether self-immolation only works to provoke an ‘emotional response’ or can it actually change anything political.

### **Suicide missions/terrorism/ attacks/ bombing**

The phenomenon of suicide missions developed with the 9/11 occurrences led most scholars to focus on the political consequences and the religious motivations of the act. Diego Gambetta in his work *Making Sense of Suicide Missions*, explores the act in a more in-depth dimension that focuses around the theoretical aspect of self-sacrificial protests. He argues that suicide missions fall under the family of self-sacrificial actions along with religious martyrdom, self-immolation, and hunger strikes. As previously explained, these acts involve the sacrifice of one’s life without the harming of others. This is where suicide missions differs, depending on the primary goal of the act, the majority of the cases involve whatever necessary casualties that the individual or group believe

will aid their cause.

Gambetta raises the relevant question of how different suicide attackers really are from other people who sacrifice their life for a cause. Unlike hunger strikes and self-immolation, suicide missions are not usually individual acts. They are usually planned and carried out with the support of an organization. But he focuses on the motivations of the individual. “All agents who intentionally die in a suicide mission have a major trait in common: although their action can be based on wrong or irrational beliefs, they see themselves, and are often seen by their group, as altruists.” (Gambetta 231). This is to say that the majority of suicide missions go to the extremes of self-sacrifice in the belief that their action lays in the interests of their cause.

Fierke takes on a different approach in the subject of suicide missions. Taking from Pepe and Feldman (2010), Fierke addresses their argument on how foreign occupation is the main cause for suicide terrorism. However, there is not much dialogue about how and why suicide terrorism differs from other tactics. More importantly, is to consider if they are successful or not. “The primary mode of thinking about the success or failure of suicide terrorism has been quantitative—that is, how often these acts have achieved their goals—and thereby causal: to what extent did suicide terrorism result in independence?” (Fierke, 20). The conclusion came to estimate that suicide terrorism more likely resulted in failure than success. Furthermore, she argues that success is measured by the extent to which the target states make significant policy changes towards the terrorists’ major political goals. This poses a question about the relative success of nonviolent campaigns. The conclusion came that nonviolent campaign were more successful.

“The analysis approaches the equation from a different angle. Instead of asking whether ‘suicide terrorism’ is successful—however success is defined—the focus shifts to the role of different forms of political self-sacrifice in constructing the agency of marginalized communities.” (Fierke 20). She adds Vikki Bell’s argument that ‘suicide terrorism’ operates through the aesthetic reaction it produces, provoking a response and mobilizing further responses. A similar claim can be made about the various forms of political self-sacrifice examined here. The act of bodily destruction communicates and prompts a search for meaning, transforming it into a discursive phenomena.

### **Other Methods**

It is interesting to consider other methods of self-sacrificial sacrifice that are less extreme but still work around within the discourse of the body and resistance. In Richard Bailey’s *Up Against the Wall: Bare Life and Resistance in Australian Immigration Detention*, there are present similarities in Pavlensky’s methods of resistance and the Australian immigration detainees which Bailey interviews. In this article, Bailey calls into question Agamben’s biopolitical relationship between the camp and bare life. Bailey disagrees with Agamben, by arguing that camp becomes a setting of prosperous resistance against the alteration of politics and life through solidarity and freedom, and not through biopower. Furthermore, Bailey compares Australian immigration detainees to prisoners in the Nazi concentration camps, who neglected to give up their politics. “Rather than seeking to transform bare life, they rejected it and made their own decision on life and

politics.”(Bailey, 113).

The Australian Government’s immigration policies consisted of mandatory detention for asylum seekers for up to seven years. Undocumented asylum seekers were sent to Immigration Detention Centres where conditions were inhuman and extreme. Consequently, the immigration detainees resorted to many forms of resistance against the harsh and brutal treatment. These included resistance towards the Australian Navy when they attempted to turn around their boats, hunger strikes, and sabotage. Furthermore, Bailey explains that Australian immigration detainees brought their own politics into the mix. For example, Iranian trade union activists brought their own skills and methods of resistance to form collectives of strike action within the camp.

In continuation, Bailey explains how Agamben views the body as already a biopolitical body and bare life, and how it cannot escape sovereign power. However, Bailey argues that, in the case of the Australian immigration detainees, it is the notion of “bare life” that they avoid and oppose. Furthermore, Bailey argues that politics and life are triggered by aspect of death present in rebellion. “There are many examples of resistance like this, where the body, or life itself, becomes a vehicle of resistance.” (Bailey 122) In this case, the detainees, resorted to hunger strikes, drinking shampoo, cutting themselves, and sewing their lips. Bailey explains that the detainees are very aware that these actions are part of their struggle to successfully resist. Furthermore, one of the interviewed detainees explains that in sewing their lips and starving, they gain the attention and respect of the oppressors. For Bailey, this further proves that these dehumanizing acts of resistance are politically motivated. “Even the most traumatic and desperate acts of resistance in detention cannot be seen as the actions of bare life. Instead they must be seen as the struggle to retain a political life in the face of the extreme biopower of the camp.” (Bailey 122)

### Role of Media

An essential element that is highly necessary for the acts of political self-sacrifice to communicate their cause and message is through media. Fierke argues that in the contemporary age of globalization and electronic media, political self-sacrifice takes on a different meaning. She explains how images of violence against the body, such as Thich Quang Duc’s self-immolation in the 60’s to suicide bombings, have become iconic by depending on international media for communicating the emotions and the power of sacrifice. “An image of self-sacrifice evokes emotions that go beyond words, to something more primal. It is not only that the image captures the attention; it also causes a disruption or a rapture, insofar as it is so perplexing, so contrary to ideas of self-preservation, that the audience has to stop and ask questions about what is happening and why.” (11). In this way, political self-sacrifice in the context of globalizing media, serves as a possible political weapon for attracting international audience across national boundaries. This has created a new space for political-self sacrifice to develop as an international and global phenomena that create pressures for the government (circulation of images of human suffering).

### Conclusion

When looking back at the commonalities of hunger strikes, self-immolation, and suicide missions, one can not help but ask what do these extreme forms of protest actually achieve besides an ‘emotional response?’ Did they achieve their political goals? I have reached the conclusion that what all these forms of protest have in common is a shift of the body from a docile subject to an active one which accomplishes the inversion of power relations from subject to object.

As Fierke put it, political self-sacrifice is perceived as paradoxical because according to basic social contract theory, we are meant to prioritize survival through the relinquishing to a sovereign. Hence, to live by one’s own rules is a manifestation of nonconformity. This shifts the balance, making nonconformity with the rules of the dominant power a major site of political contestation. Furthermore, it has become clear that when life itself is negated in the struggle to challenge sovereignty, the sovereign’s power over life and death becomes useless. This way, the destruction of one’s own body is seen as the rejection of the control of the sovereign, by reclaiming one’s own political freedom and agency through death. The best evidence is seen with the hunger strike because it comprehensively demonstrates the dynamic of the use of the body as a tool of resistance through manipulation and weaponization. It is the refusal of the subject to occupy this docile position that manifests the body into a source of resistance. As seen with the IRA, they refused to wear their prison uniforms because it would establish a visible relation of their body with the prison. This refusal translates into a dynamic of resistance. As Feldman pointed out, when prisoners use their body as weapons of resistance, the body is altered by the many powers orienting it. This is to say that the power shifts from subject to object. Or as Foucault puts it, “he internalizes the application of alien force onto his body.”

In the case of self-immolation, we concluded that the typology begins with selfless motivations that stem from commitment to a collective cause. This commitment manifests into what Bigg calls an instrumental rationality. This is to say, treating one’s own sacrifice as a means to advance their cause. But as concluded, what self-immolation really does is invert the relationship with the sovereign by giving the ‘docile body’ political agency through death. With suicide missions, considering it is not always an individual act like the others, what it does is similar but constructs the agency of marginalized communities. Thus, with such extreme forms of protest we see this discourse of the body and resistance. In many cases these acts will not achieve their primary political goals, but what they do achieve is the disruption of the established political dynamics and order through the use of the body.

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## (Endnotes)

- 1 [Petr Pavlensky: Why I nailed my scrotum to Red Square](http://www.theguardian.com/artanddesign/2014/feb/05/petr-pavlensky-nailed-scrotum-red-square). <http://www.theguardian.com/artanddesign/2014/feb/05/petr-pavlensky-nailed-scrotum-red-square>
- 2 "Acts of Resistance: Pyotr Pavlensky on Performance Art as Protest." - *The Calvert Journal*. N.p., n.d. Web. 15 May 2015. <http://calvertjournal.com/articles/show/3373/pavlensky-performance-art-protest>
- 3 <http://www.re-aligned.net/petr-pavlensky/?lang=en>

# Leo Tolstoy & Restorative Justice: The evolution from nonviolent teachings to modern reform by Grace Gall

## Introduction:

The focus of this research is to analyze Tolstoy's political and philosophical beliefs about Justice and morality and their application to the development of Restorative Justice programs within the United States Criminal Justice System. The first section of this paper will evaluate a selection of Leo Tolstoy's fictional works and personal writings, focusing on those dealing with morality, faith, and Justice.

The first work this paper will examine is Leo Tolstoy's final novel *Resurrection*. In his novel *Resurrection* (1899), Tolstoy dealt with the issues of redemption and salvation, as they relate to punishment. The driving force behind the novel is the search for personal salvation and redemption. By examining the novel's representation of the Russian Court and Penal System, this section will analyze Tolstoy's arguments against the practice of punishment for the purpose of retribution and how these apply to social justice and to moral life. This novel also argues for a sense of social and moral responsibility by individuals within a greater community. This section examines the theme of responsibility within the community and how this relates to responsibility within the political context, considering Tolstoy's moral reservations with institutional forms of punishment. While the novel begins with the main search for redemption in the main character, the final result illustrates Tolstoy's greater belief that truth and salvation can be found through acts of love, and that violence, like that seen in the Court and prisons, prevents true redemption.

The next works by Tolstoy that this paper will examine are the *Kingdom of God is Within You* (1894) and *The Law of Love and The Law of Violence* (1908). Both of these works discuss the issues of violence within society and the ways that Tolstoy believed violence could be overcome through love and nonviolence. These two works directly examine the role of nonviolent resistance as forms of political action. These works touch on the same ideals that Tolstoy raises in his novel *Resurrection* and are his explanation of his beliefs. In these works, Tolstoy argues that individuals have a moral imperative to stop acts of violence through nonviolent resistance. Drawing from the Christian Scriptures, Tolstoy argues that if the state or any institution condones or causes violence, that individuals have a right to resist that institution, through means of protest like civil disobedience. It is from this inspiration that Tolstoy's philosophy of nonviolent resistance developed. Later, great nonviolent activists, including Mahatma Gandhi and Dr. Martin Luther King Jr., were able to shape their own philosophies and beliefs surrounding nonviolence, with clear influence from Tolstoy's writings.

By looking at the evolution of nonviolent resistance movements through the years, the second half of this paper will examine the connection of those movements to the development of the Restorative Justice movement within the Criminal Justice System

in the United States and other countries in the last several decades. Restorative Justice in the United States can be traced back to the participants who championed civil rights and the nonviolent movement during the Civil Rights Era in the 1960's. After rising incarceration rates seen in the 1980's, particularly among minorities and indigent persons, attempts at reforming the Criminal Justice system have turned to Restorative Justice. These programs have been proposed as a means to solving the disparate impacts upon minority and economically disadvantaged communities, while also aiming to place the focus on the community as a whole and the effects of crime and incarceration on individuals within it.

This movement is in contrast to the previous model of incarceration, where the focus was based upon punitive aspects and deterrence of further crime by removing offenders from society, without adequately considering the necessity of reintegrating offenders into the community to stem recidivism. Advocates of Restorative Justice seek to aid victims in finding a sense of safety and closure around their victimization, but also to aid offenders of crime in gaining insight into antisocial behaviors and reunification with community. This changes the mentality surrounding the notion of punishment.

In this section, the focus is upon the contrast between competing theories of effective punishment and rehabilitation within the penal system in the United States, and how this relates to Restorative Justice. This paper will go on to argue that Tolstoy's philosophy, in the selected works examined, can be viewed today as a foundation for the philosophy of Restorative Justice. These programs refocus the system from a solely punitive basis, allowing for rehabilitation of offenders and helping those outside the system perceive it in a different way. Because of Tolstoy's strong moral and faith-based philosophies concerning violence and retribution, he would support a more rehabilitative criminal justice system, over the violent and retributive nature of strong incarceration practices. Tolstoy believes that love leads to redemption, which is the path to true salvation. Tolstoy's work and beliefs can be linked to the modern philosophy of Restorative Justice and help understand the moral implications of reforming the United States penal and Criminal Justice System.

## Leo Tolstoy and His Writings:

### Resurrection:

Throughout his years as a writer, Leo Tolstoy continued to question and attempt to answer the philosophical and religious quandaries he struggled with for a large part of his life. His more famous works, *War & Peace* and *Anna Karenina*, touch upon the very same issues that he dealt with in his personal and philosophical writings. As the years went on, Tolstoy took chances and attempted to directly answer and deal with his understanding of Justice and redemption and how they related to his beliefs as a Christian.

Originally, young Tolstoy had planned on attending school wanting to become a lawyer. In Inessa Medzhibovskaya's work *Tolstoy and the Religious Culture of His Time*<sup>1</sup>, Medzhibovskaya writes, "While pursuing a legal path as a student of law at Kazan University, Tolstoy hoped that through law he would grasp the 'system of his being' and

discover nothing less than the goal of human life and the organizing principle of the life of humanity,” (Medzhibovskaya 2008, 35) Tolstoy would eventually leave his legal path behind him and instead become a great thinker and writer, but his interest in the law and its role on within the society never left him and permeates his works.

His last novel, *Resurrection*, was started in 1889 and finished in 1899<sup>2</sup>. In this work, Tolstoy directly attacked what he saw as the hypocrisy and failures of both the penal system of Russia and the Russian Orthodox Church. The original inspiration behind the novel came from a real life story told to Tolstoy by the famous Russian jurist Anatolii Fedorovich Koni, almost ten years prior to the completion of *Resurrection*. The story told by Koni to Tolstoy was of a man who sought out Koni for legal work. A nobleman told Koni how he had “seduced a pretty orphan girl of sixteen who had been taken into the home of a relative of the young man when her parents died.”<sup>3</sup> This man got the young girl pregnant and she was then sent away from the estate. The girl eventually became a prostitute and was arrested years later for stealing from a client. This man told Koni how he was a member of the jury for her trial and he felt guilty for his actions and responsible for her fate. This story stayed with Tolstoy for many years before he completed the novel, for he felt that it was a story that should be told. Tolstoy felt inspired to write his novel *Resurrection*, which took ten years to complete, because he felt guilt over his own treatment of women his youth. In writing this story he was making amends and trying to find redemption himself.

*Resurrection*, tells the story of Dmitri Nekhlyudov, a nobleman who finds himself in a personal and moral crisis after having served as a juror to the criminal case against his former lover Maslova. Nekhlyudov, in his youth, seduced the young and beautiful commoner Katyusha Maslova, who was being raised by his aunts, but he casts her aside. This affair leads Maslova to the life of an outcast, ending in poverty and prostitution, like the young girl from the real life story told to Tolstoy. At the beginning of the novel, Maslova is put on trial for a murder that she did not commit. Nekhlyudov is a juror on that trial, for he feels responsible for her downfall and fate in becoming a prostitute, but also in his participation as a juror in her trial. Maslova was charged with theft and murder, but the jury only meant to convict her of the theft. She is convicted of both, because the jury marks the form incorrectly, and the judge and the system will not rectify the error, even when it is exposed as a mistake. Instead of being sent to the workhouse for theft, which the jury thought she was guilty of, she was sentenced to Siberia for murder, resulting ultimately in her own unjust death. Nekhlyudov knows the verdict is wrong, but is afraid to speak out and expose his past relationship with the girl, while the other jurors do not speak out, as they think someone else will, and the court thinks the verdict is wrong, but also does nothing to rectify the error. In an attempt to right the wrongs of his past sins against Maslova, Nekhlyudov seeks to help in her appeal her conviction and gain her freedom. He thinks he is working to save her, but all the while he is searching for salvation and redemption for himself. Unsuccessful in the appeal, he follows her to Siberia with the intent to marry her. The novel ends without resolution of her case, without him marrying her, but with Nekhlyudov finding meaning in his examination of the scriptures, to find his own redemption in her companionship with a political prisoner, named Simonson, who is also sentenced to Siberia..

For Tolstoy, *Resurrection* was more than just the tale of one man’s path to redemption. It is to condemn the Courts, the system, which Tolstoy saw as political and corrupt instigators of violence, rather than representatives of Justice. The judgments passed in the novel portrayed a system filled with inconsistencies and corruption that were inherently violent and unjust, because of its use of punishment over rehabilitation and justice.

In *Resurrection*, Tolstoy introduces the reader to his narrative and writes,

“All were glad: the plants, the birds, the insects, and the children. But men, grown-up men and women, did not leave off cheating and tormenting themselves and each other. It was not this spring morning men thought sacred and worthy of consideration, not the beauty of God’s world, given for a joy to all creatures- this beauty which inclines the heart to peace, to harmony, and to love- but only their own devices for enslaving one another.” (Tolstoy 1899, 5)

Here, Tolstoy sets up the parallels between the natural world. In the natural world, man is meant to seek out peace and love but on this day they still continue “enslaving one another.” This was how Tolstoy saw the punishment administered by the Court System, as enslavement.

The novel goes on to tell the tale of Nekhlyudov’s journey to redemption and his struggle to make right the wrongs of his past. Nekhlyudov feels morally responsible for Maslova’s fate and wants desperately to redeem himself. He seeks redemption and salvation throughout course of the novel, since it does not come to him in an instance. The novel and Nekhlyudov’s journey to redemption can be understood as many instances of clarity and awakenings to the truth. As Richard Gustafson wrote in his work *Resident and Stranger*,<sup>4</sup> “The paradigmatic action of the novel, therefore, is awakening and recollection. The hero repeatedly awakens to the hard realities of the letter of the law only to recall his own participation in the letter of the law.” (Gustafson, 47) One instance of Nekhlyudov’s awakening is described by Tolstoy where he wrote,

“He prayed, asking God to help him, to enter into him and cleanse him; and what he was praying for had happened already; the God within him had awakened in his consciousness. He felt himself one with Him, and therefore felt not only the freedom, fulness, and joy of life, but all the power of righteousness.” (Tolstoy 1899, 113)

Nekhlyudov believes at the beginning of the novel that his redemption is through Maslova’s forgiveness and his ability to help her. While his actions and intentions to help Maslova are intended to do good, this alone is not what can really give him redemption. Nekhlyudov’s journey is presented to the reader as having many revealing moments of truth and consciousness. Gustafson wrote how the “action” of the novel, “moves from the narrator’s truth given, to the truth perceived and accepted by the hero, and then to the hero’s attempt to realize that truth in right action.” (Gustafson, 50) Gustafson goes on further and stated that Nekhlyudov, “admits his guilt and sees his path to salvation.

He will seek right action.” (Gustafson 50)

For Tolstoy, Nekhlyudov’s journey towards redemption does not end with the novel, it goes further and will continue throughout his life. Nekhlyudov’s willingness to seek the truth and to “seek right action” is what gives him hope for salvation, not solely his guilt. Gustafson goes on his Resident Stranger to write about Nekhlyudov’s salvation. He states,

“He is saved, not because he is more worthy, but because he makes the effort to be saved[.] He must participate in the redemption of this unjust world, not by expiating some past act of his, nor by judging the unjust world around him, nor by justifying this unjust world through a belief in some mythological past redemption, but by clearing himself of his judgements so that he can right now help to create human relatedness.” (Gustafson, 175)

*Resurrection* tells not only the story of the lives and struggles of these characters, but directly questions and condemns the failings of the Russian judicial system, which deeply troubled Tolstoy for many years. The nature of the Court as a man-made tool to place judgment upon others, working alongside the Church, was a hypocrisy of the teachings of Christ in Tolstoy’s view. Tolstoy spent much of his time in *Resurrection* condemning the Courts and the influence of the Russian Orthodox Church within the legal system. Tolstoy described to his readers the imposing atmosphere of the courtrooms themselves. Tolstoy writes,

“The Court was a large, long room. At one end, with three steps leading up to it, was a raised platform, on which stood a table covered with a green cloth trimmed with fringe of a darker shade. At the table were placed three arm-chairs with very high, carved oak backs; and on the wall behind these hung a full-length, brightly coloured portrait of the Emperor in uniform and sash, with one foot advanced, and holding a sword. In the right corner hung a case with an icon of Christ crowned with thorns[.]” (Tolstoy 1899, 28)

In this section of the novel, Tolstoy illustrated for his readers the two sides of the Russian Court system; the State and the Church. Unlike the modern judicial system in the United States, in the Imperial Russia of Tolstoy’s time, there was no separation of Church and State. This relationship between the State and the Church was seen by Tolstoy as a sign of the misinterpretation and application of Christ’s teachings. In Constance Garnett’s work, *Tolstoy and “Resurrection,”*<sup>5</sup> Garnett further explains Tolstoy’s attack on the Church and State. Garnett states,

“In attacking the main institutions of the organized state, the government, the army, the law-courts, he is again giving expression to what lies at the root of the genuine Russian outlook upon life. All the modern state’s complex institutions, such as the law, are in a sense opposed to the Russian genius, because they substitute the living impulse toward the communal virtues of the individual a frigid, systematized code-morality.” (Garnett, 512)

Tolstoy’s direct attacks towards the Church and the Government did not go unnoticed. Over the years, Tolstoy’s work was censored on publication for what was often seen as insulting of the Church. One particular section in *Resurrection*, Tolstoy depicts a scene of the Holy Eucharist being given to the convicts in the prison with Maslova. Tolstoy goes through each part of the service and describes every part of it in great detail, with interjections made by the narrator. He at one point describes, “The essence of the service consisted in the supposition that the bits of bread cut up by the priest and put into the wine, when manipulated and prayed over in a certain way, turned into flesh and blood of God.” (Tolstoy 1899, 147) After describing the “act of service” as Tolstoy calls this service, Maslova is described as having,

“[S]eemed conscious of the fact that this Jesus, whose name the priest repeated such a great number of times, whom he praised with all these curious expressions, had forbidden the very things that were being done there[.]” (Tolstoy 1899, 147)

This attack on the Church service had great consequences for Tolstoy. As Inessa Medzhibovskaya wrote in her work *Tolstoy and the Religious Culture of His Time: A Biography of a Long Conversion*, “The culmination of his mockery of the Eucharist occurs in his late novel *Resurrection* (*Voskresenie*), resulting in his excommunication from the church in 1901.”<sup>6</sup>

Tolstoy examined these same problems and notions about Christian teachings further in another work, *The Kingdom of God is Within You*<sup>7</sup>, which was published in 1894, while Tolstoy was still writing *Resurrection*. In *The Kingdom of God is Within You*, Tolstoy discussed his views on the Church, the Russian State and the role of Christian teachings within society. Tolstoy directly focused on what he called the “misdirection” that the Church has taken Christ’s teachings. He argued that the role of the Church within the State and the violence of State action went against the core teachings of Christ. In a section directly focusing on the role of nonviolent resistance within society Tolstoy stated,

“The life which is built up on the principles of violence has reached the negation of those very principles in the name of which was built up. The establishment of society on the principles of violence, which had for its aim the security of the personal, domestic, and social good, has led men to a complete negation and destruction of this good.” (Tolstoy 1894, 109)

There are numerous times where the courts were described by Tolstoy in a satirical or mocking manner. Those that represent the system are depicted as acting for the sake of appearances, rather than for the seeking of justice. His judges and lawyers become fools in a show who take advantage, or are simply too incompetent to help those in need. In the first few chapters of *Resurrection*, Tolstoy writes how the assistant prosecutor, after having questioned Maslova, pretends to write something down describing,

“[T]he assistant prosecutor took his elbow off the desk and began writing something. In reality he did not write anything at all, but only traced over

with his pen the words of his notes, for he had seen how prosecutors and advocates after putting a clever question, enter a remark into their notes which should subsequently confound their adversary.” (Tolstoy 1899, 44)

The readers are given the impression that the trial court, and those who work in the justice system, are putting on the appearance of justice and order, rather than really accomplishing it. The trial and the legal system itself barely hold any appearance of justice in Tolstoy’s view. This belief plays a strong role in Tolstoy’s philosophy of punishment and salvation. Tolstoy also saw fault in the notion of passing of judgement and punishment on others. In her work “Punishment and the Human Condition: hannah Arendt, Leo Tolstoy, and Lessons from Life, Philosophy, and Literature,”<sup>8</sup> Inessa Medzhibovskaya wrote how Tolstoy, “rejected any possibility of punishment, based on a definite judgment about an individual’s guilt before the law, regardless of whether, in serving justice, it attempted to mitigate or increase cruelty.” (Medzhibovskaya 2014, 153) The act of judgment and punishment by the courts was seen by Tolstoy as wrong.

Throughout *Resurrection*, Tolstoy examined more than just the trials that take place within the Russian legal system. To truly understand the hypocrisies of the Russian Courts, it is important to look at the horrors of the punishments placed on the individuals within the system. Tolstoy spent years researching the state of the prisons in Russia for his work. He personally went and visited cells that would have held people like Maslova and the other inmates of *Resurrection*. There, he witnessed the conditions of squalor, illness, brutality, and physical mistreatment of prisoners, which was punishment, not rehabilitation, and certainly not a road to redemption. What he witnessed there affected him deeply, which can be clearly seen in his descriptions of the jails within the narrative.

At the very beginning of the novel, Tolstoy introduced his audience to the women’s jail that Maslova was being held in. Tolstoy describes,

“Even into the prison yard the breeze had brought the fresh, vivifying air from the fields. But in the corridor the air was laden with the germs of typhoid, and the smell of sewage, putrefaction, and tar. Every newcomer felt sad and dejected in it. The woman warder felt this, though she was used to bad air. She had just come in from outside, and entering the corridor she at once felt weary and sleepy.” (Tolstoy 1899, 6)

The reader is given a clear and vivid picture of the terrible conditions within the jails. The cells are filled with a horrible smell that does not leave those who are surrounded by it. Tolstoy also shows how those that work within the jails have become acclimated to the horrible smells. The jailer is described as being “used to bad air” but that after coming in from outside “she at once felt weary and sleepy.”

After exhausting every means of appeal to higher Courts, Maslova has no choice but to make the long journey to exile in Siberia. Nekhlyudov makes the decision to join Maslova, in hopes to one day marry her and redeem the both of them. The journey to Siberia is hard and treacherous, with prisoners dying from exhaustion and illness on the way. Tolstoy writes,

“The journey to Perm had been very trying to Maslova, both physically and morally; physically, because of the overcrowding, the dirt, and the disgusting vermin which gave her no peace; morally because of the equally disgusting men. The men, like the vermin, though they changed at each halting-place, were everywhere alike importunate. They swarmed round her, giving her no rest[...] To be continually in a state of fear and strife was very trying, and Maslova was specially exposed to attacks[.]” (Tolstoy 1899, 394)

Depictions like this one are meant to show the hardships of prison life and life in exile. Maslova and the other convicts become something different than a human, they become an other who is separated physically from the rest of society and treated as such.

Throughout *Resurrection*, Nekhlyudov seeks redemption and salvation from the wrongs of his past. He feels directly responsible for the fate of Maslova, who he feels he condemned to a life of suffering and sin, because of his original sin. This journey for redemption for Nekhlyudov is meant by Tolstoy to show the reader that Nekhlyudov is in a sense responsible. While blame can be placed on many different aspects of Maslova’s circumstance, Tolstoy argues that Nekhlyudov’s mistreatment of her was the first of many done to her. The overarching theme surrounding the novel is this issue of redemption and responsibility.

Tolstoy pushes the reader into examining who is to blame not only for Maslova’s suffering, but the suffering of all by the unjust system. From his direct criticisms of both the State and the Church, Tolstoy argues that they are culpable in the institutional injustice seen within the Courts and prisons that they hold power over. Yet, Tolstoy does not find that the individual, Maslova, is blameless for the results of her own actions. This is why Tolstoy sends his characters on a journey for redemption.

The issue of responsibility that Tolstoy examines in *Resurrection* can be directly related to the discourse about criminal responsibility seen within modern political theory. For example, in the political theorist Iris Young’s work *Responsibility for Justice*<sup>9</sup>, she directly examines the notion of responsibility and what it means on a larger social level. Young discusses the distinction between collective responsibility and collective guilt.

For Young, looking at social and structural injustice through guilt is insufficient and inappropriate because this only allows for what she describes as a “backward and liability based model”.<sup>10</sup> This type of model places blame and guilt to a particular action and agent within institutional structures. Young instead, argues that structural injustices come from many different places and are not always strictly unjust. Instead of focusing on the notion of blame or guilt, Young proposes her own model called the “social connection model.” Young explains her social connection model in the following way:

“The social connection model finds that all those who contribute by their actions to structural processes with some unjust outcomes share responsibility for the injustice. This responsibility is not primarily backward-looking, as the attribution of guilt or fault is, but rather primarily forward looking. Being responsible in relation to structural injustice means that one has an obligation

to join with others in order to transform the structural processes to make their outcomes just. (Young, 96)”

Young’s social connection model argues for a focus on the potential for change and action in the face of injustice, rather than simply looking to place blame on a specific person or part of an institution. She places responsibility on the individual as a member of a collective, giving individuals their own personal obligations, in addition to the obligations of the collective. Young’s model can be understood as a call for individuals to come together as a collective to act. Using political action as a means for change and reform to structural injustices is key within Young’s argument. Although Young is a political theorist and Tolstoy is a novelist, there is a parallel between their philosophies of personal and group responsibility and morality.

In many ways Young’s discourse regarding responsibility can be related to Tolstoy’s own arguments within *Resurrection*. If we understand that the injustices faced not only by Maslova, but by all the individuals within the prisons and in exile in Siberia, are the results of a greater institutional injustice, then using Young’s social connection model helps to support Tolstoy’s own argument for a collective sense of responsibility. Nekhlyudov should feel a sense of responsibility for what has happened to Maslova, but not simply because he is to blame.

Instead, what is more important and allows for the opportunity for redemption is his attempt to help her in any way he can. Nekhlyudov can hope for redemption from his actions now and in the future and not continue to feel guilty for past sins. His work with Maslova and his new understandings of the injustices that are faced by individuals around him can help him truly achieve a sense of redemption. In a way, Nekhlyudov sought personal redemption by taking responsibility for his actions, and worked to make recompense for the wrongs he committed. This action is the essence of Restorative Justice, in contrast to mere punishment.

Towards the end of *Resurrection*, Tolstoy directly attacks the acts of violence that is seen throughout the novel. For Tolstoy, the justice system is flawed not only because of the corruption and incompetency within it, but also for the fact that the system relies on one person passing judgment upon another. This, in Tolstoy’s mind, is not right and goes against the teachings of the Gospels. In the final chapter of *Resurrection*, Tolstoy writes,

“In this way the idea that the only certain means of salvation from the terrible evil from which men are suffering is, that they should always acknowledge themselves to be guilty before God, and therefore unable to punish or reform others, became clear to him. It became clear to him that all the dreadful evil he had been witnessing in prisons and jails, and the quiet self-assurance of the perpetrators of this evil, resulted from men attempting what was impossible: to correct evil while themselves evil.” (Tolstoy 1899, 480)

With this passage, it is clear that Tolstoy held strong reservations about the Russian legal system during his time. The simplistic notion of punishing and passing judg-

ment upon others was wrong, because only God can judge the actions of man. Tolstoy used the Gospels and the laws taught in them to set down what he believed was the best way to achieve salvation.

In *Resurrection* the narrator proclaims, “Not only did he realize and believe that if men would obey these laws they would attain the highest blessing possible to them[.]” (Tolstoy 1899, 482) It is this proclamation that demonstrates Tolstoy’s philosophical and moral belief towards the Criminal Justice System. Tolstoy believed that judgment passed by man through violence is inherently evil and against the laws of God and Christianity. These beliefs led Tolstoy to an exploration of ways to react to these moral issues. Tolstoy examines the ways in which non violent actions could help foster change within corrupt institutions, like the Russian criminal justice system.

### ***The Law of Love and the Law of Violence:***

Leo Tolstoy continued to explore the nature of nonviolence and the foundation in the Scriptures. In 1908, with the rise of revolutions in Europe, specifically the violence seen during the Russian Revolution of 1905<sup>11</sup>, surrounding him, Tolstoy wrote *The Law of Love and the Law of Violence* in 1908.<sup>12</sup> In the preface to the work, Tolstoy tells the reader that he has written it “because knowing the one means of salvation for Christian humanity, from its physical suffering as well as from the moral corruption in which it is sunk, I, who am on the edge of the grave, cannot be silent.” (Tolstoy 1908, 8) The purpose of this work for Tolstoy, was to illustrate the reasoning behind the belief that “the highest law that should guide us is love.” (Tolstoy 1908, 34) At the start of this work Tolstoy explains that the violence seen throughout the world is the result of man’s harsher nature, which is often animalistic and seeking gratification through the use of violence to assert power of other human beings. Violence, according to Tolstoy, is the result of the selfish side of man which justifies acts of violence by many different means. Tolstoy argues that this is because there is “lack of a superior conception of life and a rule of conduct in accordance with it, a rule held in common by all people professing Christianity.” (Tolstoy 1908, 9)

Tolstoy, being a man of devout faith, although heterodox, finds fault in attempts at justifying violence. Whether it is in the use of reason to justify acts of war, or violence done by the State, Tolstoy argues that these acts are all inherently sinful and wrong because they go against God’s teachings. These justifications of violence occur time and time again because, as Tolstoy writes,

“[M]en continue to ignore the new religious conception and its consequent rule of conduct, and when they observe the law imposed by the antiquated rule. Instead of admitting the religious conception corresponding to the phase of their development, they form a conception that justifies their way of living, but does not correspond to the moral needs of the majority.” (Tolstoy 1908, 11)

Here, Tolstoy argues in many cases, acts of violence are done through the State and by man without regards to any morally based ideals. It is this disconnection be-

tween action and understanding that leads to acts of evil and sin, in Tolstoy's opinion. This lack of faith<sup>13</sup> or morality is the real cause of violence and oppression.

Violence can be found through actions led by the state and government. Tolstoy states that these acts are done because,

“The majority of the men of our time, perceiving the constant increase of their misfortunes, employ the only means of salvation that, according to their conception of life, they consider rational: the oppression of part by the rest.” (18-19)

Violence is used to oppress the minority of a state to keep and establish a sense of “order.” This can be seen through not only acts of war but through harsh laws and punishments implemented by the State. This argument is a direct continuation of Tolstoy's arguments from *The Kingdom of God is Within You*. In that work, Tolstoy argues that the institution of government is based on power, and through this power comes only violence. Tolstoy stated,

“[T]o rule means to do violence, and to do violence means to do what the other man, on whom the violence is exerted, does not wish to have done to him, and what, no doubt, he who exerts the violence would not wish to have done to himself; consequently, to rule means to do to another what we do not wish to have done to ourselves, that is, to do evil. To submit means to prefer suffering to violence.” (Tolstoy, 1894, 124-5)

Tolstoy points out that at the time when he was writing *The Law of Love and the Law of Violence*, that crime rates had gone down over the years and yet “death sentences and executions are increasing.” (Tolstoy 1908, 19) This spells a divorce between contradiction in policy and reality for Tolstoy. This very same argument would be used over time during peak years of reform within the Criminal Justice system.<sup>14</sup> Tolstoy continues to lay out his reasoning in favor of the law of love over violence. Tolstoy argues that the concept of the law of love can be found throughout the Christian Scriptures and he points directly at the Sermon on the Mount as a basis for his belief.<sup>15</sup> He goes on further to explain how he believes the law of love can be applied. Tolstoy writes,

“Foreseeing, no doubt, the exceptions that would appear inevitable when the law of love is applied, the verses 39 and 40 of the same chapter state clearly that no circumstances whatever should arise that could permit any deviation from the strict commandment of love: Do not do unto others what you would not have them do unto you.” (37)

It is clear that Tolstoy takes the words of the Scripture in a very literal sense here. The Golden Rule is a very real and important thing to Tolstoy. He believes that in any circumstance where violence is being done to you, that this “violence directed against you does not justify the use of violence by you.” (Tolstoy 1908, 37) It is only when violence is directed at another person that Tolstoy argues there is some room to intercede. Yet, above all else, what truly allows for change is love. Tolstoy states that the law of love

should be implemented throughout the world. He states,

“And it is the law of love and its recognition as a rule of conduct in all our relations with friends, enemies, offenders, etc. which inevitably brings about the complete transformation of the existing order of things, and does this not only among Christian nations, but among all the populations of the globe.” (38)

To implement change to the “existing order” it is necessary to act under this “rule of conduct.” It is here that Tolstoy argues that, through nonviolent means of resistance to established orders, that social change can be both just and morally good. Tolstoy uses the example of refusing military service as one such way to resist against violence. Tolstoy believed it was important for people to understand that participation in systems that condone violence only leads to more violence. These acts of violence that are “incompatible with the Christianity.” (Tolstoy 1908, 73)

Tolstoy argued that when people “refuse to serve as soldiers, tax collectors, judges, jury, police agents, the acts of violence from which the whole world is suffering will disappear immediately.” (Tolstoy 1908, 73) Tolstoy firmly believed that refusing to participate in systems which promote violence will eventually lead to change within the system. This is because these systems rely on participation and acquiescence above all else. Tolstoy was a firm believer in nonviolent resistance, the essence of theories of civil disobedience practiced during the Civil Rights movement of the 1960's.

George Kennan, one of the first ethnographers and researchers of Russian penology, recorded his impressions about a visit with Tolstoy that he published in *Century Magazine* in 1887. In “A Visit to Count Tolstoy”<sup>16</sup>, the discussion turned to the resistance movements occurring around the world, and Kennan directly asked Tolstoy what he thought about these movements. In reply Tolstoy stated, “That depends upon what you mean by resistance; if you mean persuasion, argument, protest, I answer yes; if you mean violence- no. I do not believe that violent resistance to evil is ever justifiable under any circumstances.” (Kennan, 256) Kennan goes on and explains how Tolstoy argued that the belief of nonviolence “was in accordance both with the teaching of Christ and the result of human experience.” (Kennan, 256)

Tolstoy understood that there were objections to be made within his argument, most importantly with his notion that man can and will eventually, in a perfect world, live without a public authority. He addresses these issues in the last section of this work. He states,

“The State is only a temporary form of human groups. Just as the life of an individual is constantly in a state of evolution and bettering itself, so the life of an entire community progresses and improves. Every human being begins as a nursing, plays and studies; then he begins to work, marries, brings up his children, gets rid a little of all his passions, and acquires wisdom with age. The life of nations evolves in the same way; only their phases of development last not years, but hundreds and thousands of years. And as the nec-

essary transformations take place in the spiritual, or rather, intangible world, in the case of the individual, the essential changes in humanity take place at first in the intangible world also: that of the religious conscience.” (Tolstoy 1908, 94-5)

Tolstoy’s work *The Law of Love and the Law of Violence* can be seen as a continuation of his work and arguments, as laid out in the *The Kingdom of God is Within You*. Both of these works advocate for the use of love over violence and the active resistance to forms of state-sanctioned violence. Tolstoy’s beliefs on nonviolence as a means of political resistance would live on through the works of many revolutionary thinkers. Most importantly, nonviolent leaders like Mahatma Gandhi and Martin Luther King Jr. would be influenced by both of these works.

The next section of this paper will look at the relationship between these nonviolent thinkers, influenced by Tolstoy, and how their work would lead to reform movements within the criminal system.

#### Tolstoy, Gandhi, Martin Luther King, Jr., and Nonviolent Resistance:

In 1908, after completing both *Kingdom of God is Within You* and *The Law of Love and the Law of Violence*, Tolstoy received numerous letters from people around the world wanting to discuss his beliefs on nonviolence. One such letter that Tolstoy received was from Mohandas K. Gandhi, or more commonly known as Mahatma Gandhi.

At the time, Gandhi was working tirelessly in South Africa using passive resistance as a form of protest against British rule and oppression of the native peoples of South Africa. Gandhi had read not only the two above named works, but Tolstoy’s work “A letter to a Hindu” which was a letter to C.R. Das who was a Indian revolutionary leader.<sup>17</sup> He was so moved by this work that he decided to write to Tolstoy for permission to publish it in South Africa. From there the two great thinkers started a correspondence discussing issues surrounding nonviolence and faith. In the Forward to the collection of letters between Gandhi and Tolstoy, Virginia Ringer states how Gandhi “enthusiastically became a disciple of Leo Tolstoy and inherited the difficult ‘search for Truth’ which had preoccupied Tolstoy for much of his life.” (Ringer 12) Gandhi’s use of nonviolent resistance was inspired greatly by the writing of Tolstoy.

Gandhi and Tolstoy corresponded discussing Tolstoy’s writings on nonviolence as well as Gandhi’s work in South Africa. In his letter to Gandhi, Tolstoy wrote,

“This fight between gentleness and brutality, between humility and love on one side, and conceit and violence on the other, makes itself ever more strongly felt here to us also- especially in the sharp conflicts between religious obligations and the laws of the State- expressed by the conscientious objection to render military service. Such objections are taking place very frequently.” (Murthy 28)

Tolstoy goes on to tell Gandhi that “what one calls nonresistance, is in reality nothing else but the disciple of love undeformed by false interpretation.” (Murthy 35) These letters between Gandhi and Tolstoy show the connections between these two great thinkers and help to understand the context of Gandhi’s thinking. The nonviolent protests that Gandhi led in both South Africa, and later in India, were the inspiration behind another nonviolent thinker, Dr. Martin Luther King Jr. of the United States.

Dr. Martin Luther King Jr.’s use of nonviolence was a core part of the Civil Rights Movement of the 1960’s in the United States. The protests and marches that were led by Dr. King and other believers in nonviolence found inspiration in Gandhi’s fight in India. The teachings that Tolstoy passed on to Gandhi can still be seen in the writings and actions of Dr. King. From his “Letter From Birmingham Jail”<sup>18</sup>, Dr. King stated, “Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly affects all indirectly.” (Luther 2) Throughout his writings and speeches, Dr. King expressed the responsibility that a society has as a whole in dealing with injustice. This can be compared and linked with the thinkings of Tolstoy within his works.

Just as Gandhi was influenced in his philosophy by reading Tolstoy’s works and corresponding with him, Dr. Martin Luther King, Jr. was influenced Gandhi, and formulating his philosophy of nonviolent resistance to the oppression of African Americans in the Civil Rights Movement of the 1950’s and 1960’s. Dr. King read Gandhi’s works and knew the history of his movement in South Africa and later in India, culminating in the independence of India from the Colonial rule of Great Britain. In this way, there is a bridge between the works of Tolstoy, the writings and actions of Gandhi, and those of Dr. King, spanning a century of time and three continents.

#### **Road to Restorative Justice:**

##### Punishment vs. Rehabilitation in U.S. Criminal Justice:

The American Criminal Justice System has evolved over the many years since the founding of the United States. The modern American penal law that we know today originated mainly from the foundations of English common law,<sup>19</sup> including the Magna Carta, and European philosophers on the natural rights of man. The other main influence on the American system of jurisprudence evolved from the Puritan beliefs of English settlers in the New World. In Louis Schwartz’s work “The American Penal System: Spirit and Technique,” Schwartz states,

“The spiritual welfare of the citizen was a prime concern of their state, and no doctrine of separation of church and state, no formal division of jurisdiction between ecclesiastical and secular authority stood in the way of their regulation of dress, deportment, and devotions.” (Schwartz, 4)

These Puritan notions and ideologies, can still be seen in the foundations of many of the legal codes throughout the United States, as well as Federal laws. The Founding Fathers would eventually lay out a model for the United States Criminal System that

would enshrine separation of Church and State. The penal system that was established became strongly based in a punitive model. As the law evolved, issues of the efficacy of incarceration and punishment were examined. This led to different social and political movements within the system, in attempts to reform it. Restorative Justice began in the United States, as an outgrowth of the Civil Rights Movement, and these examinations of crime and punishment.

When sentencing a criminal, the judge looks at the nature of the offense, the character of the defendant and the defendant's record, the need for protection of the community, and the rehabilitative needs of the defendant. One of the main guidelines set within the Criminal Justice system of the United States is the American Bar Association (hereinafter, ABA) "Criminal Justice Standards." In an article entitled "The Making of the ABA Criminal Justice Standards: Forty years of excellence,"<sup>20</sup> by Martin Marcus, Marcus discusses the start of these standards and their role within sentencing practices. Marcus explains how the ABA Standards were first written and implemented in 1964. He stated,

"Indeed, the Standards continue to be frequently relied upon by judges, prosecutors, defense attorneys, legislatures, and scholars who recognize that they are the product of careful consideration and drafting by experienced and fair-minded experts drawn from all parts of the criminal justice system."  
(Marcus 1)

The ABA Standards are used still today, but revisions are made to reflect the changing philosophies of the law and organization. The ABA has a council that evaluates the legality and needs of the system and has the authority to make changes or additions. These standards were implemented in hopes to set a federal standard across the United States and ensure best sentencing practices, with influence from evolving case law and input from reform groups hoping to help the Criminal Justice System.

The Restorative Justice movement began to develop in the United States, as a reaction to "tough on crime" political atmosphere of the 1980's, the era of the War on Drugs. During this time, national crime rates skyrocketed and more than ever prisons became overcrowded, due to mandatory minimum sentences, mandatory arrest for domestic violence crimes, and "three strikes" laws mandating life sentences for offenders, and the disparate effects on disadvantaged populations.<sup>21</sup> This wave of mass incarceration has been linked by many scholars to "a shift toward more punitive policies and a consensus that 'nothing works' in rehabilitating inmates," (Phelps, 33), as Michelle Phelps stated in her article entitled "Rehabilitation in the Punitive Era: The Gap Between Rhetoric and Reality in U.S. Prison Programs."<sup>22</sup> As time went on, "crime rates dropped dramatically during the 1990's" (Allen 311) as Amy Allen points out in her work "Justice and Reconciliation: The Death of the Prison?"<sup>23</sup> As the crime rates went down however, the prison population continued to grow and over population "produce very little public protest or outcry," (Allen 311) as Allen notes. In the decades which followed, attempts were made to reform the penal system. New crime bill legislation was enacted throughout the 1980's and 1990's. During this time, the United States saw a rise in the discourse about Restorative Justice practices and the benefits of these to society.

Restorative Justice gives an alternative way to look at and understand crime within the penal system. Restorative Justice "is a theory of justice that emphasizes repairing the harm caused by criminal behavior," as stated by the Centre for Justice & Reconciliation.<sup>24</sup> The Centre for Justice & Reconciliation goes on to describe the practice of Restorative Justice and states, "It is best accomplished through cooperative processes that include all stakeholders. This can lead to transformation of people, relationships and communities." (Centre for Justice & Reconciliation)

While typical incarceration and punishment based practices, or "retributive justice," is based on crime as a crime against the state or law, restorative justice goes further and looks at the crime as an offense against society as a whole. The basic practice of restorative justice is based within the participation of offenders and victims in different programs focusing on understanding the harm done by the particular crime to the victim, the offender, and society at large. These programs are often done through group meetings, where offenders and victims can come together and speak about their own experience in relation to the crime, as well as citizen panels including former offenders, to hold offenders accountable for their behavior.

Many of the principles and foundation for Restorative Justice practices can be linked to the nonviolent movements, but they can also be linked to religious and morally based recovery groups like Alcoholics Anonymous (hereinafter, AA). In an article by Victoria Pynchon called "Shame by Any other Name: Lessons for Restorative Justice From the Principles, Traditions and Practices of Alcoholics Anonymous,"<sup>25</sup> Pynchon discusses the principles of AA and its link to Restorative Justice. Pynchon stated,

"In criminal ADR or 'restorative justice' circles, the beneficial effects of 're-integrative' shame are meant to be accomplished by a 'restorative justice conference' or 'victim-offender mediation.' these VOMs bring together victims and their loved ones; offenders and their friends and family; and, caring member so the community for the purpose of discussing the consequences of crime and what can be done to set it right." (Pynchon 301)

Pynchon goes on to discuss the role of accountability and how it is a strong core of both AA and Restorative Justice programs. Pynchon ends the article by discussing that the main challenge that Restorative Justice faces is the challenge of participation and finding a place within the greater community.

In Albert Dzur's work "Civic implications of restorative justice theory: Citizen participation and criminal justice policy,"<sup>26</sup> Dzur explains some of the benefits of restorative justice. When looking at the individuals who work within these restorative justice programs, Dzur writes,

"They propose a form of dialogue that is outside regular criminal justice institutions, free from the domination of procedure and professionals, where victims can communicate with offenders, and where offenders can acknowledge wrongdoing and accept responsibility," (Dzur 2003, 278)

Dzur explains how often Restorative Justice programs are based through “grass root efforts” (Dzur, 280) and done often within smaller concentrations, like within departments for corrections or prosecutors’ offices in a city or county, rather than through larger legislative actions or political campaigns. Over the years, Restorative Justice programs have grown throughout the United States, but Dzur points out that “restorative justice experiments have to be assessed with non-traditional indicators of success beyond those ordinarily used to gauge criminal justice efforts- such as victim satisfaction and offender recidivism rates.” (Dzur 281)

The critics of Restorative Justice often find fault within what they argue is a lack of punishment, or deterrence, for offenders. Understanding the role of deterrence when it comes to the penal system in the U.S. is key in looking at this argument. In an University of Chicago Law Review article called “The Morality of Deterrence,”<sup>27</sup> Johannes Andenaes discussed the issue surrounding deterrence with criminal justice. Andenaes looked at the role of deterrence, both within legislation, and as a basis for sentencing. When discussing the use of deterrence in legislation, Andenaes writes,

“Punishment is essential to the law’s effectiveness; without its application the law would be an empty letter. Thus, if it is ethically justifiable to issue penal laws in order to regulate human conduct, it cannot be ethically unjust to apply the law in the individual case. It cannot be said that the offender ‘suffers not for what he has done but on account of other people’s tendency to do likewise.’ He suffers for what he has done in the measure prescribed by the legislature.” (Andenaes, 651)

The use of deterrence within the legislature is to prevent future criminal behavior, this then involves some kind of punishment. As Andenaes said, “the application of punishment is to fulfill the command of the law so that it does not contradict itself.” (Andenaes, 652) Andenaes does point out, however, that simply because the aim of a law is deterrence, that “does not mean that legislation based on the principle of deterrence is exempt from criticism.” (Andenaes, 652) The main criticism that Andenaes has with certain uses of deterrence through legislation is that in recent years “the execution of punishment has become less and less compatible with prevailing moral sentiment.” (Andenaes, 653)

Andenaes goes on to state that “the decisive point does not seem to be whether the law is based on considerations of deterrence, but rather whether it can be accepted as a reasonable means to a legitimate end.” (Andenaes, 654) Andenaes then discusses the issue of deterrence within sentencing. For Andenaes, the use of deterrence by judges and prosecutors in sentencing is really controlled by whether or not there is a fixed sentence by the legislature. This affects the way in which deterrence can be used within sentencing, in Andenaes’ opinion. In his conclusion, Andenaes states,

“[I]t is undeniable that punishment- the intentional infliction of suffering- is a special category among social policies. It contrasts sharply with the social welfare measures which characterize our modern state. This calls for caution and moderation in its application[...] The balance that should be struck be-

tween defense of society and humaneness towards the offender can hardly be expressed in a simple formula. The solution of the conflict will depend on individual attitudes. Some people identify more with the lawbreaker. But certainly punishment should not be imposed precipitously. History provides a multitude of examples of shocking cruelty based on ideas of deterrence, often in combination with ideas of just retribution[...] But it is morally indefensible to continue to punish other human beings without making real efforts to replace speculation with scientific facts.” (Andenaes, 664)

Andenaes’ argument sets out an understanding of the issue of deterrence within the legislature and in sentencing practices. While Andenaes believes that the use of deterrence is a reasonable and appropriate factor in criminal justice, he finds that there is a lacking in the connection between the way in which deterrence is used in the writing of laws and the way in which they are used for incarceration. He argues above that there is a need for a “balance” between the “defense of society and humaneness towards the offender.” This criticism of the punitive system is often at the core of Restorative Justice arguments. Laws and punishment are meant to be incentives and guiders for moral action. In Erin Kelly’s work “Criminal Justice without Retribution,”<sup>28</sup> Kelly discusses this topic. Kelly stated,

“An important function of the criminal law is to provide incentives to persons not otherwise sufficiently motivated to comply with the law’s directives, We use incentives and the threat of punishment to guide people.” (Kelly 446)

When looking at the United States Criminal Justice System today, the debate over the use of Restorative Justice programs and the role of punishment and retribution still goes on like it did during Tolstoy’s time. Like Tolstoy, modern Restorative Justice theorists and practitioners are concerned with the future of the reform movement and ways in which to better not only the individuals within it, but the system as a whole. It is clear from looking at other modern penal systems that the United States differs from the rest. In a report released by the Pell Center for International Relations and Public Policy in 2014 entitled “Incarceration and Recidivism: Lessons from Abroad,”<sup>29</sup> researchers examined the incarceration and recidivism rates of 221 countries across the globe.

The results of this study illustrated that “the United States has about 5% of the world’s population yet it accounts for about 25% of the world’s prisoners.” (Deady 1) This rate is with the decline crime rate over the last few decades. The study also goes on to state, “Experts point to a number of factors: harsher mandatory sentences, the decades-long war on drugs, high violent crime rates, a politicized criminal justice system, and lack of a social safety net.” (Deady 2) The rate of recidivism is also high for the population rate of the United States. The study states that, “over 50% of prisoners in the United States will be back in jail within three year of their release.” (Deady 2) The question then is why? The study goes on to examine the sentencing and incarceration practices used in Germany and the Netherlands. They stated,

“In those countries, the emphasis is on rehabilitation and socialization rather than just punishment. Incarceration is used less frequently and for shorter

periods of time. Sanctions such as fines, probation and community-service are used as alternatives to incarceration when possible, particularly for non-violent crimes. The conditions and practices in the correctional facilities are meant to resemble life in the community. The end goal of incarceration is for ex-prisoners to be better citizens upon release, thereby increasing public safety.” (Deady 3)

Clearly, with the highest population of incarcerated persons in the world, and a disparate percentage of minorities incarcerated, it is up to the United States to find more alternative methods to incarceration and better programming to help offenders re-enter society.

One of the main struggles that Restorative Justice faces within the United States has to do with the perception that society has on offenders. Michelle Phelps in “Rehabilitation in the Punitive Era: The Gap Between Rhetoric and Reality in U.S. Prison Programs,” discusses the perception that Restorative Justice has and stated it is “notoriously hard to sell to the public given the extreme hostility toward government funding of prison education programs.” (Phelps 62) Because of this negative perception and outlook towards prison reform programs, often there is lack of funding and enthusiasm from the greater public. Since Legislatures do not want to appear “soft on crime,” there has been push-back towards expanding Restorative Justice programs and other reform acts over the United States. In Andrew Dilts work, “Punishment and inclusion race, membership, and the limits of American Liberalism,” Dilts in his last section discusses the problem of perception as it relates to injustice. Dilts stated,

“[A]ction that challenges the work of punitive political membership must look beyond legislative reform, executive power, or judicial review but also to an alternation of our day-to-day practices of living with others. Rather than projecting fear and anxiety onto others, we must be willing to risk truly living, talking, and working with those around us. We must fully embrace the contingency of living in a world that cannot be controlled without exacting too high a price on our fellow citizens. We must reinvent and refigure citizenship and punishment on different terms, sharing the burdens of excess and marginality if they truly are unavoidable. If we want to remedy the cruelty of disenfranchisement, we also must commit ourselves to entirely new ways of being citizens and punishing criminals.” (206)

In this passage, Dilts’ called for a rethinking of the way punishment is perceived. He argues for a “sharing of burdens of excess,” touching on the same notion of shared responsibility that Iris Young argues for in her work *Responsibility for Justice*. Advocates for Restorative Justice programs must work towards changing the public perspective towards offenders and help to remove these negative outlooks. This can be done through more community based programming and educational programs within community schools.

### Looking Ahead:

Based on the works of Tolstoy, it can be understood that he would advocate for more habilitative and restorative programs in a modern penal and Criminal Justice System like the United States. While Tolstoy did believe that governments and institutions of law hindered the law of love, his thinkings can be linked and understood within the context of modern reform.

The goal of Restorative Justice is to bridge the gap between offenders, victims, and society at large, in hopes to help offenders better themselves and to allow for victims to be heard. The moral foundations of these programs can be directly linked to the nonviolence movements of the 1960’s in the United States and therefore can be traced all the way back to Tolstoy’s writings. Tolstoy’s beliefs on love, morality and responsibility can be compared to the moral foundations of Restorative Justice.

In recent years there have been increases in the number of alternative programs available for incarcerated persons within the United States Criminal Justice System. In the Pell Center study discussed in the previous section, the study stated,

“[T]he United States is already working toward reform at both the federal and state levels. In August 2013, Attorney General Eric Holder announced a change in the Department of Justice policy so that low-level, nonviolent drug offenders with no ties to large-scale organizations, gangs or cartels will no longer be charged with crimes that carry, as he put it, ‘draconian mandatory minimum sentences.’ Louisiana, Pennsylvania and 15 other states are currently taking part in the Justice Reinvestment Initiative, a data driven program aimed at decreasing spending on corrections by reducing prison populations and increasing public safety, and saving taxpayers billions of dollars in the long run.” (Deady 4)

With the increase of alternative programs and other Restorative Justice practices, there is hope that the incarceration rate of the United States can in the future decrease and that the goal of the system can be focused more on public safety rather than a strictly punitive and retributive practice.

These Restorative Justice programs also can help change the perspective that society has towards the Criminal Justice system and those that are in it. Allowing for more community based outreach groups and organizations helps remove the sense of “other” that is often felt by former incarcerated persons. Restorative Justice cannot end inside the prison walls, it is important for programming to be given to offenders on their release from prison. This can help these persons to assimilate back into legal society. Understanding Leo Tolstoy’s work can give perspective and guidance to modern day reformers.

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Orozco Murals, 66 West 12th Street, The New School. Photo by Haya B. Alghanim

# Wel-scare: Everyday Anti-immigrant Narratives as Drivers of Welfare Reform in Denmark

by Patrick Gallen

## Introduction

We [Danes] have destroyed our own home in order to welcome immigrants ... many immigrants come just to exploit our [welfare] system. And we were naïve enough to let them in. They got money immediately, a house, health care, everything. But in the meantime they destroy the system.

-Pia Kjærsgaard, Leader of the Danish People's Party 1995-2012<sup>1</sup>

[The refugees] could just stop! What's wrong with just remaining in one's own country and fighting for a better future? I don't feel bad for those who drown on the dangerous journey here. Their choice is their destiny.

-Kasper Ravn Fredensborg, Herning City Councilman and member of the Danish People's Party<sup>2</sup>

Centuries after the release of Shakespeare's famous play, something is once again rotten in the state of Denmark. Yet rather than deception and murder in the royal court, the rottenness this time around stems from a far more insidious and destructive process: the breakdown of the Danish welfare state through the use of increasingly racist and xenophobic narratives. By employing such narratives, politicians, activists, and interest groups have been able to harness the Danish public's growing fears about the effects of immigration on national identity and economic security to greatly reduce the size and scope of the Danish welfare system. To be sure, while the purported aim of retrenchment is often to discourage immigration by limiting access to much of the welfare system to Danish citizens and reducing benefits for immigrants, this process has negatively impacted everyone who relies on the welfare system, Danish citizens included. Economically vulnerable individuals and families have been made even more vulnerable, and income and wealth inequality are on the rise. And if retrenchment continues, so will this trend.

This paper demonstrates that the recent retrenchment of the Danish welfare state has been made possible through the successful employment of racist and xenophobic anti-immigrant narratives in popular discourse, not through the use of empirical economic analyses. This paper argues moreover that these narratives have deeply and dangerously divided an increasingly ethnically and racially diverse Danish society, and that an effective way to mend these divisions may be to expand the Danish welfare state rather than retrenching it.

The argument of this paper is developed in six parts. In the first section, relevant background information such as the foundation of modern Danish national identity and a brief history of the formation of the Danish welfare state is discussed. This information is provided in order to explain why anti-immigrant narratives have been particu-

larly effective tools for mobilizing public support for welfare reform. The second section covers the rise of anti-immigrant populist groups and the economic and social issues that allowed them to gain political power. The third section describes how advocates of welfare reform employed anti-immigrant narratives disseminated by populist groups in the 1980s as the primary vehicle for building public support for a large-scale retrenchment initiative. The fourth section discusses the scope and impact of major welfare retrenchments on welfare recipients since the early 1990s. The fifth section examines the reconfiguration of the Danish welfare state in the context of similar changes that are happening around the world today. The sixth and final section details opposition to welfare reform in Denmark from leftist political groups, and considers a number of ways to remedy the negative consequences of the retrenchment of welfare programs, including proposals for an increase in welfare and immigration services spending, tax disincentives for businesses that outsource jobs, the introduction of minimum wage laws, and the use of public service announcements to combat hate speech and xenophobic discourse in Denmark.

## The foundation of Danish national identity and the growth of the welfare state

Before exploring the retrenchment of the Danish welfare state, we must understand how it came to be in the first place. This requires not only a brief discussion of recent Danish political history, but also a discussion about the origins and development of Danish national identity as it is widely held that a strong, homogenous national identity is responsible for the establishment and success of the Danish welfare state (Hedetoft 2006; Jespersen 2011). This section examines both of these events, beginning with the development of Danish national identity.

Danish national identity—like any national identity—is an abstract construct that has been reified through centuries of shared stories, traditions, religious practices, and print and visual media (Anderson 2006). Despite increasingly frequent claims today that there truly is some kind of wholly organic, innate, and unifying “Danishness” that can only be found in those who are read as ethnically Danish within Danish society, even a cursory review of scholarship on the history of the Danish people will reveal that this notion is unfounded. While there was a distinct Viking culture that existed in what is today Denmark until the beginning of the 11th century, contemporary Danish national identity as it is understood and employed today is a patchwork of Protestant traditions, secular Western European values, and folk songs and stories, none of which are uniquely Danish in origin or in practice (Østergård 1992; Jespersen 2011).

Yet if this is the case, how has the notion that a special kind of ethnic Danishness exists become so widely accepted? Danish scholars Østergård (1992) and Jespersen (2011) offer an explanation that emphasizes the role of the 19th century Danish philosopher and Lutheran minister Nikolaj Frederik Severin Grundtvig in minting a contemporary Danish national identity. As a revered religious and academic figure during a period of great social and political turmoil in Denmark, Grundtvig authored a number of academic, religious and creative texts which unified an economically depressed and war-torn population by utilizing the symbols and tropes of the largely homogenous, Lutheran peasant culture that characterized most of Denmark. As Jespersen (2011) writes:

It may well be that one particular reason for the outstanding success of the Grundtvigian model was that in many respects it was an extension of a culture of agreements and negotiations [which] characterized the social conventions of the old agricultural communities. Indeed, it could be seen as a raising of village culture to a national level.

The rapid spread of Grundtvigianism was further bolstered by Denmark's transition to parliamentary democracy in 1849, in which peasant farmers became the dominant actors in both local and national governing institutions. As a result, the nationalistic overtones of the peasant-friendly Grundtvigian teachings became frequent topics in national political discourse, namely the innate connection between the Danish people and their land, the beauty of the Danish language, and the need for economic self-reliance. To a population that had recently experienced a series of crushing military defeats and territorial loss to Germany, these inward-looking ideas were particularly attractive. With the nearly universal acceptance of these ideas over time, a new Danish national identity grounded in the teachings of Grundtvig was born.

Crucially, the strong national identity that developed from Grundtvig's wildly popular teachings is credited with providing the impetus for the development of the Danish welfare state. As Østergård notes, "Grundtvig's teachings were permeated by a fundamental optimism with regard to people's capacities. He demanded economic and ideological freedom and the right to education for everybody" (1992, 17). Beginning with the peasant-farmer majority in the fledgling democratic government of the mid-19th century, these ideals translated into the establishment of institutions and social programs that would seek to ensure the economic and social stability of all members of Danish society—that is, the welfare state.

While scholars have debated the exact timing of the establishment of the modern Danish welfare state, there appears to be general agreement on the claim that "it ... developed more or less continually [sic] during the century between the 1870s and the 1970s" (Kærgård 2006, 4). Kærgård provides a brief summary of the growth of the welfare state during this time:

In 1873 a law for protecting children ... against industrial [work] was confirmed. In 1891 a general old age pension for poor elderly people was introduced, and at the same time support to people undeservedly losing their income. A law about sick-benefit associations ("sygekasser") was confirmed in 1892 and at the same time the public paid half of the cost at the hospitals for members of these associations. From 1907 the unemployment insurance associations got public support. ... [A] land reform, which gives small pieces of land to the farm workers, passed the parliament in 1899 and was further developed in 1904, 1907 and 1919. In the interwar period the Danish welfare state was highly developed by smaller and bigger reforms in the 1920s and especially in 1933 ("Kanslergadeforliget"),<sup>3</sup> This development was escalated after the Second World War with fast-growing levels of the social benefits, with shorter working hours, longer holidays, with free education and with a number of reforms, e.g. a general old age pension reform in 1956 which es-

tablished a public pension for all citizens independent of their income. When the unemployment, caused by the first oil crisis, reached Denmark in 1974, the welfare system was fully developed. (Kærgård 2006, 4-5)

For a short time after this approximately 100-year-long period of expansion from the 1870s to the early 1970s, the size of the welfare state, i.e. the number of welfare programs under the purview of the government, remained relatively constant, with the exception of a handful of attempts to reduce the size of the workforce by incentivizing early retirement and remaining formally unemployed with increased social benefits for older workers, post-secondary students, and parents with young children. The events of the 1980s, however, set the scene for a new, bleak era for the welfare state.

The 1980s and beyond: The rise of anti-immigrant populism and the background of public support for welfare reform

Prior to the 1980s, there were very few national discussions about both immigration and the health of the welfare state in Denmark (Rydgren 2006).<sup>4</sup> However, after years of low economic growth and rising unemployment resulting from an economic crisis in the 1970s and 1980s coincided with a sharp increase in immigration to Denmark, anti-immigrant interest groups seized the opportunity to start a national conversation around these issues. The first of these groups was founded in 1987. Known as The Danish Association ("Den Danske Forening"), its founding members were (and remain) representative of a small, right-wing segment of the Danish intelligentsia which stands "against the disintegration of ... [Danish] cultural and popular unity, which is caused by an excessive influx of people from overpopulated countries" (Den Danske Forening 2003). Importantly, while the fiery rhetoric often employed by members of the Danish Association in their contributions to both the website and the affiliated quarterly journal known as *The Dane* did not secure the organization a lasting position in mainstream political discourse, it certainly succeeded in paving the way for similar (yet less abrasive) groups to make political gains.

One such group that has rearticulated the anti-immigrant sentiments of the Danish Association in a much more palatable and relatable manner to the Danish public is the Danish People's Party ("Dansk Folkeparti"). Originally founded in 1995 as a more moderate offshoot of the Progress Party ("Fremskridtsparti")—whose main objectives are to drastically reduce the size of the Danish welfare state, simplify the legislative process, and eradicate Muslim immigrants from Denmark—the Danish People's Party has seen remarkable electoral success by expertly popularizing the narrative that the most pressing threat to Danish national identity and the welfare state is large-scale immigration from non-western countries (Valbum 2008; Rydgren 2006).

Karen Wren (2001) tracks the development of this narrative and how it has impacted immigrants, ethnic minorities, and popular attitudes welfare spending, and claims that the increasingly negative discourse is closely related to a revival of an isolationist, Grundtvigian national identity:

Cultural racism and the problematization of ethnic minorities in Denmark

has been associated with the strengthening in the public imagination of the concept of a homogenous Danish culture, perceived as a historically rooted set of traditions now under threat from globalization, the EU, and from “alien” cultures. (Wren 2001, 148)

By examining a series of public speeches and press releases made by members of the Danish Association and The Danish People’s Party as well as independent newspaper articles, Wren demonstrates how immigrants and ethnic minorities were systematically constructed as “others” who are a threat to Danish national identity and unity.

One particularly popular critic of multiculturalism and immigration in the Danish news media that draws Wren’s attention is Jens Krarup, a former priest and member of both the Danish Association and the Danish People’s Party. Krarup, who later won a seat in the Danish parliament, “has enjoyed extensive press coverage” for remarks such as the following (Wren 2001, 153):

For more than a thousand years we have, in this country, formed a nation with a common religion, language, culture and history, and this national community cannot just be flicked aside as something trivial, because economic or ideological interests dictate they should. One shouldn’t do it. Love of fatherland and home is one of the loveliest human emotions to be found, closely connected with honesty and decency—and an old nation state represents a home. Here the family or people have their sanctuary and their community. That doesn’t mean one can’t have guests. Neither does it mean one cannot open one’s doors for the needy or give them permanent residence. But if one doesn’t recognise the difference between hosts and guests through transforming the family home to an official hotel, then one is attacking the family and the home and simultaneously laying the foundations for a large array of conflicts, which definitely will not, and cannot be peaceful. The difference must be recognised—the difference between home and hotel, between Danes and strangers, between Christians and Mohammedans [sic]. The difference must be both recognised and respected. (Wren 2001, 154-5 quoting Krarup Jylland’s Posten August 1984 as quoted in Schierup 1993: 161)

While Krarup expressed these views prior to the establishment of both the Danish Association and the Danish People’s Party, they became major parts of the platforms of both groups.<sup>5</sup> Additionally, more explicit views on non-Western (primarily Muslim) immigration have been offered by prominent members of the Danish People’s Party:

It is ... naïve to think that you can integrate Muslims into the Danish society, ... Only a few of them have come here in order to be integrated. Most of them have come here in order to create a Muslim society, ... [Islam] is not only a religion but a fascist political ideology mixed with a religious fanaticism of the Middle Ages, an insult against the human rights and all other conditions necessary for creating a developed society. We cannot force an-

other culture on the Muslim countries, we cannot prevent them from ruining their societies, but we ought to protect our own society. People wanting to fight a holy war should not be in Denmark. (Camre 2000 as quoted in Rydgren 2006)

Today’s immigrants are for the most part people from the third world and primarily Muslims who have no desire at all to become a part of Danish society. On the contrary, these people come with suitcases full of something completely different. They often come with the deepest contempt for all that is Western, for all that is Danish, and for all that is Christian. They come with suitcases full of chauvinism, ritual sacrifices, of female circumcision, and of clothing and traditions that oppress women, all of which belong in the Dark Ages. And before all else many come with suitcases full of religious fanaticism, “holier-than-thou” attitudes, and arrogance. (Pia Kjærsgaard, 1999).

Crucially, while the anti-immigrant narratives originally attracted public interest and support by framing the influx of “outsiders” as a threat to Danish national identity, they secured a lasting position in popular political discourse when members of right-wing populist groups started to suggest that an influx of immigrants—especially refugees—was the principal threat to the Danish welfare state. That is, some of the most widely-supported anti-immigration rhetoric “is presented as welfare chauvinism: immigrants drain the welfare state of resources that otherwise could have been used to help old and sick (native Danish) people” (Rydgren 2006, 486). As one outspoken member of the Danish People’s Party stated, “the influx of people from abroad will destroy the welfare state: Denmark has become an insurance company where all are compensated without ever having to pay the insurance premium. Such an insurance company will fail” (Camre 2001 as quoted in Rydgren 2006).

As anti-immigrant narratives such as those examined above gained wider acceptance and became more prevalent in the media, the most immediate effect was a shift in how non-Western immigrants and refugees were perceived and treated by Danes. Karen Wren (2001) illustrates this shift with the aid of interviews conducted with non-Western immigrants. In one interview with Lubna, a woman who immigrated to Denmark before the late 1980s, the worsening treatment of immigrants is made rather clear: “Danes are not as nice as they once were, and open towards immigrants, refugees or dark-haired people. They were then. There was nothing like, ‘Ah, here comes a dark-haired person, so we must say something, or go

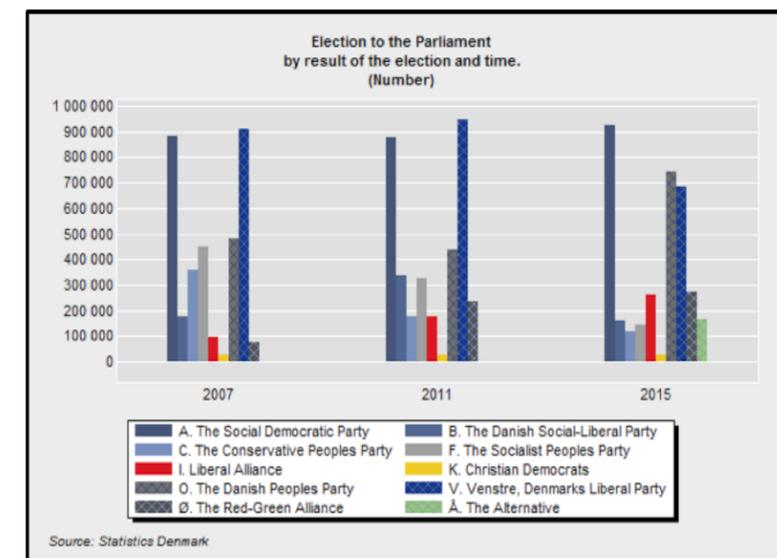
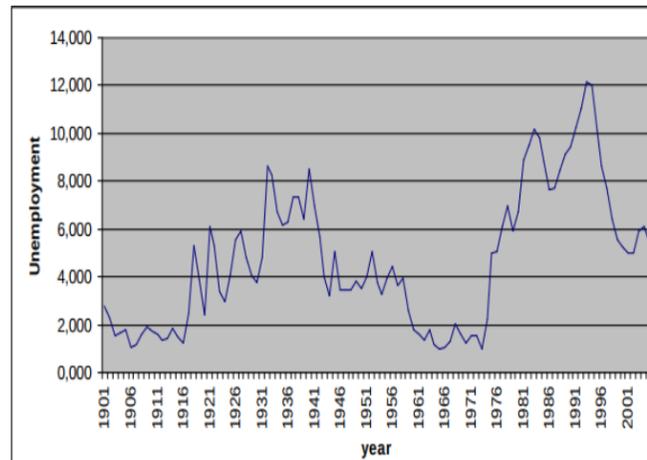


Figure 1  
Source: Statistics Denmark. 2016. “Statbank Denmark.” Accessed March 29, 2016. <http://www.statbank.dk/statbank5a/default.asp?w=1920>.

the other way, or push,' or such like. There is today" (Wren 2001, 150-51). In another interview, a woman remarks on the effects of the "welfare exploitation" narrative that has been popular in Danish news media:

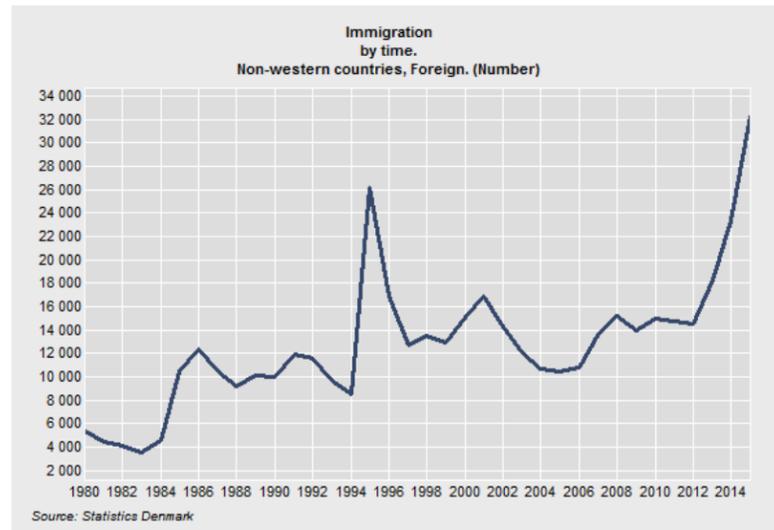
Sometimes the newspapers have written, for example, that there are immigrants who earn 20,000 kroner [ca. 3,030 USD] a month in welfare benefits. They look at the worst cases, then they think that refugees are only immigrants exploiting their system. But if they could look more closely at the situation immigrants live in ... or that there are also Danes who exploit the system. There are many Danes who earn many millions or they also exploit the tax system, but they don't look at that. It is like Hans Christian Andersen's *The Ugly Duckling*, the little black one, different and always a problem, that's us. (Wren 2001 158)



**Figure 2**  
Source: Data adapted from Kærgård, Niels. 2006. "The Foundation for the Danish Welfare State: Ethnic, Religious and Linguistic Harmony." Paper prepared for the XIV International Economic History Congress, Helsinki, Finland, August 21-25.

Moreover, in the long term, increasing public support for anti-immigrant narratives has translated into electoral success for The Danish People's Party. In every parliamentary election since the party's electoral debut in 1998 (with the exception of the 2011 election), the Danish People's Party has gained a greater percentage of the popular vote. In the most recent 2015 parliamentary election, the Danish People's Party received the second-highest percentage of the vote at 21.08% (Statistics Denmark 2016; see fig. 1). In regional and municipal elections the trend has been almost identical, with the DPP increasing its share of the vote in every election with the exception of 2005. In the most recent European Parliament election in 2014, the Danish People's Party became the largest party in a national election for the first time since its establishment in 1995 with 10.3% of the vote (Statistics Denmark 2016).

To many commentators, the rapid increase in support for the Danish People's



**Figure 3**  
Source: Statistics Denmark. 2016. "Statbank Denmark." Accessed March 29, 2016. <http://www.statbank.dk/statbank5a/default.asp?w=1920>.

Party and its anti-immigrant narratives has come as a surprise (Eddy 2015, Crouch and Eriksen 2015; Eakin 2016),<sup>6</sup> as Denmark—along with the rest of Scandinavia—is widely considered to be an open, liberally-minded and socially-progressive country. However, an examination of the social and economic situation in Denmark between the 1970s and the early 2000s provides a perhaps less-than-shocking explanation for the increasing appeal of anti-immigrant narratives.

As noted in the beginning of this segment, the Danish economy was thrust into an economic crisis beginning in the early 1970s. First and foremost, following the 1973 oil crisis, unemployment began to rise rapidly (Kærgård 2006; see fig. 2). At the same time, globalization, which became fully visible in the 1980s, threatened the job security of workers in the industrial and manufacturing sectors as businesses sought to reduce the relatively high cost of labor in Denmark by offshoring manufacturing facilities (Kærgård 2006). Moreover, taxes and duty fees increased steadily during this period under the leadership of both center-left and center-right government coalitions (Statistics Denmark 2016), and Denmark had developed "a galloping foreign debt" (Goul Andersen 2012).

These events coincided with a sharp increase in non-Western immigration resulting from immigration reforms introduced by a series of center-left government coalitions (Rydgren 2006; see fig. 3).<sup>7</sup> Notably, the vast majority of new immigrants during this time were refugees, as "the number of asylum seekers increased from 800 in 1983 to 4,300 in 1984 to 8,700 in 1985."<sup>8</sup> These new immigrants, many of whom were unable to immediately enter the Danish workforce due to both the poor economic conditions detailed above as well as linguistic and educational barriers, were given access to welfare programs including free healthcare and public education, subsidized day care and housing, and cash benefits.

As the immigrant minority became an increasingly visible segment of the Danish population, the claims of right-wing populist groups that Danish (read: ethnically-homogenous) society and national identity were under threat gained credence. Moreover, although Denmark's economic woes in the 1970s and 1980s were the principal cause of the strain on the welfare system (Kærgård 2006), blame was more easily placed on immigrants who, as detailed above, became increasingly negatively portrayed in news media as criminals who sought to exploit the Danish welfare system.

### The 1990s: Welfare reform supported by anti-immigrant narratives

Following Cox's (2001) "path shaping" hypothesis on welfare reform in northern Europe, I argue in this section that the large-scale restructuring and retrenchment of the Danish welfare state that has taken place since the 1990s has been achieved through the successful deployment of the anti-immigrant narratives discussed above rather than through the use of economic analyses that support retrenchment.

Robert Cox has argued that the potential for welfare reform is dependent on the ability of political actors to "fram[e] issues in ways that generat[e] widespread support for reform initiatives" (Cox 2001, 464). In the context of Denmark, there is no doubt that advocates of welfare reform have successfully generated support for welfare reform by

framing immigration as the most pressing threat to the security and solvency of the welfare state. Negatively framing the immigration issue in Denmark has been a successful strategy for achieving welfare reform for a number of reasons.

Firstly, politicizing immigration in Denmark has decreased the salience of socio-economic cleavages in Danish electoral politics by disrupting traditional alliances between voters and parties based on class interests. As Rydgren notes, this “dealignment process has resulted in weakened bonds and loyalties between voters and the traditional, established parties: the number of ‘floating voters’ has increased and the electoral arena has become more volatile” (Rydgren 2006, 491). Increased volatility in elections over newer socio-cultural cleavages has in turn created an opportunity for pro-reform insurgent parties such as the Danish People’s Party to widen their support base to include working-class voters that previously strongly aligned with pro-welfare socialist parties.<sup>9</sup> Crucially, the deliberate emphasis of advocates of welfare reform on socio-cultural issues has helped to downplay the negative impact of welfare reform to their growing base working-class supporters.

Secondly, the immigration debate fostered a more conservative interpretation of Danish values (i.e. national identity) that supported a less generous view of welfare state. As Cox notes:

In Denmark, ironically, history and tradition were employed as an important justification for change. The Social Commission, the expert committee that developed the recent reforms in Denmark, framed a growing critique of the Danish welfare state. Public dissatisfaction with tax evasion and the rise of egoistic behavior had become widespread. The Social Commission propelled this critique in a positive direction. In a novel recasting of the terms of debate, the commission implied that the moral foundation of the postwar welfare state was inconsistent with Danish values; moreover, it reached back into Danish history to make the claim that work had a stronger place in the country’s value structure—that it was rediscovering lost values. (Cox 2001, 496)

While Cox does not specifically address the role of immigration in the passage above, earlier discussions in the paper illustrate how a great deal of “public dissatisfaction” with the welfare state arose on account of negative press coverage that portrayed immigrants as the primary exploiters of overly-generous welfare programs.

Finally, immigration as a phenomenon is much more tangible. That is, while economic issues such as low growth and high unemployment have been the primary stressors on the Danish welfare state, they are expressed as abstract figures that often lack any kind of personification. Immigration as an issue, on the other hand, is directly experienced by the Danish public in the form of everyday interactions with immigrants and perhaps noticing an increased presence over time. Of course there are tangible elements of the economic factors as well—the experiences of job loss or slow business growth are just two examples—but neither of those events can be easily framed as “invasive,” as immigration surely can and has been by advocates of welfare reform. Using

the immigration debate as the primary vehicle for welfare reform encourages one to see the supposed defects and shortcomings of the welfare state in one’s everyday interaction with immigrants. The inability to dismiss these interactions as one might with a set of abstract statistics makes the need for welfare reform appear more urgent.

### The scope and impact of welfare retrenchment since the 1990s

Sweeping changes to the functionality and scope of the Danish welfare state first began when public support for welfare reform broadened and deepened in the early 1990s. This section examines the most important reforms and discusses their economic and social impact on welfare recipients.

Cox details the most important initial reforms of the 1990s, the Act on an Active Labor Market Policy of 1993, the Act on Municipal Activation of 1993, “and a dramatic overhaul of the pension system” (Cox 2001, 480):

According to the Act on Municipal Activation, people who received social assistance had to make themselves available for work, and municipal governments, which administered social assistance, had to assume responsibility for providing recipients with offers of work so they might fulfill their obligations. ... The Act on an Active Labor Market Policy introduced a similar reciprocal set of duties for the unemployed. Local officials were charged with providing the unemployed job seeker with a plan for finding a job and eventually an employed situation. ... The third area of legislative reform will transform the universalistic pension system into a more contributory one. (Cox 2001, 480-481)

These reforms introduced an unprecedented amount of reciprocity into the Danish welfare system for the first time in its history. That is, instead of simply receiving benefits by demonstrating need, recipients now have to additionally consent to certain conditions set forth by bureaucrats and the state. Although the government commission that originally introduced these reforms insisted that they were not indicative of a transition from a welfare system to a “workfare” system, many observers have claimed otherwise (Torfing 1999; Cox 2001; Vis 2007).

The next major welfare reform, the Integration Act, was implemented in 1998. This piece of legislation, “which constitutes the first Danish attempt to form coherent [welfare] legislation concerning immigrants and refugees,” marks the development of a “two-tier” welfare system (Kristensen 2007, 54). In the two-tier system, Danish citizens are entitled to a more comprehensive set of welfare benefits than are immigrants and refugees who have been granted residency. For example, instead of receiving *kontanthjælp*, or cash benefits for the unemployed and low-income workers, immigrants and refugees are given an “Introduction Benefit” which lasts for only three years after their arrival to Denmark. The two-tier system has drawn widespread criticism for its unequal treatment of immigrants and refugees. As Kristensen notes:

the formal political argument for the implementation of the Introduction

Benefit ... was that it would encourage the refugees to gain formal employment. But the incentive did not work. Instead the refugees were left without a sufficient disposable income. The Introduction Benefit was not only in breach with [sic] decades of Danish refugee policy. It also compromised the principle of universalism. The benefit was delimited to a negatively selected group, inadequate and potentially marginalizing. (Kristensen 2007, 54-5)

Notably, while the Introduction Benefit was briefly suspended in 2000 as result of such criticism, it was restored by a new Liberal-Conservative government just two years later with even worse conditions (Kristensen 2007).<sup>10</sup>

Another major reform has been the Labor Market Reform of 2003, which placed a monthly cap on most forms of social assistance after six months of continuous unemployment. While this reform applies to both tiers of the welfare system, it has attracted criticism similar to that received by the Introduction Benefit—namely, that it has a disproportionate effect on immigrants and refugees that struggle to find employment due to linguistic and educational barriers. Critical analyses of this reform have suggested that these criticisms are not unfounded (See Kristensen 2007, 55).

Finally, most important welfare reforms since the mid-2000s have been made in the form of piecemeal amendments to existing legislation. Significant changes include reductions in financial aid for university students and an increase in the retirement age (Alberti 2013; Flensburg 2015). One recently approved reform that will place strict limits and work requirements on recipients of cash benefits has stirred a great deal of controversy in the Danish parliament and news media, because the current government has at the same time sought to raise salaries for parliamentarians (Skærdæk and Bæksgaard 2016; Information 2016).

In sum, the size and scope of the Danish welfare state has been steadily reduced since the early 1990s. In addition to reducing the cash amount of various welfare benefits, both center-right and center-left governments have: consistently demanded that recipients make greater efforts to enter the workforce or risk being partially cut off from basic welfare services, i.e. encouraged a transition from a welfare to a “workfare” system in which only able-bodied and linguistically-capable individuals can thrive; required immigrants and refugees to culturally assimilate in order to become eligible for welfare support; placed increasingly strict limitations on the lifetime of various benefits; decreased access to entitlements such as the national retirement fund; and supported the development of a two-tier welfare system that both discriminates against immigrants and refugees as well as defies the principle of universalism on which the Danish welfare state was originally established. As discussed above, rather than empowering welfare recipients, many of the reforms since the 1990s have in fact further complicated their lives and prevented them from maximizing their participation in Danish society. Moreover, these reforms have both resulted in and from the spread of racist, xenophobic, and, most importantly, false narratives that simultaneously marginalize an already-vulnerable segment of the Danish population and create an unnecessary and toxic divide between “native” Danes and minority populations.

## Retrenchment in a global context

It is of great importance, however, to note that the trend described above is not unique to Denmark. That is, while Denmark presents a particularly dramatic scenario in which widely accepted anti-immigrant narratives provided the impetus for welfare reform, it is just one of many countries that have sought significant cuts in welfare spending since the 1980s and 1990s. Many scholars have demonstrated that the rise of neoliberalism in the 1980s, globalization, and drastic changes in working-class voting patterns have resulted in a push for welfare retrenchment in industrialized economies around the world (Larner 2000; Allan and Scruggs 2004; Gingrich and Häusermann 2015). In this sense, the developments in Denmark can be seen as part of a much greater, global shift towards minimizing state responsibility for the social and economic well-being of individuals and families.

Within the Nordic Region, for example, welfare programs in Iceland and Sweden have been significantly scaled back since the 1990s due to fiscal and unemployment crises, deregulatory schemes that resulted in large outflows of capital, increased support for conservative political parties, and, more recently in Sweden, increased welfare chauvinism stemming from anti-immigrant narratives similar to those found in Denmark (Jonsen 2001; Doyle and Johnson 2015).<sup>11,12</sup> Outside of the Nordic Region, notable examples include the United Kingdom, New Zealand, Greece, and Germany, which have restructured and retrenched welfare programs in the form of benefit reductions, the introduction of “workfare” models, mass privatization of former state enterprises for varying reasons. The Canadian and Australian welfare states have also experienced retrenchment since the 1980s, albeit to a lesser degree (Esping-Andersen 1996; Korpi and Palme 2003).

In the following and final section, the focus shifts once again to welfare policy in the Danish context. I first examine a number of alternatives to welfare retrenchment that have been proposed by an increasingly popular coalition of leftist political parties in Denmark, and then—building on those proposals—argue that a reexpansion of the welfare state may remedy the issues that have resulted from retrenchment. Finally, I consider a number of programs that could be implemented under an expansionary policy.

## Conclusion

While much of this paper closely examined the role of the Danish right and center-left political parties in reducing the size and scope of the welfare state since 1990s, it must be noted that groups on the far left of the political spectrum have sought to preserve and even expand the Danish welfare state. One such group that has consistently voiced strong support for a more comprehensive welfare state is known as the Red-Green Alliance (“Enhedslisten”), a coalition of former socialist, communist, and Green parties that formed in 1989. Although the Red-Green Alliance at first struggled to gain a foothold in both the national parliament and local municipal councils, it has managed to attract significant support in the two most recent election cycles, winning 12 seats in Parliament in 2011 (6.7% of the total vote) and 14 seats in 2015 (7.8% of the total vote) (Statistics Denmark 2016). As the Red-Green Alliance has increased its share of the vote, it has also gained more attention from media outlets for its members’ often bombastic

commentary in Parliament, blunt defenses of the rights of workers and immigrants, and ambitious proposals for turning away from “workfare” and returning to a truly universalist welfare model, increasing corporate, income, inheritance, and sales taxes, and increasing immigration quotas (Enhedslisten 2011; Nørgaard 2015). Despite its increasing popularity, however, the Red-Green Alliance has yet to secure additional parliamentary support for its proposals.

What does this mean for the future of the welfare state in Denmark? To be sure, while the less-than-promising performance of the Red-Green Alliance in recent years indicates that the retrenchment process will not be reversed in the foreseeable future, there is no evidence that suggests that support for a more comprehensive and generous welfare state model will not increase in the long term. For instance, it has become clear that formerly powerful center-left governments are now unable to effectively govern without parliamentary support from radical pro-welfare parties such as the Red-Green Alliance, a development which has encouraged center-left parties to maintain their support for welfare policies in recent years. If support for the Red-Green Alliance continues to grow in future elections, it may be able to finally implement elements of its party platform that would mark a reversal of the retrenchment process. While it is impossible to predict the outcome of future elections, one could very well argue at this point that left-leaning voters’ increasing disappointment with the performance center-left parties and concerns about rising wealth and income inequality, strained relations between ethnic Danes and immigrant minorities, and Denmark’s renewed interest and involvement in international conflicts could eventually be expressed as a larger share of the vote for the Red-Green Alliance or pro-welfare policies in general. As of this writing, national polling indicates that this trend may already be taking place (Ambrosius 2016).

Additionally, although the size and scope of the Danish welfare state has been greatly reduced since the 1990s, nothing has indicated that it will be completely dismantled (Greve 2013). On the contrary, welfare programs continue to play a fundamental role in everyday life in Denmark. And the fact that Danish welfare programs have been subject to many adjustments over a relatively short period of time is not entirely problematic—that is, if nothing else, the adaptability and robustness of Danish welfare state has become rather evident over the past three decades. For this reason, it does not seem unreasonable to suggest that the welfare state could be once again expanded to address the issues created by its own retrenchment.

In the broadest sense, such a reconfiguration may be understood as the restoration of a genuinely one-tier, universalist welfare state similar to what has been proposed by the Red-Green Alliance. More precisely, however, a successful reconfiguration of the Danish welfare state may be contingent on more than just increased government spending on cash benefits and safety-net programs, as many of the issues related to retrenchment have to do with socio-cultural issues (such as negative perceptions of immigrants and refugees among “native” Danes, and the emphasis current governments have placed on assimilating newcomers) rather than the accessibility of welfare system. Therefore, if reexpansion were to be attempted, the government may find it most beneficial to invest in more cross-cultural educational and recreational programs and sensitivity training in schools and workplaces, as these tend to be the places where the most

exchanges between Danes and immigrants occur.

Additionally, a pro-welfare government want to develop campaigns for combating the anti-immigrant narratives that allowed welfare reform initiatives to take root in Danish politics in the first place. Advertisements such as posters and public service announcements that contain information about the harmful impact of hate speech on both individuals and society may prove effective.

Finally, empowering individuals and encouraging them to enter the workforce would also be important, although this target may be approached differently under an expansionary welfare policy. Whereas pro-retrenchment Danish governments have made it difficult for newcomers (and especially non-Western refugees) secure employment, a pro-expansion government may consider using tax disincentives to encourage the creation of low-skill manufacturing jobs in Denmark that would both be suitable for workers who may not have proficient linguistic skills as well as increase the tax base of the government (Avi-Yonah 2000). Accordingly, a government in support of welfare expansion may also consider setting a national minimum wage to ensure that all new workers are justly compensated for their work.<sup>13</sup>

Again, while the possibility of reexpanding the Danish welfare state is not impossible, it is highly unlikely in the foreseeable future. This is especially the case since a conservative, center-right government was elected in June 2015 in response to a record-breaking influx of non-Western refugees fleeing conflicts in the Middle East and Central Asia. Emboldened by a startlingly strong public backlash against the refugees, the new government has made it clear through its aggressive welfare and immigration reform policies that the social democratic glory days of the 1970s welfare state will not be resurrected any time soon.

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- 3 The Kanslergade Agreement (“Kanslergadedeforliget”) was a landmark compromise reached in 1933 between the Social Democratic and the Left political parties which resulted in a massive expansion of the Danish welfare state and welfare state spending in exchange for an extension of farm subsidies and a devaluation of the national currency, the Danish Krone. These measures were in large part a response to high unemployment during the economic depression of the 1930s (Danmarkshistorien 2015).
- 4 One notable exception would be the rumblings of the Progress Party (“Fremskridtsparti”), which is discussed in greater detail below.
- 5 For example, the party platform of the Danish People’s Party in 2001 states: “To make Denmark multiethnic would mean that reactionary cultures, hostile to evolution, would break down our so-far stable, homogenous society. ... Nowhere on the globe has a peaceful integration of Muslims into another culture been feasible” (Dansk Folkeparti 2001 as quoted in Rydgren 2004).
- 6 “As It Happened: Denmark Gets Centre-Right Govt.” *The Local*, June 18. Accessed March 29, 2016. <http://www.thelocal.dk/20150618/live-denmark-goes-to-the-polls>.
- 7 It is worth noting, however, that Denmark “is among the EU countries that have the smallest immigration population” (Rydgren 2006).
- 8 For reference, the total number of new, non-Western immigrants was 3,547 in 1983, 4,603 in 1984, and 10,461 in 1985 (Statistics Denmark 2016; see fig. 3).
- 9 Rydgren notes that working class support for the pro-reform Danish People’s Party has increased steadily since its establishment in the mid-1990s, while worker support for the pro-welfare Social Democrats has been less than encouraging; “In 2001, for instance, the proportion of workers among the Danish People’s Party’s voters was 56 per cent (and 49 per cent in 1998), which should be compared with 43 per cent of the Social Democrat voters in the 2001 election (Rydgren 2006, 490).
- 10 Namely, the amount of the benefit was reduced, and the application process was further complicated.
- 11 *Local, The*. 2014. “Sweden ‘Slimmest Nordic Welfare State.’” 2014. *The Local*, January 21. Accessed April 20, 2016. <http://www.thelocal.se/20140121/swedens-welfare-state-most-scaled-back-in-nordics>
- 12 Notably, the Norwegian welfare state has remained relatively in tact. Esping-Andersen (1996) and many others have accounted this to Norway’s oil wealth.
- 13 Denmark has never had minimum wage laws. Rather than legislating a minimum wage, Denmark has favored a collective bargaining process between employers’ unions and workers’ unions (WageIndicator 2016).

# Motivations, and Marketing: *Why Aren't Young People Voting, and How Do We Get Them to Vote?*

by Nicolás Quaid Galván

## 1. Introduction: Voting and the Super Bowl

“The Worst Voter Turnout in 72 Years”

The New York Times, November 2014

“Super Bowl XLIX on NBC is Most-Watched Show in U.S. History”

NBS Sports Group, February 2015

The November 2014 United States midterm elections garnered the worst voter turnout in 72 years. In 43 states, less than half of the eligible population voted. Despite having elections for 27 House of Representatives seats and 3 statewide races, including governor, New York’s turnout was 28.8 percent—the fourth lowest in the country.<sup>1</sup> No state had more than 60 percent of its eligible voters submit votes, and the national average for turnout among eligible voters was 36.3 percent. (McDonald 2014) According to the U.S. Census Bureau, just over 92 million people casted votes. (File 2015) Although at this time young people ages eighteen to thirty-four accounted for over 29 percent of the total citizen population—roughly over 64 million of the citizen population—only half of this demographic is registered to vote, and 23 percent of this registered population casted votes.<sup>2</sup>

Three months later in February 2015, the United States shattered another record: Super Bowl XLIX was the most watched show in U.S History. The NBC Sports Group reported 114.4 million people watched the game, and a peak viewership of 120.8 million during the fourth quarter of the game. Super Bowl XLIX was also the highest rated Super Bowl in 30 years.<sup>3</sup> How can such an extreme low point of political participation be paired with such high a viewership for a sporting event? Why did 118.5 million people—or roughly half of the U.S. population— watch Super Bowl XLIX’s halftime show with Katy Perry, while only 92 million voted?

This paper examines the trends and current voter turnout rates of youth for Presidential, Congressional, and hyper-local student government elections at The New School to provide a wide range of voting patterns across different levels of government. I then explore the factors that cause and impede political participation and voter turnout, and shift my exploration to data that demonstrates the trends of youth political news consumption. I then focus on the power of media and corporate strategic marketing by examining their ability to influence behavior. Lastly, I briefly examine our desires to be entertained to provide insight on media and marketing’s power. I conclude with policy recommendations that aim to streamline and modernize the registration and voting processes through abolishing as many impediments to these processes as possible. I finally conclude with a recommendation for the government to drastically change its marketing practices through selling and advocating for achievable dreams.

## Why Should it Matter if Young People Are Not Voting?

While it matters for democracy to have ample opportunities to freely participate in the political process, the distribution of this participation across the citizenry is also significant. Through political voice, particularly something as measurable and blunt as voting, “citizens inform policy makers about their interests and preference and place pressure on them to respond positively to what they have heard.” (Schlozman et al. 2012, p. 3) If a particular population is voting at a substantially higher rate—in some cases three times as much—is it just for public policy to prioritize the needs, aspirations, and interests of this particular, overrepresented population? Do we not strive for a democracy that provides equal consideration for the concerns and interests of each citizen throughout the decision making process? These questions are central to the discussion that develops in the following pages, and provide a moral compass for the recommendations of this paper.

I argue that equal consideration is a hallmark of democracy, as Robert Dahl explains in *On Political Equality*: “the moral judgment that all human beings are of equal intrinsic worth... and that the good or interests of each person must be given equal consideration... [Furthermore, that] among adults no persons are so definitely better qualified than others to govern that they should be entrusted with complete and final authority over the government of the state.” (Dahl 2006, p. 4) Having equal abilities to cast votes is not enough because the data I examine demonstrates that, in practice, groups of the citizenry are often left out of the decision making process, particularly young people. We must strive for public policy that equitably provides all constitutive parts of society a voice in the democratic process.

The following section demonstrates the shockingly unequal distribution of voter turnout, which causes serious concerns if we strive for a democracy that provides an equal consideration of the needs, aspirations, and interests of all constituencies.

## 2. Youth Voting Trends: Presidential, Congressional, and University Elections

Before analyzing the reasons behind the trends of youth political participation, I examine U.S. Census Bureau voter turnout statistics beginning from 1964. I begin my exploration at 1964 because, prior to this election, the Census Bureau did not track voter statistics by age. I examine Presidential and Congressional midterm elections, as well as hyper-local elections of the official student governing body at The New School, namely the University Student Senate from Spring 2012 to February 2016.

The Presidential and Congressional midterm elections tables below (Figure 2.1 and Figure 2.2, respectively) demonstrate voter turnout by different age cohorts from 1964 to the 2014 elections. The percentages of these tables are determined by comparing the amount of eligible voters to those who casted a ballot within each age cohort—this data does not include individuals who were not registered, or ineligible to vote. Because those who are not registered to vote are not represented in the voter turnout percentages, I examine the unregistered proportions of the populations for youth in the years 1972, 1984, 1992, 2004 and 2012 in Figure 2.3 to determine if there have been significant changes of the registered population over time. Finally, for the University Student Senate elections at The New School, it is important to note that no voting registration is required, and the elections for this governing body substantially differ from the election system used in Presidential and Congressional elections.

## Presidential Elections: Consistent Decline of Voters

After the successful national movement to extend voting rights to eighteen year olds through the ratification of the 26<sup>th</sup> Amendment to the United States Constitution in 1971, those between the ages of eighteen and twenty came out to the polls at record turnout rates of 48 percent during the 1972 presidential election.<sup>4</sup> Since the Nixon-McGovern presidential election of 1972, eighteen to twenty year olds have had 13 opportunities to cast votes for the presidential candidate of their choice. In each of these thirteen elections—including the 1972 election that demonstrated this cohort’s highest voter turnout— this young demographic has had the lowest voter turnout of any age group, averaging at 37 percent.<sup>5, 6</sup> (Wattenberg 2007, p. 99) In addition to always demonstrating the lowest voter turnout, this demographics’ turnout has been steadily declining since 1972: turnout from the 1972 to the 2012 election has declined 13 percent; the average rate of change for voter turnout between election years has been negative 1.3 percent, meaning that as time progresses, the voter turnout of this age group, on average, declines 1.3 percent per election. Only three elections saw an increase of voter turnout from the previous year.

Similarly, voter turnout for twenty-one to twenty-four year olds has been generally low and steadily declining since 1964. The only elections in which the voter turnout for this demographic was at, or above, 50 percent were during the 1964, 1968, and 1972 elections, in which both of the 1964 and 1972 presidential elections demonstrated a peak turnout for this cohort at 51 percent. Although this relatively high turnout seems promising as compared to the younger cohort, the average turnout of those aging twenty-one to twenty-four was 42.3 percent from the 1964 to 2012 Presidential elections. Between 1964 and 2012, voter turnout of this demographic diminished by 11 percent, and the average rate of change for voter turnout per election since 1964 has been negative 0.92 percent.

Although both age cohorts of individuals aging from eighteen to twenty and twenty-one to twenty-four, have demonstrated a significant decrease of voter turnout, those between the age of thirty-four to forty-five have demonstrated the largest decline of voter turnout of any age group. This drastic change in voter turnout has occurred because in 1964, this cohort’s turnout peaked at 74 percent, while the 2012 elections garnered 53 percent—a difference of 21 percent between these two elections. Further adding to the immense change of voter turnout, out of the past 12 presidential elections, 7 of these elections have demonstrated a decrease in voter turnout, as compared to the election of the previous four years. Only 2 presidential elections saw neither an increase nor decline of voter turnout from the previous election, while 3 elections saw an increased turnout. Although thirty-five to forty-four year olds began with a turnout of 74 percent during the 1964 elections, the average turnout rate from the 1964 to 2012 Presidential elections is 59.7 percent, and the average rate of change per election is negative 1.75 percent.

By now it may seem, regardless of age, that people are simply not voting as much as they used to. This is true of every age group except those above the age of sixty-five. Whereas each group previously analyzed has demonstrated a continuous decline of voter turnout, Figure 2.1 below depicts that the voter turnout of those above the age of sixty-five has been consistent since 1964 and in fact demonstrated a minor increase. The peak turnout of 71 percent for the oldest age cohort in this analysis is shockingly the most recent election—the 2012 Presidential election. The average rate of change for voter turnout for this demographic between each presidential election is positive 0.42 percent since the 1964 election. The positive average rate of change per election is an important accomplishment because the voter turnout of this group was 66 percent during the 1964 Presidential elections. To contextualize the significance of this older cohort’s voting turnout, those above the age of sixty-five have voted at higher percentages

in every Presidential election since 1964 than the age cohort below the age of thirty-four.

FIGURE 2.1

Percentages of Voter Turnout by Age: Presidential Elections, 1996–2012								
	18-20	21-24	25-34	35-44	45-54	55-64	65+	65+/21-24 Ratio
1964	—	51	65	74	76	76	66	1.3
1968	—	50	63	71	75	75	66	1.3
1972	48	51	60	66	71	71	64	1.3
1976	38	46	55	63	68	70	62	1.3
1980	36	43	55	64	68	72	68	1.5
1984	37	44	55	64	68	72	68	1.5
1988	33	38	48	61	67	69	69	1.8
1992	39	46	53	64	69	72	70	1.5
1996	31	33	44	55	62	67	68	1.9
2000	28	35	44	55	62	67	68	1.9
2004	41	42	47	57	64	70	69	1.7
2008	41	47	49	55	63	68	69	1.5
2012	35	40	46	53	60	67	71	1.8
<b>AVG.</b>	<b>37</b>	<b>42.3</b>	<b>50.5</b>	<b>59.7</b>	<b>65.6</b>	<b>69.5</b>	<b>67.8</b>	—

Source: Wattenberg (p. 99) & U.S. Census Bureau 2016

## Congressional Midterm Elections: Even Lower Turnout

Unfortunately, youth voter turnout for Congressional elections during midterm years has been drastically lower than turnout for Presidential elections.<sup>7</sup> (Wattenberg 2007, p. 114) Just as in the 1972 Presidential election, in which eighteen to twenty year olds first had the opportunity to vote, and casted their ballots at a higher turnout percentage than any other presidential election since, the 1974 Congressional midterm elections were both the first opportunity to vote for this demographic, as well their highest voter turnout rate of any midterm election. Figure 2.2 below demonstrates the peak turnout of this demographic was an abysmal turnout of 21 percent. Further, even during the peak turnout rate of this demographic during the 1974 elections, those aging from eighteen to twenty had the lowest voter turnout out of any age group since they have been granted the right to vote in 1971. To make matters even worse, although this group started with the lowest turnout, as compared to other age cohorts, turnout for eighteen to twenty year olds has steadily declined: the average rate of change for voter turnout has been negative 0.7 percent since the 1974 Congressional midterm elections.

Voter turnout for twenty-one to twenty-four year olds has not been any better than their younger cohort. Since 1974, those aging twenty-one to twenty-four have, on average, voted at higher rates than their younger cohort by a margin of 5.4 percent in each election. This seems like an accomplishment, but since the 1966 election, voter turnout for twenty-one to twenty-four year olds has averaged at 23.8 percent, and voter turnout out has not been higher than 30 percent since 1970. Voter turnout for this cohort has also consistently declined, as the average rate of change between midterm elections is negative 1.8 percent.

Similar to Presidential elections, all cohorts have seen an overall and steady decrease in their voter turnout rates, except for those above the age of sixty-five. Table 2.2 demonstrates these findings. The average rate of change for twenty-five to thirty-four year olds is negative 1.8

percent, the average rate of change for thirty-five to forty-four year olds negative 2.3 percent, while the rate of change for above the age of sixty-five and above is positive 2.5 percent.

FIGURE 2.2

Percentages of Voter Turnout by Age: Midterm Congressional Elections, 1996—								
	2012							
	18-20	21-24	25-34	35-44	45-54	55-64	65+	65+/21-24 Ratio
1966	—	32	46	60	64	65	56	1.8
1970	—	30	41	50	58	64	57	1.9
1974	21	26	37	49	56	58	55	2.1
1978	20	26	38	50	56	61	56	2.2
1982	20	28	40	52	60	64	60	2.1
1986	19	24	35	49	55	63	60	2.5
1990	18	22	34	48	53	59	61	2.7
1994	17	22	32	46	55	59	61	2.8
1998	14	20	28	41	51	58	60	3.0
2002	15	19	27	40	50	57	61	3.2
2006	17	22	28	40	51	60	61	3.6
2010	16	22	27	38	47	57	60	3.7
2014	14	17	24	33	41	51	59	4.2
<b>AVG.</b>	<b>17.4</b>	<b>23.8</b>	<b>33.6</b>	<b>45.8</b>	<b>53.6</b>	<b>59.7</b>	<b>59</b>	—

Source: Wattenberg (p. 166) & U.S. Census Bureau 2016

### Registration Rates: 1972, 1984, 1992, 2004 and 2012 Presidential Elections

Because the data within Figures 2.1 and 2.2 calculates voter turnout percentages through examining the population who is registered to vote, we must shift our focus to the unregistered population within youth to thoroughly understand this demographics' level of political engagement. Beginning with the first election in which eighteen year olds have had the right to vote, Figure 2.3 demonstrates percentages of young people, the average registration rates, and average rate of change for registration between the elections surveyed in this analysis.

In general, the registration rates for youth have been predictably higher than turnout rates, yet are still generally lower than the ideal of having a democracy that gives equal consideration to all members of its population.<sup>8</sup> For the youngest age cohort of Americans, those aging eighteen to twenty, the registered proportion of this demographic has never exceeded 60 percent. Adding to the already low registration rates, over time, the proportion of the registered population for this age cohort has steadily declined by negative 2.75 percent since the peak registration rates of 1972. This presents serious concerns, as a significant portion of this population is barred from participating in this very important aspect of political life.

Although there is much concern for those aging from eighteen to twenty, the rates of change for the registered populations of twenty-five to thirty-four year olds have been significantly larger than their younger cohort. Figure 2.3 demonstrates that the average rate of change of the registered population was negative 5.075 percent. This large change in registration rates mirrors the large decline in voting turnout rates for this demographic. However, despite that the

most significant change of any age group has occurred in twenty-five to thirty-four year olds, this demographic has been registered to vote at higher rates in every election surveyed in this analysis as compared to their younger cohorts of eighteen to twenty year olds, and twenty-one to twenty-four year olds.

FIGURE 2.3

Percentages of Registered Population by Age, 1972 – 2012				
	18 & Over	18 - 20	21 -24	25 - 34
1972	72.3	58.1	59.5	86.4
1984	68.3	47	54.5	63.3
1992	68.2	48.3	55.3	60.6
2004	65.9	50.7	52.1	66
2012	71.2	47.1	58.3	66.1
<b>AVG</b>	<b>69.18</b>	<b>50.24</b>	<b>55.94</b>	<b>66.4</b>
<b>AVG Rate of Change</b>	<b>-0.275</b>	<b>-2.75</b>	<b>-0.3</b>	<b>-5.075</b>

Sources: (US Census Bureau 2010)

### Student Government Elections at The New School: Can Turnout Get Any Lower?

After exploring Presidential and Congressional elections, as well as the registered proportion of the youth population, I wanted to explore whether or not youth are more engaged with elections that have much more of a direct affect over their daily lives. To achieve this, I examine voter turnout percentages for the general elections of the official student-governing body at The New School. This governing body is named the University Student Senate, and was established in 2007. Because students interact daily with the curriculum, infrastructure, financial aid, social events, faculty, administration, and of course other students on a consistent basis, it seems likely that students would be more inclined to become involved at this hyper-local level of government.

Before I examine voter turnout statistics, it is also important to discuss the process of the University Student Senate elections. Sometime towards the last 6 weeks of the semester, all currently enrolled students are given the opportunity to submit their candidacy for the Student Senate within a seven day time period. Once the candidacy submission period is closed, all students are given seven days to submit their votes for representatives in their specific college within the University. Both candidacy submissions and the casting of votes are conducted completely online—no paper ballots are counted. For all the elections previous to the Fall 2015 General Election, all votes were casted through a single, public URL that was emailed to each student within the university, as well as often shared through social media sites. The Fall 2015 elections began the implementation of a new system in which a private URL was sent to each students' individual university email accounts on a total of two occasions within the seven day voting period.

With the process in mind, this paper does not examine the effectiveness of this particular election model, nor does it attempt to posit a hyper-local hypothesis explaining voter turnout. At this point with this paper, I examine the voter turnout with the sole purpose of comparing Presidential and Congressional midterm elections with hyper-local elections that arguably have more of a direct impact on youth than federal elections have.

Unfortunately, Figure 2.4 demonstrates that students, at least at The New School, do not participate in hyper-local elections that arguably have a more direct impact on their daily lives. For general elections, in which 16 Senate positions are up for election, voter turnout for the University Student Senate has peaked at an abysmally low 7.29 percentage during the Spring 2013 general elections, while the lowest turnout documented was 4.91 percent for the Fall 2015 general elections. These turnout rates are glaringly low, and yet demonstrate a negative rate of change of 1.3 percent over the four general elections within this data set. Thus far in our exploration, the University Student Senate elections at The New School have demonstrated to lowest voter turnout rates.

FIGURE 2.4

Percentages in Voter Turnout for University Student Senate Elections	
Spring 2012 General Elections	6.33
Spring 2012 Special Elections*	4.8
Spring 2013 General Elections	7.29
Spring 2014 General Elections	5.85
Fall 2014 Special Election*	3.62
Fall 2015 General Elections	4.91

Source: The University Student Senate Elections & The New School Office of Student Success

\* Please note, the data demonstrated in the Spring 2012 & Fall 2014 Special Elections were calculated by only examining the individual college within The New School was was conducting the Special Elections.

### What Can We Conclude from Low Voter Turnouts?

The trends and current levels of voter turnout are grim if we value and strive for a democracy that gives equal consideration to all groups within society. With the Presidential, Congressional and local University Elections, the voter turnout rates do not demonstrate a political process that provides equal consideration to each constituency. Unfortunately, youth have been shockingly disengaged at all levels of governance. For Federal elections, the younger one is, the more likely one is not registered, and the more likely one will not cast a vote. As of 2012, just under half of eighteen to twenty year olds do not even have the opportunity to elect those who will represent them within government, and only 14 percent of this half who are registered have casted votes in the 2014 Congressional midterm elections. Paradoxically, it seems the more local the elections are—as well as the more potential that elections will have a direct affect upon an individual’s life—the less people come out to the polls to vote. Why is this so? Why aren’t young people voting? Is it because youth did not care about politics, or are they more engaged with the other aspects of life? Is voting cumbersome? Do youth know when and where to vote? Did they know how to become engaged political life? The following sections of this capstone explains structural and individual factors that promote and impede political participation.

### 3. Structural Factors that Promote and Impede Political Participation

Schlozman, Verba, and Brady in *The Unheavenly Chorus: Unequal Political Voice and the Broken Promise of American Democracy* categorize the “factors that foster political activity [as] the motivation to take part; resources that provide the capacity to act, such as knowledge and skills, money and time; and location in the social networks that serve to stimulate and to mediate request for participation.” (Schlozman, et al. 2012, p. 17) Schlozman, Verba, and Brady find that many different psychological orientations predispose individuals to vote and participate in politics. Among these orientations that promote political participation are a general interest

in political matters, a belief that individuals can make a difference through their actions, and a “sense that it is a civic obligation to vote and to be otherwise actively engaged....” (Schlozman et al. 2012, p. 18) When any of these factors are paired with intense concern about an issue, it is very likely that “citizen activity [ensues].” (Schlozman et al. 2012, p. 18)

Focusing on motivation as a critical element in determining political participation, and the importance of the relationship between the different factors mentioned by Scholzman, Verba and Brady that eventually lead to voting, Joshua Harder & Jon A. Krosnick explore these relationships in *Why Do People Vote? A Psychological Analysis of the Causes of Voter Turnout*. Harder and Krosnick posit that “the more motivation or ability a person has to vote, the more likely he or she is to turn out on a given election day. And the more difficult is for him or her, the less likely the person is to vote. Thus, a citizen’s turnout behavior is likely to be a joint, multiplicative function of these three classes of causes, so pointing to a single factor as causing a person’s turnout or lack of turnout would be a vast oversimplification.” (Harder & Krosnick 2008, p. 527) The authors summarize the multifaceted relationship between the likelihood of voting, one’s motivations and the difficulty of voting as the following equation:

$$\text{Likelihood of Voting} = \frac{\text{Motivation to Vote} \times \text{Ability to Vote}}{\text{Difficulty of Voting}}$$

The strength of the author’s equation lies within the multiplicative nature of the relationship between the different factors that cause the likelihood to vote, meaning “that [a] high motivation or high ability or low difficulty is not sufficient to ensure turnout—a deficit in any area may be sufficient to undermine a person’s turnout.” (Harder & Krosnick 2008, p. 527) Harder and Krosnick characterize the sources of motivation as a strong preference for one candidate over his or her competitors, or one’s individual belief in political efficacy or that voting is a central aspect of being a responsible citizen, to pressure from one’s social group, a physical disability that affects mobility, and demographical factors such as education, income, and occupation. (Harder & Krosnick 2008, p. 536)

The motivation to venture to a polling site to cast a vote is important, yet one cannot achieve this if they do not have the knowledge of the polling site location, or who to call if they do not have that information, let alone the knowledge that polling sites may change per election, or the requirement to re-register to vote if one moves residencies. Along these lines, Schlozman, Verba and Brady find that “political skills and information are perhaps even more important for the effective expression of political voice...” (Schlozman et al. 2012, p. 19) With basic political knowledge and skills, individuals are likely to feel less daunted to take part in the political process. Other political actions that do not include voting—the primary metric for this paper—such as calling and writing compelling letters to elected officials, the ability to find and get involved with a political organization associated with an important cause, or to “organize a demonstration that attracts favorable media attention,” are dependent on the knowledge to act upon motivations. (Schlozman et al. 2012, p. 19)

Harder and Krosnick define political knowledge or skills similarly to Schlozman, Verba and Brady as the ability to vote, but expand this definition through categorizing many aspects of political knowledge or skills as the “difficulty of voting,” (Harder & Krosnick 2008, p. 527) Harder and Krosnick define the ability to vote as the “capacity to make sense of information about political events and candidates in order to form a candidate preference and the capacity to understand

and meet requirements for eligibility to vote legally and to implement the required behavior to cast a ballot.” (Harder & Krosnick 2008, p. 527) Within this definition, Schlozman, Verba, and Brady’s categorization of political knowledge is included and built upon by examining factors that are outside of an individual’s control. (Harder & Krosnick 2008, p. 527) The difficulty of voting is demonstrated through onerous factors that burden, rather than empower, individuals to vote. Many of the burdens to register to vote vary from state to state, but include: re-registering if one has moved residences, even within a the same state; re-registering if one is considered an “inactive” voter; the hours of operation and location of a registration office; providing valid identification at polling locations in order to vote; physical registration, as opposed to electronic registration; location and hours of operations of polls during election day; the requirement to be affiliated with a political party to vote in a closed primary election; the requirement to vote at the polling site affiliated with one’s registration; and especially registration deadlines for voting in an upcoming election.<sup>9</sup> (Harder & Krosnick 2008, p. 529)

Both Harder and Krosnick, and the authors of *The Unheavenly Chorus* agree that location within one’s social network is also a significant factor in determining political participation. Pressures and influences in these settings may promote or dispel political participation. These nonpolitical social networks include the following: family settings and marital status; school settings; neighborhood settings, such as a micro-political dynamic in which individuals of a lower socio-economic status are living in a predominantly wealthy geographic area, or living within a neighborhood which political affiliations are evenly distributed; workplaces; engagement within a civic or political organization; involvement within a cultural, civic, athletic, or religious associations. (Harder & Krosnick 2008, p. 534-535; Scholzman et al. 2012, p. 21) Each of these settings, in multiplicative manner, “foster or inhibit [the] political activity” of the individuals within these social networks. (Schlozman et al. 2012, p. 20)

The survey I conducted for this paper reflects the ability of a social network to foster or impede political participation. A core belief at Eugene Lang College of Liberal Arts, the undergraduate liberal arts college within the The New School, is that “social justice is the ethical core of a liberal arts education.”<sup>10</sup> Outside of the curriculum, students often engage in conversations about politics, and participate in political demonstrations at the Eugene Lang Courtyard. (Denmark, 2016; Ports, 2016) Contrastingly, at Parsons School of Design, the undergraduate and graduate design college at The New School, are guided by the following mission statement: “Parsons students are designers, artists, and scholars who learn to apply the transformative capacity of design responsibly, and purposefully.”<sup>11</sup> It seems that students within a school that is not fundamentally oriented to social justice and civic engagement, such as Parsons School of Design, would participate at a smaller frequency as compared to a school with a social justice orientation that is central to its identity, such as Eugene Lang.

The response rate of my original survey depicted in Figure 3.1 demonstrates the results of the influences of social networks. Although the survey population is an extremely small sample set as compared to the general population of the University, the significant difference between the proportion of the student population by college and the proportion of student population who completed my survey reflects how social network impacts civic engagement. Eugene Lang comprises 15.3 percent of the total population of The New School, yet comprised the largest demographic of my survey population at 42.3 percent—a 27 percentage point increase as compared to their population within the University. This overrepresented sample set can likely be attributed to the core values of Lang, and the influence of my personal network as a student at Eugene Lang, and as a member of the University Student Senate. By contrast, Parsons School of Design constitutes just over 50 percent of the overall New School population, yet only constitute 15.4 percent of my survey population—a difference of negative 35.6 percentages points. Further,

my personal engagement and network as a student within and the University Student Senate representative from the College of Performing Arts, likely influenced the response rate for this survey, as this demographic constitutes 7.9 percentage of The New School population, yet comprised 23.1 percentage of my survey population.

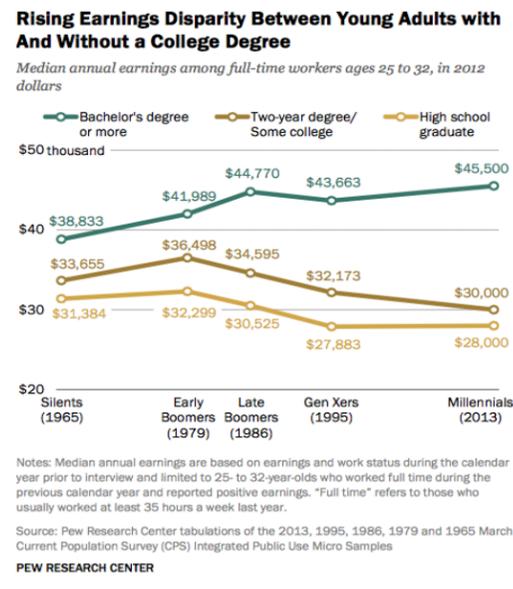
FIGURE 3.1

Survey Response Rates and The New School Population					
	Original Survey		College Population		Difference Between Respondents & College Population
	Respondents	Respondents by College	College Population	College Percentage	
<b>Performing Arts</b>	18	23.1%	797	7.9%	+15.2
<b>Eugene Lang</b>	33	42.3%	1535	15.3%	+27
<b>Parsons</b>	12	15.4%	5123	51.0%	-35.6
<b>SPE</b>	10	12.8%	1760	17.5%	-4.7
<b>NSSR</b>	5	6.4%	834	8.3%	-1.9
<b>Total</b>	78	0.78%	10049	—	—

Source: Galván Senior Thesis Survey

Expanding on one’s motivations, social network, political skills or knowledge, and the factors outside oneself that can be characterized as the difficulty of voting, Schlozman, Verba, and Brady characterize money as one of the most important factors that foster political activity. As a medium of political participation, money has many unique characteristics. Money can be a critical resource for political organizations and campaigns, because as “they can convert cash into staff and expert assistance, organizations are able to use their financial resources to expand political activity, with the consequence that [political] organizations vary even more than individuals in the volume of their political activity.” (Schlozman et al. 2012, p. 20) Because the Supreme Court ruled in *Citizens United v. Federal Election Commission*, that “indeed, to exclude or impede corporate speech is to muzzle the principal agents of the modern free economy,” non-profits, pro-profit, labor unions, and other associations cannot be barred from using money as a medium to participate politically. (558 U.S. 310, 2010, p. 9) This unhindered ability to contribute demonstrates the unique absence of an upper limit that money has, as compared to the amount of hours one can contribute to political activity per day. Regardless of the absence of a threshold that organizations have when donating to campaigns, one may argue at least each individual has the same capacity to cast votes, and that votes speak more loudly and clearly than money. However, in practice, this is not the case because those with more capital vote more frequently than those without capital. Figure 3.2 demonstrates the distributions of total votes categorized by the equal division of the citizenry by economic quintiles. On this axis of capital, voting distribution raises serious concerns if we aim to have a democracy that provides equal consideration to all constituencies. Schlozman, Verba, and Brady demonstrate that the top economic quintile of the U.S. is 1.8 times likely to participate in voting. (Scholzman et al. 2012, p. 14) Further, each four of the economic quintile above the lowest quintile voted at higher rates than the lowest quintile. As difference in economic position increases, so does the disparity in votes.

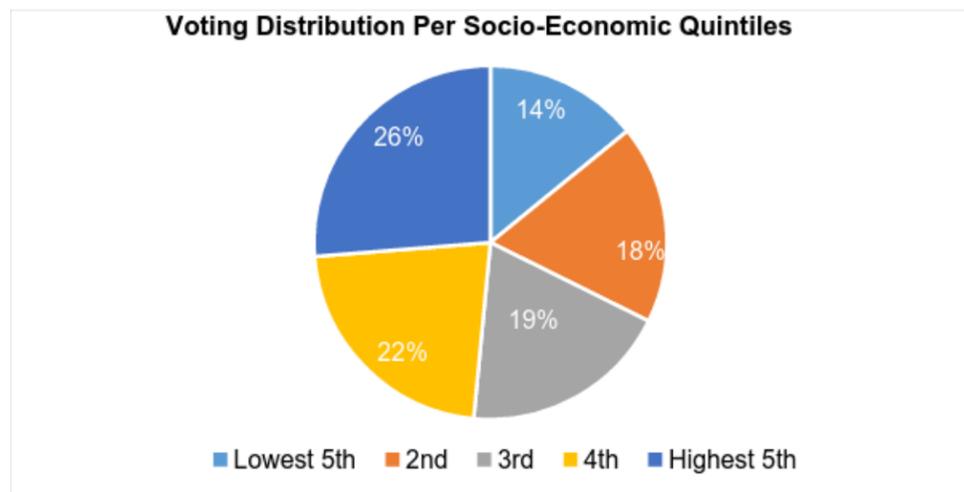
FIGURE 3.2



Source: Scholzman et al., p. 15; Citizen Participation Study, 1990

If we expand our analysis of political participation beyond voting turnout, the difference of the amount of political activity between economic quintiles exponentially increases. Figure 3.3 demonstrates the percentages of the hours in which members of different economic quintiles contributed to politics. Political activities that were included Scholzman, Verba, and Brady's data collection were as follows: "working in a campaign; contributing to a campaign; contacting a public official; taking part in a protest, march, or demonstration; and being affiliated with an organization that takes stands in politics." (Scholzman et al. 2012, p. 133) Those within the two highest economic quintiles physically engaged in political activity at an hourly rate of 2.7 times more than those within the lowest economic quintile. Again, this raises the concern of which portions of the population are receiving more consideration throughout the decision making process.

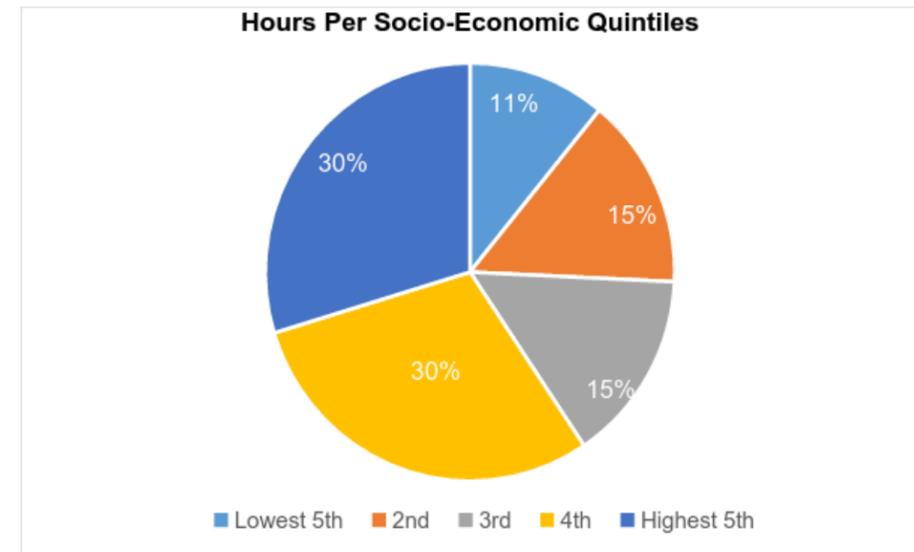
FIGURE 3.3



Source: Scholzman et al., p. 15; Citizen Participation Study, 1990

To contextualize this Scholzman, Verba, and Brady's findings with young people, I examine data comparing the income of those aging eighteen to thirty-four in the year 2015, or Millennials, to the income of older generations during their same period of life. (Fry 2015) Figure 3.4 demonstrates the medium annual earnings among full time workers ages twenty-five to thirty-two, categorized by educational attainment, across five different generations, accounted for inflation. For example, in 1979 the Baby Boomer generation who were high school graduates typically made 77 percent of what a college graduate made the same year. Today, Millennials with only a high school diploma earn 62 percent of what average college graduates earn. Similarly, Generation X-ers, (ages thirty-three to forty-eight in 2013) who attained a two-year degree, or some college generally earned 74 percent of what their college graduate peers earn. Currently, Millennials who have a two-year degree or some college only make 66 percent of what the college graduate peers earn. However, in contrast, Millennials with college degrees are making on average 7 percent more than all previous generations with college degrees since the Silent generations. The increase of 7 percent is promising, especially Millennials are the best education generation in history—a third have at least a bachelor's degree.<sup>12</sup> In contrast, only 13 percent of twenty-five to thirty-two year olds in 1965 (the Silent generations) had college degrees. The population of college graduates raised to 24 percent in the late 1970s, for the same age cohort.<sup>13</sup>

FIGURE 3.3



Source: Pew Research Center, 2014, p. 5

Although there has been a rise in the amount college graduates earn, and more Millennials than any other generation hold at least a bachelor's degree, it seems likely that Millennials are earning more money than previous generations. However, they are not.<sup>14</sup> The "overall median earning of today's Millennials (\$35,000) is not much different than the earnings of early Boomers (\$34,883) or Gen Xers (\$32,173) and only somewhat higher than Silents (\$30,982) at comparable ages."<sup>15</sup> One factor responsible for this paradox is the declining value of a high school diploma and two-year college degrees, as demonstrated by Figure 3.3.<sup>16</sup> Similarly, unemployment and the difficulty in finding a job has contributed to this phenomenon. The "unemployment rate for Millennials with a college degree is more than double the rate for college-educated Silents in 1965 (3.8 percent vs. 14 percent)."<sup>17</sup> In addition to the rising unemployment rates for college graduates, the unemployment rate for Millennials with only a high school diploma is more severe. The unemployment rate for those with only a high school diploma is 12.2 percent, or 8 percentage points more than a typical college graduate and almost triple the unemployment rate for Silents

with a high school diploma in 1965. (Pew 2014, p. 9)

Scholzman, Verba, and Brady’s research regarding the relationship between socio-economic status and both voting and overall political participation, paired with the declining economic value of a high school diploma, and a two-year college degree, as compared to previous generations, provides insight into the shockingly low voter turnout rates of youth. In the following section, I focus on political knowledge through news consumption to exposure to politics as a key factor in explaining young people’s lack of voter turnout.

#### 4. Can Lack of Political Knowledge Foster a Lack of Political Participation?

Extending the analysis of Scholzman, Verba and Brady, I explore the importance of political knowledge as one of the primary factors that determine political participation, with an emphasis on voting. Martin Wattenberg, in *Is Voting for Young People*, argues that “the problem with getting America’s youngest eligible voters to the polls has been that they have gotten the least exposure to political events while growing up due to the ongoing changes in media habits.” (Wattenberg 2008, p. 100) Whereas the Scholzman, Verba and Brady, as well as Harder and Krosnick focused on motivations, political knowledge and skills, the difficulty to vote, Wattenberg focuses on exposure to political events and individuals as a primary metric in determining if one may become engaged in politics, and eventually become inspired to vote.

#### The Decline of Newspaper Readers

Wattenberg begins his analysis with data demonstrating the steady decline of newspaper readership since the middle of the twentieth century. For example, 76 percent of people read the newspaper daily in 1957, 53 percent read the newspaper daily in 1990, and 41 percent read the newspaper daily in 2004. (Wattenberg, p. 14) More recent estimates by the Pew Research Center in 2012 show that only 29 percent read a newspaper everyday, while 23 percent read print copies.<sup>18</sup> Although reading the newspaper daily surely keeps one informed, we must narrow our focus on the consumption of political news. Table One below depicts the percentages of those reading about the presidential campaigns by age groups. Parallel to the over decreasing of daily readership of newspapers, there has been a steady decrease—across ages, yet particularly in young people—in those who read about presidential campaigns in any given year.

Figure 4.1 demonstrates the consistent decline of those reading about presidential campaigns categorized by different age cohorts. Surprisingly, in 1960, those aging from eighteen to twenty-nine mentioned reading about a political campaign at 10 percentage points higher than those above the age of sixty-five. More recently, in 2004, although the readership of both age cohorts had decreased significantly, young people mentioned reading about a political campaign 27 percentage points below those above the age of sixty-five. The average rate of change for those aging eighteen to twenty-nine from 1960 to 2004 is negative 4.55 percent per election. For reference, the average rate of change for voter turnout for eighteen to twenty year olds in Presidential elections is negative 1.3 percent.

Figure 4.1

Percent Reading the about the President Campaigns by Age, 1960–2004					
	18 – 29	30 – 44	45 – 64	65 +	Difference between 65+ and <30
1960	84	80	81	74	+10
1964	75	80	80	77	-2
1968	68	81	76	72	-4
1972	49	59	62	61	-11
1976	68	78	77	70	-2
1980	56	78	76	72	-16
1984	62	77	77	70	-8
1988	35	50	57	57	-22
1992	35	50	57	60	-32
1996	28	39	52	60	-29
2000	27	35	48	56	-29
2004	34	39	51	61	-27

Source: (Wattenberg 2007, p. 19)

Although a correlation between the decline of newspaper readership for presidential campaigns and the consistent decreasing for voter turnout exists for young people, Figure 4.1 may be a reflection of increased attention to and consumption of other news mediums, rather than a representation of an overall decline of political knowledge. To account for this possibility, Wattenberg shifts his focus to television political news consumption to examine if exposure to political news is a key factor in determining voting. However, before examining political news consumption statistics, Wattenberg examines the television industry, and the dramatic shift of television news companies from “broadcasting” to “narrowcasting,” to contextualize this news medium. (Wattenberg 2008, p. 34)

#### Can Television Fill the Gap?

Wattenberg categorized the first major American networks of the 1960s, such as ABC, NBC, and CBS, as “broadcasting” companies. During this period, these companies dominated the industry because of the relatively low amount of competition. Because these networks provided much of the news and entertainment of the country, “each had to deal with general topics that the public as a whole was concerned with such as politics and the government.” (Wattenberg 2008, p. 34) With this business model, “major political events were once shared national experiences.” (Wattenberg 2008, p. 34) As cable and satellite television grew, the business model shifted to networks that specialized their product. Rather than appealing to broad audiences, channels such as ESPN, MTV, the Food Network, and C-Span allow their viewers to consume one type of product, such as sports, music, food, or politics, almost exclusively. By simply changing the channel, one’s television consumption has the potential to be completely void of political news.

With this substantial industry shift in mind, Wattenberg begins with a broad focus on the consumption of daily evening network news, such as NBC, CBS, the ABC. Overall, Figure 4.2 demonstrates that the percentages of people who said they watched a network news broadcast every night was 72 percent in 1967, 45 percent in 1984, and 29 percent in 2004. (Wattenberg 2008, p. 38) In 1967, there was relatively small difference in viewing habits by age, as the difference between the youngest and oldest age cohort was 15 percent. By 1984, the gap between audiences had increased to a difference of 46 percentage points between the youngest and the oldest age cohort. By 2004, the daily evening news viewership between the youngest and oldest

age cohorts was 44 percentage points.

FIGURE 4.2

Cohort Analysis of percent Watching U.S. Evening Network TV New on a Daily Basis			
Born In:	2004	1984	1967
1983 – 1986	8	—	—
1973 – 1982	15	—	—
1963 – 1972	21	24	—
1953 – 1962	28	28	—
1943 – 1952	42	35	64
1933 – 1942	47	51	68
1923 – 1932	52	62	69
1913 – 1912	—	67	73
1903 – 1902	—	70	76
1893 – 1902	—	—	76
1892 – 1892	—	—	79

Source: Wattenberg 2008, p. 39

Although daily evening network news viewership has declined, possibly young people are watching cable instead of evening network news? Possibly, youth aren't watching the news daily, but are simply watching the news regularly. Figure 4.3 by the Pew Centers Study demonstrates that less than a third of those under the age of thirty have been regularly watching cable news since 2006. In 2006, 42 percent of this same age cohort watched network news regularly, but this number has declined to 28 percent in 2012.

FIGURE 4.3

Local TV News Viewing Declines, Particularly among Young People					
Regularly watch ...	2006	2008	2010	2012	06-12 change
<b>Local news</b>					
Total	54	52	50	48	-6
18-29	42	36	31	28	-14
30-49	51	51	48	46	-5
50-64	60	60	61	57	-3
65+	65	63	64	63	-2
<b>Cable news channels</b>					
Total	34	39	39	34	0
18-29	29	36	29	23	-6
30-49	31	38	39	33	+2
50-64	39	42	42	34	-5
65+	38	44	50	51	+13

PEW RESEARCH CENTER 2012 News Consumption Survey. Q41b,k.

Source: Pew Research Center <sup>19</sup>

and Pew Research Center have demonstrated the consistent decreasing of daily viewership of evening network news, as well the regular viewership of cable news, but it is important to refine our focus on the viewership of political news to better understand the relationship between consumption habits of political news and political participation. As a metric for political news consumption, Figure 4.4 below demonstrates the steady decline of those viewing the Presidential

(and Vice Presidential) debates from 1960 to 2004.

In 1960 and 1976, young people under the age of thirty watched the Presidential debates about the same, or at higher rates than the older age cohorts depicted in Figure 4.4. (Wattenberg 2008, p. 49) Beginning with the 1980 Regan-Carter debate, those under the age of thirty watched all subsequent Presidential and Vice Presidential debates at lower rates than all older age cohorts. The largest difference between the youngest cohort and those above sixty-five was during the 2000 Vice Presidential debate in which those above the age of sixty-five watched the debate at 2.4 times the rate of those watching the debate under the age of thirty—or a difference of 31 percentage points.

FIGURE 4.4

Percent Watching General Election Debates by Age, 1960 – 2000					
Presidential & VP Debates	<30	30 – 44	45 – 64	65+	65+ / <30 Ratio
1960 Kennedy-Nixon	79	80	82	69	0.9 : 1
1976 Carter-Ford	80	83	85	83	1.0 : 1
1980 Regan-Carter	62	69	73	76	1.2 : 1
1984 1 <sup>st</sup> Regan-Mondale	67	67	71	84	1.3 : 1
1984 2 <sup>nd</sup> Regan-Mondale	59	65	76	88	1.5 : 1
1984 VP Debate	50	57	67	69	1.4 : 1
1996 1 <sup>st</sup> Clinton-Dole	38	44	61	64	1.7 : 1
1996 2 <sup>nd</sup> Clinton-Dole	38	44	48	61	1.6 : 1
2000 1 <sup>st</sup> Bush-Gore	39	48	57	67	1.7 : 1
2000 2 <sup>nd</sup> Bush-Gore	40	47	56	64	1.6 : 1
2000 3 <sup>rd</sup> Bush-Gore	44	47	56	67	1.5 : 1
2000 VP Debate	22	30	41	53	2.4 : 1

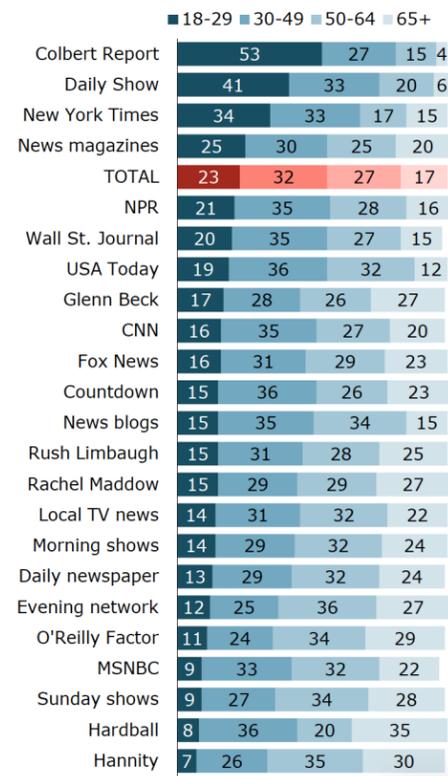
Source: Wattenberg 2008, p.49

Wattenberg demonstrates the downward trend of youth's focus viewing Presidential debates, as well as both local network and cable television. Although viewership rates have declined, The Pew Research Center examines what youth are regularly watching when they watch news on the television. The Pew Research Center explores these consumption rates and finds that the type of news that youth are most engaged with is the Colbert Report and the Daily Show, both of which are hosted by Comedy Central. Figure 4.5 demonstrates that 53 and 41 percent of young people ages eighteen to twenty-nine watch the Colbert Report and the Daily show, respectively. Out of the individuals who watch these shows, 53 percent of regular Colbert audience and 43 percent of the Daily Show audience say "they mostly watch those programs for entertainment." <sup>20</sup> Although youth overall only watch cable news at 29 percent, the large number of this demographic that constitutes 51 percent of the total amount of those who regularly watch the Colbert Report provides insight into the type of news Millennials resonate with. In this sense, these types of cable entertainment news are beginning to relatively fill the gap of youth political knowledge, yet there is much more work to be done. <sup>21</sup>

FIGURE 4.5

**Audience Profiles: Age and Gender**

Percent of each audience who are ...



Source: Pew Research Center <sup>22</sup>

**If Not Television, Where Do Young People Get Their News?**

With the declines in print and television news consumptions, I examine online news consumption rates to examine the relationship between political knowledge and political activity. Data from the Pew Research Center, in Figure 4.6, demonstrates consumption rates of different news mediums for the general public in 2012. The data demonstrates that 41 percent of those from the ages of eighteen to twenty-four consumed news online—a significant difference from 29 percent of the same age cohort who consumed news through television, or the 6 percent who read about news through a print newspaper. In addition to online news, as one might assume, social media, such as Facebook or Twitter, was one of the prominent news sources for youth, with 34 percent viewership. More recent data in 2015 from the American Press Institute demonstrates that 88 percent of Millennials— those aged eighteen to thirty-four in the year 2015— receive their news occasionally from Facebook, and 47 percent of this population receives their news daily from Facebook. Additionally, 83 percent of this young cohort consumes news from YouTube, 50 percent from Instagram, 36 percent from Pinterest, 33 percent from Twitter, and 21 percent from Tumblr. <sup>23</sup> Within these topics, about 45 percent of youth follow “national politics.

FIGURE 4.6

**Most Americans Still Get News from Traditional News Platforms, Except the Very Young**

Where did you get news yesterday?	Total	18-24	25-29	30-39	40-49	50-64	65+
<b>Traditional Platforms</b>	%	%	%	%	%	%	%
Television	55	29	41	47	57	65	73
Radio	33	20	31	40	38	36	27
Print newspaper	23	6	10	12	16	30	48
<b>One or more</b>	<b>71</b>	<b>43</b>	<b>62</b>	<b>69</b>	<b>72</b>	<b>79</b>	<b>86</b>
<b>Digital Platforms</b>							
Digital/Online	39	41	45	47	49	35	23
Email	16	13	18	21	17	15	12
Twitter	3	7	7	4	4	1	*
Social networking	19	34	32	30	23	10	2
Podcast	8	6	7	9	12	8	5
<b>One or more</b>	<b>50</b>	<b>60</b>	<b>61</b>	<b>59</b>	<b>60</b>	<b>43</b>	<b>28</b>

PEW RESEARCH CENTER 2012 News Consumption Survey. Q9, Q11, Q13, Q17, Q20, Q21, Q70, Q75, Q82, Q87.

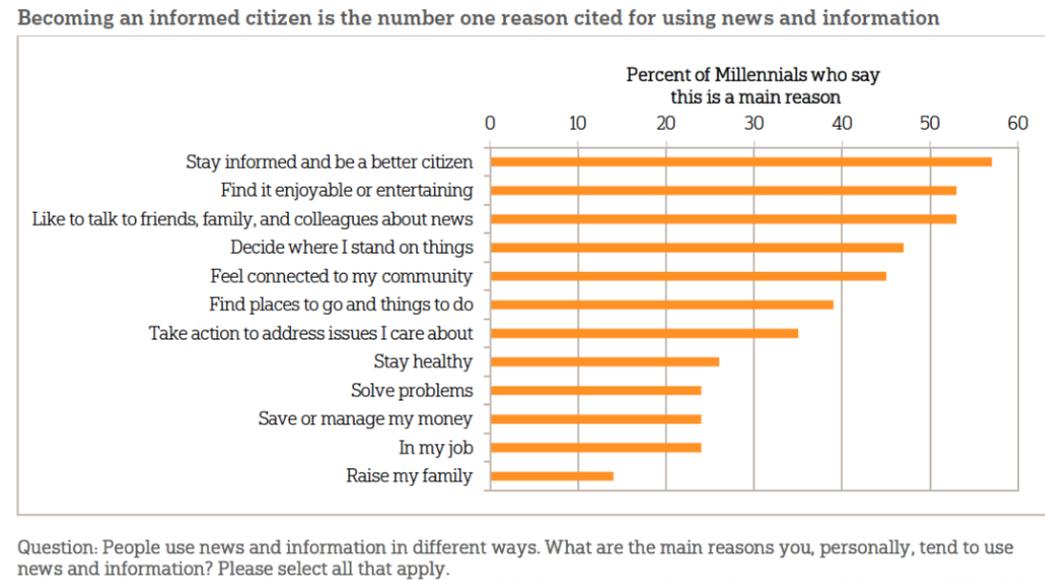
Source: Pew Research Center <sup>24</sup>

**Consumption Habits, Soft News, and Political Activity**

After surveying news consumption data across different mediums, it can be concluded that traditional forms of news, such as newspapers, local network news and cable news are reasoning with youth at increasingly lower rates than previous years. The decline of youth engagement with these traditional sources correlates highly with the consistent decreasing of youth voter turnout. However, the glaringly low turnout—35 percent turnout in the 2012 Presidential election, and 14 percent for the 2014 Congressional midterm elections for those aged eighteen to twenty years—does not correlate with the significant youth audience of Comedy Central’s entertainment news, such as the Colbert Report or the Daily Show. The shockingly low voter turnout rate for this young age cohort—as well as those from twenty-one to twenty-four who have respectively demonstrated 40 and 17 percent turnout in the 2012 Presidential election and 2012 Congressional midterms—does not correlate with the significant increases in new exposure to news via social media, particularly the very high rates of news on Facebook, and the moderate rates of consumption of political news through this medium.

Possibly these outlets of entertainment news, or “soft news” are not adequately engaging the youth, such as more robust forms of news, such as newspaper articles, or lengthier television specials?<sup>25</sup> (Wattenberg 2008, p. 59) It is also possible that, although the proportion of young people who are watching soft news is significant as compared to other groups, the overall youth population is not watching soft news. We unfortunately cannot measure the exact content of soft news. However, data from both the Pew Research Center and the American Press Institute demonstrate that the reason why youth are seeking soft news through social media and television such as the Colbert Report and the Daily show stems from their desire to be entertained. Paradoxically, entertainment is not the only reason why youth seek news: Figure 4.7 demonstrates that the most significant factor in why youth seek news is the desire to use news and information to “stay informed and be a better citizen.” <sup>26</sup>

FIGURE 4.7



Source: American Press Institute<sup>27</sup>

Through a fundamental desire to stay informed and be a better citizen, as well as the prominent desire to be entertained, I argue that the inclinations of youth need to be cultivated through a new marketing strategy of the government to better engage with youth, bolster civic engagement, and eventual voting. In the following section I examine the power of marketing to lay the foundation for the government's role in creating effective and relevant marketing.

### 5. The Power of Marketing & Our Desire to Be Entertained

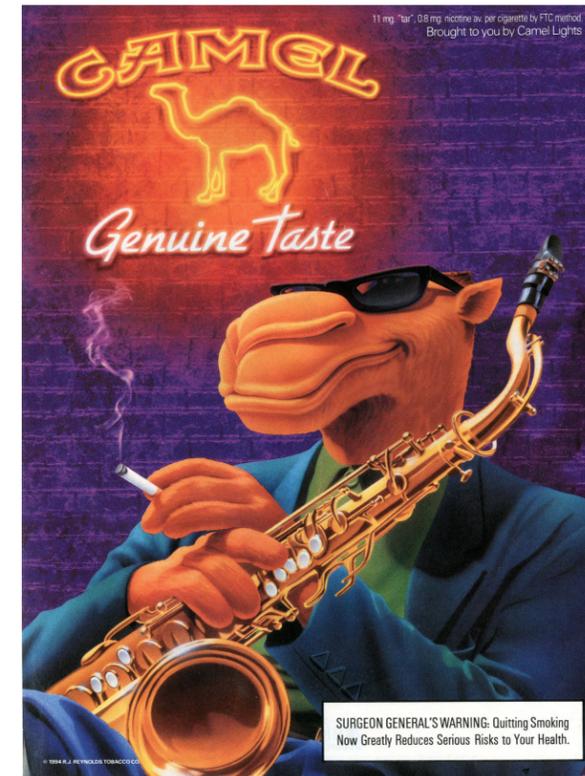
In the 2015 Super Bowl, the most watched television event in U.S. history, 95 percent of 30 second advertisements were sold for just under \$4.5 million dollars. (Tadena 2015) Further, the costs for these commercials ranged from \$1 to \$2 million dollars. (Levy 2015, p. 86) Yet, advertising such as is not exclusive to corporations. During his 2012 presidential campaign, President Obama spent \$265 million on advertisements, while the total amount of advertisements by both Democrats and Republicans rose from about 730,000 advertisements in 2018 to 1,015,615 advertisements 2012—a 39 percent increase. (Eggen 2012) Why did these groups pay an obscene amount for advertising? Was the purpose to simply disseminate information, or a product? Or was all this money spent because mass media has the ability to influence? Michael Levy argues in *Celebrity & Entertainment Obsession: Understanding Our Addiction*, that media “undoubtedly and without question” has the ability to influence our behavior. (Levy 2015, p. 85)

#### Effects of Media Influence

As a brief case study, Levy examines the marketing campaign of Joe Camel for Camel cigarettes during the 1980 - 1990s. Because of the effectiveness of the campaign, the Journal of the American Medical Association published three articles that concluded Joe Camel was as well know to six year olds as Mickey Mouse. (Fisher et al., 1991) The New York Times reported that Camel's market-share among underage smokers grew from .5 to 32.8 percent during this time. (Elliot 1991) However, the effectiveness of marketing was not limited to a hip, cool Camel during the 1980 - 1990s. Cigarette campaigns were so prevalent and successful during the 1950s -

1960s, the Federal Communications Commission ruled that television stations had to air anti-smoking ads at no cost to offset the effect of paid advertisement. (Levy 2015, p. 87) In 2009, the Food and Drug Administration passed the Tobacco Regulation Bill to place even more control on cigarette commercials, further demonstrating the power of advertising. Figure 5.1 is an advertisement from the Joe Camel campaign.

FIGURE 5.1



Source: Joe Camel, Camel<sup>28</sup>

The power of advertisement does not only affect cigarette consumption. A study published in *Alcohol and Alcoholism*, by the Oxford University Press, tested the links between alcohol portrayal in movies and commercials to alcohol consumption. In the study, two control groups of young males watched movies and commercials. One group was exposed to movies and commercials that portrayed heavy alcohol consumption, the other group's movies and commercials did not portray any consumption of alcohol. (Engels et al., 2009) Both groups had soft drinks and alcohol readily available. The group who viewed alcohol consumption in the movies and commercials drank 1.5 more glasses of an alcoholic beverage as compared to the group without the imagery of alcohol consumption.

These examples have demonstrated how advertising can affect consumptions; however, advertising can have an effect upon an individual's behavior to promote something good. During 1994, the Ad Council, a non-profit organization that distributed public service announcements, created Smokey Bear to inform the American public that “only you can prevent forest fires.” During this time, accidental fires accounted for 9 out of 10 forest fires and were responsible for the loss of millions of acres of land each year. (Levy 2015, p. 90) Smokey Bear became so popular, he appeared in cartoons and comic strips across the nation. Adding to the success of this

campaign, Smokey Bear gained enough support that Congress that legislation was passed to move Smokey Bear from the private to the public sector to use the funds generated by the advertisement campaign for continued education on forest fires. Since the beginning, of the campaign the annual acres lost from forest fires has decreased from 22 million to 6.7 million in 2016.<sup>29</sup>

Similar to the Smokey Bear advertisement campaign, the “Keep America Beautiful” campaign began in 1961 and was highly successful. The goal of the campaign was to “get the message across that every person needed to protect the environment and that protection of the environment was everyone’s responsibility.” (Levy 2015, p. 91) The campaign continued to grow, and during Earth Day 1971, the campaign evolved to juxtapose images of a Native American—Iron Eyes Cody, or the “Crying Indian”—and the industrialization and pollution of America, emphasizing individuals’ responsibility to prevent and combat pollution. The advertisement ended with the signature phrase “People start pollution. People can stop it.” (Levy 2015, p. 91) During the peak of this campaign, over 2,000 letters per month were sent to the “Keep America Beautiful” campaign from individuals who wanted to get involved in their local communities to work on anti-pollution efforts. When the campaign concluded, it was estimated that “Keep America Beautiful” local teams helped reduce population by as much as 88 percent in 300 communities, 38 states.<sup>30</sup>

### **Our Need to be Entertained and Feel Good**

With continuous technological advancements, the development of advertising, and power of the media, paired with the changing dynamic of consumer culture and the rise of the media through technological advancement and advertisement, Levy argues that “experiencing entertainment has evolved into a particular form of consumerism and has become a key if not primary way that we attempt to feel good about ourselves.” (Levy 2015, p. 114) Levy argues our type of consumerism has evolved into an obsession. Levy points to the staggering number of movies released in the United States, approximately 450 a year, the focus the public places on sporting events, such as the Super Bowl, as well as the music industry and its transformation that has allowed the visual medium of performance and the performer arguably to usurp the importance of the audio aspects of the music business. Not only is the industry saturated with ways in which to America entertained, but individuals and organizations will pay extremely large sums of money to be entertained. For example, when the Boston Red Sox renovated the luxury suites of the stadium in 2007, the asking price for a season long pass was \$283,000 each year for 10 years, which is close to a total of \$3 million. It was reported that after the luxury suites were placed on the market, there was wait list of 15 companies who wanted to purchase the suites. (Levy 2015, p. 109)

Levy argues that this type of consumption, reinforced by the 3-D movies, reality television shows, and the instantaneous nature of online video streaming, such as YouTube and Netflix, have become tools to step “outside ourselves and to give us a temporary feel-good feeling to the exclusion of other activities that could potentially be more fulfilling and satisfying.” (Levy 2015, p. 116) Can the lack of perceived entertainment within politics explain the youth turnout? Do youth seek government in order to step outside of their self? Why is the number reason that youth seek out news is to “stay informed and become a better citizen,” yet do not seek to engage with elected officials or the government, let alone vote?<sup>31</sup> If the government was able to communicate a story that was more appealing to youth amidst the spectacle of popular culture, then it would be easier to believe that youth are entertained when they engage with politics.

The previous sections have outlined the decline of voter turnout, the decline in political

news consumption through different mediums, the power of the media, and our need to be entertained. In the sections that follow, I begin to provide policy recommendations to the issues that have been brought forth thus far. I begin with eliminating aspects outside of the individual that increase the difficulty of voting. In the last section of this paper, I argue that the government needs to modernize the way in which it markets itself and how we need to sell an achievable dream to foster youth engagement.

### **6. Eliminating the Difficulty of Voting through Empowering the Right to Vote**

Harder and Krosnick placed a unique emphasis on factors outside of individuals that were viewed as a detriment to fostering voter turnout. This section provides public policy recommendation from existing policy models, and proposes original model, to minimize the difficulty of voting as a solution to bolster voting turnout, particularly within youth.

#### Recommendation 1: Automatic Voter Registration through the DMV

States should implement a system in which individuals who obtain a valid drivers license or state identification card will be simultaneously and automatically registered to vote. The State of Oregon has already implemented a system in which all eligible citizens are automatically registered to vote, and are given the opportunity to opt-out of registering to vote if they so desire.<sup>32</sup> Automatic voter registration will shift the burden of registration from individuals to the government, and, by default, the policy will also render any deadlines to register for an upcoming election as essentially ineffective. Abolishing the deadline to register to vote is significant, as the deadline is often cited as one of the most prominent barriers to voting. (Harder & Krosnick 2008, p. 528) Automatic voter registration will also address the low youth registration rates—which was 47 percent for eighteen to twenty year olds in 2012. It will also address the significantly decreasing registration rate of those aging from twenty-five to thirty-four. This age cohort demonstrates a negative rate of change per elections of 5.075 percent since 1972. Automatic voter registration will provide the opportunity to all those eligible to firmly demonstrate their political voice. By doing so, automatic voter registration serves as the foundation to achieving the goal of providing equal consideration of all constitutive groups of the citizenry within the decision making process.

#### Recommendation 2: Semi-Permanent Registration and the Elimination of “Inactive” Voters

Registration should be as close to permanent as possible to eliminate any burdens to re-register to vote, as well to diminish any confusion regarding one’s registration status, especially on voting day. Under Federal Law, those who have not voted for two consecutive federal elections, and have failed to return postcards verifying their address to election officials, are classified as “inactive” voters, and must re-register in order to cast a vote. In 2012, over 20 million voters were classified as “inactive,” many of which were unaware of this classification until they attempted to vote.<sup>33</sup> To contextualize the size of inactive voters, if all 20 million inactive voters casted votes, the amount of votes casted in the 2014 Congressional midterm elections would have increased by 21.7 percent. This is substantial difference that can be achieved by eliminating barriers to voting.

#### Recommendation 3: Online Registration and Re-registration for Those Who Move Residencies

Individuals who have moved residencies, or who are yet to receive a state identification card or drivers license, should have the ability to register to vote online. Online registration eliminates many physical and often arduous impediments to registration, and reduces the possibility of human error on behalf of election officials who manually input handwritten data into election

systems.<sup>34</sup> Many models of online registration exist, as 31 states, including the District of Columbia, allow for individuals to register to vote online.<sup>35</sup> In order to adopt online voting, states would additionally need to accept electronic signatures. For example, New York State does not accept electronic signatures for the purposes of registering online.<sup>36</sup>

#### Recommendation 4: “Portable” Registration

States should eliminate the requirement to re-register for individuals who move residences. States’ Board of Elections should work together with the Postal Service’s National Change of Address System to update registration records when a voter moves anywhere within the state, guaranteeing that citizens be alleviated from the burden of re-registering to vote. Therefore, a voter’s original registration would, in a sense, become “portable,” as they would be able to transfer their original registration in the event they change residences within the same state.<sup>37</sup>

#### Recommendation 5: Same Day Registration

Although many of the immediate benefits from same day registration could potentially be addressed through automatic registration through the DMV, same day registration may serve as an option for those who have opted-out of voting, who have been stripped of their right to vote through a felony, or have recently moved residences from a different state to ensure all those who visit a polling location can subsequently submit a vote. Currently 12 states, in addition to the District of Columbia offer same day registration. California, Hawaii, and Vermont have enacted same day registration, but are yet to implement this change.<sup>38</sup>

#### Recommendation 6: Open Primaries

Currently, eleven states conduct closed primaries for elections, and eleven states conduct open primaries. In states with closed primaries, only individuals who have registered as member of a political party may cast votes for members within their affiliated parties. In states with open primaries, this requirement to vote within one’s affiliated political party does dictate the candidate a vote may vote for. Twenty-four conduct election that fall in between the “open” and “closed” primaries distinctions. Abolishing closed primaries will eliminate barriers to vote on political party identifications. This is especially important, as 39 percent of voters in the United States identify themselves as independent voters. (Sago, et al. 2016) For Millennials, 48 percent identify themselves as Independent, 28 percent identify as Democrat, and an abysmally low amount of 18 percent identify as Republican. Sago, et al. 2016)

#### Recommendation 7: Expanding the Number of Days to Cast a Vote

It is often difficult for individuals to cast a ballot on Election Day. Expanding the dates in which voters can submit their votes significantly reduces impediments to voting. Currently, 37 States offer early voting, the majority of which do not require voters to provide an excuse for submitting their vote early.<sup>39</sup> Maximizing the number of dates voters can vote only decreases the pressures to vote on a single day. Best practices of early voting include the following: in person voting in election officials’ offices, as well as voting at satellite polling location; allowing individuals to complete and return absentee ballots in person, in addition to allowing early absentee ballots to be processed via mail; a relatively lengthy time period in which to vote—the average time period is 19 days before the election, yet some states allow early voting up to 45 days before the election; and not compelling individuals to provide a reason to justify their decision to conduct voting early.

#### Recommendation 8: Voting Centers vs. Voting Polling Location

Currently, many states require individuals to cast votes at the polling location that is clos-

est to the voter’s residency. This requirement should be abolished and replaced with a system of voting centers, as opposed to polling locations, that allow voters to cast their vote at a location of their choice. Through voting centers, voters are given a significant amount of flexibility to structure their elections to their needs and convenience.

#### Recommendation 9: Eliminate Voter Identification at Polling Sites

Seventeen States do not require voters to demonstrate proof of citizenship in order to vote, but rather rely on other manners of identification, such as checking signatures with registration information. Thirty-four states require potential voters to provide identification of some sort in order to cast a vote, such as asking each individual to provide a phot ID.<sup>40</sup> States should adopt a practice of decreasing strict identification laws by implementing signature identification to verify votes. Through lowering barriers, potential voters who are most likely to be burdened with financial strains to obtain identification, are not barred from voting.

#### Recommendation 10: Online Voting

In order to further modernize voting, and increase factors that streamline the voting process, states should begin the process of implementing online voting. If individuals can fill out the Free Application for Federal Student Aid (FAFSA), register to vote, and file taxes online, the government should have the technological capacity to conduct online voting. With the potential ease and convenience of casting a vote online, online voting would present one of the most effective measure to decrease the difficulty of voting, particularly because online voting matches the on-line habits and consumption of online mediums and news for young people.

#### Recommendation 11: Government Email Addresses

To increase awareness, states should give the opportunity for individuals to opt into a system of government email addresses. This direct line of communication would increase efficiency in disseminating information, and it would allow individuals to be informed about election day, candidates, the dates to vote, as well as many government functions and ways in which to become civically engaged.

#### Recommendation 12: The Case of Compulsory Voting

If we strive for a democracy that provides equal consideration to all of its constitutive parts, we must reform and abolish the policies that make voting a difficult process. One very effective model is compulsory voting. Figure 6.1 demonstrates that industrialized nations that provide compulsory voting have glaringly higher turnout rates than the United States. For instance, in all the data survey in the paper, no age cohort demonstrates a higher turnout rate than 75 percent. However, every nation and each age cohort within these nations voted at higher rates than 75 percent. Additionally, the voting distribution of these nations demonstrates little variation between age groups. The largest difference between the turnout of any age cohort of nations who conduct compulsory voting was 8 percent. In comparison, the largest difference between turnout of age cohorts in the United States was 36 percent between eighteen to twenty years olds and those above the age of sixty-five. With compulsory voting, not only is voter turnout increased sustainably, but the overall voting distribution on the axis does not vary significantly across age cohorts. Through compulsory voting, all age cohorts would receive relatively equal consideration through the equal distribution of votes.

FIGURE 6.1

Percent Reporting Casting a Ballot by Age in Advanced Industrialized Countries that Currently have or Recently had Compulsory Voting Laws					
	<30	30 – 44	45 – 64	65+	Oldest/Youngest Ratio
Austria 2002*	82	90	92	90	1.1 : 1
Netherlands 1998*	88	91	92	94	1.1 : 1
Italy 2001*	89	92	93	86	1.0 : 1
Australia 2004**	97	98	98	99	1.0 : 1
Belgium 2004**	89	98	97	92	1.0 : 1
Greece 2000**	90	93	95	93	1.0 : 1
Luxembourg 1999*	91	93	95	86 <sup>V</sup>	0.9 : 1

Source: Wattenberg 2008, p. 168

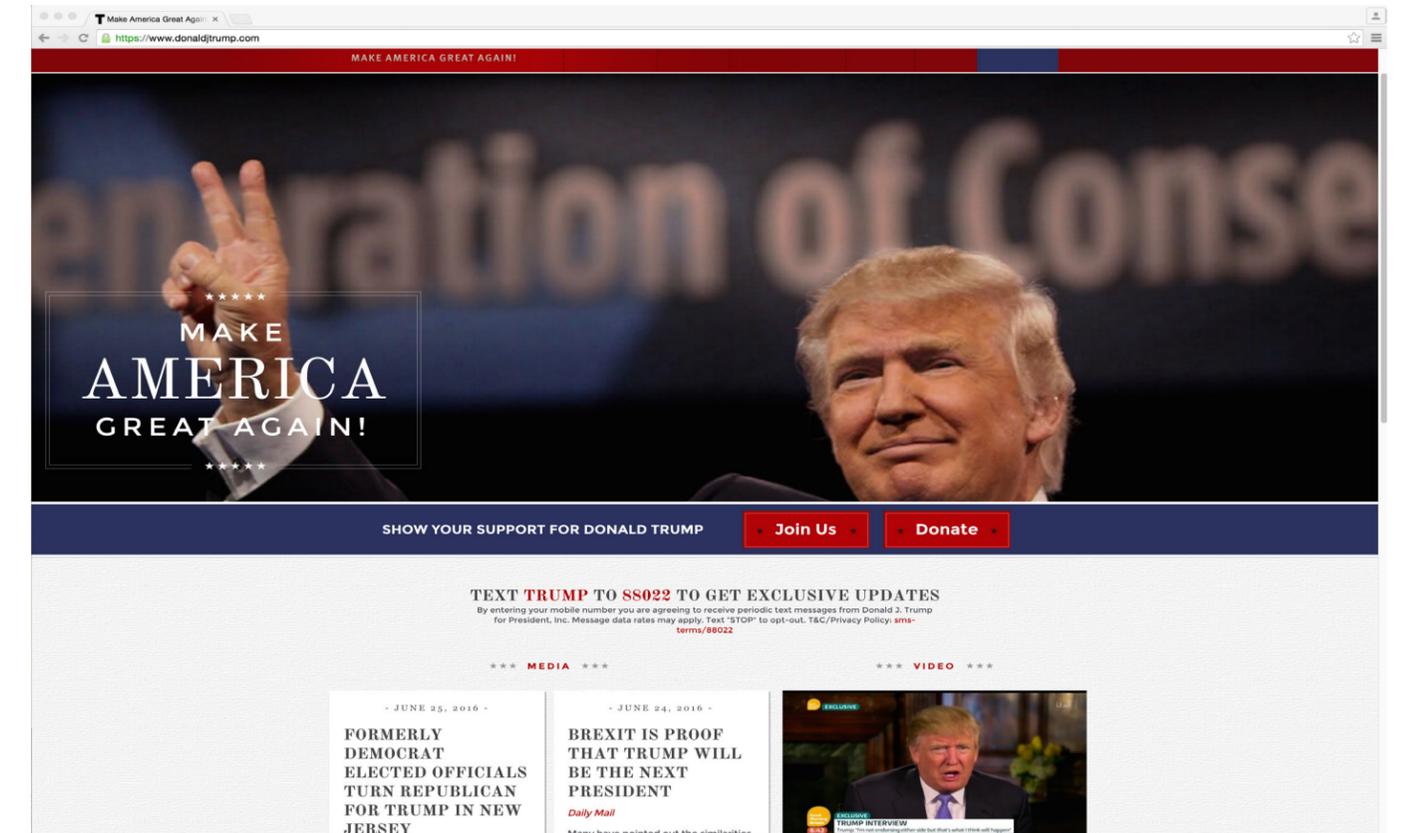
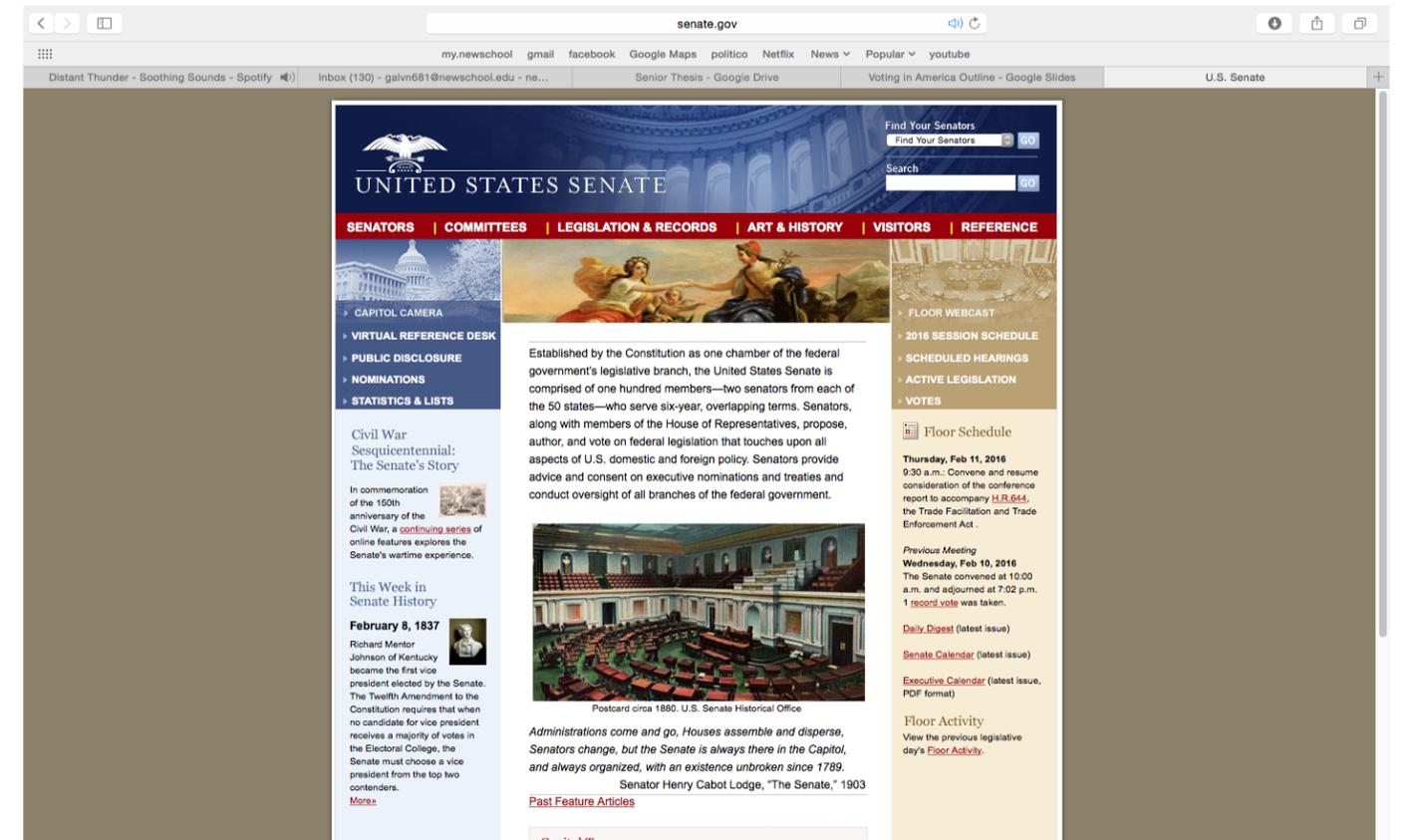
\*Recently had a compulsory voting law, but law is no longer in effect.

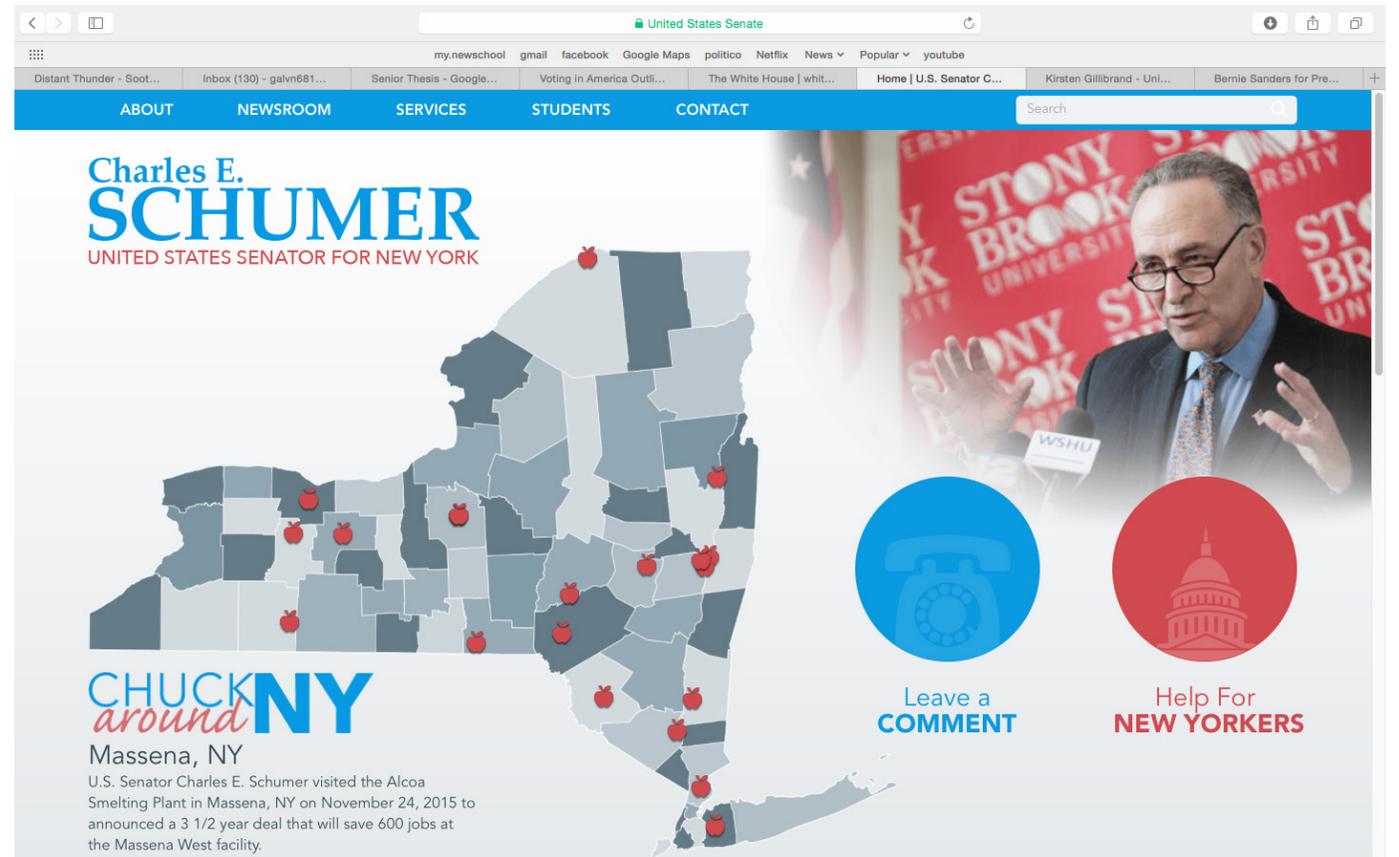
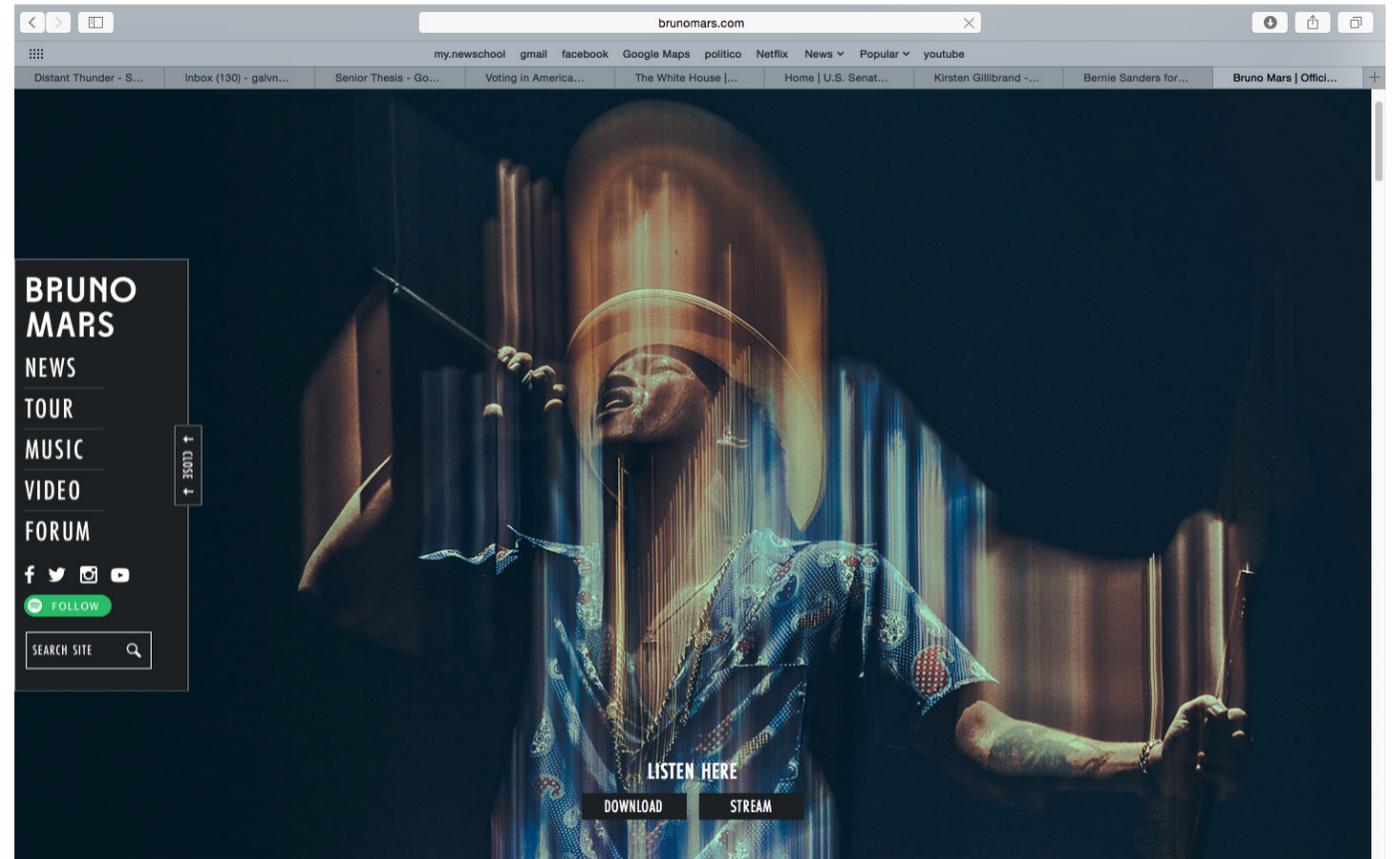
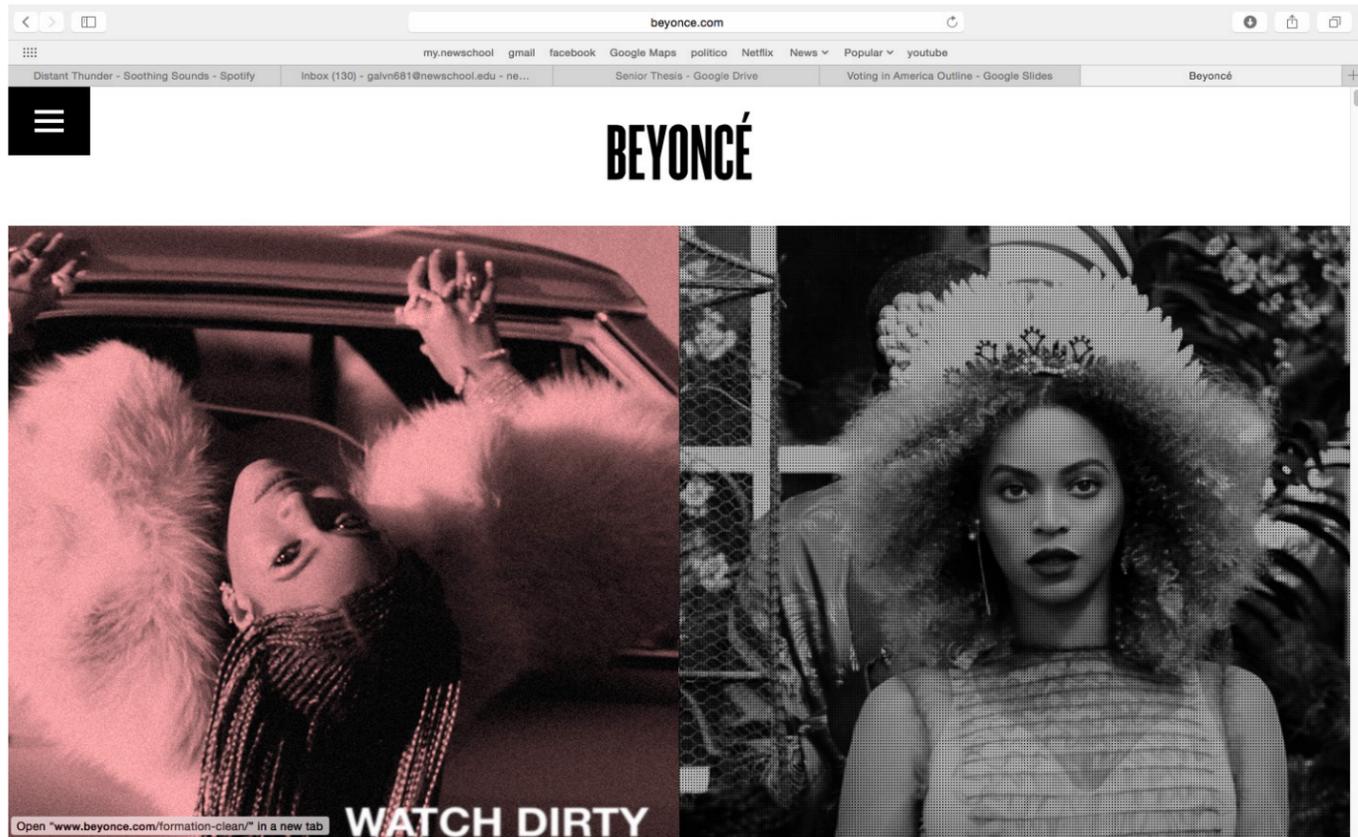
\*\*Compulsory voting in effect.

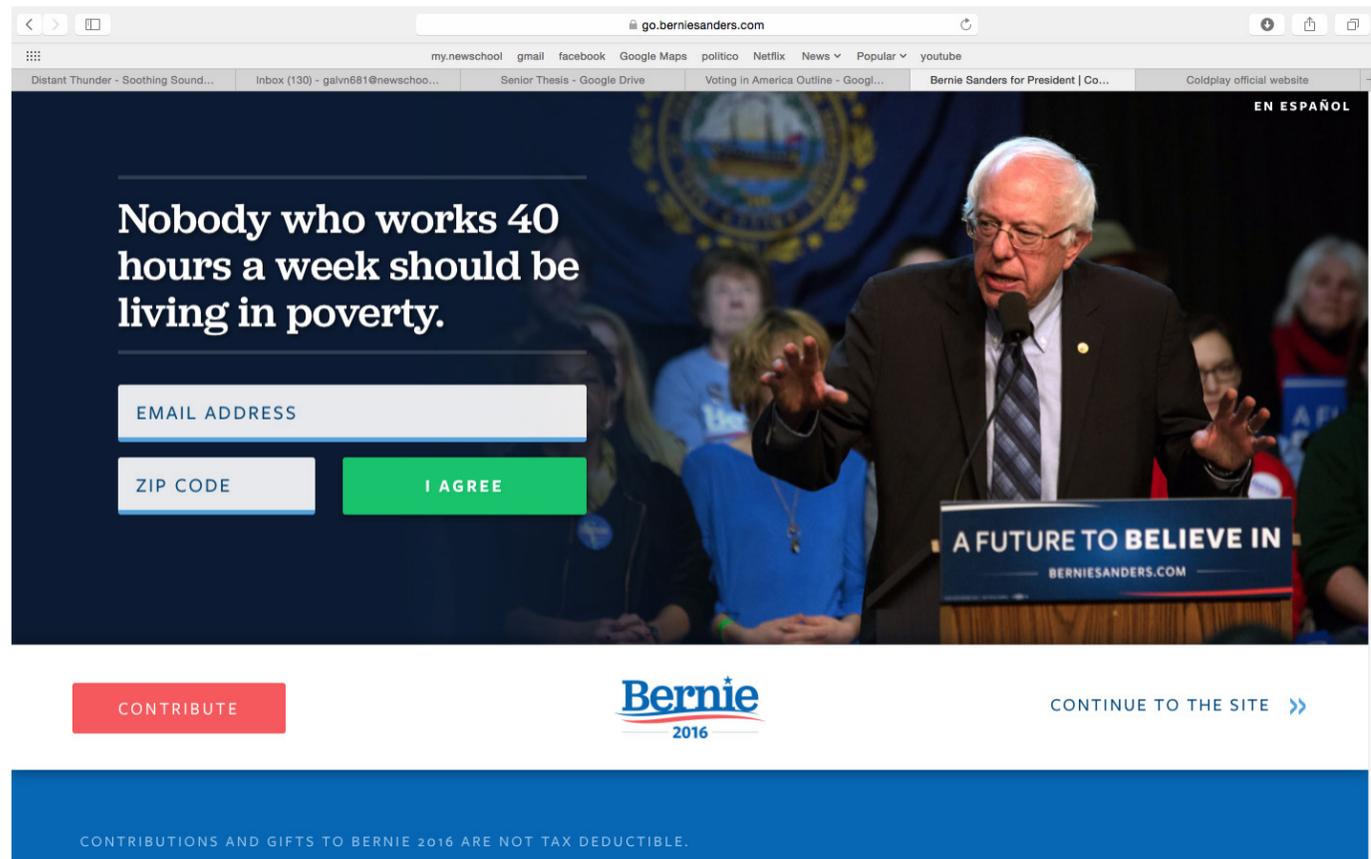
<sup>V</sup> Voting is voluntary for citizens aged 70 and over in Luxembourg.

## 7. Motivations and Marketing – How to Get Young People Voting

Before I begin the final section of this paper, and recapitulate our focus on the effects of the media and marketing, I juxtapose several images in the following pages. While you examine the images, I ask you to ask yourself, “which image grabs my attention?” Try examining the images at a glance and see if you can catch key elements of the image, and attempt to discern what it is trying to tell you. Lastly, simply ask yourself which images you enjoyed better?







What did you think? Was the United States Senate page more appealing than Bruno Mars' homepage? How did U.S. Senator Kristen Gillibrand's homepage compare to Beyoncé's homepage? What message was Donald Trump attempting to send? What message was Senator Bernie Sanders trying to communicate? Did Beyoncé have a discernable message? Was the White House's homepage more appealing, or did you enjoy Senator Chuck Schumer's homepage?

Through this small exercise, I believe it is relatively easy to determine which images fostered more attention than others. Aesthetically, both Beyoncé and Bruno Mars' pictures were captivating, while the U.S. Senate's page was confusing and cluttered at a glance. In terms of clarity, Senator Bernie Sanders and Donald Trump were able to convey bold messages that arguably grab our attention. Senator Sanders stated a clear policy initiative that "Nobody who works 40 hours a week should be living in poverty," while Mr. Trump wanted to "Make America Great Again."<sup>41,42</sup> I do not believe that the government should adopt common themes of popular culture only for the purpose of entertainment, but I do believe the government could learn from the advertisement industry because these are the industries they are competing with for our youth's attention.

In order to boost political participation, the government needs to eliminate as many factors as possible that contribute to the difficulty of the registration and voting processes. I believe eliminating these structural difficulties will begin to address the abysmally low voter turnout rates. Through higher voting rates, our ideal of receiving equal consideration for all constituencies during the decision making process will be one step closer to fruition. These policy recommendations have been previously discussed in Section 6 of this paper.

However, these necessary changes to registration and the voting process are only one aspect in fostering youth civic engagement. To ensure broader civic engagement from young people, the government must cultivate youth's motivation to vote through marketing aimed at bolstering a sense of political efficacy and one's sense of civic duty through high content entertaining media, particularly within the Internet and social media. I argue this effort can be successful, because, as mentioned by The American Press Institute as the main reason for youth's desire to seek news, youth already feel the great sense to become better citizens, but they may not know how, nor the operations of the government that would appeal to them, nor are likely engaging with the government in an enjoyable and regular manner that is free from being onerous.<sup>43</sup> High content, entertaining media would inform youth, sustain engagement, and would begin to create a culture of civic engagement through communicating opportunities to act upon a desire or motivation to become a better citizen, as well as more effectively communicating the policy advancements the government has made, or not made. The government can no longer rely on archaic branding that arguably fails and seems incompetent and out of touch when juxtaposed to the entertainment industry and corporate advertisement. The government must modernize its systems of engagement, not only through aesthetics, but through appealing to and cultivating youth's desire to become better citizens, and one day, vote.

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