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The Ozark Historical Review

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Editor's Note

The Ozark Historical Review brings together works by history students at the graduate and undergraduate level. Although thematically varied, this issue's articles remind us of history's vital role in helping us think about our current moment. Sometimes, as in Austin Jones's article on legal aid, the resonances are obvious: as he points out, debates about the American legal system from early twentieth century America continue to this day. Casey Self's essay on a "radical" Catholic anti-war movement of the mid-twentieth century is discussed as a feature of its times, but it also implicitly provides food for thought for our own days that continue to witness friction between ideas of political resistance, matters of conscience, and faith. Rachel Widmer's essay on the perceived link between tuberculosis and vampirisms might at first blush seem foreign, but upon closer inspection it reports on a source-base —newspaper articles— that might speak to the intersection of science, journalism, and traditional beliefs. Finally, this issue includes a "Historical Note," which is not the fruit of primary research, but sheds light on a historical theme based on recent scholarship. In this case, Nathan Harkey discusses the structures of early modern Spain and in doing so reminds us of the ever-important relationship between rulers and their advisors in defining the way politics works.

Casey Self

On May 17, 1968 in Catonsville, Maryland, nine Catholic protesters raided a draft board building in broad daylight, taking hundreds of A-1 draft papers. Putting the papers in tin trash cans in the draft board parking lot, the seven men and two women lit the papers on fire with homemade napalm in a show of opposition to the Vietnam War. Shockingly, two of these protestors— Phillip and Daniel Berrigan— were priests and biological brothers. This act of resistance became famous overnight and marked an important moment in Catholic peace activism, splitting the movement in the process.

The roots of the Catholic peace movement can be traced back several years before this incident to the issuing of Pope John XXIII's encyclical, *Pacem in Terris* (Peace on Earth) in 1963, which allowed figures such as Dorothy Day and Thomas Merton to continue to speak out against the Vietnam War and nuclear proliferation in the early 1960s. This activism drew the respect and support of many individuals, including the Berrigan brothers, whose own writings were in fact published in the *Catholic Worker*, the main written outlet for the Catholic Peace Movement. Following suit, Jim Forest, the managing editor of the *Catholic Worker*, started the Catholic Peace Fellowship in 1964, a protest group with very close ties to the *Catholic Worker*. Both groups formed a cohesive Catholic peace movement. Yet despite the unity this Catholic activism group first possessed, the cohesion of the Catholic anti-war movement suffered a devastating blow in 1968.

Peace on Earth

The 60's are often remembered as a time of social, cultural, and political upheaval. Segregation, the Cold War, and the Vietnam War were at the forefront of many citizens' minds. Unsurprisingly, the abundance of these problems often sparked conflict, which sometimes began peacefully, but often ended in violence. While the world experienced change at an unprecedented rate, an unlikely institution jumped into the chaos after remaining largely unchanged for centuries. On January 25, 1959, Pope John XXIII announced the calling of an ecumenical council as a result of a "sudden flash of inspiration."¹ Looking at his decision in retrospect, it is clear that the calling of the Second Vatican Council was Pope John's solution for looming problems.

During the 60's, the world developed rapidly, and the Catholic Church was in danger of being left behind. Inventions such as cars, electricity, phones, and television changed the way many people, especially Americans, lived. More importantly, the introduction of atomic warfare completely altered the way people thought about

¹ John XIII, "Library: Opening Address to the Council. 1962," CatholicCulture.org. Accessed April 17, 2018. <https://www.catholicculture.org/culture/library/view.cfm?recnum=3233>.

military conflicts. The Church needed a second wind and Pope John XXIII provided the Church with its response to the post-modern world by saying, “What is needed is that this certain and immutable doctrine, to which the faithful owe obedience, be studied afresh and reformulated in contemporary terms.”² This reformulation was off the cuff and open to suggestions, as theologians and clergy from around the world sought to have their input heard by the council.³ It was through this open-ended process that the seeds of non-violent, anti-war resistance began to spring up out of the Catholic community as both laymen and clergy began to speak out.

On the morning of April 11, 1963, Pope John XXIII issued an encyclical, *Pacem in Terris*, to bishops and priests worldwide to address moral, religious, and political issues. Addressing all mankind, the encyclical left a lasting impression on the Catholic Church and sent shockwaves throughout America. In light of the events of the Cuban Missile Crisis, as well as the military conflicts around the globe, the encyclical intended to spread a message of “peace on earth, which men of every era have most eagerly yearned for.”⁴ Issues of human dignity and basic human rights were an important aspect of the letter, while the political right of assembly, association, and the responsibility of public authority were key to its widespread success.⁵

It is also due to the success of *Pacem in Terris* that an official Catholic peace movement came into prominence in the 60’s. The first major player to help lead this movement was Dorothy Day (1897-1980), a Catholic convert, who is most famous for founding the weekly newspaper the *Catholic Worker* in 1933 and for supporting a series of charity houses.⁶ Through the *Catholic Worker*, Day addressed a wide array of issues such as the treatment of Jews in Germany and the unequal distribution of wealth. The *Catholic Worker* is often described as Day’s greatest accomplishment and she continued writing well into the 60’s. While she was known for being charitable and outspoken against perceived injustices, she was also seen as a radical leftist who harbored communist sympathies.⁷ Left-wing views and her habit of being arrested at public protests left her labeled as a public oddity,⁸ while the *Catholic Worker* had a reputation as being a mouthpiece for “Church Liberals.”⁹

² Ibid.

³ James Terence Fisher, *Communion of Immigrants: A History of Catholics in America* (Oxford: Oxford University Press, 2008),138.

⁴ John XXIII, *Pacem in Terris: Addressed to All Mankind* (Boston: Pauline Books & Media, 1998), 1.

⁵ Ibid., 8-9.

⁶ Kate Hennessy, *Dorothy Day: The World Will Be Saved by Beauty: An Intimate Portrait of My Grandmother* (New York: Scribner, 2017),76-77 and 83.

⁷ Dorothy Day, *On Pilgrimage: The Sixties* (New York: Curtis Books, 1972), 147-148.

⁸ Jim Forest, "Thomas Merton and the Catholic Worker: Ten Years After." January 26, 2015. Accessed April 23, 2018. <http://jimandnancyforest.com/2015/01/thomas-merton-and-the-catholic-worker-ten-years-after/>.

⁹ Daniel Berrigan, Philip Berrigan, and Daniel Cosacchi, eds. *The Berrigan Letters: Personal Correspondence between Daniel and Philip Berrigan* (Maryknoll: Orbis Books, 2016), 47.

Furthermore, the number of outlets available for voicing of anti-war sentiments were limited and suppressed by Church censorship. Yet with the influence of *Pacem in Terris*, anti-war writings became more acceptable and the *Catholic Worker* became the perfect medium for Catholic peace activists. The *Catholic Worker* made itself known as one of the most widely read Catholic publications in the United States— 100,000 copies of the paper were printed each month.¹⁰ Well known and widely read among the Catholic community, the *Catholic Worker* was home to many influential writers. Perhaps the most influential of these journalists was Fr. Thomas Merton, a Trappist priest, skilled theologian, and one of the greatest allies of the Catholic Peace Movement.

Merton and Censorship

Thomas Merton (1915-1968), who became a Catholic in 1938 and in 1941 entered the Abbey of Our Lady of Gethsemane, a Trappist monastery in Kentucky, first took an interest in peace activism during his time at boarding school following the death of his father in 1931. Taking a keen interest in the activism of Mahatma Gandhi, Merton was introduced to the concept of *Satyagraha*, peacefully seeking the conversion of an opponent rather than his humiliation. Merton was so moved by Gandhi's concept of non-violence that in an early show of peaceful protest, he entered a public debate at his boarding school, arguing that the people of India had every right to expel the British from their country.¹¹ This concept of non-violence was the mantra of Merton's life, and would find its way into many of his later publications in the *Catholic Worker*.

By the time that Merton came into contact with Day in the mid-50's, he had already forged a substantial literary legacy for himself. His stay in a cloistered monastery, shut off from the rest of the world, gave him extensive time to think and express himself in writing. His greatest work up to that point was his autobiography, *The Seven Storey Mountain*, released in 1948, which enthralled thousands and could be found on bookstands and stores across the country. The story of a young man finding his way to the Catholic Church and into cloistered clerical life intrigued and inspired many. At the height of the book's fame, it was even compared to Saint Augustine's *Confessions*.¹² However, *The Seven Storey Mountain* was also a surprise given its supportive stance on conscientious objection, a stance with which many Catholics were not accustomed during the 40's. Nevertheless, Merton's contact with Day would radically change the degree to which he wrote and talked about war. Merton's first writings with

¹⁰ "Work Hard, Pray Hard: [An Interview] On Dorothy Day and Thomas Merton." USCatholic.org. November 2011. Accessed April 18, 2018. <http://www.uscatholic.org/culture/social-justice/2011/09/work-hard-pray-hard-dorothy-day-and-thomas-merton>.

¹¹ Jim Forest, *The Root of War Is Fear: Thomas Merton's Advice to Peacemakers* (Maryknoll: Orbis Books, 2016), 2-3.

¹² *Ibid.*, 19-20.

the *Catholic Worker*, beginning in 1961, began a short prelude of Catholic Peace writings that were largely snuffed out due to the Catholic Church's censorship.¹³

In the fall of 1961, when Merton wrote his first publication for the *Catholic Worker*, he had already corresponded with Day for several years. Although he never met Day in person, it was through this correspondence that Merton decided to take what little action he could. Reflecting on writing in his journal, Merton said: "I have been considering the possibility of writing a kind of statement 'where I stand,' as a declaration of my position as a Christian, writer and a priest in the present war crisis. There seems to be little I can do other than this... This statement would be for the Catholic Worker. As a moral decision, I think this might possibly be a valid step toward fulfilling my obligations as a human being."¹⁴

The statement that he made on September 30, 1961, was on the front page of the *Catholic Worker*. Originally a four-page chapter in his book *Seeds of Contemplation*, published in 1949, the chapter had been largely revised and turned into a ten-page article called "The Root of War is Fear." This article marked Merton's definite entry into the anti-war movement, but also made waves among the Catholic community in the process. Jim Forest, the managing editor of the *Catholic Worker* and a dear friend of Merton, stated that on the day as "The Root of War" was published, the *New York Times* published an essay written by the Jesuit and theologian Fr. McHugh. Originally printed in the magazine *America*, McHugh's essay "Ethics at the Shelter Doorway" argues that it is the right of American Christians to defend themselves against the godlessness of communism and that "a misguided charity... makes sure that no one will survive."¹⁵ McHugh, while not opposed to charity, saw the threat of communism as too great and that non-violence, as Merton suggested, was the equivalent of destruction.

It was this "do or die" mentality of McHugh's essay that greatly disturbed Merton. In one of his letters to Jim Forest, Merton states, "The big question is indeed to save the Christian faith, but if we strive to save it with bombs and nuclear submarines we are going to lose it."¹⁶ His mentor, Gandhi, had taught Merton that the key to saving Christianity was peaceful protest, but the Catholic Church was not yet on his side. As proof of this, while McHugh's article passed through the Catholic Censorship to be published, Merton intentionally hid paragraphs of his article from his abbot in order to get it published. As a consequence, Merton was forbidden from publishing any more articles or books. His abbot told him that he would better influence the world through prayer and a withdrawn life, rather than through his writings. For many priests and bishops, Merton's writings on war were "unwarranted"

¹³ Ibid., 49, 91.

¹⁴ Ibid., 18.

¹⁵ Ibid., 29.

¹⁶ Ibid., 32.

and ignored “authoritative Catholic utterances.”¹⁷ Thus, Merton found himself on the losing side of Catholic theology at the time.

On top of causing a stir among the Catholic hierarchy, the article also attracted unwanted attention from the U.S. government. For Day, who had a reputation for being thrown in prison as a result of protesting, this was nothing new. However, it was unprecedented for a military intelligence officer to investigate a monastery because of suspected communist sympathies.¹⁸ Thus, Merton’s “The Root of War is Fear,” while successful in its impact, was ahead of its time and put Merton on a hiatus indefinitely. For Merton, this meant that his only sources of written protest were personal letters to individuals such as Day, Forest, the Berrigan brothers, and non-Catholics interested in non-violent alternatives. These were later dubbed the *Cold War Letters* and were quite powerful in their own right. Some described the letters as “Merton at his very best.”¹⁹ While speaking out against nuclear war, the letters also told its recipients of the Church’s gag order on his writings. However influential, these letters lacked the immediate accessibility that accompanied newspaper publications, and were it not for Pope John’s encyclical, the movement may have ended before it had the chance to begin.

Pacem in Terris’ role in saving the budding Catholic anti-war movement was enormous. The Pope’s encyclical helped normalize outlooks on non-violent, anti-war mentalities in the Catholic Church. One example of this can be seen when Pope John says, “it is hardly possible to imagine that in the atomic era, war can be used as an instrument of justice.”²⁰ This type of rhetoric was very similar to what Merton used in his previous writings, so much so that Merton wrote to his abbot saying, “it is a good thing Pope John didn’t have to get his encyclical through our censors.”²¹ In this way, papal recognition was the saving grace for the Catholic Peace Movement, recognizing figures such as Day and Merton, as well as their strong-held beliefs of non-violence.

With the unofficial blessing of the Pope, the Catholic Peace Movement was in full force, with the *Catholic Worker* beginning to print Merton’s works, as well as new influential writers such as Daniel Berrigan in 1964. In addition to the *Catholic Worker*, Jim Forest, the managing editor, co-founded an important organization in his free time, The Catholic Peace Fellowship (CPF) in 1964. The purpose of this organization was to play a more active role in the anti-war movement.²² While the *Catholic Worker* was the voice, the CPF became the arm of the movement as both groups collaborated. For the CPF, this outreach consisted of speaking tours, meetings with legislators, and counseling Catholics on conscientious objection. By July 1965, the CPF saw as many

¹⁷ Ibid., 49-50.

¹⁸ Ibid., 50.

¹⁹ Ibid., 75.

²⁰ John XXIII, *Pacem in Terris*, 39.

²¹ Forest, *The Root of War*, 91.

²² Thomas C. Cornell, *The National Catholic Reporter*, April 25, 1975. Accessed April 28, 2018. <http://www.catholicpeacefellowship.org/wp/wordpress/about-cpf/histories/>.

as fifty Catholic conscientious objectors seeking help to avoid the draft. As the war in Vietnam escalated and many young adults around the country began to burn their draft cards, some within the Catholic Peace Movement became dissatisfied with the work of the CPF and the *Catholic Worker*. Education was no longer seen as enough for some and this dissatisfaction became prominent with the first displays of civil disobedience from the Catholic Peace Movement.

In November of 1965, five individuals, including Tom Cornell of the CPF and James Wilson of the *Catholic Worker*, walked into Union Square in New York City and set their draft cards on fire. This took place shortly after Congress made the destruction of draft cards illegal, and three weeks after David Miller of the *Catholic Worker* had burned his own draft card. This act of civil disobedience was on the front page of papers across the country, and out of the five who participated, four spent the next six months in jail.²³ Many leaders of the Catholic Peace Movement, such as Dorothy Day and the Berrigan brothers, came out in support of the demonstration. Day reacted by saying, "I speak as one who is old enough to endorse the courage of the young who themselves are willing to give up their freedom."²⁴ However, not everyone saw the merit in this form of protest. Merton in particular was concerned with the direction that this form of demonstration may take, worried that it would distract the CPF from its goal of education, rather than radical confrontation.²⁵ Tom Cornell, one of the five who burned their cards, had this to say about the demonstration: "Americans have written to their congressmen. They have marched upon our nation's capital. They have paraded down Fifth Avenue... They have demanded that our nation address itself to the real problems that beset critical areas. Yet the war in Vietnam rages on"²⁶.

The Catholic Peace Movement was successful in speaking out against issues that plagued the nation via the *Catholic Worker*. It was also successful at helping Catholic conscientious objectors avoid the draft, as well as speaking to politicians and citizens about war. This public burning showed that some desired more than articles, lectures, and counseling sessions in the face of an expanding military. This discontent came to a boiling point when Daniel and Phillip Berrigan orchestrated the acts of the Catonsville Nine, fissuring the peace movement, and testing the boundaries of peaceful protest.

Peace and Fire

Phillip (1923-2006) and Daniel (1921-2016) Berrigan were raised Catholic and later became priests. They began their struggle against perceived injustices in segregated

²³ Ibid.

²⁴ Forest, *The Root of War Is Fear*.

²⁵ Ibid., 129.

²⁶ Ibid., 126.

schools, teaching black students how to organize and form demonstrations. However, the brothers began to turn their attention to matters of military escalation during the late 50's and early 60's as the Cold War and Vietnam War picked up in intensity. This led them to the heart of the Catholic Peace Movement. As early as 1964, Daniel was published in the *Catholic Worker* and both brothers played a direct role in the activities and formation of the CPF.²⁷

As the CPF took off in 1964, Daniel took on the unofficial role of the organization's personal priest. He would stop by the office each week to say Mass and provide "The Workers" with communion. Both Phillip and Daniel were staunch supporters of the CPF, even helping them rent their office space when the group first began.²⁸ The numerous events in the fall of 1965 were no exception to their loyalty. When news that Miller, Wilson, and Cornell burned their draft cards became public, the Berrigan brothers did not hesitate to jump to their defense. They stated that any act of non-violent demonstration in opposition to the expanding war should be praised.²⁹ However, on November 9, 1965, the Berrigan Brothers, along with the entire Catholic Peace Movement were shaken to their core when Roger LaPorte of the *Catholic Worker* sat down in front of the United Nations building in New York, doused himself with kerosene, and set himself on fire. The day before LaPorte died, he explained his actions in the ambulance saying, "I am a Catholic Worker. I did this as a religious action. I am against all war."³⁰

In a fashion similar to Vietnamese Buddhist monks who lit themselves on fire in protest of the South Vietnamese government, LaPorte died of his self-inflicted wounds and the Catholic Peace Movement was shaken. Dorothy Day was too distraught to speak to reporters, while Thomas Merton addressed his grave concerns of the demonstration to other leaders of the movement, stating that "the whole thing gives off a very different smell from the Gandhian movement... and the nonviolence of Martin Luther King...there is something wrong here. I think there is something demonic at work in it. This suicide of a Catholic ex-seminarian does not make sense in terms of a Christian Peace Movement..."³¹

In the face of this grave tragedy, Daniel did the only thing he could do and said a private mass for those at the *Catholic Worker*. Fearful that Daniel would say the death of LaPorte was something other than suicide, he was under strict orders from his Jesuit provincial to make no public statement of any kind regarding Laporte's death. In Daniel's opinion, a private mass was not public and with the eyes of the *Catholic Worker* on him, he offered a homily open to the possibility that LaPorte's death

²⁷ Berrigan, et. Al., *The Berrigan Letters*, 23.

²⁸ Jim Frost, *At Play in the Lions' Den: A Biography and Memoir of Daniel Berrigan* (New York: Orbis Books), 73.

²⁹ *Ibid.*, 90-91.

³⁰ *Ibid.*, 91.

³¹ Forest, *The Root of War*, 131.

was done as an act of love, not suicide.³² Upon hearing this, Daniel's Provincial immediately sent him on a tour of Latin America in order to remove him from the country for a year marked by silence. In his absence, Phillip Berrigan continued to stay active in the CPF and, upon Daniel's return, both brothers performed their first act of civil disobedience.

The Berrigan Brothers and Radical Peace

When Daniel returned, he was offered a job as the chaplain of Cornell University. A few months into his career, he participated in his first student sit-in. This led to his arrest and, as a result, he became the first American Catholic priest to be jailed for anti-war protest.³³ The second priest to be arrested for anti-war protest was his brother, Phillip Berrigan. Three days after the sit-in, Phillip participated in what would famously become known as the Baltimore Four incident. On October 27, 1967, four people broke into the US Customs House in Baltimore, stole draft papers, and dumped bottles of their own blood on the forms to protest the blood spilled in the Vietnam War.³⁴ Phillip's actions not only landed him in prison, but also was a clear departure from his three-year investment in the CPF.

Phillip had put more effort into his time with the CPF than most, including traveling the country and giving lectures, meeting with legislators, bishops, and generals, conducting prayer vigils in front of the homes of Joint Chief of Staff members, and various other activities seeking to win over supporters. Despite years of involvement, Phillip decided that CPF activities were not adequate responses to the escalation of the United States' war in Vietnam and the Cold War.³⁵ Daniel was not yet ready to cut ties with the CPF at this point, thinking that there might still be merit in the process of education and public speaking. However, he changed his mind when he briefly visited North Vietnam in 1967 as part of a peace gesture by the North Vietnamese government to bring home three US bomber pilots.

While in North Vietnam, Daniel had the opportunity to witness the effects of the war first-hand. What troubled him most were the thousands of children and civilians who, though innocent of war itself, suffered and died because of it. This experience changed Daniel's perspective on the war in Vietnam, and consequently the CPF's efforts seemed, as Phillip had said, inadequate: "[We] have been led to different roads, ones which seem to us more at grips with this awful war and the insanity of our country."³⁶ Education and outreach were no longer enough for these pillars of the Catholic Peace Movement and the cracks that had formed during the draft card

³² Frost, *At Play in the Lions' Den*, 92-93.

³³ *Ibid.*, 103.

³⁴ *Ibid.*, 101-103.

³⁵ *Ibid.*, 104-105.

³⁶ *Ibid.*, 105.

burnings and Roger LaPorte's self-immolation led to the splintering of a more radical movement.

After Daniel's return from Vietnam in the fall of 1967, he and Phillip wasted no time planning what they called a "revolution,"³⁷ and their first radical Catholic demonstration against the war. The plan revolved around the events of the Baltimore Four, with the addition of homemade napalm to destroy the papers, rather than human blood. On May 17, 1968, the Berrigan brothers, along with seven other Catholic activists, stood around a fire of A-1 draft papers, taken from the Catonsville, Maryland draft board in broad daylight. Having burned the papers, the nine waited where they were in order to be arrested in what they thought of as an act of "Christian witness and symbolic action."³⁸ For the Berrigan Brothers, this act of civil disobedience was not only political in nature, but it was also a Christian duty, as they saw themselves sacrificing their freedom to keep lives out of the clutches of death, an action similar to that of Christ.³⁹ These individuals would come to be known as the Catonsville Nine and were part of a historic moment for the Catholic Peace Movement, as it signified the definite split between two defining sects: those who were following a Gandhian method of protest such as the *Catholic Worker* and CFP, and the radical Catholic peace seekers who were now raiding public buildings and burning files.

The popular public perception was anything but understanding of the Berrigans' actions. Blowback was immediate and many Catholic patriots questioned how clergy could call themselves men of God while raiding their own country in time of war, with some even wondering whether the brothers were being used by communists for their own purposes. In one article in the *National Catholic Reporter*, the theologian Rosemary Ruether stated that the Berrigan Brothers "don't believe change is possible either by revolution or by progressive change. The alternative then becomes apocalypse, the counsel of despair."⁴⁰ For some, this set of actions was disturbing as they indicated a shift away from non-violence, escalating towards the destruction of public property and physical altercations by Catholic draft raiders.

Daniel and Phillip's radicalism troubled both Day and Merton. For Day, the destruction of public property was seen as a step towards violence, yet what bothered her more was Phillips's treatment of the draft board clerk, who according to him, "had to be manhandled repeatedly,"⁴¹ in order to obtain the files. Day thought the actions of the Catonsville Nine were not of the Catholic Peace Movement and stated, "Those committed to nonviolent methods must hang onto our pacifism in the face of violence."⁴² Likewise, Merton criticized the actions of the nine, believing that the peace

³⁷ Berrigan, et. Al., *The Berrigan Letters*, 40.

³⁸ Shawn Francis Peters, *The Catonsville Nine: A Story of Faith and Resistance in the Vietnam Era* (New York: Oxford University Press, 2012), 250.

³⁹ Berrigan, et. Al., *The Berrigan Letters*, 40.

⁴⁰ Frost, *At Play in the Lions' Den*, 120.

⁴¹ *Ibid.*, 121.

⁴² *Ibid.*

movement was standing at the edge of violent protest and that the action had scared more people than had fixed anything. The world, in Merton's view, was in a state of escalation and the peace movement was at risk of self-contradiction if it continued down the road the Berrigan brothers had taken it.⁴³

These concerns were well warranted as draft board raids became popular due to the Catonsville Nine. However, this was problematic for the Berrigan brothers when their own peace movement began experiencing internal conflicts, losing support, and more members were needed to sustain the original movement. Phillip Berrigan described the dire state of the new Catholic movement to a friend: "[there are] not enough of our people to sustain what they have done, they are anti-organization to a paranoiac degree, [and] we have no provisions to maintain continuity."⁴⁴ In the wake of the new movement's instability came others like the D.C. Nine, Chicago Fifteen.. Unlike the Catonsville Nine, however, these demonstrations lacked the element of Christian witness and symbolic action that the Berrigan brothers had intended, implementing hit-and-run tactics instead, while refusing to risk any jail time.

Considering that the Berrigan brothers were stripped of their priestly duties as a result of their actions, that their original movement was crumbling, and that there was a rise in demonstrations which lacked the Christian ideologies they had promoted, it is hard to say they were successful. Furthermore, their overall impact on the war is difficult to quantify although it is reasonable to argue that it was largely ineffective. For instance, Selective Service officials stated that the raids had no real effect on stopping the war since duplicate lists of local files were supplied to state headquarters, meaning that an eighteen-year-old meant to be drafted in the spring may be pushed back to the summer until his paper copies were found. In the meantime, other draftees whose papers were not burned often took their place.⁴⁵ In other words, despite the draft raiders' best attempts, no one truly escaped from the draft through draft raids. In this way, the Berrigan brothers' actions, while well-meaning and explosive, only slowed down the inevitable draft of some soldiers, while encouraging the start of a movement they were unable to control. This made the Berrigan brothers' newly formed radical movement the next thing to crash and burn, again leaving the original Catholic Peace Movement as the only stable Catholic entity speaking out against the war.

As the *Catholic Worker* continued its work throughout the late 60's, one could begin to see its influence decline. Many readers and critics began sending in letters, as well as heckling its members in public places, frequently asking Day challenging questions concerning the war. She was especially affected by questions that had no clear answers, e.g. whether or not joining the army was a mortal sin or how a pacifist should respond to having their loved ones killed. As a result of the continued backlash,

⁴³ Ibid., 121-122.

⁴⁴ Peters, *The Catonsville Nine*, 250.

⁴⁵ Ibid., 251.

Day's morale for speaking out against the war began to steadily decline until she reached a point in 1969 where she no longer wanted to write on the topic.⁴⁶

Just as devastating for the movement, and perhaps another reason for Day's decline in drive, was Merton's death in 1968. With the death of Merton and Day's fatigue of writing on war, the CPF became the main source of non-violent resistance in the late 60's, lasting to the end of the Vietnam War. According to Forest, by the end of the 60's, 2,500 men had identified themselves as Catholic conscientious objectors who were influenced by the CPF. By 1975, as disapproval of the war increased, Forest projected that this number likely tripled, totaling at least 7,500 Catholics whom the CPF had counseled and helped avoid the draft.⁴⁷ With the end of the war, the impact of the Catholic Peace Movement can be seen in the 7,500 Catholic conscientious objectors the CPF helped to avoid the draft, millions of newspapers, and their enduring principles of nonviolence in the face of escalating warfare. Peace on earth became one step closer.

⁴⁶ Hennessy, *Dorothy Day*, 260.

⁴⁷ Forest, *The Root of War Is Fear*, 138-139.

Consumptive Vampires: Blood Drinking Consumptive Victims of The Nineteenth Century

Rachel Widmer

Throughout the nineteenth century, consumptives tried several cures. Most people opted for fresh air in a warm climate. Some consumptives, however, chose a more experimental method: drinking blood from freshly slaughtered animals. Beginning in 1874 newspapers reported on ill people trekking to slaughterhouses to receive this life blood. One story, for example, was published separately at least three times in *The Daily Cleveland Herald*, the *Little Rock Daily Republican*, and the *Georgia Weekly Telegraph & Georgia Journal and Messenger*. The article supposedly interviews a man who partakes in this “blood cure”. The man, Mr. C. H. Stickney tells the reporter he “drinks half a tumbler of blood twice a day” and reports that ten to twelve others attend the abattoir with him.¹ He even goes so far as to recommend a particular slaughter house, Brighton Slaughter House in Boston, commending their staff on their generosity and helpfulness to the ill.³

For the next few decades stories such as these are sporadically printed in newspapers across the United States, enough to establish some basic tropes. Some touted that two to three hundred people attend their slaughterhouses when animals were being killed.⁴ Reporters visited slaughterhouses and were shocked to see consumptives lined up around the block or wandering in at “killing time.” The consumptives rarely showed fear. They walk up to the slaughtered bullock with a cup brought for the occasion, to be filled with blood and then drunk without ceremony or hesitation. Many reported being cured by this method of treatment. Butchers attested to how unwell some people looked when they first started drinking blood and how these consumptives now look healthy, putting weight back on and gaining color in their face again.

Consumption was one of the many diseases rampant throughout the nineteenth century. Neither patients nor doctors knew the cause, so anyone could become a victim. For decades before the nineteenth century consumptives provided the aesthetic for vampire fiction. Physically consumptives shared characteristics with the vampire such as long narrow fingers, pale skin with wide feverish eyes, and most importantly blood dripping from the corners of their mouths. Consumptives were also, like vampires, nocturnal. Because their fevers would spike at night, they became more active than they had all day.⁵ Even an olfactory element was related to the vampire; consumptives often had “offensive breath” due to their rotting lungs,

¹ “Drinking Warm Blood,” *Little Rock Daily Republican*, February 9, 1874.

³ *Ibid.*

⁴ “Mr. Nordheff telegraphs to the New York Herald that the reports that the President is a Grant are Without Foundation,” *Georgia Weekly Telegraph and Georgia Journal & Messenger*, December 31, 1878.

⁵ Katherine Byrne, *Tuberculosis and the Victorian Literary Imagination* (New York: Cambridge University, 2011), 140.

constant vomiting, and coughing up of blood.⁶ Blood drinking activities only confirmed these fantasies. Here I would like to suggest that such connections between vampirism and consumption were not only literary products, but informed “real” news reports.

The vampire was already a well-known enough creature that newspaper articles describing consumptives speak of both in the same breath. Writers might assure readers that medicinal blood-drinkers were “not vampires, but consumptives.”⁷ Others try to blur boundaries. One article begins by stating that if Sylvanus Cobb, Jr., a writer of popular dime novels, wants a vampire for his next novel he doesn’t have to “depend on his imagination for one... ample material is furnished right here in St. Louis.”⁸ On the one hand, here we have an example of trying to legitimize blood drinking, on the other an attempt to sensationalize it. These different takes on the phenomenon reveals a cultural anxiety.

Reporters and members of the medical community feared that blood drinkers would develop an irresistible craving for the liquid. One reporter asked a consumptive at the slaughterhouse: “Could he stop it [drinking blood]? Of course he could: why shouldn’t he? The reporter had heard that the appetite took hold upon the victim like that of whisky or morphine.”⁹ Another article reports that “At first the taste is said to be repulsive, but, subsequently, the desire for the ensanguined fluid becomes intense, and its good effects make it commendable to invalids.”¹⁰ The use of the word “desire” is very common in these articles, implying that once the appetite has been acquired the person will always live with its unnatural effects. Much like those addicted to any substance today when asked if they could stop drinking the blood, the reply is most often “of course, but I don’t want to.” There is no way to tell from these answers if the people interviewed were truly addicted to blood, but it is clear that the newspapers, along with the medical community want the public to believe that they were.

In an article titled “Female Vampires” published in 1876 three stories are outlined in which women become vampires after being fed blood for medical purposes. The article begins by acknowledging that readers of this newspaper “are not unfamiliar with the fact that the various abattoirs of this city are regularly frequented... It is a fact--not so generally known, however-- that this appetite for blood increases upon those who indulge in it.”¹¹ The article goes on the example that “Parties under this blood-spell [(animal blood at this point)] almost invariably manifest an intense desire to try the effects of human blood.”¹²

⁶ Ibid., 146.

⁷ “Blood Cure,” *Georgia Weekly Telegraph and Georgia Journal & Messenger*, August 11, 1874.

⁸ “Blood Drinkers,” *St. Louis Globe-Democrat*, December 15, 1878.

⁹ Ibid.

¹⁰ “Blood Cure,” *Georgia Weekly Telegraph and Georgia Journal & Messenger*, August 11, 1874.

¹¹ “Female Vampires,” *St. Louis Globe-Democrat*, April 30, 1876.

¹² Ibid.

The first story involves a young, school-aged woman who “suffered in health.” Readers are not told what disease she suffered from, but she gains the same benefits from drinking animal blood as consumptives: “The pallor left her cheek. Her frame became more robust; and in ten months she gained fifteen pounds in weight.” After regaining her health, she married the young assistant of the physician that suggested the blood cure, so he was fully aware of how she had regained her health. He was not only “well acquainted with the means by which she had been restored” but he even “encouraged her natural curiosity respecting the effects of various kinds of blood...” He encouraged her by “opening a small artery in his leg and permitted her to suck the vital tide.” She soon became addicted to his blood: he “gratified the craving again and again until disgust for her became the predominant feeling of his mind... bade her a final adieu and sailed for Peru.” The poor vampiric woman was then put in a hospital where animal blood was delivered to her from a slaughterhouse, but the readers are assured that “had she opportunity, [she] would undoubtedly become a vampire and banquet perpetually on human blood.”

The next story told in “Female Vampires” also deals with a young woman who was prescribed blood for her deteriorating health. She was prescribed “four times a day, a tablespoon of cod-liver oil mixed in a wineglassful of blood,” not an outlandish prescription as we have seen. Once she was better she stopped adding the cod-liver oil, but “continued the dose of blood.” One day the young woman’s husband fell down the stairs and cut the back of his hand and wrist. The wife ran to her husband’s side to aid him but instead was overcome with the sight of the blood and began to drink his blood “until he swooned away, and lay ghastly, exhausted and motionless as one dead.” At this moment the landlady arrived to see the wife “sucking her husband’s wrist... her face was smirched with blood. Her mouth literally dropped with gore.” A doctor was of course called and had to administer morphine to the husband to keep him comfortable during his recovery, which the landlady aided in. The wife was said to be “in a dreamy, melancholy condition, incapable of action,” seemingly drunk on her husband’s blood. The landlady was a diligent nurse, but “four nights after the accident,” she left the husband and wife alone. With the husband asleep and under the influence of narcotics, the wife “lay by his side sullen and unconcerned.” The landlady returned after only an hour, due to a suspicious noise from inside the room to find the wife “kneeling beside the bed. The bandages were removed from her husband’s arm and wrist, and she was voraciously sucking the fresh blood welling from the reopened wounds.” This story does not have a definitive ending. The readers are only left with the knowledge that the wife or “the wretch bloodsucker is now a helpless lunatic...”¹³ These two stories appeal to both the fear of vampires and the curiosity of this blood drinking phenomenon. They seem to be taken straight out of Victorian fiction, but are different in that they are said to be true.

¹³ Ibid.

Given these popular perceptions, we can speculate that medical blood drinkers— or journalists seeking greater verisimilitude— wanted to distinguish patients from the monsters of contemporary imagination. Perhaps this is why in reports, they emphasize that blood is always drunk from cups or wine glasses, brought by the consumptives or provided at the slaughterhouse. This kind of gesture is an attempt to make the practice more dignified than the popular belief in bat-like vampires sucking its victim's blood straight from the neck. It is, of course, also possible that individuals may have believed they would become a human vampire. They knew the implications of becoming a vampiric being, forever feeding off the living, and did not care given their ailment.

The blood drinking phenomenon has lasted until today. While its audience has changed and consumption or tuberculosis victims are no longer the ones consuming it, many vampires do drink blood for medical problems. Anonymity in the vampire or sanguinarian community is key, much like in the nineteenth century when the names were withdrawn from articles. They fear persecution from people outside the community but are fairly active on social media platforms such as Tumblr. Many I spoke to believe that they cannot survive on a diet that does not include blood. It is not their only source of nutrition, but it is essential. They do not drink animal blood, because it is unsanitary, but rather have a human donor that can be medically screened for diseases and has the ability to consent to giving their blood. One sanguinarian told me that she is a vegan and justifies drinking human blood because of the human's ability to give their blood, whereas an animal cannot. Although we may look at these blood drinkers of past and present with confusion or even disgust, this blood cure has persisted despite the continued melodramatic characterization of the vampire or maybe because of it.

*Access Denied: The Poor's One-Hundred Year Long Fight for Judicial Equality*¹

Austin Jones

Introduction

After graduating from Harvard Law School, Reginald Heber Smith worked as a legal aid attorney in Boston from 1914 to 1919. During his time in Boston, Smith advanced the practice of non-profit law to include numerous methods for cutting expenses and time. Nothing had a greater effect on the non-profit legal world than Smith's entrance into academia after partnering with education groups aimed at studying the effects poverty had on judicial access. His most vital work, a book titled the *Justice and the Poor*, recognized the shortcomings impoverished persons faced when side-lined in the justice system because they lack the means required to participate. Written in 1919, Smith identified the difference in access the poor faced as opposed to those of at least moderate income.² Aside from pointing out the problem, he also provided the blueprint for how a system might be crafted to match the principle of "justice for all." Moreover, he wanted to improve legal aid organizations already working to provide an array of free services to those who could not otherwise afford them.³ Smith set clear goals for equity and justice, but Smith's quest has been a one-hundred-year long struggle. Ultimately, when one fast-forwards to the present, Smith's framework to provide the poor with equal access to the justice system is still something that has not been fulfilled.

Context

Throughout the late nineteenth and twentieth centuries, the United States went through rapid social and structural changes. With massive growth in nearly all sectors of society including migration, industrialization, and urbanization, Congress responded with thousands of pages of new regulation and law each year to manage that growth.⁴ This corresponded with developments in the workload and responsibility

¹ The author would like to thank Zoe Naylor of the University of Arkansas Political Science Department and Hannah Roe of Legal Aid of Arkansas for their support and encouragement of the paper.

² John DiPippa, "Reginald Heber Smith and Justice and the Poor in the 21st Century," *Campbell Law Review* 40, no. 1 (Winter 2018): 74.

³ *Ibid.*, 73.

⁴ David M. O'Brien, *Storm Center: The Supreme Court in American Politics* (New York: Norton, 2014), 157.

of the legal system proportional to the increases in population, geographical expansion, and sources of litigation in the United States.⁵ As a result, nearly everyone, including the poor, the rich, and even the courts themselves struggled to cope with the mounting complexities of the nation. Virtually everybody found themselves in an ever growing “dialogue with the courts.”⁶ In addition, new courts were created to handle the increased case load which in turn made the physical structure of the court system much more complex on top of the already increasingly confusing written law itself.⁷

Smith argued that the resulting system in 1919 was far too complicated for the poor to navigate by themselves.⁸ Without years of legal training, the legal system’s structure, methodology, and requirements combined with the skill level required in understanding or even merely reading the law, precluded the average court system participant from going it alone. Instead, they would require an expert in the field to counsel and chaperon them throughout the process. Smith recognized that there was no affordable supply available to meet the demand. As a result, Smith’s book asked for the restructuring and reallocation of legal resources to help the poor.

Smith’s Argument for Change

Smith’s notion that without help the poor would not be able to participate in the complex early twentieth century legal realm subsequently led to his central assertion that society should provide aid in the poor’s legal endeavors. He first argued that the courts themselves should be open to all individuals, no matter income or social status.⁹ Smith stated that “freedom and equality together form the basic principle on which our administration is built.”¹⁰ In fact, these ideas were “so deeply rooted in the body and spirit of the law that the very meaning by which we ascribe to the word *justice* embraces them.”¹¹ Therefore, for the courts to grant access to one citizen while rejecting another due to level of wealth, is to “unhesitatingly condemned [the entire system] as unjust.”¹² Since the notion of equal access to the justice is essential to the very meaning of what justice is, all people should partake of it.

Because justice is one of society’s most precious basic goals, Smith argued that access to justice should be a primary responsibility of the government that oversees the protection of all other rights.¹³ Smith believed that the right to equity of justice is

⁵ Ibid., 159.

⁶ Ibid., 167.

⁷ Ibid., 160.

⁸ DiPippa, “Reginald Heber Smith,” 79.

⁹ Ibid., 76.

¹⁰ Smith, Reginald Heber. *Justice and the Poor: A Study of the Present Denial of Justice of the Poor and of the Agencies Making More Equal Their Position before the Law, with Particular Reference to Legal Aid Work in the United States* (Boston, MA: The Merrymount Press, 1919), 3.

¹¹ Ibid.

¹² Ibid.

¹³ DiPippa, “Reginald Heber Smith,” 77.

“made most important of all because on it all the other rights, even the rights to life, liberty, and the pursuit of happiness, were made to depend.”¹⁴ If the United States government is to be the caretaker of citizen’s rights, then the right to justice must be guaranteed.

Critical to the foundation of legal rights is the ability to protect them. Individuals use the judicial process to protect or challenge certain principles according to their own rights, beliefs, and interests. For example, someone who believed that they were wrongfully kicked out of their home by their landlord may require the use of the civil justice system in order to fight for or protect their interest in remaining in their home. Accordingly, judicial inequality is exemplified by the fact that the poor lack the sufficient services and means to put up such a fight. Consequently, the significance of the entire civil legal system is determined as much by who is able to call himself a participant in a given case as by a court having the authority to rule over and decide a case at all.¹⁵ Thus, lack of access is contrary to the fundamental significance embodied in the U.S. legal system due to the simple fact that a lack of services prevents the poor from fighting for interests when a fight is necessary or to become a participant when legal participation is key to one’s success.¹⁶ Taking these givens, Smith argues that if the United States is to be a free, pluralistic society based on multiple overlapping rights, beliefs, interests, and identities built on the notion of justice and legal protection for all, then the government should add assistance in legal endeavors under its own jurisdiction to find a feasible system proficient enough to meet the necessities of those in poverty.

It is important to note Smith’s stance on the bigger impact of judicial inequality on society in general. Since rights were often fought for and decided upon in courts, if the poor were not allowed participation, then the rights and interests favored by these people would correspondingly go unheard and unsettled. As a result, they would not be able to influence society at large. Denial of access imposed significant social and economic costs on society.¹⁷ To illustrate this point, consider a court negating a poor family civil representation in the example above, the home eviction hearing. Does the court denying a family of civil representation in such a case not “greatly increase the likelihood that the family will become homeless, thereby increasing the cost to society in dealing with homelessness?”¹⁸ If it does, then the personal interests of those poor individuals are surely also the wide spread interests of society. If inequity is to tax not only those directly denied access, but on all of society, then the problem with equal access to justice is something that should interest everyone, not the poor alone.

¹⁴ Smith, *Justice and the Poor*, 4.

¹⁵ O’Brien, *Storm Center*, 370.

¹⁶ M.W. Young, “The Need for Legal-Aid Reform - a Comparison of English and American Legal-Aid,” in *Cornell International Law Journal* 24, no. 2 (1991): 381.

¹⁷ Young, “The Need for Legal-Aid Reform,” 404.

¹⁸ *Ibid.*

Legal Aid: A Tool in the Toolbox

Smith believed that the best solution to the poor's judicial inequality came before his time. Formally, "legal aid" referred to organizations that "gave legal advice and legal assistance in negotiation and litigation to poor persons, without cost to them or at a minimum cost which they can afford, in matters where no other assistance was available."¹⁹ For decades there had been individual instances of assistance by private attorneys to people who otherwise could not afford legal help. In the early twentieth century, formal legal aid organizations were the first to have sizeable work force tailored specifically to the poor's needs.²⁰ In fact, by 1939, "a national association of aid offices reported over five million clients served since the 1870s, a figure that is believed to be an undercount."²¹ With the increased complexity of the legal system, legal aid organizations started catering to more and more groups across a greater geographic space.

Nevertheless, the early legal aid organizations as of 1919 were far from what Smith had in mind. Although things had improved, from a certain point of view, the legal aid world was barren. Smith indicated that vast regions of the United States had no structured legal resources or organizations providing free or low-cost legal services.²² However, Smith understood extant legal aid provided a significant foundation by which a substantial value could emerge. Overall, he outlined a plan for growing legal aid organizations by dealing with the court system's most apparent problems: wide geographical service gaps, a lack of national coordination, limited scope of legal aid services and case selection, a lack of sufficient funding, and no significant government or private bar involvement.²³ If the poor were to find their footing in the legal world, these problems needed to be dealt with.

Although numerous problems stood before the fulfillment of Smith's ambitions, Smith's plan detailed solutions to these. Smith first proposed expanding the coverage of legal aid on a national scale to include all areas that were in need. Smith's initial plan for tackling this issue was to place legal aid offices in all major cities "of 300,000 people or more and creating a national leadership to coordinate their work."²⁵ In particular, there was a great need in the Southeast United States where there were virtually no services at all, but a substantial demand for them. However, Smith believed that it was not enough to have legal aid offices in more locations, but they needed to

¹⁹ Smith, "Justice and the Poor," pp. 134.

²⁰ *Ibid.*, 136.

²¹ Bodenhamer, *Women and Justice for the Poor*, 443.

²² DiPippa, "Reginald Heber Smith," 83.

²³ *Ibid.*, 83-84.

²⁵ DiPippa, "Reginald Heber Smith," 84.

work with one another toward the same goals and help each other become more effective and efficient in their duties.²⁶

Smith then proposed broadening the scope of legal aid's duties to include appellate work, to widen the range of case types accepted by legal aid attorneys, and to lobby on behalf of the poor to law makers.²⁷ Legal aid should be more than a body that undertook minor disputes between two private parties in settlement or court alone. Rather, Smith saw the true duty of legal aid in actions that would have broader positive implications and effects on the entire poor population. One way to accomplish this, he believed, was for legal aid to become highly generalized legal counsels that took on a great variety of cases, including "criminal cases, personal injury, bankruptcies and complaint against attorneys."²⁸

However, it is important to note that Smith believed some case types should be avoided. Important among these: divorce cases. Based on his traditional thoughts on family and marriage, he alleged that legal aid should refuse divorces completely on that grounds that they "should be against making divorces easy and cheap [in a way that does not allow] the home to be on the path to reconciliation and preservation."²⁹ In addition, Smith noted that single divorce cases are unimportant to the broader picture and importance of legal aid. To him, divorce cases were very simplistic and they could easily be handled by the poor without assistance. Furthermore, these cases served no wider purpose to the entire poor population as a whole.³⁰

Smith believed that aid should play a crucial part in crafting the law itself. This would be accomplished by allowing legal aid representatives to do appellate work in higher courts in order to influence final decisions and in turn create new policy and reform old law. Smith believed that it was wrong for the law to be crafted in a way that would exclude the thoughts, interests, and problems of an entire class of people and therefore sought to design a system that allowed for the poor's input.³¹ The problem could only be solved if the poor could obtain some way to enter the places where law is often significantly molded and established by such things as precedence and lobbying. In the end, Smith supposed that the ability for legal aid to represent the poor in the crafting of law and policy represented a fundamental step in providing the poor with a fair stake in the judicial process.

Next, Smith argued to increase funding for legal aid societies. In his day, legal aid organizations were often forced to decrease caseloads and underpay personnel simply because they could not afford to do otherwise. To him, the legal community had a responsibility to provide access to justice where it was not and so he held that a lawyer's duty to provide legal service stretched beyond compensation and included

²⁶ Ibid., 86.

²⁷ Smith, *Justice and the Poor*,. 243.

²⁸ DiPippa, *Reginald Heber Smith*, 86.

²⁹ Smith, *Justice and the Poor*, pp. 155.

³⁰ Ibid.

³¹ Ibid., 207.

those who could not hire their services. Lawyers who did not recognize this duty were seen by Smith as ignorant of the importance placed in the legal system and were not true professionals.³² Because he held lawyers to such high standards, Smith insisted that the most funding should come from fees paid by each attorney licensed by the bar. He insisted in 1919 that a five-dollar annual fee be paid by every lawyer to cover the costs of legal aid services.³³ To Smith, this was an honorable deduction or a duty defined by the Lawyers' Code of Professional Responsibility. It states that "the basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer. Every lawyer should find time to participate in serving the disadvantaged."³⁴

Ultimately, however, he wanted legal aid to become the primary responsibility of the federal government rather than that of the non-profit organizations. In seeing the long road ahead, Smith recognized that, eventually, legal aid would have to become a public responsibility.³⁵ Justice is a necessary public service and like most other public services, government leadership is often the most effective means of executing proper management. Under private management, legal aid seemed to suggest justice was more of a kindness to the poor, rather than a basic right to equality.³⁶

Overall, the above discussion encompasses the social realities of 1919 and makes explicit Smith's concerns and proposed theoretical solutions to judicial access crisis faced by the poor. Bringing his book to a close, Smith leaves readers with these words: "These suggested future developments are all practical and capable of achievement... It is of high importance that such developments be encouraged and supported, not for the sake of the legal aid organizations themselves, they of themselves are nothing, but because in them, with all their faults and weaknesses, is contained our best immediate hope for a realization of our ideal of such an equal administration of the laws that denial of justice on account of poverty shall forever be made impossible in America"³⁷.

Smith clearly knew that these goals were far from certain. And indeed, the journey of legal aid organizations from 1919 until the present has been a rollercoaster, a collection of periodic wins and losses.

Success: Tide in, Tide out

From the time *Justice and the Poor* was published, the path to fairness in the legal system for the poor has been varied and even fragmented. Groups fighting to end racial segregation or to advance women's rights, often campaign with calls to social

³² Smith, *Justice and the Poor*, 226.

³³ *Ibid.*, 239.

³⁴ Young, "The Need for Legal-Aid Reform," 381.

³⁵ *Ibid.*, 246.

³⁶ DiPippa, *Reginald Heber Smith*, 77.

³⁷ Smith, "Justice and the Poor," 249.

equality, but have not focused intently on legal aid issues.³⁸ That said, the push for legal aid and other social movements can be complimentary. For example, early legal aid organizations “specialized in claims on behalf of poor women, first regarding wages and working conditions and then in domestic relations cases,” while, at the same time, the women’s rights movement began to place an importance on gender equality and in do so also raised awareness for equality in general, including thoughts on legal equality.³⁹ All things considered, however, the history of legal aid societies continued to be quite dim for the first half of the twentieth century.

From Smith’s heyday until the late 1950s, the federal government continued to remain distant from taking any responsibility for legal aid organizations. Throughout this period, legal aid organization received nearly all of their money and resources from private parties, local governments, and community groups.⁴⁰ With such a funding shortage, legal aid organizations were burdened with “overwhelming caseloads and offered only minimal services” which led to little lasting impact in terms of granting the poor access to justice.⁴¹ It was not until the 1960s that Smith’s vision finally received a major win.

A meaningful triumph first landed in 1965 with the creation of the Office of Economic Opportunity (OEO). Born out of President Johnson’s “war on poverty,” the goals of the OEO paralleled both Johnson’s ambitions for a wide spread attack on poverty as well as those ideals established decades previously by Smith. Goals of the OEO included “providing legal services to the poor, including those in civil matters, offering civil legal advice, drafting legal documents, conducting negotiations, engaging in law reform, and educational programs to inform the poor of their legal rights.⁴² Rapidly after its establishment, the OEO had secured legal aid offices nationally and upwards of forty million dollars were rewarded to legal aid groups annually, along with numerous additional grants. Legal aid offices began to spring up everywhere nationwide, establishing more and more legal opportunities.⁴³ There were, for the first time, programs that delivered federal funds to provide free legal services to people who otherwise couldn’t afford them.⁴⁴ It seemed that during the 1960s, Smith’s vision for the poor’s access to justice was finally becoming a reality.

Success continued through the 1970s. In 1974, the OEO was replaced by the Legal Service Corporation (LSC), an organization with extremely similar goals to that of the OEO.⁴⁵ With grants and funds funneled into legal aid offices, the poor continued to gather hope in their quest for judicial equity. Changes that came with the

³⁸ Earl Johnson, *To Establish Justice for All: The Past and Future of Civil Legal Aid in the United States* (New York: Praeger, 2014), 121-22.

³⁹ Bodenhamer, *Women and Justice for the Poor*, 443.

⁴⁰ Young, “The Need for Legal-Aid Reform,” 379.

⁴¹ *Ibid.*

⁴² *Ibid.*, 393.

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

establishment of the LSC included a newly placed importance on bureaucratic mechanisms for legal aid organizations. This emphasized productiveness, working wide case selections with efficiency, engagement in legislative lobbying, and coordinating all legal aid offices on a national level, all of which resonated with Smith's previously established ideology.⁴⁶ Ultimately, the LSC further validated Smith's ideas that justice and access to the legal system should be something obtainable by anyone, regardless of income status.

While there were significant wins periodically, such as the establishment of LSC and the introduction of federal funding, reversals soon followed. This inconstancy has been due to political volatility since 1980. The idea of the government strongly supporting legal aid organization had become "extremely vulnerable to political pressure."⁴⁷ More specifically, the topic of legal aid had become a battle ground between the left and right. The LSC, which saw increased funding and general growth during the seventies, was hit hard in the eighties with the election of Reagan administration.⁴⁸ Annual budgets of the administration steadily decreased LSC's funding each year and the trend continued with later administrations, especially those of republican presidents.⁴⁹ By the year 2000, LSC received less than half of the federal grant money it "needed to achieve the same minimum access level of service it had provided in 1981."⁵⁰ Eventually, legal aid offices around the country were once again becoming incapable of fulfilling Smith's goals and providing equal access to justice.

Presently, legal aid societies are fighting to keep themselves afloat, not to mention the millions of people in poverty that desperately need their services. President Trump has repeatedly called for the elimination of all federal funding to LSC.⁵¹ As cuts continue to be the trend with the Trump Administration, some legal aid attorneys are being let go entirely while those that remain are some of the lowest paid lawyers and legal staffs anywhere. While other sources of funding are possible in a more localized manner—state or county bars—the areas that are in extreme need of funding are not likely to receive amounts to make much of a difference.⁵² To say that legal aid societies are struggling to meet the demand for their services seems to be an understatement.

A prime example of the struggle is easy to observe in Northern Arkansas. Legal Aid of Arkansas, the larger of the only two non-profit law firms in the state, attempts to do all the good that it can with its very limited resources. The strain placed on the entire organization in addition to individual staff members is easy to see.

⁴⁶ Johnson, *To Establish Justice for All*, 61.

⁴⁷ Young, "The Need for Legal-Aid Reform," 393.

⁴⁸ *Ibid.*, 380.

⁴⁹ *Ibid.*

⁵⁰ DiPippa, *Reginald Heber Smith*, 105.

⁵¹ Debra Cassens Weiss, "Trump Budget Eliminates Legal Services Corp. Funding." *American Bar Association Journal*, March 16, 2017.

⁵² *Ibid.*

Hannah Roe, a Legal Aid of Arkansas attorney who manages eight counties of Legal Aid of Arkansas's jurisdiction in Northcentral Arkansas, is the only legal aid attorney offering free legal services to a staggering "estimated 21,000 eligible Arkansans."⁵³ In addition, the northeast part of the state is in a very similar situation with, again, only one legal aid lawyer for nearly the same geographical area and population size. While there are several Legal Aid of Arkansas attorneys providing services for the northwest part of the state, when the population size of the Fayetteville, Springdale, Rogers area is taken into account, there is still a massive shortage of legal aid in the area.⁵⁴

The struggle in Arkansas is as real as anywhere else. In fact, the health of Arkansas' legal aid organization is a perfect reflection of nearly every other region of the United States. "LSC met its national goal to provide one staff attorney for every 5,000 eligible clients in 1980."⁵⁵ However, at present the number of eligible clients is likely twice 1980's levels, if not higher, and there is about one attorney for every 30,000 clients in some isolated areas.⁵⁶ The key take-away here is that with the reduction of resources and funds, there are fewer people being helped in their legal matters.

Case Selection Stresses Smith's Vision

The state of current legal aid reveals different priorities from Smith's vision. He would disagree, for example, with the actions that legal aid organization choose to take on. As we've seen, Smith believed legal aid should accept a wide variety of cases, take on appellate cases, and seek law reform on behalf of the poor.⁵⁷ While legal aid societies have long helped as many people as it can in an assortment of cases, the majority of cases handled by legal aid are family law matters, especially orders of protection and divorce cases.⁵⁸ Few other case types are regularly accepted and others do not fall under legal aid's established case priorities at all. Smith believed that legal aid focusing an assortment of cases would allow for the poor to better engage the legal system with respect to all their needs, not just specific matters like orders of protection or obtaining a divorce that legal aid currently spends most of its time on.

Smith's thinking was based on the idea that the law should focus on keeping the home intact at all costs and not allowing for divorce to become something easy and cheap. In addition, he wanted legal aid to be vastly generalized practitioners that would truly take on just about anything that walked through their offices' doors.⁵⁹ With legal aid focusing mostly on family matters, "they pit one poor person against another and rarely, if ever, result in anything significant or systemically changing."⁶⁰

⁵³ Hannah Roe, Personal interview. July 12, 2018.

⁵⁴ Ibid.

⁵⁵ DiPippa, *Reginald Heber Smith*, pp. 106.

⁵⁶ "Justice Index." *National Center for Access to Justice*: ncforaj.org/justiceindex/

⁵⁷ DiPippa, *Reginald Heber Smith*, 86.

⁵⁸ Roe, Personal interview.

⁵⁹ Smith, *Justice and the Poor*, 156.

⁶⁰ DiPippa, *Reginald Heber Smith*, 109.

As a result, legal aid has become something that provides access to justice to some poor people, but the cases handled are narrow in scope and only specific to one person or family rather than the needs of the poor as a whole.

Instead of giving the poor access to the legal system as a means to engage, influence, and shape the world around them, legal aid provides “limited charity.”⁶¹ As a result, the poor are not becoming more equal in society but instead continue to be held down and limited.

The conflict with some of the goals set out in 1919 and the reality of legal aid’s case selection today are not the doing of the specific legal aid organizations themselves, but rather the institution responsible for overseeing them: LSC. More specifically, it has been said that LSC “contains numerous restrictive amendments designed to curtail activities that might result in controversial law reform.”⁶² Restrictions include cases having to do with highly controversial topics like abortion or gender equality. In addition, legal aid organizations are prohibited from filing class action suits and directly influencing policy makers crafting new legislation.⁶³ These restrictions not only limit the number and types of cases the poor can take part in, but also defeat one of Smith’s primary assertions that the poor should have the ability to engage in aspect of law reform. As stated previously, the court system is the arena by which the law is challenged and so allows the law to change according to interpretation. The restrictions thus prevent the poor from ever addressing the structural problems which affect them.⁶⁴

Legal Aid Lacks Support

There is a large difference between goals Smith had for the leadership of legal aid and the realities today. Smith held that justice should be a public good, something that all of society partakes in and holds a stake in ensuring: “Justice is a public good; although lawyers are its caretakers, a just and equal society must provide the resources to make equal access to justice possible.”⁶⁵ Today, different assumptions prevail. Justice to the poor is not considered the responsibility of society as a whole: “the conservative attack on the LSC which began in the 1980s, Congress has continued to fund LSC, however this funding has been at reduced levels and no change in support seems to be apparent.⁶⁶ Rather than Smith’s idea of access being a concern for everyone, it is instead primarily the worry of the few non-profit organizations.

Smith would also be frustrated with how small the private bar’s leadership role is in contributing to the poor’s success. If Smith could have had it his way,

⁶¹ Ibid., 110.

⁶² Young, “The Need for Legal-Aid Reform,” 394.

⁶³ Ibid., 395.

⁶⁴ Ibid.

⁶⁵ DiPippa, *Reginald Heber Smith*, 110.

⁶⁶ Young, “The Need for Legal-Aid Reform,” 397.

supplementary pro bono work done by members of the private bar would be far more extensive than today's numbers reflect. It is surprising to note that in terms of raw number of people helped, pro bono services by the private bar are actually the biggest kind of legal service for the poor each year.⁶⁷ But Smith would hold that these numbers show how the private bar is failing to fulfill the needs of the poor. According to Rebecca Sandefur, these numbers are most likely the result of the sheer number of practicing attorneys. Moreover, she claims that one legal aid attorney can offer the same amount of free legal work to his or her clients that fifty-nine private pro bono attorneys can.⁶⁸ Therefore, in reality, the private bar is only partaking in a minimal responsibility to the poor and only cumulatively the private bar seems make a difference.

Furthermore, Smith would note that pro bono work is not tailored to the poor's legal needs. Pro bono attorneys very rarely cater to the far-reaching needs of their pro bono clients in terms of case verity. Instead, these attorneys ultimately pick cases that are "safe."⁶⁹ These "safe" cases are usually of the same category as cases already handled by legal aid offices relating to divorce or custody. Smith would hold that these services do not add enough to help the overall structure of the system. As a result, the poor continue to be served only in settings where there is no controversy or substantial conflict to the interest of the poor as a whole and they continue to lack representation where it is truly hard for the poor to obtain it.⁷¹

As in 1919, while as goodhearted as they are hardworking, legal aid societies simply do not have the size, resources, or efficiency needed to be an all-inclusive remedy to the problem of equal access to the justice system for the poor. Many believe that equal access to justice is a significant American ideal, that without it the notion of justice becomes a meaningless concept.⁷² Perhaps Smith's goal could one day be fully adopted by American society, but to do so currently would require change on multiple fronts in how society views the poor and their place in societ

⁶⁷ Rebecca L. Sandefur, "Lawyers Pro Bono Service and American-Style Civil Legal Assistance," *Law & Society Review* 41, no. 1 (March 2007): 79-112 at 95.

⁶⁸ *Ibid.*, 80.

⁶⁹ *Ibid.*, 95.

⁷¹ Young, "The Need for Legal-Aid Reform," 403.

⁷² *Ibid.*, 405.

Historical Note

The Capricious Nature of *Privanzas* in Habsburg Spain: 1556-1665

Nathan Harkey

Introduction

The Spanish empire enjoyed a period of global dominance in the sixteenth and seventeenth centuries. The influence of Charles V (Charles I of Spain) as Holy Roman Emperor ensured the spread of Catholicism and Spanish imperialism not only across Europe but into Africa and Asia and across the Atlantic to the New World. Thus, at the death of Charles in 1556, his son Philip inherited an empire upon which, it was said, the sun never set. The vast reaches of the Spanish Habsburg empire necessitated a change in court politics because the king had to be seen as possessing complete authority, even if no one man possessed the brain capacity or the time to be omniscient or omnipresent in the day-to-day affairs of running the empire.¹ The answer to this problem in Spain, as in other European kingdoms, was the emergence of the *privado* or court favorite as a legitimate official who would ideally manage the influx of state affairs, limiting access to the king that would have been previously attainable through audiences. While the original purpose of the *privado* was to alleviate the countless duties of an overburdened monarch, early modern *privanzas* became a form of art in the expression of absolute authority. Using major works from immanent historians of Habsburg Spain, this essay will demonstrate the changing nature of *privanzas* from the early sixteenth to the mid-seventeenth century.

Broad Strokes

To understand the relationship between the king and his *privado*, we first have to understand the gravity of such a relationship. The Spanish *privado* was a man who “enjoyed the royal favour” of and therefore was “valued and protected by the monarch,” acting as a bridge between the people and a king who were for various reasons “incapable of exercising to the full their monarchical authority.”² Ideally, the previously mentioned “various reasons” would include a monarch that was either too busy to attend to every trivial detail within his realm or one who responsibly recognized the value of a second or third opinion to keep himself accountable.

The path toward *privanza* usually started in a prince’s youth. A courtier developed a friendship with his lord in hopes of becoming his primary advisor, confidant, and representative. The rise of a *privado* would understandably foster hatred

¹ Geoffrey Parker, *Imprudent King: A New Life of Philip II* (New Haven: Yale University Press, 2014), 77-8.

² J.H. Elliott, “Introduction,” in *The World of the Favorite*, eds. J.H. Elliott and L.W.B. Brockliss (New Haven: Yale University Press, 1999), 1, 7.

among other nobles. More often than not king had to regain authority “usurped” by the privado, leading to the observation that “[t]he state of *privanza* is generally depicted as inherently unstable.”³

Kings and their Privados

Philip II embodied the inaccessible monarch, partly because he was so involved in the day-to-day functions of the government. He was constantly engulfed in paperwork, governing his kingdom through tiresome days and candlelit nights filled with official correspondence and government documents to the extent that when asked to grant a weekly audience to the Council of Finance, Philip replied that “I would be delighted to grant audiences to everyone,” but “it is better not to take up the time I need for so many things when it is in such short supply.”⁴ In 1559, he withdrew himself from his constant presence at meetings of the Council of State with the excuse that his absence would encourage free debate.⁵ While he felt his presence necessary in urgent matters of policy, it is likely that his absences from routine meetings reflect a dual purpose, both to project a mysterious cloud about his whereabouts and to give him more time to deal with other matters.⁶ Moreover, he felt that the best way to reach him was through written communication, which would force the petitioner to be direct and to the point, and would save Philip both the time and stress of an audience.

While Philip II preferred to govern from his desk, his court was not absent of *validos*, as he relied on the advice of a small number of favorites who therefore enjoyed political success. Philip’s reliance on multiple favorites ensured that no single minister obtained too much authority, which, in theory, helped to establish a favorable definition of *privados*.⁷ Philip later defended this strategy to his son, the future Philip III, telling him to “make use of all, without submitting yourself to anyone...but rather hearing out as many men and maintaining proper discretion with each.”⁸ To Philip II, his councilors worked as a machine, each part performing a different duty essential to the functioning whole, and Philip was the key to making them all work together. Many of his favorites were at odds with one another, such as the Prince of Éboli and the Duke of Alba, creating intense political rivalries that Philip was keen to exploit by giving neither the complete upper hand over the other.

³ James M. Boyden, “Fortune Has Stripped You of Your Splendour’: Favourites and their Fates in Fifteenth- and Sixteenth-Century Spain,” 27.

⁴ Quoted in Parker, *Imprudent King*, 77.

⁵ *Ibid.*, 65.

⁶ It was widely believed that Philip would spy on council meetings, so that he knew their business but gave them the false security that he was not present.

⁷ Antonio Feros, *Kingship and Favoritism in the Spain of Philip III: 1598-1621* (Cambridge: Cambridge University Press, 2000), 41.

⁸ Quoted in James M. Boyden, “Fortune Has Stripped You of Your Splendour’,” in *The World of the Favourite*, 34.

For much of the reign, Cardinal Diego de Espinosa was Philip's man in the Council of State, to the extent that he became "the man in all Spain in whom the king places most confidence," a claim that is supported by the fact that Espinosa was appointed governor of Spain in Philip's absence.⁹ While Espinosa was the king's agent in governmental affairs, he did not enjoy the constant exposure of Philip's presence as a favorite of the royal household. Of the three most important offices in the royal household, the Prince of Éboli and the Duke of Alba enjoyed the most prominence as *sumiller de corps* (Chamberlain) and *mayordomo mayor* (Lord High Steward), respectively.¹⁰ These positions each had different access to the king, as the *mayordomo mayor* was in complete charge of the royal household and finances, but the *sumiller de corps*, perhaps the more coveted position, enjoyed unrestricted access to the king.¹¹ Interestingly, Philip's most important *valido* enjoyed the least public prominence: his private secretary, Mateo Vázquez. Vázquez was privy to sensitive knowledge that none of the aforementioned favorites had access to, as he oversaw the king's mail, therefore controlling which papers made it to his desk and which were discarded. Philip would also use Vázquez to keep watch over his other ministers, often pitting them against each other so that they could only rely on Philip's favor.¹² Therefore, Philip employed his favorites smartly to serve his purposes, never allowing one to gain too much power over the other and most importantly retaining his own position of authority over each of them.

Philip III would fail to exert the same amount of control over his *privados*, mainly due to the fact that for much of his reign, he only had one: the Duke of Lerma. In a society that equated political ascendancy with royal favor, or *gracia real*, Lerma made sure that his foot was in the door quite early, inserting himself into the household of the prince while Philip II was still alive. When Philip II died in 1598, Lerma consolidated his influence over Philip III through his appointment as *caballerizo mayor* (Great Equerry), the third most important office in the king's household, which gave him constant access to the king during his travels. In December of the same year, he was also appointed as *sumiller de corps*, strengthening his position even further to the extent that the king's every movement was made in the presence of Lerma.¹³ Even on the same day as his father's funeral, Philip III declared Lerma a member of the Council of State, a measure that was followed by the expulsion of Philip II's man as President of the Council of Castile.¹⁴ Therefore, less than a year after the death of Philip II, his attempts to surround his son with his own ministers had floundered, and the Duke of Lerma held several positions that were meant to be held by various ministers. The complacency that Philip II had warned against was ignored, and while ministers were

⁹ Parker, *Imprudent King*, 71 and 151.

¹⁰ *Ibid.*, 68.

¹¹ Feros, *Kingship and Favoritism*, 92.

¹² Parker, *Imprudent King*, 68 and 70.

¹³ Feros, *Kingship and Favoritism*, 92-3.

¹⁴ *Ibid.*, 49 and 59-60.

once entirely dependent on their monarch, the new king became dependent on his overly ambitious minister.

The Duke of Lerma secured his position by playing on the idea of an inaccessible monarch. By bolstering the mysterious status of Philip III, he ensured that he was only ever directly influenced by his favorite. To avoid a similar fall from power as the Prince of Éboli, whose rivals had written directly to Philip II or had otherwise gone over the head of the favorite to influence the king, Lerma made sure that Philip III ordered all of the councils to send their reports directly to him. Lerma would then organize all correspondence and present it to the king in private. By controlling the king's correspondence, allowing him to choose which messages to discuss with the king, he could censor any unsavory news that would compromise his position. In fact, Antonio Feros, in his analysis of favoritism in the court of Philip III, states that the only difference in the practice of royal correspondence between the reigns of Philip II and Philip III was "the designation of the royal favorite as the receiver of all documents produced by the royal institutions and the only member of the royal court who was able to consult in person with the king."¹⁵ Further, as a testament to Lerma's monopoly of the king's favor, Philip III defended the authority of his favorite in an order to the Council of State, mentioning his satisfaction "with how he handles all matters I ask of him, and how well served I feel," and directing the council to "obey the duke in all matters."¹⁶ These examples serve to explain the absolute authority that Lerma wielded, and the complete deference of Philip III regarding governmental matters.

While the Duke of Lerma enjoyed unparalleled *valimiento* for over two decades, his prominence was highly criticized throughout the reign of Philip III which led to his eventual fall from power. Many of these criticisms name Lerma as the reason for the ills of the reign, while treating Philip III as a righteous king whose only fault was his choice of a corrupt, ambitious *privado*. The reasons for such an assertion are not hard to find. Lerma secured his position by "placing his relatives and friends in key palace offices," so that he could "erect a thick wall around Philip III, who was unable to write or speak to his subjects without being observed or heard or having his papers read by Lerma or one of his relatives and creatures." He took similar measures when the king married, meticulously controlling the appointments of servants in Queen Margaret's household so that he would have access to the queen.¹⁷ The web of conformity that Lerma created around the royal household invited criticism that he exerted too much control over a king who should hold that power himself. For instance, Fray Jerónimo de Sepúlveda asserts in his journal that Lerma not only "has the support of the king, but he is the king."¹⁸ Early biographies of Philip III take similar stances, depicting Philip as a virtuous, almost saint-like, but point to Lerma as the

¹⁵ Ibid., 111-112.

¹⁶ Ibid., 113-14.

¹⁷ Ibid., 95.

¹⁸ Ibid., 114.

actual ruler of the kingdom.¹⁹ These criticisms and similar attacks eventually filtered their way into court, and while Lerma maintained his position for the majority of Philip III's reign, his influence over the king gradually weakened.

The fall of the Duke of Lerma from royal favor was relatively quick compared to his prolonged prominence and was characterized by the equally quick rise of his son, the Duke of Uceda, who would supplant his father in the position of royal favor. It may seem surprising that Lerma's own son would instigate his downfall, but Feros asserts that "Uceda's leadership of the anti-Lerma faction demonstrates that individual ambition could take precedence over kin solidarity."²⁰ After removing the possibility of familial loyalty, it begins to make sense that Lerma would be overthrown by someone so close to him, as the nature of his web of authority necessitated that any person who had the influence to supplant him would have to come from within. Between the years 1617 and 1618, Lerma's position at court was gradually diminished through the efforts of a newly resolute king and the opposing court faction led by the Duke of Uceda, characterized by the dismissal of several of Lerma's allies from their positions at court. With his end in sight, Lerma convinced Pope Paul V to make him Cardinal of San Sisto, a move that saw him surrender the positions of *sumiller de corps* and *caballerizo mayor* to his son, which cemented his own fall from power and made Uceda in effect the king's new *valido*.²¹ Lerma remained politically active for a little while longer, but was eventually exiled from court by a king who had tired of him, forced to live the rest of his life in his diocese. Interestingly, Lerma's appointment as Cardinal served as a sort of insurance policy. As Cardinal, Lerma could not be tried for the corruption and attempted murder allegations from his regime, so the punishment for these crimes was exacted on Lerma's own favorite, Rodrigo Calderón, who was tied to a scaffold in the Madrid's Plaza Mayor and he was left with a cut throat "until he die[d] naturally."²²

Despite the disfavor that characterized the end of Lerma's *privanza* and his son's tamer demise, the institution of a royal favorite was not laid aside. Upon the accession of Philip IV to the throne, the position of royal favorite was assumed by the Count-Duke of Olivares. Olivares was appointed as a gentleman of the chamber to the ten-year-old Philip IV by Lerma himself in 1615. He cultivated his influence over the young prince quite successfully, as suggested by a conversation in the last days of Philip III's reign. As Philip III lay on his deathbed, Olivares said to the Duke of Uceda that "[n]ow everything is mine," a claim that according to J.H. Elliot, was proven right within the first couple of weeks of the new reign.²³

¹⁹ Ibid., 263.

²⁰ Ibid., 210.

²¹ Ibid., 241

²² Ibid., 257-58.

²³ Jonathan Brown and J.H. Elliott, *A Palace for a King: The Buen Retiro and the Court of Philip IV*, (New Haven: Yale University Press, 1980), 16.

The Count-Duke of Olivares was an observant man, and he took measures so that his fate would not eventually echo that of the Duke of Lerma. He maintained prominence by carefully controlling the sphere of influence around the king just as Lerma did, while constantly pitting himself against the traditional idea of the royal favorite by professing his selflessness as a humble servant and his deference to the king. For example, while Philip III was still alive, the prince complained at one point that the presence of Olivares made him weary, at which Olivares famously kissed the prince's chamber pot in a showing of humility in his role as servant. He would repeat this behavior in different ways throughout his lengthy *privanza*, at one point prostrating himself in front of the king and asking to leave his service, having served more years than was required for a common teacher to retire. Each time he could sense the fragility of his position, he would produce a similar version of these episodes and each time he would achieve the same desired effect, reminding Philip of how much he depended on his minister and how desperately lost he would be without his most trusted advisor. Along with his professed selfless disinterest, Olivares further separated himself from self-serving favorites of the past by refusing to use the titles *privado* or *valido*.²⁴ Instead, he portrayed himself as a "working-minister," one who merely advised the king, presenting the advantages and disadvantages of each situation and allowing Philip to make the ultimate decisions, as opposed to governing in the name of the king.²⁵ This behavior allowed would-be critics to draw parallels to the reign of Philip II, a convenient comparison that was strengthened by Olivares' adequacy for dealing with governmental papers.²⁶ Therefore, while Olivares was by all accounts more involved in politics than he would publicly acknowledge, and was often described as a bully when convincing other ministers to conform to his way of thinking, he was for the most part able to avoid the same nasty fate that befell Lerma by denying his status as a royal favorite and by publicly professing the king's power and interests over his own.

Though Olivares distanced himself from the characteristics commonly associated with the titles of *privado* or *valido*, he nonetheless functioned in much the same capacity, shielding the king's attention from those who had anything negative to say about the regime. Olivares stayed in power for so long because he surrounded himself and Philip IV with members of his own family (*la parentela*) and courtiers who owed their ascendancy at court to Olivares' patronage (*olivaristas*), ensuring that rivals to the regime could not access the king.²⁷ He further achieved this restricted access to the king through the Buen Retiro palace, which he used as an exclusive oasis to distract Philip IV from the ever-plummeting state of public opinion. In fact, while Olivares remained in power until 1643, Elliott asserts that the "tide of [public] opinion seems

²⁴ J.H. Elliot, "Staying in Power: The Count-Duke of Olivares," in *The World of the Favourite*, 113-114.

²⁵ *Ibid.*

²⁶ *Ibid.*, 34.

²⁷ Elliott, "Staying in Power: The Count Duke of Olivares," 119-20.

to have turned against the count-duke as early as 1627.”²⁸ That Olivares was able to rule a kingdom for sixteen years is evidence of his controlling influence over both the court and the king. His fall from power came when his creatures at court, and even some of his own family members, turned against him, having foreseen his seemingly inevitable decline. Therefore, though Olivares hoped to avoid the fate of Lerma by distancing himself from the titles associated with royal favoritism, his universal control of Philip IV’s court and the polarity of opinion that existed therein eventually sentenced him to a similar exile.

Throughout these three reigns, the image of the royal favorite shifted to accommodate the personality of the monarch. The *privados* during the reign of Philip II were capable agents for a king who was thoroughly involved in ruling the kingdom, and while Philip never allowed one minister absolute favoritism, it can be said that each one, from Vázquez to Cardinal Espinosa, had access to different forms of power, each influencing the king and the nation in their own specialized way. However, the reigns of Philip III and Philip IV witnessed the re-definition of the royal favorite as a sort of quasi-monarch; one who relied entirely on the king’s grace but influenced the king from such a young age to the extent that they usurped many of the responsibilities and therefore powers from the monarch. The two great favorites of the seventeenth century were able to cultivate their influence to form a web of patronage, which empowered those within and naturally made political enemies of those excluded. Such a system was highly effective as long as the favorite continued to entrance the monarch, and the longevity of both Lerma’s and Olivares’ *privanzas* serves as a testament to their ability to make the king rely on them. However, such a relationship cannot last forever. The monarch had to be seen as above the machinations of his favorite— any positive political development would benefit the crown, but any criticisms of policy would be directed at the *privado*. This made it possible for the respective king to direct any blame for the mistakes of the regime to his once-favorite, while he retained the innocent façade of a manipulated sovereign. All the king had to do in the end was to shift his political favor to the opposing faction, and the web of the once-favorite would unravel quickly. Therefore, while the weakness of the late Habsburg monarchy in Spain allowed for unprecedented power to be granted to unrivalled favorites, the existence of the Spanish *privado* was unstable at best, and the preeminence enjoyed by royal favorites were eclipsed only by their rapid, unrewarding fall from power.

Understanding one of the most complex polities of the early modern period in Europe requires an appreciation of the relationships that formed and the rituals that were performed in the courts of these Spanish monarchs. Apart from the ability to make friends with a prince, these relationships required a complex knowledge of Spanish court etiquette, as well as a preconceived ambition that was almost perfectly executed for decades. Through this constant aspiration, the Spanish court favorite was

²⁸ Ibid., 120.

able to wield vast amounts of political power that was usurped from the kings they served. This performance is essential to the realities the politics of Spain in this period, and it must always accompany an understanding of the workings of the state and eventually the policy that developed during this time. Interpersonal relationships between ruler and subjects, including his closest subjects and advisors, redounded (and rebound) on the functioning of real time politics and the discursive tactics used to deal with any given regime's successes and failures.

Author Biographies

Nathan Harkey earned his Bachelor of Arts in History and Spanish from Harding University in the Spring of 2018. He is currently completing his Master of Arts in History with a focus in Late Medieval and Early Modern Europe at the University of Arkansas. As an undergraduate, Nathan was fortunate enough to study in Florence, Italy, Mainz, Germany, and Lima, Peru, which contributed to his interest in Global Studies. He is grateful to his professors from Harding and the University of Arkansas for their help and direction with his writing, as well as to his parents, Bruce and Cindy Harkey for their endless support and encouragement.

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