

The cover features a large, semi-transparent blue globe of the Earth in the background. In the foreground, several hands of various skin tones are raised, with some reaching towards the globe. The text 'NATIONAL SOCIAL SCIENCE JOURNAL' is printed in a large, bold, black serif font with a white outline, stacked vertically on the left side of the globe.

# **NATIONAL SOCIAL SCIENCE JOURNAL**

Official Journal of the National Social Science Association

Volume 60

Number 1

2023

Name of Publication: **NATIONAL SOCIAL SCIENCE JOURNAL**

Issue: Volume 60 # 1 ISSN 2154-1736

Frequency: Quarterly

Offices of Publication: National Social Science Association  
J. Vern Cromartie, Editor in Chief  
Contra Costa College  
2600 Mission Bell Drive  
San Pablo, CA 94806

On Line journals: <http://nssa.us>

E-mail address: [nssa1@cox.net](mailto:nssa1@cox.net)

The National Social Science Journal is being abstracted in: Cabell's Directory; Eric Clearinghouse; EBSCO, Economic Abstracts; Historical Abstracts; Index to Periodical Articles; Social Science Source; Social Science Index; Sociological Abstracts; the University Reference System.

We wish to thank all authors for the licensing of the articles. And we wish to thank all those who have reviewed these articles for publication



This work is licensed under a [Creative Commons Attribution 3.0 Unported License](https://creativecommons.org/licenses/by/3.0/).

**Editor in Chief: J. Vern Cromartie**

## **EDITORIAL BOARD**

Editorial Board:

**Isela Almaguer, University of Texas Rio Grande Valley**

**Sue Burum, Minnesota State University, Mankato**

**Cindy Cummings, Lamar University**

**Jose da Cruz, Armstrong Atlantic State University**

**Luciano N. Cruz, San Diego State University**

**Amy Shriver Dreussi, University of Akron**

**Talitha Hudgins, Utah Valley University**

**Charmaine Lowe, Austin Peay State University**

**James Mbuva, National University**

**Jeffrey Stomper, College of Lake County**

**Pegly Vaz, Fort Hays State University**

**Stephanie White, Los Angeles Southwest College**

**Wen Xing, Southwest Jiaotong University & Dartmouth University**

# NATIONAL SOCIAL SCIENCE JOURNAL

Volume 60 #1

## Table of Contents

<b>Post-election 2020: the state of electoral reform</b> <i>Dr. Anita Chadha, University of Houston, downtown</i>	1
<b>The Implications of Zivotofsky v. Kerry for U.S.-Israel Relations</b> <i>Terri Susan Fine, University of Central Florida</i>	13
<b>The Russia -Ukraine War: A Global Security Dilemma?</b> <i>Dr. Raymonde (Remy) Kleinberg, University of North Carolina Wilmington</i>	27
<b>Teaching Controversial Issues in the Social Studies: Comparing Two Studies over a Decade</b> <i>Sean M. Lennon, Ed.D., Valdosta State University</i> <i>Jeffrey Byford, Ph.D., University of Memphis</i>	34
<b>School Site Threat Assessment Overview and Firsthand Incident Narrative: A Not So Ordinary Day in the Life of a High School</b> <i>John Peter Petrone, Ed.D., Eastern New Mexico University</i>	45
<b>How Instructional Comics Support Learning</b> <i>Aaron White, Eastern Illinois University</i>	59

**Post-election 2020: the state of electoral reform**

*Dr. Anita Chadha*

*University of Houston, downtown*

*Abstract:* More than a year after the 2020 presidential election, the riots at the U.S. Capitol, the subpoenas issued against aides and allies of Trump over the riot, the impeachment proceedings, and evidentiary proof that Trump had tried to prevent Congress from certifying Biden as the winner, the nation are deeply divided across nearly all aspects of the election and voting process. This study assesses the decades of partisan divide seen during election 2020 between Biden and Trump voters on the confidence of their vote counting accurately at polling places, by mail, and absentee voting as these processes changed due to COVID. Similarly, the decades of disparity between white voters and individual racial groups are assessed as state legislature reactions of quickly passing a spate of new restrictive voting laws that made it disproportionately difficult for voters of color to cast ballots. With electoral reform at our doorstep, a projected narrative on our electoral processes is offered ahead of both our 2022 and 2024 electoral landscape.

### *Introduction*

Following an unprecedented year of uncertainty, adaptation, and innovation in administering a presidential election amidst a pandemic Election 2020 heightened the decades of debates over the confidence and integrity of our electoral processes. The election additionally amplified the deep partisan polarization more than ever before. And that we are sharply divided along racial and ethnic lines that stymie our confidence and fairness in our electoral processes (Hasen, 2020).

Confidence and integrity of our electoral processes

### *Confidence in vote counting accurately, pre and post-election*

Election 2020 illuminated these pathologies as numerous polls found that confidence in our vote being counted accurately varied before and after the election and one that varied along partisan lines. One poll found that a month before election 2020, 92% of Trump voters were confident in the vote-counting accurately yet only 63% were confident after the election. Conversely, while 90% of Biden voters were confident before the election, 98% were confident after the election (Pew research center, 2020). Similarly other polls concluded the same that confidence in our vote counting accurately was driven entirely by partisanship as Biden voters had greater confidence in vote accuracy versus Trump voters (Perez, 2020; Wagner, 2020).

### *Confidence in vote counting accuracy at polling places, by mail or absentee ballot due to COVID*

With the pandemic compelling states to create differing ways for voters to cast ballots safely either by voting at polling places or voting by mail, absentee, or curbside voting, confidence in vote counting accuracy was driven by partisan lines yet again. Numerous polls found that eight in ten voter (82%) were most confident in the accuracy of vote counting at polling places in comparison to 59% who were confident that their vote would count accurately by absentee or mail. Partisanship dictated this divide with 98% of Biden voters confident that votes were accurately counted at polling places in comparison to 64% of Trump voters. Similarly, 95% of Biden voters were confident that their vote counted accurately when cast by absentee or mail-in comparison to 19% of Trump voters as shown in Table 1. Similarly, other polls concluded the same in that 65% of Democrats were confident that their votes would count accurately in comparison only 23% of Republicans were confident in the same (Perez, 2020).

Table 1

Confidence in vote counting accurately			
	Polling places	Vote by mail	Vote absentee
Biden voters	98%	95%	95%
Trump voters	64%	19%	19%

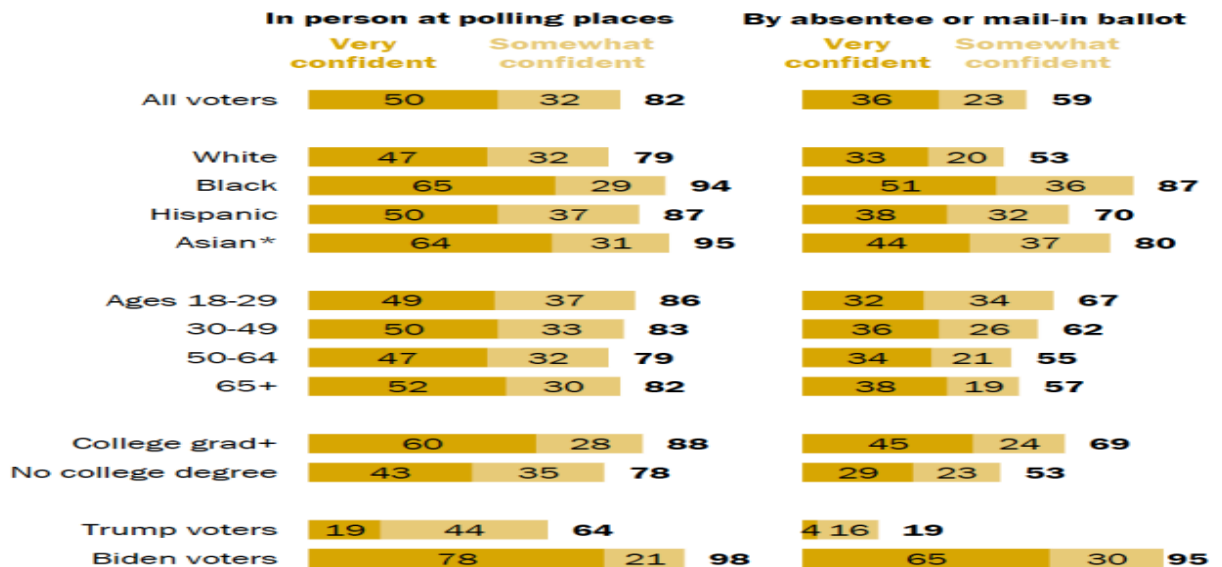
*Confidence in vote counting accurately across ethnicity*

Other than the decades of partisanship in electoral processes the decades of divide across racial and ethnic lines continued over our electoral processes. While 94% of Black voters were confident that votes cast in person would be counted accurately, 87% of Hispanic voters and 79% of white voters were confident in their accuracy. Similarly while 87% of Black voters were confident that their absentee ballots would be counted accurately 70% of Hispanic voters along with about half of white voters (53%) were as confident as shown in Figure 1.

These differences by race and ethnicity reflect the decades of partisanship divide as well. Here White Biden voters (83%) more than Black (68%) and Hispanic (70%) Biden voters were confident in their votes counting accurately at polling places and by mail-in ballots as shown in the same Figure 1.

**Biden voters more likely than Trump voters to be confident in vote count, regardless of voting method**

*% of voters who say they are confident that votes cast \_\_\_\_\_ across the United States were counted as voters intended in the elections this November*



\*Asians interviewed in English only.  
 Note: Based on voters. White, Black, and Asian adults include those who report being only one race and are not Hispanic. Hispanics are of any race. No answer responses not shown.  
 Source: Survey of U.S. adults conducted Nov. 12-17, 2020.

PEW RESEARCH CENTER

Figure 1: Confident in vote counting accurately, election 2020

## COVID and electoral problems

Relatedly, over the decades our elections have been notoriously problematic in with issues over our voting equipment, ballot design (i.e. the 2000 butterfly ballot), registration issues, long lines and security/hacking. Nonetheless despite widespread expectations that the pandemic would disrupt the election, election 2020 turned out to be one of the safest elections in our nation. In fact a majority of voters (55%) noted that the coronavirus was not a factor in their decision about how to cast their ballot (pew research center, 2020). And voter turnout surged as more Americans cast ballots than in any presidential election in a century, one which was true across each racial group as more Black Americans voted in 2020 than any presidential election since 2012, and Latino Americans and Asian Americans also surpassed their previous turnout records (Morris&Grange, 2021).

### *Partisanship and Race*

In fact only 20% of the populous reported that long lines were an issue. With respect to partisanship approximately two-in-ten in-person Biden voters (21%) waited more than half an hour to vote, compared with 15% of in-person Trump voters. Among those who voted in person 35% said that they did not wait in line to vote at all while an additional 27% said that they waited for less than 10 minutes while 6% said that they waited in line for more than an hour to vote. Race was a factor as well as Black voters were 5 percentage points higher in reporting that they waited in line more than 30 minutes to vote than white voters. While Hispanic voters reported 9 points more likely to say this as well as shown in Table 2.

Among the other issues reported in election 2020 were safety concerns amid the coronavirus pandemic, issues with absentee and mail in ballots and suspicions about the voting system as shown in the same Table 2. Here approximately, 51% of voters reported net logistical issues, while 16% reported issues with submitting absentee or mail ballots made voting difficult. Some in this category pointed to confusion about rules and requirements surrounding vote by mail, others mentioned delays in receiving or tracking their mail ballots in time.

About one-in-ten cited general concerns and suspicions about the voting system in general. This includes uncertainty about the vote counting process as a whole or concerns that states were tampering with the voting process, as well as specific concerns about more widespread use of mail-in voting. Yet remarkably, 94% of voters reported that voting was easy for them personally while 6% of voters said that they encountered difficulties when casting their ballot.

*Table 2*

<i>Self-reported issues with voting 2020</i>	
Net logistical issues while voting	51%
Long lines	20%
Concerns/issues with mail ballots	16%
COVID safety concerns	7
NET political environment	27
NET general concerns about voting	12
Distrust of mail voting	5
Vote count corrupt	2

Source: Pew Research center, 2020

### Riot at the Capitol

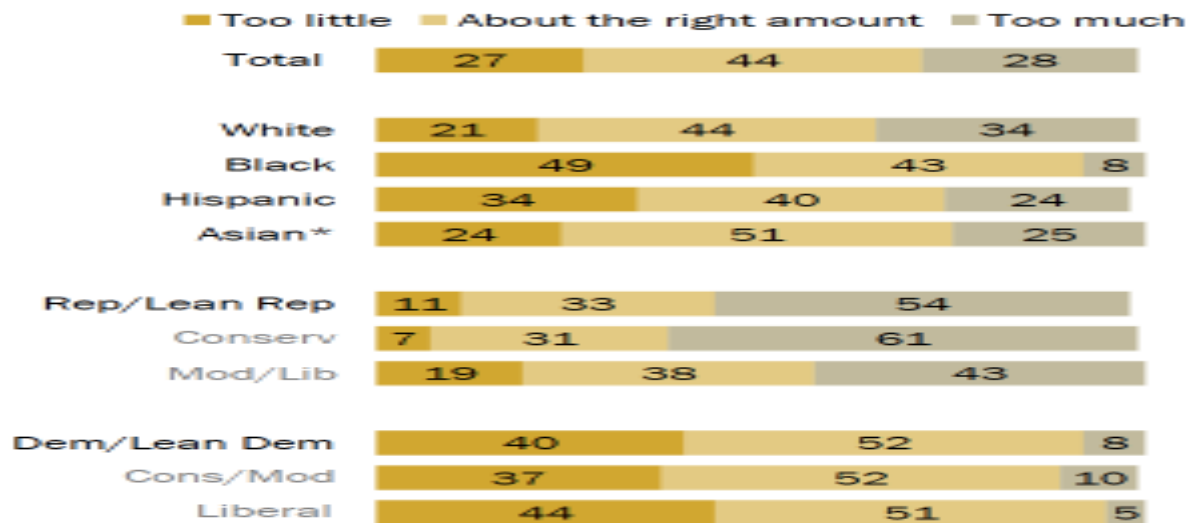
After the unexpected riot at the Capitol, opinions on who bore the responsibility for the rioting were closely related to voters' views on who won the election. Right after the election, while a majority of Biden voters said that Trump bore much of the responsibility for the violence and destruction few Trump voters said that he bore no responsibility for the rioting.

These opinions on whether Trump bore responsibility for the rioting at the Capitol are closely related to voters' views on who won the election. In this regard 89% of Biden voters believed that Trump bore the responsibility for the violence and destruction while 48% of Trump voters believe he bore no responsibility for the rioting (Pew Research Center, 2021).

Regarding the prosecuting of the Capitol rioters, a poll found that approximately 6 in 10 Americans blamed Trump for the insurrection at the U.S. Capitol, yet 8 in 10 Republicans disagreed that Trump was to blame for the violence (Montanaro, 2021). Here race played a factor with a majority of Blacks (87%) polled believing that federal penalization of rioters was very important in comparison to Hispanics voters (69%) and Asians (67%) voters believing the same. And that Black adults more than other ethnic groups said that too little attention had been paid to the Capitol rioters as seen in Figure 2.

### Black adults more likely than Whites and Hispanics to say too little attention has been paid to the Capitol riot

% who say there has been \_\_\_ attention paid to the Jan. 6 riot at the U.S. Capitol and its impacts



\*Asian adults were interviewed in English only.

Notes: No answer responses not shown. White, Black and Asian adults include only those who are not Hispanic. Hispanics are of any race.

Source: Survey of U.S. adults conducted March 1-7, 2021.

PEW RESEARCH CENTER



Figure 2: Pew research center: <https://www.pewresearch.org/politics/2021/03/18/large-majority-of-the-public-views-prosecution-of-capitol-rioters-as-very-important/>

Relatedly, another poll right after election 2020 found that six in 10 Republicans also believed Trump's claim that the election "was stolen" from him due to widespread voter fraud (Oliphant & Kahn, 2021). The partisan divide in the election being 'stolen' continued into late 2021 with a poll that revealed that 78% of Republicans still did not believe that Biden had won the presidency (CNN, 2021) even when a memo revealed that Trump had blueprints drawn up that would prevent Congress from certifying Biden's victory, and has pressured the Justice Department to declare election fraud.

#### *Subpoenas against U.S. Capitol rioters*

In late 2021 the select bipartisan committee comprised of a seven Democrats and two Republicans including Liz Cheney investigated the January 6 riot at the US Capitol and issued its first round of subpoenas against close aides and allies of former President Trump. Immediately, Trump commented,

"We will fight the Subpoenas on Executive Privilege and other grounds, for the good of our Country," deriding the panel as the "Unselect Committee." While Liz Cheney, was targeted for not following partisanship as she supported Trump prosecution, remarking,

"Look, the numbers of people who will stand up for the truth, you know, I wish there were more but it doesn't affect the rightness of doing this and it doesn't affect my duty and I do think it's very important, it's important for voters as they're watching this unfold to think about the kind of representation they want and to think about the gravity of the issues that this country's facing and having leaders who will rise to that challenge and leaders who will deal with these issues seriously" (CBS News, 2021).

Immediately, polls found that four in 10 Republicans said that it was important to them that Mueller testify, and three in 10 Republicans said the White House should stop arguing that some officials and former officials should defy the congressional subpoenas (Page&Elbeshbishi, 2021).

#### *Impeachment and perception of election 2020*

Just as Republicans and Democrats were at odds over whether Trump was responsible for the rioting at the Capitol, partisanship continued on his impeachment. Nearly two-thirds of Republicans (65%) polled believed that Trump's conduct was not wrong and he should not have been impeached by the House. In stark contrast, an overwhelming majority of Democrats (87%) polled perceived that Trump's conduct was wrong, and the Senate should have voted to convict him.

Notwithstanding the pandemic, the capital rioting and impeachment charges, confidence and integrity of our electoral processes which had pummeled over the decades led to lawmakers across the nation passing hundreds of electoral reform bills in their states.

#### *Electoral reform bills, 2020 and 2021*

##### *Restrictive reform passage*

By early 2021, lawmakers in 47 states lawmakers proposed 361 bills which restricted electoral processes, for instance by limiting voting by mail, limiting early voting hours and early in-person days/hours. In addition other bills narrowed absentee voting,

added stricter voter ID requirements, including a new ID requirement for mail-in ballots, that weren't part of prior bills as shown in figure 3.

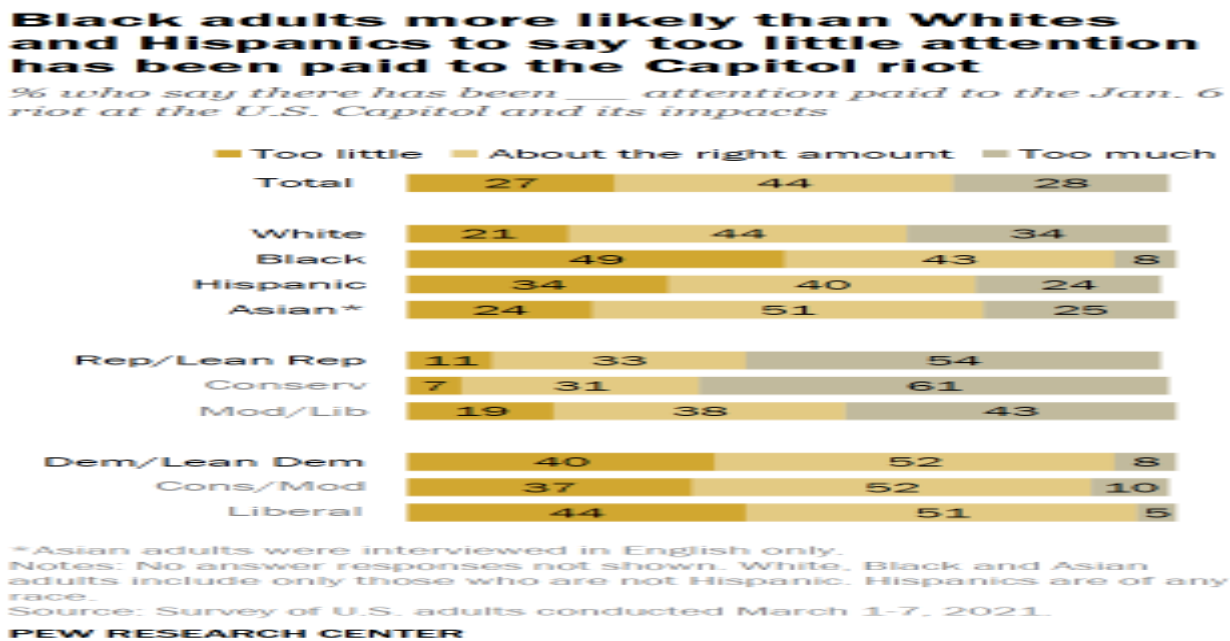


Figure 3 <https://datawrapper.dwcdn.net/Ujclv/3/>

For example Texas passed the largest number of restrictive bills (49 bills), followed by Georgia (25 bills), and Arizona (23 bills). Texas passed bills that added newer and stricter ID requirements for people seeking to vote by mail than the ID laws that were already in place while additionally adding new criminal penalties to the voting process. In addition they banned 24-hour voting options and drive-through voting options that had been created to ease voting convenience during the pandemic. These restrictions were largely aimed at Black and Latino voters as they were the majority of people who took advantage of the 24-hour voting option and were more than 70% of prosecutions for alleged voting crimes (Swasey, 2021).

While Arizona added voter ID requirements for mail in ballots and that if a voter doesn't use their mail ballot for two straight two-year election cycles, they'd get a notice that they're about to be removed from the list, and they'd have to respond to prevent the removal (Timm, 2021). Similarly, Georgia passed tighter measures on voter ID for absentee voting and limiting the use of drop boxes. In fact Georgia's measure prompted the Biden administration to sue the state in federal court alleging that Georgia violated Section 2 of the Voting Rights Act by restricting the rights of Black voters. By mid-2021 the Justice Department announced that it was suing the state of Georgia over its recently enacted voting restrictions. Similarly the executive director of the American Civil Liberties Union of Georgia, commented,

"They're giving people this stamp of approval and saying you can challenge as many people as you want... It's a vestige of Jim Crow."  
 (Vasilogambros, 2021).

Across the nation the frenzied pace of these electoral restrictive proposals were enacted into law by the end of March 2021 mere months after election 2020. While another large number of restrictive bills continued to move through the legislatures.

#### *Expansive reform passage*

In contrast to these restrictive bills, lawmakers in 47 states passed 843 bills that were considered to be expansive. For instance these bills expanded absentee voting, expanded voter registration, and early voting, gave voting rights for those with past convictions, and curtailed voter ID requirements.

Fifteen states<sup>i</sup> expanded voter registration opportunities, such as offering online voter registration, providing same-day and Election Day registration, providing for pre-registration of 16-year-olds, extending voter registration deadlines, and establishing and expanding automatic voter registration. While five states<sup>ii</sup> established automatic voter registration and three states<sup>iii</sup> established and/or expanded Election Day or same-day registration. Moreover, ten states<sup>iv</sup> restored voting rights to people with past convictions.

Expanding electoral processes, New York passed a bill that automatically restored voting rights to people on parole (Romine, 2021) while another NY bill expanded automatic voter registration agencies to include the State University of New York (SUNY). While bills in several states<sup>v</sup> extended or created no-excuse absentee voting and granted disabled voters unable to vote a paper ballot reasonable vote-by-mail accommodation expanding electoral processes. Aside from states passing bills aimed at electoral reform Congress proposed electoral reforms of their own.

Congressional proposed electoral reforms

#### *The Fair Representation Act*

The Fair Representation Act was introduced to Congress in mid-2019 and while it did not pass it was reintroduced in mid-2021. The purpose of the bill was to establish the use of ranked choice voting (RCV) in elections for Representatives in Congress, to require each State with more than one Representative to establish multi-member congressional districts, to require States to conduct congressional redistricting through independent commissions, and for other purposes. As Representative Khanna commented,

“As we watch more and more state legislatures push through partisan congressional maps, the need for a better system of representation has never been more clear...The Fair Representation Act will increase representation for communities left behind, open up the two-party system to much-needed choice for voters, and get folks re-engaged with their government”.

#### *The For the People Act.*

The For the People Act bill sought to expand voting rights, change campaign finance laws to reduce the influence of money in politics, ban partisan gerrymandering, and create new ethics rules for federal officeholders. This bill passed the U.S. house and is in deliberation at the U.S. Senate. Vice President Kamala Harris told reporters that she and President Biden intend to continue to push for voting reform, including the John Lewis Voting Rights Act.

#### *John Lewis Voting Rights Act*

The John Lewis voting rights bill, named after late Georgia Democratic congressman and civil rights icon John Lewis, first became law in 1965, shortly after a

bloody law enforcement attack on voting rights activists on a bridge in Selma, Alabama. The bill that was proposed in 2021 was to restore enforcement provisions of the Voting Rights Act today.

At the end of August 2021, the proposed bill passed the U.S. house and viewed by the Democrats as an opportunity to head off laws restricting voting access that many states passed in the aftermath of the 2020 election. Indubitably, our electoral future depends upon not only this heightened frenzy in electoral reform proposals across the nation but will be based on our changed electoral procedures post COVID and our changed 2022 and 2024 electoral landscape.

COVID 19 and our 2022 and 2024 electoral landscape

COVID 19 intensified the need for securing our electoral process. The National Task Force on Election Crises, a cross-ideological group of more than 50 experts on elections, security, public health including the FBI General Counsel, members of congress and the U.S. Secretary of Homeland Security came together at the start of 2021, to consider our future electoral security stating that our election system was aging and unnecessarily confusing, adding that:

“While Americans weathered a wave of disinformation and there were unprecedented efforts to delegitimize and overturn the election results—ultimately inciting a crisis, with an attack on our democracy as white supremacist rioters attacking the Capitol seeking to not only overturn the Constitutional order, but also to take hostages and assassinate members of Congress and the Vice President

While American democracy has survived this crisis In order to plan for election 2024 we will only be able to prevent the next one if we both 1) ensure accountability for all those who incited, abetted, and participated in the insurrection, and 2) adopt preventative reforms based on the lessons we learned in this election”. (The National Task Force on Election Crises, 2021).

The workforce focused their efforts on how to gain legitimacy and long term stability of our electoral processes for election 2024 recommending that Congress establish an advisory policy commission to examine the readiness of the U.S. election system to withstand future global and national crises. And that partisanship would not drive these electoral reform efforts, to survey best practices from election administrators throughout the country, proposing that statutory language be used so these were not ambiguous or inflexible or create vulnerabilities to election crises in an effort to examine why our electoral system was broken or vulnerable.

Additionally they recommended that the nation would need to prepare for the worst again. In the event of a crises again the task force recommend that voting rights and civil rights organizations, experts in political violence, faith communities, labor organizations, media companies, business leaders, and cultural figures should not have to rally a massive election-protection and voter-education effort to overcome structural problems with our election system. Indeed the commission noted that the potential for impact is large when individuals or groups historically at odds can come together for a shared purpose.

Finally the workgroup noted that it was also important that, we make efforts to examine and fix not just what was broken or what was revealed to be vulnerable.

Although the pandemic provided unknown circumstances, we still have antiquated laws which have heightened polarization, disinformation and racial inequality which we must begin to examine and address lest our efforts be as futile in treating symptoms and not the underlying disease in our body politic and our society. (The National Task Force on Election Crises, 2021).

*Our electoral future*

The election taskforce reinstated that not partisanship but policymakers and the public give election administration the necessary attention to ensure our election system can survive future crises of the magnitude we faced in 2020.

“Our best risk management tool to ensure that America’s election system can withstand any future mix of crises is for us to invest now in the right mix of policy reforms and resources to ensure voters have a wide range of safe and secure ways to vote and that protections are in place to ensure the transparency and accuracy of their votes” (The National Task Force on Election Crises, 2021).

*Our 2022 and 2024 political landscape*

*Election 2022*

The revelation that a sitting president had plans drawn up to overturn an election and has been issued a subpoena on the attacks at the U.S. Capital, not only is the integrity of the 2022 midterm elections in question but our electoral processes. In fact, election 2022 is shaping up to be a referendum on the future of our electoral politics, with partisanship at its core. At stake in 2022 are 34 states that will hold Senate elections with eight states seats projected to be competitive. Based on forecasts If Democrats end up taking back control of the House during the midterms, our American political landscape is changed yet again ahead of election 2024 as shown in Figure 4 (270twin, 2021). Any way you slice it, the U.S. midterm elections will allow voters to significantly change the makeup of Congress which affect the U.S. electoral reform bill passage.

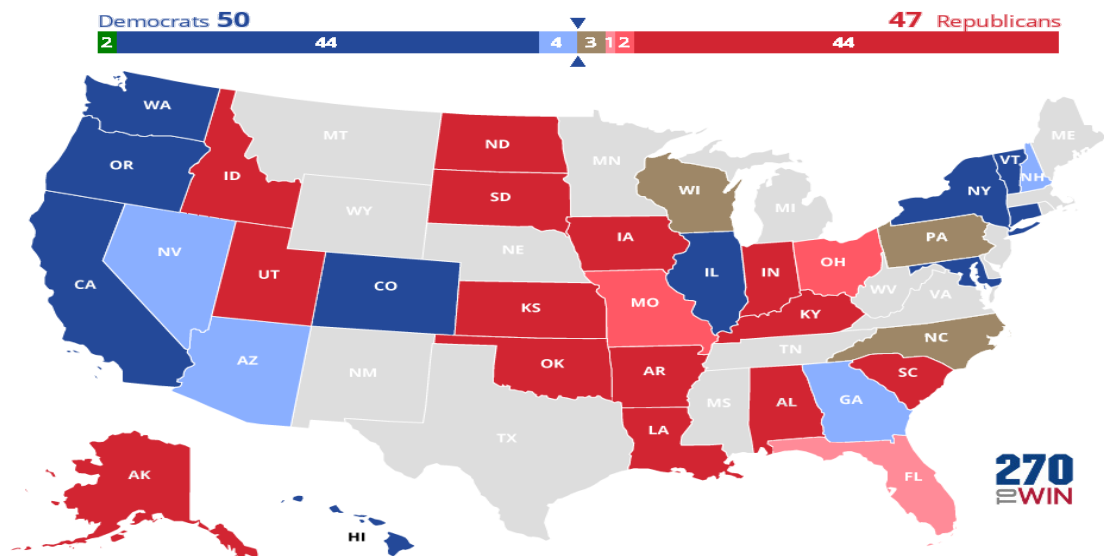


Figure 4: Source: 270twin, 2021

*Election 2024*

Ahead of election 2024, our 2020 census reveals that our electoral landscape has changed substantially. Our population is aging, has become more racially and ethnically diverse and better educated as shown in Table 3. Moreover, our census reveals that for election 2024 it will be the first time California has ever lost a congressional seat as will New York. While Texas and Florida will gain electoral votes changing our electoral dynamic yet again.

	2016	2020	2036
White, no college	46%	43%	34%
White, college	23%	24%	25%
Black	13%	13%	13%
Hispanic	12%	14%	19%
Asian/Other	7%	7%	9%
Age 18–29	22%	21%	19%
Age 65 and older	21%	23%	28%

Source: Center for American Progress Source

Furthermore, for the first time in our nation’s history regardless of party affiliation the racial justice movement has inspired and galvanized Americans to not only vote, but involve themselves with their communities and tackle our racial and ethnically biased electoral issues of the past. And for the first time election 2020 electrified young adults (ages of 18 to 29) as they set the highest ever recorded turnout in the nation’s history.

Our changed landscape along with thousands of legislative, congressional and voter reform proposals promises that election 2024 will find our electoral processes redefined and reformed as state and congressional legislation make their way through our nation. What we do know is that our demographic and generational change will have profound effects on our electoral processes and thus the direction of electoral reform in our nation.

<sup>i</sup>AR HB 1517, CA SB 504, CT SB 5, CT SJR 13, DE SB 5, HI SB 159, HI SB 548, MN HF 9, MN HF 607, MO HB 738, ND HB 1078, NE LB 577, NH SB 83, NY SB 517, RI SJR 569, SD SB 24, TN SB 1541, TX SB 1340.

<sup>ii</sup> DE SB 5, HI SB 159, MN HF 9, MN HF 607, NE LB 577, TN SB 1541.

<sup>iii</sup>CA SB 504, CT SB 5, MN HF 9.

<sup>iv</sup>AL SB 118, CT SB 5, CT HB 5318, CT HB 6578, IA HSB 143, IA HSB 231, MN HF 9, MN HF 876, NE LB 158, NE LR 10CA, NY SB 830, OR SB 571, TN HB 896, TN SB 647, VA SJR 272, WA HB 1078.

<sup>v</sup>CT, IN, MA, New Hampshire, N. Y., Rhode Island

---

## References

- 270twin. (2021). 2022 Senate Elections: Consensus Forecast. Retrieved from <https://www.270twin.com/2022-senate-election/consensus-2022-senate-forecast>
- CBS News (2021). Rep. Liz Cheney on Capitol riot select committee hearing, her future in the Republican party and "childish" partisan attacks. Retrieved from <https://www.cbsnews.com/news/liz-cheney-house-committee-hearing-republican-party/>
- CNN Trump lawyer's memo on six-step plan for Pence to overturn the election. Retrieved from <https://www.cnn.com/2021/09/21/politics/read-eastman-memo/index.html>
- GovTrack.us. (2021). H.R. 3863 — 117th Congress: Fair Representation Act. Retrieved from <https://www.govtrack.us/congress/bills/117/hr3863>
- Hasen, R (2020). Election Law Journal: Rules, Politics, and Policy. Pp. 263-288. <http://doi.org/10.1089/elj.2020.0646>
- Montanaro, D. (2021). Poll: Majority Of Americans Blame Trump For Violence At Capitol, NPR. Retrieved from <https://www.npr.org/2021/01/15/956850131/poll-majority-of-americans-blame-trump-for-violence-at-capitol>
- Morris, K & Grange, C. (2021). Large Racial Turnout Gap Persisted in 2020 Election. Brennan Center for Justice
- Oliphant, J & Kahn, C (2021). Half of Republicans believe false accounts of deadly U.S. Capitol riot-Reuters/Ipsos poll. Reuters.
- Page, S. & Elbeshbishi, S. (2021). Most Americans want Trump to comply with House subpoenas. But impeach him? Not so fast. USA Today.
- Perez, M. (2020) 45% Of U.S. Voters Not Confident Votes In The Presidential Election Will Be Counted Accurately, Poll, Forbes
- Pew research center (2020). Voters' evaluations of the 2020 election process. Retrieved from <https://www.pewresearch.org/politics/2020/11/20/voters-evaluations-of-the-2020-election-process/>
- Romine, T (2021). New York state legislature passes bill that would automatically restore voting rights to people on parole. CNN.
- Swasey, B. (2021). After A Bitter Fight, The Texas House Passes A Restrictive Voting Bill. NPR.
- The National Task Force on Election Crises (2021). Strengthening our Elections and preventing election crisis: Lessons and Recommendations from the 2020 General Election.
- Vasilogambros, M. (2021). Republican Wave of Voting Restrictions Swells. Pew research center.
- Wagner, M, Macaya, M, Rocha, V, Mahtani, M & Wills, A. (2020). Presidential election results 2020. CNN. Retrieved from [https://www.cnn.com/politics/live-news/election-results-and-news-11-03-20/h\\_72ba556276115f0161ed929c0dd17f0a](https://www.cnn.com/politics/live-news/election-results-and-news-11-03-20/h_72ba556276115f0161ed929c0dd17f0a)

# The Implications of *Zivotofsky v. Kerry* for U.S.-Israel Relations

*Terri Susan Fine*  
*University of Central Florida*

## Introduction

The political implications of the U.S. Supreme Court ruling in *Zivotofsky v. Kerry* (576 U.S. \_\_\_ (2015)) as they relate to the relationship between the president and Congress in foreign policy making are examined here. The *Zivotofsky* decision is analyzed within the context of the distribution of power extended to Congress and the president, the legislative and constitutional background upon which the case emerged, the issues surrounding the case and the U.S. Supreme Court's response to those issues. How the decision reinforced the president's Article II foreign policy powers is further explored. The article concludes with a discussion of the consequences of the decision for U.S.-Israel relations, the relationship between the president and Congress as it pertains to U.S.-Israel relations, and U.S. foreign policy in the Middle East.

*Zivotofsky v. Kerry* emerged in response to an issue concerning few people--U.S. citizens born in Jerusalem. The implications of the decision extend well beyond the central issues of the case as the decision clarified the president's Article II U.S. foreign policy powers (to "receive Ambassadors and other public Ministers") relative to Congress' Article I legislative powers.

This article supports ongoing discussions about the *Zivotofsky* decision giving focus to the presidential-congressional relationship. Earlier work critiques the U.S. Supreme Court's use of precedent in *Zivotofsky* (Rush 2016), while others suggest that the case outcome may affect international perceptions of the U.S. (Cole-Chu 2016). A case-related shift in the balance of power between Congress and the president is also noted (Fisher 2016), particularly as that balance of power relates to U.S. foreign policy (Grand 2015, Scoville 2015, Wuerth 2015). Further, Bradley and Vazquez (2015a, 2015b) produced a two-volume work focusing on the case. The first volume considers the role of precedent in judicial decision making, foreign relations law, constitutional interpretation, separation of powers and judicial review while the second volume focuses on presidential powers, the role of signing statements as an element of the presidential-congressional relationship, and how passports, the case focus, represent elements of both domestic and foreign policy. The legal and constitutional scholarship inspired by the case suggests that *Zivotofsky* both reinforced precedent while the decision strengthened how the president exercises executive powers articulated in Article II of the U.S. Constitution.

This work presented here builds on earlier efforts by considering how the case highlights Congress and the president exercising their formal and informal powers and the implications of the relationship between Congress and the president in light of both the *Zivotofsky* decision and the reasoning that informed it. The work also examines how President Donald Trump's relationship with the Israeli government reflected the issues central to the case and decision.

To explore the political implications of the case, this essay is organized by first examining the statutory issues upon which the case is based followed by a discussion of the case within the context of the U.S.-Israel relationship, and the role that the United States plays negotiating Middle East peace. The case background is then explored followed by a discussion of the implications of the case decision on presidential-congressional relations, and the broader role of the president navigating U.S. foreign policy in the Middle East.

**The Foreign Relations Authorization Act for Fiscal Year 2003**



The central question in *Zivotofsky* asks whether a provision of the *Foreign Relations Authorization Act for Fiscal Year 2003*, or FRAA, allows Congress to compel the secretary of state to issue passports to U.S. citizens born in Jerusalem, thus treating Jerusalem as part of Israel. Before the FRAA was enacted, it was longstanding presidential practice to treat Jerusalem as neutral territory. Reflecting this practice, the birthplace of U.S. citizens born in Jerusalem was listed as “Jerusalem” on their passports, and not as a city within any country, by the U.S. State Department. By contrast, the FRAA allows (but does not mandate) U.S. citizens born in Jerusalem to list “Jerusalem, Israel” as their birthplace on their passports. Asking whether it is Congress, the legislative branch, or the president, as head of the executive branch, who may direct the secretary of state to treat Jerusalem on a passport as neutral territory that is not part of any country or as part of Israel by designating one’s birthplace as “Jerusalem, Israel” on a passport has implications for U.S. foreign policy toward Israel.

*Zivotofsky v. Kerry* centered on Section 214(d) of the FRAA which permits U.S. citizens born in Jerusalem to include Israel as their birthplace on their U.S. passport as follows:

For purposes of the registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary shall, upon the request of the citizen or the citizen’s legal guardian, record the place of birth as Israel.

Between 1948, when Israel established independence, and until the FRAA was enacted in 2003, more than U.S. citizens born in Jerusalem were permitted to list only “Jerusalem” as their birthplace on their passport, and not “Jerusalem, Israel” as their birthplace, regardless of their preference for the latter over the former. President George W. Bush, who included a signing statement when he signed the FRAA, disagreed with Section 214(d) because, he argued, the passport provision limited the president’s foreign policy authority due to congressional overreach.

Section 214, concerning Jerusalem, impermissibly interferes with the President’s constitutional authority to conduct the Nation’s foreign affairs and to supervise the unitary executive branch. Moreover, the purported direction in section 214 would, if construed as mandatory rather than advisory, impermissibly interfere with the President’s constitutional authority to formulate the position of the United States, speak for the Nation in international affairs, and determine the terms on which recognition is given to foreign states. U.S. policy regarding Jerusalem has not changed (Bush 2002).

Bush claimed that Congress directing the secretary of state to allow U.S. citizens born in Jerusalem to add “Israel” as an adjunct to “Jerusalem” on their passports required that he, as president, recognize Jerusalem as part of Israel, and not as a politically neutral zone separate from Israel. President Barack Obama agreed with his predecessor’s position although President Donald Trump reversed this precedent when he fulfilled a 2016 campaign promise by recognizing Jerusalem as Israel’s capital and moving the U.S. embassy in Israel from Tel-Aviv to Jerusalem, both in 2017. These two actions President Trump’s position that Jerusalem is part of Israel and not a neutral zone.

One might question why President Bush did not veto the FRAA considering his substantial objections to Section 214(d). Constitutional provisions denied Bush the option to strike Section 214(d) while signing the remainder of the FRAA into law because the Constitution requires that presidents sign or veto bills in their entirety when presented to them.<sup>i</sup> To express his disapproval to Section 214(d), President Bush issued a signing statement because he had no other choice that would preserve the remaining parts of the FRAA with which he approved.<sup>ii</sup>

Bush questioned whether the term “shall” in Section 214(d) mandated adding “Israel” to a Jerusalem-born U.S. citizen’s passport, if requested, as treating such requests as mandatory and not voluntary denied the president the power to oversee the U.S. State Department particularly in this sensitive foreign policy context. By extension, then, the president could not direct the U.S. State Department to cohere to the president’s position that Jerusalem is not part of Israel. That Section 214(d) focuses solely on the status of Jerusalem shows Congress’ desire to assert more influence over U.S. foreign policy toward Israel.

The case issues both impact and inform our understanding of the president’s role navigating the U.S.-Israel relationship within the context of Middle East foreign policy. The Court’s 6-3 ruling reinforced the president’s authority to define and shape U.S. foreign policy toward Israel while limiting Congress’ role utilizing its constitutionally established legislative powers.<sup>iii</sup> The decision contributed to what was an

already tense relationship between Congress and the president as to each branch's role and responsibility navigating the U.S.-Israel relationship. By siding with the president, the U.S. Supreme Court further clarified the president's Article II authority and enhanced the president's role shaping U.S. foreign policy toward Israel to the detriment of Congress' legislative capacity.

### **Israel and the Status of Jerusalem**

On May 14, 1948, President Harry Truman signed this statement:

This Government has been informed that a Jewish state has been proclaimed in Palestine, and recognition has been requested by the (provisional) government thereof. The United States recognizes the provisional government as the de facto authority of the new state of Israel (Truman 1948).

This statement established the official U.S. position toward Israel, recognizing Israel as an independent state. The U.S. formalized diplomatic relations with Israel when U.S. Ambassador James Grover McDonald, Ambassador Extraordinary and Plenipotentiary, presented his credentials to the Israeli government on March 28, 1949. Since then, U.S.-Israeli diplomatic relations continue playing a central role shaping foreign policy in the Middle East while the U.S. continues its active role navigating the relationship between Israel and the Palestinians.

Central to the U.S.-Israel relationship and how the U.S. navigates relations between Israel and the Palestinians is the status of Jerusalem. West Jerusalem remained under Israel's control following Israel's War of Independence in 1948 while East Jerusalem remained under Jordanian control. Israel took control of East Jerusalem at the end of the June 1967 Six Day War while in 1980, the Israeli Knesset enacted the *Jerusalem Law* which proclaimed Jerusalem the "complete and united" capital of Israel (Basic Law 1980). The *Jerusalem Law* also recognized Jerusalem as the "seat of the President of the State, the Knesset,<sup>iv</sup> the Government and the Supreme Court."

Disagreement persists over the status of East Jerusalem despite the outcome of the Six Day War and the enactment of the *Jerusalem Law*.<sup>v</sup> This disagreement concerns the 1947 *United Nations Partition Plan for Palestine (Resolution 181)* which states that "Independent Arab and Jewish States and the Special International Regime for the City of Jerusalem ... shall come into existence in Palestine ... not later than 1 October 1948." The resolution also stipulates that "The City of Jerusalem shall be established as a corpus separatum<sup>vi</sup> under a special international regime and shall be administered by the United Nations."

Evidence of the "corpus separatum" status of Jerusalem has included United Nations member nations locating their foreign embassies in Tel Aviv and its environs, which respects the United Nation's position on Jerusalem neutrality (Samuelson 2016). Locating a foreign embassy in Tel Aviv makes the clear statement that Israel is independent because there is no political or international question whether Tel Aviv is part of Israel. Not all United Nations member nations have taken this approach, such as the United States and Guatemala moving their embassies to Jerusalem in May 2018 (White House Fact Sheets 2018). The partition plan has not been implemented although there is international support for Jerusalem being the capital should a two-state solution be adopted (United Nations Security Council 2020). The United Nations maintains its position that Jerusalem should hold international status as a "corpus separatum," consistent with *Resolution 181* while all U.S. presidents between Truman (1945-1953) and Obama (2009-2017) treated Jerusalem as both separate and neutral since Israel established its independence in 1948. President Trump changed course when he recognized Jerusalem as the capital of Israel in December 2017 (Landler 2017).

### **Case Background**

The *Zivotofsky* case emerged in late 2002 when Menachem Binyamin Zivotofsky was born in Jerusalem to U.S. citizen parents Ari and Naomi Zivotofsky on October 17, 2002. Under U.S. citizenship law and the 14<sup>th</sup> Amendment, Zivotofsky is a U.S. citizen by birth even though he was born outside the U.S.<sup>vii</sup> Two months after Menachem's birth, Naomi Zivotofsky requested a passport for him at the U.S. embassy in Tel Aviv. She asked that his place of birth be listed as "Jerusalem, Israel" per the FRAA Section 214(d);<sup>viii</sup> her request was denied. Menachem's birthplace was not in dispute. Rather, the embassy refused Naomi Zivotofsky's request to list "Israel" on her newborn son's passport in deference to President Bush's interpretation of Section 214(d) outlined in his FRAA signing statement.

The Zivotofskys filed suit against the U.S. secretary of state in September 2003 to compel the State Department to issue a passport to Menachem (Zivotofsky 2004) and the U.S. District Court for the District of Columbia dismissed the suit in 2006 (Zivotofsky 2006). The district court reasoned that the Zivotofskys lacked the right to sue. The Zivotofskys' issue, the court reasoned, was political at its core and could not be settled in court. The district court determined that it was being asked to treat the political question of the role of the United States negotiating the Israeli-Palestinian conflict as a civil matter as siding with the Zivotofskys might be viewed as a policy change toward the status of Jerusalem that would make it difficult for the U.S. to maintain neutrality when participating in Israel-Palestinian peace negotiations (Zivotofsky 2006). The district court further stressed that the broad political implications of the issue were "much more than one passport" while further noting that the Zivotofskys' request would "signal a departure" from established U.S. policy surrounding the conflict that can only be addressed through "permanent status negotiations". Consequently, the political nature of the question rendered it outside the district court's jurisdiction<sup>ix</sup> because the Zivotofskys were seeking a ruling on a matter that belonged to either the executive or legislative branch because the U.S. Constitution established those two branches as the political branches (Michel 2013). The appeals court shared this same perspective.

The case was remanded back to the district court which reinforced its earlier position that the question put before it was political. The Zivotofskys then appealed to the U.S. Supreme Court. That case focused on whether the Zivotofskys could sue the State Department (then headed by Secretary Hillary Clinton) on their son's behalf (Zivotofsky 2012).

The U.S. Supreme Court granted certiorari because it disagreed with the court of appeals ruling that the case fell outside that court's jurisdiction. Chief Justice John Roberts "...defined the political question doctrine as a 'narrow' exception to the general rule that the judiciary has the 'responsibility to decide cases properly before it.'" (Zivotofsky 2012).<sup>x</sup> The lower courts deemed the question as political because it would set precedent or otherwise signal to the international community that Jerusalem was part of Israel and not a neutral territory. Roberts, by contrast, suggested that the U.S. Supreme Court was obligated to decide such cases, including those it "would gladly avoid".

Chief Justice Roberts suggested that listing Israel as the birthplace on the U.S. passports of Jerusalem-born U.S. citizens might be viewed as a U.S. policy shift toward Israel that could harm Israeli-Palestinian negotiations. Yet Roberts also noted that the Zivotofskys did not sue the Secretary of State to alter for the long-standing U.S. position toward Israel nor did the Zivotofskys seek U.S. foreign policy change regarding the Israeli-Palestinian conflict. Though the issue might be political in nature, Roberts argued, that claim did not make the issue a "political question" justifying the courts opting against participating in or ruling in the case (Zivotofsky 2012).

In an 8-1 vote the U.S. Supreme Court rejected the secretary of state's position (Zivotofsky 2012). In Roberts' majority opinion, he notes that Congress exercising its legislative powers when enacting the FRAA, does not negate the State Department's refusal to follow the law because it conflicted with long-standing U.S. policy on the neutrality of Jerusalem. Roberts further claims that the courts are "fully capable" of determining whether the law should be enforced or whether it should be struck down.<sup>xi</sup>

The U.S. Supreme Court vacated the district court's decision, returning the case to the court of appeals. In its response, the court of appeals determined that FRAA Section 214(d) was unconstitutional because it encroached on the president's foreign policy powers established by the U.S. Constitution. The Supreme Court granted certiorari and again sided with executive branch authority.<sup>xiii</sup> Holding that "The President has the exclusive power to grant formal recognition to a foreign sovereign," Associate Justice Anthony Kennedy noted the president's power to recognize sovereignty claims, which extend to passports.

The U.S. Supreme Court determined that Congress' lawmaking power is limited as Section 214(d) of the FRAA was intended to limit the president's Article II recognition powers. The Court concluded that the president has the exclusive power to "recognize other nations, governments, and their territorial claims" (Prakash 2015). It was President George W. Bush's position that Jerusalem was not part of Israel, a position reflected in Bush's signing statement to the FRAA. The U.S. Supreme Court determined that, since the president represents the United States in international relations, the president is within his authority when he decides against formally recognizing Jerusalem as part of Israel. Consistent with that

perspective, the U.S. embassy was not obligated to include “Israel” on passports for Jerusalem-born U.S. citizens who prefer it.<sup>xiii</sup>

In his majority opinion, Associate Justice Anthony Kennedy cited Truman’s 1948 recognition of Israel on behalf of the United States. Kennedy noted that Truman’s statement focused solely on Israel and did not mention Jerusalem.<sup>xiv</sup> He also indicated that in the 60-plus years since Truman signed his recognition statement three entities (Israel, Jordan, the Palestinians) have each claimed that Jerusalem exists within their jurisdiction, in whole or in part. Yet Kennedy further adds that, since the U.S. formally recognized Israel’s independence in 1948, no president has changed or further clarified the U.S. position on Israel that would alter the intent of the 1947 partition plan treating Jerusalem as a “Special international Regime” separate and apart from Israel. Consequently, it was not up to the U.S. Supreme Court to change the established U.S. position toward Jerusalem being part of Israel.

Chief Justice Roberts and associate justices Scalia and Alito dissented, writing two opinions among them.<sup>xv</sup> Roberts claimed that the majority brought the Court into “unmarked and treacherous territory” because it would allow the president to openly defy Congress even though the U.S. Constitution obligates the president to enforce acts of Congress.<sup>xvi</sup> Without this balance of power system, the “equilibrium established by our constitutional system” is threatened as the founders gave Congress the power to make laws and the president the responsibility to enforce those laws (Cole-Chu 2016, p. 866). In making these claims, Roberts focuses on the separation of powers issues central to the case while shifting attention away from the foreign policy concerns raised by President Bush in his signing statement. Roberts expresses doubts that the president holds the sole power to recognize foreign sovereigns to the exclusion of Congress’ constitutional lawmaking authority. Roberts notes, for example, that “... the People ratified the Constitution with Alexander Hamilton’s assurance that executive reception of ambassadors ‘is more a matter of dignity than of authority’ and ‘will be without consequence in the administration of the government.’” (Zivotofsky 2015, p. 9).<sup>xvii</sup>

Citing David Adler (1995), Roberts also notes that the president’s authority to receive ambassadors was not intended by the founders to be a power, per se. Rather, the founders had “no reason” to view the “reception clause” as “a source of discretionary authority for the president.” Roberts’ dissent, in focusing on the broader implications of the case, suggests that the precedent set by the decision moves far beyond the “Jerusalem question” and is, as noted by the district court, “much more than one passport”.

Justice Scalia’s dissent takes a different approach by examining Congress’ legislative powers including its power to “establish a uniform Rule of Naturalization”<sup>xviii</sup> within the context of issuing passports. Scalia notes that “Congress may make grants of citizenship ‘effectual’ by providing for the issuance of certificates authenticating them.” By narrowing his focus to passports along with Congress’ power to include Section 214(d) in the FRAA suggests that Scalia’s concern rests with whether the president, using a signing statement, could deny Congress a constitutionally delegated power. Yet Scalia does not ignore the implications for the president within the context of conducting U.S. foreign policy or the role of the United States in the Middle East peace process; rather, it is Scalia’s emphasis on congressional powers that differentiate his dissent from Roberts’ dissent focusing on presidential powers.

### **Implications**

This case outcome presents short-and-long term implications for Congress and the president. For example, Alexander Hamilton’s conceptualization of the unitary and vigorous executive in *Federalist #70* (1787) coheres well with the president’s role shaping and implementing U.S. foreign policy, and in representing the United States in international affairs. Rossiter (1987) further argues that the president’s informal responsibilities complement his enumerated powers. In the context of *Zivotofsky v. Kerry* and using Rossiter’s terms, the president’s informal roles as the “Voice of the People” (or “Vox Populi”)<sup>xix</sup> and “World Leader” would give the president primacy over Congress when conducting foreign policy. By extension, the president represents the voice of the people in international affairs when he engages in U.S. foreign policy toward Israel, and when supporting Middle East peace negotiations. Consequently, the president cannot be compelled to recognize Jerusalem as part of Israel despite a decision made by Congress that the president do so.

For the Court to uphold the president's objections to the FRAA Section 214(d) represents a symbolic victory for the approximately 50,000 U.S. citizens born in Jerusalem because their passport access has not meaningfully changed. Like other U.S. citizens born abroad, Jerusalem-born U.S. citizens may secure a U.S. passport as they had before. The Zivotofskys' request to include "Israel" as his birthplace on their Jerusalem-born son's passport was a political<sup>xx</sup> statement recognizing Jerusalem as part of Israel which would preclude, ostensibly, claims by Jordan or the Palestinian territories that Jerusalem belongs to them. Within this context, the ruling moves well beyond a focus on the rights of a small number of U.S. citizens seeking to secure or renew a passport.

The decision was formally implemented on October 29, 2020, when Secretary of State Michael Pompeo announced that Jerusalem-born U.S. citizens could now request that "Israel" be listed on their passports. In his announcement, Pompeo (2020) stated:

Consistent with President Trump's Jerusalem Proclamation of December 6, 2017, and the historic opening of the U.S. Embassy in Jerusalem on May 14, 2018, today I am announcing updates to the Department's guidance on passports and other consular documents issued to U.S. citizens. Effective immediately, the State Department will allow U.S. citizens born in Jerusalem to elect to list their place of birth as "Israel." Applicants born in Jerusalem will be able to request either "Jerusalem" or "Israel" as their place of birth on consular documents....

[T]he United States recognizes Jerusalem as the capital of Israel and its seat of government but continues to take no position on the boundaries of Israeli sovereignty in Jerusalem. This matter remains subject to final status negotiations between the two Parties. The United States remains strongly committed to facilitating a lasting peace agreement. The President's Vision for Peace provides a realistic and achievable pathway for that peace to happen and I encourage the Palestinians to come to the table and negotiate (Pompeo 2020).

In his announcement, Secretary Pompeo reinforces the president's independence when conducting U.S. foreign policy, while connecting the president's reception power to the administrative functions of embassies that include issuing passports.

The decision further reinforces the Court's power of judicial review as established in *Marbury v. Madison* (1803) (See also Fine 2016). *Marbury* addressed several issues central to *Zivotofsky v. Kerry*: What are legislative and executive powers, and from where are those powers derived in a separation of powers and checks and balances system? (Fine 2016).

The decision does not focus, per se, on the status of Jerusalem in international relations or U.S. foreign policy toward Israel, nor does it focus on the role of the United States in the Middle East peace process. The ruling emphasizes, as Chief Justice John Marshall stated in *Marbury*, "...the duty of the Judicial Department to say what the law is"<sup>xxi</sup> and to, "of necessity, expound and interpret the rule."<sup>xxii</sup>

The ruling further demonstrates both judicial restraint and judicial deference. As Barnett suggests, judicial restraint is both "constraint" and "deference" as "constraint" refers "to confining oneself to ...the [original] meaning of the text of the Constitution..." while "deference" is the will of the majority reflected in "...the acts of the more 'democratic' [executive, legislative] branches...the political preferences of the majority of the electorate." (Barnett 2015). Here, the six-member majority exercised judicial restraint in a "constrained" manner as the Court was clear to cite the language and meaning of the president's Article II foreign policy powers. The Court also deferred to the executive branch as a political branch when citing Truman's statement and the ongoing continuing presidential practice since then.<sup>xxiii</sup> Exercising judicial restraint, the Court demonstrates its hesitancy to rearrange or otherwise reallocate power between the legislative and executive branches. The ruling also sets the precedent that congressional actions seeking to redefine or restructure the president's recognition powers, if challenged, may reflect the *Zivotofsky* ruling and side with the president.

The Court took a far-reaching approach in its decision. Rather than rule on the passport issue outlined in the FRAA, the Court focused on the president's broader prerogative to recognize sovereignty claims that include, but are not separate from, birthplace information appearing on passports. The Court reinforces the executive's foreign policy powers while clarifying limitations on Congress' legislative powers.

Four events that relate to the issues raised in *Zivotofsky* reinforce the role of the president setting the tone for U.S. foreign policy toward Israel.

First, on January 21, 2015, Speaker of the House John Boehner (R-OH) invited Israel Prime Minister Benjamin Netanyahu to address a joint session of Congress, which Netanyahu accepted (Cobbs 2015). Prime Minister Netanyahu had addressed Congress twice before, at the president's invitation, in 1996 and 2011. The 2015 invitation was unique in that Speaker Boehner had not first consulted President Obama about whether, when and why Prime Minister Netanyahu would address Congress. The White House deemed Boehner's move a diplomatic protocol violation even though consulting with the White House and the State Department before making such invitations was not required. As Dobbs (2015) suggests, "Boehner's decision to invite a foreign head of government to address Congress without first consulting the sitting president has no precedent in American history. And for a simple reason. It's unconstitutional."

Whether Boehner's actions were unconstitutional centers around the president's Article II reception powers central to *Zivotofsky*. Inviting Netanyahu outside the boundaries of diplomatic protocol and established precedent damaged an already contentious relationship between the president and Congress, and between President Obama and Prime Minister Netanyahu. President Obama boycotted the speech, which reinforced his position that the president conducts U.S. foreign policy, and not Congress.<sup>xxiv</sup>

The second related event occurred in the weeks before Donald Trump took office. On December 15, 2016, President-elect Trump's transition team announced that attorney David Friedman would be nominated as U.S. Ambassador to Israel. Mr. Friedman's nomination raised concerns because of his strong commitment to move the U.S. embassy in Israel from Tel Aviv to Jerusalem. In his opening remarks before the U.S. Senate Foreign Relations Committee, Friedman did not mention Jerusalem, nor did he speak about moving the U.S. embassy out of Tel Aviv (U.S. Congress 2017; see also Gaouette and Labott 2017) despite being asked about the issue by several senators.

An example is represented by an exchange occurred between Senator Rand Paul (R-KY) and Mr. Friedman:

Senator Paul: Israel gets to decide the capital of their country. What we have talked about is that no one else has an embassy there. There will be ramifications if we move it.....will you think through the ramifications of that and advise the president that there is more than one side to the issue?

Mr. Friedman: Yes, the decision will be made by the president and I am confident and I will support him considering all of the political security and other ramifications associated (United States Congress 2017).<sup>xxv</sup>

The third and fourth events relate to President Trump's decision to move the U.S. embassy from Tel Aviv to Jerusalem and to declare Jerusalem as the capital of Israel. President Trump signed *Proclamation 9683* on December 6, 2017 (2017a) confirming both decisions. Secretary of State Rex Tillerson tried to assuage concerns about the role of the status of Jerusalem in U.S.-Israel foreign policy and the role of the United States brokering Middle East peace. Prime Minister Netanyahu welcomed the proclamation. Soon after President Trump signed it, Tillerson stated "The president indicated ...that his decision to recognize Jerusalem as the capital of Israel and his direction to the State Department to begin the process of moving the embassy did not indicate any final status for Jerusalem." (Bryant 2017). Tillerson also stated that these two decisions would not affect negotiations about the "final status of Jerusalem--including the borders" which would be "left to the parties to negotiate and decide." Tillerson continued, "The reality is...nothing is different, other than the President has now implemented the 1995 law" that calls on the administration to move the U.S. Embassy to Jerusalem (Bryant 2017).

Tillerson was referring to the 1995 *Jerusalem Embassy Act*. It requires that the embassy be moved to Jerusalem no later than May 31, 1999, and that "Jerusalem should be recognized as the capital of the State of Israel...". The Act claimed that every country has a right to designate the capital of its choice, and that Israel designated Jerusalem as its capital in the 1980 *Jerusalem Law* described earlier.

The *Jerusalem Embassy Act* includes that "the city of Jerusalem is the seat of Israel's President, Parliament, and Supreme Court, ...." The Act includes that 50% of the funds allocated for the

“Acquisition and Maintenance of Buildings Abroad” would be withheld from the State Department until the new embassy was opened.<sup>xxvi</sup>

The Act took effect on November 8, 1995, even though President Bill Clinton (1993-2001) did not sign it, nor did presidents Clinton, Bush and Obama implement it. Section 7 of the act permits presidents to suspend implementation “to protect the national security interests of the United States”. Clinton, Bush, and Obama exercised that option. These suspensions were consistent with longstanding precedent that presidents respect Jerusalem as neutral. Like his predecessors, Donald Trump (2017b) suspended implementation in June 2017 although he had earlier suggested that he would postpone the embassy move rather than suspend it (Broder 2017).

Relocating the embassy from Tel Aviv to Jerusalem is problematic for similar reasons articulated in the *Zivotofsky* ruling. The *Jerusalem Embassy Act* was decided by Congress alone even though moving the embassy, like adding “Israel” to passports of U.S. citizens born in Israel in the FRAA, is part of a constellation of issues in which all presidents since Truman have negotiated and participated separate and apart from Congress. Both the FRAA and the *Jerusalem Embassy Act* were both passed by Congress although the *Jerusalem Embassy Act* was not signed by the president.<sup>xxvii</sup> By contrast, the FRAA included a signing statement in part because the U.S. Constitution does not allow presidents to remove or revise those parts of laws with which they disagree.

### **Conclusion**

*Zivotofsky v. Kerry* (2015) presents what may appear to some as a simple and narrow issue. Two parents acting on behalf of their minor child sought a federally authorized and constitutionally protected government service that was denied them. Menachem Binyamin Zivotofsky was born to U.S. citizen parents which made him a U.S. citizen by birth thus ensuring his eligibility to secure a U.S. passport. The *Jerusalem Embassy Act* states that Jerusalem be the capital of Israel, and the Zivotofskys wanted “Israel” to be listed as the nation of their son’s birth, consistent with existing law.

Yet the ruling articulates much more than that. The majority opinion focuses on separation of powers, congressional lawmaking powers, the role of the president in conducting U.S. foreign policy and the role of the U.S. in the Middle East peace process. Siding with the president, the U.S. Supreme Court reinforced and broadened the president’s foreign policy “recognition” powers and further clarified the president’s role representing the U.S. in the Middle East peace process. The Supreme Court further clarified that the president’s recognition authority gives the president the upper hand over Congress’ lawmaking powers in a critical foreign policy arena. Congressional powers may be further constrained as the president’s continues to use discretion when implementing his Article II recognition authority.<sup>xxviii</sup> The *Zivotofsky* ruling reflects that whomever is president and whichever party holds the majority in each house of Congress may enrich a collaborative partnership or exacerbate a difficult relationship between the executive and legislative branches.

How the president navigates negotiations between Israel and the Palestinians, and how he articulates U.S. neutrality toward Jerusalem, has grown in scope due to the *Zivotofsky* ruling because the president may narrowly interpret laws that he believes will undermine how the United States is represented when conducting foreign policy toward Israel and the Middle East. The ruling mutes Congress’ role shaping U.S. foreign policy toward Israel while extending greater voice to the president. The special relationship between the U.S. and Israel, which Congress sought to further clarify and enhance with the *Foreign Relations Authorization Act of 2003* Section 214, especially Section 214(d), has now been more carefully shaped well beyond its provisions focusing on passports issued to U.S. citizens.

### **References**

Adler, David Gray. 1995. “The President’s Recognition Power: Ministerial or Discretionary?”, *Presidential Studies Quarterly*, Volume 25, No. 2, pp. 267-286.

Barnett, Randy. 2015. “Constraint vs. Deference: Two Possible Meanings of ‘Judicial Restraint’”, *Washington Post*, June 29.

*Basic Law-Jerusalem-Capital of Israel*, July 30, 1980.

<https://mfa.gov.il/MFA/MFA-Archive/1980-1989/Pages/Basic-Law-Jerusalem-Capital-of-Israel.aspx>. (May 26, 2020).

Bradley, Curtis and Carlos Vazquez, 2015a. "Introduction to Agora: Reflections on *Zivotofsky v. Kerry*." *American Journal of International Law Unbound*. Volume 109. <https://www.cambridge.org/core/journals/american-journal-of-international-law/article/introduction-to-agora-reflections-on-zivotofsky-v-kerry/18829BECD9F5236BA1E1A00AEE6B355B>. (April 3, 2020).

Bradley, Curtis and Carlos Vazquez, "2015b. "Introduction to Agora II: Reflections on *Zivotofsky v. Kerry*." *American Journal of International Law Unbound*. Volume 109. <https://www.cambridge.org/core/journals/american-journal-of-international-law/article/introduction-to-agora-part-ii-reflections-on-zivotofsky-v-kerry/126A0E99A072B3BAFE2F048F51EEB26E>. (April 3, 2020).

Broder, Jonathan. 2017. "Why Trump Won't Move the U.S. Embassy in Israel to Jerusalem—At Least For Now", *Newsweek*, January 25.

Bryant, Lisa. 2017. "Tillerson: U.S. Embassy Move Does Not Affect Jerusalem's Final Status", *Voice of America*, December 8. <https://www.voanews.com/usa/us-politics/tillerson-us-embassy-move-does-not-affect-jerusalem-final-status>. (May 28, 2020).

Bush, George W. 2002. "Statement on Signing the Foreign Relations Authorization Act, Fiscal Year 2003." *The American Presidency Project*. September 30. <https://www.presidency.ucsb.edu/node/213776> (May 25, 2020).

*City of New York v. Clinton* (1998). 524 U.S. 417. Justia U.S. Supreme Court. <https://supreme.justia.com/cases/federal/us/524/417/>. (May 25, 2020).

Cobbs, Elizabeth A. 2015. "Why Boehner's Invite to Netanyahu is Unconstitutional", *Reuters Blog*, March 2. <http://blogs.reuters.com/great-debate/2015/03/01/netanyahu-invite-is-a-symptom-of-boehners-grudge-match-against-the-u-s-constitution/>. (March 5, 2020).

Cole-Chu, Hannah. 2016. "*Zivotofsky v. Kerry*: Choosing International Reputation over Separation of Power". *Maryland Law Review*, Volume 25:3, pp. 865-904. (May 25, 2020).

Fine, Terri Susan. 2016. "Is *Zivotofsky v. Kerry* the *Marbury v. Madison* of our Day?", *The International Society for the Social Studies Annual Conference Proceedings*, William Russell (ed.), pp. 90-95.

Fisher, Louis. 2016. "The Staying Power of Erroneous Dicta: From *Curtiss-Wright* to *Zivotofsky*". *Constitutional Comment*. Volume 31: 149.

*Foreign Relations Authorization Act, Fiscal Year 2003*. 2002. United States Public Laws. 106<sup>th</sup> Congress, 2<sup>nd</sup> Session, Public Law 107-228. LexisNexis Congressional (April 1, 2020).

Gaouette, Nicole and Elise Labott. 2017. "Senate Grills U.S. Envoy to Israel Pick after Trump Scraps Two-State Policy", *CNN*, February 16. <https://www.cnn.com/2017/02/16/politics/david-friedman-trump-israel-ambassador-confirmation-hearing/index.html>. (March 3, 2020).

Grand, Cara J. 2015. "Zivotofsky v. Kerry: Of Passports, Politics, and Foreign Policy Powers" *Duke Journal of Constitutional Law & Public Policy [Sidebar]*. Volume 10: pp. 39-59.

Hamilton, Alexander. 1788. "Federalist #69: The Real Character of the Executive" *New York Packet*. March 14. (April 1, 2020).

Hamilton, Alexander. 1788. "Federalist #70: The Executive Department Further Considered" *New York Packet*. March 18. (April 1, 2020).

Hirsch, Moshe, Deborah Housen-Couriel and Ruth Lapidoth. 1995. "Opinions on the Legal Status of Jerusalem According to International Law", *Whither Jerusalem?: Proposals and Positions Concerning the Future of Jerusalem*. Boston, MA: MartinusNijhoff.

*Immigration and Naturalization Services v. Chadha* (1983). 462 U.S. 919. Justia U.S. Supreme Court. <https://supreme.justia.com/cases/federal/us/462/919/>. (November 28, 2020).

*Jerusalem Embassy Act*, 1995. United States Public Laws. 104<sup>th</sup> Congress, 1<sup>st</sup> Session, Public Law 104-45. LexisNexis Congressional (April 1, 2020).

Landler, Mark. 2017. "Trump Recognizes Jerusalem as Israel's Capital and Orders U.S. Embassy to Move", *New York Times*, December 6. (March 15, 2020).

*Marbury v. Madison* (1803). 5 U.S. 137. Justia U.S. Supreme Court. <https://supreme.justia.com/cases/federal/us/5/137/>. (April 16, 2020).



Masters, Jonathan. 2017. "U.S. Foreign Policy Powers: Congress and the President", *Council on Foreign Relations*. <https://www.cfr.org/backgrounder/us-foreign-policy-powers-congress-and-president> (April 16, 2020).

Michel, Chris. 2013. "Comment: There's No Such Thing as a Political Question of Statutory Interpretation: The Implications of *Zivotofsky v. Clinton*", *Yale Law Journal*, Volume 123: 1.

*Myers v. United States* (1926). 272 U.S. 52. Justia U.S. Supreme Court <https://supreme.justia.com/cases/federal/us/272/52/>. (November 28, 2020).

Pompeo, Michael R., Secretary of State. 2020. "U.S. Citizens Born in Jerusalem Press Statement." *U.S. Department of State*. October 29, 2020. (October 31, 2020).

Prakash, Saikrishna Bangalore. 2015. "*Zivotofsky* and the Separation of Powers", *The Supreme Court Review*, Volume 2015, No. 1.

Rossiter, Clinton. 1987. *The American Presidency* Baltimore: Johns Hopkins University Press.

Rossiter, Clinton. 1956. "The Presidency - Focus of Leadership", *New York Times*, 11 November.

Rush, Mark. 2016. "The Law: *Zivotofsky v. Kerry*: An Unnecessary Decision Grounded on Weak Precedents." *Presidential Studies Quarterly* 46: 911-24.

Rush, Mark. 2018. "Presidential Signing Statements and Coordinate Constitutional Interpretation: Executive Power in the 21<sup>st</sup> Century." *Presidential Studies Quarterly* 48 (1):168-192.

Russell, William (ed.). 2016. *The International Society for the Social Studies Annual Conference Proceedings*. International Society for the Social Studies.

Samuelson, Kate. 2016. "Why Jerusalem Isn't Recognized as Israel's Capital", *Time*, December 16.

Scoville, Ryan M. 2015. "Compelled Diplomacy in *Zivotofsky v. Kerry*." *New York University of Law and Liberty*. Volume 9: pp. 148-159.

Truman, Harry S. 1948. "Statement by the President Announcing Recognition of the State of Israel." *The American Presidency Project*. May 14. <https://www.presidency.ucsb.edu/documents/statement-the-president-announcing-recognition-the-state-israel> (March 20, 2020).

Trump, Donald J. 2017a. "*Proclamation 9683*—Recognizing Jerusalem as the Capital of the State of Israel and Relocating the United States Embassy to Israel to Jerusalem" *The American Presidency Project*. December 6. <https://www.presidency.ucsb.edu/documents/proclamation-9683-recognizing-jerusalem-the-capital-the-state-israel-and-relocating-the> (March 20, 2020).

Trump, Donald J. 2017b. "Suspension of Limitations under the Jerusalem Embassy Act", Presidential Memorandum for the Secretary of State, *Presidential Determination No. 2017-07*. June 1. <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-state/>. (March 20, 2020).

*United Nations Partition Plan for Palestine*. 1947. "Future Government of Palestine", Part IIIA, *Resolution 181*, United Nations General Assembly. <https://unispal.un.org/DPA/DPR/unispal.nsf/0/7F0AF2BD897689B785256C330061D253> November 29. (April 1, 2020).

United Nations Security Council. 2020. "Annexing Parts of West Bank Will 'Grievously Harm' Two-State Solution, Secretary-General Says, Addressing Security Council on Israeli-Palestinian Conflict", *Press Release SC/14225*, United Nations. <https://www.un.org/press/en/2020/sc14225.doc.htm>. June 24. (July 15, 2020).

United States Congress. Senate. Committee on Foreign Relations. 2017. U.S. Ambassador to Israel Nomination Hearing, David M. Friedman of New York, Nominee to be Ambassador to Israel. *CSPAN*. February 16. <https://www.c-span.org/video/?424017-1/israeli-ambassador-nominee-david-friedman-testifies-confirmation-hearing>. (February 27, 2020).

*United States v. Klein* (1871). 80 U.S. 128. Justia U.S. Supreme Court. <https://supreme.justia.com/cases/federal/us/80/128/> (November 28, 2020).

White House Fact Sheets. 2018. "President Donald J. Trump Keeps His Promise To Open U.S. Embassy In Jerusalem, Israel", <https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-keeps-promise-open-u-s-embassy-jerusalem-israel/>. May 14. (June 15, 2020).

Woolley, John. n.d. “Frequently Asked Questions”, Presidential Signing Statements (Hoover 1929 - ), <http://www.presidency.ucsb.edu/signingstatements.php?q1>. (May 28, 2020).

Wuerth, Ingrid B. 2015. “Zivotofsky v. Kerry: A Foreign Relations Law Bonanza”. *Vanderbilt Public Law Research Paper* No. 15-31, <https://ssrn.com/abstract=2629273>. (June 15, 2020).

Zank, Michael. 2016. "The *Jerusalem Basic Law* (1980) and the *Jerusalem Embassy Act* (1995): A Comparative Investigation of Israeli and U.S. Legislation on the Status of Jerusalem." *Israel Studies*, Volume 21, No. 3, pp. 20-35.

*Zivotofsky ex rel. Zivotofsky v. Sec’y of State*. 2004. No. 03-cv-1921, District Court for DC. Justia Dockets and Filings. <https://dockets.justia.com/docket/circuit-courts/cadc/04-5395> (May 23, 2020).

*Zivotofsky ex rel. Zivotofsky v. Sec’y of State*, 2006. 444 F.3d 614, DC Circuit. Justia U.S. Law. <https://law.justia.com/cases/federal/appellate-courts/F3/444/614/546232/>. (May 23, 2020).

*Zivotofsky ex rel. Zivotofsky* (2012). 132 Supreme Court, 1421. LexisNexis. <https://www.lexisnexis.com/community/casebrief/p/casebrief-zivotofsky-v-clinton> (May 24, 2020)

*Zivotofsky v. Clinton* (2012). 566 US 189; Justia U.S. Supreme Court. <https://supreme.justia.com/cases/federal/us/566/189/> (May 23, 2020).

---

<sup>i</sup> Article I, Section 7 of the U.S. Constitution includes the “presentments” clause requiring that presidents either sign or veto bills passed by both houses of Congress. There is no line-item veto extended to the president. Presidents often use signing statements to express their objection to parts of bills that they otherwise support. Signing statements objecting to part of a bill may also signal the president’s likely resistance to enforcing that part of the bill (The U.S. Supreme Court deemed presidential lineitem vetoes to be unconstitutional in *City of New York v. Clinton* (1998)).

<sup>ii</sup> Signing statements are used by presidents to explain their legislative views. As John Woolley (n.d.) notes, “The more controversial statements involve claims by presidents that they believe some part of the legislation is unconstitutional and therefore they intend to ignore it or to implement it only in ways they believe is constitutional.” See also Rush (2018).

<sup>iii</sup> See also Masters (2017) who explains the foreign policy process within the context of the congressional-presidential relationship.

<sup>iii</sup> See also Masters (2017) who explains the foreign policy process within the context of the congressional-presidential relationship.

<sup>iv</sup> The Israel Knesset is the parliamentary legislature.

<sup>v</sup> The international community agrees that West Jerusalem is within Israel’s jurisdiction. See Hirsch, Housen-Couriel and Lapidoth, 1995, p. 15.

<sup>vi</sup> “separated body”

<sup>vii</sup> Persons with one U.S. citizen parent are classified as natural born U.S. citizens through the principle of *jus sanguine*, or the “law of blood”.

<sup>viii</sup> The FRAA took effect October 1, 2002 to cover Fiscal Year 2003 (October 1, 2002-September 30, 2003).

<sup>ix</sup> Subject-matter jurisdiction requires that a given court holds the power to hear the specific type of claim brought before it.

<sup>x</sup>At 1427

<sup>xi</sup> Roberts also noted that “The State Department’s Foreign Affairs Manual states that ‘[w]here the birthplace of the applicant is located in territory disputed by another country, the city or area of birth may be written in the passport.’... The manual specifically directs that passport officials should enter ‘JERUSALEM’ and should ‘not write Israel or Jordan’ when recording the birthplace of a person born in Jerusalem on a passport.”

<sup>xii</sup>By the time the Court of Appeals handed down its decision on July 23, 2013, Hillary Clinton had concluded her service as secretary of state and been replaced by John Kerry. The case name thus changed from *Zivotofsky v. Clinton* to *Zivotofsky v. Kerry*.

---

<sup>xiii</sup>The Supreme Court ruled against Congress in conflicts about foreign affairs with the president in three earlier cases (*United States v. Klein* (1871), *Myers v. United States* (1926), *Immigration and Naturalization Services (INS) v. Chadha* (1983)). Note that *United States v. Klein* was a Civil War case that the Court classified as a foreign affairs case because it involved how the president treated persons who fought for the Confederate Army during the Civil War.

<sup>xiv</sup> By contrast, the United Nations 1947 partition plan treats Jerusalem as an “International Regime” and not a part of Israel.

<sup>xv</sup> Scalia wrote an opinion with Roberts concurring while Roberts write an opinion with Alito concurring. Justice Thomas, who voted with the majority, wrote an opinion concurring with the majority and dissenting in part.

<sup>xvi</sup> Article II, Section 3 requires that the president will “take Care that the Laws be faithfully executed”.

<sup>xvii</sup> Roberts is referencing *Federalist #69* (Hamilton 1788).

<sup>xviii</sup> Capitalization and spelling in original.

<sup>xix</sup> As “voice of the people”, the president “is the American people’s one authentic trumpet, and he has no higher duty than to give a clear and certain sound (Rossiter 1956)”.

<sup>xx</sup> Here, “political” focuses on the conflictual nature of the issue and the government’s involvement in it. “Political” in the present context should not be confused with the judicial issues posed earlier when Chief Justice John Roberts commented on whether the *Zivotofsky* case should be negotiated between Congress and the president, and not decided by the judiciary branch, because the legislative and the executive are the political branches in a separation of powers system.

<sup>xxi</sup> At 177

<sup>xxii</sup> At 177

<sup>xxiii</sup> Note that Roberts’ statement was true as of the date 2015 decision although President Trump meaningfully departed from his predecessors in 2017.

<sup>xxiv</sup> Netanyahu did address Congress, in March 2015.

<sup>xxv</sup> Friedman was confirmed with 52-46 vote on March 23, 2017.

<sup>xxvi</sup> See Zank (2016) who compares the *Basic Laws of Israel: Jerusalem, Capital of Israel* (1980) with the *Jerusalem Embassy Act* of 1995.

<sup>xxvii</sup> The U.S. Constitution Article I, Section 7 provides that bills presented to the president that are not acted upon within ten days “shall be a Law, in like Manner as if he had signed it.” The *Jerusalem Embassy Act* is an example of this rare occasion when a bill became law without the president’s signature.

<sup>xxviii</sup> This perspective conflicts with the thesis put forward by Rush (2016), who suggests that the decision, because it was based on bad precedents, created confusion over the conduct of foreign affairs.

# The Russia -Ukraine War: A Global Security Dilemma?

*Dr. Raymonde (Remy) Kleinberg  
Dept of Public and International Affairs  
University of North Carolina Wilmington*

Russia's full-scale invasion of Ukraine in 2022 marked a striking escalation in an eight-year conflict and a historic turning point for European economic, political, and military security. Indeed, Ukraine, though largely overlooked by the international community after the Cold War, played a significant role in the global security order and is now on the forefront of great power rivalry.

There are three significant elements that paved the way for Russia's full-scale invasion of Ukraine on February 24, 2022:

1. Large-scale public protests, referred to as the *Euromaidan Revolution*, supported by the West and ultimately forced out the pro-Russian leadership of Viktor Yanukovich.
2. Historic identity and cultural tensions within Ukraine pitting pro and anti- Russian factions against each other, losing Crimea to Russian annexation
3. NATO: Three significant catalyzing events:
  - a. NATO's 'encroachment' into the East with its 3 April 2008 Bucharest Summit inviting Albania and Croatia into the alliance and promising membership to Ukraine and Georgia,
  - b. NATO and the West's (particularly the US and most E.U. states) recognition of Kosovo's independence in 2008,
  - c. Russia's invasion of Georgia on August 1-12, 2008 (20% of which is currently under Russian military occupation), sending a signal to the West that post-Soviet countries that cooperated with NATO/the EU would be perceived as a security concern and acted upon militarily.

## **The Euromaidan Revolution**

Perhaps the most significant turning point in Russian-Ukrainian relations and conflict within Ukraine occurred as a result of the large-scaled public protests referred to as the "Euromaidan Revolution" in Ukraine in 2014. Up until then, there was a great deal of support for then pro-Russian former Ukrainian Prime Minister (2004-2010) and then President, Viktor Yanukovich (2010-2014), who was taking steps towards Ukraine's association with the European Union (EU), negotiations for which, began in 1998. Following two years of preparation, an Association Agreement (AA) and the Deep and Comprehensive Free Trade Agreement (DCFTA) were ready to be signed by the two parties, at the Joint Declaration of the Eastern Partnership Summit in Vilnius, on 28-29 November 2013.<sup>ii</sup> The Agreements included political association and economic integration, free trade access to the European market and increased foreign investment,<sup>iii</sup> setting Ukraine up for eventual EU membership. The latter was an issue that continued to provoke extreme reactions. Indeed, Volodymyr Zelensky's success in 2019 was achieved, in part, by taking a centrist stance on this question. What was not anticipated however, was Russia's reaction to Ukraine's move closer to Europe under Yanukovich. The Russian Federation regards Ukraine as falling within its sphere of influence and thus as a country that should be part of the Russian-controlled Eurasian Economic Union (EAEU). Yanukovich was faced with the dilemma of deeply disappointing the Ukrainian public by abandoning EU association or facing the political and economic (and ultimately, military) consequences dealt from Moscow. Indeed, Russian President, Vladimir Putin engaged in a campaign

of economic pressure against Ukraine: cutting off energy supplies to the country and blocking almost all imports from Ukraine. This resulted in a 25% reduction in Ukrainian exports and pushed the country's economy into recession. The Kremlin publicly threatened to drive Ukraine into default on its sovereign debt if it went ahead with the EU trade deal.

Fearing a political and economic backlash, and citing economic necessity, Yanukovich postponed signing the two agreements on the eve of the summit and stopped any progress towards an



Ukraine-EU association.<sup>iv</sup> Instead, Yanukovich and Putin agreed on a 15 billion USD loan to Ukraine, and a renegotiated gas price, and Russia lifted the blockade on Ukrainian exports.

The Ukrainian public however, who were counting on EU association, in part as a rejection of what was perceived as post-Soviet politics of corruption and nepotism took to the streets in protest.<sup>v</sup> As demonstrations gave way to rioting in January 2014, Yanukovich signed a series of laws restricting the right to protest, and hundreds of thousands more took to the streets of Kyiv in response. Clashes between police and protesters ensued, with dozens injured on each side. What began as civil unrest and pro-EU demonstrations in the Ukrainian capital Kyiv in November 2013,

turned into a mass movement dubbed the Euromaidan protests, reaching violent heights by February 2014 with at least 25 dead and 1,000 injured. Unable to quell Euromaidan with promises for constitutional reform, the situation worsened, and Yanukovich fled the capital for Russia on Feb. 21, 2014, ahead of an impeachment vote that stripped him of his powers as president. The Supreme Council interpreted his absence as effectively a resignation and set presidential elections for May 25, 2014. With no constitutional provision dealing with such a contingency, it elected Oleksandr Turchynov as speaker (chair) of the Supreme Council and acting president.<sup>vi</sup>

Perceiving the new political congregation as radical fascists, many Russian-speaking citizens of Ukraine started protesting in the Donbas region of Eastern Ukraine as well as Crimea.<sup>vii</sup> The pro-Western opposition was now faced with not just reforming the polarized country, but with dealing with critical social and economic problems.

The destabilization of Kyiv and the surrounding region was of great concern to Russia which saw as its priority, as noted above, keeping Ukraine within its sphere of influence for economic, political, and military reasons. More importantly, was the possibility of losing its use of Sevastopol -- the largest city in Crimea and a major port on the Black Sea -- as a naval base with great strategic significance.<sup>viii</sup> Initially, Ukraine had allowed Russia to use Sevastopol in return for better pricing on Russian natural gas.<sup>ix</sup>



BBC



Perceiving the political unrest as dire and invoking the narrative of the neo-Nazi coup along with the supposed repression of ethnic Russians, Vladimir Putin directed the invasion and occupation of Crimea (including Sevastopol) on February 27 2014, citing the need to protect the rights of Russian citizens and Russian speakers in Crimea and Southeast Ukraine.<sup>x</sup> The crisis heightened ethnic divisions, and on March 16 2014, pro-Russian separatists in the Donetsk and Luhansk regions of eastern Ukraine held a referendum to declare independence from Ukraine. Russia then formally annexed the peninsula two days later after Crimeans voted to join the Russian Federation.

Armed conflict broke out between Ukrainian and Russian-backed forces (with Russia denying any military involvement) and efforts were made by France, Germany, Russia to negotiate a cease fire beginning with the Minsk Protocol (2014), to no lasting avail. Although provisions were made for a cease-fire, withdrawal of heavy weaponry, and full Ukrainian government control throughout the conflict zone, efforts to reach a diplomatic settlement were unsuccessful.

A revised and updated agreement, Minsk II, was signed on 12 February 2015. This agreement consisted of a package of measures, including a ceasefire, withdrawal of heavy weapons from the front line, release of prisoners of war, constitutional reform in Ukraine granting self-government to certain areas of Donbas and restoring control of the state border to the Ukrainian government. While fighting subsided following the agreement's signing, it never ended completely, and the agreement's provisions were never fully implemented but was perceived as the framework for future resolution of the conflict. Measures were taken by NATO to deter any future Russian aggression in the Baltic region. The United States also deployed two U.S. Army tank brigades to Poland to bolster NATO's presence in the region in September 2017.<sup>xi</sup> Suggesting a clear movement to the West, Ukraine joined the United States and seven other NATO countries in a series of large-scale air exercises in western Ukraine in October 2018, provoking Russian indignation.

### **The Conflict Turns Hot**

Dmitry Kozak, Moscow's top negotiator with Kyiv, warned Ukraine in April 2021, that the use of force to retake the east would mark "the beginning of an end for Ukraine," adding that



Russia would take action to protect its own citizens in the region.<sup>xii</sup> While not a new argument, the idea of Russian invasion vindicated by the idea of protecting its own has been at the forefront of Putin's logic when discussing the ongoing conflict in Ukraine. With a successful takeover of Crimea utilizing the same argument, the idea of a large-scale military conflict in Donbas would not be out of the realm of possibility. Like Crimea, Ukraine faces the problem of national unity among its citizens and the on-going dilemma of whether to align with the West or with Russia.

Ukraine pushed for NATO membership and passed legislation abandoning its "non-aligned" status and expressing intent to join the alliance. In June 2021, pro-Western President Volodymyr Zelenskyy publicly claimed that his country's entry into NATO was guaranteed. While this later proved to be inaccurate – as some of the member-states were still wary about the repercussions – the statement, Zelenskyy's continuing efforts to secure membership, and the prospect of US weapons systems at its borders triggered stern warnings from Russia, followed by a build-up of military forces.

Russia began amassing increasingly large number of troops, weaponry, and equipment on the Ukrainian border in March 2021. By November 13, 2021, Ukrainian President Volodymyr Zelensky announced that Moscow had a total of 100,000 troops within the border area, with U.S. officials warning the EU that Russia may be planning a potential invasion of Ukraine.<sup>xiii</sup> Russia cited NATO-led military exercises and Kyiv's renewed quest for EU and NATO membership as the reasoning for the troop build-up.

On February 21, 2022, Russia officially recognized the secession of Donetsk and Luhansk from Ukraine, and deployed troops to the break-away provinces. Three days later – February 24, 2022, Russian forces launched a full-scale military invasion into Ukraine.

### **Identity Politics and Regional Disparities**

Ukraine has been divided as a nation on several fronts since the Cold War ended. The nation was divided not only on forming closer ties with the West, but on a demographic, religious, and fundamentally ideological level as well. Coupled with the fact that Ukraine has little existing cultural history or tradition, it is an easy argument for Moscow to make that Ukraine was meant to be a part of Novorossiia or a "new Russia."

Writing on identity politics in the Ukraine, Tatiana Zhurzhenko suggests that "in Ukraine as in other post-Soviet states there has been a widespread anxiety about the lack of a strong "national identity" supposed to fill the ideological vacuum left after the collapse of communism."<sup>xiv</sup> She posits that national identity is a "project developed by the political and cultural elites and implemented by means of education, media and symbolic politics; a strong and stable national identity provides social cohesion, helps to integrate minorities and thus guarantees territorial integrity and national security." Without a national unity based on shared historical memory, democratic consolidation cannot be achieved. Hence, many of the developments including the political crisis, the annexation of Crimea by Russia and the armed conflict in the east were a result of the failure of Ukraine's ruling elite to accomplish its task of forging a strong national identity. She argues that Ukraine's divided political elite opened the Pandora's box of identity politics, using it as a tool for mass mobilization, and that Russia has profited from the "war of identities" in its efforts to weaken Ukraine and prevent its re-orientation to the West.<sup>xv</sup>

Stephen Shulman, however, contends that there has been a contentious debate over national identity in Ukraine. He identifies two main versions of a "national identity complex" that exists in Ukraine-- an **Eastern Slavic** national identity complex and an **Ethnic Ukrainian** national identity complex.<sup>xvi</sup> The intellectual elite has also played a role in how Ukraine views its own culture and history. Moscow, Leningrad, and Novosibirsk were the central hubs for intellectual scholars in the USSR.<sup>xvii</sup> Because of this, Kyiv, seen as a "provincial backwater" of Soviet Russian culture, had very little access to the international scholarly community, somewhat stunting scholarly development in the Ukraine. Moscow even went as far to requisition some of Kyiv's most important sourcing material.<sup>xviii</sup> As a result, Ukrainian scholars who wrote about their history were undermined and outshone by Soviet scholars who wrote about more "dignified" topics propagating Soviet Russia in a positive light.<sup>xix</sup> In the late 1930s and 1940s, the imperial narrative of the past was rehabilitated by Moscow under the slogan "friendship of peoples," reinforcing the idea that Russia is the big brother of the other regions in Eastern Europe.<sup>xx</sup> Soviet scholars were encouraged to write about the positive bonds between the smaller states and Russia,

and critical authors were silenced and even charged as political criminals. These policies resulted in a suppressed, distorted, and downplayed Ukrainian history, the consequences of which continue to show up in the present day. The goals for most Soviet ethnographers and sociologists were to blur ethnic differences of the non-Russian states of the USSR where distinctions would gradually disappear through generations of assimilation of ethnic and demographic differences.<sup>xxi</sup> And, as suggested above, Ukraine faces the problems that come with a relatively weak national identity

In the West and Central parts of Ukraine there is a much higher nationalistic population compared to the East or the South of the country. This split in cohesion is illustrated in data collected in the 2001 census. Only 77.8% of citizens identified themselves as Ukrainians, suggesting that 17.3% of the society perceived themselves as Russians.<sup>xxii</sup> This division is even more apparent when it comes to linguistic preferences. According to a 2012 poll, only 45% of respondents use Ukrainian at home, while 39% speak Russian. 15% of Ukraine's citizens use Russian and Ukrainian equally.<sup>xxiii</sup> Interpretation of this data shows that Ukraine has a significant number of citizens who identify as Russian nationals, particularly in the East where Donbas lies. This division among the Ukrainian demographic confirms the argument that Russian involvement in Ukraine (and Crimea) is an act of defense of its people.

With respect to Ukrainian and Russian attitudes towards its relationship with the West and European association, there are starkly different views. Figure 1 below shows the variation in Ukrainian support for integration with or isolation from the European Union, with more citizens favoring integration by 2019. Figure 2 shows how Russian support for integration has sharply declined since 2014 but stable for those who are neither for it nor against it. Clearly, however, Russia is adamant to maintain Ukrainian and Russian distance as NATO has increasingly inserted itself within its former satellite states, posing (what it perceives), a security dilemma in the region.

### NATO's Encroachment in the East: The Global Security Dilemma

The Russo-Ukrainian conflict can be illustrated by the increase of competition between two coalitions of countries: the West, led by the United States, and Russia, alongside its supporting 'satellite' states. The North Atlantic Treaty Organization (NATO) founded specifically to counter Soviet expansionism, failed to establish a new security framework that would redefine its relationship to Russia.<sup>xxiv</sup> Rather, following the end of the Cold War, NATO continued to benefit from a weakened Moscow by increasing western influence in Central Europe and elsewhere. William Glucroft suggests that opposing NATO was one of the few issues that united Russia's politically fractured environment. Both the US and Russia agreed that eastern expansion and full NATO membership and security guarantees was not in the best interest of the western alliance or the US.<sup>xxv</sup>

In fact, in 1997 NATO and Russia signed the "Founding Act" on mutual relations, cooperation, and security, and the NATO-Russia Council was founded in 2002, both of which were intended to boost cooperation. Russia had access to NATO and had a permanent presence at NATO headquarters in Brussels. However, since 1990, NATO has gone through five rounds of enlargement to include former Eastern European states and former Warsaw Pact members.<sup>xxvi</sup> Hence, according to Russia, NATO still posed a serious risk to the future of its agenda – particularly following Kosovo's recognition by NATO in 2008. It became clear to Russia that the West did not respect its interests.<sup>xxvii</sup> Indeed, U.S.-Russian relations had changed considerably from 2006 onward, but in 2008 there were important catalyzing events with the recognition of the independence of Kosovo by the





United States and most E.U. states, and NATO's 2008 Bucharest Summit, where the alliance promised that Ukraine and Georgia would someday become members of NATO. The United States and some other allies pushed for Georgia and Ukraine to become members, directly challenging a core Russian interest. But France and Germany blocked this proposed accession, partly because they were concerned about Russia's likely negative reaction and partly because they questioned the capability of these states and their potential to strengthen the alliance.

For Moscow, the western alliance made announcements and decisions that crossed red lines, even though NATO called for a strategic partnership with Russia and reiterated that it posed no threat. Not risking further losses, Russia successfully wielded military power in Georgia six months later, sending a clear signal to the West that post-Soviet countries that cooperated with NATO or the EU would be perceived as a security concern and acted upon decisively. And thus, Russia's successful intervention in Georgia marked a new chapter in Russian geopolitics. Before 2008, the Kremlin had backed down when interests clashed between Russia and the West.<sup>xxviii</sup> By 2008, Russia had fleshed out plans for a military operation to impose its will on Georgia. Following the success in Georgia and later Crimea and Ukraine, Russia had proven its ability to wield power and exert influence in Central Europe and the Caucasus. Now able to again compete on the world stage, Russia's political agenda to actively defend its area of influence in the world, including the "Near Neighborhood" area is being slowly achieved by Moscow.<sup>xxix</sup>

Directly opposed to this, NATO and the EU have continued testing the waters in buffer states to attempt to grow their political and strategic influence in Central Europe. With Ukraine pushing towards EU association and NATO membership, the time for Russia to respond was strategically determined. Indeed, Putin has been very clear in stating the threat posed to Russia if Ukraine joined NATO, providing the latter with a "springboard for a direct attack against Russia."<sup>xxx</sup>

Though the Western media and the political elite hold Russia accountable for the war in Donbas and the Ukraine overall, it is important to note that from a geopolitical rivalry standpoint, it was the West that overstepped into Russia's zone of influence and not vice versa. The US and NATO supported the Ukrainian Revolution in 2014 and allowed the Kyiv peace agreement to fall through, despite realizing that political and potentially military repercussions would emerge in the region.<sup>xxxi</sup> Rather than continue cooperating with Russia in the Middle East, NATO and the EU violated Russia's sphere of influence for little recognized benefit.

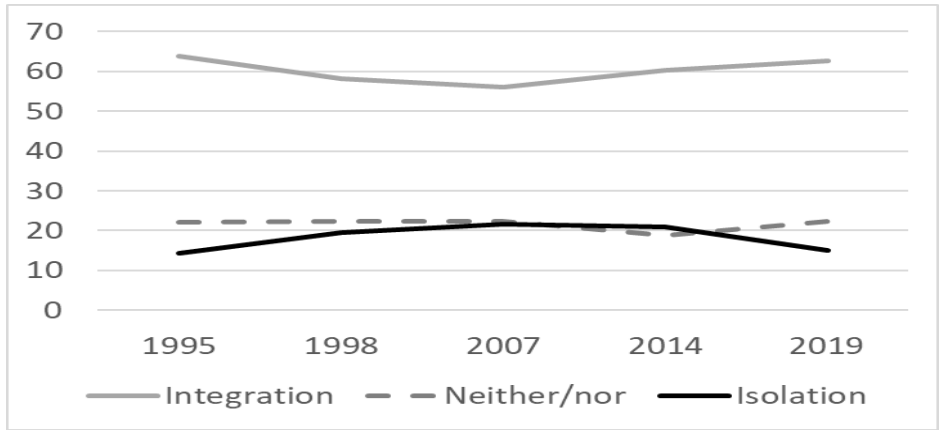
As early as the 19<sup>th</sup> century, the US itself adopted the Monroe doctrine, which dictates that the Western hemisphere is exclusively under the US sphere of influence, and barring interference in political affairs within the US hemisphere. This policy continues to view any such interference as a direct threat to US national security. One need only analyze the Cuban Missile Crisis in 1961 to understand how a great power rival is perceived when the threat is in its neighborhood. With Switzerland and Finland invited to join NATO, Russia has only dug its heels in further.

By September 30, 2022, Putin officially annexed the regions of Donetsk and Luhansk (Donbas region), in the east as well as Zaporizhzhia and Kherson in the south to the Russian Federation, ending any hopes of implementing the Minsk peace agreements giving Ukraine autonomy over the two regions.

Provoking Russia has facilitated a more deeply entrenched conflict in 2022 and we have yet to determine its political or military outcome.

## Figure 1

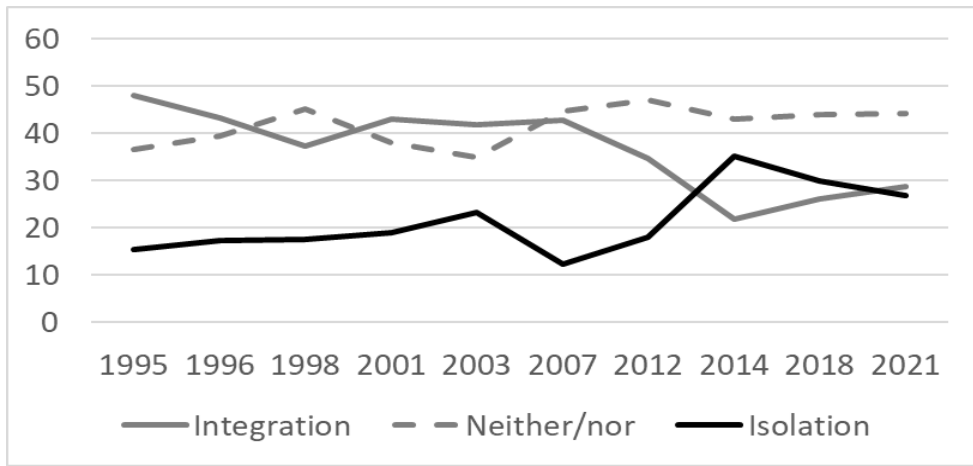
**Ukrainian Support for integration with or isolation from the European Union**



S  
u  
r  
v  
e  
y  
:  
  
'  
U  
k  
r

Ukraine should integrate as far possible with the Europe Union' OR Ukraine should remain isolated as far as possible from the European Union'. The responses are reported in percentages. Data: Survey conducted by R-Research Ltd. for the Department of Politics and International Relations, University of Oxford.

**Figure 2**  
**Russian Support for integration with or isolation from the West/European Union**



S  
u  
r  
v  
e  
y  
:  
  
'  
R  
u  
s  
s

Russia should integrate as far possible with the Europe Union/West' OR 'Russia should remain isolated as far as possible from the European Union/West'. The responses are reported in percentages. Data: Survey conducted by R-Research Ltd. for the Department of Politics and International Relations, University of Oxford.

---

<sup>i</sup>The Euromaidan Revolution refers to sustained, large-scale public protests against the rule of President [Viktor Yanukovich](#) resulting in his departure from office, his replacement by Petro Poroshenko, and repeal of several of his decisions.

<sup>ii</sup> [https://www.consilium.europa.eu/media/31799/2013\\_eap-11-28-joint-declaration.pdf](https://www.consilium.europa.eu/media/31799/2013_eap-11-28-joint-declaration.pdf)

<sup>iii</sup> M. Lakomy, (2016). The Game of Ukraine: Conflict in Donbass as an Outcome of the Multilayered Rivalry. *Politeja*, 45, 279–316.

<sup>iv</sup> M. Lakomy, (2016). The Game of Ukraine: Conflict in Donbass as an Outcome of the Multilayered Rivalry. *Politeja*, 45, 279–316.

<sup>v</sup>Open Society Foundation, “Understanding Ukraine’s Euromaidan Protests,”

<https://www.opensocietyfoundations.org/explainers/understanding-ukraines-euromaidan-protests>

<sup>vi</sup>The flight of [Viktor Yanukovich](#) together with the presence on the Maidan of the militant Right Sector gave rise to a narrative, strongly promoted by the Russian Federation’s government and media, about the Euromaidan Revolution having been a neo-Nazi *coup d’état*. Scholars have suggested that this was not the case in fact. This narrative has followed into the Russian invasion into Ukraine in 2022.

<sup>vii</sup> De Waal, T. (2018). Eastern Ukraine: Different Dynamics. In *Uncertain Ground: Engaging With Europe’s De Facto States and Breakaway Territories* (pp. 61–70). Carnegie Endowment for International Peace.

<sup>viii</sup> A. A. Michta, (2019). NATO and a Resurgent Russia: Can the Alliance Adapt? In S. J. Blank (Ed.), *The Russian Military in Contemporary Perspective* (pp. 1009–1034).

<sup>ix</sup> Ibid

<sup>x</sup> ‘Crimea, Sevastopol Officially Join Russia as Putin Signs Final Decree’ RT.com, 21 March 2014, at <<http://rt.com/news/russia-parliament-crimea-ratification-293/>>, 2 July 2015.

<sup>xi</sup> <https://www.cfr.org/global-conflict-tracker/conflict/conflict-ukraine>

<sup>xiii</sup>Isachenkov, Vladimir. 2021. “Kremlin Says It Fears Full-Scale Fighting in Ukraine’s East.” AP NEWS. <https://apnews.com/article/ukraine-moscow-russia-vladimir-putin-crimea-58d0c23807b859fdc7ab7a79ddfcef17> (April 9, 2021).

<sup>xiii</sup> France 24. 2021. “Ukraine Leader Calls for Talks with Russia amid Invasion Fears.” France 24. <https://www.france24.com/en/live-news/20211201-ukraine-leader-calls-for-talks-with-russia-amid-invasion-fears> (December 6, 2021).

<sup>xiv</sup> A Divided Nation? Reconsidering the Role of Identity Politics in the Ukraine Crisis Author(s): Tatiana Zhurzhenko Source: *Die Friedens-Warte*, 2014, Vol. 89, No. 1/2, *Die Ukraine-Krise* (2014), pp. 249-267 Published by: Berliner Wissenschafts-Verlag Stable URL:

<https://www.jstor.org/stable/24868495https://www.jstor.org/stable/pdf/24868495.pdf>

<sup>xv</sup> A Divided Nation? Reconsidering the Role of Identity Politics in the Ukraine Crisis Author(s): Tatiana Zhurzhenko Source: *Die Friedens-Warte*, 2014, Vol. 89, No. 1/2, *Die Ukraine-Krise* (2014), pp. 249-267 Published by: Berliner Wissenschafts-Verlag Stable URL:

<https://www.jstor.org/stable/24868495https://www.jstor.org/stable/pdf/24868495.pdf>

<sup>xvi</sup> Stephen Shulman, “National Identity and Public Support for Political and Economic Reform in Ukraine,” *Slavic Review*, Vol. 64, No. 1 (2005), 35-56

<sup>xvii</sup> Von Hagen, Mark. 1995. “Does Ukraine Have a History?” *Slavic Review* 54(3): 663

<sup>xviii</sup> “Non-Russian CIS Members Seek Return of National Treasures,” RFE/RL Daily Report, no. 12 (20 January 1993).

<sup>xix</sup> Von Hagen, Mark. 1995. “Does Ukraine Have a History?” *Slavic Review* 54(3): 663

<sup>xx</sup> Ibid., p. 663

<sup>xxi</sup> Bromlei, ed., *Present-Day Ethnic Processes in the USSR* (Moscow: Progress, 1982).

---

<sup>xxii</sup> ‘Ukraine’s Sharp Divisions’, BBC News, 23 April 2014, at <<http://www.bbc.com/news/world-europe-26387353>>, 3 July 2015

<sup>xxiii</sup> ‘The Language Question, the Results of Recent Research in 2012’, 25 May 2012, Соціологічна група РЕЙТИНГ, at <<http://ratinggroup.com.ua/en/products/politic/data/entry/14004/>>, 3 July 2015.

<sup>xxiv</sup> William Noah Glucroft, “NATO: Why Russia has a problem with its eastward expansion,” <https://www.dw.com/en/nato-why-russia-has-a-problem-with-its-eastward-expansion/a-60891681>, 02/23/2022 February 23, 2022

<sup>xxv</sup> Ibid.

<sup>xxvi</sup> Ibid

<sup>xxvii</sup> Ibid

<sup>xxviii</sup> Ibid., p. 301

<sup>xxix</sup> J.J. Mearsheimer, ‘Why the Ukraine Crisis is the West’s Fault. The Liberal Delusions That Provoked Putin’, Foreign Affairs (September/October 2014).

<sup>xxx</sup> William Noah Glucroft, “NATO: Why Russia has a problem with its eastward expansion,” <https://www.dw.com/en/nato-why-russia-has-a-problem-with-its-eastward-expansion/a-60891681>, 02/23/2022 February 23, 2022

<sup>xxxi</sup> M. Lakomy, (2016). The Game of Ukraine: Conflict in Donbass as an Outcome of the Multilayered Rivalry. Politeja, 45, 305

# Teaching Controversial Issues in the Social Studies: Comparing Two Studies over a Decade

*Sean M. Lennon, Ed.D., Valdosta State University*

*Jeffrey Byford, Ph.D., University of Memphis*

## **Introduction**

In 2009, the original paper, *Teaching Controversial Issues in the Social Studies: A Research Study of High School Teachers*, was published (Byford, Lennon, Russell). Based on an earlier study developed in 1983 by Edith Guyton and Alan Hoffman, the authors utilized the same survey but added changes in wording and scales submitted to two different Social Studies professionals in schools from two different states. The paper illustrated some interesting results of the teachers' perceptions, values, and fears in 2009. Changing social and political climate led to the desire to repeat the study and see if results would be comparable, different, or in any way indicative of change, or not, in the ensuing decade. This study will detail responses garnered through a similar survey sent out in 2018 to social studies teachers from across the country. The researchers used descriptive analysis of the data before comparing it to the 2009 results.

## **Theoretical Framework**

The National Council of Social Studies (NCSS) was founded in 1921 and is the largest organization in the United States devoted to promoting Social Studies in the classroom. In 1994 it published a list of standards used by states, school boards, and private learning organizations to develop a codified learning system. In 2014, NCSS revised these standards, also creating an overarching construct of what should be included and taught in a social studies classroom:

The aim of social studies is the promotion of civic competence—the knowledge, intellectual processes, and democratic dispositions required of students to be active and engaged participants in public life.

Although civic competence is not the only responsibility of social studies nor is it exclusive to the field, it is more central to social studies than to any other subject area in schools. (National Council of Social Studies, 2014, para. 4).

Controversial issues would later be addressed in the standards as a possible teaching construct in reaching civic competence through the ten designated outcomes later developed in the re-write:

These standards are intended to be useful regardless of organizational or instructional approach (for example, a problem-solving approach, an approach centered on controversial issues, a discipline-based approach, or some combination of approaches). (NCSS, 2014, para 6).

Using controversial issues to engage civic awareness and competency is arguably well established, beyond the scope of just the NCSS. By developing through conflicting and/or diverse viewpoints can help students understand these differences as well as assisting them in finding a way to compromise or at least better understand the thoughts and views of others, a form of critical or empathetic thinking (Kunzman, 2018, & Noddings & Brooks, 2017). Student dialogue, if fostered correctly while addressing the controversy, can resonate in the youth and potentially develop "respectful and productive conversation[s]"

on an issue that can send adults straight into tantrum territory, especially on social media" (Klein, 2018, p.1).

Lintner states that controversy is part of the "core of a functioning democracy. [It] works when a plurality of perspectives are not just tolerated but actively encouraged" (2018, p.1). This also helps develop facts from false narratives, an especially problematic issue in these times, and discerning (and understanding) between differing viewpoints, values, morals, and ethics that a more connected society creates among our students (Levinson, 2006). The world and all its people are more accessible than ever; an understanding and acceptance of difference is needed for the children to grow into responsible, productive, and involved citizens of an increasingly connected population.

Unfortunately, this is not an easy pedagogical task to undertake and succeed with real-world consequences for teachers. Social Studies teachers are hesitant as these exercises can result in the same 'tantrums' attributed to adults earlier. There is fear that the discussion can stray from the safe confines of a scripted dialogue, resulting in a classroom management issue or 'blowback' from parents, administrators, and possibly the community at large (Lintner, 2018 & Byford et al., 2009). Underlying the task is the task itself; the teacher is undertaking a controversial topic and discussion that divides the country, possibly already discussed within a children's home by their parents. In this home, it is more than likely one 'side' of view has been declared. Now the teacher wants to open this 'side' and others in a classroom for comparison. This is a volatile process long before the activity is designed and implemented, undoubtedly a worry for many educators to undertake (Philpott et al., 2011). This 'hesitancy' is understandable and potentially freezes many teachers from embarking on such a lesson (Lintner, 2018, Kello, 2016 & Byford et al., 2009).

Yet, teaching through controversy can also be one of a Social Studies teacher's most powerful pedagogical skills. Especially in the context of today's vitriolic culture. The hyper-polarization of the nation strains even the best Social Studies teacher as controversies, magnified and extended through social media and other forms of communication, take a life almost on their own. But this is also where Social Studies is most needed. For a democracy to be thriving, civil, political discourse is necessary and needs to be taught, despite cries to the contrary. Unfortunately, society is seemingly more concerned with vilifying and attacking others than embracing them, or at the least, even listening to them. By creating a positive culture where free ideas can be expressed, and the teacher facilitates different roles for different outcomes, critical and empathetic skills can be taught in an environment even the children enjoy (Lockwood, nd; Bickmore & Parker, 2014; Ohoa & Pineda, 2008). These skills are paramount for our society today and in the future.

### **Method**

Guyton and Hoffman conducted a study, published in 1983, designed to look at teachers' perceptions of controversial issues and the role of conflict in their classroom. They developed and administered surveys to ninety-eight former students enrolled at Georgia State University between 1980 and 1983. In 2008, the authors utilized a modified version of Guyton and Hoffman's survey to see if changes had occurred in the ensuing decades. The questions were re-formatted into five-point Likert scales, all in the same direction and with similar terminology or labeled sections. The order was one for positive, five for negative, detailed as (1) strongly agree, (2) agree, (3) neutral or no answer, (4) disagree, and (5) strongly disagree. A neutral or no answer was deliberately utilized to give the questions a little more numeracy or power as they were initially nominative in scope. Though still ordinal, using five points with a neutral added more levels of a scale, arguably needed for doing certain levels of descriptive statistics. Inferential was not utilized in this or the earlier research paper due partly to the strength (or lack of it) of the numeration utilized (Howell, 2004). The same survey was then disseminated again in 2018 for this paper. Utilizing Cronbach's Alpha to determine reliability, the 2009 survey had a reliability rate of 0.85, with the 2018 being 0.81. Also, test-retest reliability had been established as the data indicates generally similar responses with all three measures (Creswell, 2012).

The authors sent out similar surveys in 2017/2018, but this time to Social Studies teachers across the country via an email invitation to participate. Graduate assistants worked to gather a nationwide (lower 48), state by state listing of Social Studies teachers and their work emails. In the spring of 2017, an initial

mailing was submitted asking participants to answer a Qualtrix© survey attached via link to the initial request and authors' bios and study limits and conditions. Due to various reasons, teachers are difficult to get responses from, with unsolicited emails being one of the few types they will take the time to read, let alone reply. A second email was generated at the beginning of the fall 2017 semester for all in the sample to help elicit more responses before closing all replies by the end of January 2018. In all, 320 teachers answered the linked survey.

The study is quantitative in design, utilizing a survey methodology developed from Guyton and Hoffman in their original paper published in 1983. The design is quasi-experimental and utilizes descriptive statistics both in the analysis of the 2018 data and comparisons to the 2009 one. The decision not to use inferential was based on limits of sampling groups and potential weaknesses in the strength of the Likert scales (Creswell, 2012).

### **Demographics**

The demographics of the sample were interesting, as developed by questions one through six and illustrated in tables one and two. Gender differences skewed slightly towards men as 192 males, or 60.38%, responded to 126 or 39.62% of women, a difference of 76 individuals, or generally 20% more. Ethnically, the population was nearly all white, with 272 or 85.53% checking this category. African American and 'other' were slightly above 4% each, followed by Hispanic at less than 3%, Native American less than 2%, and Asian and Hawaiian/Pacific Islander both under 1%. Experience also skewed to those with more years of teaching, which is not surprising as this group probably would be more assured in responding, though unfortunate in developing a homogeneous population in this category. Of the 320 participants, 147 or 45.77%, had 16 years or more experience. The next largest group, identified at 8-11 years, had 59 responses for 18.5%, followed by 4-7 years with 54 people, or 16.93%. Those with 12-15 years' experience had 35 individuals for 10.97%, and the smallest was 0-3 years' experience with 25 or 7.84 %. Again, hardly a surprise as this group would most likely be apprehensive or timid in their position to respond to an unasked, blind survey. Interestingly, combining the experience categories of 0-3 with 4-7 years (1) as a distinct group and 8-11 and 12-15 as a second group (2), we now have a more reasonable distribution of experience. We have 79 individuals or 24.77% for those seven years or less, while the second (2) now totals 95 or 29.47%. Though still less than the 146 teachers over 16 years' experience, these two groups now count for nearly 55% of the sample, giving it a more nuanced distribution.

Educational level corresponded with experience, which is no surprise how teachers are encouraged to earn higher degrees. Teachers that answered as having a BA/BS or a BA/BS plus added classes came to 82 respondents or 25.63% of the sample. This is very close to the 24.77% who have seven years or less of experience. The majority responded with a master's degree at 83 or 25.94% or a masters' degree plus additional classes at 139 or 43.44%. Combined, these two groups totaled 222 teachers, or 69.38% of the sample. Of note, only 13 or 4.06 had a terminal degree.

Question five asked the type of teacher training the respondents had earned, with 187 stating a 'traditional' program of study or 58.44%. Those earning an MAT or a Masters in Arts in teaching, a specialized master's program for those with a content area bachelors who want to teach, saw 91 respondents or 28.44%. Total, these two educational pathways garnered 86.88% of the population sampled. Only 31, or 9.69%, indicated an alternative path, which was not defined in the survey, with another 11 checking 'other' for 3.44%. Again, this was not elaborated upon, though the preponderance of teachers polled earned their teaching degree and accreditation through the two most common routes. The last demographic question, grade taught this year, saw a skewed sample return of high school teachers with 300 (out of 320) teaching in either ninth through the twelve grades. The highest was 11th, with 31.56%. Only 3.75% taught middle school grade bands, while 2.5% indicated 'other,' a variable not clarified in this study.

## Findings

### Disaggregated Data

The disaggregated data illustrated some interesting trends (See Table 4). There were five top response percentages in the one scale, or 'strongly agree,' with two more in the following 'agree' scale. Interestingly, 'disagree' was first six times, while 'neutral' and 'strongly agree' had zero responses. Of all 13 prompts, teachers were generally in agreement, though three had significant respondents in neutral or the other choices. These had little agreement from the sampled group. Prompt five, asking if consensus on controversial topics is important to the nation, the educators' top choices was agreement and disagreement, with a significant number choosing neutral. Prompt eight asking if the teaching of controversial issues upsets students; there was also a similar dispersal of choices. The last, prompt 13 stating that it may be best to ignore a controversial issue indicated a similar response spread. The sample population was mixed in response here which should be noted when addressing the other prompts. Responses in the generally disagree or strongly disagree columns show interesting data as well. For example, for prompt three, asking if textbooks are generally suitable for teaching controversial issues, respondents were strong in the disagree, strongly disagree categories. The same is found in prompt four, stating that students don't want to deal with controversy, and 11, where teachers should personally protect themselves and avoid teaching topics controversial in the community. Teachers replied strongly agree or agree for the remainder of the prompts, stating that"

- No issue should be excluded from being taught
- Students need to be taught controversial issues
- It is important to teach students how to deal with conflict and controversy
- It is only by examining all sides of an issue can one develop rational convictions
- I feel confident to teach controversial issues
- Teachers should develop a systemic method to teaching controversial issues
- School systems should have a formal policy concerning the teaching of controversial issues

However, some interesting discrepancies exist in some of the responses when comparing to teachers' views on importance to skill sets and what thoughts they may have about students handling controversy and the need for generalized systems, personal and school-wide, for protections against issues that could arise. This is especially important as the majority polled stated they were good or comfortable with teaching controversy yet feel some issues need to be addressed. One correlated analysis starts with question one, the first of the lowest or one scale, which stated 'no issue should be automatically excluded from the social studies classroom,' a 54.55% response rate. In the next category, 'agree,' had a 33.54%, for a combined total of 88.09%. Thus, a solid majority agreed towards not automatically excluding an issue. The neutral scale had only a 5.33 response percentage, while 'disagree' had 6.58%. Together the two combined for just 11.91% of the sample.

When comparing to other, classifiable questions, there appear to be some caveats to this prompt. For example, prompt 11 saw a potential reduction in this ideal. Direction is not changed, but the agreement's point went from positive to negative, interfering with possible routine responses. Here, if correlating to prompt one, the outcome would be in the negative, higher numbers. And they were 52.81% in the 'disagree' scale and 25.31% in the 'strongly disagree,' for a total of 78.12% respondents not agreeing with the statement. In comparison, 88.09% were against automatically banning any topics, with 78.12% disagreeing with teachers protecting themselves from controversial issues and risks.

Number 13 states that 'it is sometimes better to ignore the conflict within an issue and just teach the 'bare facts''. The highest response was in the 'disagree' scale with 43.75%, followed by 'strongly disagree' for 21.56%, a net total of 65.31% disagreeing with teaching neutral or 'safe' facts. Again, it is the positive and, if counting the neutral scales, with a combined total of 34.69% (or just the positive at 24.31%), shows some ambiguity towards prompt one. If 88.09% favored not automatically removing a topic, only 65.31% disagreed towards avoiding conflict, a 22% difference. The difference between prompt one and



11 was 9.97%, almost halfway between one and three. Teachers may be seeing 'automatically included' as an administrative lock but feel they should have the right to pick and choose. Still, they drop nearly 10% when protecting themselves, followed by an even higher drop-off regarding the potential conflict in prompt 13.

Prompt two also leads to an interesting correlation. Two states that 'students need to study controversial issues,' which returned the second-highest percent total in the 'agree' scales at 97.82%, only behind prompt six, which had a 99.37% for the two. This prompt states, 'it is important to teach students how to deal with conflict and controversy,' potentially showing strong agreement about the importance and need to study the issue and cover contrary opinions. Prompt seven, 'it is only by examining all sides of an issue that a person can develop rational and deeply held convictions,' also had an 'agree' response range in the 90s, with 92.82% in agreement. Thus, respondents indicate that the three prompts (2, 6, and 7) are important, yet contradiction appears in other, correlated prompts. In prompt four, 'students really don't want to deal with conflict and controversy,' only 63.13% disagreed while 18.75% agreed, 26.88% if also counting 'neutral' responses. This is a significant difference between the correlated first three involving the importance of teaching this curriculum, having an aggregate score of 96.67%, compared to 63.13% who see students as able to or even willing to deal with controversial issues a difference of 32.87%. The teachers agree in importance, but those thinking students even care drop significantly. Potentially a factor could be the less experienced educators, 24.77% with less than seven years and 29.47% with eight to 15. The nearly 33% who didn't think students cared could be from the less experienced subpopulations, quite possibly a large portion of the least (0-7 years) with some of the lesser (8-15) would easily account for this drop-off.

In prompt eight, 'dealing with controversial issues confuses and frustrates students' responses indicated a weakening view of students' ability versus the teachers' self-view in the importance of teaching controversy. Here 60.62% disagreed but slightly more than 30% agreed, and if adding the 'neutral' category, nearly 40% agreed that controversial issues confuse and upset students. Teachers self-reported their agreement to the importance of controversy and critical issues almost unanimously, but their concepts towards students being willing and/or able to learn drop significantly. This perception of students' ability belies prompt nine, stating, 'I feel competent to teach about controversial issues,' with 90.65% of respondents indicating they are in 'strong agreement' or 'agreement' towards their perceived ability to teach controversy. Yet, over 30% believe students can't learn, possibly a disconnect between self-reported skills and classroom reality. The difference can be a matter of subjective opinion on what a controversial issue is and how far the teacher believes one should delve before the outcome is met. Prompts ten and twelve follow in this zeitgeist, like ten, 'teachers should develop a systemic method for teaching controversial issues,' had a 73.33% response in the 'agree' columns. Interestingly 11.57% did not see this as a potential necessity. Compared to the nearly 91% who felt comfortable teaching controversy, a solid 70% plus of this population see a need to approach doing so with care and preparation. Prompt 12, 'school systems should have a formal policy supporting the teaching of controversial issues,' saw an increase of 80.94% from the 73.33% developing their systemic teaching protocols. The bulk of teachers surveyed felt they were competent to teach controversial issues yet prepared carefully and felt the school needed a formal policy protecting them from backlash or pushback from concerned parents or stakeholders. The final question or prompt concerning the textbooks adequately dealing with controversy illustrated 66.88% in disagreement, with only 12.19% agreeing they are helpful, with another 20.94% undecided or unsure. Teachers don't see much help from textbooks in teaching controversy.

### **Comparing to 2009 Data**

Responses were different in the ten years, but comparisons are limited, due in part to the different groups utilized in the two studies. In 2009, the sample population was delineated from two different schools in the Midwest, while 2018 was a national survey sent out anonymously via unsolicited email requests. The different populations should temper any correlation or difference before inferring to Social Studies teachers as an entire group. In the 2018 survey, there was no majority response in the neutral or unsure category, while in 2009, there were six. Prompt one, 'no issues should be excluded' saw majorities in agreement for both, though the 2018 cohort was 'stronger' in agreement with 88.09% compared to 2009's

73.14%. Like prompt two, 'students need to study controversy,' with 97.82% in 2018 in agreement to 2009's, 71.64%, a difference in importance of 26.18% on this scale. This is intriguing as it illustrates that maybe some topics are more 'controversial' today though the need to teach about controversy has increased. This slight contradiction may demonstrate hesitancy on some respondents on going to some issues though today's teachers may be in a more general agreement about teaching controversial issues overall. Not surprising in today's polarized society

For the following prompt (three), concerning textbooks, 2009 was primarily neutral in response though 53.73% leaned toward disagreement. In 2018, 66.88% disagreed, once again showing a slide to either pole of agreement or disagreement as there was little middle ground in the recent sample. Finally, prompt four, 'students don't really want to deal with controversy,' also had a majority 2009 response in the neutral category though 52.03% still voted in disagreement. Generally, both prompts were similar in the two surveys undertaken.

Prompt five, the nation depends upon citizens being in consensus, was the first different answer by the groups. In 2009, the respondents were 82.09% strongly agreeing with this statement, but in 2018 teachers were divided, with 43.75% agreeing while 44.36% disagreed. Possible reasons may be the word 'consensus' as the teaching of controversial issues does not need students to be on the same decision paradigm that has been reiterated in teaching in recent years. In 2009, with two wars and a different political climate, it may have been more acceptable, now in today's society where difference is highlighted, such concepts are no longer as powerful. With the new protest movements and 'woke' culture, differences are more accepted (and taught) possibly than in the past. Sometimes described as empathic thinking, a form of critical thinking, differences are common and routine, and we should try to accept others, regardless of one's view (Lennon, 2017).

Prompts six, seven and eight saw agreements from the two populations though the recent sample, once again was more polarized to either agreement or disagreement, the left or right poles of the Likert scales. For six, the importance of teaching students to deal with conflict and controversy saw 64.18% agreement from 2009 and 99.37% agreement from 2018. Prompt seven, 'examining all sides help develop rational convictions,' was similar in agreement between the two decades, while eight, 'controversy confuses students,' was similar in disagreement. Not much had changed in views between the two groups. The circles in table five represent the similarities.

Prompt nine, 'I feel comfortable teaching controversial issues,' is perhaps the most surprising difference, especially towards the polarization towards the extremes in the Likert scale responses. In 2009, the respondents were highest on the neutral scale, with 34.33% leaning towards agreement. The 2018 group was 90.65% in agreement here, though this large number is reasonably suspect. As earlier discussed, some differences in responses may reduce what teachers considered controversial and how willing they were to discuss; however, in ten years, the answer has most definitely moved to agreement. Another possible issue may be the influence of newer standards and state and district goals which may emphasize controversy more than in the past. Teachers must deal with it now, whether they teach all, teach the least controversial or go 'deeper' into conflict and controversy, even in one's community.

Number 11 saw a different response between the two populations. Here, 'teachers should protect themselves and not teach controversy' had 78.12% in disagreement in 2018, with 2009 only being 54.7% in agreement with the statement. This is quite a difference and illustrates teacher's changing perception of the necessity of teaching controversial issues in the last ten years. Possibly due to the country's polarization, it may no longer be the discretion of social studies teachers to teach or not teach specific issues; we may now be bound to teach regardless of pushback or management concerns. Prompt 12 correlates as it states that 'school systems should put in place formal policies for teaching controversial issues.' If teachers are willing to risk going over controversial topics, they also indicate yes to a unified policy to protect them. Teachers should have a coherent, easy-to-use policy to protect from parental or family concerns when dealing with a subject that might upset others; an interesting juxtaposition of thinking for educators dealing with this.

Lastly, in prompt 13, it is better to ignore the issue than teach it saw similar responses from the two groups though the 2018 sample did 'drift' a little more to an agree category than the 2009 cohort. There is some

trepidation of teaching in the newer group regardless of what was stated earlier, not surprising from the emotional divide concerning some topics today.

### **Conclusion**

Teachers that teach controversial issues have illustrated that this is an important concept for students to learn. However, they are somewhat divided on the ability or desire for students to do so. On a simple, five-point, random, and anonymous survey, over 90% state they can teach controversy though other prompts illustrate there may be some ambiguity to this percentage. What is classified as controversial or highly controversial, or maybe too controversial, does not show a strong response, especially for prompt 13, where 34% indicated some avoidance of an issue versus the 90% plus stating they are confident to teach. This needs further study but may exhibit some ambiguity or 'teaching' controversy and conflict. The data does not indicate subjects too 'far' or dangerous to discuss or how thoroughly they should be taught. Social Studies educators may see themselves as effective in teaching controversial issues they are willing to teach, or the standards make them, both constructs needing further study.

In comparing the two surveys, there is a solidification of the importance of teaching controversial issues in social studies. The 2009 survey indicated some agreement, but the 2018 study saw a more polarized and generally majority grouping of most of the prompts. In the last decade, controversial issues and topics have impacted current teachers and fostered them towards teaching such issues despite the perceived flashback or problems. Yet, some patterns emerge that teachers are not so united in this teaching. Today's Social Studies teachers are more in agreement towards controversy and conflict, but they are not as prepared or willing as they would generally like to see themselves. However, compared to ten years ago, much has changed in importance, illustrating the need for such studies in our modern curricula.

With the current political and social upheavals in the country and the negative, even disturbing rhetoric that follows it, the teaching of controversy is scarier now than ever. Teachers may receive blowback from parents and the community, and the consequences are real. Yet, these are powerful lessons and need to be taught. As the country, adults, and children learn how to accommodate mass media, the 24-hour sensational news, and all of the rhetoric that follows, such soft skills will be more important to know and understand. The teachers polled in the studies illustrated knowledge of this and showed how consequential the learning (and teaching) is.

### **References**

- Bickmore, K. & Parker, C. (2014). Constructive conflict talk in classrooms: Divergent approaches to addressing divergent perspectives. *Theory and Research in Social Education*, 42(3), 291-335, DOI 10.1080/00933104.2014.901199
- Byford, J.; Lennon, S. & Russell, W. (2009). Teaching Controversial Issues in the Social Studies: A Research Study of High School Teachers. *The Clearing House*, 82 (4). Pgs. 165-170.
- Creswell, J. W. (2012). *Educational research: Planning, conducting, and evaluating qualitative and quantitative research* (4th Ed.). Upper Saddle River, NJ: Pearson.
- Creswell, J. W. (2015). *Qualitative, Quantitative, and Mixed Methods Approaches*. (5th Ed.). Thousand Oaks, CA: Sage.
- Duke, N., & Pearson, P. (2011). What research has to say about reading instruction. Farstrup & Samuels (Eds.). *Effective practices for developing reading comprehension* (pp. 107-122). Newark, DE: International Reading Association
- Friere, P. (2000). *Pedagogy of the Oppressed*. New York, NY: Bloomsbury Publishing.

- Guyton, E. & Hoffman, A. (1983). Teaching Controversial Issues in Social Studies. ERIC Document Reproduction Service No. ED242625.
- Hess, D. (2001). Teaching Students to Discuss Controversial Public Issues. ERIC Document Reproduction Service No. ED457106.
- Howell, D. (2004). Fundamental Statistics for the Behavioral Sciences. (5th Ed.). Cermont, CA: Brooks/Cole.
- Kello, T. (2016). Sensitive and Controversial Issues in the Classroom: Teaching History in a Divided Society. *Teachers and Teaching*, 22(1), 35-53.
- Klein, A. (2018). Students Get ‘Too Little’ Civics Teaching, Principals Say. *Education Week*. Retrieved from <https://www.edweek.or/ew/articles/2018/06/28/students-get-too-little-civics-teaching-principals-say.html>.
- Kunzman, R. (2018). Contention and Conversation in the K-12 Classroom. A Review Essay of Teaching Controversial Issues and the Case for Contention. *Democracy and Education*, 26(1). Pgs. 1-8.
- Lennon, S. (2017, Spring). Questioning for Controversial and Critical Thinking. *Dialogues in The Social Studies Classroom. Issues in Teacher Education*, 26(1), 3-16.
- Levinson, R. (2006). Teachers’ Perceptions of the Role of Evidence in Teaching Controversial Socio-Scientific Issues. *The Curriculum Journal*, 17(3). Pgs. 247-262.
- Lintner, T. (2018). The Controversy over Controversy in the Social Studies Classroom. *SRATE Journal*, 27(1). Pgs. 14-21.
- Lockwood, A. (nd). Controversial Issues: The Teacher’s Crucial Role. National Council for the Social Studies. Retrieved from <http://www.socialstudies.org/sites/default/files/publications/se/6001/600105.html>
- McAulay, J. D. (1965). Controversial issues in the social studies. *Education*, 86. Pgs. 27–30.
- National Council for the Social Studies. (2014). *National Curriculum Standards for Social Studies: Introduction*. Retrieved from: <https://www.socialstudies.org/standards/introduction>.
- Noddings, N. & Brooks, L. (2017). Teaching Controversial Issues: The Case for Critical Thinking and Moral Commitment in the Classroom. New York, NY: Teachers College Press.
- Ochoa, G., & Pineda, D. (2008). Deconstructing power, privilege, and silence 16 Questioning for Controversial and Critical Thinking Dialogues Issues in Teacher Education in the classroom. *Radical History Review*, 102, 45-62.
- Philpott, S.; Clabough, J.; McConkey, L. & Turner, T. (2011). Controversial Issues: To Teach or Not to Teach? That is the Question!. *The Georgia Social Studies*

Theisen, R. (2000). Social Studies Education: A Challenge, A Choice, A Commitment. Social Education, 64(1). Pgs. 1-6.

**Tables**

**Table 1 – Survey Prompts**

1	No issue should be automatically exempt from the Social Studies classroom
2	I believe students need to study controversial issues
3	Middle grades and high school- Social Studies Textbooks adequately deal with controversial issues
4	Students really don't want to deal with conflict and controversy
5	The stability of our nation depends upon consensus among citizens about its most important issues
6	It is important to teach students how to deal with conflict and controversy
7	It is only by examining all sides of an issue that a person can develop rational and deeply held convictions
8	Dealing with controversial issues confuses and frustrates students
9	I feel confident to teach controversial issues
10	Teachers should develop a systemic method for teaching controversial issues
11	Teachers should protect themselves and not teach about an issue that is controversial within the community they teach
12	School systems should have a formal policy supporting the teaching of controversial issues.
13	It is sometimes better to ignore the conflict within an issue and just teach the "bare facts."

**Table 2 – Basic Demographics A**

Gender		Male	Female					
N		192	126					
%		60.38	39.62					

Ethnicity		African-American	Asian	Native American	Hawaiian/Pacific Islander	Hispanic/Latin American	White/Caucasian	Other
N		14	2	5	3	9	272	13
%		4.40	0.63	1.57	0.94	2.83	85.53	4.09

Years taught		0-3 years	4-7 years	8-11 years	12-15 years	Over 16 years
N		25	54	59	35	146
%		7.84	16.93	18.50	10.97	45.77

**Table 3 – Basic Demographics B**  
Educational Level

	BA/BS	BA/BS + classes	Master Degree	Masters + classes	Terminal Degree	Other
N	27	55	83	139	13	3
%	8.44	17.19	25.94	43.44	4.06	0.94

Formal Teacher Training					
	Traditional Program	Master of Arts in Teaching	Alternative Certification	Other	
N	187	91	31	11	
%	58.44	28.44	9.69	3.44	

Grade Level Taught this Year								
	6th	7th	8th	9th	10th	11th	12th	Other
N	1	2	9	55	70	101	74	8
%	0.31	0.63	2.81	17.19	21.88	31.56	23.13	2.50

Table 4– Percentages of Responses to Survey Prompts

Survey Prompts	1 Strongly Agree	2 Agree	3 Neutral	4 Disagree	5 Strongly Disagree
1	54.55	33.54	5.33	6.58	0
2	71.88	25.94	1.25	0.94	0
3	2.19	10.00	20.94	49.38	17.50
4	2.19	16.56	8.13	53.44	19.69
5	13.75	30.00	11.88	37.50	6.86
6	76.25	23.13	0.63	0	0
7	59.38	33.44	3.13	3.75	0.31
8	2.19	28.13	9.08	46.25	14.37
9	39.69	50.94	4.69	4.06	0.63
10	20.94	52.50	15.00	9.69	1.88
11	1.25	3.75	16.88	52.81	25.31
12	43.44	37.50	10.94	6.56	1.56
13	2.50	21.88	10.31	43.75	21.56

Note: Bold numeral indicate the highest percentage response for that prompt. Because of rounding, percentages may not add up to 100%

Table 5 – Comparison of 2009 and 2018 responses

	1	2	3	4	5
--	---	---	---	---	---

Survey Prompts	Strongly Agree		Agree		Neutral		Disagree		Strongly Disagree	
	2018	2009	2018	2009	2018	2009	2018	2009	2018	2009
1	54.55	22.39	33.54	50.75	5.33	13.43	6.58	13.43	0	0
2	71.88	22.39	25.94	49.25	1.25	10.45	0.94	13.43	0	4.48
3	2.19	1.49	10.00	10.45	20.94	34.33	49.38	28.36	17.50	25.37
4	2.19	0	16.56	10.61	8.13	36.36	53.44	30.30	19.69	22.73
5	13.75	20.90	30.00	61.19	11.88	11.94	37.50	5.97	6.86	0
6	76.25	26.87	23.13	37.31	0.63	23.88	0	11.94	0	0
7	59.38	56.72	33.44	29.85	3.13	8.96	3.75	4.48	0.31	0
8	2.19	7.46	28.13	16.42	9.08	22.39	46.25	40.30	14.37	13.43
9	39.69	10.45	50.94	23.88	4.69	43.28	4.06	14.93	0.63	7.46
10	20.94	7.46	52.50	28.36	15.00	47.76	9.69	11.94	1.88	4.48
11	1.25	28.36	3.75	31.34	16.88	14.93	52.81	19.40	25.31	5.97
12	43.44	7.46	37.50	19.40	10.94	43.28	6.56	22.39	1.56	7.46
13	2.50	4.48	21.88	14.93	10.31	41.79	43.75	28.85	21.56	8.96

Note: \* Bold numeral indicate the highest percentage response for that prompt. Because of rounding, percentages may not add up to 100%.

\* Circled responses indicate highest responses similar between the two surveys as correlated to the same

School Site Threat Assessment Overview and Firsthand Incident  
Narrative: A Not So Ordinary Day in the Life of a High School

John Peter Petrone, Ed.D.

Eastern New Mexico University



The need for school site threat assessment teams is a reflection of our society. Sadly, since the Columbine High School massacre that occurred on April 20, 1999, more than 256,000 students from 278 primary and secondary schools have experienced the terror of gun violence on their campuses (Cox, et al., 2021).

What are the characteristics of these school types and attackers? According to a United States Secret Service study (Alathari, et al., 2019), there are no specific profiles of school types or school attackers. Attackers usually have multiple motives, most common among them are grievances against classmates and or staff (although some attackers can be non-students). Most attackers procure their firearms from their own homes. Furthermore, most attackers have experienced some type of psychological, behavioral, and or some type of developmental issues. Some additional characteristics of attackers from the study detail their interest in violent topics and or events, their likelihood to have lengthy school disciplinary actions, and many prior contacts with law enforcement. The study also states that virtually all attackers exhibited concerning behaviors, most attackers elicited concerns from others, and most communicated their intent to attack in some way before the attack.

This disturbing trend has fueled the development of school threat assessment teams being formed on campuses across the nation. The two predominant school threat assessment team systems being utilized today are The Comprehensive School Threat Assessment Guidelines (CSTAG), (Cornell, 2020), and the Salem-Keizer System (Van Dreal, 2019). These two systems share many similarities than differences in that their main goals are intervention, prevention, and if required, response to substantive threats. For the sake of this article, the author will focus primarily on certain elements incorporated from the CSTAG system.

Threat assessment teams are being established in many school districts and school sites across the nation. Threat assessment teams can be run at the district level or the site level dependent on the decisions of individual district school boards<sup>5</sup>

The members that predominantly make up these teams are district and site administrators, school counselors (or similar), and school-based law enforcement.

The primary responsibilities of these teams are to identify a developing threat, evaluate the threat to determine whether it is transient in nature or substantive in nature, and intervene, and prevent if possible.

The State of Virginia defines its threat assessment process as being designed to

1. Identify individual(s)/situation(s) whose behavior causes concern for violence
2. Gather additional relevant information in a lawful and ethical manner
3. Assess individual(s)/situation(s) in context based on the totality of the

information available

4. Manage the individual situation to prevent violence and mitigate impact of harm (Deisinger, 2016).

The specific duties of the threat assessment team members can vary however most follow a prescribed model (CSTAG) that includes as mentioned prior, individuals from a variety of disciplines. The team leader is usually a school or district administrator. Upon initial formation, the team must establish agreed-upon protocols and procedures. For example, once a threat has been received each member shall have specific duties and tasks within the threat assessment process. The system also recommends that once formed the team meets regularly to discuss, team build, role play, etc. so when a real threat emerges the team can run as smoothly as possible (Cornell, 2020).

The CSTAG system once a potential threat has been identified, utilizes a 5 step decision tree process (see Appendix A). It is important to note that the CSTAG and the Salem-Keizer systems were created based on an assumed current student-derived threat, however several of the steps in the process can be utilized if the threat emanates from a non-student.

Once a threat has been revealed, the team must procure as much detailed information as possible. These details can be obtained by interviewing witnesses, if possible, and by interviewing the person who made the threat. Additionally obtaining or discovering the exact content of the threat is vitally important for the team. The exact circumstances under which the threat was made are considered by the team as well. Lastly, the specifics of the communication where the threat was made must be examined by the team. If the threat emanated from a current student or even a non-student the team must determine if the threat could be resolved as "transient". A transient threat can be determined by the team if the evidence and interviews show that the individual making the threat did it out of "humor, rhetoric, anger or frustration that can be easily resolved so there is no intent to harm" (Cornell, 2020). In addition, if the individual expresses remorse, apologizes, etc. the threat can be classified as transient and the case is resolved. If further services are needed for the individual the team will make those decisions as well. If the threat is determined not to be transient, then it is classified as "substantive" and the team must take additional steps within the process. While all steps are important arguably step 3 in the CSTAG process is extremely important for the team to carry out systematically. Substantive threats require the team to take steps to protect potential victims, warn victims and their parents, continue to try and resolve the threat, and if it is a student-derived threat discipline the individual. Steps 4 and 5 in the CSTAG system are essentially comprised of after-action interventions if the individual is a current student. These steps include mental health screening, counseling, etc. Law enforcement

investigations, safety plan development, and also possible further assessment for special student services (.

### An Ongoing Narrative

This author before entering higher education spent 15 years as a secondary school teacher of social science and then a high school administrator. From 2004-2018 this author served in those capacities at the same high school site. It is from that perspective that this firsthand narrative was derived.

On February 14, 2018, 19-year-old former student Nikolas Cruz walked into Marjory Stoneman Douglas High School in Parkland, Florida armed with an AR-15 style rifle and proceeded to kill 17 people and wounded 17 more. Of the 17 dead, 14 were students and three were staff. Cruz who was recently expelled from Marjory Stoneman Douglas had had multiple disciplinary issues in school. Cruz's mother had died 3 months earlier, and also had previous interactions with law enforcement. It was also reported that Cruz had posted 6 months earlier on his YouTube page, "I'm going to be a professional school shooter (Sacks, 2018). As mentioned prior:

"According to a United States Secret Service study, there are no specific profiles of school types or school attackers. Attackers usually have multiple motives, most common among them are grievances against classmates and or staff (although some attackers can be non-students).

Most attackers procure their firearms from their own homes. Furthermore, most attackers have experienced some type of psychological, behavioral, and or some type of developmental issues. Some additional characteristics of attackers from the study detail their interest in violent topics and or events, their likelihood to have lengthy school disciplinary actions, and many prior contacts with law enforcement. The study also states that virtually all attackers exhibited concerning behaviors, most attackers elicited concerns from others, and most communicated their intent to attack in some way." (Alathari, et al., 2019).

On the morning of February 16, 2018, the author was driving to work as the high school principal at a school district in the Central Valley of California, listening to the terrible news out of Parkland that was dominating the news. Little did this author know that day was going to be a not-so-ordinary day in the life of a high school.

The author's former school district utilized a version of the CSTAG system. The site threat assessment team was comprised of the district superintendent, the author as Principal, the Assistant Principal, the Director of Student Services, and the School Resource Officer.

The morning of February 16, 2018 was fairly typical at the school site except for the bell schedule being set to accommodate rally schedule (shorter periods). The reason for this was the school was scheduled to hold its annual outdoor FFA rally in the site's football facility. This rally held in the afternoon is attended by the entire student body, along with staff, parents, and other community members. Several FFA students and their teachers were out on the football field setting up for the afternoon's rally.

As mentioned prior tips and warnings are critical to be made aware of an emerging threat. The author's district did have the Crime Stoppers program in

place. However as also stated prior, “Research has shown that individuals who plan to conduct a school attack typically share that information with someone else. These are often peers, such as friends or other students at the threatened school (Carlton, 2021).

In addition to students possibly coming forward, it is imperative to have alert staff, who either by overhearing a conversation or being contacted by a trusting student, etc. staff members must recognize the critical nature of the information they receive and notify administration immediately. It is also imperative that the staff is familiar with the threat assessment system in place at their site and understands their roles within that system.

At approximately 10:00 AM this author received a phone call from a science teacher. One of her students informed her of some “concerning” information. The student told her that she had seen a Facebook post by a former student of the high school (he had been expelled earlier) which appeared to threaten the school. I asked the teacher to send the student to the office immediately. I then contacted the school’s resource officer and director of student services and asked them to come to the author’s office immediately. Unfortunately, two key members of the site’s threat assessment team (the district superintendent and high school assistant principal) were absent that day).

The team gathered into the office and began step 1 of the school threat assessment decision tree (see Appendix A) by interviewing the student. The student stated during the interview she had read a Facebook post by the expelled former student that had the booking photo of the Marjory Stoneman Douglas HS shooter Nikolas Cruz. The student said the former student posted that he was going to do the same thing to his former high school. The team members present immediately asked the student to show the team the post. The student informed the team that the former student had since deleted the post from earlier that morning. The school resource officer informed the team that it would be very important to obtain a copy of the post to be able to involve additional law enforcement resources. The student informed the team that one of her friends still had a copy of the post on her cell phone. To the team’s dismay, the second student had just been signed out of school for a dentist appointment. However, the team was able to finally contact that student and the student did still have the post on her phone! The student then texted the post to the author’s cell phone. The team examined the post and determined this post was a substantive threat made by the expelled student (see Appendix B).

The team then began the discussion on how to respond raising the following issues (Cornell, 2020):

- Did the suspect have a heightened interest in concerning topics such as school attacks or attackers? Yes, the suspect’s Facebook post confirmed that.
- Did the suspect have access to weapons? Yes, the suspect

and his older siblings were verified gang-affiliated, and according to the School Resource Officer, they had prior weapons possession charges and violations.

- Did the suspect have time to plan? The team was unsure about this point as the post appeared a few hours earlier. One factor considered though was that the suspect's last known address was about 4 blocks from the high school.
- The team then began to discuss based on the evidence gathered what would be an appropriate response as the team did not want to overreact or underreact (Van Dreal, 2019).

The team had to factor in several complicating factors before agreeing to a response strategy:

- The district superintendent was out of the district was still not reachable after multiple attempts to contact him.
- The assistant principal was absent that day.
- The site was on a PM rally schedule due to the FFA rally scheduled to be held outside in the football stadium that afternoon.
- The lunch period had already begun when the post was verified due to the rally schedule (lunch period allowed for certain students who earned off-campus lunch privileges)
- Outdoor PE classes (vulnerable from multiple areas outside the school perimeter)
- After school athletics (vulnerable from multiple areas outside the school perimeter)

After careful and deliberate consideration of all the gathered evidence and complicating factors, the team came up with a response strategy:

- The School Resource Officer immediately contacted the local chief of police and briefed him on the entire situation.
- The other town police were contacted and were instructed to "be on the lookout" for the suspect, and apprehend immediately if located. The Chief of Police contacted the neighboring town's police chief to inform him of the situation so his officers could also be on the lookout and assist if necessary.
- One officer patrol car was assigned to patrol the street directly in front of the school
- Established a go or no go time if the suspect could not be located for the planned outdoor rally and after-school activities.

As this response was commencing lunch period had just ended. An email was sent to all staff informing them that the school had received a possible

threat and they were to be in a “heightened state of awareness”. In addition, a PA announcement went out to the entire school for staff to check their email immediately. Lastly, the site’s two campus supervisors went to each classroom to verify they had read the email.

The site’s status of being in a “heightened state of awareness” meant the following:

- Teachers shall issue no hall passes unless it was urgent (bathroom, medical, etc.)
- All outdoor PE classes were moved into the gym
- All staff must review their lockdown checklist to be prepared
- Conduct classes normally, teach!
- Remain calm and professional

During the tense moments after the response was carried out the author and the remainder of the team members remained in constant two-way radio contact. The author patrolled on foot in front of the school, the director of student services along with the campus supervisors patrolled on foot the remainder of the campus, while the School

Resource Officer joined his fellow officers on the road searching for the suspect. Adding to the tenseness was the police had received a tip that the suspect was last seen in the vicinity of the high school a few blocks away on foot.

It was during this period the district office was finally successful in contacting the superintendent who called the author immediately. The author fully briefed him and explained the decided-upon response. The superintendent informed the author that he fully supported the response plan and would instruct his district staff to continue to expedite communication to the district's stakeholders.

At approximately 1:00 PM (the agreed-upon go-no-go time), the suspect remained at large. The author informed all staff that the FFA rally would be postponed until the following week. All after-school activities including athletics were canceled for the day, with the site’s athletic director taking the responsibility to inform all coaches and players.

The school day for the high school ended at 3:07 PM. The threat assessment team in the time leading up to dismissal had to decide if the suspect was not apprehended by then what steps to take. Dismissal like at many schools can be a chaotic blend of students departing on foot and or climbing onto the several school busses lined up in front of the school. This

scenario was very problematic for obvious reasons with a suspect still potentially in the area. Led by the superintendent with input from the chief of police, the team decided that if the suspect was still at large the police would be outfront in full force some on foot and others patrolling by squad car the main roads that students walk while all team members and additional school personnel (available teachers, campus supervisors, custodial staff, etc. would be around the school`s perimeter with two-way radio communication until all students departed. At approximately 2:55 PM a mere 12 minutes before dismissal the school resource officer contacted the author by two-way radio with the following message, “suspect located and is in custody!”

The aftermath of this incident was arguable as chaotic and at times stressful as the incident. The suspect when interviewed at arrest admitted to the post, but said he was “kidding” and he just wanted to “get back and scare” the school. In addition, because of the Parkland Florida incident just two days prior, the local print and television media barraged the school with inquiries and reporters (see Appendix C).

The local county district attorney didn’t think it was humorous as the suspect was charged with making felony criminal threats and violation of probation. During the ensuing months, the author had to make three court appearances involving the pre-trial hearings of the suspect. The first one was at the direction of the superintendent as school administration were to seek orders of protection so that the suspect if released would have to stay away from the administration and the school. If the suspect came within 100 yards of the administration or school he would be subject to immediate arrest. In addition, the author was subpoenaed on at least two occasions to make court appearances to testify, the third appearance ironically occurring in the fall of 2018, after the author had retired from the school district, and had moved into higher education as an Assistant Professor of Educational Administration in New Mexico (see Appendix D).

In the immediate aftermath of the incident, the school threat assessment team met at least three times with a week after to discuss the incident and review procedures. Some minor adjustments were made out of those after-action meetings, however, the system in place remained virtually unchanged. When the author retired in June of that year, the assistant principal was named as my replacement and thusly became the new leader of the site threat assessment team. Upon reflection of the author`s 14 years in the district, and 10 years as an administrator, there were many interesting, rewarding, and challenging occurrences more typical in the life of a high school. For example, breaking up fights, celebrating awards, and accomplishments, athletic issues, etc., however, February 16, 2018, was definitely, a not-so-ordinary day in the life of that high school.

## References

- Alathari, L., & Et al. (2019, November). Protecting America's schools . United States Secret Service. Retrieved October 5, 2021, from [https://www.secretservice.gov/sites/default/files/2020-04/Protecting\\_Americas\\_Schools.pdf](https://www.secretservice.gov/sites/default/files/2020-04/Protecting_Americas_Schools.pdf).
- Caldwell, J. (2021). Developing and Operating a Threat Assessment Team. BehavioralThreat Assessment and Management for Educators and Administrators | Texas School Safety Center. Retrieved October 6, 2021, from <https://txssc.txstate.edu/tools/tam-toolkit/developing>.
- Carlton, M. P. (2021, April 12). School Safety: Research on gathering tips and addressing threats. National Institute of Justice. Retrieved October 6, 2021, from <https://nij.ojp.gov/topics/articles/school-safety-research-gathering-tips-and-addressing-threats>.
- Cornell, D. (2020, December 26). The CSTAG model of threat assessment. The Comprehensive School Threat Assessment Guidelines. Retrieved October 6, 2021, from <https://education.virginia.edu/faculty-research/centers-labs-projects/research-labs/youth-violence-project/comprehensive-school>.
- Cox, J. W., Rich, S., Chiu, A., Muyskens, J., & Ulmanu, M. (2021, August 13). Analysis more than 256,000 students have experienced gun violence at school since Columbine. The Washington Post. Retrieved October 6, 2021, from <https://www.washingtonpost.com/graphics/2018/local/school-shootings-database/>.



Deisinger, G. (2016, August). Threat Assessment in Virginia Public Schools: Model Policies, Procedures, and Guidelines | Second Edition [2016]. Richmond; Virginia Department of Criminal Justice Services.

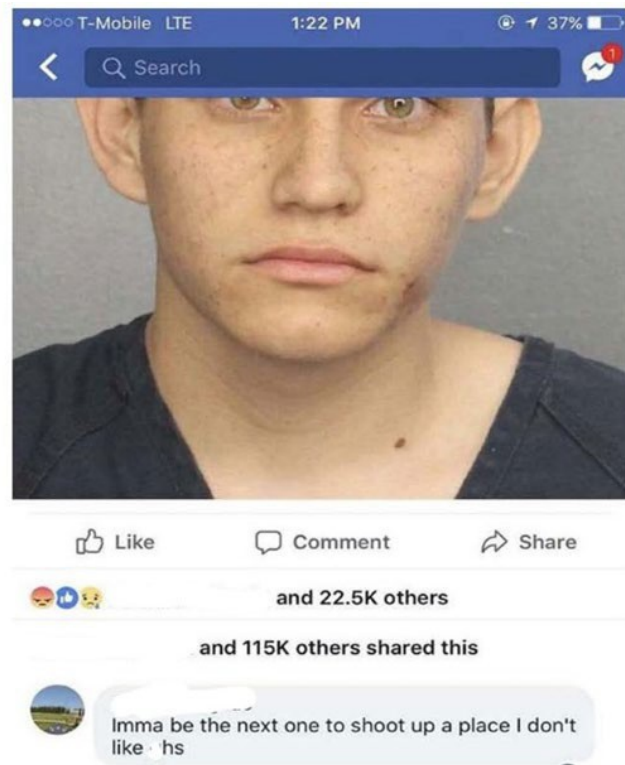
Sacks, B. (2018, February 15). The FBI was warned about a school shooting threat from a YouTube user named Nikolas Cruz in September. BuzzFeed News. Retrieved October 8, 2021, from

<https://www.buzzfeednews.com/article/briannasacks/the-fbi-was-warned-about-a-school-shooting-threat-from#.auNKmnkgZk>

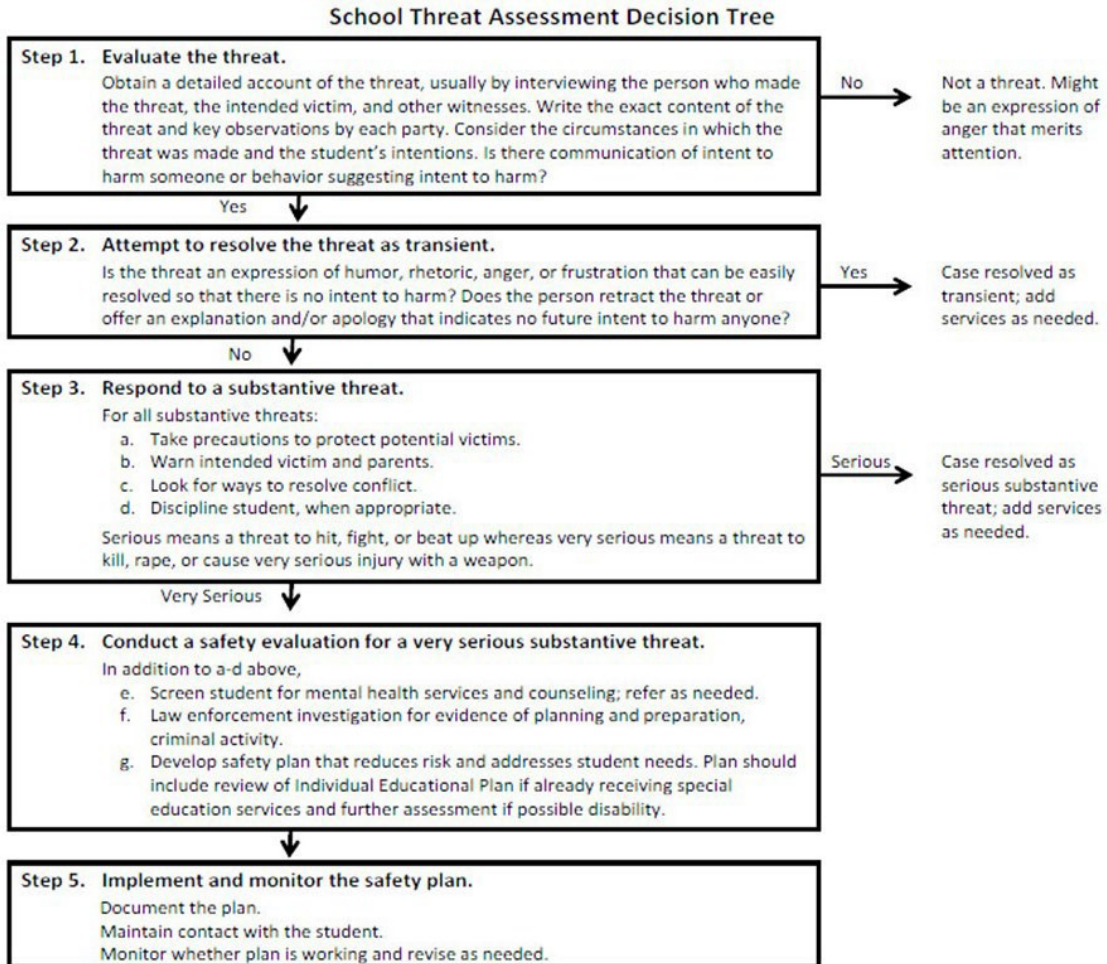
Van Dreal, J. (2019, October 10). A multidisciplinary approach to school safety. Regional Educational Laboratory Program. Retrieved October 7, 2021, from <https://ies.ed.gov/ncee/edlabs/regions/northwest/blog/school-safety.asp>.

## Appendix A

The Former student`s Facebook post liking Cruz`s mugshot and expressing his desire to do the same to his former school where the author was the Principal.



## Appendix B CSTAG Model Threat Assessment Decision Tree



## Appendix C

### Local and regional media coverage of the incident at the school where the author was the Principal.

The screenshot shows the abc30 Action News website. At the top, there is a navigation bar with the abc30 logo, "ACTION NEWS", and "FRESNO-TV-FRESNO". The current temperature is 66° in Fresno, CA. A red banner at the top reads "BREAKING NEWS Sprint, T-Mobile to combine, companies announce". The main article is titled "THREAT Former student arrested for threatening school shooting similar to Florida at High School". Below the title is a video player with a "CRIMINAL THREAT ARREST" overlay and a photo of a man with his eyes redacted. To the right, there is a "THREAT" sidebar with several smaller news items. Below the main article, there is a "TOP STORIES" section with more news items.

The screenshot shows the Merced Sun-Star website. The header includes the "MERCED SUN-STAR" logo and navigation links for "NEWS", "SPORTS", "OPINION", and "CLASSIFIEDS". The main article features a photo of a man with his eyes redacted. The headline reads "Ex- High student arrested in school shooting threat on Facebook, police say". The article is by BYVRAAS SHANKER and was updated on February 16, 2018. The text of the article describes the arrest of a 19-year-old former high school student who was previously convicted of threatening a school officer after posting a photo of Florida school shooter Nikolas Cruz with threatening comments.

## Appendix D

**Orders of protection and subpoenas issued by the court to the author for multiple court appearances during the hearing phases of the charged former student.**

ATKINSON, ANDELSON, LOYA, RIJUD & ROMO  
ATTORNEYS AT LAW  
10 RIVER PARK PLACE EAST, SUITE 240  
FRESNO, CALIFORNIA 93720  
PHONE: (559) 225-6700  
FAX: (559) 225-4416

1 ATKINSON, ANDELSON, LOYA, RIJUD & ROMO  
2 A Professional Corporation  
3 Peter E. Demas State Bar No. 231130  
4 Daron K. Jones State Bar No. 306188  
5 dloves@anlr.com  
6 10 River Park Place East, Suite 240  
7 Fresno, California 93720  
8 Telephone: (559) 225-6700  
9 Fax: (559) 225-4416

10  
11  
12  
13  
14  
15  
16  
17  
18

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF MERCED

UNIFIED SCHOOL DISTRICT, Case No.  
Petitioner, **DECLARATION OF JOHN PETRONE IN  
SUPPORT OF PETITION OF  
EMPLOYER FOR WORKPLACE  
VIOLENCE RESTRAINING ORDER AND  
APPLICATION FOR TEMPORARY  
RESTRAINING ORDER**  
Respondent. *[FEE EXEMPT PURSUANT TO GOVT.  
CODE § 6101]*

**DECLARATION OF JOHN PETRONE**

19  
20 I, John Petrone, declare as follows:  
21  
22 1. I am over the age of 18 years and I reside in Merced County.  
23  
24 2. I have personal knowledge of the facts stated herein, except as to those matters  
25 which are stated on information and belief, and as to those matters I believe them to be true, and,  
if called to testify thereto, I could and would do so competently.  
26  
27 3. At all relevant times hereto, I have been employed as the Principal of Granite High

**WV-130 Workplace Violence Restraining Order After Hearing**

1 **Petitioner (Employer)**  
a. Name: District  
Lawyer for Petitioner (if any, for this case):  
Name: \_\_\_\_\_ State Bar No. 306188  
Firm No.: Atkinson, Anderson, Loya, Rujud & Romo  
b. Your Address (if you have a lawyer, give your lawyer's information):  
Address: 10 River Park Place East, Suite 240  
City: Fresno State: CA Zip: 93720  
Telephone: (559) 225-6700 Fax: (559) 225-3416  
E-Mail Address: dloves@anlr.com

2 **Employee (Protected Person)**  
Full Name: \_\_\_\_\_

3 **Respondent (Untrained Person)**  
Full Name: \_\_\_\_\_  
Description: \_\_\_\_\_  
Sex:  M  F Height: 5'9" Weight: 155 lbs Date of Birth: May 15, 2018  
Hair Color: Black Eye Color: Brown Age: 18 Race: Hispanic  
Home Address (if known): 144 North Street  
City: Oakdale State: CA Zip: 95322  
Relationship to Employee: Former Student & High School, where employee is Assistant Principal

4 **Additional Protected Persons**  
In addition to the student, the following family or household members or other persons are protected by the temporary orders indicated below:  
Full Name Sex Age Household Member? Relation to Employee  
Dr. John Petrone M 55  Yes  No Principal/Supervisor  
 Yes  No  
 Yes  No  
 Additional protected persons are listed at the end of this Order on Attachment 4.

5 **Expiration Date**  
This Order, except for any award of lawyer's fees, expires at:  
Date: 4-6-23 Time: 12:00  A.M.  P.M.

18 APR 18 2018  
MERCED COUNTY  
SUPERIOR COURT  
18CV-01045  
Judge: McCabe, Brian

CR-125/JV-025

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Date for service, and address)  
LARRY D. MORSE II SBN 139485  
DISTRICT ATTORNEY  
County of Merced  
550 W. Main Street, Merced, CA 95340  
Telephone No.: (209) 385-7381 Fax No.: (209) 385-7381

FOR COURT USE ONLY  
CASE NAME: 05/16/1998 Court Case No.: 18CR-00580  
CR Case No.: 521242  
Agency No. No.: Quintan Police Department 018020134

**ORDER TO ATTEND COURT OR PROVIDE DOCUMENTS:  
Subpoena/Subpoena Duces Tecum**

You must attend court or provide to the court the documents listed below. Follow the orders checked in item 2 below. If you do not, the judge can fine you, send you to jail, or issue a warrant for your arrest.

1. To: (name or business) UNIFIED  
19522

2. You must follow the court order(s) checked below:  
a.  Attend the **Pretrial** hearing.  
b.  Attend the hearing and bring all items checked in c. below.  
c.  Provide a copy of these items to the court (Do not use this form to obtain Juvenile Court records):  
(1) \_\_\_\_\_  
(2) \_\_\_\_\_  
(3) \_\_\_\_\_  
 If this box is checked, provide all items listed on the attached sheet labeled "Provide These Items."  
d.  If someone else is responsible for maintaining the items checked in c. above, that person (the Custodian of Records) must also attend the hearing.  
e.  If this box is checked and you deliver all items listed above to the court within 5 days of service of this order, you do not have to attend court if you follow the instructions in item 5.

3. Court Hearing Date: The court hearing will be at (name and address of court):  
Date: 4/18/2018 Time: 1:30 PM Merced Superior Court  
Dept: Courtroom 13 Rm: 1150 G Street, Los Banos, CA 93635

Call the person listed in item 4 below to make sure the hearing date has not changed. If you cannot go to court on this date, you must get permission from the person in item 4. You may be entitled to witness fees, mileage, or both, in the discretion of the court. Ask the person in item 4 after your appearance.

4. The person who has required you to attend court or provide documents is:  
Name: Travis M. Colby Phone No.: (209) 710-6079 - Liama  
Address: 445 Y Street  
North Street Apt 10  
Los Banos CA 93635

CR-125/JV-025

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Date for service, and address)  
LARRY D. MORSE II SBN 139485  
DISTRICT ATTORNEY  
County of Merced  
550 W. Main Street, Merced, CA 95340  
Telephone No.: (209) 385-7381 Fax No.: (209) 385-7381

FOR COURT USE ONLY  
CASE NAME: 05/16/1998 Court Case No.: 18CR-00580  
CR Case No.: 521242  
Agency No. No.: Quintan Police Department 018020134

**ORDER TO ATTEND COURT OR PROVIDE DOCUMENTS:  
Subpoena/Subpoena Duces Tecum**

You must attend court or provide to the court the documents listed below. Follow the orders checked in item 2 below. If you do not, the judge can fine you, send you to jail, or issue a warrant for your arrest.

1. To: (name or business) \_\_\_\_\_

2. You must follow the court order(s) checked below:  
a.  Attend the **Pretrial** hearing.  
b.  Attend the hearing and bring all items checked in c. below.  
c.  Provide a copy of these items to the court (Do not use this form to obtain Juvenile Court records):  
(1) \_\_\_\_\_  
(2) \_\_\_\_\_  
(3) \_\_\_\_\_  
 If this box is checked, provide all items listed on the attached sheet labeled "Provide These Items."  
d.  If someone else is responsible for maintaining the items checked in c. above, that person (the Custodian of Records) must also attend the hearing.  
e.  If this box is checked and you deliver all items listed above to the court within 5 days of service of this order, you do not have to attend court if you follow the instructions in item 5.

3. Court Hearing Date: The court hearing will be at (name and address of court):  
Date: 4/25/2018 Time: 1:30 PM Merced Superior Court  
Dept: Courtroom 12 Rm: 1150 G Street, Los Banos, CA 93635

Call the person listed in item 4 below to make sure the hearing date has not changed. If you cannot go to court on this date, you must get permission from the person in item 4. You may be entitled to witness fees, mileage, or both, in the discretion of the court. Ask the person in item 4 after your appearance.

4. The person who has required you to attend court or provide documents is:  
Name: Travis M. Colby Phone No.: (209) 710-6079 - Liama  
Address: 445 Y Street  
North Street Apt 10  
Los Banos CA 93635

# How Instructional Comics Support Learning

*Aaron White*  
*Eastern Illinois University*

The picture-story, which critics disregard and scholars scarcely notice, has great influence at all times, perhaps even more than written literature.

-Rodolphe Töpffer, 1845

## Introduction

This paper concerns a certain genre of sequential, visual narrative I refer to as “instructional comics,” which has been defined by Eisner (2008) and expanded upon by Yu (2015). As the name suggests, these are comics that serve an instructional purpose, comics that, like a prose textbook, are meant to inform or teach. The types of instructional comics I refer to in this paper are markedly different from the superhero comics many Americans are accustomed to reading, although the principles of their construction are not dissimilar. In fact, the ways in which expository, instructional comics are both constructed and consumed resembles entertaining, narrative comics that feature fictional stories of costumes and capers. To the uninitiated, instructional comics may appear to be something new, which they are not, but even so, reading them should feel familiar to those individuals who have experienced superhero comic books, newspaper comic strips, or any other medium of sequential, visual narrative.

My observations about instructional comics dwell at the intersection of information design and instructional design. From this vantage point, it is necessary to consider the intricacies of visual communication when discussing the design and use of multimodal instructional materials (i.e., materials that utilize more than one modality such as text and pictures). There are debates within comics studies between scholars all over the globe concerning the semiotics of cartooning, the function of comics panels, fandoms and readerships, cultural constructions, and a host of other issues. In this paper, I do introduce some of these ideas, particularly the definition of the word “comics,” visual language, and the culture of comics readership. However, my aim is an educational inquiry, to explore what expository, instructional comics look like, how they are read, and in what ways they can be used to facilitate learning.

The theoretical and empirical underpinning of my argument comes primarily from two sources, Mayer’s *Multimedia Learning* (2021) and Cohn’s *The Visual Language of Comics* (2014). According to Mayer’s multimedia principle, people learn better from words and pictures in unison versus from words alone. Empirical evidence collected by Mayer and his colleagues has shown how multimedia presentations that adhere to the principles of coherence, signaling, redundancy, spatial contiguity, and temporal contiguity reduce extraneous processing in students with low prior knowledge better than multimedia that do not adhere to these principles. While Mayer did not explicitly point to comics as instructional materials in his cognitive theory of learning, many of the inherent design features of sequential, visual narrative or “sequential art” (Eisner, 2008) may reduce cognitive processing and foster generative processing in learners with low prior knowledge of a topic or concept. Specifically, instructional comics offer learners a reading experience in which complex concepts are chunked spatially and temporally into fragmented, yet coherent, units (i.e., panels) represented visually through abstracted images or cartoons. These cartoons place emphasis on the essential elements of a message in a manner that allows readers to build cognitive schemas more easily.

## **Instructional Comics in Multimedia Learning**

I wish to make a case that the use of instructional comics in higher education classrooms may better engage learners, reduce extraneous cognitive processing in low prior-knowledge learners, and foster generative processing in those same low prior-knowledge learners. But first, I turn to an explanation of expository, instructional comics, particularly how their inherent design features conform to the integral principles of Mayer's cognitive theory of multimedia learning: coherence, spatial contiguity, temporal contiguity, redundancy, and signaling.

### **Multimedia Principle**

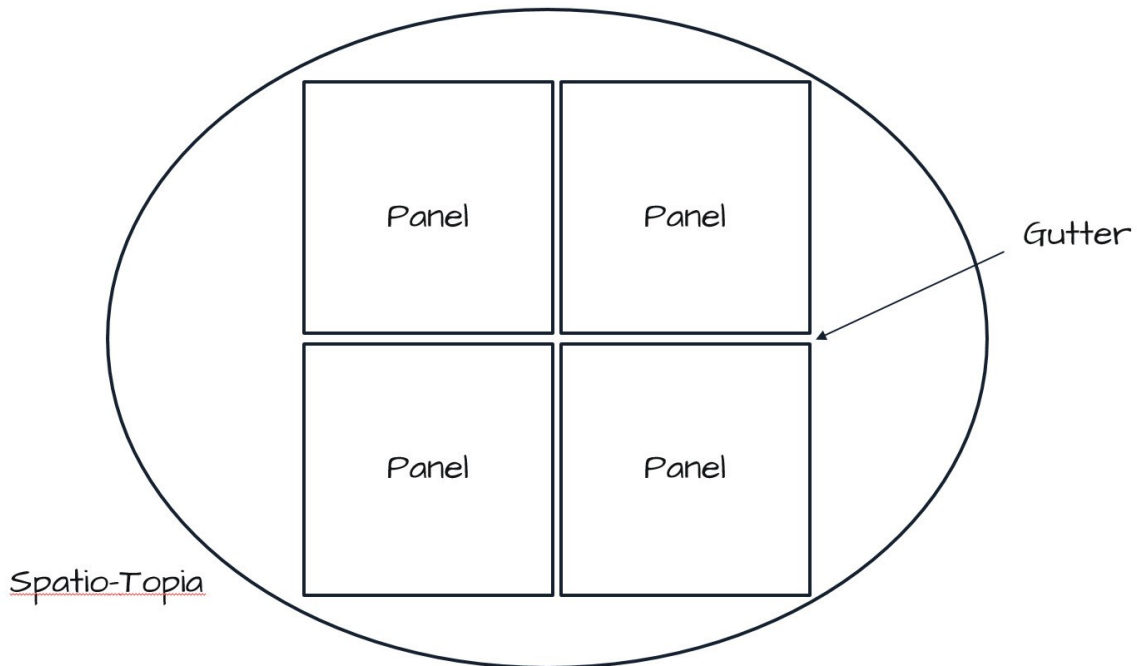
The multimedia principle states that people learn better from words and pictures in unison versus from words alone. This first principle undergirds Mayer's cognitive theory of multimedia learning. Words and pictures help readers build verbal and visual mental models or frameworks (i.e., schemas), and learners who are new to, or inexperienced in, a particular topic benefit even more from the blending of pictures and text. I refer to these types of students using Mayer's language of "low prior-knowledge learners" (2021). The reason these low prior-knowledge learners cognitively benefit from instructional multimedia is because human information processing systems have dual channels (i.e., visual/pictorial and auditory/verbal), and these channels have limited capacity. Learners actively store information into their sensory, working, and long-term memory, and this process benefits from having multiple modes of information. However, simply providing students with a series of pictures and words is not enough to ensure their success. Rather, multimedia learning is most effective when intelligently designed because it is dual-mode, dual-format, dual-code, and dual-channel. Verbal or text-only instructional materials, which have traditionally been the major focus of educational research, do not take full advantage of a learner's capacity for information processing (Mayer, 2021).

It is important to note that one's instructional method, not solely their media or curricular material, causes learning. That said, one's instruction must make use of media that best reaches their learners. Mayer differentiated technology-centered approaches and learner-centered approaches in his theory, stating his preference for learner-centered and constructivist approaches. Multimedia instruction that aligns with cognitive science is focused on whether information is language-based (i.e., written or verbal speech) or non-verbal (i.e., pictures, video, animation, background sounds). This approach to instruction also considers a learner's involvement in information transmission via their various sensory systems (i.e., their eyes or ears). While Mayer did not explicitly use comics as an example in his theory, his observations and findings about student learning align quite well to those made by renowned scholars in the field of comics studies. For instance, drawing from Gestalt psychology, McCloud (1993) wrote that comics readers "listen with their eyes," a process Mayer (2021) would describe as a "dual-channel" experience where what is initially processed in a reader's visual channel is converted to sound in the audio channel. Readers also make major inferences between sequential images via the gutter (i.e., the prominent or imagined gap between comics panels). Cohn (2014) argued that comics panels, not solely the gutters as proposed by McCloud, "represent parts of the scene, which allows us to inferentially construct a full understanding of the broader scene" (p. 59), while Groensteen (2007) wrote that comics must shadow some elements to highlight others (p. 12). All these points align with Mayer's principle of coherence in that extraneous material or distracting elements of a message must be eliminated from view, otherwise a learner's mental gestalts are interrupted.

### **Basic Construction of Comics**

#### **Figure 1**

*Basic elements of a comics page*



Instructional comics encompass many of the same principles of information design utilized by infographics, diagrams, and other more traditional forms of visual communication that have already been embraced by the academy (Tufte, 1997). What distinguishes comics is obvious sequencing, which is derived from the juxtaposition of multiple panels. Panel arrangements do vary between the different formats and genres of comics, but in general, seasoned comics readers internalize the correct reading order of a comics page (Cohn, 2014). Groensteen (2007) described comics as an art of conjunction (i.e., fragments, scattering, and distribution). In short, comics contain both words and pictures, which may complement, but not necessarily stand in, for one another. Written text is not the primary mode of communication in comics, but instead it works in tandem with images. While Groensteen has argued on the macro-semiotic scale that panels, which function like nodes in a diagram, are the smallest, most stable unit of meaning in comics, an alternative view is that whole images or even specific elements of an image contained within a comics panel are “systematic” and “conventionalized” (Cohn, 2014, p. 20). While conventionalized panels (i.e., common shapes or patterns of panels that imply meaning) do exist, there are perhaps even more systems of patterns that constitute a visual language contained within panels. It is important to note this division in thinking about comics as a system of communication if only to illustrate how all the elements within comics are important. Negative space (i.e., the gutter), illustrated in Figure 1, may be conceived as the connectors of a diagram, and serves a function within the learner’s reading process right alongside the size and shape of visuals. In this way, comics are an “ensemble” because they are consumed “within multiple modes” (Watkins & Lindsley, 2020, p. 307). Comics readers, whether they view content in print or online, derive meaning from both the arrangement of panels on a page or screen as well as what the panels contain or encapsulate. This narrative and spatial orientation is known as the “spatio-topia,” which encompasses the layout of a comics page (Groensteen, 2007).

**Figure 2**

*Conventional layout of an American comic strip*





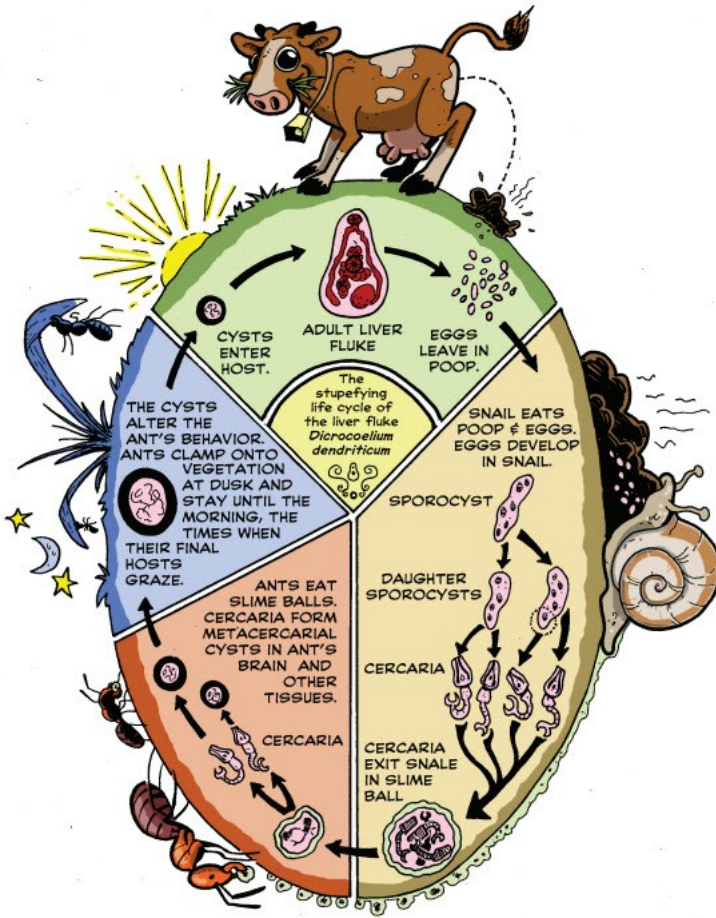
As previously stated, comics share much in common with other visual mediums. In English-speaking cultures, comics are read in a left-right, up-down orientation. For example, where American comic strips that contain one line of comics appeal to temporal logic (i.e., they are typically arranged in a way that guides the reader’s eye from left to right), full comics pages appeal to a more spatial logic (i.e., panels guide the reader’s eye both left-right and up-down). This may be described as the difference between “sequence and surface” (Kuhlman, 2020, p. 177). Other distinguishing characteristics of comics are cartoon rendering (i.e., abstracted images) and visual morphemes such as motion lines and speech balloons (Bach, 2017; Cohn, 2014). These elements often function as reference points or signposts to help guide one’s reading experience.

### **Features of Instructional Comics**

Expository, instructional comics share many similarities with entertaining genres of comics (e.g., superheroes, horror, science fiction). Simply put, what distinguishes instructional comics is that they are created with an overt, instructional goal. Both genres are narrative in the sense that they communicate via sequential art. While entertaining genres of comics often contain fictional stories, bearing in mind there are many examples of creative nonfiction comics, instructional comics may utilize traditional storytelling devices such as plot, theme, personification, and symbolism, or they may use expository methods for communicating information (Matuk et al., 2019, p. 7). In the latter case, narrative structure is akin to the “packaging and presenting [of] concepts,” which is applicable beyond fictional stories (Cohn, 2014, p. 70). Expository, instructional comics may contain pacing, figures, and other storytelling elements without utilizing fictional characters and plot. Examples range from comic textbooks and training manuals that contain both fictional and real-life characters but no fictional plot, such as Gonick and Smith’s *The Cartoon Guide to Statistics* (1993) and McCloud’s *Google Chrome* (2008), to Hosler’s “The Lifecycle of a Liver Fluke” that does not contain fictional characters or plot but is equally narrative.

### **Figure 3**

*Lifecycle of a liver fluke*



**THE LIFECYCLE OF A LIVER FLUKE**  
 by Jay Hosler  
 text and art (c) Jay Hosler

One may define different sub-genres of instructional comics, such as biographical comics, science comics, and data comics (Bach et al., 2017). However, I have found it helpful to first think of instructional comics in two categories specified by Eisner (2008): attitudinal instruction and technical instruction. Where attitudinal instructional comics target implicit memory and learning, technical instructional comics target explicit instruction. One may describe the former as conditioning readers toward an attitude or task, while the latter instructs readers in a procedure, process, or set of tasks. Yu (2015) described the inadequacy of these definitions and posited a division between instructional comics and educational comics. Like Yu, I do not believe that Eisner's categories are mutually exclusive. Just as there is a blending of affective and cognitive domains in one's curriculum design, instructional comics as I have conceived of them may very well make use of both attitudinal and technical instruction. Figure 3 is one such example that explicitly instructs the reader in the lifecycle of a liver fluke, which is a parasite that causes infectious disease, while making the science more accessible to readers with appealing colors and humorous imagery.

Instructional comics are a spatial, concrete, and hybrid organizing device for ideas that marry both form and content. Hosler has integrated visual and verbal representations through abstracted cartoons, meaning his instructional comic is well-suited to unpack complex ideas with deceptively simple illustrations. While the perhaps horrific indifference of liver flukes is adeptly illustrated, the concept of asexual reproduction is quickly disseminated in a conservative number of words and physical space

because of the heavy lifting that the illustrations perform. In this way, the design of Hosler's comic may help reduce extraneous processing, support essential processing, and foster generative processing in learners with low prior knowledge of liver flukes.

### **Principle of Coherence**

A reader's extraneous cognitive processing becomes overloaded when non-essential material in a multimedia message competes for an already limited working memory. Learners can become distracted from important elements of a message (i.e., the process of making sense and organizing content is interrupted). Empirical evidence collected by Mayer has shown that learners who read or view concise multimedia material perform better on tests of knowledge transference. Hosler has embedded many entertaining details in his comic that are indeed essential and not distracting. This is determined by the necessity of the images. If an image from the comic could be removed without impeding meaning or information transfer, then it may be labeled as "distracting." However, essential images must remain.

Take, for example, the cow voiding onto the uppermost panel that is colored green to signify grass. On its own, the text that reads "cysts enter host/adult liver fluke/eggs leave in poop" would not adequately convey that the cysts come from eating infected ants attached to stalks of grass, nor that the dung containing eggs comes from an animal, let alone a cow. And if the cow were removed from the comic, the illustration of grass or poop would only convey part of the necessary information. It would not tell the reader that an animal must first eat the cysts and then defecate the *microcoelium dendriticum* eggs. I believe it is also important to note here that distracting details do often interest and entice readers, so it may be tempting to include them in an instructional comic for entertainment value. After all, readers are often engaged when they are entertained. However, as Hosler has demonstrated, essential details can in fact be humorous and engaging when they are illustrated well.

When compared to photorealistic images, Hosler's cartooned cow, snail, ants, and sporocysts help present a concise, digestible message for learners. McCloud (1993) referred to this as "amplification through simplification," the idea that cartoons are semiotic and more easily convey a central message than photorealistic images. Abstraction through cartooning is "especially useful in the creation of instructional comics...the capacity of cartoons for ready identification and self-projection greatly reduces" distancing from the central message caused by arousing or distracting details found in multimedia content with realistic images. In this way, abstract cartoons force readers to "extract" rather than "absorb" information (Upson and Hall, 2013, pp. 31-34). While one may argue that stripping away realistic detail robs an image of its connotative features and relegates it to being labeled as "easy reading," the effectiveness of cartooning is supported by empirical research from Cohn (2014). In his view, simplification resembles written language. There is an "ellipses of accessories" that provides readers the opportunity to fill in gaps (Töpffer, 1965). Unlike cartoons, photorealistic art, which relies on light, is "seen" and not "read" (Molotiu, 2020, p. 167). Cartoons have a "useful abstracting, idealizing quality" that more efficiently illustrates "verbally complicated" concepts (Tufte, 1997, pp. 57-58).

### **Principle of Spatial Contiguity**

Mayer described how placing essential words next to corresponding graphics taxes fewer cognitive resources and puts less strain on a reader's working memory. His empirical rationale is that learners who study multimedia material conforming to this principle perform better on assessments. "The case for separating words and pictures," he argued, "is based on an information delivery theory of multimedia learning" that does not conform to modern cognitive science (2021, p. 213). Rather, integrating words and pictures minimizes extraneous processing and aids generative processing (i.e., cognitive processing aimed at organizing and making sense of incoming material by integrating newly formed mental structures with prior knowledge).

Hosler's comic closely links corresponding images and text within carefully designed panels. The alignment of text in the right-hand panel that reads "sporocyst/daughter sporocysts/cercaria/cercaria exit snail in slime ball," for instance, leads the reader's eye downward while simultaneously directing their attention to the illustrated process of asexual reproduction. This panel alone utilizes a left-right, up-down orientation that encourages a natural reading path and forces a sense of forward momentum. Also, the gutter of each color-coded panel in this comic clearly demarcates where one chunk of information ends

and another begins, while their combined oblong shape cleverly suggests a microcoeliumdendriticum egg, which is visually reinforced in the top panel.

If one were to remove the gutters, color-coded panels, or bold outlines from this comic, it is assumed that readers would have a harder time differentiating each chunk of information. The same can be said for rearranging the alignment of text and image. As it has been illustrated, Hosler's comic combines many fragments into a continuous whole. This is ideal for learners who may not be well-versed in reading comics, as the spatial arrangement of panels and juxtaposition of image and text allows one's eye to wander while also directing it along an intentionally designed path.

### **Principle of Temporal Contiguity**

Students learn better when corresponding words and pictures are presented simultaneously rather than successively. In a discussion of video as instructional material, this may entail embedding additional, explanatory captions alongside important visuals. However, by design the comics medium already integrates text and images. Mayer has argued that learners are more likely to hold mental representations of concepts in working memory and build mental connections between verbal and visual representations if they are presented simultaneously. Multimedia presentations are less effective if visual and verbal elements are separated in time. Simultaneous word and picture combinations “mesh with the human information processing system, including the availability of separate visual and verbal channels as well as the extreme limits on the capacity of each channel” (2021, p. 231).

Hosler's comic wisely integrates its textual and visual elements onto a single page while not disrupting its temporality. For example, an alternative arrangement of this comic may look something more like a comic strip with three or four individual panels for each textual element accompanied by its own visual. After one line of panels is complete, another line may appear underneath it or on a subsequent page of its own. A separate panel for “cysts enter host” would contain an image of the cyst followed next by another panel depicting an adult liver fluke. This arrangement may not impede surface-level understanding of how the liver fluke reproduces and thrives. However, it would disrupt the notion that this is a repetitive lifecycle because Hosler's design has reinforced the circular nature of these processes. It does so through the shape and proximity of panels as well as the use of vectorial references (e.g., arrows) that guide the reader around the comic.

In this case, Figure 3 combines what McCloud has called “action to action,” “subject to subject,” and “scene to scene” transitions both within and between panels. Where “action to action” transitions frame the different actions of an individual subject within a single narrative time and space (e.g., the snail ingesting eggs and leaving a slime ball containing cercaria), “subject to subject” transitions occur between multiple subjects within a single time and space (e.g., the ants clamping onto vegetation to be eaten by a cow the next morning), and “scene to scene” transitions take place across time and space between different moments, actions, and subjects (e.g., when the sporocyst reproduces and enters a series of different hosts) (McCloud, 1993, p. 74). This complex series of events that occurs with multiple subjects across space and time has been illustrated within a single visual plane, thus limiting the content curve for readers. The arrangement of illustrations is both organizational and explanative, meaning the instructional comic depicts relationships among individual elements while also illustrating the inner workings of a system.

### **Principle of Redundancy**

Mayer argued that people do not learn better when text is added to graphics and narration. This is particularly important for video and other animated multimedia presentations. His empirical rationale is that learners who must split their attention simultaneously between graphics, narration, and captions do not perform as well on assessments. Concerning comics, this principle may apply to webcomics or hypercomics that employ both static images and music or static images and GIFs (i.e., a bitmap image format that displays short animations). One popular example is the comics available through WebToon, an application that allows readers to stream webcomics formatted for their mobile device. However, this principle also applies to instructional comics with static images, either digital or printed, in that redundancy is weakened when short captions are placed alongside graphics. Inherent to the comics medium, short amounts of text often accompany cartooned images that perform much of the

communicative work. Unlike video, when the pace of instructional material is slow, learners can better process both text and graphics, which limits the negative effects of redundancy (Mayer, 2021, p. 192). “On paper flatland,” Tufte argued, “unlike video, viewers are able to control the pace, sequence, direction, and focus of viewing” (1997, p. 60).

At first glance, Hosler’s instructional comic may appear to be complex. There are several details readers must attend to, and because of the comic’s shape, it is not immediately clear where one should start. If one follows a left-right, up-down reading path, they may start with the image of a rising sun, followed by the defecating cow, or they may start with the text “cysts enter host.” However, this comic is designed to allow readers to start with any of the panels. One may first wander the page for a more holistic or global understanding before diving into the details. This is how a more experienced comics reader would attend to the page (Cohn, 2014). An inexperienced comics reader may start with the text before analyzing the images, and that is okay because Hosler’s instructional comic has visual guardrails that guide readers in the appropriate direction. If one conceives of comics as a visual language, then it becomes apparent that readers intuitively sense narrative segments or phases within sequential art just as they would phases within a written sentence or piece of prose writing (Cohn, 2014). Once learners become oriented with the construction of a particular panel, they are more likely to carry that structural understanding or expectation into the next panel, which does ease the reading experience. Essential cognitive processing (i.e., mental processing of essential material in working memory) is aided by the ease of one’s reading. Learners may experience essential processing overload when the requirement of cognitively processing vital information is so high that there is not enough capacity for generative processing. This is more likely to happen when instructional materials are fast-paced, complex, and visually overstimulating (Mayer, 2021).

In this case, Figure 3 relies on an “intersecting” combination of words and pictures (i.e., words help elaborate a visual message). One may argue that this comic also uses an “interdependent” combination of words and pictures (i.e., words and visuals go together to create meaning) (McCloud, 2006, p. 16). With instructional comics, a prime directive for creators is “graphic facilitation” (i.e., the author’s attempt to share their knowledge with readers) (Figueiredo, 2011). This includes making choices about “moment” (i.e., connecting dots, emphasizing ideas), “frame” (i.e., showing readers relevant details while masking irrelevant details), “image” (i.e., quickly evoking the presence of subjects, objects, ideas), “word” (i.e., using appropriate text and visual morphemes that quickly communicate ideas), and “flow” (i.e., how readers are guided within and between panels) (McCloud, 2006, p. 53). McCloud’s understanding of information design meshes well with Mayer’s principle of redundancy in that comics creators must illustrate clear messages while still enticing readers to care.

### **Principle of Signaling**

People learn better from multimedia presentations when visual cues or signals are added that highlight the organization of essential material. Mayer argued that this kind of signaling reduces extraneous cognitive overload by directing a learner’s attention to specific elements of a message. Signaling also guides readers in building connections between those specific elements (2021, p. 166).

In Figure 3, it is most apparent that Hosler utilized arrows, which is a prominent form of visual signaling. This type of signal is especially important in helping low prior-knowledge learners attend to key concepts and material. For example, an inexperienced reader may get lost in the visual details without understanding their context. Visual signals help orient the learner and redirect their attention to the essential text that elaborates upon the cartooned visuals. It is also relevant to point to the color-coded panels, which are distinctive and draw one’s attention while also differentiating separate chunks of information. These colors both reinforce the stages of a liver fluke’s lifecycle and signify narrative details in line with the accompanying cartoons (e.g., brown and red connote dirt and clay, blue connotes nighttime, green connotes grass). Other visual morphemes common to instructional comics, such as speech balloons, narrative boxes, motion and heat lines, lightbulbs signifying ideas, and bolded text conform to Mayer’s understanding of classic, spatial, and visual signaling, where learners are provided with reference points or signposts that guide their reading.

### **Conclusion**

The term “comics” is defined by dimensions. This word captures what is, in essence, a remnant of history. Hatfield (2020) wrote about how comics are both political and social objects. To fan communities, they are the “focus of an organized nostalgia” that embodies a “fixed idea of childhood” (pp. 29-33). In the United States, comics are often associated with characters that are now synonymous with popular, blockbuster cinema. In an older readership, the word “comics” may invoke newspaper comic strips that depict Snoopy atop his doghouse or the philosophical banter between Calvin and Hobbes. Tensuan (2020) described how comics “renegotiate the dichotomies created between high and low, news and entertainment, self and other...recasting a reader’s understanding of how certain narratives and visions gain cultural currency while others are cast to the margins” (p. 141). Comics are a mass medium that reaches a wide demographic of readers, many of whom have formed cultures of fandom that have their own ideas of what comics look like, who reads them, and how they should be written and drawn (Woo, 2020).

I want to stress that comics, as argued in this paper, come in many different forms that can be utilized for learning. A wealth of resources has shown there are educational benefits to using comics in the classroom (Figueiredo, 2011; Hammond & Danaher, 2011; Hosler & Boomer, 2011; Jacobs, 2007; Matuk et al., 2019; Spiegel et al., 2013). There also appears to be a growing consensus concerning the explicit use of comics in contexts one may not expect such as science education (Bobek & Tversky, 2016; Dahlstrom, 2014; Tatalovic, 2009). Instructional comics utilize many of the same principles of information design utilized by infographics, diagrams, and other more traditional forms of visual communication. That said, even though infographics and diagrams communicate via the same kinds of visual narratives as instructional comics, the more traditional mediums are not typically called “comics.” As a result, instructional comics have not received as much direct attention within instructional design literature even though they adhere to many accepted design principles. This very lack of attention leaves instructional designers and instructors who are uninitiated into the culture of comics readership without the necessary means to integrate instructional comics into their curriculum.

### **Limitations**

There are limitations to integrating instructional comics into one’s curriculum. It should be said that comics are not necessarily appropriate in every pedagogical context. For example, learners who need a quick set of instructions for performing a task may not benefit from comics as well as a simple numbered list of directions. Yu (2015) also described how it can take more physical space on a page or screen to cover information traditionally conveyed in academic prose. The “deliberate repetition” or “reinforcement” of images in an instructional comic “may not be warranted for some audiences, namely, people who have prior knowledge of a topic and do not need the repeated or reinforced information” (p. 68). Such spatial considerations do not include the cultural limitations of visual literacy (Cohn, 2014) or the bias toward objectivism in technical communication (Yu, 2015), which are further limitations one may take into account when integrating instructional comics into the curriculum.

### **Design Considerations**

One may consider three overriding questions when choosing an instructional comic for a module, unit, or lesson:

1. Does this comic help learners meet the stated instructional objectives or goals?
2. Is this comic designed according to best practices for multimedia learning?
3. Is this comic accessible to learners (i.e., is it appropriate to the learning situation, affordable, and designed for learners with disabilities)?

The ideal instructional comic will clearly, and perhaps quickly, evoke ideas and detail processes. For those who may be new to reading or teaching with instructional comics, consider the style of illustration, picture/word combinations, and panel arrangement of any potential instructional material. It should be noted that one’s determination of the pedagogical usefulness of any given instructional comic will be undergirded by personal preference or opinion. However, considering the wealth of evidence from comics studies, psychology, and information design, one may rely upon a short checklist of ideal features for choosing an instructional comic, which includes, but is not limited to, the following:

1. Panels that are not cluttered with irrelevant illustrations (e.g., decorative, distracting, or redundant figures) and only communicate what is necessary for comprehension (i.e., illustrations that highlight important details)
2. Illustrations that are abstracted or cartooned from photorealism
3. Panel arrangements that adhere to a learner's native language (e.g., a left-to-right orientation for English speakers)
4. Panel arrangements that keep essential words and illustrations close together (i.e., related words and illustrations are presented in proximity both spatially and temporally)
5. Page layouts that are comprised of simple panel transitions (i.e., transitions that occur within a single time or place); layouts that are easily navigable (e.g., "action to action" or "scene to scene" panel transitions)—see McCloud (1993; 2006) for more information
6. Page layouts that balance text and illustration (i.e., pages or panels that are not cluttered with lengthy blocks of text)

## References

- Bach, B., Riche, N.H., Carpendale, S., & Pfister, H. (2017). The emerging genre of data comics. *IEEE Computer Graphics and Applications*, 37(3), 6-13.
- Bobek, E. & Tversky, B. (2016). “Creating visual explanations improves learning.” *Cognitive Research: Principles and Implications*, 1(1), 1-27. <https://doi.org/10.1186/s41235-016-0031-6>
- Cohn, N. (2014). *The visual language of comics: Introduction to the structure and cognition of sequential images*. Bloomsbury Academic.
- Dahlstrom, M.F. (2014). “Using narratives and storytelling to communicate science with nonexpert audiences.” *PNAS*, 111(4), 13614-13620. <https://doi.org/10.1073/pnas.1320645111>
- Eisner, W. (2008). *Comics and sequential art*. W.W. Norton.
- Figueiredo, S. (2011). Building worlds for an interactive experience: Selecting, organizing, and showing worlds of information through comics. *Journal of Visual Literacy*, 30(1), 86-100. <https://doi.org/10.1080/23796529.2011.11674686>
- Groensteen, T. (2007). *The system of comics*. (B. Beaty & N. Nguyen, Trans.). University of Mississippi Press. (Original work published 1999)
- Hammond, K. & Danaher, K. (2011). The value of targeted comic book readers. *ELT Journal*, 66(2), 193-204. <https://doi.org/10.1093/elt/ccr051>
- Hatfield, C. (2020). Comic books. In C. Hatfield & B. Beaty (Eds.), *Comics studies: A guidebook* (pp. 25-39). Rutgers University Press.
- Hosler, J. & Boomer, K.B. (2011). Are comic books an effective way to engage nonmajors in learning and appreciating science? *CBE—Life Sciences Education*, 10(3), 309-317. <https://doi.org/10.1187/cbe.10-07-0090>
- Jacobs, D. (2007). More than words: Comics as a means of teaching multiple literacies. *The English Journal*, 96(3), 19-25.
- Kuhlman, M. (2020). Design in comics. In C. Hatfield & B. Beaty (Eds.), *Comics studies: A guidebook* (pp. 172-192). Rutgers University Press.
- Matuk, C., Hurwich, T., Spiegel, A., & Diamond, J. (2019). How do teachers use comics to promote engagement, equity, and diversity in science classrooms? *Research in Science Education*, 51, 685-732. <https://doi.org/10.1007/s11165-018-9814-8>
- Mayer, R.E. (2021). *Multimedia Learning* (3rd ed.). Cambridge University Press.
- McCloud, S. (1993). *Understanding comics: The invisible art*. W.M. Morrow.
- McCloud, S. (2006). *Making comics: Storytelling secrets of comics, manga and graphic novels*. Harper.
- Molotiu, A. (2020). Cartooning. In C. Hatfield & B. Beaty (Eds.), *Comics studies: A guidebook* (pp. 153-171). Rutgers University Press.



- Spiegel, A., McQuillan, J., Halpin, P., Matuk, C., & Diamond, J. (2013). Engaging teenagers with science through comics. *Research in Science Education*, 43(6), 2309-2326. <https://doi.org/10.1007/s11165-013-9358-x>
- Tatalovic, M. (2009). "Science comics as tools for science education and communication: A brief, exploratory study." *Journal of Science Communication*, 8(4), 1-17.
- Tensuan, T. (2020). Difference. In C. Hatfield & B. Beaty (Eds.), *Comics studies: A guidebook* (pp. 138-150). Rutgers University Press.
- Töpffer, R. (1965). *Essay on physiognomy* (E. Wiese, Trans.). University of Nebraska Press. (Original work published 1845)
- Tufte, E.R. (1997). *Visual explanations: Images and quantities, evidence and narrative*. Graphics Press.
- Upton, M., & Hall, C.M. (2013). Comic book guy in the classroom: The educational power and potential of graphic storytelling in library instruction. *Kansas Library Association College and University Libraries Section Proceedings*, 3(1), 28-38. <https://doi.org/10.4148/culs.v1i0.1834>
- Watkins, R., & Lindsley, T. (2020). Sequential mapping: Using sequential rhetoric and comics production to understand UX design. *Technical Communication Quarterly*, 29(3), 304-318. <https://doi.org/10.1080/10572252.2020.1768292>
- Woo, B. (2020). Readers, audiences, and fans. In C. Hatfield & B. Beaty (Eds.), *Comics studies: A guidebook* (pp. 113-125). Rutgers University Press.
- Yu, H. (2015). *The other kind of funnies: Comics in technical communication*. Baywood Publishing Company.