

Oklahoma Politics



2021 • VOLUME 31



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OKLAHOMA POLITICAL SCIENCE ASSOCIATION

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Oklahoma Politics

2021

Volume 31

Oklahoma Politics is an annual publication of the Oklahoma Political Science Association (OPSA). The OPSA encourages the submission of papers, research notes, and book reviews that are meaningfully related to Oklahoma. For inquiries, email the Editor Erick Ananga at eananga@ecok.edu.



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Journal of the Oklahoma Political Science Association

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NOTE FROM THE PRESIDENT

Serving as the President of the Oklahoma Political Science Association has been an honor and a pleasure. I admire the members of our executive team and their continual commitment to the field of Political Science in Oklahoma both in terms of scholarship and student success. The many challenges presented by the COVID-19 pandemic have not escaped our organization. It is my belief that we have confronted such challenges and transformed them into learning opportunities in the pursuit of our mission. For example, hosting a virtual conference in 2020 opened the door to innovation for future conferences including a hybrid format. This creates opportunities for greater accessibility for our members. Such formatting is the case for the 2021 OPSA Conference hosted by Mr. Conner Alford of Southeastern Oklahoma State University in Durant, OK.

Enjoying membership and serving as a leader for OPSA is certainly an area of pride for me as a political scientist. I am encouraged by the collegiality and inclusive approach of the organization not always found in other academic spheres. I truly believe that OPSA creates opportunities for students to witness or even present their first academic paper while also encompassing the contributions of our most distinguished colleagues. This thirty-first publication of our journal, *Oklahoma Politics*, is a representation of the continued scholarly work produced by the members of this organization.

The 2022 OPSA conference will be hosted again at Oklahoma City Community College immediately following the midterm election. Thank you for allowing me to serve the Oklahoma Political Science Association.

Shanna Padgham
OPSA President

STATEMENT FROM THE EDITOR

The peer-reviewed journal *Oklahoma Politics* publishes articles, research notes, and book reviews that have significant Oklahoma political, social, and environmental related issues. Consequently, we consider work that addresses practical methods and makes significant contributions to scholarly knowledge about theoretical concerns, empirical issues, or methodological strategies in the subfield of political science and or environmental politics in the state of Oklahoma. Manuscripts submitted for review should address an important research problem and or question, display a modest level of creativity and or innovation in research, contribute in a significant fashion to a body of knowledge, and lastly demonstrate the use of appropriate quantitative and or qualitative methods.

Our core concern is to ensure that we provide a platform for authors from Oklahoma and their collaborators from around the United States and around the world to inform the larger scientific community of current political science and environmental politics-related research issues in the state. All manuscripts submitted for publication in our journal are thoroughly reviewed by anonymous referees. The submitted manuscripts first go through a detailed check including a plagiarism check. The editor together with the editorial office takes charge of the review process. When a manuscript is accepted for a full review, the editor will collect at least two review comments and prepare a decision letter based on the comments of the reviewers. The decision letter is sent to the Corresponding Author to request an adequate revision after which the manuscript is forwarded for eventual publication. If you would like to publish your research in *Oklahoma Politics*, please submit your paper for peer-review at: eananga@ecok.edu.

Erick Ananga
Editor, Oklahoma Politics

SUBMISSION GUIDELINES

GENERAL

Oklahoma Politics invites submissions that explore the broad context of politics affecting Oklahoma and its place in the surrounding region. We are especially interested in submissions that bring to bear a variety of methodological, analytical, and disciplinary perspectives on state and local politics of the central-south region of the United States: Oklahoma, Kansas, Colorado, New Mexico, Texas, Arkansas, and Louisiana. Because “politics” cannot be thoroughly explored from only a single disciplinary point of view, trans-disciplinary and collaborative projects are encouraged. Though we are the journal of the Oklahoma Political Science Association, we encourage submissions from historians, economists, sociologists, environmental scientists, policymakers, analysts, as well as political scientists and practitioners whose substantive research bears on the politics and issues of the state and region.

Oklahoma Politics is a fully peer-reviewed journal. Each submission receives at least three anonymous reviews and each is reviewed by the editors before a decision is made to accept a manuscript for publication.

MANUSCRIPTS

Manuscripts should be no longer than 30 pages or more than 9,000 words, double-spaced; text, graphics, notes, and references included; no extra space between paragraphs. Do not indent paragraphs. Type font: Times New Roman; 12 point. Notes should be footnotes, not endnotes, and references should be the last part of the manuscript. Graphics (tables and figures count 300 words) submitted separately, one per page, with internal reference indicating the approximate placement in the body of the text (i.e.: “[Table 1 about here]”). Tables/figures must not be larger than a single page.

INTERNAL NOTE STYLE

Footnotes, sequentially numbered superscript (e.g. ^{1, 2, 3, 4}).

Internal reference style: (author last name year); e.g. (Jefferson 2007).

Internal reference with page number: (author last name year, page #); e.g. (Jefferson 2007, 32). Multiple internal references separated by semi-colon; alphabetical first, then by year: (Author A 2007; Author B 1994; Author CA1 2007; Author CA2 1992).

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Manuscripts and book reviews must follow the APSA Chicago Manual of Style or Style Manual of Political Science. These format and citation styles can be found in the journals of the American Political Science Association: *American Political Science Review*, *Perspectives on Politics*, and *PS: Political Science & Politics*.

Examples

Journals: Author last, author first or initial. Date. "Article Title." Publication Volume (Number): Page-Page. Example: Budge, Ian. 1973. "Recent Legislative Research: Assumptions and Strategies." *European Journal of Political Research* 1 (4): 317- 330.

Books: Author last, author first or initial. Date. Title. Publication City: Publisher. Example: Green, Donald, and Ian Shapiro. 1994. *Pathologies of Rational Choice Theory*. New Haven, CT: Yale University Press.

GUIDELINES FOR CITING CHAPTERS AND WEBSITES

Chapters

Author last, author first or initial. Date. "Chapter Title." In Book Title, ed. Book Author First, Last. Publication City: Publisher. Example: Mezey, Michael L. 1991. "Studying Legislatures: Lessons for Comparing Russian Experience." In *Democratization in Russia: The Development of Legislative Institutions*, ed. W.H. Jeffrey. New York: M.E. Sharpe.

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Table 1		
Votes Missed, of First 100, by Term Limited		
	<u>Mean*</u>	<u>SD</u>
Not Term Limited (n = 72)	2.4	7.5
Term Limited (n = 28)	5.0	8.6
* Difference significant at the .10 level		

Each table or figure must fit on a single page. Authors must submit tables and figures in appropriate format.

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Book reviews should be no longer than 1500 words. Reviews should be of books on topics relevant to the journal as delineated in the Submission Guidelines. Review style should follow that of the journal as a whole. Full bibliographic information should be included as the lead to the review.

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They must be submitted electronically, in either Microsoft Word 2003 (or later) format (.doc/.docx) or Rich Text Format (rts.). No other forms of submission will be accepted. Manuscripts of papers not in format compliance will be returned without review.

**ELECTING EDUCATORS: HOW TERM LIMITS
CAN INCREASE REPRESENTATION**

JORDAN BUTCHER*
GIDONG KIM†

ABSTRACT

In 2018, teacher walkouts occurred in several states as a result of disaffection with low teacher pay and benefits. The walkouts garnered national attention, but the state governments did not respond to the demands of the participants. In this study, we examine two of the states most involved with the walkouts: Oklahoma and West Virginia. We seek to answer how the same social movements in two similar states resulted in different electoral changes. We argue that the institutional permeability caused by legislative term limits in Oklahoma provided an avenue for electoral change. By shedding light on how public movements affect electoral outcomes, this study demonstrates that the interaction between walkouts and term limits leads to electoral changes and, thus, contributes to current understandings of when and how term limits have positive influence on democratic representation.

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INTRODUCTION

In 2018, teachers from multiple states left their classrooms and headed for their state capitols. Teachers from West Virginia and Oklahoma garnered national attention as they fought against cuts to education. Educators aimed their efforts at the state legislature hoping for increased funds, better pay, and greater financial support. The walkout in Oklahoma ended after 9 days without many of the changes that they had been fighting for. In light of the disappointing results, many protesters vowed their walkout would make a difference in the upcoming November election.

We use the cases of Oklahoma and West Virginia to examine how citizen movements and institutional structures interact to lead to substantive electoral change. We center our exploration on the varying effects of social movements on elections, as well as legislative term limits. Teachers in the two states had been persistently frustrated by low pay and benefits, but as the issue garnered public attention, *educational problems* became a concern for more than just teachers. Nevertheless, state governments made only small changes that were much less than the teachers had hoped for. The teacher walkouts in Oklahoma and West Virginia ultimately drove teachers to run for office as a move toward creating the change they did not see from the state legislature.

We argue that Oklahoma's state legislative term limits created low-cost opportunities for citizens to run for office. With time, the Oklahoma legislature has become more permeable as term limits have become the institutional norm. While term limits can reduce the responsiveness of lawmakers by prohibiting their reelection (Carey, Niemi and Powell 2000; Powell, Niemi and Smith 2007), at the same time, term limits can increase representation by having

new members elected more frequently (Carroll and Jenkins 2001; Casellas 2011). Without term limits, it would have been more difficult for the new members to gain their seats in legislature. The lack of change in West Virginia was a result of the lack of ability for new members to penetrate the legislature, there was simply not the opportunity for change as there was no form of mandatory turnover.

In this study, we examine whether or not teachers had greater electoral success in the 2018 election as a result of a combination of teacher walkouts and term limits. We use the 2018 State Legislative Election Results from Carl Klarner, supplemented by original data to uncover if teachers were more successful in the Oklahoma elections. This analysis sheds light on the ways that term limits have allowed for more citizen involvement, evidenced by wide-sweeping electoral change. Furthermore, this study also suggests a political condition that enhances the positive effects of term limits on democratic representation by examining how political activities such as walkouts and protests strengthen the role of term limits.

THEORY

The walkouts, which were incited by issues of teacher salaries and educational funding, occurred within months of each other in West Virginia and Oklahoma.¹ Yet, only in Oklahoma were teachers able to drive change by becoming new members of the state legislature. We examine why the walkouts, with the same root cause, resulted in vastly different outcomes. To provide appropriate answers to the question, we first examine how the protests influenced the electorate and then discuss how the walkouts reinforced the theory that legislative term limits increase democratic representation.

1 A number of other states followed, including Kentucky and Arizona.

IMPACT OF WALKOUTS ON THE ELECTORATE

Political activities such as walkouts, protests, and demonstrations can affect citizens' understanding of issues and, accordingly, shape their political perception and vote choice in elections. According to Lee (2002), protest activities play an important role in mobilizing public opinion by providing voters with opportunities to learn about issues. In particular, because voters interact with their peers, they are likely to not only share relevant information but also have similar attitudes (McKelvey and Ordeshook 1986; Page and Shapiro 1992). Political activity, such as a protest, is a form of social communication that offers informative cues to the electorate. Put another way, because the activities tend to emphasize certain issues (Soule and King 2006), citizens can understand the issues and evaluate candidates in accordance with their salience (Gillion 2013; Fassiotto and Soule 2017). Indeed, it is well known that protest activities educate citizens on particular details of an issue (Gillion and Soule 2018).

Similarly, participants in walkouts and protests are regarded as signifying agents who guide the electorate (Benford 2000, Snow 2004). In other words, they place an emphasis on the social movements in order for citizens to follow a set interpretation of the event.² Indeed, studies have shown that the degree to which a framing gains public sympathy matters for the success of social movements (Snow 1986, Kane 1997, Ferree 2003). Moreover, repression can amplify the impact of social movements (Lichbach 1987, Rasler 1996). Every protest experiences counter-movements, and their impact varies depending on the movement cycle. For example, whereas repression directly weakens the protest as a short-term effect, it indirectly strengthens the protest as a

2 Referred to as the politics of signification (Hall 1982)

long-term effect (Opp 1990). Thus, repetitive repression and subsequent protests can increase its influence on the public as a result.

Regarding the impact of walkouts and protests, it also should be noted that these forms of political activities are just one of many options for those involved in the movements in addition to electoral participation (Harris and Gillion 2010). Because individuals are usually dissatisfied with the status quo policies and incumbents (Gurr 1970; Lazarus 1991; Norris, Walgrave and Van Aelst 2005), they are eager to not only share information but also encourage non-participants to understand issues and, ultimately, make vote choices in elections in accordance with their discontent (Lohmann 1994; Claassen 2007; Heaney and Rojas 2011). Citizens may support the political activities by providing financial contributions and political support during an election (Rucht 1990). At the same time, it is also known that they tend to vote for a party or candidate who has consistent opinions in accordance with protests (Gillion and Soule 2018). In sum, the teacher walkouts increased the salience of *educational problems* among voters so that they consider these issues when deciding how to vote.

IMPACT OF TERM LIMITS ON ELECTIONS

In addition to the independent role of the walkouts, we argue that the interaction between the walkouts and term limits are likely to lead to significant electoral changes. In other words, term limits can strengthen the positive impact of teacher walkouts on electoral outcomes in terms of democratic representation.

As discussed above, the teacher walkouts expressed educational discontent in both Oklahoma and West Virginia. Teachers tried to share relevant information among citizens

to persuade citizens to support their positions. However, the two states reached different electoral outcomes. Oklahoma experienced changes of members in the legislature, while West Virginia failed to make significant changes in the legislature. Thus, the two states present an interesting puzzle because they experienced differing consequences of the walkouts despite similar political environments including the size of legislatures, partisanship, and legislative resources. We argue that the primary reason for the different outcomes stems from the presence of legislative term limits. That is, although the educational problems and public upset in both states led to the teacher walkouts, the term limits uniquely positioned the Oklahoma legislature to be susceptible to greater change.

The literature on term limits provides ambiguous evidence. On the one hand, some studies show that term limits decrease the representation and responsiveness (Powell, Niemi and Smith 2007; Carey, Niemi and Powell 2000; Cohen and Spitzer 1996; Boeckelman 1993). This is because senior members are more interested in securing reelection than solving problems and, at the same time, those who are about to term out of office are less likely to vote with their constituents (Powell, Niemi and Smith 2007; Coyne and Fund 1992). As a result, term limits might weaken the electoral connection (Mayhew 1974; Glazer and Wattenberg 1996; Powell, Niemi and Smith 2007). As single-minded seekers of reelection (Mayhew 1974), members easily become less responsive to their constituents when their reelection is prohibited by law. Thus, problems which their constituents have might not be solved by the legislative process.

However, other studies argue that term limits increase representation diversity and legislative responsiveness (Carroll and Jenkins 2001; Casellas 2011). According to the theory of democratic representation (Pitkin 1967;

Lazarsfeld, Berelson and Hazel 1968), legislatures should resemble the citizens who elect the legislators. Furthermore, the principle of majority rule suggests that the legislature should reflect the interests and demands of the majority. Term limits are meant to limit the number of terms a member can serve, paving the way for new members. The long-standing theory was that term limits would allow new members who are demographically more representative of their constituents (Carey, Niemi and Powell 2000). In other words, term limits are meant to increase democratic representation, which is also expected to raise responsiveness.

In spite of contrasting evidence on the impact of term limits, we argue that teacher walkouts as political activities can strengthen the positive - rather than negative - impact of term limits on representation. As discussed earlier, political protests can shine a light on incumbents' inability to deal with constituents' concerns (Gillion and Soule 2018). As a result, qualified candidates can enter upcoming races to challenge incumbent politicians. The impact of protests on elections comes primarily from the fact that not only citizens, but also potential challengers, can understand current political and social conditions via the protests.

Though it is generally assumed that incumbents have strategic advantages against potential challengers through media channels and mailings (Mann and Wolfinger 1980; Cover and Brumberg 1982), walkouts and protests can weaken the incumbents' advantages by providing citizens with information about incumbents' failures and public upset. Moreover, because politicians are forward-looking (Arnold 1990), they always consider latent and potential preferences among the electorate (Sulkin 2005). Therefore, teacher walkouts are expected to inform citizens of educational concerns in the states, which also allows potential politicians to recognize that education is the notable

issue in the upcoming election. In sum, term limits, on the one hand, preclude the reelection of incumbents who failed to address educational concerns, while teacher walkouts, on the other hand, make the concerns prevalent in elections so that qualified candidates who can make education better are able to enter into the state legislatures.

Table 1 outlines the framework we utilize to guide our examination. First, both states had similar experiences with teacher walkouts. Educators were frustrated with educational problems and lack of benefits and welfare. Their dissatisfaction was also shared with the general public, which in turn led the public to understand the issues and support their protests. Though their efforts to improve the educational environment in the states have been constantly repressed by the state, educators were eager for dramatic changes in both states. However, term limits, as the key institutional difference, bifurcated the influence of the walkouts on the election outcomes in the two states. While the presence of term limits in Oklahoma allows the state legislature to experience electoral changes driven by the walkouts, the West Virginia legislature was not designed for similar changes and thus the walkouts were largely unsuccessful in the state.

Table 1

	Theory	Explanation	Oklahoma	West Virginia
Impact of walkouts	Disaffection	Frustration with state education and personal benefits led to walkouts	Yes	Yes
	Informing and framing	Positive public support encouraged walkouts	Yes	Yes
	Repression and resistance	State governments resisted change and teachers desired change	Yes	Yes
Impact of term limits		Term limits positioned the legislature for change	Yes	No

TEACHER WALKOUTS IN OKLAHOMA AND WEST VIRGINIA

The upset in Oklahoma and West Virginia was initiated by disaffection with teacher pay and resources. Starting in January 2018, West Virginia led the nation-wide teacher walkouts (Slocum, Hathaway and Bernstein 2018). When the protest began, West Virginia ranked among the worst states in regards to teacher pay, salaries were lower than they had been in the 1990s (Kuhn 2018). To put an end to the walkouts the legislature approved a bill raising teacher pay (Park 2018). The changes were not what teachers had hoped for. The lack of change furthered teachers’ disaffection, which subsequently led to repeat walkouts in early 2019 (Greene 2019).

Several months later on April 2, 2018, Oklahoma teachers left their classrooms and headed to the hallways of the state capitol in order to increase their salary and improve the educational environment in the state (Dakin et al. 2018; Reilly 2018). Though the problems in Oklahoma’s educational system were not new rather, issues had frequently been brought to the legislature; no changes were made. Instead, the state continued to cut state expenditures for educational purposes (Krutka, Asino and Haselwood 2018).³ There were some successful measures by the governor to increase spending on teachers and education by over 400 million dollars (Dakin et al. 2018). However, the pay raises offered to teachers fell short of what teachers had been hoping for by roughly four thousand dollars per teacher (Dakin et al. 2018).

Prior to 2018, teachers informed the public of the educational problems and tried to rally support for change (Benford and Snow 2000; Snow 2004). As a reaction to budget cuts in 2008, teachers in the state expressed their dissatisfaction and some even attempted to run for the state legislature in 2016. However, these early attempts failed to garner public support and the push for change was ultimately unsuccessful (Krutka, Asino and Haselwood 2018). Following these failed attempts, more work was dedicated to gaining public support. Teachers took photos of outdated textbooks and broken furniture in their classrooms and uploaded them to social media platforms (Reilly 2018). The efforts brought public attention to their protests against the state government by framing them as a “fight for public education” (Sanders 2020).

In 2018, teachers in Oklahoma and West Virginia gained positive and supportive national attention as their walkouts filled the halls of each state capitol. Local news headlines read, “Oklahoma educators and students united with hope

3 The cuts to educational funding had been consistent since 2008.

for positive change” (Tow 2019), de- scribed the walkouts as “historic strikes” (Strauss 2019). Additionally, there were positive and supportive comments on the walkouts from the public and commentators. The framing of these walkouts to the public furthered their strong public support. Namely, the protests were framed as a struggle for better public education and a better future for both teachers and their students, rather than simply expressing discontent for their own benefit.

As the legislatures continued declining teachers’ demands, the impact of walkouts strengthened those pushing for change. In Oklahoma, the state budget for education had been declining since 2008, which in turn led to the decrease of teachers’ salaries and the number of teachers (Krutka, Asino and Haselwood 2018). Though the state legislature raised salaries, the increase was insufficient to compensate for the stagnant wages over the course of several years. Similarly, teachers in West Virginia, whose compensation ranked 48th in the U.S. at the time, required a pay increase and a more reliable financing plan for state health insurance. Yet, West Virginia Governor, Jim Justice offered the teachers only a 1 or 2 percent pay increase, which was unable to keep up with the inflation rate. Thus, the continued resistance escalated the walkouts in Oklahoma and West Virginia.

ANALYTICAL BACKGROUND AND STRATEGY

The walkouts in Oklahoma and West Virginia present an opportunity to explore how different legislative rules can allow for greater change. Put another way, the similar events which occurred in both Oklahoma and West Virginia allow us to compare how the permeability of term limits created a greater shift in membership in Oklahoma. In both states, there was a growing disconnect between the citizens and the legislature, which is evidenced by the teacher walkout. Subsequently, the lack of response on the part of the

legislature drove many members of the walkout to pursue office. Comparing election results from 2016 and 2018, we assess how these protests were able to stimulate electoral change. We argue the public push for change in Oklahoma was successful because the legislature had the most room to change, whereas the election in West Virginia was just like the preceding elections. This change is with the caveat that the walkouts in combination with the presence of term limits creates the unique opportunity to increase representation in the legislature.

The walkouts and public upset resulted in highly contested seats. Term limits have been found to decrease competition and strengthen the incumbency advantage (Luttbeg 1992; Sarbaugh-Thompson et al. 2004). In fact, many incumbents in term-limited states run unopposed (Sarbaugh-Thompson et al. 2004). The decrease in competition is due, in part, to the lack of credible challengers (Gerber and Lupia 1996). The build-up of public distrust and the teacher walkouts led to an increased number of credible challengers. The Oklahoma policy institute found that candidate filings for legislative office increased from 2016 to 2018 by nearly 100 (a difference of nearly 200 from 2014). To take that one step further, there was a decrease in the number of elections with no contest from 2014 and 2016 to 2018.⁴ Discontented constituents were more willing to run for office, even against an incumbent, because of the public walkouts. Alternatively, the existence of legislative term limits ensures that there will be a certain number of guaranteed open seats as incumbents' term out of office. The publicity of the protests can make it easier for an educator to obtain a seat over someone who is not directly tied to the push for education.

While they may seem to be an odd pairing, Oklahoma and

4 Find the report here: <https://okpolicy.org/oklahomas-2018-elections-were-different-in-many-ways/>

West Virginia are similar in size, partisanship, and even have similar institutional resources. Table 2 highlights some of the key similarities between these two states. Every election, there are 125 seats up for reelection in Oklahoma: each of the 101 seats in the Oklahoma House of Representatives and 24 seats in the Senate (of State Legislatures 2018). The West Virginia House of Delegates has 100 members and the Senate has 34 (only half of the Senate seats are up for election every two years).⁵ Both states have the same term lengths, 2 years in the lower chamber and 4 years in the upper chamber. Additionally, both states have a secure Republican majority.

Oklahoma and West Virginia are also comparable in institutional resources. Using Squire's (2017) professionalization index as a reference, the two states offer similar resources and are somewhat professionalized. State legislative professionalization can indirectly influence competition in state legislatures. For example, different levels of professionalization are associated with different types of candidates who run for office (Fiorina 1994). Also, leaders in more professionalized state legislatures are more likely to engage in candidate recruitment (Sanbonmatsu 2006). Thus, the fact that Oklahoma and West Virginia have a similar level of professionalization suggests that the two states have comparable conditions in terms of competition in state legislatures.

⁵ All information is from the West Virginia House of Delegates website.

Table 2: Similarities Between Oklahoma and West Virginia

	Oklahoma	West Virginia
Legislature Size	101/24	100/34
Term Length	2/4	2/4
Majority Party	Republican	Republican
Professionalization Score	.229	.157
Advancement Prospect Score	.12	.14
Term Limits	Yes	No

The very intention of term limits was to alter the electoral process by artificially increasing legislative turnover (Daniel and Lott 1997). This increased turnover puts challengers in a better position to seek and win office. In many instances, incumbents in term-limited states are considered to be safer than those in states without term limits (Sarbaugh-Thompson and Thompson 2017); however, the citizen upset over education effectively removed that incumbent security in states such as Oklahoma. As a result, the legislature became susceptible to change; turnover rates spiked, more incumbents lost election, and the legislature ultimately became more representative of those who felt they were wronged.

The 2018 election was unique for all states, aside from the teacher walkouts. Nationally, 2018 had the highest recorded mid-term election voter turnout in recent years (McDonald 2018). Both West Virginia and Oklahoma had higher than normal levels of turnout. In fact, Oklahoma had record turnout, more than 12 percent higher than the previous year and the highest number of votes cast in 22 years.⁶ In West Virginia, turnout for 2018 was up by 10 percent from the previous year.⁷ This trend indicates a national uptick in voter

6 <https://kfor.com/news/officials-oklahomas-midterm-voter-turnout-sets-new-22-year-high/>

7 Information from the West Virginia Secretary of State website.

turnout, which benefited candidates but is unlikely attributed to teacher walkouts. Rather, the high voter turnout was able to help candidates secure a seat in the legislature opened up by term limits.

In the 2018 election for the West Virginia House of Delegates, there were thirty-four new members elected. Out of the thirty-four new lawmakers in West Virginia, thirteen beat out an incumbent. In the Oklahoma House of Representatives, there were forty-seven new representatives elected. Eleven incumbents lost to challengers during the primary election.⁸ This means that nearly half of the seats in the House of Representatives are now filled with first-term members. 30 percent of the newly elected members replaced an incumbent who was seeking reelection.

The 2018 election clearly brought changes to the Oklahoma Legislature, but how much of this change was directly related to the uprising brought on by the teacher walkout? We first look at the number of teachers who ran for office in 2016 and 2018. Second, we assess whether teachers were more likely to be electorally successful after the public walkouts. Specifically, we look to see if teachers were more successful in 2018 than they were in 2016. There are more than 200 individuals in each state for each year, allowing us to empirically test the relationship between the existence of term limits and the success of teacher candidates. We utilize the State Legislative Election Results (SLERs) dataset from Carl Klarner. These data are supplemented with original research on the careers of each candidate who pursued office in West Virginia and Oklahoma for the 2016 and 2018 general election.⁹

8 For reference, the Tulsa World reported only 5 incumbents had lost a primary election in Oklahoma since 1994 (Blatt 2018).

9 These supplemental data were gathered from state legislative records, personal campaign websites, Face-book campaign sites, Twitter campaign sites, and online newspapers.

Using the SLERs dataset and supplemental information about legislative careers we are able to evaluate how many teachers run for office and assess whether they are more likely to be successful. The SLERs dataset contains election results from the general election for legislative positions. We limit the results to 2016 and 2018 in West Virginia and Oklahoma to evaluate whether the highly publicized walkouts had a profound effect on the election. While teachers in these two states had been struggling to negotiate with the legislature for years, the problems were not overtly public until the early 2018 walkouts.

Table 3: The Number of Teachers Seeking Office

	Oklahoma		West Virginia	
	2016	2018	2016	2018
Candidates	43	53	28	28
Winners	15	25	13	11

Table 3 contains information on the number of teachers who ran and those who won office in 2016 and 2018. For reference, Todd Makse found that an average of 12 percent of lawmakers identify their occupation as being within the field of education (2019, 315). In 2016, both states had a similar number of teachers who won the election, although Oklahoma had far more teachers pursue office. The difference between 2018 and 2016 is what is of interest. Oklahoma had an evident jump in the number of teachers who sought office and the number of teachers who were declared a winner, while only 53 ran for a seat there were actually 65 candidates who filed (Blatt 2018). Additionally, Oklahoma had a record number of incumbents lose during the primary election, eight of the lawmakers who lost voted against the measure to increase educational funding earlier in the year (Blatt 2018). In West Virginia, the same number of teachers pursued office and fewer won in 2018. Using this

information, we explore whether Oklahoma teachers were significantly more likely to win office in 2018.

FINDINGS

In this section, utilizing a logit model, we assess whether teachers were actually more likely to win an election after the 2018 walkout. Electoral success, or winning the general election, is the dependent variable, and being a *teacher* is our independent variable. We first control for incumbent legislators to differentiate from the new challengers, incumbents tend to be more electorally secure. Additionally, we control for Democratic candidates because both legislatures are predominately Republican and we want to account for the potential partisan shift. There are also controls for two different types of elections that can occur: first, senate elections; second, elections for multi-member districts.¹⁰

The results are displayed in Table 4. When comparing Oklahoma state elections in 2016 and 2018, a teacher being elected is statistically significant in the 2018 election while it is not in the 2016 election. In contrast, in West Virginia, being a teacher is insignificant both in the 2016 and 2018 state elections. What is interesting is that incumbents are less likely to win in both states across both years. While teachers are able to replace incumbents in Oklahoma, West Virginia is replacing incumbents with people who are descriptively representative of the incumbents. From the *Democrat* control, there is no evidence of a wide-sweeping partisan shift in either state, Republicans are still more likely to win the election.

¹⁰ Oklahoma does not have any multi-member districts, West Virginia had 22 multi-member districts.

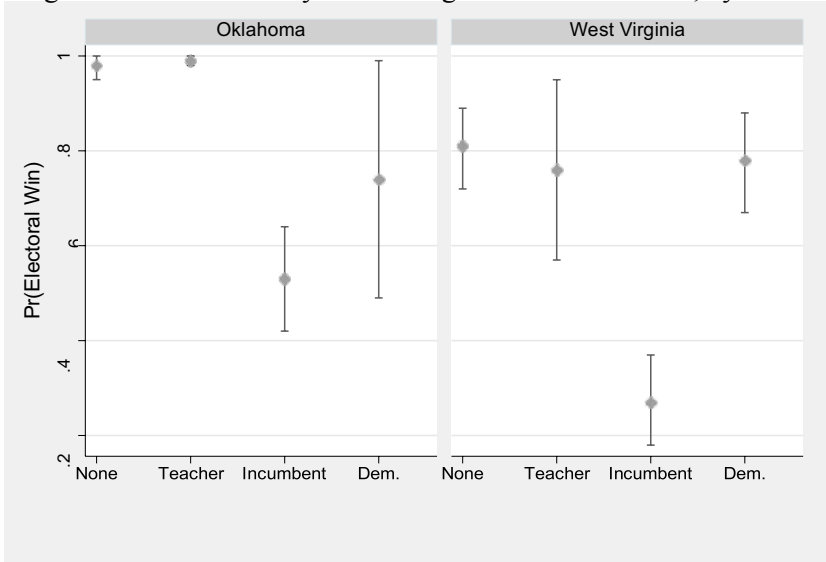
Table 4: Logit Analysis of Teachers Winning Office

	Oklahoma		West Virginia	
	2016	2018	2016	2018
Teacher	-0.015 (0.504)	1.371*** (0.477)	-0.266 (0.494)	-0.319 (0.493)
Incumbent	-4.158*** (0.645)	-3.584*** (0.671)	-2.343*** (0.315)	-2.484*** (0.320)
Democrat	-1.881*** (0.407)	-2.652*** (0.439)	-0.864*** (0.313)	-0.180 (0.309)
Senate Election	0.271 (0.446)	-0.041 (0.445)	-0.128 (0.436)	-0.246 (0.470)
Multi-Member District			-0.164 (0.335)	-0.313 (0.335)
Constant	4.043*** (0.649)	3.713*** (0.662)	1.795*** (0.362)	1.698*** (0.360)
N	236	236	243	242

Standard errors in parentheses, *** p<0.01, ** p<0.05, * p<0.1

In order to better understand the differences between Oklahoma and West Virginia, we present predicted probabilities for winning the 2018 election in each state. In Figure 1, we present three important candidate qualifications: whether the candidate is a teacher, an incumbent, or a Democrat. The baseline for this analysis is someone who does not meet any of these qualifications. Comparing the two states, it is clear that the probability of a teacher winning an election in Oklahoma is significantly higher than in West Virginia. The other significant difference is that incumbents have a higher probability of winning an election in Oklahoma than in West Virginia.

Figure 1: The Probability of Winning an Election in 2018, by State



Of the teachers who won office in Oklahoma, 18 were elected for their first term in 2018. State Senator Carri Hicks was one of several teachers who told reporters she felt compelled to run for office as a result of the walkouts. A list of these 18 lawmakers can be found in Table 5 along with their job and electoral outcome. In total, four of these new teachers beat a sitting incumbent, but 13 faced an open seat thanks to term limits.¹¹ Though 12 out of the 18 freshmen are Republicans, it is not surprising given that Oklahoma is largely a red state. Where these members deviate from their predecessors is in their experience and policy focus, which is centered on education.

¹¹ Table 7 in the Appendix (pg 32) provides a list of all the new members, not just teachers, elected to the OklahomaHouse of Representatives in 2018.

Table 5: Newly Elected Oklahoma Legislators, 2018 (Note: * denotes beating the incumbent.)

Chamber District	Name	Party	Job	General Challenger	Primary Challenger	Open Seat
H-3	Kiger	R	Former teacher and principal	Y	Y	Y
H-15	Randleman	R	Psychologist affiliated with schools	Y	Y	Y
H-20	Conley	R	Teacher	Y	Y*	N
H-24	Phillips	R	Community college professor	Y*	N	N
H-25	Johns	R	Principal	Y	Y	Y
H-27	Sterling	R	Agriculture educator	N	Y	Y
H-33	Talley	R	Preacher/college Chaplain	N	Y*	N
H-34	Ranson	D	Teacher	Y	N	Y
H-35	Burns	R	Educator/coach	Y	Y	Y
H-65	Hasenbeck	R	Teacher	Y	Y*	N
H-74	Vancuren	R	Teacher/coach	N	Y	Y
H-77	Waldron	D	Teacher	Y	Y	Y
H-79	Provenzano	D	School administrator	Y	Y	Y
H-95	Albright	D	Teacher	Y	Y	Y
S-6	Bullard	R	Teacher	Y	Y	Y
S-16	Boren	D	Educator/attorney	Y	Y	Y
S-40	Hicks	D	School teacher	Y	Y	N
S-42	Stanley	R	Former teacher and principal/adjunct professor	Y	N	Y

In West Virginia, there was very little electoral change and consequently there was little change in the legislature and in the mindset of members.¹² Only two of new delegates in West Virginia list teacher as their profession, Jeff Campbell and Cody Thompson. Campbell was appointed to fulfill a vacancy before being re-elected in 2018.¹³ Cody Thompson, however, did beat out an incumbent in the general election. As a result of the lack of change, there was another teacher walkout in West Virginia in 2019 (Greene 2019).

DISCUSSION & CONCLUSION

In 2018 teacher walkouts drew national attention to teacher pay and educational resources. After the walkouts ended, Oklahoma and West Virginia handled their education problems in very different ways but in both states teachers did not achieve their desired changes. Why did some states see electoral change while others did not? We provide an answer to this question by presenting a case study examining the electoral change in the aftermath of the walkouts. Teachers were dissatisfied with the education budget and their pay, which triggered the walkout. Voters regarded the walkouts not as just the teachers' problems but as problems with the states' education system, which garnered increased support. This public support encouraged teachers' continued demand for pay increases and a better budget. But the legislature remained unresponsive. As a result, the teacher walkout continued as further protests against the state governments and eventually affected the 2018 state legislative elections.

Even though the walkouts were similar in these two states, the consequences were different. The walkout in Oklahoma created significant electoral change, whereas the walkout

12 For a list of all the new members in the Virginia House of Delegates see Table 6 in the Appendix (pg 31).

13 https://www.register-herald.com/news/candidate-profile-jeff-campbell-west-virginia-house-district/article_55bdebc-ccab-5ed2-9d60-dc6af786d11c.html

in West Virginia resulted in little change. Why did the walkout produce greater change in Oklahoma? The evidence presented here demonstrates that term limits helped to open an avenue for disgruntled constituents to seek elected office. Although early on, the teacher walkout in Oklahoma did not result in the desired legislative changes, it did stem an electoral change by bringing in 59 new state legislators. A number of new legislators are educators and those that are not advertise any connection they may have, whether it be a parent or spouse. While the walkouts did not stimulate short-term changes, they did make a long-term difference for the overall composition of the legislature.

The findings in this study contribute to our understanding of the effects of term limits and suggest several implications for state politics. First, our results provide reason to believe that term limits have positive influence on democratic representation. Some prior studies argue that term limits have negative effects on representation and responsiveness because lawmakers, who are single-minded seekers of reelection, lack the motivation (Powell, Niemi and Smith 2007; Carey, Niemi and Powell 2000; Cohen and Spitzer 1996; Boeckelman 1993). However, in the case of Oklahoma, this study demonstrates that the term limits can be an institutional solution by allowing teachers to be new members of the state legislature and, thus, facilitate democratic representation. Hence, we support the argument that term limits assist lawmakers who are more likely to be responsive to their constituents' preferences (Chen and Niou 2005; Petracca 1991). In this case, those lawmakers who were not responsive in early 2018 lost their seat in the November election.

Second, our findings also show that the positive influence of term limits on democratic representation can strengthen when particular issues become more salient as a result

of political movements such as walkouts. In the case of Oklahoma, the teacher walkouts could not lead to a successful change in the 2016 election despite the presence of term limits because there was a lack of public support. However, in 2018, the walkouts made educational issues more salient because teachers successfully persuaded citizens to pay particular attention to the issues and support their positions. As Gillion and Soule (2018) argue, grassroots movements such as walkouts and protests play an important role as an informative cue that facilitates the social learning process. Moreover, because the movements allow potential challengers to obtain signals for when to enter a race, citizens' discontent in the street is more likely to be reflected in elections. Our findings demonstrate that the permeable institutional setting of term limits can facilitate the impact of political movements on electoral outcomes. That is, the teacher walkouts shed light on the failure of incumbents on the educational issues and, at the same time, term limits legally prevented many incumbents from running for office while having qualified candidates - especially, educators - enter upcoming races with public support. As a result, this successfully led to a change within the state legislature.

While we acknowledge the limitations of the two-state case study, we demonstrate that the different electoral consequences in the states are caused by different institutional circumstances. Without the presence of term limits in Oklahoma, it is likely that there would not have been any electoral changes. This study illustrates the potential for electoral changes in state legislatures based on both public upset and institutional rules. This also helps to increase current understandings of the relationship between a public movement and subsequent electoral change.

Even though we demonstrate that term limits have positive

effects on democratic representation, we are still cautious about the effects of term limits on responsiveness. Because democratic representation may not guarantee substantive responsiveness (Pitkin 1967; Phillips 1995), the fact that teachers became members in Oklahoma may not necessarily mean that they will solve the educational problems in the state. Therefore, to examine substantive changes in terms of responsiveness, it would be fruitful to analyze how educational budgets and policies have changed since teachers entered the Oklahoma state legislature.

The changes that occurred in Oklahoma are not unique. There have been other instances of electoral change in term-limited states following protest movements. In Colorado after the 2012 election, which legalized recreational marijuana, Democrats gained five seats in the House after having lost five in the previous election. In Arizona, following the death of George Floyd, Hispanics/Latinos came out in support of the Black Lives Matter Movement, as of 2020 the number of Hispanic/Latino legislators increased by 7 percent and the number of Democrats increased by 8 percent.¹⁴ While it appears there have been successful electoral shifts in some states, this is not a given. In Missouri, there was very little electoral change following the 2014 protests in Ferguson, Missouri following the death of Michael Brown (only a 2 percent increase in Black and Democratic lawmakers). These other examples of activism are worth exploring to better understand the connection between protests and electoral change and the institutional rules that can create room for success.

14 <https://www.ncsl.org/research/about-state-legislatures/state-legislator-demographics.aspx>

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APPENDIX

Table 6: West Virginia Districts with Newly Elected Members, 2018

Table 7: Oklahoma Districts with Newly Elected Members, 2018

Table 6: West Virginia Districts with Newly Elected Members, 2018

District	Party	General Challenger	Primary Challenger	Party Switch	District	Party	General Challenger	Primary Challenger	Party Switch
1	D	Y*	(y)	Y	36	D	Y	Y	Y
4	D	Y	(y)	N	38	R	Y	Y	N
6	R	Y	Y	N	42	D	Y	Y	N
10	R	Y	n.a.	N	43	D	Y	Y*	N
13	R	Y*	(y)	Y	44	R	Y*	Y	Y
16	R	Y	Y	N	45	R	Y	Y	N
16	R	Y	Y	N	47	R	Y	Y	N
18	R	Y	N	N	48	R	Y*	(y)	Y
20	D	N	Y	N	50	D	Y*	Y	Y
22	R	Y*	(y)	Y	51	D	Y*	Y	Y
24	D	Y	Y	N	51	D	Y*	Y	Y
27	R	Y	Y	N	54	R	N	Y	N
28	R	Y	Y	N	59	R	Y	Y	N
29	R	Y*	Y	N	62	R	Y	Y	N
31	R	Y	Y*	N	63	R	Y	Y	N
32	D	Y	Y	N	67	D	Y*	N	Y
35	D	Y*	(y)	Y					

A “Y” indicates that the representative did face a challenger during either the primary or general election, while an “N” indicates that they did not. In West Virginia, there are some multi-member districts, a (y) indicates that while there was competition in the election there were enough seats available for each person running to win a seat. Italics indicate members who have previously served in the legislature and * denotes when a member faced and beat an incumbent. (The winner in district 10 did not compete in the primary.)

Table 7: Oklahoma Districts with Newly Elected Members, 2018

District	Party	General Challenger	Primary Challenger	Party Switch	District	Party	General Challenger	Primary Challenger	Party Switch
2	R	Y	N	N	61	R	Y	Y	N
3	R	Y	Y	N	62	R	Y	N	N
6	R	Y	Y	Y	63	R	Y	Y*	N
10	R	Y	Y*	N	65	R	Y	Y*	N
11	R	N	Y	N	67	R	Y	Y*	N
14	R	Y	Y*	N	68	R	Y	Y	N
15	R	Y	Y	Y	69	R	Y	Y*	N
17	R	Y	Y	Y	71	D	Y	N	Y
18	R	Y*	Y	Y	74	R	N	Y	N
20	R	Y	Y*	N	75	R	Y*	N	Y
24	R	Y*	N	Y	77	D	Y	Y	N
25	R	Y	Y	N	79	D	Y	Y	Y
27	R	N	Y	N	80	R	Y	Y*	N
31	R	Y	Y	N	82	R	Y	Y	N
33	R	N	Y*	N	83	D	Y	Y	Y
34	D	Y	N	N	86	R	Y	Y	Y
37	R	N	Y*	N	94	D	Y	N	N
41	R	Y	Y	N	95	D	Y	Y	Y
42	R	Y	Y	N	98	R	Y	Y	N
43	R	Y	Y	N	99	D	N	Y	N
45	D	Y	Y	N	100	R	Y	Y	N
47	R	Y	Y	N	101	R	Y	Y*	N
48	R	Y	Y	N					

Note: A “Y” indicates that the representative did face a challenger during either the primary or general election, while an “N” indicates that they did not. Italics indicate members who have previously served in the legislature and * denotes when a member faced and beat an incumbent.

PROVIDING ECOSYSTEM SERVICES AT BUSINESSES

KIMBERLY ANN ELKIN

ABSTRACT

In Oklahoma, few projects exist that incorporate ecosystem services into business sustainability plans. A literature review was completed to analyze how ecosystem services have been incorporated into businesses. Methods include a quantitative approach with 2 case studies using primary and secondary data from literature searches as well as using the Ecosystem Services Identification Tool (ESII). Results showed varying ways businesses incorporate ecosystem services. This research provides businesses with the option to incorporate ecosystem services into their business plans and utilize a model of pre and post ecosystem services.

INTRODUCTION

The objective of this study is to demonstrate how ecosystem services can be incorporated into land management decisions for the benefit of people and nature. How can the Ecosystem Services Identification Tool (ESII) be utilized to create baseline and future scenarios for land management decisions that will benefit ecosystem services? This study is directed by the following research question: 1) Do businesses choose to implement ecosystem services projects based on an existing environmental sustainability plan? The hypothesis for this research is: Businesses chose to invest in ecosystem services based on an environmental sustainability plan. Finding the answer to this research question is guided by a quantitative approach. The quantitative component involved using the Ecosystem Service Identification and Inventory Tool (ESII). This research provides businesses with options to improve ecosystem services for water quality and quantity.

Ecosystem services (ES) are the benefits that nature provides humans. These services include water filtration, carbon sequestration, flood protection, pollination, and cultural places of significance. It is projected that by 2050, 66% of the population will be living in urban centers (United Nations, 2014). This makes ES provisions crucial in urban centers. Many cities have been degraded due to roads, buildings, large concentrations of people in one area, automobiles, and pollution. This has caused many habitats to be lost, and ES to be degraded (United Nations, 2014). The conversion of Earth's land surface to urban uses is one of the most irreversible human impacts on the global biosphere (Seto et al., 2011). It hastens the loss of highly productive farmland, affects energy demand, alters the climate, modifies hydrologic and biogeochemical cycles, fragments habitat, and reduces biodiversity (Seto et al., 2011). Forest degradation has been occurring at a fast rate which has impacted ES (Seto et al., 2011). This research highlights how the Ecosystem Services Identification Tool (ESII)

can be utilized to create land management decisions that will benefit nature. This research is important because it will provide opportunities for local and state governments to get involved in implementing ES. This study is directed by the following research question: **1) Do businesses choose to implement ecosystem services projects based on their leadership and financial resources?** The hypothesis for this research is: Businesses chose to invest in ecosystem services if there is an environmental sustainability plan as part of their strategic planning.

Around half of the world's forests have disappeared according to the World Wildlife Federation (World Wildlife Fund, 2018). This is enough cause for concern to protect the remaining habitat and create new habitat. Highlighting the importance of ES that different habitats provide will allow for greater protections to be put in place. Foley et al., (2005) examined how land use activities degrade the global environment which undermines ES, human welfare, and long-term sustainability of human societies. Quality of life is affected by ES in urban environments as Bolund et al., (1999) found. Quality of life is directly tied to human health which includes access to clean water and sanitation and responsible consumption and production.

Human health has been impacted by poor air quality, degraded drinking water, and lost interactions with the natural world. The World Health Organization (WHO) revealed that there is a correlation between ecosystem services in preventing disease and sustaining good health (Millennium Ecosystem Assessment, 2005). The World Health Organization reports that forest clearance and climate induced changes have led to impacts on ticks, midges, and mosquitoes which alters transmission of lyme disease and malaria (Millennium Ecosystem Assessment, 2005). Ecosystem services have a much larger impact on ecosystem health, human health, and the economy than many people realize.

Kearns, 1998 demonstrated that ES life support services provided

\$33 trillion American dollars on all 40 known ES. Voluntary incentives can be offered rather than regulation when incorporating ES into projects as Goldman, 2007 revealed. Many cities are more inclined to provide ES when incentives are involved rather than state or federal regulations. The current Trump administration is relaxing federal environmental regulations and putting environmental regulations back in the hands of state government (National Public Radio, 2019). Deregulation of 45 environmental regulations since 2017 have occurred and another 46 environmental regulations will be removed in the next few months (National Public Radio, 2019).

In this paper, one case study will be presented from one city in Oklahoma, Norman. Norman is the third largest city in Oklahoma. This case study highlights ES provided by Hitachi Vantara Computer Products America, Inc. on 66 acres that their building resides on. Hitachi Vantara is looking at what ES exists and what they can do to maintain the habitat and increase habitat for wildlife that exists year-round or migrates through their property. This study will analyze the ES provided at one site and provide policy implications for ES. This research will contribute to the implementation of urban conservation policy utilizing ecosystem services. In the coming section we begin by undertaking a review of relevant literature. Next we present a brief profile of the study area. Next is a discussion on methods and the associated statistical techniques employed in the study. Discussion of findings and water policy implications will be discussed at the end of this research paper. The research question states: **Do businesses choose to implement ecosystem services projects based on their leadership and financial resources?** It is important to incorporate ecosystem services into land management decisions for businesses because 60% of the land in the United States is owned by private individuals and corporations. This research paper justifies the case for implementing new policy at the local and state levels so that property owners can implement ecosystem service projects on their property. It provides justification for the

importance of maintaining and enhancing ecosystem services.

LITERATURE REVIEW

Ecosystem services is the benefits nature provides to humans and defines human well-being. Some ecosystem services are carbon sequestration, reducing carbon dioxide levels, water filtration, flood reduction, and pollination. The Millennium Ecosystem Assessment (2005) defines human well-being as the following: 1.) basic material for a good life: secure and adequate livelihoods, enough food at all times, shelter, clothing, and access to goods; 2.) Health: feeling well, healthy physical environment, clean air, and access to clean water; 3.) Good social relations: social cohesion, mutual respect, ability to help others, and provide for children; and 4.) Security: secure access to natural and other resources, personal safety, security, and freedom of choice and action. Posner et al., 2016 demonstrated that ES provides many modes that are important to humans. Increasingly, human well-being is being affected by changes in the ecosystem. The Institute for Public Policy and Research (2018) found that climate change, massive loss of species, top soil erosion, forest felling, and acidifying oceans are having an effect on ecosystem services.

Ecosystem Services can be described with many functions including natural ecosystem benefits to cultural values to aesthetics (Bolund et al., 1999). The United Nations 2014 and 2018 found that ES is vital to our existence. Existing literature ranges from the benefits of mangroves to coastal communities, honeybees as pollinators for crops, water filtration, carbon sequestration, and the cultural significance of natural settings to humans. Ecosystem services has also been described as the benefits to human welfare provided by organisms interacting in ecosystems. Ecosystem services is also known as a nature-based solution. Based on this literature review, ES is important for human and environmental health. The literature supports the concept that ES is vital to the economy and well-being of the people that utilize it on a daily basis. Frantzeskaki (2018) found that nature-based solutions must be: 1.)

Aesthetically pleasing to citizens; 2.) Green urban commons must be created; 3.) Trust in the local government and the experiment must occur; and 4.) Diversity and learning from social innovation, collaborative governance, integrating into urban agendas, and learn and replicate in the long term.

Everyone depends on the Earth's ecosystems and services. In the last 50 years, ecosystems have been changed by humans for growing demands of food, freshwater, timber, fiber, and fuel leading to the loss of Earth's diversity (Millennium Ecosystem Assessment, 2005). Raw materials provide for a diverse amount of materials such as wood, biofuels, and fibers from wild or cultivated plant and animal species (United Nations, 2018). Freshwater provides for the flow and storage of water (United Nations, 2018). Wild plants and mushrooms provide medicinal cures in popular and traditional medicine as well as pharmaceuticals (United Nations, 2018). This is the basis of all ecosystems and their services.

Lower income people rely on fishing and living off the land due to this being a cheaper way to live which can be affected by changes to ecosystem services. Also, lower income people live in floodplains and along the coast which supports their way of life. These areas are more prone to changes due to rising sea levels, floods, and more catastrophic weather events. This leads to poverty and social conflict. The slow degradation of ecosystems has not kept pace with growing pressures and demands (Millennium Ecosystem Assessment, 2005). Blaber (2007) found that mangroves which are located along coastal areas and typically on islands with people of a lower economic class are important to protect to lessen the impact from hurricanes. Danielson et al. 2005 found that mangroves helped lessen the impact from tsunamis. Oropeza et al., (2008) demonstrated that mangroves were vital to the California fishery. Tilman et al., (2001) found that agricultural driven climate change is occurring with many changes in ecosystem services. The World Resources Institute 2013 found that ES impacted assessments of habitat for the benefit or detriment of nature.

CATEGORIES OF ECOSYSTEM SERVICES

Ecosystem services are grouped into four categories which includes provisioning, regulating, supporting, and cultural. The Environmental Protection Agency 2011 and Environmental Protection Agency 2013 found that ecosystem services were vital to the Chesapeake Bay and that these ES goods provided for the environment to function properly.

1. Provisioning includes the production of food, water, timber, and fiber (United Nations, 2018). All ecosystems provide the conditions for growing, collecting, hunting, and harvesting food (United Nations, 2018). Ricketts, T.H. 2004 showed a correlation between the health of tropical forests and coffee production.

2. Regulating includes the control of climate, disease, food, waste, and water quality. Regulating services includes maintaining the quality of air and soil, providing flood and disease control, and pollinating crops (United Nations, 2018). Most regulating services are taken for granted because they are often invisible, and once lost can be impossible to repair (United Nations, 2018). Klein et al., (2006) found that pollinators were dependent on the services that the ecosystem could provide in order to pollinate plants properly.

3. Supporting includes nutrient cycles, soil formation, photosynthesis, and oxygen (United Nations, 2018). The University of Florida (2014) found that the economics of the state could be improved by investing in right of way vegetation. By not mowing rights of way along roads to provide natural habitats, less herbicides were used, and less time was spent mowing therefore saving the state money (University of Florida, 2014). White 2017 showed that marine protected areas for reef shark conservation helped the fishery and the economy on those islands. Providing

living spaces for plants and animals and for a diversity of plants and animals is the supporting portion of ecosystem services (United Nations, 2018).

4.) Cultural includes aesthetic, spiritual, and recreational benefits (United Nations, 2018). The non-material benefits that are provided by the ecosystem such as aesthetic inspiration, cultural identity, sense of home, and spiritual experience related to the natural environment (United Nations, 2018). Morcillo et al., (2013) highlighted that ecosystem services were vital to cultural ways of life. These categories cover a broad range of services provided to humans from the ecosystem. Research supports that the environment is in multiple levels of crisis (United Nations, 2014; World Wildlife Fund, 2018). This crisis has a lot to do with ES being lost.

ENVIRONMENTAL DESTRUCTION

There is a fast pace of environmental breakdown occurring, and this is affecting ES. This will have negative implications for societies which encourages us to make some transformative changes in our lifestyles and behaviors. The Institute for Public Policy and Research (2018) calls this the age of environmental breakdown with food supply issues occurring such as increased prices. This will lead to civil unrest and increased human migrations. This breakdown of the natural environment is leading to disruptions in ES such as provisioning, regulating, supporting, and cultural services. Irreversible changes are occurring with emerging disease, abrupt alterations in water quality, creation of dead zones in coastal waters, collapse in fisheries, and shifts in regional climate (Millennium Ecosystem Assessment, 2005). Typically, ES destruction affects the poor because they rely more on ES (Millennium Ecosystem Assessment, 2005).

Provisioning services affect how good our water quality is which in turn affects human health. In Coal County, West Virginia, mountain top removal for coal mining is having detrimental

effects on water quality and human health (Science of the Total Environment, 1977). Iron, arsenic, and sulfur are entering surface water and groundwater which is where many residents get their drinking water. Mountain top mining has led to the burying of streams which affects ecosystem services (ES). Groundwater wells are unregulated in this area of the United States. This leads to increased human health effects occurring such as inflammation in the body, cancer, rashes, restrictive airways, and dermatitis. This is pitting coal mining jobs against clean water and human health. Often, the economy and environment are working against each other without society realizing that we need the environment in order for the economy to function properly (Tercek et al., 2013). Loft et al., (2015) found that ES proper governance was important in order for nature to function as naturally as possible. The Massachusetts Department of Fish and Game (2012) found that ecological restoration was good for the economy. Brink et al., (2012) found that nature is the new green economy and provides ES that benefit our economy. Weihau et al., (2017) showed a correlation between protected areas in China for the benefit of ES. The environment provides ES, and many people don't realize the benefits until environmental degradation is occurring and human health is being affected. *Scientific American* (2018) reported declines in insect species that are occurring at an alarming rate.

Insects provide many of the pollination services needed to grow crops and feed people around the world. Habitat loss, pollution, and pesticide use are leading to the 2.5% decline in insect biomass. *Scientific American* (2018) predicts that a 40% extinction rate will occur by 2100 for insects which will directly affect the crops consumed by humans. Insects are beneficial in our ecosystem and food chain. Loss of fruits will occur due to decreased pollination services from insect decline. Many scientists refer to this as the sixth mass extinction event. A change in agricultural practices must occur if we are to prevent the sixth mass extinction event of insects. To prevent future destruction of our ES, a change in how we protect the environment will determine how the ecosystem functions with

all of its services. The Millennium Ecosystem Assessment (2005) also indicated there are many drivers of change. These include the following: 1.) Change in local land use and cover; 2.) Species introduction and removal; 3.) Technology adaptation and use; 4.) External inputs such as fertilizer use, pest control, and irrigation; 5.) Harvest and resource consumption; 6.) Climate change; and 7.) Natural, physical, and biological drivers. Cities are looking for natural solutions to these environmental issues.

Frantzeskaki (2018) offers seven lessons for planning nature-based solutions in cities. Since 80% of the world's population will be living in cities by 2050, it is important to protect ES in these areas. Many businesses are looking for ways to help the environment and lower their costs of conducting business. Businesses use services and contribute to ecosystem changes (Millennium Ecosystem Assessment, 2005). Businesses can't function if ES are degraded or out of balance (Millennium Ecosystem Assessment, 2005). Businesses experience direct and indirect impacts from the ecosystem. Ecosystem service degradation is based on consumer preferences, supplier relationships, stockholder expectations, and competitor strategies (Millennium Ecosystem Assessment 2005). Degradation of the ecosystem can lead to loss of capital asset which is an economic loss. Appleton, A.F. (2005) found that investing in the watershed upstream of New York City would save the city \$250 million. Improvements in the watershed upstream of the city helped filter the water for New York City residents by planting more trees which helped filter the water and provide stream-bank stability to keep sediment out of the water. The mayor and city council decided to save money by protecting the watershed upstream of the city.

Decision making is key to establishing ES. Bagstad et al., (2013) found that ES was integrating into public and private sector decision making via seventeen ES tools. Eight evaluative criteria were used to rate the performance of ES tools for readiness in widespread applications in public and private decision making. The

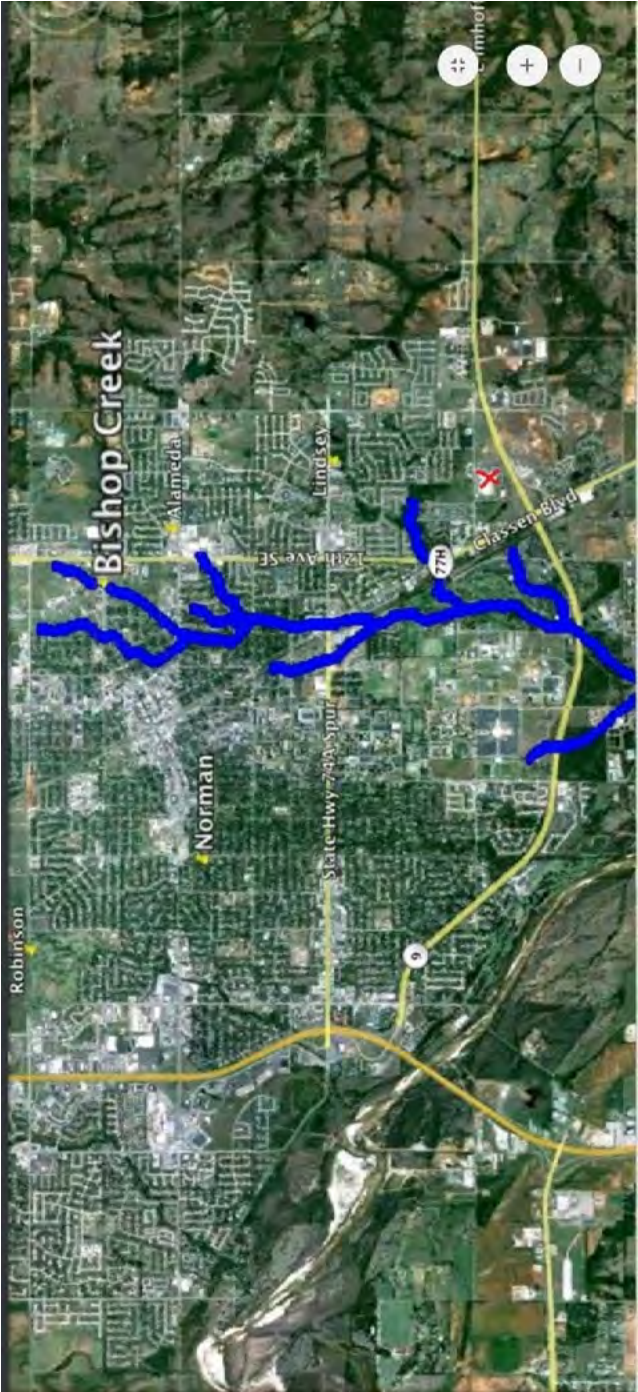
objective of this study was to grow the demand for comprehensive analyses of ecological and socioeconomic consequences of land management decisions. The hypothesis was that ES valuation was useful in decision making. As part of this project, the Bureau of Land Management launched a pilot project to assess the usefulness and feasibility of ES valuation as input into decision making. Methods consisted of secondary data with literature reviews and interviews with 77 colleagues. Seventeen ES tools were identified to assess and quantify the model value and/or map ES. An ES based management tools database was utilized. Evaluative criteria consisted of quantification, uncertainty, and time requirements. Quantification was conducted by mapping the value of ES by communicating resource management trade-offs. When conducting environmental impact assessments, what new insights does ecosystem service (ES) analysis offer versus business as usual? Each of the ES tools differ in widespread usage for ES projects depending on whether it is for the private or public sector. Decision makers felt that time and cost requirements were the deciding factors in choosing to run quantitative ES models for widespread usage. Incentives for incorporating ES can be useful to decision makers and landowners. There are many examples from around the world.

Several ES projects exist around the world. Ruckelshaus et al., (2015) looked at 20 pilot demonstration projects across the world and created six lessons with what they learned from these projects. The objective was to move from scientific knowledge to real world decision making. The hypothesis was that each science policy engagement will traverse these pathways to a different extent and stages can be used to track the progress that isn't always linear. The first pathway within the framework is scientists, local experts, stakeholders, and decision makers providing data and information. Methods used included ranking models where the transition from the current landscape to new conditions via specific activity will give the largest relative returns for several water funds objectives. A quantitative service estimation model

was used where investments will give the largest annual benefits. A fixed budget with investment portfolios using land use/land cover maps was utilized for water funds. An approach was tested to see where chances of early success and replication are high due to strong leadership and partners, clearly defined authority of decision-making pathways and demonstrated interest in using ES information in decisions. This results in producing analyses and disseminating the results. The Biodiversity and Ecosystem Services (BES) approach identified success points which can track changes, define ultimate goals of policy shifts, and improve BES and human well-being. Biodiversity and Ecosystem Services is most often achieved when indirect influence exists on long term development of policy. This indirect influence depends on the following: 1.) Who participates actively in discussions; 2.) How negotiations about an issue are framed; 3.) What goals, options, and technical knowledge are emphasized; and 4.) The visibility of the issue to the public. The lessons learned included the following: 1.) Include BES as part of science policy process; 2.) Keep it simple by easy to use and understanding of decision support tools; 3.) Empower local experts with technical tools for ongoing learning; 4.) It is not always about the money; 5.) Relate biodiversity and ES changes to livelihoods and other well-being metrics; and 6.) Clearly and honestly report the degree of uncertainty. Government is the key when deciding to incorporate ES. Sometimes, voluntary incentives will work, but some landowners will want payment for their services. Payment for ecosystem services is important to consider because it provides incentive to upstream landowners to protect the water source that is providing water to a growing city downstream.

All of the literature provided in this section supports the need to incorporate ecosystem services (ES) into our daily lives and businesses. Some of these studies were conducted in cities around the world, and a similar methodology will be applied to two cities in Oklahoma. The study area details will be presented in the next section. This study supports the gap in literature as it relates to

Figure 1



how ES can benefit businesses that want to improve these services on their lands.

STUDY AREA

One case study is located in Norman, Oklahoma (Figure 1). Norman is located in Cleveland County. This city is located in Central Oklahoma with 122,843. Norman is home to the University of Oklahoma with a student and faculty population of 31,678, and the National Weather Service Headquarters which employs 1,000 people. Hitachi computer products is also located in Norman. The economy of Norman consists of federal and state employees and private businesses. The median per capita income for Norman is \$50,714. Females comprise 50% of the population and males comprise 50% of the population. Ethnic makeup of Norman is 77.4 % Caucasian, 5.2 % African American, 5.1% Asian and 13.3% other (normanok.gov/demographics/2019). Norman receives water from five lakes in Oklahoma City and Atoka (owrb.ok.gov). An additional pipeline is currently being constructed (Water Unity Agreement, 2017) to bring water to Oklahoma City from Southeastern Oklahoma (waterunityok.com).

Hitachi Vantara is located in Norman, Oklahoma and produces computer products at their facility. The facility sits on 66 acres of land with a mix of hardwood and evergreen trees along with open prairie fields (Figure 2). Hitachi Vantara is located in the Bishop Creek Watershed which eventually flows into the Canadian River. Hitachi Vantara has over 100 employees at this location. Semi-trucks arrive on a daily basis to ship computer products across the country and eventually around the world.

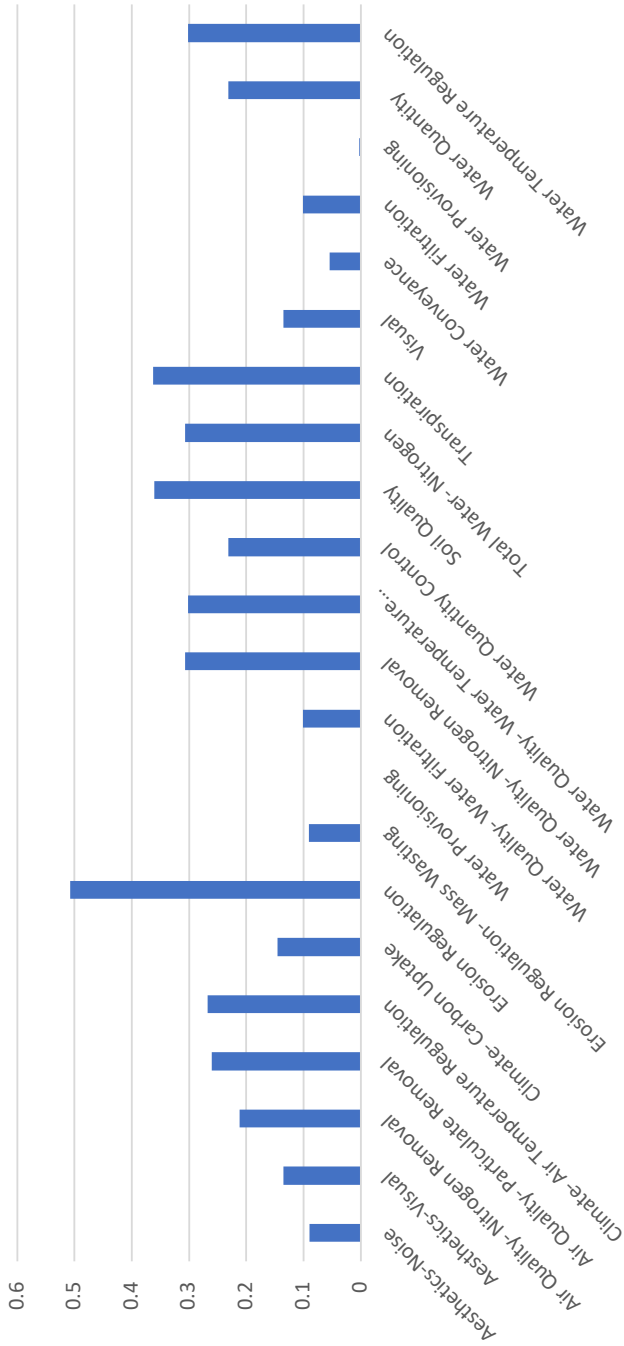
METHODS

A mixed method included qualitative data with qualitative techniques using primary and secondary data. Primary data was collected from the field at each site. YardMap (Figure 2) was utilized to identify habitat features on the property. Yardmap is

Figure 2



Figure 3



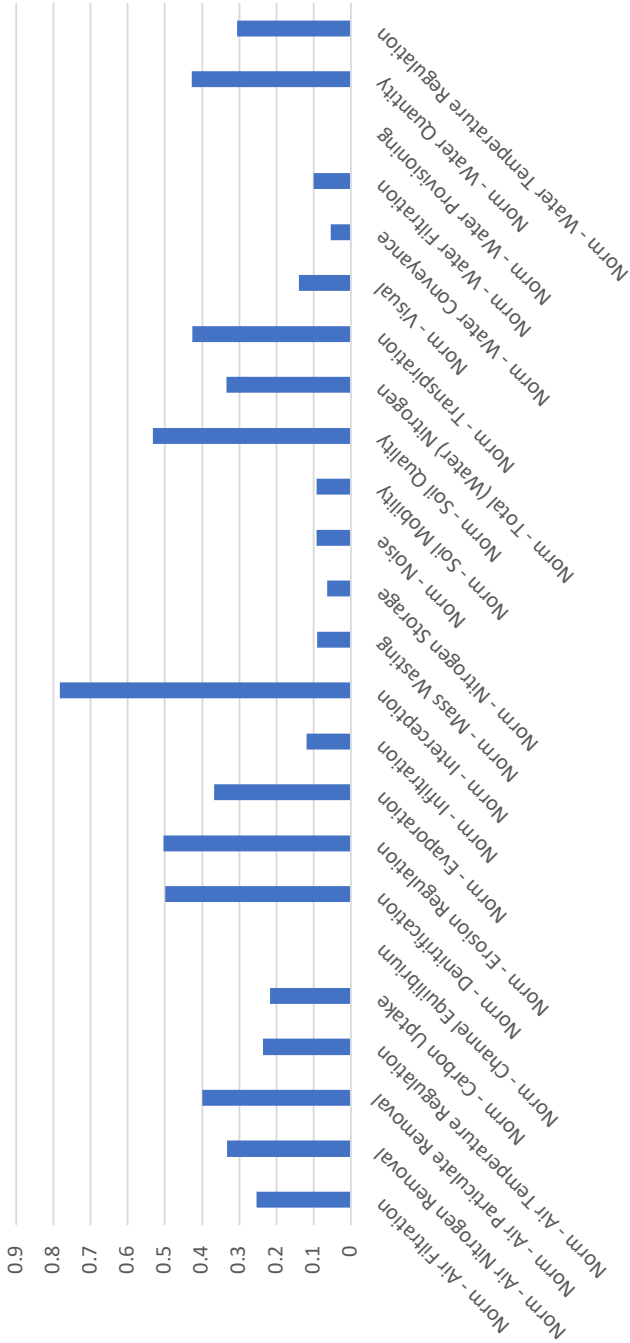
a user-friendly way to input data from a property and upload photos of progress when utilizing ways to improve habitat on that property. YardMap allows people to make observations on properties such as the type of flowers or wildlife present. YardMap can be utilized by anyone who wants to see what types of plants and animals are living in their neighborhood. It uses Google Maps to highlight where the property is located and has built in features to input plant and animal sightings. This field data was input into the Ecosystem Services Identification Tool (ESII). This tool is an iPad app and web interface that lets people understand the benefits nature provides and incorporates the value of nature into decision making. This tool helps identify baseline ES (Figure 3) and allows the user to input data for future ES scenarios (Figure 4). This will assist in development recommendations so that future development can incorporate ES benefits from nature.

Secondary data was collected using Google Scholar to find peer reviewed literature and gray literature which is not peer reviewed for this study. Ecosystem services was typed into the search engine for Google Scholar to find articles related to ES. A total of 35 articles were utilized for this study. This mixed methods approach uses qualitative and quantitative data.

JMP 13 Statistical Software is a business unit of the Statistical Analysis System (SAS) and was used to analyze the data and create statistical outputs. Data was analyzed using regression analyses to look for trends in variables such as those produced from the ESII computer program. JMP 13 utilized a spreadsheet where data was entered into columns and rows. Data was analyzed using statistics generated by the program. Statistics utilized included regression analyses to look for trends in the variables gathered from the ESII program.

JMP 13 allows the user to calculate r-squared, standard deviations, and regression analyses for both linear and multivariate functions. Linear graphs can be created along with different types of modeling

Figure 4



and cluster analysis. For this research, linear regression analyses of dependent and independent variables were utilized to see if trends existed in the ecosystem service variables that were collected using the ESII tool. Independent variables were habitat type and infiltration. Dependent variables were water filtration, water quality/water temperature regulation, water quantity control, and erosion regulation. Standard deviations and r-squared values were created to see if any significant statistics existed to determine what variables were the most important to ecosystem service function.

FINDINGS

The type of habitat present has a big influence on the water quality, water filtration, water temperature, infiltration, nitrogen removal properties, erosion regulation, and water quantity. These ecosystem services and functions were found to be of statistical significance based on the ESII Tool that was utilized for this research. The ESII Tool is based on percent performance. On a scale from zero to one, how well that ecosystem service or function is performing is based on where that service or function falls along the gradient. The closer the value is to one, the better that service or function is performing. The closer that value is to zero, the worse that service or function is performing.

Infiltration and habitat type are the independent variables while percent performance and water quality parameters are the dependent variables. The habitat type is an independent variable that controls how the ecosystem services and functions will perform. Habitat controls every aspect of the environment, and when a habitat is allowed to function as naturally as possible, then the ecosystem services and functions will perform at the highest percentage possible for that habitat type.

Those features of the property with more open prairie land have the ability to absorb more water, which allows for greater percent performance of water filtration. Concrete sidewalks and asphalt roads on certain areas of the property didn't allow for water to filter

into the ground due to less water holding capacity on those parts of the property. Concrete and asphalt shed water off the property at high rates, which doesn't allow for absorption of water to occur. This leads to increased runoff events which cause excessive amounts of flooding in the city of Norman when a large amount of rain falls in a short amount of time. These types of rainfall events are occurring more frequently now. Nitrogen removal is still occurring on this property but at smaller percent performance rates than on a property with more habitat and less concrete and asphalt. Water is allowed to filter more on a property with natural features such as soil and vegetation. Figure three depicts all of the ecosystem functions and services available.

Figure five highlights the water quantity and water temperature of the Hitachi property. The ability of the land to absorb water is higher when there is a large percentage of land available to absorb rainfall. Around the office building of Hitachi, there is more concrete and asphalt due to sidewalks and parking areas for employees. Rainfall is not readily absorbed by asphalt and concrete due to non-porous structures existing in this type of material. Water quality is higher in habitats that have the ability to capture and filter pollutants such as open prairie fields and forested habitats (Figure 6). Water temperature is affected by water that runs off concrete, which is hotter than the surrounding landscape (Figure 7).

Figure 5

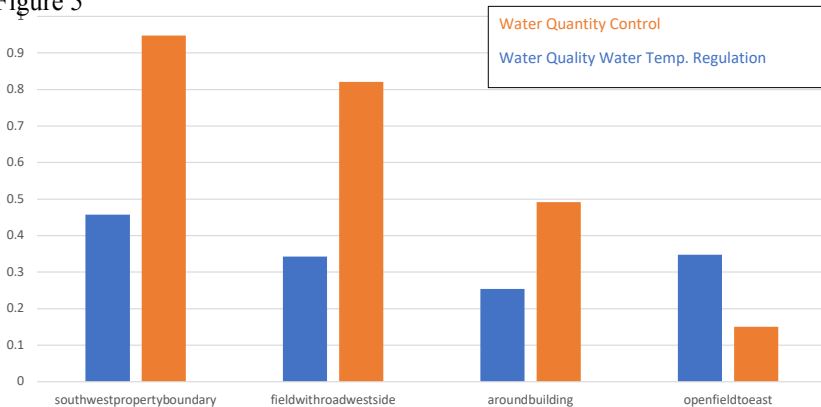


Figure 6

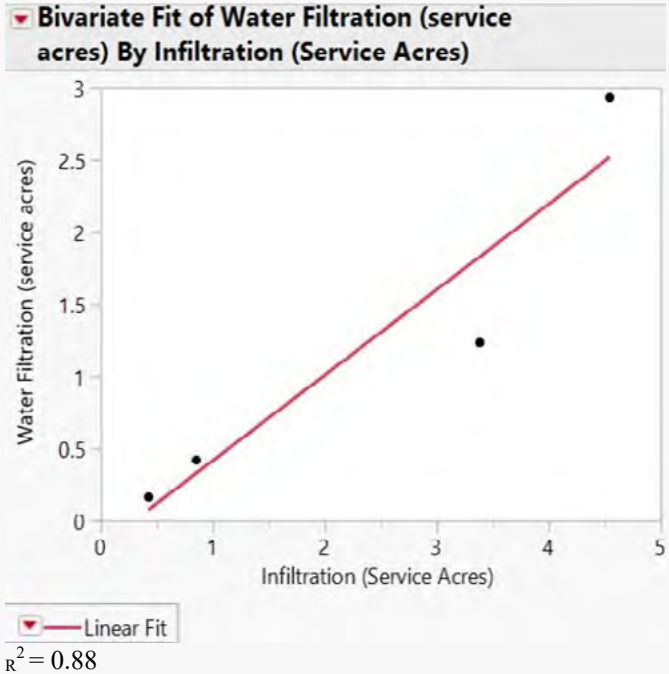
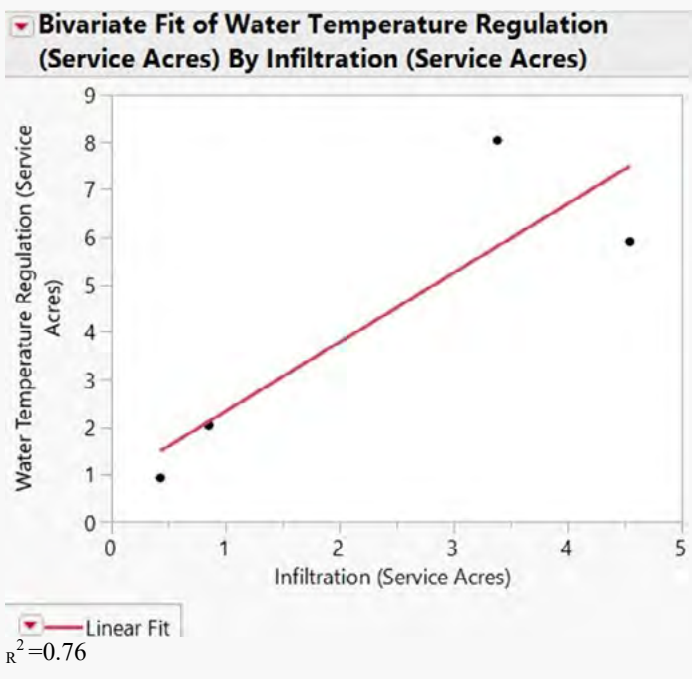


Figure 7



DISCUSSION OF FINDINGS

After further analysis of ES on one business property in Oklahoma, water quality, water quantity, infiltration, and erosion regulation are intricately related. Existing literature shows that water quality, water quantity, infiltration, and erosion regulation is integral in maintaining ES. Seto et al., (2011) stated that conversion of land to urban landscapes has led to ES being lost. Hitachi Vantara and the Oklahoma City Zoo have undeveloped properties that still offer ES. Protection of existing landscapes is integral to preserving ES. Water quality is affected by conversion of undeveloped land to urban centers. Runoff from developed landscapes can lead to water quality contamination in watersheds due to sediment, nutrients, chemicals, and trash washing off into the watershed.

Water quantity is also affected by developing landscapes to meet future urban demands. The ability of the landscape to allow infiltration of water and reduce erosion has been lost when development occurs. Seto et al. 2011 found that degrading landscapes led to many ecosystem service processes being lost. Zou et al., (2017) found that Eastern Red Cedars absorb large amounts of water from the landscape. Due to less fire on the landscape, this has allowed Eastern Red Cedars to take over in Oklahoma. While Eastern Red Cedar is considered a native tree in Oklahoma, it is now considered invasive due to the Oklahoma landscape being taken over by this tree. The ability of Eastern Red Cedars to absorb large amounts of water makes for limited water to a watershed (Zou et al., 2017). Eastern Red Cedar have been shown to take up as much as 26 gallons of water per day. (Zou et al., 2017). Hitachi Vantara's property had several Eastern Red Cedars leading to reduced water infiltration to the groundwater.

Soil structure is another important component of habitat. The ability to keep soil intact as much as possible is an important function of ES. This will ensure that water can be retained in the soil for future times when dry conditions persist without any

rainfall to infiltrate the soil. Soil has many components to it that are beneficial to landscapes such as microbes, water holding capacity, nutrients, and earthworms.

Foley et al. (2005) demonstrated that degradation of habitat can lead to changes in human health. Human health is intricately tied to a functioning ecosystem that can provide food and water to sustain life. Maintaining landscapes to provide for ES will allow businesses to contribute to a healthy environment.

As the Millennium Ecosystem Assessment 2005 pointed out, businesses can't function without ES. The quality and quantity of water provided is directly related to land management decisions. Urban conservation policy is an important component of any city's long-term planning. By incorporating ES into urban conservation policy, businesses have the opportunity to provide clean water and adequate water supplies for a growing population. It will take more than two businesses making changes to their land management for a cumulative positive ecosystem effect to be recognized.

Frantzeskaki (2018) demonstrated that nature-based solutions to urban conservation policy must be enacted. Nature-based solutions will provide avenues to improving water quality, water quantity, infiltration, and erosion regulation. These ES were the most important statistically when analyzing all the ES measured on the two properties in Oklahoma. With the incorporation of nature-based solutions, ES can be preserved and enhanced in order for businesses to contribute to ecosystem health. Ecosystem services (ES) are integral to the health of our environment and people. Maintaining habitat in cities will help alleviate the pressures that cities place on the environment. Ecosystem services are destroyed due to many activities that take place in a city on a daily basis. Ecosystem services will also provide a healthier environment for people. People and nature must be able to thrive together in order for ES to benefit the environment.

Figure 8



CONCLUSION

The Ecosystem Services Identification Tool (ESII) is an important program that will assess the ES of any property. Businesses will be able to identify baseline ES and can determine future ES dependent on what changes they are willing to make to their property. Government can identify ES also since they own 40% of United States lands. There also is a financial cost to implement improvements to properties to incorporate ES. Businesses must have the financial incentive and ability to implement ES on their properties.

Businesses will have to decide what ES are important to achieving their sustainability mission. Businesses will also have to look at the cost benefit analysis of incorporating changes to their property to benefit the landscape. An economic study of the environmental benefits of incorporating nature-based solutions (Figure 8) would be of importance to businesses. Nature-based solutions can be incorporated at a much lower cost to businesses than destroying those ES. Everyone has a responsibility to care for the environment in order to provide nature and people the best ecosystem that can sustain all of their needs.

Hitachi Vantara has sustainability built into their business plan. This allows for staff and financial resources to be utilized for the benefit of the environment. This business has the ability to provide staff and financial resources to this research. This allows for greater flexibility when sustainably designing properties to provide for ES.

Businesses could incorporate ES into their plans so that the impact of the business on the environment is small. Businesses have the ability to incorporate ES for a healthier environment. Hanson et al., (2012) has designed a method that allows businesses to develop strategies that assist their impact on the ecosystem. This will

help businesses equate the health of the environment with their bottom line (Hanson et al., 2012). This structured methodology helps managers develop strategies to manage business risks and opportunities arising from the dependence on ecosystems (Hanson et al., 2012).

With this methodology put in place for businesses to incorporate ES into their daily business functions, they can transform their impact on the environment which affects their bottom line. To prevent future destruction of ES, a change in how we protect the environment will determine how the ecosystem functions with all of its services.

Ecosystem service degradation is based on consumer preferences, supplier relationships, stockholder expectations, and competitor strategies (Millennium Ecosystem Assessment, 2005). Businesses could change their supply chain by investing in products that are environmentally friendly. If a business was able to promote their products as environmentally sustainable, consumers would be more apt to protect the environment in their daily lives.

POLICY IMPLICATIONS

The literature provided within this research highlights the importance of ES to the daily functioning of people and nature. The results of this research also demonstrate that certain ES must be maintained in order for the environment to function. Businesses can incorporate nature-based solutions that provide for ES in their sustainability planning. Business management plans can be updated to reflect the necessary changes needed to provide for ES on their properties.

Many cities have incorporated ES into their planning process. New York City invested in upstream land management practices to ensure that water quality and water quantity are protected for the city of New York City's water supply. Landowners upstream of New York City were paid to improve land management practices

on their property to benefit the water quality of the water supply. Hitachi Vantara is a global organization with a sustainability plan already developed. This plan can incorporate ES to provide for better watershed management activities associated with their property. The Oklahoma City Zoo has an opportunity with current construction to implement ES.

Starting at the local level, changes to ordinances and zoning laws can help cities achieve ecosystem service protection. At the grassroots local level of government, this allows for greater input from the public about how they would like to see their cities designed to benefit nature. Ecosystem services is the benefits nature provides to humans. Without ecosystem services, humans will not be able to function at their full potential. Appendix one highlights how ES can be incorporated into the design of properties when trying to capture the benefits that nature provides to humans. Local level changes can eventually lead to state policy changes. When people see projects on the ground, it provides a visual of what is possible when it comes to protecting the environment. Every business should make it their goal to protect the environment as best as possible to ensure ES are protected for future generations. Businesses have the ability to change the way they impact the environment by incorporating ES into their business plans. This will allow for action to be taken by these companies as opposed to waiting on changes at the local, state, or federal level. Also, policy implementation can start at the local level by city councils allowing landowners to incorporate ES into their business landscape. Often, people see unkept lawns as rundown and messy parts of town. If city councils allow for habitat to provide ES on properties, ES can be incorporated throughout the town improving livelihoods and the environment.

Policy changes must occur within business leadership. Leaders must emphasize the importance of ES to the sustainability of their business. To prevent future destruction of our ES, a change in how we protect the environment will determine how the ecosystem

functions with all of its services. Businesses have within their power the ability to change how their business impacts the environment. By investing in ES, businesses can change how their investments impact the natural world. By securing stronger leadership within businesses, investing in the environment, and developing environmental sustainability plans, ES can be protected for the continued protection of the environment. People like to separate the environment and the economy but without a sustainable environment to function in, the economy would cease to exist. We have to implement sustainable business practices so that the economy can flourish for generations to come. Policy changes can happen locally as well as at the state level. State level leadership in different entities of state government can advocate for ES at state owned properties. This will showcase the benefits of ES and how this improves habitat in addition to people's lives.

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**DECONSTRUCTING EMMANUEL KANT AND DAVID
HARVEY'S PERCEPTION OF COSMOPOLITANISM**

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ABSTRACT

In this review article, we use secondary literature to examine Emmanuel Kant's visualization of cosmopolitanism and David Harvey's critique of his work on this concept. In so doing, we begin by discussing the origins of cosmopolitanism, examine Kant's cosmopolitan ideas, and conclude by highlighting Harvey's litany of geographical evils that have been advanced in the pursuit of cosmopolitan ideals. Our critical analysis reveals that Kant envisioned a voluntary league of states, spanning the entire globe in which membership would require the participants to renounce coercive military powers. The formation of such a union Kant argued would protect sovereign states from threats by fellow league members as well as the individual liberty of their citizens from the menace of state power. However, as we demonstrate in the essay, Kant's vision has received a scathing critique from David Harvey who doubts his universal ethic proposition in a world in which Kant himself considered some to be immature, full of sloth, and indolent. Harvey argues that if we assume a Kantian topology of the world, then "others" have to reform themselves before they are accepted equally into the cosmopolitan world. This is because, in the Kantian schema, an ideal world is one where all men have reached a level of the "white European male". We conclude the essay by highlighting some of the geographical

evils which have been meted in the pursuit of the Kantian schema of cosmopolitanism including environmental determinism, colonialism, imperialism, and neoliberalism. Environmental determinism for instance proposes that the natural physical environment; climate, resources, and geographic position are the determining causative factors of human and cultural development. We argue that such sweeping generalizations have provided the ideological justification for some of the major geographical “sins” committed in the past and present

INTRODUCTION

Cosmopolitanism has recently been reactivated by a wide range of social, economic, and political events i.e. discontentment with globalization, resentment towards minorities, immigrants, and most importantly the rise of nationalism. In this paper, we synthesize literature written both from practice-focused and critical academic perspectives and specifically re-examine Emmanuel Kant’s visualization of cosmopolitanism and David Harvey’s critique of his work on this concept. We accomplish this task by employing the purposive sampling technique in putting together information gathered from several sources including academic articles that use qualitative ethnographic studies, case studies, and anthropological methods. Three reasons motivate this paper. First, a study and critique of cosmopolitanism could allow people to cultivate intellectual, moral, and aesthetic capabilities as well as to learn how to respond fairly and humanely to what is taking place around the world with regards to the rise of aggressive domestic anti-foreigner sentiments or toxic national politics. Second, the background provided in this study will allow both academics, students, and international policymakers to begin to think and respond effectively to the constant changes in the modern world i.e. to think more deeply about concepts such as environmental determinism, imperialism, colonialism, and neoliberalism. Most importantly, it will motivate a re-evaluation and understanding of diverse values and customs. In other words, facilitate mutual

understanding. Third, this article provides the much-needed addition to the few of the available studies whose prime foci are on the structural critique of classical cosmopolitanism

The article is organized as follows. First, we look at the historical origins of cosmopolitanism. In the second section, we examine Emmanuel Kant's operationalization and conceptualization of cosmopolitan ideals. In the third section, we discuss Harvey's critique of Kant's work on cosmopolitanism. Finally, we showcase some of the geographical evils which have been advanced in the pursuit of the Kantian schema of cosmopolitanism including environmental determinism, colonialism, imperialism, and neoliberalism.

THE HISTORICAL ORIGINS OF COSMOPOLITANISM

The notion of cosmopolitanism has its Western origins in ancient Greek Cynic and Stoic philosophy (see e.g. Fine, 2011; Breckneridge et al. 2002; Bhambra, 2011; Mencus, 1970). It is first mentioned in literature when the famous Cynic, Diogenes, was asked where he was from and replied, "*I am a citizen of the world.*" Perhaps this statement expresses the purest sense of cosmopolitanism, recognition of our fundamental and common status as world citizens. This expression is remarkable considering that the Greek notion of personal identity and civic duty, until that point, had been established by one's affiliation with their city-state and neighbors (Hansen, 2006). Cosmopolitanism, in this sense, assigns broader identities and duties to the world and humanity as a whole than the previously limited notions of duty to the state. For the Stoics, to be cosmopolitan meant to live harmoniously in two communities: the first, our community of birth, and then the larger community of the world (Sellars, 2007). Stoic philosophy produced a framework that visualized the individual within the context of a broader society. This visualization consisted of a series of concentric circles, explicitly associating the individual at the center of the community; first self, then family, local community, nation, and finally humanity (Nussbaum, 1997). This

framework implies that individuals interact with all of these levels of affiliation, beginning with the self and emanating outward to the last ring so that all of these interactions form our identity. Interestingly, Marx and Harvey use a modification of the Stoic model to frame their respective models of identity concerning humanity (Harvey, 2009).

The “Western Way” of understanding the world has emphasized individualism and rationalism since the time of the Renaissance (Hale & Mallet, 1971). Its tendency toward “humanism” resulted in a dynamic, technically innovative, and scientifically-situated culture, which rewarded competitiveness and developed new systems of knowledge. One might argue that the impact of western-humanism has informed the spirit of both cosmopolitanism and capitalism, and has been produced and (re)produced through the foundational political philosophy of John Locke, and the economic theory of Adam Smith (Locke, 1794; Smith, 1776; Wood, 1984; Dunn, 1968). Western philosophy evolved with an emphasis on substance and mind. As a consequence, one of its central issues involves reconciling rationalistic modes of knowledge, which prize pure reason, with the empirical investigation and knowing, which stress observation as the only valid method of knowing (Bacon, 1996; Jardine, 1974; Van Malssen, 2014). Kant’s primary contribution to Western philosophy was his “Copernican Revolution”, which resolved a central knowledge question: how does a person truly know anything about a world that is divided into mind (rationality) and perceptions of external substances (Waxman, 2005; Bonevac, 2003). Kant proposed that the individual’s mind unifies these two factors in its experience of the world, placing the mind at the center as an organizing factor of all experience. The effect of this was to reinforce the primacy of the individual’s observations and reason as the arbiter of reality. Consequently, we as reasonable individuals can be confident that our perceptions of reality are valid, and we can accurately understand the functioning of the world through the application of our reason. Kant takes it as a given that other individuals have

the analogous mental capability, and by applying their reason can arrive at similar conclusions about the functioning of the world. This consolidates the primacy of scientific knowledge. In that respect, reason becomes the basis of individual knowledge, discovery, and also understanding, and negotiation with others.

KANT'S COSMOPOLITANISM

To begin with, we would posit that the necessity of a cosmopolitan ethic arises from Kant's recognition of what could be considered the very early stages of "globalization", which was evident in the late 18th Century. By that time, European culture and capital had penetrated nearly all areas of the globe through mercantilism and colonialism (see e.g. Wallerstein, 2011). The world is a finite place, and people inhabiting the space of our commonly shared globe had come into communication and exchange with each other, either by compulsion or choice. Some basis of accommodation was necessary if people were to avoid conflict. Additionally, Kant perceived that interactions had reached the point where "*...violation of laws in one part of the world is felt everywhere*" (Harvey, 2009 page. 17). His essay on "Perpetual Peace" was an attempt to define several parameters outlining the concept of cosmopolitanism (Kant, 1917). First, the earth's surface was presumed to be territorially divided into several nations or states. Second, inhabitants within these states were assumed to possess distinctive rights of citizenship within their respective nations. Third, relations between nations were to be regulated by a growing need for the establishment of perpetual peace. Accordingly, perpetual peace was to be achieved only when states were organized internally according to "republican principles" and externally in a voluntary league (Kant, 1917). Kant envisioned a voluntary league of states, spanning the entire globe and membership would require the participants to renounce coercive military powers. This protected both the sovereign states from threats by fellow league members and the individual liberty of their citizens from the menace of state power. On global migration, Kant raised two overarching ideas: First, travelers going to foreign

states had the right of *sojourn*, or temporary hospitality if they lived by the rule of law in the receiving nation. Second, while foreigners should be protected from harm, they had no right to remain within the host state permanently without consent from the host. Kant's cosmopolitan construction is early recognition of the need for broad principles by which people of different cultures can engage with each other and also attempts to promote a universal framework for the association and cooperation of sovereign states.

On cosmopolitan law, Kant concluded that a singular world government was not possible. In Kant's view, such a government would, by necessity, suppress national differences to avoid internal conflict (Harvey, 2009). National differences arise because the people comprising a nation are affiliated through common descent, creating a distinct sort of national character. Sovereign states reflect this character and consequently have different and sometimes competing for interests between other states. For Kant, a world government could undermine the territorial configurations of sovereign nations and be forced to suppress different interests. A cosmopolitan world government was unnecessarily repressive and against human nature. Human nature is problematic because we, as a species, are constantly striving against the many tides of our natural desire, from evil to good through the use of our practical reason. Our dissension as individuals achieves a cosmopolitan world government unlikely "... because we cannot expect to reach our goal by the free consent of individuals, but only through progressive organization of the citizens of the earth within and toward the species as a system which is united by cosmopolitan bonds." (In Harvey; 2009 page 23). From Kant's vantage point, the formation of a cosmopolitan system is achievable only through the federation of independent nation-states, which express the national character, and yet are mature enough to realize the common necessity in establishing a coalition.

As narrated above, Harvey vehemently disagrees with this notion of Kant's cosmopolitanism.

HARVEY'S CRITIQUE

To begin with, Kant's notion of "enlightened" or "enlightenment" bears Harvey's harshest scrutiny (Harvey, 2009). A precondition for attaining enlightenment is sufficient "maturity" of mind and judgment, rationality and reason. The arbiter of this is the particular kind of maturity typified by the "white European male," who has the greatest capability to reason, at least in terms that Kant would understand since they would certainly mirror rationality within his cultural context. Accordingly, Harvey focuses on the absurd notions contained in Kant's *Anthropology and Geography*. Ironically, Kant himself never went far from his birthplace of Königsberg, preventing his full engagement with other cultures. He was dependent on existing literature at the beginning of the scientific age and the unreliable and somewhat fantastic accounts of travelers, mariners, and merchants when constructing his notions of the world beyond this insular city. Harvey demonstrates the internal contradictions of Kant's biased racial views and his theory of the universal law of humanity (Harvey, 2009). He raises questions such as; how can we apply Kant's universal ethic to a world in which, in his own words, he considered some people to be immature or inferior while at the same time others are indolent, smelly, or just plain untrustworthy? If we assume a Kantian topology of the world, then "others" have to reform themselves before they are accepted equally into the cosmopolitan world. In the Kantian schema, an ideal world is one where all men have reached maturity on the level of the "white European male". Yet, for Harvey human differences are an element to celebrate; unique attributes that can be used in a progressively global cosmopolitanism. Therefore, we should not discriminate, but embrace and enjoy the differences found in human culture.

Kant viewed anthropology and geography as the means to properly frame a "science of man." We would portend that, it is quite disturbing, therefore, to examine just what passed for such knowledge in his writings. The radicalized views of other people

show a keen predilection for environmental determinism. Kant observed that men of hot climates matured more quickly but did not attain perfection like men in temperate zones. To him the yellow Indians had less talent than whites; negroes were much inferior to whites, but not as low as Native Americans, who, in Kant's terms, were considered to be on the bottom of the rung in the hierarchy of the human race (was this because they were hunter/gatherers without property?). This sort of ill-informed, anthropological "survey" is presumably scholarly, and becomes essential to the notion that racial and cultural stereotypes constitute a form of knowledge that could be gathered, cataloged, classified, much as a naturalist would do with exotic species, and ultimately promulgated as "scientific knowledge." Kant's cosmopolitanism does not automatically grant the right of *sojourn* to the aforementioned "immature" and hence, undesirable people. The sovereign nation retains the right to bar entry to noncitizens as long as the exercise of that right does not destroy the outsider. Consequently, we would be correct to presume that Kant's cosmopolitanism allows for a framework of immigration regulations and quotas that can be used to evaluate potential foreign entrants based on their perceived maturity level or cultural identification.

Harvey argues that Kant's notion of "maturity" also affects who is granted permanent residency and citizenship by the sovereign state (Harvey, 2009). This is reserved for sufficiently mature individuals and certainly excludes the troublemaking "rabble," even if they are native to the state. Therefore, this is another reason why Kant preserved the sovereign nation as an element of his cosmopolitan league, as a zone of exclusion, whose absolute boundaries serve as a mechanism for cordoning out undesirable, immature individuals. Currently, we can see how deeply rooted these beliefs or views are in most nations' domestic and foreign policies. The United States certainly has qualifications for citizenship loosely resembling Kant's criteria of maturity and lawfulness. "Maturity" is here synonymous with the acceptance of and embrace of "our" way of life consisting of American notions of freedom, democracy,

liberty, human rights, sexual freedom, gender equality, religious freedom, and the famous American dream. As an example, in England, any foreigner who wishes to become a British citizen must forfeit their nationality and pledge allegiance to the Queen of England. Harvey seems to question this logic, by observing that how can we achieve true cosmopolitanism if some cultures are to be diluted or altogether forfeited. In his world, we should accommodate each other and achieve greater cultural interaction, and national boundaries would be abolished.

The pre-eminence of reason and maturity for inclusion in Kant's system of cosmopolitanism creates the question "Whose reason and maturity will be the standard?" Kant's answer is overwhelmingly exclusionary and strongly biased to favor people who were just like him: white, European, male, and educated within a specific cultural norm. Kant's whole system establishes different modes of exclusion based on "maturity"; from the absolute boundaries of sovereign states, which are a kind of container for holding people based on their national differences, to the criteria of citizenship, which can be denied to members of lawless groups who do not acquiesce to authority. What becomes of these immature people, with whom we must share this "spatially finite sphere?" Are they stateless? Should they be incarcerated, and if so, whose laws should be applied? Is it the state within whose absolute boundaries they inconveniently reside? Kant sets a standard of maturity and then suggests a system of anthropology that can scientifically examine the "smallest similarity or dissimilarity" of culture. Consequently, anthropology becomes the servant of filtering and discrimination. This tendency within Kant's work can provide the pretext for a kind of scientific racism, though Kant himself proposed that "man makes himself," and that "character" is an individual striving to raise oneself above inherited "temperament." Nonetheless, Kant appeals to scientific anthropology and geography to form the basis of an investigation into human nature which invites generalization and can be cemented in a misleading scientific causality. This provides a basis for environmental determinisms and a host of

“geographical evils.” We now move forward to examine some of these evils cemented in the pursuit of cosmopolitanism.

“GEOGRAPHICAL EVILS” AND HARVEY’S CRITIQUE

The need to bring enlightenment to the ‘dark continent,’ the need to sponsor illegal covert operations in countries resistant to Western capitalism, the need to ally with abusive dictators because they are willing to jump on the neoliberal bandwagon, the justification of using military force to free the world of the ‘Axis of evil’: these and many more are examples ‘of geographic evils’ that have been committed in the name of spreading a universalist neoliberal agenda (see eg. McCarthy, 2004; Varga, 2013; Saad-Filho & Johnston, 2005; Plehwe et al, 2006; Harrison, 2013). Harvey is critical of liberal and neoliberal cosmopolitan world views because of the gross inadequacies they demonstrate in terms of geographical and anthropological knowledge. People ignorant of geography and anthropology are easily manipulated into supporting or believing in policies fed to them by powers that seek “*to hold together the universal principles upon which liberal, neoliberal and some version of the Blairite version of Cosmopolitanism is based*” (Harvey, 2009 page 105). We argue that it is important to acknowledge the importance of geography in terms of politics and economics, and that ignorance has a profound effect on the conduct of policy. Oversimplification and generalization also have their effect, and environmental determinism has done much damage to a comprehensive understanding of issues and has been a source of justification for some ‘geographical evils’ of the past and present (see e.g. Hardin, 2009; Buzbee, 1997; Livingstone, 2011; Frenkel, 1992).

ENVIRONMENTAL DETERMINISM AND “GEOGRAPHICAL EVILS” PAST AND PRESENT

As one of the man-land traditions of geographical knowledge, environmental determinism has been around for centuries. Just like the Kantian logic placing the ‘white European male’ at the pinnacle

of human maturity and rationality, environmental determinism is an absolutist viewpoint, but one which stresses the decisive effect of the physical environment, not races as the main condition of cultural development and consequently the development of their local landscapes. Environmental determinism proposes that the natural physical environment; climate, resources, and geographic position and extent are the determining causative factors of human and cultural development (Frenkel, 1994; Peet, 1985; Radcliffe et al. 2010). It became a prominent school of thought in the late 19th and early 20th century when it was adopted as a core geographical theory. Historically, it has some associations with Lamarckism and to a lesser extent, social Darwinism from the late 19th Century. Ellen Churchill Semple is recognized for introducing the theory to the United States after studying the geography of Friedrich Ratzel in Germany. Its lineage can be traced through the climate determinism of Ellsworth Huntington and even to Isaiah Bowman whose studies of Latin America classified cultural differences due to the elevation and type of agriculture performed by different ethnic and racial groups (Smith, 2004, pp. 74-76). In the modern era, Jared Diamond has been criticized by Sluyter and Harvey for engaging in a softer form of environmental determinism.

We contend that sweeping generalizations such as those offered by environmental determinism have provided the ideological justification for some of the major geographical “sins” committed in the past. Historical transgressions such as the slave trade and imperialism/colonization were given a makeover under the guise of environmental determinism. Because of this seductive notion that environmental determinism provided the basis of geographical “laws” that could explain cultural development, it took the field on a detour until the middle of the 20th century, when it came under severe criticism from geographers like Carl Sauer (Sauer, 1963; Sauer, 2008; Speth 1977). It was abandoned by academic geographers in the post-war era; however, this was not before certain aspects of it had spread to other disciplines such as anthropology and history.

Harvey is critical of environmental determinism and its simplistic causality (Harvey, 2009). He focuses on neo-environmental determinists such as Diamond who revive environmental determinism as a simple explanation for the disparity of rich and poor regions in the present globalizing world with popular books and theories like those in *Guns, Germs, and Steel* (Diamond & Ordunio, 1999). Diamond condemns Eurocentric and racist views, yet his approach shares some of the same absolutist/categorical defects as Kant's, the only difference being that Diamond proposes environmental and geographical advantages as determinants of the current distribution of relative wealth and power, not genes. Thus, Africa's narrow east to west geographical extent, which stretched across numerous latitudes determined that Africans would be "black" and at the same time poor. Following Diamond's take, we can attribute many of the misfortunes and horrors that prevail in sub-Saharan Africa today to the conditions of terrain and climate in the region (Diamond, 1997, page 203). Harvey criticizes this because it disregards factors like slavery, colonization, and post-colonial dependency, resolving everything into a set of simplistic determinist factors.

We can use Harvey's logic in that Diamond's environmental determinism creates absolute space with no room for different possible constructions of place, space-time, and environment. It ignores the concepts of relative and relational space. Consider the Physioeconomics concept of "Equatorial Paradox" which suggests that the economic development of a country is positively related to the distance from the Equator. Singapore serves as a counterexample. This highly prosperous country occupies the same tropical latitudes and has similar environmental conditions as many of the poorest countries in the world. Its prosperity can be attributed to many factors, like its position as a port at a commercial crossroads, cultural diversity, political stability, and the fact that it has implemented consistent political and economic policies in which government and business have cooperated to coordinate development. Thus we would argue like Harvey that a

complex mix of cultural, economic, and political factors is at work in the success of Singapore, not just the environment.

Despite environmental determinism having been abandoned as a school of thought for several decades, Diamond's book manages to win a Pulitzer Prize meaning people (and probably scholars) are giving serious thought to his 'simplistic' answers to some of the world's problems. This is ominous in itself as such an ideology from an influential individual could be harnessed to harmful policies, continuing the cycle of 'geographical evils' committed in the name of achieving a cosmopolitan world (see e.g. Sluyter, 2003; Blaut, 1999; O'Keefe et al, 2010). Harvey would argue that ignorance of geography and the oversimplification of environmental determinism are two dangers that lead to misjudgments, mistakes, and policy blunders. They delude us into thinking that underdevelopment can be explained by environmental factors like climate, while avoiding any discussion of the effects of imperialism through subjugation and colonization which prevented economic and infrastructural development, except when it was in the best economic interest of the colonial masters (see e.g. Fieldhouse, 1999; Larrain 2013). There is a reason why a significant portion of the poorer countries of the world today is made up of the former colonies of Western powers. The argument that sub-Saharan Africa is poor today because of conditions determined by the environment and not due to imperialist plundering including the slave trade would not hold (see e.g. Rodney, 2018; Nkrumah, 1967). Without colonization, the artificial political boundaries of today would be different, or not exist and development in 'pre-modern states' could have a different picture; one controlled by the people who live there.

COLONIALISM AS A "GEOGRAPHICAL EVIL" -

Colonialism contributed to the promotion of uneven development (Rodney, 2018). In Harvey's terms, this began many years ago, during the "Age of exploration" when particular spaces and peoples were demonized as barbaric and savage. The impacts were extreme in the example of the Americas, which were some

of the first lands colonized and bore the full brunt of European avarice. Many indigenous cultures there were considered so close to nature as to be beyond incorporation into the Western notion of civilization (Frank, 1967, Clark, 1982). Regardless of relative development level; Caribe, Powhatan, or Inca, their land was taken and culture diluted (in some cases like Mexico to form a cultural and religious syncretism) Frank, 1967). To justify these actions and safeguard their arrogation of resources, some colonialists simply seized the land under the justification of *terra nullius*, while others claimed title to land-based on individual rights to the property. Sometimes complex legal mechanisms were established by the various colonial regimes to establish title, cementing the centrality of private property. Harvey calls this the politics of dispossession under the liberal framework of conquering nature and making productive use with nearly complete disregard of its inhabitants (Harvey, 2009). This process of dispossession and exploitation in many cases ravaged the indigenous culture and their land (Wallerstein, 1986). Carl Sauer recognized these damages and in 1938 wrote a blistering attack of the effect of early Spanish colonialism on the Caribbean and Latin America's unique physical and cultural landscape (Sauer, 1963). In their relentless exploitation of resources and imposition of a harsh plantation-based regime, the islands and large areas of the South American continent were depopulated and the landscape was ravaged (Sauer 1963, page 147). The Spanish colonialists threw away much of the rich culture and biological capital of the region. To Sauer, Columbus was a geographical ignoramus, "*an able mariner... but not of the stuff of explorers,*" who not only failed to understand where he was, but lacked a deep understanding of the problems his actions were causing the natives in Latin America. This initial failure laid out a pattern of conquest and settlement to be replicated all over Spanish America, as the unemployed soldiers of the *Reconquista* sought their fortunes in the New World. The record of other colonial regimes, though different, failed to improve much on the Spanish model of enrichment by harsh appropriation. Throughout the colonial era, liberal rationalism failed to rectify

these evils, and instead perpetuated them under new political and economic doctrines.

So the Latin American experience with colonialism was just a carbon copy of what took place in other regions around the world. India for example was colonized by the British, who offered the prospect of a progressive regime of colonial “tutelage.” But Indians were denied democratic rights of representation which was a guiding stick highlighted in Kant’s universal law of ethics (Rahman et al 2018; Sing, 1996). This was justified by assertions that the Indians were like children being trained in the proper modes of administration and governance by Britain so that they could rule themselves. Meanwhile, the colonial system continued its economic exploitation and appropriation (Rahman et al. 2018). The lists of these actions are endless. Theorist like Walter Rodney on the other spectra unearth Africa’s case in his fascinating book *How Europe Underdeveloped Africa* (Rodney, 1972) through colonialism. The effects and patterns set by centuries of colonialism linger in culture and economics. Millions of people across the globe languish in chronic poverty and may not move out of this vacuum anytime soon. The actions of neoliberal policies are perpetuating geographical evils and making a new form of cosmopolitanism being proposed by Harvey difficult to realize.

THE POST-COLONIAL ERA

For Harvey, the so-called postcolonial era did not signal the end of “geographical evils”. Following World War II, the territorial occupation had become an embarrassment to the liberal agenda, and it was more difficult to justify colonial possessions, even based on shepherding politically “immature” societies to independence, while also condemning expansion by the Axis powers. On one hand, direct territorial control by a foreign power was offensive, but on the other, Western imperial nations were not willing to cede power back to indigenous societies. Western imperialists had invested large amounts of capital in their colonies and Western economies were dependent upon colonial resources, land, and labor, especially

in the wake of two ruinous wars within three decades (Ferraro, 2008; Velasco, 2002). There was also the cultural, political, and social imprint of the dominating state upon the colony, which wove substantial ties of association, dependency, domination, and habitation between peoples and cultures. During the war, many colonies had been partially or wholly wrested from their controlling imperial nations, and it would be difficult to reassert the old power structure, since it had been eroded or replaced in many areas, especially Asia. The architects of the post-war world were thoroughly aware of the contradiction of reasserting the old colonial structures and sought to institutionalize control in new ways.

In the post-colonial era, spatial relationships among nations required redefinition along the lines of Harvey's tripartite division of spatial relationships (Harvey, 2009). A new global architecture was constructed using international institutions like the International Monetary Fund, World Bank, and United Nations, among others. They were instrumental in establishing, new international rules to govern the post-war world. The General Agreement on Tariffs and Trade (GATT) was critical, as it was designed to govern trade relationships across international markets. Control was no longer predicated upon absolute domination and occupancy of territory rather, a new type of control relied upon imbalanced trade relationships. Absolute space became less important than relational space. For Harvey (2009), imbalanced trade relationships allow certain spaces to develop at a faster rate, relative to spaces of underdevelopment. This process of uneven development acknowledges the dialectic relationship in which particular spaces are privileged to development, but that this can only occur if subaltern spaces are prevented from developing. The world of economic development is not flat, but profoundly "spikey," and the new, post-colonial international structure requires an uneven and shifting pattern of appropriation and consumption.

While the stated purposes of the international institutions

broadly met the liberal agenda; from protecting human rights to encouraging education, and providing capital loans and financial assistance, many geography scholars have explored the destructive processes wrought by the IMF, World Bank, UN, GATT, and its successor the World Trade Organization (see e.g. Wood, 2014; Peet, 2009; Biersteller, 1990, Easterly, 2003). We argue that far from realizing the imaginative geography of cosmopolitanism, the term *globalization*, which defines the network of economic interactions across spaces, has become a pejorative term synonymous with economic decline, political control, cultural appropriation, and territorial exploitation.

As an international institution, the role of IMF is to manage and ensure the functionality of the global economic network, thereby allowing capital to circulate across borders (Bird, 2007; Masson & Mussa, 1996). The roles of both state and economic actors coalesce to create the conditions for capital to circulate with fluidity. To establish a multi-dimensional process, the IMF removes spatial and temporal barriers, thereby minimizing risk, so that foreign investors can finance operations across space, but primarily in peripheral regions. In theory, foreign direct investment is a neutral activity. Financiers provide investment capital for businesses, while businesses return the capital to financiers along with interest in the form of dividends. Yet, in reality, capital flows to regions with the best comparative advantage in terms of productivity. Capital could flow to China, whose vast labor reserve army means laborers work for a few dollars per day; or the capital could flow to Mexico, where the lack of environmental regulation means that dirty industries pollute the air, causing respiratory problems; or the capital could flow to nations in north-Saharan Africa, where the already-fertile land is cultivated excessively, leaving it barren soon after.

State actors are implicated in the globalization of finance, as government policies create the conditions for comparative production advantages. Despite the pervasive stereotype, Chinese

people are not inherently better at producing consumer goods than Americans; urban residents in Mexico D.F. are by and large discontent breathing dirty air and drinking dirty water, and Malian agricultural land cannot be harvested several times per year without harming the soil. For many peripheral nations, which have been integrated into the global economic system without the benefit of having any previous experience with capitalism, the development path is paved with foreign capital. Convinced that following the blueprint of the West will liberate the periphery from poverty, state actors intentionally draft policies, which promote industrialization and attract foreign capital. In an ironic twist, industrialization is assumed to be good for the nation as it generates wealth, but attracting investment frequently entails drafting social policies, which are harmful for the nation. For Harvey (2009), the elimination of territorial boundaries would moderate the evil of comparative advantages and their associated externalities. Without national boundaries, the effectiveness of socially produced advantages would be severely limited. For producers and financiers, without the ability to scour the globe for a nation willing to accept harmful conditions of production, localized production may be the result.

While Harvey (2009) might argue that a local, rather than global production and manufacturing economy would be a significant step toward true cosmopolitanism. It is the WTO that enforces trade agreements and ensures that societies, near and far, produce goods and participate in trade for the benefit of a global society. However, for underdeveloped nations, trade-diplomacy means that entire national economies are dedicated to producing goods for consumption in the West. The term “specialization” describes national and regional economies that focus on producing a single good, due to agglomeration, scalar, or scope advantages. But for critics, specialization does not improve trade relations; it simply bounds the specialized economy to produce one good. Reflecting on the psychology of specialization and the following trade relations, one must recognize that underdeveloped nations are only cherished for their ability to produce commodities and wealth

for others. Extending this idea to its logical conclusion, it becomes clear that the global economy does not assume an inherent cultural value apart from productive capacity.

Local production has the potential to reduce global forces, acting from above, thereby changing local cultures. Without the burden of producing goods for a Western society that is hidden from sight, the periphery will be able to produce goods to be consumed internally, responding to the demands of their communities. Consequently, we suggest that local societies would be free to choose how their economies will develop, having the freedom to engage with materialism at the levels acceptable by their cultural standards.

NEOLIBERALISM

Up until the 1970s, policies of embedded liberalism typified the industrialized Western democracies (Ganti, 2014; Gledhill, 2018; Harvey, 2007). Under this policy, the state served as the guarantor of relatively full employment, steady economic growth, and social welfare for its citizens (Harvey, 2007). This was achieved by the intervention of government power in market processes and the pursuit of Keynesian fiscal policies. The government also presided over a class compromise between capital and labor, ensuring high wages and moderate profits for the industry. In the 1970s these policies began to unravel in an era of “stagflation,” with low or declining economic growth and escalating rates of inflation (Harvey, 2007). The neoliberal agenda, a combination of monetarist, neoclassical and libertarian economic policies and typified by economists of the “Chicago School” radically adjusted this arrangement. Under neoliberalism, the power of the government to regulate financial markets and industry is drastically reduced in an effort to remove all constraints from the accumulation and flow of capital. Public goods and services are privatized using the logic that businesses are invariably more efficient than government-managed services. Free trade, open markets, and economic integration are emphasized in this

economic form of globalization. It has become the prevailing ideology of economists and underpins many of the assumptions of cosmopolitan thinkers who Harvey critiques.

Current neoliberal cosmopolitans and economists like Thomas Friedman, Hernando de Soto, and Jeffrey Sachs receive a sharp rebuke from Harvey (Friedman, 2000; De Soto, 2000; Sachs et al. 2005). By flattening space and culture Friedman (2000) suggest that only a sort of homogenized global society warrants the application of the same rights and privileges to all people. Sachs et al. (2005) and De Soto (2000) assume as universal, the values of private property and attempt to impose them everywhere and by the most direct means; whether they be “economic shock therapy” in post-communist Russia (Sachs), or individual title to land in Peru (de Soto). The results of more generalized opportunity and wealth are not what neoliberal economists expected. Instead, the extremes of poverty and wealth diverge and intensify; further cementing deep inequities within nations and politically institutionalizing the power of wealth. Harvey (2007; 2009) uses the phenomenon of “microcredit” as an example of how a seemingly beneficent tool could be used for the ‘development of underdevelopment,’ and not as a tool for poverty alleviation. Instead of greater wealth, all forms of “social solidarity” are eroded and the state provision of services is destroyed in a wave of “privatization” of public goods. It is by these means that the neoliberal agenda acts to restore and intensify the class power of the wealthy at the expense of everyone else.

“New Cosmopolitanism,” whether by Ulrich Beck (2002) or Martha Nussbaum (2003), more or less takes the neoliberal agenda for granted instead of attempting to cure its defects and develop a more equitable form. For instance, Harvey considers their admiration for the model of the European Union as misplaced because it perpetuates economic patterns between itself and developing regions. Trade barriers, particularly for agriculture, protect European farmers and selectively bar competition.

Likewise, the “military humanism” of the EU is selectively applied for hegemonic purposes under the guise of human rights. Furthermore, Harvey considers their theories to be impractical, as they still buy into the “flat space” of neoliberals. For instance, David Held (1997) is criticized for superficially proposing a ‘layered cosmopolitanism’ which reflects “*local, national, and regional affiliations,*” without making any attempt at understanding “*how this layering is produced and at what scales*”

CONCLUDING REMARKS

Taken together, we conclude that by deconstructing Kant’s cosmopolitanism and highlighting Harvey’s critique we suggest that new cosmopolitans need to incorporate a critical discourse of space into their theories. Despite assertions to the contrary, it is indeed still a “spikey world” of regional inequality and local differences, made all the more so by neoliberal policies that have stripped and privatized public goods expanding the gap between poverty and wealth. What summarizes Harvey’s criticism of existing cosmopolitanism is that the lack of geographical awareness prevents a sufficiently critical conceptualization of it and that existing theories have been anemic and unable to escape the confines of a Kantian liberal framework. As cemented by Harvey, geographical awareness has historically been central to the cosmopolitan theory, from Kant to Nussbaum, but we must re-evaluate the type of geography that has been used throughout the evolution of cosmopolitanism. Central to this is how cosmopolitan thought has engaged with theories of space. For Harvey he proposes to expand the scope of their geography beyond absolute, fixed, Newtonian spaces to a tri-partite arrangement of space adding relative and relational spaces along with the absolute (Harvey, 2009, page 134). According to Harvey, this will lead to a reconsideration of neoliberalism, which underpins contemporary cosmopolitanism. Instead of promoting individual economic empowerment, neoliberalism creates conditions where dispossession is assumed to promote economic equity, rather than social/state intervention. The fact that neoliberalism has been

embedded in an ideology of individual and human rights creates an irresolvable contradiction: favoring enrichment and empowerment of the few under the guise of a liberal, humanitarian agenda. In short, Harvey proposes a critical examination of this social agenda and how best to separate it from a hegemonic political-economic agenda. A new cosmopolitanism should examine and accommodate differences in a world, which, contrary to Friedman, is not flat. Critically examining a new cosmopolitanism will allow us to elevate concepts such as economic justice, cultural equality and true political empowerment above and beyond concepts of unqualified privacy, self-interest, and competitiveness.

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**DEFINING AND MEASURING THE PROGRESS
OF LEGISLATION**

RICK FARMER

ABSTRACT

Anecdotal evidence suggests the chances of a policy proposal becoming law in the future is dependent on the progress it made in a recent legislative session. Not only has this not been tested, but there is not an appropriate measure of legislative progress that works across states and across time to test the proposition. This project develops an eight-category ordinal measure of legislative progress. It demonstrates the success of the measure across eight states and across three legislative sessions. Applying the measure reveals interesting trends between legislative chambers and over time in Oklahoma.

INTRODUCTION

Proponents of an unsuccessful legislative proposal frequently say to their constituencies, “We got farther in the process this year than we did last year. We are making progress. We have to keep trying.” Enacting legislation is often described as “getting to the finish line.” Legislators, lobbyists, national organizations, etc. use this rhetoric to motivate their supports for the next attempt at passing or blocking legislation.

Nationally, less than 20% of bills introduced into state legislatures become law in any given year (Calculated from *Book of the States* (Council of State Governments 2019)). Often proposals are introduced year after year. Some ideas float around the Capitol for several years before they become law. Is it true that how far a proposal progresses through the legislative process before stalling is a good predictor of its likelihood of passing in the near future?

This is a key question in the political world, and it has important implications for Political Science. The answer is generally assumed to be “yes.” But there are no studies to support this claim. In fact, there is no appropriate measure of legislative progress that works across multiple states. The purpose of this project is to develop a rubric that will work across numerous states for measuring the progress of a bill.

A future work may use this measure as the variable in a predictive model, if a predictive model can be demonstrated. That is not the purpose of this paper. This current work identifies a common way of describing legislative progress. An effective measure would allow participants and observers across multiple states to share information using common terminology. This will benefit public policy proponents and opponents working across states. It will also benefit scholars and journalist examining the diffusion of public policy ideas through the states.

When we talk about policy proposals diffusing through the states, we tend to talk about them as “not considered,” “under consideration” or “passed.” This paper will add more distinction to the conversation by subdividing the “under consideration” category.

In Political Science the discussion of how a policy idea spreads across the country, from state to state, is described as “diffusion of innovation.” Scholars attempt to explain how policy ideas transfer from one state to another and at what rate. Many factors have been identified including geography, ideology, partisanship, institutions, emulating previous success and solving problems (Collingwood, El-Khatib and O’Brien 2019). These studies generally focus on enacted policies. A few look at introduced legislation. Any discussion of partial success is generally a passing reference to a failed attempt at enacting a proposal. Measuring progress toward enactment may be a key factor in understanding the timing of diffusion.

When legislators gather at conferences to discuss their work, they not only discuss policy content, but they also talk about strategies for success. These conversations frequently include comments about how far the idea got in the legislative process and what is needed to move it to the next step. Although in 49 states the legislative process follows a similar pattern, the subtleties of each state are such that a common terminology will facilitate these conversations. Journalists and policy advocates who are observing the diffusion of ideas across states also need a common terminology. This paper proposes that terminology.

DIFFUSION OF INNOVATION

Chris Mooney (2020) summarizes well the development of scholarship on the diffusion of innovation. The literature indicates that public policy ideas spread from state to state because of learning, competition, emulation and federal coercion. Researchers have delved into the how and why of each of these. These studies

are facilitated by the State Innovation and Diffusion Database maintained in the Harvard Dataverse (Boehmke, et al. 2021) that now contains the enactment date of over 800 policies.

Diffusion research was inspired by Jack Walker's (1969) seminal work, where he envisioned state adoptions as dots spreading across a map. Geographic proximity was thought to be a key factor. Virginia Gray (1973) suggested that we could better understand the speed of diffusion by considering the cumulative "S-curve" of state adoptions.

Any discussion of policy diffusion must grapple with the numerous variations of a policy. A few scholars (Callaghan, Karch and Kroeger 2020) have used plagiarism detection software to track the diffusion and evolution of model legislation. However, as Mooney (2020) points out policy specifics are largely ignored in the diffusion conversation. Clark (1985) observed diffusion research tends to assume "all states adopt exactly the same policy." Even Walker (1973) wondered at what point modified legislation became a different policy. Mossberger (2000) pointed out that sometimes a state borrows only a label or a general concept. If a concept is getting traction in several states it is generally discussed as one policy idea, even if it is a complex and evolving set of policies.

This assumption is also true among practitioners. For example, in 2021 voter requirement bills were considered in several states. The Brennan Center (2021) lumped all of these bills together into "voter suppression bills." By late June 2021 they identified 389 introduced bills in 48 states. Topics include vote by mail, voter ID, registration purging, and barriers to registration.

Defining the scope of the policy being studied is a matter for the researcher and not an issue to be resolved in this project. Whatever the scope, the rubric proposed below will define the progress of the bills and standardize the conversation. For example, the Brennan

Center (2021) attempted to help readers understand how many bills were moving forward in 2021 by saying “31 have passed at least one chamber. Another 30 have has done sort of committee action (e.g., a hearing, an amendment, or a committee vote).” The rubric provides standardized categories for that discussion.

POLICY ADOPTION

Diffusion research generally focuses on the end result and misses the policy adoption process. Some legislative bills are intentionally assigned to a committee that will kill them. Other bills pass one chamber but die in the other. A few bills pass both chambers but die in conference. And, some bills falter on the governor’s desk.

Of course, public policy can be enacted in other ways. In 24 states citizens can bring an initiative petition and in 23 states the Legislature and/or citizens can request a referendum (USC 2021). In some cases, an executive order, an agency rule, an attorney general’s opinion or a court ruling can produce a public policy. This project focuses on defining terms to describe the myriad of legislative processes found in bicameral legislatures and not on other forms of policy making.

A GOOD MEASURE

The measure that we use by default is a three-category ordinal scale: not considered, under consideration, and enacted. An appropriate measure of legislative progress will add more points to that scale. However, too many points will be confusing to casual observers. Also, the differences between states make it difficult to tease out subtle points, which may be key in one state, but do not apply in others. A good measure will add a few key categories to the scale, focusing on the largest and most common actions in the legislative process.

HOW A BILL BECOMES A LAW

The broad view of the legislative process in a bicameral legislature

is so standardized that relatively simple flow charts appear in most basic government textbooks. They can be described as “Y charts.” They have two symmetrical branches that come together at the bottom with a tail for conference and executive action. For an example see Chart 1 below.

Chart 1

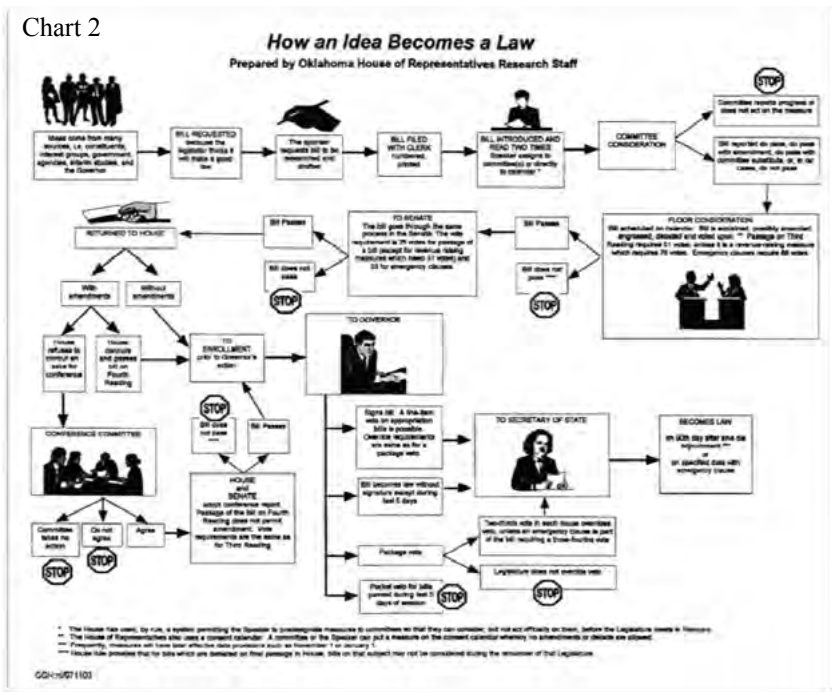


DEFINING AND MEASURING

We usually think in terms of a bill starting in the lower house then proceeding to the upper house. Bills get introduced in one chamber and assigned to committee, then they proceed to the floor. If successful in these two stages, they move to the other chamber to begin the process over again. Bills that survive both chambers either go directly to the governor's desk or move to a conference process for resolving the differences between the two chambers' versions.

Between these broad brushstrokes are many rarely discussed steps. For example, bills get amended in committee. Bills are placed on General Order. Bills get amended on the floor. The amendments are engrossed. All of these steps are essential to the process, but each state does them in its own way, reports them differently and uses their own terminology. To see the full scale of process steps in one state see Chart 2 below.

Chart 2



GATEKEEPERS/LEGISLATIVE PULSE POINTS

There are certain actions taken by a Legislature that are universal, but the steps to achieve those milestones are different across states. For example, a bill passing out of committee is a major step everywhere. In some states a bill does not appear on a committee agenda unless the chairman intends for it to pass. In other states all bills assigned to a committee appear on an agenda and get a hearing. Either way, when the bill clears committee, it has completed a major hurdle. So, while placing a bill on a committee agenda and passing it out of committee are two separate, distinct and important acts, a broad overview of the process that focuses on the significant steps common to most legislatures will represent those steps as one significant achievement, passing out of committee.

The same can be said for a bill passing off the floor of a chamber. A bill may get held up for a few hours if a member objects to the engrossing or to the bill being placed on the calendar. However, when the bill receives a majority vote and is passed to the other chamber it has achieved a significant milestone.

When a bill is amended by the second chamber, describing the process become very messy. The first option is for the originating chamber to refuse to hear the amendments and let the bill die. The next option is for the original chamber to adopt the amendments coming from the second chamber, sending the bill to the governor. The third option is to reject the amendments and request a conference committee to resolve the differences. Conference committees occur in different ways in different states. The details become very difficult to describe in a universal way. However, a bill that reaches conference has clearly progressed beyond bills that did not win a floor vote.

The governor has several options once a bill reaches his desk. He could sign the bill into law, allow the bill to become law without his signature, veto the bill, line-item veto provisions in the bill or

pocket veto the bill. If the governor vetoes the bill or issues a line-item veto, the Legislature has the option of overriding that choice. What is important here is that the governor is a key gatekeeper who makes a decision that affects the success of the bill.

THE RUBRIC

A common vernacular is missing from the discussion of policy enactment, largely because each state has different traditions and subtleties within their legislative processes. This has driven the conversation toward three default categories: not considered, considered, and enacted. To better understand and communicate the progress of a policy within and across states, a standardized set of categories is needed. These categories will be an ordinal scale available to scholars and other observers to measure progress and compare it across states.

The purpose of this project is to define those categories. The categories described below are broad enough to apply to all 49 bicameral states, yet they capture the key actions within the legislative process. They do not capture the use of initiative petition. A future project should consider how to apply the rubric to non-legislative forms of policy making.

Not only is defining the categories a challenge, but naming them is equally difficult. Names imply connotations that affect thinking. Because there is no standardized vernacular, observers frequently describe the status of a bill using two conventions: the most recent action taken and who has possession of the bill. For example, we might say a bill “passed committee and is on the floor calendar.” So, is a good label “passed committee” or is a better label “on the floor”? While they are clearly distinct steps in the processing of a bill, in the larger scheme of things, they both indicate the same approximate location in the process.

With these issues in mind, the following ordinal categories are proposed. These categories indicate who has possession of the

bill, which implies what the last action was and what next action is needed. For example, if a bill's status is that it is On FC (First Chamber) Floor, that implies it passed committee in the first chamber and has not passed a floor vote. Referring to the status of a bill by who currently has possession of it is in keeping with the commonly used phrases "it died in committee" or "it died in the Senate."

No Legislation (0) – In the discussion of the diffusion of ideas across states, this is a commonly understood category. It contains those states where no bill was introduced into either chamber of the Legislature.

In FC Committee (1) – This broad category combines several distinct actions within a legislative body. In many cases this involved first reading, second reading and assigning a bill to committee. However, some states do not conduct second reading at this stage. Some states assign bills to more than one committee. The assignments may be concurrent or sequential. For example, a bill may get assigned to a policy committee. Once it passes the policy committee it may be assigned to a budget committee. Whatever the local process, with few exceptions, when a bill is introduced into the originating chamber it is assigned to committee.

For simplicity, "FC" is used to abbreviate the term "first chamber." The term "first chamber" is more common language and easier for the lay observer to follow than the term "originating chamber."

This In FC Committee refers to a bill in possession of any committee in the first chamber, other than a floor scheduling committee. Bills that clear the committee process and are awaiting scheduling on the floor are considered to be in the next category. For example, if after passing through a substantive committee a bill must pass through the Rules Committee before being heard on the floor, that bill will be scored as in the next category.

On FC Floor (2) – This broad category encompasses everything that happens from when a bill is available to be scheduled for a hearing on the first chamber’s floor until it receives a favorable vote and is transmitted to the second chamber. This includes bills that were assigned direct to calendar, skipping the committee process. It includes bills withdrawn from committee and brought to the floor. This category includes bills that are tangled in a procedural motion and delayed or prevented being transmitted to the second chamber.

Occasionally the legislative process can take some twist and turns that complicate classification of a bill’s progress. For example, if a bill is reassigned to a committee it would regress back to In FC Committee. This is a rare occurrence in most legislatures. Also, if a bill was introduced but never assigned to a committee it would be in this On FC Floor category. It is impossible to tell from the published records if the leadership intended to bring the bill directly to the floor for a vote or if they intended to kill the bill by withholding it from the committee process. So, does such a bill belong in a category that is pre-In FC Committee or does it belong in On FC Floor? Because we cannot determine intent it is placed in On FC Floor. Neither of these instances or the many other unusual twists occur often enough to introduce significant error into the coding scheme. If thousands of bills are introduced and something odd happens a handful of times, it is of little statistical concern.

In SC Committee (3) – When a bill is transmitted from the first chamber to the second chamber it basically starts the process over. This category is identical to In FC Committee except that the second chamber is now in control of the bill.

On SC Floor (4) – Any bill available for scheduling to the second chamber’s floor will be in this category. This includes bills clearing the committee process, bills assigned direct to calendar, bills withdrawn from committee, etc. It also includes procedural motions on the floor that might delay a bills transmittal. Once

the bill receives a favorable vote on the floor and is transmitted it moves to the appropriate next category. Which category is next depends on the actions taken by the second chamber.

Resolving Amendments (5) – This broad category includes all bills that were amended by the second chamber and now need those amendments resolved by the first chamber. If a bill is transmitted from the second chamber to the first chamber with amendments the first chamber may accept those amendments, reject the amendments and ask for conference, or just kill the bill. In all of those circumstances this bill is designated in the Resolving Amendments category until it is transmitted to the governor for signature.

At this stage the legislative process becomes difficult to describe. Each state has different procedures. The path of a bill can take a lot of twists and turns. In a broad overview of the process, it does not make sense to subdivide this category especially if the categories are to apply across multiple states. Besides, to most observers the important point is that the bill received a favorable vote in both chambers but did not make it to the governor's desk.

On Governor's Desk (6) – Once a bill is approved by the Legislature and is transmitted to the governor for his action it is in this category. Bills that passed the second chamber with no amendments skip the previous category and go directly to this category. Bills where acceptable amendments were approved by both chambers arrive at this destination.

Across the states the governor has five optional actions: sign the bill into law, allow the bill to become law without his signature, line-item veto sections of the bill, veto the bill and pocket veto. If he signs the bill or allows it to become law without his signature it moves to the final category. If the governor pocket vetoes the bill it remains in this category.

Things become more complicated if the governor line-item vetoes a bill or vetoes it. If the governor line-item vetoes a bill it should be coded based on the specific provision being studied. If those provisions become law then based on that success it should be assigned to final category. If the provisions of interest were the ones vetoed then the bill should remain in this category. If the bill is vetoed it should remain in this category.

Of course, the actual process is for a vetoed bill to be returned to the chamber of origin. That chamber may attempt an override. If successful the bill is transmitted to the second chamber for an override. If both are successful the bill moves to the final category. However, these occurrences are relatively rare (a few bills out of thousands per year) and they add very little distinction to the concept that a bill made it to the governor's desk but did not become law. So, for those reasons vetoed bills remain in this category until they receive final approval.

Enacted (7) – This category includes all bills that complete the process and are enacted into law. Once the governor signs the bill or it becomes law without his signature it belongs in this category. Bills that have a successful veto override move to this category.

These categories are specific enough for scholars to use them as ordinal categories in the study of policy enactment. They capture the conversation that occurs among legislators and policy advocates. They also are straight forward enough for casual observers to understand, remember and communicate. Adopting these categories will help us all better communicate the status of a bill in the legislative process.

BILL HISTORIES

The progress of a bill can be traced in most states through a published bill history. Bill histories are generally available on a legislature's website. They are published in a lot of different formats and they use different terminologies. They usually contain

all of the actions taken on a bill and the date of the action. In many cases these include administrative processes (such as the presiding officer signing the bill for transmittal) and formal votes. Using these published histories, the rubric can be applied to identify a bill's status for researchers and communicators.

CODING THE RUBRIC ACROSS 8 STATES

From the official legislative websites of Oklahoma and the seven surrounding states (TX, NM, CO, KS, MO, AR, LA), bill histories were captured and analyzed. Specific bills were selected for no reason other than the fact that they had extensive bill histories available for analysis. The full published bill history for each is linked in this note.¹ These histories illustrate the different ways states handle bill processing and the different ways a bill's progress is reported.

1 <http://oklegislature.gov/BillInfo.aspx?Bill=HB1775>
<https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=SB43>
<https://legiscan.com/NM/bill/HB250/2021>
<https://leg.colorado.gov/bills/sb19-085>
http://www.kslegislature.org/li/b2021_22/measures/sb29/
<https://house.mo.gov/Bill.aspx?bill=HB430&year=2021&code=R>
<https://www.arkleg.state.ar.us/Bills/Detail?id=SB289&ddBienniumSession=2021%2F2021R>
<https://legis.la.gov/legis/BillInfo.aspx?i=240779>

In most cases published histories available on the state's official website are considered unofficial histories. The official legislative records are kept in the *Journal* of each legislative body. The website versions are used to develop Table 1 because they are easily accessible. It is possible that using unofficial records could introduce a small amount of coding error.

Table 1 includes the total number of entries in the published bill history of each selected bill. Totals range from 10 to 57. In NM only high-level actions are reported. In Missouri and Texas a lot more minutia is included. The table also shows where available the number of entries in the official legislative *Journal*. These are indicated in the published history by a reference to a page number in the *Journal*. NM's page numbers were not reported. Assuming each website entry correspond to a *Journal* entry, they range from 10 *Journal* entries in New Mexico to 38 in Missouri and Texas. These numbers indicate the difficulty in standardizing the discussion across states. In their published reports states make available a wide variety of descriptions and use a variety of terms to describe a bills progress.

Table 1: Examples of Key Actions Taken within Each Rubric Category in Oklahoma and the Seven Surrounding States

	OK-HB 1775	TX-HB 113	NM-HB 250	CO-SB 19-085
Total # of Actions Published	49	54	10	21
Total # of Actions Recorded in the Journal	27	38	Not Reported	Not Reported
In FC Comm	2 nd Reading, Referred to Common Ed	Read First Time, Referred to Natural Resources	Sent to HHC/ HSEIC, HHC Reported Do Pass	Assigned to Judiciary, Judiciary Refer Amended to Appropriations
On FC Floor	1 st Reading, CR Do Pass, General Order, 3 rd Reading, Passed	Filed, Reported Favorably, Placed on Intent Calendar, Read 2 nd Time, Read 3 rd Time, Passed	HSEIC Reported Do Pass w Sub, Floor Amnd,	Appropriations Refer Unamended to Senate, 2 nd Reading
In SC Comm	2 nd Reading, Referred to Ed	Read First Time, Referred to Pensions	Sent to SHPAC	House – Assigned to Business, Business Refer Amended to Appropriations
On SC Floor	Engrossed to Senate, 1 st Reading, CR Filed, General Order, Floor Sub	Reported <u>En-grossed</u> , Reported Favorably, Read 2 nd Time, Amended, Read 3 rd Time	<u>Passed House</u> , Reported Do Pass	3 rd Reading <u>Passed</u> , Appropriations Refer Unamended to House, 2 nd Reading
Res Amend	Passed, Engrossed to House, SAs Received, SAs Adopted, H 4 th Reading, Passed	Passed, HAs laid before Senate, Read, Senate Concur	Passed Senate, Floor Amendment	3 rd Reading Passed, Senate Result to Concur, Signed by President, Signed by Speaker
On Gov Desk	Sent to Gov	Sent to Gov	House Concurred	Sent to Gov
Enacted	Approved by Gov	Signed by Gov	Signed by Gov	Gov Signed

Table 1: (cont.)

	KS-SB 29	MO-HB 430	AR-SB 289	LA-HB 3
Total # of Actions Published	29	57	28	26
Total # of Actions Recorded in the Journal	19	38	Not Reported	23
In FC Comm	Referred to Insurance, Hearing	Read Second Time, Referred: Children and Families, Reported Do Pass, Referred: Rules, Reported Do Pass, Referred: Fiscal	Read Second Time, Referred to Public Health	Ready by Title, Referred to Ways and Means
On FC Floor	<u>Introduced</u> Committee Report, Committee of the Whole	Prefiled, Read <u>First Time</u> , Reported Do Pass, Third Reading and Passed	Filed, <u>Read First Time</u> , Recommendation Do Pass, Read Third Time, Passed	<u>Read by Title</u> Reported with Amendments, Read Third Time, Finally Passed
In SC Comm	Referred to Insurance, Hearing	Second Read and referred: Ways and Means, Reported Do Pass, Referred to Gov Accountability (Re-)referred to Gov Accountability	Read Second Time, Referred to Public Health, Amendment Adopted	Read Second Time, Referred to Revenue and Fiscal Affairs, Reported Favorably, Recommitted to Finance
On SC Floor	Emergency Final Action - Passed, Received and <u>Introduced</u> Committee Report, Committee of the Whole	Reported to Senate and <u>First Read</u> Reported Do Pass, Third Reading, Senate Substitute, Reported Do Pass, Third Reading and Passed	Transmitted, <u>Read First Time</u> Returned Do Pass, Read Third Time, Passed, Enrolled and Ordered Delivered to Senate	Ordered to the Senate, Read <u>First Time</u> Reported Favorably, Senate Floor Amendments Adopted, Read by Title
Res Amend	Emergency Final Action – Passed as Amended, Nonconcurrent, Motion to Accede, Agree to Disagree, Conference Committee Report Adopted	Reported to the House, Referred: Fiscal, Reported Do Pass, SS Adopted, Finally Passed, Signed by Speaker, Signed by Pro Tem	Returned to Senate as Amended, Re-referred to Public Health, Returned Do Pass, Read Third Time and Passed	Passed, Read by Title, Senate Amendments Concurred
On Gov Desk	Enrolled and Presented to the Gov, Vetoed by Gov	Delivered to Gov	Delivered to Gov	Sent to Gov
Enacted		Approved by Gov, Delivered to Sec of State	Notification that SB289 is now Act 462	Signed by Gov

The remainder of Table 1 demonstrates the process of collapsing this variety of terminology into the seven ordinal categories of activity proposed in this project. Space here does not permit the publication of each bill's full history. The table shows a few key phrases taken from each state's web publication. The language is identical or very close to the wording used on the state's website. For example, the bill history of a successful bill in Oklahoma ends with "Approved by Governor," in Texas bill histories end with "Signed by the Governor." Using the state's actual language is intended to capture the differences in terminology and yet demonstrate that the meaning can be standardized into the eight categories.

The list of entries in each cell is how that particular state describes the actions taken that should be coded within each rubric category. For example, referring a bill to committee is an action that should be coded as In FC Committee or In SC Committee. Actions like SAs Adopted should be coded as Resolving Amendments.

Keep in mind the coding categories are broad and may stretch beyond the obvious for reasons explained in the rubric above. For example, referring a bill to committee occurs on the chamber floor, but the act places the bill in the In FC Committee or In SC Committee category. Typically, the first action listed in a cell is the last action taken by the previous body. This is because taking that action triggers change of possession and coding into the next category.

Coders must always keep in mind this is a coding rubric, not a sequential description of the legislative process. Across the states, the number of bills getting a floor vote without going to committee is miniscule. However, because the intent of the legislative leadership cannot be inferred from published bill histories it is necessary to assume that bills not assigned to committee are available to be heard on the chamber floor. This creates an odd situation where bills actually begin life in the 3rd category, On FC

Floor, and almost immediately regress to the 2nd category, In FC Committee. The same applies when bills cross the rotunda to the second chamber. To illustrate this in Table 1 the On FC Floor and On SC Floor categories are divided into pre-committee and post-committee language. All of which is coded as on the floor.

Researchers are generally coding bills final status after the legislative session has ended. In that case a researcher will find very few bills that were introduced but never referred to committee. As such, very little error will be created by coding such bills as on the floor. Legislators, advocates and other observers will never be precise in their usage of the rubric, so they will adjust their description of a bills status as appropriate to their circumstances.

Table 1 illustrates that coding legislative actions in various states into a single set of categories can be successful even though states use different processes and terminologies. It also demonstrates the challenges of coding who has possession of a bill rather than who took the last action. Not every choice is intuitive, but a well thought out rubric will provide researchers a valuable tool. And, a well thought out rubric will capture the common conversation that occurs between legislators, advocates and observers.

CODING OKLAHOMA SUMMARY STATISTICS

In addition to coding individual bills the rubric is useful for coding full legislative sessions. Of course, this gives rise to a different type of variable and a different analysis.

Table 2 provides an example taken from summary statistics of the 2021 Oklahoma House of Representatives' actions. Oklahoma's Legislative Service Bureau operates a software package known as Bill Tracking Online. Many aspects of the software are available through the legislative websites. However, a more robust version is used internally at the Legislature. Reports containing summary statistics are available through the desktop version of BT Online. These are also unofficial statistics and a handful of actions are

reported in more than one category. As a result the percentage columns do not always add to 100. The overall error is minimal.

Table 2: Final Status of 2021 Oklahoma House Bills

	House	% of int	Rubric
Introduced	<u>2022</u>	<u>100.0</u>	
House Committees	1465	72.4	In FC Comm
Senate Committees	91	4.5	In SC Comm
Senate Calendar	43	2.1	On SC FL
House Calendar	100	4.9	On FC FL
In Conference	0		Res Amd
In GCCA	3	0.1	Res Amd
Referred for Engrossment	4	0.2	On FC FL
Referred for Enrollment	0		On Gov Desk
Measures Failed	13	0.6	On FC FL
Stricken from Calendar	0		On FC FL
Died in Conference	4	0.2	Res Amd
Died in GCCA	0		Res Amd
Sent to Governor	0		On Gov Desk
Approved By Governor	289	14.3	Enacted
Became Law w/o Signature	1		Enacted
Vetoed	8	0.4	On Gov Desk
Veto Overridden	0		Enacted
Line Item Vetoed	0		On Gov Desk
Pocket Veto	1	0.0	On Gov Desk
Filed w/ Secretary of State	0		Enacted

The list of all summarized final actions is in the first column of Table 2. The second column identifies the number of House Bills ending the session in that condition. The third column is the percentage of the whole remaining in that status. The final column indicates how that status is coded in the legislative progress rubric.

This table indicates a few interesting sides notes. For example,

72.4% of bills introduced into the Oklahoma House in 2021 died in committee after four weeks of session. Only 14.3% of House Bills became law. Also, almost 50% of the bills that cleared committee in the first four weeks of session did become law. However, Table 2 is provided because it demonstrates how to code the summary categories. This gives rise to the statistics in Table 3. That table demonstrates the usefulness of the rubric for comparing legislative sessions across time and across chambers.

COMPARING LEGISLATIVE SESSIONS AND CHAMBERS

Table 3 aggregates the summary statistics available through the Oklahoma Legislative Service Bureau’s BT Online software into the rubric categories based on the coding demonstrated in Table 2. These statistics are aggregated separately for House Bills and Senate Bills in three legislative sessions.

Table 3: Final Status of Oklahoma Bills in First Sessions

Year	House			Senate		
	2021	2019	2017	2021	2019	2017
n=	2023	1801	1561	1105	1018	863
In FC Comm	72.8	73.1	70.8	50.8	52.4	56.3
On FC FL	5.8	6.2	7.8	6.5	7.6	8.9
In SC Comm	4.5	5.7	5.1	4.7	7.3	7.8
On SC FL	2.1	1.0	1.2	9.9	7.5	5.3
Res Amd	0.3	0.7	2.0	0.8	0.2	0.7
On Gov Desk	0.4	0.6	0.5	0.5	0.6	0.9
Enacted	14.4	12.8	12.6	26.8	24.6	20.0

The Oklahoma Legislature operates on a two-year cycle that occurs between general elections. BT Online accumulates statistics across both legislative sessions. It is impossible to tease out only bills introduced into the second session. In the second session some carryover bills are considered. This jumbles the statistics for that

year. So, for the convenience of providing rubric examples Table 3 focuses on odd numbered years.

The first column in Table 3 identifies the rubric category. The next three columns indicate the percentage of House Bills ending the year in that final status. The final three columns indicate the percentage of Senate Bills ending the year in that status.

The power of Table 3 is that it demonstrates that over 80% of bills in Oklahoma end the session in one of two categories. They either die in FC Committee or they are enacted. While there is value in the other five categories, subdividing them further would not add analytic power. Although the Legislature, through BT Online, offers 20 categories, the seven identified in Table 3 capture the legislative actions well.

Statistics like those found in Table 3 can be generated using other states' legislative websites. A future research project could use these statistics to compare the activities and productivity of legislatures. For example, *The Book of the States* consistently provides a table that show number of bills introduced and the percentage of bills enacted across the states. No publication captures the other categories consistently.

ANALYZING OKLAHOMA LEGISLATIVE SESSIONS

Table 3 does tell us a few interesting things about the Oklahoma Legislature. As pointed out above, over 80% of the bill introduced either die in the first committee or they become law. Less than 20% of bills end the session in one of the other 5 categories.

There are interesting differences between the House and Senate in Oklahoma. The House has 101 members. They introduced between 1561 and 2023 bills in the sessions studied. The Senate has 48 members. They introduced between 863 and 1105. That is about 55% of the number the House introduced. The number has steadily increased between 2017 and 2021 in both chambers.

More importantly, the House kills over 70% of its bills in the first committee. This generally happens when a bill is does not get a hearing before the first four week deadline for committee work. The Senate kills a little over half of its bills this way. This leaves both chamber with a much more equal number of bills after the first deadline. In 2021 it was 550 in the House and 544 in the Senate.

Very few bills die on the first chamber floor. In the House it was about 6.5%. In the Senate it was about 7.6%. Most of these bills were left on the calendar by the floor leader and not brought to a vote.

In 2017 and 2019 the Senate killed more House bills in the Senate committees than the House killed Senate bills in committee. However, in 2021 these numbers were closer.

On the second chamber floor the Senate killed a lot more House bills than the House killed Senate bills. In 2021 the Senate killed 9.9% of House bills and the number has been increasing. The House only killed 2.1% of Senate bills on the House Floor in 2021. Very few bills end the session in the resolving amendments stage or on the governor's desk.

The overall batting average (Cain and Kousser 2004) for the Oklahoma Senate in 2021 is almost twice that of the House. In the three years, studied over 24% of Senate bills became law and the trend was increasing. Only about 13% of House bills became law. Because the House introduced almost 40% more bills it works out that each chamber enacted about the same number of bills, 717 for the House and 719 for the Senate. Of course, the House has twice as many members. So, per capita Senators were more successful than Representatives.

These statistics only cover three legislative sessions. It may be that these recent trends in the Senate's favor reflect the politics between

current leaders and very little else. The institutional arrangements have not changed in any significant way and the numbers overall have been relatively consistent.

NEXT STEPS

This project demonstrates the need for a common vernacular to describe the progress of a bill across states and across time. This common terminology will benefit legislators, advocates, journalists and other observers. A well specified measure will create a tool that political scientists can use when studying legislatures, legislation or the diffusion of innovation.

The current discussion centers around three categories – not considered, under consideration or enacted. This project proposes an eight category ordinal measure that brings greater specificity to the under consideration category. These six categories are developed by examining how the progress of a bill is publicly reported on the websites of eight state legislatures. In these states as many as 57 entries are made in the legislative *Journal* to report the progress of legislation. Using the report phrasing, these 57 steps are collapsed into seven activity categories.

The result is a measure that well describes the progress of a bill in all eight states. It also worked well across time when tested in Oklahoma. The measure produced interesting trends when used to analyze the performance of the Oklahoma House and Senate.

This measure can be used in a number of ways by future researchers. It could be used by those who study the diffusion of innovation to further specify their models. They tend to focus on enactment dates. Adding legislative progress to the model may reveal useful trends. The measure can be used by those comparing legislative performance across states, across time or across chambers. It can be used by those comparing specific legislators' batting averages, further specifying their models. As a dependent variable it can help build models that explain why some policy concepts get farther

along in the process than others.

The common discussion among legislators, advocates, journalist and others suggests that a bill that “got farther” in the process this year than it did last year is “closer” to becoming law in the future. Is that really true? This measure may answer that question.

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**FEDERALISM AND SOVEREIGNTY OF THE TRIBE:
THE FALLOUT OF *MCGIRT* AND *COOLEY***

TRAVIS A. YOUNCE

ABSTRACT

McGirt v. Oklahoma in 2020 has brought to light decades of debate on the sovereignty of the Tribes and the State. Oklahoma, of all states, has the highest concentration of indigenous nations at 38. The founding fathers of the United States created a constitutional republic. One in which the founders sought to expand with the hope of including the indigenous nations. However, the United States lost its foundational and Constitutional moorings by ignoring the Constitutional debates and understanding. This article seeks to analyze the sovereignty that the founders initially designed and influence on government within today's intergovernmental relations to the Tribal Nations.

Key Words: Tribal Sovereignty, Federalism, Covenantal Founding, Representation, State Sovereignty, Cherokee, Creek, Seminole, Choctaw, Chickasaw, Indigenous Nations, Constitutionalism, Oklahoma, and Supreme Court.

FEDERALISM AND SOVEREIGNTY OF THE TRIBE: THE FALLOUT OF *MCGIRT* AND *COOLEY*

In the current political environment, we have seen the rise in the question of sovereignty. Senator Sasse from Nebraska used his time to discuss the Constitution's civics on day one of the hearings for Amy Coney Barrett's nomination. He said that there were fundamental things that all politicians should agree upon; above all is Duncan's discussion of the principle of sovereignty.¹ Howe analyzed Duncan's argument that citizens are interested in local orientation, communitarian faith, and belief that citizens' participation in politics is sufficient and represented the American Revolution.² This thought came from the Federalists and Anti-Federalists on their view of the construction of the United States. *Federalist no. 51* shows that within the republic, the power lies with the people through the state and national government, where sovereignty is retained at each level. Sovereignty has been a continual discussion and is argued in modern discussion as state rights. However, sovereignty has always been seen in intergovernmental relations and often overlooks vital roles when dealing with the sovereignty of tribal nations.

The founding fathers were specific when they discussed the sovereignty of nations. The sovereignty given by nature and Nature's God and its restriction within the Constitution prevents the infighting between states on intergovernmental issues by restricting discussions on treaties with foreign nations to the national level, which allows for equal voice amongst the states. The equal sovereign powers can be seen close to home regarding the tribal nations with the first treaty between the United States and the Six Nations of 1794. In this treaty, the Six Nations entered into a treaty designating the boundaries of their sovereign nation and

1 Grant Duncan, "Sovereignty and Subjectivity," *Subjectivity; London* 6, no. 4 (December 2013): 412–14, <http://dx.doi.org.ezproxy.liberty.edu/10.1057/sub.2013.10>.

2 John Howe, "The Anti-Federalists and Early American Political Thought," *The Journal of American History; Oxford* 83, no. 4 (March 1997): 1383.

mutual agreement with the United States.³ Amongst the hundreds of treaties that the United States entered into, their fundamental purpose was to represent sovereign states under the title of the United States to other sovereign nations.

This paper seeks to analyze the sovereignty that the founders initially designed and how their dual federal construct has meaning within today's intergovernmental relations and the Tribal Nations. National politics has taken a unique role within the United States, often skewing the founders' factual issues upon the limited federal government. The paper seeks to analyze the question, has national federal policy suppressed state and tribal sovereignty. The article will analyze the foundations of federalism; a sample literature review focusing on federalism, state, and tribal sovereignty; identify sovereignty issues between state and tribe; discuss the citizenry acts; and review the sovereignty of the state and tribe in the twenty-first century.

HISTORICAL FOUNDATIONS OF FEDERALISM

Federalism is found throughout antiquity in various forms. First, there are biblical foundations of federalism. We see that Israel's tribal foundation had many wars that were fought, resulting in the land that the Israelites saw as their own and given by God. This was forcefully taken as the Lord said in Joshua 3:10 (New International Version) that the living God would drive out the Canaanites, Hittites, Hivites, Perizzites, Girgashites, Amorites, and Jebusites. In "Biblical Principles of History and Government," Fischer outlines the Israelite people's covenantal principles in how Christian reformers began to form the federalist theology in the late seventeenth and eighteenth century.⁴ The next form of federalism in antiquity is the ancient Greek Republic, also called the city-state. In this, Plato and Aristotle described how a Republic

³ Charles W. Eliot, ed., *American Historical Documents 1000-1904* (Danbury, Connecticut: Grolier Enterprises, 1990), 229–32.

⁴ Kahlil J Fischer, "Biblical Principles of History & Government" (Master Thesis, Virginia Beach, Va., Regent University, 1998), 49, Blackboard - Liberty University.

functions based on federalist principles in *The Republic*⁵ and *The Politics of Aristotle*⁶.

The founders of the United States introduced a new radical form of government for its period. They looked to Locke's social compact theory, which described federal power as incorporating the ability for war and peace, creating treaties and alliances, and forming compacts amongst equal partners resulting from a written constitution. According to constitutional delegate Rufus Davis, this thought was conceived in a covenant.⁷ Additionally, the process expounded upon the international sovereignty created process at the end of the Thirty-Year War. This process was the signing of the Treaties of Westphalia that created rules recognizing inherent sovereignty.⁸ The rules of sovereignty were used to enshrine the new government within the United States' founding documents. Hobbes and Bodin expounded upon the belief that a single authority holds sovereignty and that no other state can claim authority over another. The founding fathers created a unique aspect of sovereignty under sovereignty. So, Blackstone summed this theory up by saying that *imperium in imperio* or an empire within an empire cannot survive.⁹

During the Revolutionary period, the founders declared themselves free, independent, and sovereign states in placing them upon

5 Benjamin Jowett, M.A., *The Dialogues of Plato, Vol. 3 (The Republic, Timaeus, Critias) - Online Library of Liberty*, 3rd ed., vol. 3, 5 vols. (Oxford University Press, 1892), <https://oll.libertyfund.org/titles/plato-dialogues-vol-3-republic-timaeus-critias>.

6 Benjamin Jowett, M.A., *The Politics of Aristotle, Trans. into English with Introduction, Marginal Analysis, Essays, Notes, and Indices by B. Jowett.*, vol. 2, 2 vols. (Oxford: Clarendon Press, 1885), <https://oll.libertyfund.org/titles/aristotle-the-politics-vol-2>.

7 David C. Hendrickson, *Peace Pact: The Lost World of the American Founding* (Lawrence: University Press of Kansas, 2003), 22–23.

8 Dr Daud Hassan, "The Rise of the Territorial State and The Treaty Of Westphalia," 2006, 66–68.

9 Alison L. LaCroix, *The Ideological Origins of American Federalism* (Cambridge, MA: Harvard University Press, 2010), 12–14.

equal footing within the nations of man.¹⁰ However, these new states understood that they could not survive against England independently, so they created the Articles of Confederation as an alliance with minimal powers modeled after the Continental Congress.¹¹ After the War of Independence, the founders saw that the current government system lacked the central government to settle early disputes. Shays' Rebellion brought to light many of the issues with the Articles of Confederation's treaty alliance. Washington had suggested that there needed to be a revision and draft of a national government upon separation of powers and federalism.¹² In creating the Constitution, the delegates thought each state should retain its sovereignty and that by entering the "league of friendship," they were ensuring that liberties, defense, and welfare were commonly fought for under a unified front on the international scene.¹³

Madison would describe it as a "compound republic" or a partly federal system and partly national yet not whole. This belief of separate republics within a republic was about dividing power functionally on the national level and spatially across equal sovereigns.^{14,15} The states accomplished this by maintaining equality and granting limited powers to the national government.¹⁶ At the time, the states were concerned about trading one tyrant for another. This concern was heard at the convention, where

10 J. B. Shurtleff, *The Governmental Instructor, or A Brief and Comprehensive View of the Government of the United States, and of the State Governments, in Easy Lessons, Designed for the Use of Schools*, 4th edition (New York: Collins, Brother & Co, 1846), 33.

11 Shurtleff, 37; Robert V. Remini, *A Short History of the United States*, Book Club Edition (New York: HarperCollins Publishers, 2008), 54.

12 Fischer, "Biblical Principles of History & Government," 191.

13 Eliot, *American Historical Documents 1000-1904*, 158–59.

14 David Brian Robertson, *Federalism and the Making of America*, Second (New York: Routledge, Taylor & Francis Group, 2018), 36.

15 Louis Fisher and Katy J. Harriger, *American Constitutional Law: Constitutional Structures Separated Powers and Federalism*, 11th edition, vol. 1 (Durham, North Carolina: Carolina Academic Press, 2016), 313.

16 Shurtleff, *The Governmental Instructor, or A Brief and Comprehensive View of the Government of the United States, and of the State Governments, in Easy Lessons, Designed for the Use of Schools*, 40, 42.

Madison assured readers in the *Federalist* that states were distinct and independent sovereigns. He even went as far as to say that the states have an advantage over the federal government.¹⁷ This power was that each state became a sovereign nation, granted limited powers to the national government, and retained full sovereignty. Hence each state is a republican form of government, and the only way a minority can escape is to rebel and form a new nation.

Within Madison's compound republic, the tribes and states are separate from the national, with some overlapping shared authority to the national level. The founders' federal system is designed to protect the rights of the people, which can be seen in how the United States recognized the Tribes.^{18,19} Previously we discussed the Treaty of the Six Nations, yet the Constitution discusses the Tribes as independent sovereigns. Article I Section 8 Clause 3 discusses commerce amongst foreign Nations, States, and Indian Tribes set by Congress. Further Article II Section 2 Clause 2 gives the President the authority to enter into treaties with foreign governments. While Article VI Section 2 states that all treaties would become the law of the land.²⁰ This thought of sovereignty of the state, tribe, and federal government was at the forefront of thought at the end of the eighteenth century.

Nevertheless, how does this federal system of state, tribe, and nation impact today? The Constitution says that states cannot enter into a treaty, alliance, or confederation.²¹ To expound, Article I Section 8 Clause 3, Congress is the authority that can regulate commerce

17 Robertson, *Federalism and the Making of America*, 35.

18 Laurence J. O'Toole and Robert K. (Kay) Christensen, eds., *American Intergovernmental Relations: Foundations, Perspectives, and Issues*, Fifth edition (Thousand Oaks, California: CQ Press, 2013), 48–49.

19 Samuel Hutchison Beer, *To Make a Nation: The Rediscovery of American Federalism* (Harvard University Press, 1993), 292.

20 Eliot, *American Historical Documents 1000-1904*, 184–92.

21 Shurtleff, *The Governmental Instructor; or A Brief and Comprehensive View of the Government of the United States, and of the State Governments, in Easy Lessons, Designed for the Use of Schools*, 93, 130.

with foreign nations, States, and the Indian Tribes.^{22,23} These two articles in the Constitution enhance or help dictate the case for sovereignty. Fischer discusses that federalism, as defined by the construct within the United States, is a local government unit that works with a national government, thus creating separate but equal powers under covenantal principles.²⁴ According to Hendrickson's analysis of the term federalism, modern terminology would be considered internationalism or multilateralism.²⁵

Based on the historical evidence, sovereignty is inherent within the Constitution. The notion of sovereignty is also inherent within the discussion of nations. To that end, tribal nations have inhabited the United States since before its European discovery. The tribal nations considered themselves sovereign even though their definition did not match what was laid out within the Treaties of Westphalia and philosophers such as Hobbes, Locke, and Blackstone. Over the past 246 years, the United States has argued sovereignty for its people while ignoring the tribal governments' sovereign relations at one point or another. This may be partly due to the movement away from Madison's dual federalism, which recognized each foreign nation, state, and tribe as sovereign.

LITERATURE REVIEW

Before the constitutional convention, Jefferson wrote to Jean Baptiste Ducoigne, a Kaskaskia Chief, in 1781. In the letter, Jefferson tried to convey to the Kaskaskia; the United States sought to instruct in what they knew and learn to help make them wise and wealthy.²⁶ This letter let the tribe know where the United States felt they could help develop the tribal nation into a more generous

22 Eliot, *American Historical Documents 1000-1904*, 184.

23 Roxanne Dunbar-Ortiz, *An Indigenous Peoples' History of the United States* (Boston, MA: Beacon Press, 2014), 205.

24 Fischer, "Biblical Principles of History & Government," 53.

25 Hendrickson, *Peace Pact: The Lost World of the American Founding*, 22–23.

26 Robert Kagan, *Dangerous Nation: America's Foreign Policy from Its Earliest Days to the Dawn of the Twentieth Century* (New York: Vintage Books, 2006), 71.

nation and equal to the other states. Based on Jefferson's letter, Jefferson's policy followed Madison's thought that the tribe was a sovereign nation and that the Kaskaskia nation would become part of the United States as the nation developed. This literature review will look in-depth at federalism, state sovereignty, and tribal sovereignty's modern interpretation within the republic.

FEDERALISM

Federalism is described as for the public good. Hamilton argued that the Constitution's purpose is to regulate the common concern and preserve tranquility.²⁷ Bednar describes federalism as having three features: geopolitical division, independence, and direct governance.²⁸ This form of federalism looks at a traditional approach from what the United States established in 1787. However, federalism is synonymous with Hendrickson's discussion of internationalism and multilateralism in today's political landscape.²⁹ Bowman addresses federalism in the twenty-first century as being at a crossroads in that it can continue on its centralization course or revert toward the founders' original construct laid out in the *Federalist* and *Anti-Federalist* papers.³⁰

Schuck identifies federalism as a system that divides authority into national and sub-national policies that govern individuals. This distinction enhances the thought of nation-building in which the states can be built based upon descent, language, culture, or other aspects. When Schuck discusses constitutionalism, it is in discussion as an instrument of a nation for political, military, or ideological struggles.³¹ In Washington's farewell address, he

27 Alexander Hamilton, James Madison, and John Jay, *The Federalist Papers*, ed. Clinton Rossiter (Start Publishing Llc, 2013), 111.

28 Jenna Bednar, "Federalism as a Public Good," *Constitutional Political Economy; New York* 16, no. 2 (June 2005): 191, <http://dx.doi.org.ezproxy.liberty.edu/10.1007/s10602-005-2235-5>.

29 Hendrickson, *Peace Pact: The Lost World of the American Founding*, 22–23.

30 Ann O'M Bowman, "American Federalism on the Horizon," *Publis* 32, no. 2 (2002): 4–5.

31 Peter H. Schuck, "Federalism*," *Case Western Reserve Journal of International Law; Cleveland* 38, no. 1 (2006): 5–7.

describes the citizenry as Americans having the same religion, manners, habits, and political principles.³² Nevertheless, in “Negotiating Federalism,” we find that federalism is a collaborative decision-making process that formalizes collaboration.³³

Quigley and Rubinfeld address fiscal federalism considering mandates and grants. Federal mandates require states to conform to set requirements before they receive any support. Additionally, intergovernmental grants forced states to follow spending requirements and other stipulations on setting internal funding requirements.³⁴ Hebert addresses how Congress attaches strings that undercut the founders’ dual federalism concept.³⁵ These strings can be seen in many ways as Congress is trying to usurp power and authority, focusing the population and state on the benefits they receive as entitlements.

Radin and Boase discuss how the United States was designed under

32 Eliot, *American Historical Documents 1000-1904*, 236.

33 Erin Ryan, “Negotiating Federalism,” *Boston College Law School Boston College Law Review; Newton Centre* 52, no. 1 (January 2011): 5.

34 John M. Quigley and Daniel L. Rubinfeld, “Federalism and Reductions in the Federal Budget,” *National Tax Journal; Washington* 49, no. 2 (June 1996): 4–5. enumerating certain powers for the central government, while reserving others for the states. The historical resolution of these tensions has a complex political and economic history. The budget issues that have divided the Clinton Administration and the 104th Congress mirror those of the Reagan initiative in many ways. Rather than making a revision to the New Federalism of the 1980s, the current debate may well signify the beginning of a new period of retrenchment in American federalism. The debate puts the presumptions of the US’s entire federalist system under scrutiny and asks whether the current structure of responsibilities is appropriate to the 21st century. There are at least 2 ways in which appeals to federalist principles can affect the revenue requirements at the federal level, the size of the federal deficit and the economic relationship between central and local governments. These include mandates and grants.”,”container-title”:”National Tax Journal; Washington”,”ISSN”:”00280283”,”issue”:”2”,”language”:”English”,”note”:”number-of-pages: 14\npublisher-place: Washington, United States, Washington\npublisher: National Tax Association”,”page”:”289”,”source”:”ProQuest”,”title”:”Federalism and reductions in the federal budget”,”volume”:”49”,”author”:[{“family”:”Quigley”,”given”:”John M.”},{“family”:”Rubinfeld”,”given”:”Daniel L.”}],”issued”:{“date-parts”:[[“1996”,6]]},”locator”:”4-5”}],”schema”:”https://github.com/citation-style-language/schema/raw/master/csl-citation.json”}

35 F. Ted Hebert, “Federalism Reconsidered and Revitalized,” *Public Administration Review; Washington* 57, no. 4 (August 1997): 356.

Madison's checks and balances at the national and state levels.³⁶ Checks and balances show under Madison's *Federalist no. 39* that the plan to conform to republican ideals was essential and federal, not national, as he reiterates in his writings.³⁷ Federalism creates fifty sovereign nations, called states, which hold a national government on equal footing, that can handle differences between the sovereigns and address mutual concerns arising from external sources such as other sovereigns. These other sovereigns can be other international governments outside the United States' geographical boundaries or international governments within that boundary, such as the tribal nations.

STATE SOVEREIGNTY

It is a voluntary act that a state enters the Union where each state is considered a sovereign and agrees as such independent and voluntary. *The Federalist no. 39* described how the new Constitution was neither federal nor national but both.³⁸ Each state develops within its own geographical boundaries, customs, policies, and people within international law. Korowicz defined state sovereignty as a state or nation with supreme power over its territory and inhabitants and has independence over its authority. Korowicz further expounds upon the concept of sovereignty in expression within the state as being found in everyday life, such as newspapers, books, and other interactions.³⁹ This discussion of sovereignty by Korowicz is vital in confirming Madison's dual federalism.

The founder thought that the states would have "numerous and indefinite" powers, whereas the federal government is few

36 Beryl A. Radin and Joan Price Boase, "Federalism, Political Structure, and Public Policy in the United States and Canada," *Journal of Comparative Policy Analysis; Abingdon* 2, no. 1 (April 2000): 66.

37 Hamilton, Madison, and Jay, *The Federalist Papers*, 236–43.

38 Hamilton, Madison, and Jay, 240–41.

39 Marek St. Korowicz, "Sovereignty of States in Theory. Universalist and Nationalist Conceptions," in *Introduction to International Law: Present Conceptions Of International Law In Theory And Practice*, ed. Marek St. Korowicz (Dordrecht: Springer Netherlands, 1959), 23, https://doi.org/10.1007/978-94-011-9226-2_2.

and defined.⁴⁰ The concept and debate within the constitutional convention reinforced the idea of sovereignty. Even after the Constitution's passage and the Bill of Rights, sovereignty continued to play a role. In the Virginia and Kentucky Resolutions, written by Madison and Jefferson, we see the affirmation that the federal government's power resulted from a compact in which the states were parties, and it was limited. The resolutions resulted in the federal government only allowing the powers authorized within the compact and nothing more. The founders declared that each state is an integral part of both itself and joint within the compact.⁴¹

Modern interpretations lead to a decentralization of national policies. Anders and Shook discuss the fear that centralized power corrupts the state and people's liberty. Nevertheless, they still instituted a dual sovereign concept.⁴² With dual sovereignty, the states are independent sovereigns and can enter into agreements with other sovereigns. However, once the state agrees to the Constitution, they expressly give a national government some of its sovereign rights. One of these rights is the right to negotiate on their behalf for broad concepts such as treaties, alliances, and the right of war. These concepts are enshrined in the Constitution as found in Article I Section 8 Clause 3; Article I Section 8 Clause 10, 1; and Article II Section 2 Clause 2.⁴³ This concept gives Congress and the Executive branch the ability to create treaties and regulate commerce and disputes between sovereigns.

TRIBAL SOVEREIGNTY

Just as with state sovereignty, tribal sovereignty has a basis found

40 Robertson, *Federalism and the Making of America*, 35.

41 Alfred H. Kelly, Winfred A. Harbison, and Herman Belz, *The American Constitution: Its Origins and Development*, 7th ed., vol. I (New York: W. W. Norton & Co., 1991), 132–34.

42 Kathleen K. Anders and Curtis A. Shook, "New Federalism: Impact on State and Local Governments," *Journal of Public Budgeting, Accounting & Financial Management*; Boca Raton 15, no. 3 (Fall 2003): 468–69, <http://dx.doi.org.ezproxy.liberty.edu/10.1108/JPBAFM-15-03-2003-B005>.

43 Eliot, *American Historical Documents 1000-1904*, 184–89.

within international law. However, the United States has decades of treaty evidence recognizing the tribes as sovereigns, even as they subjugate the tribes to the modern state concept. Treaties that date from the period of the Revolutionary War have guaranteed sovereignty rights to the tribes. In the commerce clause, the Constitution shines the first light in that the tribal nations are sovereign entities.⁴⁴ Madison utilized examples of the difference in federal, state, and tribal authority in that states could not make agreements amongst each state or with the tribe that could lead to war requiring other states to become involved.

Additionally, Madison thought in *Federalist no 42* that the tribes would be sovereigns as the states were. They would be absolute sovereigns to the state and have partial sovereignty within the Federal government, and that there needed to be a reconciliation of the partial sovereignty so that they would have representation legislatively.⁴⁵ The recognition found in *Cherokee v. Georgia* (1831), where the Court defined the Cherokee as “domestic dependent nations,” is expounded upon in *Worcester v Georgia* (1832), which dictated that the state had no right to enter the Cherokee nation’s territory.^{46,47} The Supreme Court set precedence in *Worcester v. Georgia* (1832) conferring sovereignty in that the tribes were independent and excluded from regulation and taxation.⁴⁸ These two cases caused concern amongst the states and provided the reasoning for Andrew Jackson to implement the Trail of Tears in the name of national security.

In the early eighteenth century, Secretary of War Henry Knox believed that the tribes are foreign nations and not subject to any

44 Algeria R. Ford, “The Myth of Tribal Sovereignty: An Analysis of Native American Tribal Status in the United States,” *International Community Law Review* 12, no. 4 (2010): 397; Eliot, *American Historical Documents 1000-1904*, 184.

45 Hamilton, Madison, and Jay, *The Federalist Papers*, 265.

46 Jill Lepore, *These Truths: A History of the United States* (New York: W. W. Norton & Co., 2018), 214–16.

47 Lawrence M. Friedman, *A History of American Law*, 3rd edition (New York: Simon & Schuster, 2007), 386–87.

48 Ford, “The Myth of Tribal Sovereignty,” 398.

state.⁴⁹ This view reinforced the Court’s opinion. However, it also created tensions not seen since the constitutional convention. The Jackson administration insisted upon a unified Georgia and Constitution by placing the Cherokee and other Indian interests as second-class citizens. Jackson feared that recognizing the tribes as sovereigns would create a series of independent nations/republics within state boundaries that would cause open war. Jackson’s fear of chaos and inability to handle a diverse international construct caused him to demand the Cherokee, Creek, Seminole, Choctaw, and Chickasaw’s forced removal from lands east of the Mississippi.⁵⁰

Today all treaties are originally housed at the State Department, with the original tribal treaties transferred to the Smithsonian due to their age.^{51,52} The 1833 Muskogee Creek and United States Treaty promised the Muskogee Nation that no state or territory would pass laws over the tribes as they would be allowed to govern themselves. This was upheld recently in *McGirt v. Oklahoma* (2020), which referenced the 1832 treaty Article XIV establishing national boundaries and that under the Indian Removal Act of 1830, the tribes hold the legal land titles. Then *United States v. Cooley* (2021) affirmed tribal sovereignty by allowing tribal officers to arrest and detain non-tribal citizens.⁵³ The Supreme Court’s recent rulings show the United States needs to understand its basic founding principles and sovereignty premise is maintained.

Recent Supreme Court rulings and current treaties impact every state as they become the law of the land under the Constitution.

49 Kagan, *Dangerous Nation: America’s Foreign Policy from Its Earliest Days to the Dawn of the Twentieth Century*, 92.

50 Paul Johnson, *A History of the American People* (New York: Harper Perennial, 1999), 350–51.

51 Kagan, *Dangerous Nation: America’s Foreign Policy from Its Earliest Days to the Dawn of the Twentieth Century*, 92.

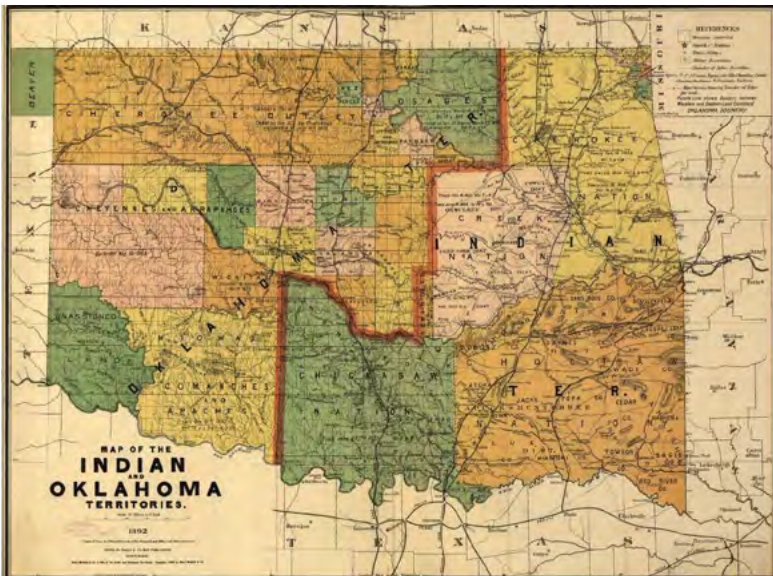
52 Nora McGreevy, “Hundreds of Native American Treaties Digitized for the First Time,” *Smithsonian Magazine*, October 15, 2020, <https://www.smithsonianmag.com/smart-news/hundreds-native-american-treaties-digitized-and-online-first-time-180976056/>.

53 Breyer, “United States v. Cooley,” June 2021, 13.

Concerning the tribal nations, Oklahoma’s future as a state had the most interaction with tribal nations than any other, even after its founding in 1907, and maintains consistent public policy interactions. However, at the end of 1892, the Oklahoma Indian territorial map in Figure 1⁵⁴ shows numerous tribal associations throughout the modern state. This territorial map is essential as, according to the *McGirt* ruling, the lands revert to tribal sovereignty. Before *McGirt*, the tribal governments relied on the state for judicial review and law enforcement of non-tribal citizenry. Additionally, the state and the tribes continually argue over taxation and other policy issues such as water ownership, child support, and citizenship. These issues required the federal government through the BIA and Supreme Court to intercede on several occasions.

54 “Map of the Indian and Oklahoma Territories,,” image, Library of Congress, Washington, D.C. 20540 USA, accessed October 16, 2020, <https://www.loc.gov/resource/g4021e.ct000224/>.

Figure 1. “Map of the Indian and Oklahoma Territories,,” image, Library of Congress, Washington, D.C. 20540 USA, accessed October 16, 2020, <https://www.loc.gov/resource/g4021e.ct000224/>.



IMPLICATIONS OF SOVEREIGNTY

Barton discusses the founding philosophy of the founding fathers. He points to the concept of divided power from Montesquieu, Washington, and Hamilton, where the Bible in Jeremiah 17:9 discusses that a will naturally gravitates towards corruption.⁵⁵ The gravitation toward corruption is essential when we focus on how the founders sought to establish the law. An example is Jefferson, who focused upon Blackstone's works that said civil laws could not contradict the laws of nature or God.⁵⁶ The laws of nature are essential when we look at the Constitution, allowing the ability to add states to the national government. In Article IV, section 3, subsection 1, we see how Congress can admit new states into the Union as long as they form a republican form of government.⁵⁷ In Jefferson's letter to the Kaskaskia, one can infer that the founders were looking toward enhancing the Union and bringing the indigenous people into the Union.⁵⁸ Founder Samuel Adams put forth that all men were bound to the supreme creator's authority within the laws of nature.⁵⁹

Five years after Jefferson's letter to the Kaskaskia, the Indian Ordinance of 1786 formalized the basis of land dealings between Tribal Nations and the United States. In this treaty, the principles

55 David Barton, *Original Intent: The Courts, the Constitution, & Religion*, 5th edition (Aledo, TX: WallBuilder Press, 2011), 221. judicial activism, and separation of church and state. A substantial appendix encompasses full texts of the founding documents, biographical sketches of numerous Founders, and extensive reference notes.,"edition": "5th edition", "event-place": "Aledo, TX", "ISBN-N": "978-1-932225-26-6", "language": "English", "number-of-pages": "560", "publisher": "WallBuilder Press", "publisher-place": "Aledo, TX", "title": "Original Intent: The Courts, the Constitution, & Religion", "title-short": "Original Intent", "author": [{"family": "Barton", "given": "David"}], "issued": [{"date-parts": [{"2011", 7}]}], "locator": "221"}], "schema": "https://github.com/citation-style-language/schema/raw/master/csl-citation.json"}]

56 Barton, 223.

57 Eliot, *American Historical Documents 1000-1904*, 191.

58 Kagan, *Dangerous Nation: America's Foreign Policy from Its Earliest Days to the Dawn of the Twentieth Century*, 71.

59 Barton, *Original Intent*, 230.

of sovereignty and the right of soil or land were established.⁶⁰ After the Revolutionary War, the Treaty of the Six Nations (1794) was negotiated between the President of the United States, with Thomas Pickering acting in negotiations, and the nations of the Mohawks, Oneidas, Onondagas, Cayugas, Senecas, and Tuscaroras. This treaty was the peace treaty defining lands and territories of the tribes that fought against the Colonies during the War of Independence. This acknowledges land within New York and Pennsylvania that would fall under their national sovereignty, provided they do not sell the land later. Additionally, it promised that the United States would not interfere with nations, tribes, or families of Indians that resided outside of those lands.⁶¹

These three documents show how the founders sought to establish international relations with the tribes to protect their state and national security. The legality of these treaties allowed the United States to be the mediator between the state and tribe in question. This also led to the development of the Department of State to conduct international negotiations with the tribes that the United States claimed as land territory. In 1820 the United States had conducted over two hundred treaties with the different Indian nations.⁶² However, as the United States expanded, those elected to represent the states did not exercise appropriate statesmanship by honoring the treaties. The military has a saying that the best-laid plan cannot survive the first contact. The same can be said regarding how the United States has treated the tribal nations. Treaties such as the 1830 Cherokee Treaty, 1832 Muskogee Creek Treaty, 1856 Creek Treaty, 1856 Seminole Treaty, and 1866 Creek Treaty outlined the ever-changing national boundaries. The Supreme Court ruled that only Congress can alter the terms of a treaty, according to *South Dakota v Yankton Sioux* (1998). While states interact and respect the tribal nations within their

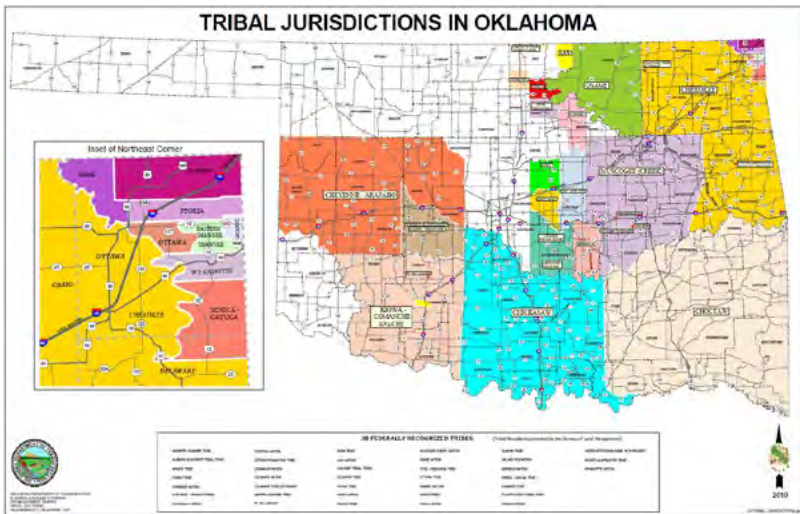
60 Larry Schweikart and Michael Allen, *A Patriot's History of the United States: From Columbus's Great Discovery to the War on Terror* (New York: Penguin Group, 2007), 104.

61 Eliot, *American Historical Documents 1000-1904*, 229–32.

62 Hendrickson, *Peace Pact: The Lost World of the American Founding*, 265.

current state boundaries, the overarching relationship is the tribal nation with the United States and not the tribal nation with the state. Oklahoma is a prime example of this relationship. Within the state, 38 federally recognized tribes have substantial national boundaries, as indicated in figure 2.⁶³

Figure 2. Bureau of Land Management. "Tribal Jurisdictions in Oklahoma." Oklahoma Department of Transportation, 2010. https://www.ok.gov/health2/documents/map_tribal_jurisdictions.pdf.



CITIZENRY ACTS

One of the founding concepts of sovereignty is the ability to determine territory, as we have seen. Another is the ability of the people to have a common thread that ties them together. In his farewell address, Washington addressed this amongst the United States as having the same cultural ties of religion, manners, habits, and principles.⁶⁴ These same principles can be applied to tribal nations even today. In the 1820s, John Payne argued that the tribes

63 Bureau of Land Management, *Tribal Jurisdictions in Oklahoma* (Oklahoma Department of Transportation, 2010), https://www.ok.gov/health2/documents/map_tribal_jurisdictions.pdf.

64 Eliot, *American Historical Documents 1000-1904*, 236.

had a written language, schools, churches, laws, employment, and a constitution.⁶⁵

However, the United States Congress treated the tribal nations as domestic dependent nations that the Supreme Court ruled in 1832 and disregarded their interests.⁶⁶ This can be seen with the passage of the 1871 Indian Appropriation Act. This act allowed Congress to halt all treaty-making with the Tribes and treat them as genuinely domestic dependent nations just as the states were being treated. The 1871 act effectively said the United States would no longer acknowledge the independent sovereignty of the Tribes.⁶⁷ Then in 1887, the Dawes Severalty Act authorized Native Americans the right of United States citizenship. However, it also allowed the federal government to divide Indian lands into allotments.⁶⁸ With the Indian Citizenship Act of 1924, Congress granted fiat citizenry to all tribal members.⁶⁹ We find that since the Marshal Court ruled the Cherokee as “dependent domestic nations,” the federal government has increasingly treated them on an uneven playing field.

SOVEREIGNTY OF STATE AND TRIBE IN THE TWENTY-FIRST CENTURY

As with any sovereignty, the average citizen expects the government to mainly; protect life, property, laws of marriage, inheritance, chartering and control of businesses, banking institutions, insurance, enforce laws, punish crimes, ensure public education, and create other societal aspirations.⁷⁰ God created man in his image, and as Locke discusses in the compact social theory, a man joins society for security. Locke further discusses that laws are created under natural law and for the betterment of man

65 Lepore, *These Truths: A History of the United States*, 214.

66 Lepore, 215.

67 Dunbar-Ortiz, *An Indigenous Peoples' History of the United States*, 142.

68 Lepore, *These Truths: A History of the United States*, 337.

69 Lepore, 408.

70 David Saville Muzzey, *The American People*, 1st edition (Boston: Ginn & Company, 1929), 169.

through the divine interface.⁷¹ Today, many tribes refer to the 1887 Dawes commission as the base for determining tribal citizenry and those who are not. However, the forced removal throughout the nineteenth century by assimilation of those not on reservation land into the local states has allowed many tribes not to acknowledge citizens that were not on or removed from the ‘roles.’ This disregarded those of indigenous heritage by not allowing them to seek their heritage just because they did not leave their lands in the east. Dunbar-Ortiz addresses some of this in the notion of “blood quantum” to qualify as indigenous.⁷² However, the theory of “blood quantum” was derived for the Dawes Rolls and requires proof of lineage to the various Indian registration rolls and not valid DNA measurements which may show mixed-race or non-indigenous relations.

In the summer of 2020, the Supreme Court heard *McGirt v Oklahoma*’s case (2020). This case challenged that Oklahoma’s state did not have the authority to try tribal citizens within the state court if the crime occurred on reservation land. Oklahoma argued that the reservations ceased after the formation of the state in 1907, as tribal chiefs were amongst those who formed the state constitution. However, the Court found in favor of McGirt and ruled that reservations were never abolished and that the tribal nations are sovereign.⁷³ This ruling calls into question the ambiguity of Oklahoma’s state, as it effectively ruled that 19 million acres are now tribal land in which state jurisdiction becomes unclear as millions of non-native citizens live and own homes within the reservations.⁷⁴ The Smithsonian article announcing the new

71 Barton, *Original Intent*, 224.

72 Dunbar-Ortiz, *An Indigenous Peoples’ History of the United States*, 170.

73 Ronald Mann, “Opinion Analysis: Justices Toe Hard Line in Affirming Reservation Status for Eastern Oklahoma,” SCOTUSblog, July 9, 2020, <https://www.scotusblog.com/2020/07/opinion-analysis-justices-toe-hard-line-in-affirming-reservation-status-for-eastern-oklahoma/>.

74 Mann; Jack Healy and Adam Liptak, “Landmark Supreme Court Ruling Affirms Native American Rights in Oklahoma,” *The New York Times*, July 11, 2020, sec. U.S., <https://www.nytimes.com/2020/07/09/us/supreme-court-oklahoma-mcgirt-creek-nation.html>.

database of tribal treaties acknowledges the Supreme Court case and caveated that “no land changed hands.”⁷⁵

The new decision has caused unresolved issues within Oklahoma’s state due to the Court noting that the selling of land does not alter sovereignty.⁷⁶ This calls into question many civil expectations that a citizen would have. For instance, before the 2020 Supreme Court ruling, the state of Oklahoma’s government oversaw all the regulations from environmental to commerce unless there were federal guidelines, such as with the gaming commission. However, *The Oklahoman* raises the concern of whether the state can now legally regulate the oil and gas industry, which is prevalent within the reservations that have been deemed sovereign. New cases that challenge the sovereignty and federal relations are rising through Courts even as this article is typed. If ruled in favor of the plaintiff, as with *McGirt v Oklahoma* and *United States v Cooley*, the new legal cases will continue to question the legal right of non-Indians on reservation land.⁷⁷ Additional research into the federalist construct, independent sovereignty of the tribe, and how the rights of tribal and non-tribal members will be impacted across the United States.

DISCUSSION

Today sovereign tribal nations continue to battle for recognition. The latest Court rulings bring to light new areas that must be addressed, and according to James 3:17, it can be accomplished with wisdom, peace-loving, consideration, and mercy while being impartial and sincere. The *McGirt* and *Cooley* rulings are just the

75 McGreevy, “Hundreds of Native American Treaties Digitized for the First Time.”

76 Dominga Cruz, Sarah Deer, and Kathleen Tipler, “Analysis | The Oklahoma Decision Reveals Why Native Americans Have a Hard Time Seeking Justice,” *Washington Post*, July 22, 2020, <https://www.washingtonpost.com/politics/2020/07/22/oklahoma-decision-reveals-why-native-americans-have-hard-time-seeking-justice/>.

77 Jack Money, “Oklahoma’s Authority to Regulate Oil and Gas Activity Is in Question after McGirt Decision,” *Oklahoman.com*, October 15, 2020, <https://oklahoman.com/article/5673962/oklahomas-authority-to-regulate-oil-and-gas-activity-is-in-question-after-mcgirt-decision/>.

tip of what needs to be addressed. As news agencies have alluded to, there are issues within the sovereign lands, such as native versus non-native. Before the ruling, the non-tribal citizenry believed they lived there legally and with terms of good faith. Parents bought land and raised families on land that is now reservation land and a sovereign nation. However, the tribal nations do not see them as citizens but as invaders or usurpers. If the national boundaries revert to the boundaries discussed in *McGirt*, then the land rights discussion must also be addressed. The national government must address this new crisis that is rising in the courts. The implications to rulings in the future could see the tribal nations receive their full international sovereignty, including their borders, and see a displacement of millions of non-tribal Americans within a foreign territory. Nevertheless, agreements would need to be reached as tribal citizens also live on non-tribal land across the United States.

In addition to the land rights question, questions arise from the *McGirt* ruling in the form of the non-tribal and tribal citizenry. The 1924 Indian Citizenry Act recognized all indigenous as citizens of the United States yet did not give each tribe a voice within Congress's halls but integrated their representation within the existing states. Does this mean that the tribal nations should receive representation in the Senate and House, just as the Constitution dictates for sovereign states? If so, how does the current allocation of representation validate or invalidate the sovereignty of tribal nationality, let alone the states' sovereignty?

The Supreme Court and Congressional acts show that the Tribes should now be states since they have met the Constitution's requirements and recognition by the federal government and its agencies. Should each tribe, therefore, receive at least one representative and two senators, as the Constitution dictates? According to the *Federal Register*, over 574 tribal entities are recognized by the United States even if half of the tribes were at the point to form their republic, as required in Article IV and ordered under the Indian Reorganization Act (IRA) of 1934; there would

be an increase of 574 senators.⁷⁸ If all 574 tribes were eligible, it would increase the Senate by 1,148 votes.⁷⁹ Simultaneously, the House of Representatives would increase to a minimum of 624 as each tribe and state would have at least one representative. The allocation of the House of Representatives would have to change fundamentally to accommodate the influx of new representation since the Permanent Apportionment Act of 1929 limited the number of representatives to 435, with each sovereign state receiving at least one representative.⁸⁰

In terms of elections, the sudden increase of electoral votes and congressional votes within Congress would change the country's political dynamics. It would be vital that America return to the federalist and moral foundations that have been eroded over the last century and a half. While the founding fathers provided a solid biblical foundation for relating and interacting with the tribal nations, their successors have failed the country and the Divine Orator. The federalism model Madison put forth in dual federalism has been lost through the progress of Manifest Destiny that Jackson, Monroe, and others put forth.^{81,82} The trampling of the divine rights promised by God and enshrined in the Declaration of Independence, Constitution, and Bill of Rights needs to be addressed within the soul of everyday Americans.

CONCLUSION

This paper has raised issues concerning the incorporation of the tribal nations into the federalist construct of the United

78 "Indian Entities Recognized by and Eligible To Receive Services From the United States Bureau of Indian Affairs," Federal Register, January 30, 2020, <https://www.federalregister.gov/documents/2020/01/30/2020-01707/indian-entities-recognized-by-and-eligible-to-receive-services-from-the-united-states-bureau-of>.

79 Dunbar-Ortiz, *An Indigenous Peoples' History of the United States*, 215.

80 "The Permanent Apportionment Act of 1929 | US House of Representatives: History, Art & Archives," accessed October 16, 2020, <https://history.house.gov/Historical-Highlights/1901-1950/The-Permanent-Apportionment-Act-of-1929/>.

81 Lepore, *These Truths: A History of the United States*, 199.

82 Kagan, *Dangerous Nation: America's Foreign Policy from Its Earliest Days to the Dawn of the Twentieth Century*, 181.

States under the ICA, IRA, Supreme Court, and Congressional recognition. Previously the tribes were considered sovereign independent nations, as guaranteed them under natural law, in which the founding fathers sought for them to take their sovereign place amongst the world. Chief Justice John Jay stated that “natural law was given by the Sovereign of the Universe to all mankind.”⁸³ Nevertheless, the Supreme Court under Marshal ruled them to be domestic dependent nations subordinate to the United States in 1832. Subsequent rulings and congressional actions led to the tribes receiving citizenry status but without governmental representation. The question raised with recent Court rulings is how to allow the tribes to regain their rightful internationally recognized sovereignty or become sovereign states as indicated by the Marshal court, which declared the tribes’ domestic sovereign nations.

Further research into whether the tribes should be given statehood or territory status must be debated and brought before the American people. Questions as to whether the state of Oklahoma is valid could also rise. According to Figure 1 and Figure 2, much of the Oklahoma land claimant falls under reservation land and needs to be appropriately addressed per the *McGirt v. Oklahoma (2020)* and *United States v. Cooley (2021)* ruling. The Supreme Court ruling also raises sovereignty concerns for tribes in other states such as the Lakota, Ypik, Navajo, Seneca, Crow, and many others. Additionally, the citizenry’s representation is called into question on being duly represented at the federal level, with each sovereign’s voice being heard appropriately.

This paper sought to address the suppression of tribal sovereignty through national policy, yet through the analysis of Congress and the Supreme Court rulings and historical actions, we see more questions instead of answers. However, as noted, much of the national government has tried to implement federalist policies while ignoring fundamental sovereignty. With the implementation

⁸³ Barton, *Original Intent*, 231.

of *McGirt* and *Cooley*, the question of representation of the tribe within Congress must be addressed. Additionally, once the sovereignty issue has been adequately adjudicated, the citizenry of non-tribal members within the Tribal nations must be addressed. The Treaties of Westphalia delineate national sovereignties and the rights of the citizenry. Recently, issues have arisen within the Cherokee Nation of Tahlequah regarding the Freedmen and their tribal rights to vote and run for office. Whether the Tribes become states or independent nations, the citizenship of all people living on tribal lands needs to be addressed. Citizenship needs to be addressed because the Supreme Court ruling states that the Tribes have sovereign jurisdiction within their borders, affecting non-tribal citizens who do not have a vote on the council. States will have the most significant impact as the Tribes become sovereign due to state citizens in tribal jurisdiction having no vote within the tribal councils. In the case of Oklahoma, figure 2 shows the majority of the state belongs to tribal nations, as the jurisdiction map of 2010 shows. This impact of representation will place neighbors on edge as laws and jurisdiction outcomes can be changed without the required representation. This is an area that requires further policy analysis both within state and tribal governments.

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BOOK REVIEWS

Karlos K. Hill. 2021. *The Tulsa Race Massacre: A Photographic History*. University of Oklahoma Press, 274 pages.

Dr. Karlos Hill's powerful but stark pictorial history is dedicated to the victims and survivors of the 1921 Tulsa Race Massacre. It deserves a place on the shelf of every person in Oklahoma and everyone who is interested in racial justice. Never again will the people of Oklahoma be able to turn away from the gruesome history of the Tulsa Race Massacre and its aftermath.

The forward to the book is written by Oklahoma State Senator Kevin Matthews who is the Founder and Chair of the 1921 Race Massacre Centennial Commission. He notes that Oklahoma is the only state in which the first Black president – Barack Obama – did not win even one county in the 2008 Presidential Election, suggesting that the political climate of the State of Oklahoma may not have changed so much in the last 100 years. He also notes that Oklahoma is eager to commemorate the 1995 Oklahoma City Bombing of the Murrah Federal Building yet the Tulsa Race Massacre which killed and affected many more people went unknown and unrecognized for many decades within the state.

The introduction to the book is important for people not familiar with the events of the Tulsa Race Massacre. Many details of the events are retold. Important is the debate about the change of label from "Race Riot," as it was known until the last few years, to "Race Massacre" which more properly describes the events. The book itself is a spare presentation of the photos and information but it is fully footnoted for readers who want to dig deeper into the information. Maps of the Greenwood area of Tulsa are also provided.

The corpus of the book is photographs. They are arranged chronologically and put into six chapters: "The Massacre,"

“Internment,” “Angels of Mercy,” “Refugees,” “Rebuilding and Renaissance,” and “Remembering the Survivors.”

The photos of Greenwood before the Massacre are haunting because it is known to the reader that these solid brick buildings and smiling faces are fleeting. They cannot last in an America that seek their annihilation. For example, the Williams Dreamland Theater opened in 1914 as the first Black movie theater in Tulsa and one of the only Black entertainment spaces in the state. Its sign will be familiar to those who watched the HBO drama “Watchman” which set scenes during the Tulsa Race Massacre. Even the name of the theater evokes a nostalgia for a time where Black spaces were allowed to exist unmenaced. The “dream” was not to last. Other photos show smiling Black people in dress clothes in shiny cars, solid wood-sided houses, and brick school buildings. In other words, an affluent or at least solidly middle-class Black oasis once existed in the Greenwood District of Tulsa. This Black oasis was an affront to racist whites. As Walter White wrote in *The Nation* in 1921, “This fact has caused a bitter resentment on the part of the lower order of whites, who feel that these colored men, members of an ‘inferior race,’ are exceedingly presumptuous in achieving greater economic prosperity than they who are members of a divinely ordered superior race.”

In “The Massacre” section, the photos are disturbing. The quotes from survivors are disturbing. Survivor Rosa Davis Skinner’s husband told her, “I don’t know what it’s going to be, but it’s going to be some kind of destruction” (p. 32). During that summer, racially motivated violence hung in the air. By 1921, 31 people had been lynched in Oklahoma and 26 of these people were Black. The 2001 novel *Fire in Beulah* by Rilla Askew captures in fiction the anxiety that was felt. In 1920, white taxi driver Roy Belton was lynched in Tulsa. The next day, a Black man named Claude Chandler was taken from the Oklahoma County jail and lynched seemingly in retaliation. Fear hung over both communities. When the young Black man Dick Rowland bumped into a white woman

in an elevator in Tulsa, that was all the provocation that was needed for the tinderbox of hatred to explode into destructive violence. The photos in this book show elderly Black people shot dead and their bodies burned. The photos also show white people standing idly by or guarding their piles of new possessions looted from Black homes with their shotguns.

If the Race Massacre and burning of Greenwood wasn't bad enough, after the massacre, Black people were rounded up and interred at locations like the Convention Hall (now the Tulsa Theater) and the Tulsa Fair Grounds. As many as 500 white men were deputized during the Race Massacre to kill and round up about 4000 Black people in trucks and wagons. The Oklahoma National Guard marched Black people to McNulty Ball Park for "protection" (p. 114). Black people were detained until a white person such as an employer could sign for them. Once vouched for, Black workers were tagged with a large oaktag sign that said "WORKMAN." Many Black Tulsans who owned their own businesses or never worked for white people had to identify a white friend or someone else to come and vouch. The Red Cross passed out Identification Cards for Black people that they were forced to carry and show to white people and the police.

As the 100th Anniversary of the Tulsa Race Massacre recedes into our memories, we must seek to refresh and renew our horror at the events. This volume of photographs and memories is the perfect tool to remember with frankness and clarity what happened in Tulsa on June 1, 1921.

Christine Pappas
East Central University

Michael J. Hightower. 2021. *At War with Corruption: A Biography of Bill Price, U.S. Attorney for the Western District of Oklahoma*. 2 Cities Press, 466 pages.

Michael Hightower has produced a compelling and richly detailed life of Bill Price that is a very interesting read and for anyone living in the State of Oklahoma during the time that much of this work covers, it will be especially meaningful and riveting. As someone who grew up in Oklahoma City during many of these events, this work especially resonated with me. This work would make a fine addition to an academic course or any individual interested in mid-twentieth century to early twenty-first century Oklahoma politics and the sordid, corrupt political environment of our state during this period of time.

The work is divided in to three sections: *Prologue*, *The Arena* and it concludes with *From Whom Much is Given*. Each of these sections chronicles a particular period of Mr. Price's personal and political/legal life.

In the section "prologue", the author tells of the arrival of the Price family to Oklahoma and the early developing lives of the Price family. Quickly the author explores the formative period of Mr. Price's life, from his early years in Oklahoma City, his involvement with the Teen Age Republicans, his exposure to state and local politics and them a culmination with his first experience with corruption, the Oklahoma State Supreme Court scandal. The author continues to tell the story of Mr. Price's experiences in Washington D.C., his early work as an attorney, and the start of a career that would lead him to becoming a champion fighting against corruption.

In the section "the Arena", the first up-close and direct involvement with state corruption came in the form of a popular Governor,

David Hall. While Mr. Price's involvement in the case was not on the front lines as a litigator, Mr. Price honed his skills by doing the "behind the scenes" work of preparing legal briefs and performing important investigatory work that eventually led to the conviction of a towering figure in Oklahoma politics (I remember this well). "The Arena" also described Mr. Price's rise to become an Assistant U.S. Attorney and the emergence of figures that included Drew Neville, Charlie Waters, Ralph Thompson, and Frank Keating – a sort of young, energetic group of leaders who would make their mark on the law and politics.

Then came what was to become the most wide-spread scandal in Oklahoma political history, the Oklahoma County Commissioners scandal – known as "Okscam." What began as an audit into the practices of bidding and purchases at the county level in the late 1970s, exploded into a nearly state-wide blanket of corruption which quickly made it to the national news and the comic strip "Doodlesbury," a major embarrassment to the state. Mr. Price was a central figure in bringing the commissioners to justice, and restoring the reputation of a state that had been badly damaged on a national scale. And as pointed out by the author, Mr. Price's efforts did not come without a threat of personal harm. In fact, the drug cartels, domestic drug dealers and other white collar criminals that Mr. Price would encounter were much less a threat compared to the friends and family of corrupt county commissioners. Then, as if almost not to be topped, the Penn Square National Bank collapse occurred in the early 1980s. This collapse happened due to in large part to over-speculation and risky investment deals in the oil and gas industry which quite nearly brought down the world banking system (on this I recommend *Belly Up* by Phillip Zweig). The author, through interviews with Mr. Price and many others describe the difficulties associated with the prosecution of these cases. Mr. Price took it upon himself to educate law enforcement and prosecutors on methods to approach these cases.

In the final section of the work, "From Whom Much is Given,

Much is Expected,” the author describes the effort of Mr. Price in creating organizations to combat social problems, most notably the Oklahoma Alliance Against Drugs. Mr. Price’s experience with fighting drug crime, and other problems associated with this area of crime compelled him to go beyond the formal legal setting. Mr. Price went on to serve as the acting director of the Department of Human services. Mr. Price also worked with the U.S. Attorney General in developing law enforcement legislative committees with the goal to improve and modernize law enforcement procedures. Unfortunately, even with Mr. Price’s stellar record regarding the fight against corruption and all the other civic-minded projects he led, these efforts did not transfer to successful electoral politics. The combination of a poor political environment and a very good primary opponent which Price defeated narrowly, resulted in the draining of his resources which left him vulnerable. The formidable general election candidate David Walters exposed the vulnerabilities which ultimately led to Mr. Price’s defeat in 1988. This defeat prompted Tom Cole to comment that Mr. Price was “the best governor Oklahoma never had.” Mr. Price went on to run for a Congressional seat, but lost that contest as well.

As previously indicated, Michael Hightower has produced an excellent work that should be read by anyone interested in this period of Oklahoma’s political history. The work is an exhaustive effort, which thoroughly chronicles Mr. Price’s contributions to the state of Oklahoma. And, in the end, fully humanizes his subject.

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2000-2001	William Gorden, Redlands Community College
2001-2002	Richard Johnson, Oklahoma City University
2002-2003	Jason Kirksey, Oklahoma State University
2003-2004	Frank S. Meyers, Cameron University
2004-2005	Keith Eakins, University of Central Oklahoma
2005-2006	Michael Sharp, Northeastern State University
2006-2007	Kenneth Hicks, Rogers State University
2007-2008	Rick Vollmer, Oklahoma City Community College
2008-2009	Rick Farmer, Oklahoma State House of Representatives
2009-2010	Tony Wohlers, Cameron University
2010-2011	Christine Pappas, East Central University
2011-2012	Steve Housel, Rogers State University
2012-2013	John Wood, Rose State College
2013-2017	Tony Wohlers, Cameron University
2017-2018	Christine Pappas, East Central University
2018-2019	James P. Davenport, Rose State College
2019-2020	Christine Pappas, East Central University
2020-2021	Shanna Padgham, Oklahoma City Community College



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