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Dr. Douglas K. Gordon taught at Christopher Newport College and then University for twenty-eight years. He arrived at Christopher Newport College in 1980 as Assistant Professor of Basic Studies. In 1982 he was promoted to Associate Professor of English and in 1988 to Professor of English. He became Dean of the College of Liberal Arts and Sciences in 2002 after serving a year as Associate Dean. As Dean, he chaired the Task Force on Curriculum and Academic Life that developed the Liberal Learning Core Curriculum, the only complete revision of the general education curriculum in the history of CNC/CNU. Because of his commitment to professional development, he established CLAS Dean's Office Grants (DOGS) that have resulted in at least 10 book manuscripts, proposals, chapters and revisions.

Dr. Gordon held many leadership positions at the institution. He was president of the Faculty Advisory Committee (predecessor to the Faculty Senate) for two years, Chair of the Department of Basic Studies and the Department of English, and NCAA Faculty Athletics Representative. He founded Omicron Delta Kappa National Leadership Honor Society at CNU and was faculty advisor to Alpha Chi National Honor Society and Sigma Tau Delta International English Honor Society. He chaired the Football Feasibility Committee that led to the football program at CNU and served as master of ceremonies at Department of Music events like Holiday Happening and as a reader for the Classic Club's dramatic readings. He was the "Liberal Learning Guy" for HR orientation of new employees and during admissions events. His scholarship is in the areas of dogs in literature, teaching writing and bluegrass and country music.

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**“Justice and Memory: How the Perceptions of Injustice at the Tokyo War Crimes Trial  
Impact Japanese Memories of World War II”**

**Kristen Frazee**

**Faculty Sponsor: Dr. Xiaoqun Xu, Department of History**

**Abstract**

This paper examines the controversial International Military Tribunal for the Far East (also known as the Tokyo War Crimes Trial) and the impact that the perceived injustices of the trial might have had on Japan's memory of World War II. It first looks at the historiography on the Tokyo War Crimes Trial and the claims that have been made about the mishandling of justice. It then uses primary sources to evaluate the validity of these claims and determine the extent to which the issues existed and affected the proceedings of the trial. Finally, the paper looks at how the issues, real or not, have affected the way the Japanese remember World War II, as well as the impact that these memories have had on their society, government, and international relations. The paper concludes that, while some issues did exist in the trial, the mishandling of justice was not nearly as extensive as is often claimed. However, the claims have been so often repeated and therefore perpetuated that they have had a profound impact on Japanese memories of World War II.

The International Military Tribunal for the Far East has been largely forgotten by history. Scholars tend to focus on the more notorious Nuremberg Trials, and the Japanese public remains apathetic about the events that took place after the Japanese surrender. The trial began on April 29, 1946, and lasted more than two years. In the course of the tribunal twenty-eight Japanese political and military leaders were tried for war crimes committed during the Second World War. In the end, one defendant was deemed mentally unfit for trial, two died before a judgment was made, and the rest faced sentences ranging from seven years in prison to death by hanging. The tribunal was followed by many subsequent war crimes trials which led to the conviction of many more Japanese defendants, but the IMTFE quickly faded into the past and was forgotten by most.

The IMTFE is not the center of frequent discussion, but that does not mean that it is not controversial. From the start, the tribunal was accused of bias and inconsistency. The defendants submitted complaints and even the justices themselves admitted to being uncomfortable with certain aspects of the trial. The supposed issues ranged from how evidence was handled, to who participated in the trial, to the very legal basis for the tribunal. Nevertheless, the tribunal was carried through and stands as the official judgment on Japanese actions during World War II. However, not everyone accepts the results as a fair and accurate application of justice. Claims of “victor’s justice” and continued questioning of the legality of the trial give the IMTFE an uncertain legacy. While many remain uninterested in the tribunal and its results, a growing number of Japanese and international scholars, politicians, and citizens discredit the IMTFE and perpetuate a different version of history. However, the claimed injustices may not have been as extensive as many would like to assume. There were sure issues with the tribunal, but many of the claims do not stand up when considered in their full context. The fact that so many people believe the issues exist is problematic in and of itself. This distorted perception of the past shapes how the events of World War II are remembered by different groups in Japan. The International Military Tribunal for the Far



East remains controversial and plays an important role in influencing post-war memory of Japanese war crimes and the consequences of those perceptions.

### **Historiography**

The scholarship on the Tokyo War Crimes Trial is limited. Although significant historically, the IMTFE is generally overlooked in favor of the Nuremberg Trials. However, the academic work that does exist on the subject is diverse. Books and articles were written both during and immediately after the trial, as well as many years or decades later. These show how academics viewed the trial in different points in time and under different circumstances. The perspectives of the scholarship also vary. Some scholars take completely to the idea that the trial was unfounded, unfair, and a total mishandling of justice. Others take a more moderate stance. These scholars believe that the convictions were necessary and the issues that did exist were only allowed in order to carry out essential justice. Some even go so far as to say that the Tokyo War Crimes Trial had a profoundly positive impact on Japan and on the evolution of international justice. Despite their small number, the varied and evolving perceptions of the scholarship on the IMTFE make for a complicated historiography. The books and articles discussed in this paper take many different approaches to the trial. However, each one has a valuable perspective and can be used to assess the issues and biases that existed in the IMTFE and how they contribute to post-war memories of World War II.

Richard Minear's *Victor's Justice* (1971) is an early and well known piece of scholarship on the Tokyo War Crimes Trial. This book serves as the starting point for most subsequent studies on the ethics and legality of the IMTFE, and is frequently cited throughout the other works discussed in this paper. Minear's work takes a fairly negative stance regarding the tribunal and how it was run. Most of the book works through an extensive list of issues and complaints about the IMTFE. These criticisms cover a time from before the trial was established to events that occurred in the aftermath.

Minear points out flaws in the foundation of the IMTFE, the justices, the defendants, the evidence, and virtually every other aspect of the tribunal. In addition, he looks at the motives and reasons behind why some of these issues may have existed. He concludes that the IMTFE was set up to ensure conviction, and therefore was nothing more than “victor’s justice.”<sup>1</sup> In order to support these claims, Minear relies heavily on the dissenting opinions that were written by several of the justices after the conclusion of the trial. *Victor’s Justice* offers a valuable early criticism of the tribunal and is a clear influence on future scholarship on the subject.

A second academic work that takes a similarly negative stance is Ushimura Kei’s *Beyond the “Judgment of Civilization”* (2003). Kei follows Minear’s example by criticizing the very foundation of the Tokyo War Crimes Trial and particular aspects of it. Many of the same issues are discussed through a slightly different lens. In particular, Kei’s book focuses on the hypocritical nature of the charges raised against the Japanese.<sup>2</sup> *Beyond the “Judgment of Civilization”* questions the authority of the Allies to try the Japanese for atrocities when they are equally guilty of such actions.<sup>3</sup> Similarly to Minear, Kei also uses dissenting opinions to back up the thesis, but relies more heavily on other writings and secondary sources.

James B. Sedgwick’s article “Memory on Trial: Constructing and Contesting the ‘Rape of Nanking’ at the International Military Tribunal for the Far East, 1946-1948” (2009) looks at how the mishandling of the tribunal failed the victims and continues to create issues today. In particular, the article discusses how the Rape of Nanking was handled during the tribunal. Sedgwick criticizes the IMTFE for being biased and prejudiced against the defense and points out many issues with how the trial functioned.<sup>4</sup> He also criticizes the attempt at creating an official historical narrative through

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<sup>1</sup> Richard Minear, *Victor’s Justice: The Tokyo War Crimes Trial* (Princeton University Press, 1971), 18.

<sup>2</sup> Ushimura Kei, *Beyond the “Judgment of Civilization”* (LCTB International Library Trust, 2003), 8.

<sup>3</sup> Kei, *Beyond the “Judgment of Civilization,”* 9.

<sup>4</sup> James B. Sedgwick, “Memory on Trial: Constructing and Contesting the ‘Rape of Nanking’ at the International Military Tribunal for the Far East, 1946-1948,” *Modern Asian Studies* 43.5 (2009): 1240.

an adversarial system.<sup>5</sup> These issues contributed significantly to the creation of contested narratives and disputed memories on the subject of Japanese war crimes during World War II.<sup>6</sup> This controversy creates problems for the victims of these crimes, as well as for the relations between the nations that were involved.<sup>7</sup>

Madoka Futamura's *War Crimes Tribunals and Transitional Justice: The Tokyo Trial and the Nuremberg Legacy* (2008) was written primarily to compare the IMTFE to the Nuremberg Trials and examine their legacies in international law.<sup>8</sup> In comparing the two, Futamura points out many of the same flaws that have been identified by other scholars. These are discussed as they relate to the legacy of the Tokyo War Crimes Trial and the impact that it had in its aftermath. A large section at the end of the book is also dedicated to discussing the evolving memory of the tribunal. These chapters look at the overall silence on the IMTFE, and also the changing perspectives of different groups of people. The overall tone of this book is similarly negative to the previous works in discussing the problematic nature of the tribunal. However, Futamura is less focused on criticizing the Tokyo War Crimes Trial, and more on examining the impact that it had.

In the same way, Kayoko Takeda's book *Interpreting the Tokyo War Crimes Tribunal: A Sociopolitical Analysis* (2010) looks less at whether the IMTFE was overall positive or negative. Instead, Takeda discusses the role of interpreters in the tribunal and the impact they had on it.<sup>9</sup> Takeda's book is unique in that very little scholarship exists on this subject. The book takes an individual perspective by focusing on the people who were there.<sup>10</sup> Through this lens Takeda looks

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<sup>5</sup> Sedgwick, "Memory on Trial," 1231.

<sup>6</sup> Sedgwick, "Memory on Trial," 1250.

<sup>7</sup> Sedgwick, "Memory on Trial," 1250.

<sup>8</sup> Madoka Futamura, *War Crimes Tribunals and Transitional Justice: The Tokyo Trial and the Nuremberg Legacy* (Rutledge, 2008), 193.

<sup>9</sup> Kayoko Takeda, *Interpreting the Tokyo War Crimes Tribunal: A Sociopolitical Analysis* (University of Ottawa Press, 2010), 208.

<sup>10</sup> Takeda, *Interpreting the Tokyo War Crimes Tribunal*, 5.

at how the dynamics of these individuals affected the trial and issues of trust, power, control, race, and politics.<sup>11</sup> This approach reveals issues of its own and gives a new perspective on the problems that other authors have already highlighted. In particular, the issue of interpreting affected the use of evidence and the interactions between the justices and defendants.<sup>12</sup>

There is another category of sources which takes a different point of view from any of the works discussed previously. One of these is Yuma Totani's *The Tokyo War Crimes Trial: The Pursuit of Justice in the Wake of World War II* (2008). This book takes the claims and criticisms of other authors and uses primary sources to assess their validity. Although similar sources and approaches are used, a very different conclusion is drawn. Totani finds that many of the issues that other scholars say undoubtedly existed within the tribunal are not backed up by the historical record.<sup>13</sup> However, some of the claims are founded. The second half of the book looks at the historiography and scholarship on the IMTFE and the perspectives of different historians. In the end, Totani concludes that the Tokyo War Crimes Trial was neither completely negative nor positive.<sup>14</sup>

Similarly, Tim Maga's book *Judgment in Tokyo: The Japanese War Crimes Trial* (2001) dismisses the fully negative perspective of the IMTFE. Maga admits that the history of the Tokyo War Crimes Trial is controversial, but assessing the tribunal's impact and legacy is more complex than most scholars will admit.<sup>15</sup> It is true that issues did exist in how the tribunal was carried out and mishandlings of justice did occur.<sup>16</sup> However, the intention of the trial was pure and good things came out of it in the end.<sup>17</sup> Maga tries to overcome the negative image created by other scholars and

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<sup>11</sup> Takeda, *Interpreting the Tokyo War Crimes Tribunal*, 5.

<sup>12</sup> Takeda, *Interpreting the Tokyo War Crimes Tribunal*, 51.

<sup>13</sup> Yuma Totani, *The Tokyo War Crimes Trial: The Pursuit of Justice in the Wake of World War II* (Harvard University Press, 2008), 3.

<sup>14</sup> Totani, *The Tokyo War Crimes Trial*, 1.

<sup>15</sup> Tim Maga, *Judgment in Tokyo: The Japanese War Crimes Trial* (University Press of Kentucky, 2001), ix.

<sup>16</sup> Maga, *Judgment in Tokyo*, 120.

<sup>17</sup> Maga, *Judgment in Tokyo*, 120.

look at the tribunal more accurately. He also looks at why the trial was controversial and why it remains so today.<sup>18</sup>

Sandra Wilson's book *Japanese War Criminals: The Politics of Justice after the Second World War* (2017) also tries to find a more balanced view of the IMTFE and discusses why the legacy is as dark as it is. The book looks at how the crimes were identified and defined, and the role of Japanese social and political forces in the judgment.<sup>19</sup> After examining the evidence of negative claims, Wilson concludes that the Japanese were guilty and seeking to punish them was justified.<sup>20</sup> However, certain actions and procedures during the trial contribute to the controversy that exists today.<sup>21</sup> These include collective guilt, Allied determination, and a focus on substantive justice.<sup>22</sup> Wilson does not see these issues as changing the fact that the Japanese were war criminals, and therefore stands by the verdict.<sup>23</sup> She does, however, acknowledge how these make the history and memory of the trial problematic.<sup>24</sup>

It is clear that no single conclusion has been drawn about the Tokyo War Crimes Trial, even just within the scholarly community. Varied perspectives exist about how the tribunal was conducted and the implications that it has today. Scholars generally agree that certain issues did exist within the IMTFE and these issues contribute in some way to the modern contested narrative about Japanese war crimes. However, the standing of other issues is less certain. The sources outlined above will be used in this paper to discuss these issues and evaluate the extent to which they played a role in the tribunal, and to assess their role in shaping the memory of World War II.

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<sup>18</sup> Maga, *Judgment in Tokyo*, xiv.

<sup>19</sup> Sandra Wilson, *Japanese War Criminals: The Politics of Justice After the Second World War* (Columbia University Press, 2017), 4.

<sup>20</sup> Wilson, *Japanese War Criminals*, 10.

<sup>21</sup> Wilson, *Japanese War Criminals*, 11.

<sup>22</sup> Wilson, *Japanese War Criminals*, 11.

<sup>23</sup> Wilson, *Japanese War Criminals*, 10.

<sup>24</sup> Wilson, *Japanese War Criminals*, 11.

### Criticisms of the Tokyo War Crimes Trial

Scholars are quick to accuse the Tokyo War Crimes Trial of a gross mishandling of justice which led to an unfair trial and inaccurate judgment. The list of complaints against the International Military Tribunal for the Far East is extensive. Most issues fit into one of three categories, which include the legal basis for the trial, the definition of crimes, and the actual trial proceedings. A fourth category takes issue with the historical account created by the tribunal. This section of the paper will explore these claims and analyze their validity based on scholarly writings and primary documents from the IMTFE itself. In particular, it draws from Justice Radhabinod Pal from India, who wrote a dissenting opinion that tore apart the tribunal's official judgment and makes many of the same challenges to how it was conducted.

*Issues with the Legal Basis of the Tribunal.* The Tokyo War Crimes Trial was conducted with essentially no precedents to draw from. The tribunal was intended to be Tokyo's Nuremberg, but the scope and focus of the IMTFE ended up being very different and is facing much harsher criticism.<sup>25</sup> In addition, there had been no previous international war crimes trials in modern East Asia.<sup>26</sup> The IMTFE was to be the first. Therefore, it was up to the organizers to make key decisions about how the trial would be run and what crimes would be covered. These decisions were made by four representatives at the London Conference, one from each of the major Allied nations: the United States, Britain, France, and Russia.<sup>27</sup> There, the charter for the Tokyo War Crimes Trial was written, giving Allies the authority to prosecute Japanese leaders for atrocities committed during the Second World War. However, the legal foundation for this charter was shaky at best.

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<sup>25</sup> Totani, *The Tokyo War Crimes Trial*, 7.

<sup>26</sup> Barak Kushner, *Men to Devils, Devils to Men: Japanese War Crimes and Chinese Justice* (Harvard University Press, 2005), 5.

<sup>27</sup> Wilson, *Japanese War Criminals*, 6.

The Allies wanted to prosecute the Japanese war criminals, but without any precedents it was difficult to find a formal legal basis to do so. Additionally, Japan had never fully signed and ratified certain international agreements, including the Geneva Accords.<sup>28</sup> This meant that the same legal conventions should not have applied to them as to nations who had ratified the documents. The same actions were not technically illegal in Japan as in the rest of the world.<sup>29</sup> Therefore, the organizers had to set up their own legal foundation for the tribunal. They interpreted international law in order to establish the tribunal, but these innovations were not always considered legal by all parties and were often determined more by politics than law.<sup>30</sup> Since the basis for the prosecution was created in the period between the war and the tribunal it was immediately accused of being *ex post facto*.<sup>31</sup> Laws were established and interpreted after the war ended in order to prosecute the Japanese for actions they had committed previously. This redefining of law even included the creation of two new categories of crime (crimes against peace and crimes against humanity, added to the existing category of conventional war crimes) that would be used in the prosecution of criminals following World War II.<sup>32</sup> The defense argued that this retroactive application of law ruled out any chance of the tribunal being fair or legal in any sense.<sup>33</sup> Justice Pal from India also took issue with how the law was being applied to the tribunal and agreed that this type of legal basis was unprecedented in international law.<sup>34</sup>

The authority of the Allies to prosecute the Japanese was also quickly called into question, and remains a major criticism of the Tokyo War Crimes Trial today. The Allies organized the

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<sup>28</sup> Wilson, *Japanese War Criminals*, 25.

<sup>29</sup> Wilson, *Japanese War Criminals*, 25.

<sup>30</sup> Wilson, *Japanese War Criminals*, 31.

<sup>31</sup> Kei, *Beyond the "Judgment of Civilization,"* 8.

<sup>32</sup> Neil Boister and Robert Cryer, eds., *Documents on the Tokyo International Military Tribunal: Charter, Indictment, and Judgments* (Oxford University Press, 2008), 821.

<sup>33</sup> Futamura, *War Crimes Tribunals and Transitional Justice*, 53.

<sup>34</sup> Boister, *Documents on the Tokyo International Military Tribunal*, 904.

IMTFE in order to try and punish the Japanese for atrocities committed against their enemies in the course of the Second World War.<sup>35</sup> Such acts included rape, massacre, and sexual slavery among other things, and it is undeniable that the Japanese Army committed these and other atrocities on a large scale.<sup>36</sup> However, the justification for the tribunal is still controversial. This controversy is due to the hypocritical nature of the Allies' authority to conduct the prosecution.<sup>37</sup> Japanese officials and actions were extensively investigated, tried, and punished, but similar actions committed by Allied officials were simply ignored or dismissed.<sup>38</sup> The two most significant examples of this were the Allied firebombing campaign in Tokyo and the American use of the atomic bomb, not once but twice, at the end of the war.<sup>39</sup> These actions accomplished important military goals and annihilated strategic targets, but they also devastated cities and killed and maimed countless innocent civilians.

The unbalanced handling of Allied and Japanese atrocities lends significantly to the claim of "victor's justice." The Allies enjoyed immunity while the Japanese faced prosecution and punishment for committing equal, or sometimes even lesser, atrocities. This fact at best questions the legitimacy of the Allies' authority to conduct the tribunal in the first place, and at worst suggests that the Allies should have faced a war crimes tribunal of their own and only escaped prosecution because they won. On the other hand, the other legal claims against the Tokyo War Crimes Trial do not hold up as well. It is true that the laws were ex post facto in that certain interpretations did not exist until directly before the tribunal, but this was done out of necessity and not out of malice or a desire for revenge.<sup>40</sup> With no real precedents to look at and the current state of international law not

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<sup>35</sup> Futamura, *War Crimes Tribunals and Transitional Justice*, 52.

<sup>36</sup> Boister, *Documents on the Tokyo International Military Tribunal*, 671.

<sup>37</sup> Kei, *Beyond the "Judgment of Civilization,"* 9.

<sup>38</sup> Kei, *Beyond the "Judgment of Civilization,"* 67.

<sup>39</sup> Kei, *Beyond the "Judgment of Civilization,"* 169.

<sup>40</sup> Totani, *The Tokyo War Crimes Trial*, 197.



equipped to handle a war crimes tribunal of this form and scale, some innovation was required.<sup>41</sup> In order for justice to be properly served new interpretations of international law were necessary and justified.

*Issues with the Charges Against the Defendants.* Legal or not, the International Military Tribunal for the Far East commenced. The Tokyo War Crimes Trial raised fifty-five different charges against the Japanese defendants.<sup>42</sup> With complaints about the legal foundation for the tribunal dismissed, the defense began to question the validity of these charges.<sup>43</sup> Some were clear and uncontested, but others were less certain. The principles by which the defendants were prosecuted for these crimes were also questioned.<sup>44</sup> The two crimes and two principles that caused the most controversy were conspiracy and aggression and individual responsibility and negative criminality.

As previously discussed, the interpretation and application of international law was a clear issue with the Tokyo War Crimes Trial. Defendants, scholars, and even some justices had problems with the legal aspects of the tribunal. Another aspect of this issue was the question of individual responsibility. The IMTFE tried twenty-eight Japanese officials for vast and widespread atrocities.<sup>45</sup> These crimes were actions of the military and the government, but less than three dozen men were taking the fall for all of them. This practice was unprecedented in international law. No existing legal principle encouraged or even allowed the prosecution of individual for acts of state.<sup>46</sup> Nevertheless, individuals were tried and convicted for this very thing. This fact led many to accuse the Allies of

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<sup>41</sup> Totani, *The Tokyo War Crimes Trial*, 195.

<sup>42</sup> Boister, *Documents on the Tokyo International Military Tribunal*, 18-33.

<sup>43</sup> Minear, *Victor's Justice*, 62.

<sup>44</sup> Minear, *Victor's Justice*, 62.

<sup>45</sup> Boister, *Documents on the Tokyo International Military Tribunal*, 63-70.

<sup>46</sup> Minear, *Victor's Justice*, 43.

finding scapegoats to blame for the atrocities that occurred during the war.<sup>47</sup> They argued that the Allies manipulated the legal process in order to seek revenge on their war time opponents.<sup>48</sup>

Similarly, it was controversial that government and military leaders were being tried and punished for actions that they were not directly involved in. In many cases they did not take part in or order the atrocities to be carried out. In fact, it was not even necessary for the Japanese leaders to have known about the atrocities in order for them to be convicted for their occurrence.<sup>49</sup> The prosecutors did not have to prove that the Japanese defendants had any role in the crimes that took place during the course of the Second World War. It was enough that the Japanese officials were in positions such that they should have known about the plans to commit certain atrocities.<sup>50</sup> If these men could have known about the atrocities and yet they occurred anyways it was reasoned that they were somehow culpable in the result. Their lack of action, or sometimes knowledge, amounted to negligence on their part. They had allowed the crimes to be committed by not preventing them, and therefore could be considered guilty.<sup>51</sup> This principle of negative criminality led to many convictions, but was obviously contested. Scholars and defendants believed that no court had the right to punish a man for not preventing a crime or to judge whether or not he could or should have known about it ahead of time.<sup>52</sup> Even if the Japanese defendants had known the atrocities would occur, allowing a crime to happen was not the same as committing the crime themselves.<sup>53</sup>

A third issue was with the definition of crimes. Many of the charges were unclear or understood only by a very particular audience. For example, the charge of conspiracy exists mainly

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<sup>47</sup> Wilson, *Japanese War Criminals*, 148.

<sup>48</sup> Maga, *Judgment in Tokyo*, 120.

<sup>49</sup> Totani, *The Tokyo War Crimes Trial*, 183.

<sup>50</sup> Totani, *The Tokyo War Crimes Trial*, 189.

<sup>51</sup> Totani, *The Tokyo War Crimes Trial*, 189.

<sup>52</sup> Minear, *Victor's Justice*, 67.

<sup>53</sup> Minear, *Victor's Justice*, 68.

in Western law codes.<sup>54</sup> It is not a universally understood legal concept. Even representatives from France remarked that nothing like conspiracy was understood in their own law.<sup>55</sup> Therefore, it would have been a very foreign concept in East Asia, and likely not considered illegal by the Japanese. Other charges were contested, like many other aspects of the tribunal, for their lack of legal precedents. The most prominent of these charges was that of waging aggressive war. Fighting, or even starting, a war was not a crime and killing in war was not considered murder.<sup>56</sup> Even a particularly harsh and aggressive war was not criminalized in international law.<sup>57</sup> It is generally understood that wars can be fought using whatever means necessary to win.<sup>58</sup> War is never simple or civil. Drastic and violent measures are not only common, they are often necessary for victory. In addition, it is generally recognized that self-defense mitigates the guilt for most actions, and Japan claimed that they were acting in their own defense and would not have resorted to aggressive war had it not been necessary.<sup>59</sup> Yet, the charge of aggressive war was raised against the defendants at the Tokyo War Crimes Trial. Their actions were considered to be beyond what was reasonable even under the circumstances of war and self-defense.

The claims of an unfair trial are supported in many ways by the treatment and definition of the charges at the IMTFE. Once again, the legal basis was proven to be shaky. Scholars, justices, and defendants alike took opposition to the charges that were pursued by the prosecutors. However, once again, the truth is not so simple. The charges may have been unclear and unfamiliar in certain circumstances, but they were necessary.<sup>60</sup> International law might not have covered them explicitly,

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<sup>54</sup> Boister, *Documents on the Tokyo International Military Tribunal*, 667.

<sup>55</sup> Boister, *Documents on the Tokyo International Military Tribunal*, 666.

<sup>56</sup> Minear, *Victor's Justice*, 28.

<sup>57</sup> Wilson, *Japanese War Criminals*, 25.

<sup>58</sup> Wilson, *Japanese War Criminals*, 26.

<sup>59</sup> Minear, *Victor's Justice*, 56.

<sup>60</sup> Totani, *The Tokyo War Crimes Trial*, 197.

but war crimes needed to be punished regardless of technicalities. In addition, ignorance of legal principle does not excuse the breaking of law. Even if the Japanese did not know or understand some of the laws, they are still responsible for their actions. There is no dispute over whether the Japanese committed war crimes and gross atrocities during the war. The conflict exists only over how those crimes were defined and prosecuted in the course of the tribunal. It may not have been carried out perfectly, but in the end the guilty faced conviction.

*Issues with the Proceedings of the Tribunal.* Apart from legal matters, there were still more issues with how the tribunal was conducted. Nearly every aspect of the Tokyo War Crimes Trial has been contested at some point. The four main areas of criticism are the justices, the defendants, the evidence, and the time frame. These were all claimed to be biased or to have had some detrimental effect on the outcome of the tribunal. If all of these claims are true, it is difficult to see why anyone would claim that the judgment resulting from the tribunal could be fair and unbiased in any way. However, like the previous issues, the handling of the tribunal was not simply right or wrong. It was far more complex and the impact was much less clear.

When the IMTFE began eleven justices were chosen from Allied nations to conduct the tribunal and make the final judgment on the fate of the Japanese war criminals.<sup>61</sup> However, everyone was not satisfied with how the justices were chosen or with their conduct regarding the tribunal. All eleven justices came from victor nations or their allies. None came from any defeated countries or even from neutral nations. The defendants claimed that a judgment by victors alone would be inherently biased.<sup>62</sup> These eleven men came from nations that, only months earlier, had been at war with the Japanese. Their people might even have been victims of Japanese atrocities. There was no way they could overlook their inevitable desire for revenge and look objectively at the evidence

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<sup>61</sup> Boister, *Documents on the Tokyo International Military Tribunal*, 7.

<sup>62</sup> Minear, *Victor's Justice*, 77.

presented at the tribunal. The defendants were worried that the bias of the justices would make any chance of acquittal impossible and the tribunal would be nothing more than a formality with a guaranteed result.<sup>63</sup> In addition, only Justice Pal had any former experience in international law.<sup>64</sup> None of the other eight justices had ever dealt with anything similar to an international military tribunal. Further, absences were not uncommon as the tribunal progressed. Some justices arrived late, others missed parts of the middle of the trial, and many missed time near the end as the tribunal dragged on longer than any of them expected.<sup>65</sup> Even without many of the justices present the proceedings would continue. Depending on how many justices were present at the time, many important decisions could be made with the approval of a very small majority.<sup>66</sup> Very few justices had to agree in order for certain motions to be passed or denied. The absent justices also missed large portions of the testimony and evidence, especially for the defense as they testified last.<sup>67</sup> Therefore, judgments were made by men who did not possess all of the information on the subject they were deciding on.

Just twenty-eight defendants were tried at the Tokyo War Crimes Trial.<sup>68</sup> Subsequent trials held in many other locations prosecuted hundreds more, but the central tribunal focused on just a small number. All twenty-eight defendants were fairly prominent Japanese officials from the military and government.<sup>69</sup> Many scholars have claimed that this selection of defendants was arbitrary.<sup>70</sup> Defendants were not chosen because they were suspected of committing some horrible crime during World War II. Rather, they were chosen in order to secure convictions of a small

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<sup>63</sup> Minear, *Victor's Justice*, 76.

<sup>64</sup> Minear, *Victor's Justice*, 86.

<sup>65</sup> Minear, *Victor's Justice*, 88.

<sup>66</sup> Minear, *Victor's Justice*, 89.

<sup>67</sup> Minear, *Victor's Justice*, 88.

<sup>68</sup> Boister, *Documents on the Tokyo International Military Tribunal*, 63-70.

<sup>69</sup> Totani, *The Tokyo War Crimes Trial*, 65.

<sup>70</sup> Wilson, *Japanese War Criminals*, 272.

representative group in order to set an example for the rest of Japan.<sup>71</sup> High profile individuals with a high probability of conviction were selected especially for the IMTFE. In addition, only Japanese defendants were selected to be prosecuted in this first and most important tribunal.<sup>72</sup> It has already been discussed that the Allies exempted themselves from prosecution despite the atrocities they had committed during the Second World War, but no one from any nation other than Japan faced charges at the IMTFE, Ally or not. Not even the Chinese and Korean collaborators who cooperated with the Japanese and allowed atrocities to take place within their own countries were indicted at the Tokyo War Crimes Trial. Only the Japanese, the wartime enemy of the Allies and particular foe of the United States, were to face charges at the most prominent of the war crimes tribunals in the Far East.

There were also many issues with the evidence and how it was presented at the tribunal. Much of the evidence was circumstantial or came from questionable sources.<sup>73</sup> It was not possible for every witness to come and testify in person in Tokyo, but the evidence of these individuals was still allowed. Written testimonies and letters from victims of Japanese atrocities were read in court as evidence of Japanese war crimes.<sup>74</sup> These documents were allowed despite being unsworn and impossible to cross examine.<sup>75</sup> The witnesses who were able to testify in person created problems of their own. Varied witnesses meant testimonies were presented in many different languages. The logistics of translating these testimonies was complicated. The tribunal was officially conducted in two languages: English for the justices and Japanese for the defendants.<sup>76</sup> However, not even this was enough. Witnesses would testify in other languages and the justice from Russia spoke neither of

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<sup>71</sup> Totani, *The Tokyo War Crimes Trial*, 65.

<sup>72</sup> Totani, *The Tokyo War Crimes Trial*, 67.

<sup>73</sup> Boister, *Documents on the Tokyo International Military Tribunal*, 933.

<sup>74</sup> Boister, *Documents on the Tokyo International Military Tribunal*, 933.

<sup>75</sup> Boister, *Documents on the Tokyo International Military Tribunal*, 933.

<sup>76</sup> Boister, *Documents on the Tokyo International Military Tribunal*, 9.

the official trial languages.<sup>77</sup> Ensuring a reliable system of interpretation between the justices, defendants, and witnesses was difficult and took a long time.<sup>78</sup> In addition, determining what evidence was allowed was an uneven and possibly biased process. All evidence was allowed, or not, at the discretion of the justices.<sup>79</sup> Certain types of evidence were allowed early on for the prosecution, but were deemed impermissible or unrelated once the defendants finally got a turn to argue.<sup>80</sup> As discussed earlier, the number and identity of the present justices could have an important impact on which evidence was allowed and which was not. These discrepancies were able to tip the presented evidence in favor of the prosecution.<sup>81</sup> The changing rules of evidence prevented the defendants from making a complete and convincing argument in their defense.

From its beginning in 1946 to when the final judgment was issued, the Tokyo War Crimes Trial lasted more than two full years. This extreme length of time contributed to many of the issues in how the tribunal was conducted, including the frequent absences of the justices and their unwillingness to admit additional evidence in the latter half of the tribunal. The American prosecutor Joseph Keenan stated that the tribunal should never have been allowed to carry on for that amount of time because the longer it went on, the more likely it would be for injustices to occur.<sup>82</sup> One reason the tribunal took such a long time was the sheer amount of evidence presented.<sup>83</sup> This was further extended by the need to translate all documents and testimonies into multiple languages before they could be used.<sup>84</sup> It might seem that letting the tribunal stretch on for a long period of time would only allow more evidence and better arguments to be presented, which

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<sup>77</sup> Takeda, *Interpreting the Tokyo War Crimes Tribunal*, 17.

<sup>78</sup> Takeda, *Interpreting the Tokyo War Crimes Tribunal*, 49.

<sup>79</sup> Boister, *Documents on the Tokyo International Military Tribunal*, 13.

<sup>80</sup> Boister, *Documents on the Tokyo International Military Tribunal*, 933.

<sup>81</sup> Sedgwick, "Memory on Trial," 1240.

<sup>82</sup> Wilson, *Japanese War Criminals*, 117.

<sup>83</sup> Totani, *The Tokyo War Crimes Trial*, 182.

<sup>84</sup> Takeda, *Interpreting the Tokyo War Crimes Tribunal*, 18.

would lead to a better informed judgment. However, the extended time frame led to inconsistency instead.<sup>85</sup> Decisions made near the beginning of the tribunal were inevitably made differently than those made at the end. Evidence was alternately allowed and then not allowed. Justices missed portions of the testimony. The longer the trial went on, the more issues seemed to arise.

These facts make it seem like the tribunal was designed to be biased and never intended to give the Japanese a fair trial. The defendants were chosen arbitrarily and to maximize the possibility of conviction, the management was inconsistent, and the evidence was stacked for the prosecution. Most days all of the justices did not even show up. All of this is problematic and reflects badly on the tribunal and its eventual outcome. The defense was obviously not treated fairly and evenly in all cases. However, the impact that all this had on the judgment is unclear. Justice Pal, who agreed with most of the issues discussed in this paper, found the errors and mistreatments of justice to be inexcusable.<sup>86</sup> He thought the trial was so biased and unfair that all the Japanese defendants should be exonerated.<sup>87</sup> He did not, however, agree with the complaints against the justices.<sup>88</sup> This was virtually the only area of the trials that Justice Pal did not take issue with, perhaps because it included himself. He thought it was just and right to prosecute the Japanese for the actions they committed during the Second World War. The justices chosen might have come from victor nations, but they were men of the law and were no more inherently biased than any other judge.<sup>89</sup> In addition, Pal was one of the justices who missed portions of the testimony. He still felt sufficiently informed to make an accurate, although very different from the majority, judgment on the tribunal. As for the defendants, the fact that they were all Japanese may appear like a racist campaign for revenge, but

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<sup>85</sup> Maga, *Judgment in Tokyo*, 120.

<sup>86</sup> Boister, *Documents on the Tokyo International Military Tribunal*, 1422.

<sup>87</sup> Boister, *Documents on the Tokyo International Military Tribunal*, 1422.

<sup>88</sup> Boister, *Documents on the Tokyo International Military Tribunal*, 829.

<sup>89</sup> Boister, *Documents on the Tokyo International Military Tribunal*, 830.



this is not the case. Many collaborators did face retribution for the crimes that they allowed and took part in. However, as is just, this took place in their own countries and was directed by their own people.<sup>90</sup> They had no place at the Tokyo War Crimes Trial.

*Issues with the Historical Record.* The final issue this paper will discuss regarding the International Military Tribunal for the Far East is that of motive and the creation of a historical record. The previously discussed issues that were found with the Tokyo War Crimes Trial attacked its legal foundation, authority, definition, and structure. These were each found to have more sides than it originally appeared. The issue of history is more complicated still. When the tribunal commenced the organizers set out to try and punish the men guilty of wartime atrocities. A second motive was the creation of an official account of what exactly occurred during the Second World War in regards to Japan and the atrocities in East Asia.<sup>91</sup>

This motive seems innocent and noble enough. A record needed to be established so the world could know what went on in the Pacific during World War II, and the war crimes investigations uncovered much of the same information that the official record should include. However, there are clear issues with trying to use an adversarial justice system to create an official historical account.<sup>92</sup> A courtroom is set up to establish what happened and who can be held responsible. The prosecution argues one version of the truth and the defense argues another. Both sides go on the official record and are considered equally. This means that, whatever official historical account was settled on, evidence, testimony, and sworn statements exist to dispute it.<sup>93</sup> A court is also concerned with different details than a historical account. The tribunal looked only at information that was directly relevant to the rulings that they were called to make. History is far

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<sup>90</sup> Margherita Zanasi, "Globalizing Hanjian; The Suzhou Trials and the Post-World War II Discourse on Collaboration," *The American Historical Review* 113 (2008): 743.

<sup>91</sup> Futamura, *War Crimes Tribunals and Transitional Justice*, 59.

<sup>92</sup> Sedgwick, "Memory on Trial," 1238.

<sup>93</sup> Sedgwick, "Memory on Trial," 1231.

more complicated. It could never be contained within or accurately represented by a tribunal.<sup>94</sup> In addition, the only motivation that a legal proceeding should have is justice.<sup>95</sup> Trying to build an accurate historical account at the same time only distracts from the primary function of the tribunal.<sup>96</sup>

The Tokyo War Crimes Trial definitely had its issues. The legal foundation was shaky, the charges were ill-defined, the tribunal itself contained bias and inconsistency, and the motives were misguided. However, the issues were not as deep and detrimental to justice as is often perpetuated. International law was not equipped to handle such a situation as the International Military Tribunal for the Far East, so necessary changes and innovations were made. The Japanese were clearly guilty of war crimes, but the law had to be interpreted differently in order to prove that. Even some of the claims about the fundamental aspects of the tribunal do not stand up when all the facts are looked at. The trial was flawed, but the extent of those flaws is unclear and probably overstated. Even if the trial was not carried out perfectly, it did accomplish its primary goal. The Japanese defendants committed atrocious acts and numerous war crimes during World War II. The Allies were justified in wanting to prosecute them for these actions and an international military tribunal such as the one that took place was the best way to achieve this. In the end, the Japanese defendants were guilty and they faced the punishments that their crimes deserved. Concerns over how evidence was presented or which justices missed certain days does not change this fact.

### **Impact of the Tokyo War Crimes Trial on Memory**

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<sup>94</sup> Sedgwick, "Memory on Trial," 1231.

<sup>95</sup> Minear, *Victor's Justice*, 126.

<sup>96</sup> Minear, *Victor's Justice*, 126.

Since the end of the Tokyo War Crimes Trial the perspectives have shifted and several new interpretations have been offered on the subject. Both scholars and the public have seen the tribunal in different lights, ranging from totally negative to completely insignificant. These changing perspectives have impacted the way that people remember and view the Second World War, particularly in Japan. The negative criticisms of the IMTFE have colored Japanese sentiments since the end of the tribunal. The previous sections of this paper examined these claims and whether certain issues existed to the extent that is perpetuated in scholarship and popular memory. It was concluded that, despite whatever issues existed, the tribunal was justified and successful in punishing guilty Japanese war criminals. However, it may not matter whether or not the Tokyo War Crimes Trial was biased and unfair. It is enough that people believe that it was. This perception shapes how scholars write about it and how citizens remember it, which contributes to the conflicted memories that exist among many groups today.

*History and Memory.* History and memory seem very similar, even interchangeable, but they are actually very different concepts. History deals with fact and accurate accounts of what actually happened in the past. Primary sources that were written at the time of the event by people who were actually there are the best sources of this kind of history, but they are limited in number and often contain bias. Thorough research by highly qualified professionals is required in order to create other historical writings and narratives. These secondary sources are more widely available and offer varied analysis of past events. Academics that write about the IMTFE tend to study the Tokyo War Crimes Trial in light of its defects. They try to create a clear picture of the tribunal by researching and revealing what went wrong.<sup>97</sup> However, scholars also look realistically at the actions of the Japanese government and renounce the war crimes they committed and the atrocities that took place.<sup>98</sup> This

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<sup>97</sup> Futamura, *War Crimes Tribunals and Transitional Justice*, 71.

<sup>98</sup> Gallicchio, *The Unpredictability of the Past*, 2.

balanced perspective tries to look at all sides of the issue before drawing a conclusion in order to form an accurate historical account. Their approach is not completely unbiased, however. When scholars choose what to study or what to focus their research on they skew the narrative in a certain direction.<sup>99</sup> Therefore, a historian's perspective is grounded in facts, but often selective ones.

Memory works differently. It deals with perspective. Collective memory-- how the public remembers and views certain historical events--can change over time and is shaped and informed by many different influences. This collective memory is influenced by public history through museums and other public displays, but also by politics, current events, and many other factors.<sup>100</sup> Collective memory does not follow the same rules of research and accuracy as history done by historians.<sup>101</sup> It is more subjective. It is also more politicized. Memory plays a role in shaping society. The way certain events are remembered can affect policies, relations, and national attitudes.<sup>102</sup> Memory is formed by countless influences and inevitably changes over time, but it can also be shaped intentionally. Memory is central to a nation's identity, so shaping these perspectives generates influence far beyond the remembrance of past events.<sup>103</sup> Some people seek to take advantage of this by perpetuating versions of history which support their goals and beliefs.

If history happened a certain way and historians work to accurately preserve that version of events, it should follow that everyone would remember events in the same way. However, this is not the case. There are many reasons for that. Importantly, the impact of the academics who study history shapes what that history looks like, but scholars are subject to the same influences as the rest of the public. Although historians are meant to write as accurately as possible, current events,

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<sup>99</sup> Gallicchio, *The Unpredictability of the Past*, 5.

<sup>100</sup> Akiko Hashimoto, *The Long Defeat: Cultural Trauma, Memory, and Identity in Japan* (Oxford University Press, 2015), 4.

<sup>101</sup> Mark Gallicchio, ed., *The Unpredictability of the Past: Memories of the Asian-Pacific War in US-East Asian Relations* (Duke University Press, 2007), 6.

<sup>102</sup> Gallicchio, *The Unpredictability of the Past*, 112.

<sup>103</sup> Hashimoto, *The Long Defeat*, 53.

political views, and personal biases can all shape their work. This is evidenced by the diverse historiography presented at the beginning of this paper. The Tokyo War Crimes Trial is generally regarded as fairly uninteresting and garners much less study in comparison to other historical events. Yet, the little scholarship that does exist on the tribunal still presents multiple different perspectives. Some historians see it as entirely negative, some believe it had a positive impact, and still others take a more neutral perspective. The existence of conflicting scholarship, therefore, contributes to the existence of conflicting memories.

In the case of the International Military Tribunal for the Far East and post-war perspectives on Japanese war crimes during World War II there are two other major influences that create diverse and conflicting memories of the past. The first is the existence of varied coping mechanisms.<sup>104</sup> Japan lost a major war, and as a result their national pride and international standing suffered. The Japanese people watched their leaders stand trial as war criminals for committing atrocious acts against innocent people. These events have left Japan with a lingering sense of failure and a need to reassert themselves morally and politically.<sup>105</sup> There are many different views on how this should be done and which aspect requires the most emphasis. Some Japanese believe that it is important to make reparations and ensure that the same atrocities do not occur again, while others think that it is more important to reestablish Japan's international and political reputation.<sup>106</sup>

The second influence on memory is from the people who actually participated in history.<sup>107</sup> The accounts of men and women who were there when these events occurred, as well as how people choose to remember these people, play a large part in forming the Japanese collective memory of World War II. Victims of Allied attacks, such as the firebombing of Tokyo, elicit a

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<sup>104</sup> Hashimoto, *The Long Defeat*, 123.

<sup>105</sup> Hashimoto, *The Long Defeat*, 2.

<sup>106</sup> Hashimoto, *The Long Defeat*, 123.

<sup>107</sup> Hashimoto, *The Long Defeat*, 8.

sympathetic memory.<sup>108</sup> On the other hand, men who were tried and convicted of war crimes lend credence to a darker recollection of the war.<sup>109</sup> A more complex narrative arises when they consider the soldiers, who fought and died for their nation, but also participated in unspeakable atrocities.<sup>110</sup> Due to these, and many other, factors Japanese collective memory of World War II is complicated and contested. The existing perspectives can be organized into three general categories: official memory, public memory, and revisionist memory.

*Memory from the Perspective of the Government.* The official perspective of Japan on the subject of war crimes and the Second World War comes primarily from the views of the government. Their response to the Tokyo War Crimes Trial is what is presented to the Japanese nation and the rest of the world, and serves as a major influence on how the Japanese public remembers the event. Once the tribunal concluded, the Japanese government officially accepted all judgments.<sup>111</sup> They did not challenge any of the verdicts or decisions that were made at the IMTFE and accepted the consequences that came with them. However, the Japanese government has since tried to lighten the image of their nation's past by focusing on events that highlight the victim-like position of World War II Japan.<sup>112</sup> They accept what happened in the past, but they want to preserve the image and standing of their nation and forget the stigmas that arose after the tribunal.<sup>113</sup> This perspective is the one that Japan presents to the rest of the world and, makes up the official Japanese collective memory of Japanese actions during the Second World War.

*Memory from the Perspective of the Public.* Scholars are interested in the memory of Japanese war crimes and the Tokyo War Crimes Trial for academic purposes. The government is interested in the

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<sup>108</sup> Hashimoto, *The Long Defeat*, 8.

<sup>109</sup> Hashimoto, *The Long Defeat*, 8.

<sup>110</sup> Hashimoto, *The Long Defeat*, 8.

<sup>111</sup> Wilson, *Japanese War Criminals*, 277.

<sup>112</sup> Gallicchio, *The Unpredictability of the Past*, 2.

<sup>113</sup> Hashimoto, *The Long Defeat*, 2.

same events in order to build a better international image. The public, on the other hand, are not interested at all. The perspective of most Japanese citizens on Japanese war criminals and the tribunal that convicted them is marked by apathy and cynicism.<sup>114</sup> Occasionally major occurrences or international events, such as the Vietnam War, will spark the public's interest for a time, but it quickly dies back down again.<sup>115</sup> The Japanese people understand that their leaders committed certain terrible acts and that their nation lost the war. They also understand that certain consequences were inevitable after such a defeat. The public never saw any purpose in questioning or complaining about the judgment that their nation faced. They knew that the Allies would seek justice and expected that it would be unfair.<sup>116</sup> This was the view at the time of the Tokyo War Crimes Trial and it persists today. In the end, most Japanese citizens agree that what happened in the past cannot be changed and is less important than the present.<sup>117</sup>

*Memory from the Perspective of Revisionists.* There is another perspective that exists which contradicts the views of the Japanese public entirely. Most people in Japan accept the past actions of their nation and do not dispute that their government committed grievous wrongs in the course of the Second World War. Some Japanese scholars even work to uncover these atrocities and renounce the negative aspects of their history. Revisionists, on the other hand, want to undo all of that and rewrite Japan's history completely.<sup>118</sup> These people, mostly radical conservatives and extreme nationalists, claim that Japan committed no wrongs during World War II and are only victims of the West.<sup>119</sup> Revisionists try to cover up their nation's past atrocities while highlighting those of other nations, such as the use of the atomic bomb by the United States. They claim that Japan did not do

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<sup>114</sup> Futamura, *War Crimes Tribunals and Transitional Justice*, 77.

<sup>115</sup> Futamura, *War Crimes Tribunals and Transitional Justice*, 76.

<sup>116</sup> Minear, *Victor's Justice*, 177.

<sup>117</sup> Minear, *Victor's Justice*, 177.

<sup>118</sup> Takeda, *Interpreting the Tokyo War Crimes Tribunal*, 15.

<sup>119</sup> Martin Fackler, "Pressure in Japan to Forget Sins of War," *New York Times*, October 28, 2014, A4.

anything that any other nations had not done.<sup>120</sup> In addition, the revisionists take a perspective that downplays the atrocities that occurred, which is dishonest and disrespects the victims of these events.<sup>121</sup> This movement is spreading, especially among people who think that apologetic tendencies are contributing to a decline in national pride.<sup>122</sup>

The revisionist movement has even gained support from certain key members of the government.<sup>123</sup> In particular, Prime Minister Abe is known to have shown support for the revisionist version of history. He has made many controversial statements and actions that refute the general acceptance of Japanese war guilt.<sup>124</sup> Abe strongly perpetuates the image of Japan as a victim of the West that was subject to the revenge of victors.<sup>125</sup> He claims that Japan acted only in self-defense and committed no wrongs in the course of the Second World War.<sup>126</sup> Abe refuses to apologize for the war crimes and does not even acknowledge that they occurred.<sup>127</sup> This tendency toward denial, especially from an important government official, has dangerous consequences. Since the judgment was issued there have been several censorship campaigns designed to portray a revised version of history to the public.<sup>128</sup> In particular, this revision affects school textbooks which give students an altered idea of their nation's past.<sup>129</sup> In addition, this unapologetic approach to the atrocities creates tensions between Japan and the nations that were formerly their rivals and victims. China and Korea are both offended by the Japanese government's overall reluctance to take responsibility and make

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<sup>120</sup> Justin McCurry, "Former Japanese PM Tells Shinzo Abe To Confront Wartime Atrocities in Asia," *The Guardian*, June 10, 2015.

<sup>121</sup> Richard Cohen, "Will Japan's Habit of Rewriting History Affect its Future?," *The Washington Post*, December 8, 2014.

<sup>122</sup> Fackler, "Pressure in Japan," A4.

<sup>123</sup> Gallicchio, *The Unpredictability of the Past*, 2.

<sup>124</sup> Sung-Yoon Lee, "Abe's Profane Pilgrimage," *New York Times*, January 6, 2014.

<sup>125</sup> Julian Ryall, "Japan PM Dismisses WWII War Crimes Trials as 'Victor's Justice,'" *The Telegraph*, March 14, 2014.

<sup>126</sup> Ryall, "Japan PM Dismisses WWII War Crimes."

<sup>127</sup> Cohen, "Will Japan's Habit of Rewriting."

<sup>128</sup> Gallicchio, *The Unpredictability of the Past*, 3.

<sup>129</sup> Wilson, *Japanese War Criminals*, 277.



reparations for past actions.<sup>130</sup> The revisionist attitude also contributes to disputes and complicates foreign relations with the United States.<sup>131</sup>

*Memory and the Tokyo War Crimes Trial.* Three very distinct memories regarding Japanese war crimes during the Second World War exist in Japan today. Although very different, each of these three perspectives is colored by the Tokyo War Crimes Trial in some way. As discussed in the section on the historical record, the International Military Tribunal for the Far East set out to create an official narrative on Japanese war crimes in World War II, but the adversarial nature of the tribunal made this goal problematic.<sup>132</sup> As a result, the narrative is disputed to this day. In the absence of a solid official memory, several conflicting accounts were created instead. In addition, the IMTFE has been accused of being extremely biased and unjust since it began. The rest of this paper examined the claims of injustice and concluded that some were valid, but many of the issues did not exist to the extent that is claimed. However, the perception that these injustices did occur is enough to have an important impact on post-war memories of the tribunal. This view shapes historical research, government action, and public sentiment. Most significantly it contributes to the idea of “victor’s justice” which fuels revisionist movements and complicates international relations. The flawed historical account and accusations of injustice at the Tokyo War Crimes Trial shapes the focus of academic writings, generates apathy and cynicism in the Japanese public, and sparks revisionist movements among conservatives and nationalists.

## Conclusion

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<sup>130</sup> Lee, “Abe’s Profane Pilgrimage.”

<sup>131</sup> Gallicchio, *The Unpredictability of the Past*, 85.

<sup>132</sup> Sedgwick, “Memory on Trial,” 1238.

The International Military Tribunal for the Far East does not feature prominently in many histories of World War II. It is often overlooked in favor of famous generals, epic battles, or the more familiar Nuremberg Trial. However, the Tokyo War Crimes Trial has a far more important and extensive impact than it is given credit for. The works of scholarship that do recognize the tribunal's significance often do so from a very negative point of view. These works often amount to lists of grievances against the IMTFE and end by concluding that no justice was served. This paper has examined these claims and discussed to what extent they actually existed. Some of the negative claims are very valid, such as the biased rules of evidence or the hypocrisy found in the lack of prosecution of Allied forces for similar actions. These issues were unfortunate and did impact the proceedings of the tribunal. They made it difficult for the defendants to present a convincing case in their defense. They are also the primary source of criticisms concerning the Tokyo War Crimes Trial. Many other claims did not stand up as well, such as the issues with the justices or the attacks on the legal foundation of the tribunal. These issues have been exaggerated or examined out of context in order to further the negative image of the tribunal. Some of these complaints are supported by the testimony of defendants or writings of justices, but not by the context of the tribunal or the legal principles that upheld it. The continued discussion of these overstated issues is problematic and contributes to a distorted image of the tribunal and an inaccurate history of World War II.

The Tokyo War Crimes Trial was clearly not as biased and unjust as it is so often portrayed. In addition, the tribunal punished Japanese defendants who were undeniably guilty of atrocious war crimes. No one denies that they were guilty, only that the trial that convicted them was entirely fair. Nevertheless, the perceptions of injustice persist and have important consequences on how the Japanese remember their actions during the Second World War. As a result of the failed attempt to create an official narrative and the perpetuation of exaggerated injustices, post-war Japanese memory of the tribunal has been distorted. In lieu of a single collective memory or an undisputed official

narrative of events several different perspectives have emerged in post-war Japanese society.

Scholars attempt to write an accurate history of past events, but their focus on the issues at the IMTFE influences their research and conclusions. The public remains largely uninterested in the results of the tribunal, but the lingering perception of injustice fosters cynicism as well. A third group takes a revisionist stance and aims to discount the negative view of Japan's involvement in World War II. This perspective becomes problematic when their unapologetic denial gains support from the government and creates international tensions. These varied and conflicting memories each exist as a direct result of the International Military Tribunal for the Far East and the real and exaggerated defects that existed within it.

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### Author Biography

I graduated from CNU in December 2017 with a Bachelor's of Arts in History. History has always been a subject that I enjoyed studying and was interested in. I feel very fortunate to have gotten the opportunity learn so much under the professors of CNU's History Department. This summer I will begin CNU's Master's of Arts in Teaching program, after which I plan on teaching elementary school.

**“Lord Elgin, the Parthenon Marbles, and the Repatriation Debate”****Melissa Jones****Faculty Sponsor: Dr. Jana Adamitis, Modern and Classical Languages and Literature****Abstract**

This paper is an analysis of the repatriation debate of the Elgin marbles. It includes historical, logical, legal, and ethical perspectives and addresses the main arguments that have been presented by professionals and scholars in the history and museum fields. The conclusions drawn by this paper are based on an in-depth analysis of facts and arguments from each of these perspectives. This paper argues that the marbles from the Parthenon are an intricate part of the heritage and cultural history of Greece and Greek citizens. Presently the marbles are not displayed together, but are instead broken up into displays at the British Museum and the Acropolis Museum. While the marbles may have been preserved better in London at the time that they were taken, this is no longer true today. Additionally, it is not clear as to whether the Elgin marbles were legally taken to London in the 1800s. Finally, according to modern ethical standards and practices in the museum field, the British Museum should repatriate the marbles to Greece to join the rest of the collection.

## Introduction

“The marbles are part of a monument to Greek identity, part of the deepest consciousness of the Greek people: our roots, our continuity, our soul. The Parthenon is like our flag.”

-Melina Mercouri<sup>133</sup>

The debate about the Parthenon marbles is more than just a debate about repatriation, it is also a question of national identity. Almost half of the sculpted marbles on the Parthenon were taken by Lord Elgin, ambassador to Constantinople, in the early 1800s, and soon after sold to the British Museum.<sup>134</sup> Greek citizens argue that the Parthenon marbles are part of their national identity and heritage and therefore want them to be repatriated, but there is no international organization with the power to force repatriation.<sup>135</sup> By analyzing the history and significance of the Parthenon and its marbles, the marbles’ removal by Lord Elgin, past and present controversies, and legal and ethical considerations, one can make a strong argument for repatriation. This paper offers an unbiased analysis of these facts and debates and attempts to argue that the marbles should be repatriated back to Greece.

## History of the Parthenon and its Marbles

The Parthenon was constructed in the 5<sup>th</sup> century BC, under the leadership of Pericles, at the height of Athenian power in a period known as the Golden Age of Athens. Designed by Phidias, one of the most well-known ancient architects and sculptors, the Parthenon is known to many as “far surpassing both in the quality and quantity of its decoration any other building of the classical

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<sup>133</sup> James Cuno, *Whose Culture? The Promise of Museums and the Debate over Antiquities* (Princeton: Princeton University Press, 2009), 168.

<sup>134</sup> Christopher Hitchens, *The Parthenon Marbles: The Case for Reunification* (New York: Verso, 2008), 11-12.

<sup>135</sup> Per terms of the sale, the marbles were to be called ‘The Elgin Marbles.’ The figures are still commonly referred to as the Parthenon Marbles though, and will be referred to as the Parthenon marbles to ensure readers understand which marbles are being discussed.



age.”<sup>136</sup> It is the largest Doric style temple of the Greek world to be completed.<sup>137</sup> The builders did not stucco white over darker stone, as was a cost-saving measure typical of the period, but instead the Parthenon was the first building to be made of all white marble.<sup>138</sup> The marble used was from quarries at Mount Pentelikon which is ten miles from Athens, and produced very high quality marble, which made the Parthenon the first Athenian temple to be made of only high quality Athenian marble.<sup>139</sup> The inside of the Parthenon contained a forty-foot statue of Athena made of ivory and gold.<sup>140</sup> The statue of Athena was covered in gold that would have cost between forty and fifty talents, which is a significant amount of money since an average Athenian laborer would have to work for 230 years just to earn one gold talent.<sup>141</sup>

The architecture of the building makes it seem impressive to view and also uses optical illusions that make the building appear to have straight lines. In reality, the platform of the building is lifted on both ends and the columns are bigger in the middle and tilt inward. The architects of the Parthenon understood how the human eye perceives lines and building shapes, and so had the knowledge and skill to design the building to appear rectangular and straight.<sup>142</sup> It also was built at an angle so that if you were looking up at the Acropolis, or walking up the road to the Acropolis, you would see two sides at once, giving it a more imposing and impressive appearance.<sup>143</sup>

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<sup>136</sup> Christopher Hitchens, *Imperial Spoils: The Curious Case of the Elgin Marbles* (New York: Hill and Wang, 1987), 17. In the ‘History of the Parthenon and its Marbles,’ ‘History of Lord Elgin and the Parthenon Marbles,’ and ‘Beginning of Controversy’ sections many of the sources used address the same topics and agree with each other about these topics, some of which are presented in this paper. The sources that have been chosen for each individual footnote are those with the most information about the correlating topic, but other sources agree with what is being cited.

<sup>137</sup> Panayotis Tournikiotis, ed., *The Parthenon and its Impact in Modern Times* (New York: Harry N. Abrams, Inc., 1996), 25-27.

<sup>138</sup> Vincent Scully, *Architecture: The Natural and Manmade* (New York: St. Martin’s Press, 1991), 84.

<sup>139</sup> John Boardman, *The Parthenon and Its Sculptures* (Austin: University of Texas Press, 1985), 28.

<sup>140</sup> Mary Beard, *The Parthenon* (Cambridge: Harvard University Press, 2003), 28-30.

<sup>141</sup> McGregor, *Athens*, 43-44.

<sup>142</sup> James H.S. McGregor, *Athens* (Cambridge, The Belknap Press of Harvard University Press, 2014), 39-40.

<sup>143</sup> Scully, *Architecture*, 84.

The Parthenon stood as a symbol for the political, military, artistic, and intellectual leadership that Athens possessed in ancient Greece. The sculptures on the metopes and friezes of the Parthenon represent mythological stories of gods, goddesses, centaurs, amazons, giants, and the fall of Troy, as well as a representation of a religious festival called the Panathenaic festival.<sup>144</sup> These depictions are much more than a representation of famous mythological stories, though. The Parthenon was built soon after the end of the Persian War, and these stories were chosen in order to compare the gods' fights against barbarians to the Athenians' fight against the Persians. The Athenians wanted to depict themselves as the bringers of civilization, and forces of order in an otherwise chaotic world. The sculptures on the Parthenon represent the idea that the Athenians mirror the actions of the gods in their military and political activities.<sup>145</sup> The Athenians wanted to send a message that "Greeks can triumph over the wild and uncivilized" and "remind us how mortals can sometimes rival even divinity when their struggle is just."<sup>146</sup> In this way the Parthenon has an important message, both political and mythological, which has strong ties to Greek heritage.

For the first few thousand years after it was built the Parthenon sustained surprisingly relatively little damage. A small fire in the second century BC damaged some of the interior, but it was restored in the 160s BC.<sup>147</sup> It was repaired again in the 360s AD, and then was converted into a Christian church in the fifth century AD, involving minor structural and decorative modifications.<sup>148</sup> In the mid-1400s the Turks took control of Greece, including the Acropolis. The Parthenon was converted into a mosque for the garrison, but was not altered significantly.<sup>149</sup>

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<sup>144</sup> Tournikiotis, *The Parthenon*, 25.

<sup>145</sup> McGregor, *Athens*, 50.

<sup>146</sup> Boardman, *The Parthenon*, 39.

<sup>147</sup> Hitchens, *Imperial Spoils*, 17.

<sup>148</sup> Hitchens, *Imperial Spoils*, 20.

<sup>149</sup> Hitchens, *Imperial Spoils*, 21.

A few centuries later, in 1687, the Parthenon was hit by a bomb in the fighting between the Venetians and the Turks. The Parthenon was being used for gunpowder storage at this time, and therefore sustained substantial damage from explosion.<sup>150</sup> In the late 1700s, many tourists would take scattered pieces of marble from the Parthenon home, or sell them. Some people also used parts of the scattered pieces for construction materials.<sup>151</sup> Although the Parthenon was one of many buildings on the Acropolis of Athens, it was one of the best designed and most influential buildings in Athens, and for that matter in ancient Greece.

The Parthenon influenced later Roman sculptures and temples, which would take inspiration from the Parthenon to create things such as the Pantheon.<sup>152</sup> The Parthenon also inspired many later sculptures, buildings, and national monuments. Examples include a monument to Frederick the Great, the German Valhalla, monument for victory at Waterloo, Parthenon replica in Scotland, Mausoleum of Antonio Canova, Second Bank of the United States, Indiana Capitol building, and the New York and Boston Customs houses.<sup>153</sup>

The Parthenon has also been influential in academia. “By the late eighteenth century...the Parthenon was a fundamental feature on the cognitive horizon of all students of architecture. When the teaching of history and theory was introduced into the schools of architecture, the Parthenon established itself in the collective consciousness of architects as the ultimate moment in Classical Greek architecture and as one of the greatest achievements of the Classical tradition in architecture...”<sup>154</sup> The Parthenon has influenced the world both in the arts and in academia, and was considered very popular to study even before Elgin became ambassador.

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<sup>150</sup> Hitchens, *Imperial Spoils*, 22.

<sup>151</sup> Beard, *The Parthenon*, 85-86.

<sup>152</sup> Tournikiotis, *The Parthenon*, 25-27.

<sup>153</sup> Tournikiotis, *The Parthenon*, 207-215.

<sup>154</sup> Tournikiotis, *The Parthenon*, 222-223.

It is easy to understand why people from around the world would have been interested in the Parthenon, considering the legacy and influence that it has had throughout history. The Parthenon represents the height of Greek power and civilization in Athens, and artistic and architectural talent that has not been matched since. The Parthenon represents the contributions that ancient Greeks made to the world in the form of democracy, art, civilization, and military power.<sup>155</sup> The Parthenon was one of the best examples of classical art that survived in the 1800s, so there was an immense fascination especially with the Parthenon and its marbles during a time when artists and noblemen were influenced by Romanticism.

### **History of Lord Elgin and the Parthenon Marbles**

In 1799 Thomas Bruce, seventh earl of Elgin, was appointed ambassador to the sublime porte at Constantinople. He decided that he wanted to be known for his dedication to the arts during his time as ambassador, and made a plan to obtain sketches and casts of great ruins at Athens.<sup>156</sup> Elgin gathered a group of men who had some artistic experience, and in 1801 they finally bribed their way into getting access to the Acropolis from the Turks. The artists made sketches and casts of the Parthenon and its sculptures. Later in 1801 the Turks stopped allowing Elgin's men on the Acropolis, possibly due to a fear of rumors of attack from the French, even though Elgin's men had a legal document from the Turkish government called a firman saying they could access the Acropolis.<sup>157</sup> Elgin's men wrote to him and asked him to apply for another firman, which would once again give them permission to work on the Acropolis. He was only finally granted the firman after British forces defeated French forces in Cairo, ensuring Turkish rule. The Turkish government

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<sup>155</sup> This will be discussed in more depth in the 'Ethical Considerations' section of this paper.

<sup>156</sup> Hitchens, *Imperial Spoils*, 39.

<sup>157</sup> William St. Clair, *Lord Elgin and the Marbles* (London: Oxford University Press, 1967), 60-87.

presented Lord Elgin with many lavish gifts, and immediately granted his firman which had been continuously denied up until then.<sup>158</sup>

The action taken by Elgin's men on the Acropolis drastically changed after this second firman was granted. The combination of letters and testimonies given about the firman provides the information about the contents of the firman that we have today, since the original copy does not survive. The firman allowed Elgin and his men to "take away some pieces of stone with inscriptions or figures thereon, that no opposition be made thereto."<sup>159</sup> When writing letters Lady Elgin said that the firman "allows our artists to go into the citadel, to copy and model everything in it, to erect scaffolds all round the Temple, to dig and discover all the ancient foundations and to bring away any marbles that may be deemed curious by their having inscriptions on them, and that they are not to be disturbed by the soldiers, etc. under any pretense whatsoever."<sup>160</sup> Lord Elgin also interpreted the firman this way, and instructed his men to remove all interesting detached pieces they found, since many pieces had come off of the Parthenon in the explosion of 1687.<sup>161</sup> Since the wording was somewhat vague Lord Elgin's artists started taking liberties with the firman and removing pieces still attached to the Parthenon.<sup>162</sup>

There were several problems initially with these actions. One major problem with the actions of Elgin and his men has to do with the fact that Lord Elgin had not even visited Athens when his men started taking marbles from the Parthenon.<sup>163</sup> He therefore had no firsthand knowledge of the environment or procedures being used, except what his men told him in letters.<sup>164</sup> Lord Elgin's men

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<sup>158</sup> St. Clair, *Lord Elgin*, 62-88.

<sup>159</sup> Hitchens, *Imperial Spoils*, 42.

<sup>160</sup> Jacob Rothenberg, *"Descensus ad terram": The Acquisition and Reception of the Elgin Marbles* (New York: Garland Publishing, 1977), 154.

<sup>161</sup> St. Clair, *Lord Elgin*, 91-92.

<sup>162</sup> St. Clair, *Lord Elgin*, 95.

<sup>163</sup> Hitchens, *The Parthenon Marbles*, 12. This will be discussed in more depth in the 'Beginning of Controversy' section of this paper.

<sup>164</sup> St. Clair, *Lord Elgin*, 96.

used saws to remove the marbles from the Parthenon, which damaged the building itself. Some of the marbles they removed broke during removal or during transport, and one ship transporting marbles even sank.<sup>165</sup> Over the course of many years, Lord Elgin had 15 metopes out of 92 removed, and 56 friezes out of 115 removed.<sup>166</sup> He sent the marbles in shiploads back to his home in Britain.

The marbles were not available for general public viewing until about 14 years after their removal from the Parthenon. On his way home from his travels as ambassador in 1803, Lord Elgin was arrested and kept prisoner in France for 3 years. This is because war between France and England had recently been declared, and the first consul of France had published a decree that all men who are currently or could potentially be enrolled in militia ages 18-60 were to be prisoners of war.<sup>167</sup> Even after Elgin was eventually allowed to go home, he found that the cases with the marbles had not been opened since they were addressed to him and could only be opened by him.<sup>168</sup> After opening the cases, Lord Elgin kept the marbles as a private collection with limited viewing opportunities for 10 years after his return.<sup>169</sup> He did allow select guests to view the marbles in 1807-1809, usually consisting of close friends, famous artists, and academics.<sup>170</sup> Initially the marbles were displayed in a garden shed in a house he rented at Park Lane in 1807.<sup>171</sup> Elgin slowly began to acquire more debts, and in 1812 he moved the marbles to be stored in the home of the Duke of Devonshire, where they stayed until being bought by the British government.<sup>172</sup>

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<sup>165</sup> Hitchens, *The Parthenon Marbles*, 33-35. See also: Hitchens, *Imperial Spoils*, 24. And Tournikiotis, *The Parthenon*, 302.

<sup>166</sup> Hitchens, *The Parthenon Marbles*, 24. This is an important factor in the 'Modern Debates and Criticisms' section of this paper.

<sup>167</sup> St. Clair, *Lord Elgin*, 122.

<sup>168</sup> Vincent J. Bruno, ed., *The Parthenon* (New York: Norton, 1974), 154. This is also addressed in the 'Modern Debates and Criticisms' section of this paper.

<sup>169</sup> Bruno, *The Parthenon*, 163.

<sup>170</sup> Hitchens, *Imperial Spoils*, 50.

<sup>171</sup> Jenifer Neils, *The Parthenon Frieze* (Cambridge: Cambridge University Press, 2001), 230.

<sup>172</sup> Rothenberg, "Descensus ad terram," 320.

Negotiations between Lord Elgin and the British government happened on multiple different occasions and over many years. The first time that Elgin approached the government to sell the marbles was in 1811. He asked for about £64,000 and a title of peerage in exchange for the marbles, but was denied.<sup>173</sup> In 1815 Lord Elgin again approached the British government to sell the marbles, but this time he proposed that they create a select committee from the House of Commons to investigate the value of the collection. Unfortunately the session of Parliament ended before this could be done, so Elgin resubmitted this petition in 1816.<sup>174</sup> In 1815 and 1816, due to having to pay for storage of the marbles, Elgin asked for about £74,000 for the marbles.<sup>175</sup> On recommendation from the select committee created who had reviewed Lord Elgin's case, the British government paid £35,000 to buy the marbles.<sup>176</sup> Of the £35,000 paid to Elgin, the government immediately claimed £18,000 for his debts and the remainder was quickly distributed to other various creditors to whom Elgin was indebted.<sup>177</sup>

### **Beginning of Controversy**

By selling the marbles to the British government, Elgin took the controversy about his actions to a national level. In addition to debates over Elgin's financial situation, the general public took interest in the pros and cons of the marbles being transported and kept in Britain instead of Greece. Parliament discussed many of these topics, which made the debate take on issues of national identity and imperialism. One of the most prominent advocates for not buying the marbles was Lord Byron. He and a few other Members of Parliament argued that the wishes of Greeks should be taken into account, and that Elgin acted improperly.<sup>178</sup> Byron also argued that Greek feeling and

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<sup>173</sup> Rothenberg, *"Descensus ad terram,"* 313-316.

<sup>174</sup> Rothenberg, *"Descensus ad terram,"* 359-378.

<sup>175</sup> Hitchens, *Imperial Spoils*, 55.

<sup>176</sup> St. Clair, *Lord Elgin*, 259-261.

<sup>177</sup> St. Clair, *Lord Elgin*, 261.

<sup>178</sup> Hitchens, *The Parthenon Marbles*, 54-55.

wishes were ignored while Lord Elgin's team was excavating, and even published poems about how distraught he and Greeks were that the marbles were removed.<sup>179</sup>

H. Hammersley, a member of Parliament, proposed that Parliament pay £25,000 to Elgin to hold the marbles until Greece asked for them back when they were independent and had the ability to protect them.<sup>180</sup> This proposal attempted to balance the concerns of MPs like Lord Byron, and the opinions of other members who thought that Elgin acted properly. The proposal was criticized for being impractical and was not passed.<sup>181</sup> It would later be discovered that Lord Elgin and his men lied to the House of Commons when saying that there was no opposition shown by the Turks or Greeks to their taking the marbles. In personal letters Elgin states that the Turks and Greeks were extremely attached to the ancient buildings and marbles on them, which is why he had to get an additional firman to continue the work.<sup>182</sup>

Parliament was also concerned about whether Lord Elgin abused his authority as ambassador in order to retrieve the marbles.<sup>183</sup> In addition to heavily bribing Turkish officials in order to access and work on the Acropolis,<sup>184</sup> Elgin also was only given special firman documents because of his connection with the British government and their recent military success.<sup>185</sup> He denied this, instead claiming to the House of Commons that any Englishman could get a firman, and denying that he used his position as ambassador to obtain the marbles.<sup>186</sup>

Elgin's actions led the British government to question his motives. Lord Elgin claimed that although his original plan was to take sketches and casts of the ancient artifacts, when he saw the

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<sup>179</sup> Hitchens, *Imperial Spoils*, 63.

<sup>180</sup> St. Clair, *Lord Elgin*, 261.

<sup>181</sup> Rothenberg, "*Descensus ad terram*," 431.

<sup>182</sup> Hitchens, *Imperial Spoils*, 74.

<sup>183</sup> Hitchens, *Imperial Spoils*, 55.

<sup>184</sup> Neils, *The Parthenon Frieze*, 241.

<sup>185</sup> St. Clair, *Lord Elgin*, Pg. 88

<sup>186</sup> Hitchens, *The Parthenon Marbles*, 43.



destruction being done to them by the Greeks and the Turks he decided to ‘rescue’ them by taking them home.<sup>187</sup> This claim proved to be false, since Elgin’s men started moving marbles from the Parthenon before he even visited Athens.<sup>188</sup> Although he may have heard about possible destruction from letters sent to him, he never saw anything himself when the decision was made to start removing marbles from the Parthenon. In addition, Elgin claims that his actions helped to preserve the marbles; however, many of the marbles that his team removed were damaged in the process or during transport.<sup>189</sup> One piece even fell while being removed and was smashed into pieces.<sup>190</sup>

Finally, Lord Elgin and the men on his team presented their case as one of clear legality. However, no document was produced as evidence for the legality of their actions. The only surviving copy of the firman in question was an Italian copy stored in a private house in England, which was not presented to the committee because the owner claimed to not have enough notice to retrieve it.<sup>191</sup> The wording in the firman as was presented to the committee and as analyzed by the existing copy does not provide clear direction. The wording was vague and up to interpretation of the officials of the time, therefore the legality of Lord Elgin’s actions are not completely clear.<sup>192</sup>

Ultimately, the select committee compiled a report that “upheld all of Elgin’s claims and vindicated him of charges of spoliation and misuse of powers.”<sup>193</sup> They did this because the majority of the Members of Parliament felt that there was a strong case for buying the marbles. Many members argued that the Greeks had no claim to the marbles since they were ruled by the Turks at the time.<sup>194</sup> Many also argued that having the marbles in England increased national prestige, and

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<sup>187</sup> St. Clair, *Lord Elgin*, 251-252.

<sup>188</sup> Hitchens, *The Parthenon Marbles*, 12.

<sup>189</sup> Hitchens, *Imperial Spoils*, 24.

<sup>190</sup> Tournikiotis, *The Parthenon*, 302.

<sup>191</sup> St. Clair, *Lord Elgin*, 256.

<sup>192</sup> Beard, *The Parthenon*, 91. This is also important in the ‘Legal Considerations’ section of this paper.

<sup>193</sup> St. Clair, *Lord Elgin*, 258.

<sup>194</sup> Hitchens, *The Parthenon Marbles*, 56.

could help spur an artistic revolution based on classics. This opinion was supported by testimonies from artists who saw the marbles, which confirmed the marbles' superiority.<sup>195</sup> These arguments, in addition to many arguments that were also a point of public discussion, led to a vote with 82 in favor and 30 against buying the marbles.<sup>196</sup>

One of the main concerns that the British public had was that if the British government did not buy the marbles, who would? They were specifically worried that the French would, who were constantly competing with Britain for superiority. In fact, many Brits justified Elgin's taking the marbles by arguing that it was better than the French taking them.<sup>197</sup> British citizens were also legitimately concerned about the danger that the marbles were in had they stayed in Greece, and therefore supported the government's justifications that the marbles should be kept since they were safer in England. In addition to the supposed damage occurring on the Acropolis by the Turks and Greeks,<sup>198</sup> constant warfare and political instability was not an environment that was ideal for the preservation of important classical artifacts. Therefore, many people saw removal of the marbles as an action of protection; however, it is regrettable that the methods used by Lord Elgin's men caused so much damage in the process.

Another popular view on this controversy was that the marbles were better off in the British Museum than they were in Greece. The museum was able to make copies of the marbles, and sent them to schools in almost every major city in the world.<sup>199</sup> This, in combination with the large tourist industry in London, ensured that after the British Museum obtained the marbles more people could see them than could when they were in Greece.<sup>200</sup> The British Museum also had better preservation

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<sup>195</sup> Tournikiotis, *The Parthenon*, 232-233.

<sup>196</sup> Hitchens, *The Parthenon Marbles*, 56.

<sup>197</sup> St. Clair, *Lord Elgin*, 98.

<sup>198</sup> St. Clair, *Lord Elgin*, 251-252.

<sup>199</sup> Beard, *The Parthenon*, 18.

<sup>200</sup> Hitchens, *The Parthenon Marbles*, 64.

capabilities at this time, so the marbles could be preserved better in London than if they had stayed in Greece.<sup>201</sup> Although the debate about the firman could never be resolved, these perspectives allowed most of the general British public to accept Parliament's decision and accept the marbles from the Parthenon as a British acquisition.

### **Modern Debates and Criticisms**

Modern debate has shifted from a mostly British perspective to a mostly Greek one, since Greece is now independent and able to voice the opinions of its citizens, and also because many of the original points of justification for the British government have changed over time. One obvious change is political. In 1830 Greece won independence from the Ottoman Empire and became a self-ruling kingdom.<sup>202</sup> Since then Greece has maintained its independence, which indicates that the argument that they have no claim over Greek artifacts is now invalid. Many other arguments that the British used when buying the marbles had validity at the time, but have now become invalid due to changes in Greece.

#### *The Marbles Were Safer In London*

The argument that the marbles should have been taken from Greece because they were safer in London than they would have been in Athens was partially true. The marbles lasted for thousands of years on the Parthenon, but war and misuse were starting to have an effect on them.<sup>203</sup> The political uncertainty would have also been troubling, since no one could predict when Greece would gain independence. At the time that Elgin took the marbles it may have seemed like they were safer in London, but many things happened over time that proved this statement could be false. The

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<sup>201</sup> Neils, *The Parthenon Frieze*, 241.

<sup>202</sup> Neils, *The Parthenon Frieze*, 233.

<sup>203</sup> St. Clair, *Lord Elgin*, 251-252.

removal, transportation, storage, and display of the marbles before they were given to the British Museum caused significant damage to them.<sup>204</sup>

Despite this, Britain was not as safe of a place for the marbles as English citizens had anticipated. Although Britain was politically stable, it was involved in many wars and was also subject to bombing occasionally. During World War II the marbles were moved into storage for protection, and the gallery they were in suffered extreme damage due to bombing.<sup>205</sup> Luckily the marbles were moved, but this proves that the British Museum was not the sanctuary that some painted it to be. Arguably though, the marbles were still safer in London due to their preservation abilities and resources in dangerous times. Another cause for concern was air pollution in Athens, which became a serious problem in the 1900s.<sup>206</sup> While this is concerning for how they would affect marbles on the Parthenon, Britain also had severe air pollution problems at this time which noticeably affected the marbles they had.<sup>207</sup>

The most compelling reason why the marbles may not have been safer in London is because of the cleaning scandal of the 1930s. Sir Duveen financed a new gallery for the marbles to be displayed in, but clung “to the old-fashioned notion that classical marbles were pure white” and had his workers secretly clean the marbles with harsh metals and abrasives.<sup>208</sup> This stripped most of the marbles of the small amount of original coatings they had.<sup>209</sup> The British Museum was so embarrassed that this had happened under their watch that they never investigated or reported the incident, in hopes of avoiding public outcry.<sup>210</sup> Although this was a major factor in the preservation

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<sup>204</sup> Hitchens, *The Parthenon Marbles*, 33-35. See also: Hitchens, *Imperial Spoils*, 24. And Tournikiotis, *The Parthenon*, 302.

<sup>205</sup> John B. Nici, *Famous Works of Art-And How They Got That Way* (New York: Rowman & Littlefield, 2015), 45. See also: A. W. Gomme, *Essays in Greek History and Literature* (Freeport: Books for Libraries Press, Inc., 1967), 297.

<sup>206</sup> Beard, *The Parthenon*, 113-114.

<sup>207</sup> Neils, *The Parthenon Frieze*, 246.

<sup>208</sup> Beard, *The Parthenon*, 246.

<sup>209</sup> Hitchens, *The Parthenon Marbles*, xiv.

<sup>210</sup> Beard, *The Parthenon*, 246.

of the marbles from the Parthenon, it is still admittedly arguable that they were safer in London than they would have been in Athens.

*The Marbles Are Safer In London*

Not all of these arguments hold true today, and a lot of modern evidence points to the conclusion that the marbles are just as safe in Athens as they are in London today. Neither country has problems with air pollution in recent decades, and bombing has not been a major concern in either country. Greece has made huge efforts to catch up with England in museum, preservation, and archaeological practices. By the end of the 1800s, Greece had significantly improved their archaeology.<sup>211</sup> In addition, there is now an Acropolis Museum in Athens located right next to the Acropolis in which the marbles could be housed, which has just as much capabilities preservation-wise as the British Museum has today.<sup>212</sup>

Building the Acropolis Museum is only one of many initiatives that Greece has taken to excavate and preserve the Acropolis, which were started as soon as Greece gained their independence. Just over a decade after Greece won their independence, the Greek Archaeological Service was formed with duties for conservation, excavation, and restoration of the Acropolis and other ancient Greek artifacts and monuments.<sup>213</sup> A few years later in 1837 the Greek Archaeological Society was founded, which repaired a lot of the buildings on the Acropolis. When air pollution began to affect the buildings on the Acropolis, a special committee was formed to fix the air pollution problem in order to preserve ancient structures.<sup>214</sup> In addition to these steps, professionals and organizations in Greece have constantly been studying ways to preserve artifacts better and

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<sup>211</sup> Hitchens, *The Parthenon Marbles*, 62.

<sup>212</sup> Hitchens, *Imperial Spoils*, 25.

<sup>213</sup> Hitchens, *Imperial Spoils*, 24-25.

<sup>214</sup> Hitchens, *Imperial Spoils*, 25.

update their practices, which led to the eventual creation of the Acropolis Museum and movement of the remaining marbles to the museum for preservation.<sup>215</sup>

Although Greece may not have been the best place for the marbles from the Parthenon to be at the time that they were removed, today Greece is at least equally capable of protecting the marbles as England is. Both have modern preservation practices and no longer have air pollution problems. Both countries also have museums that could adequately store and display the marbles for the public. Greece has also shown dedication to protecting the marbles since they gained independence, providing evidence for their passion for the Acropolis that was finally able to be put into action following Greek independence.

### *Greeks Did Not Try To Stop Elgin*

The argument that Greeks did not care about enough and oppose the taking of the marbles has proved to be untrue for several reasons. The Turks occupied Greece when the marbles were taken by Lord Elgin and his men; therefore, Greeks had no way to stop them from doing this.<sup>216</sup> They were under Turkish rule, so whatever the Turkish government decided to do could not be changed by Greek sentiment. There is also evidence that Greeks living near the Acropolis did oppose the removal of the marbles from letters written by Lord Elgin's men, urging him to acquire a firman so they would stop being hassled by these concerned people.<sup>217</sup> Finally, it is clear that Greeks do care about ancient artifacts, especially on the Acropolis, due to their vigorous work on protecting and preserving the Acropolis following Greek independence. Greece started restoring the Acropolis soon after they gained independence, and the Acropolis and the Parthenon became political symbols

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<sup>215</sup> Hitchens, *Imperial Spoils*, 116-117. For more information about footnotes 80, 81, 82, and 83 see also: Neils, *The Parthenon Frieze*. And Beard, *The Parthenon*.

<sup>216</sup> Hitchens, *Imperial Spoils*, 21.

<sup>217</sup> Hitchens, *Imperial Spoils*, 67.

of the new independent Greece whose capitol was Athens, proving that the Acropolis and the Parthenon are of significant value to the Greeks.<sup>218</sup>

### *Lord Elgin Had Good Intentions*

Another previous argument that has been proved to be dubious is the view that Lord Elgin took the marbles from the Parthenon with good intentions. As has been previously stated, Elgin did not visit Athens before the marbles started to be removed; therefore he could not have supported this action due to destruction he witnessed on the Acropolis.<sup>219</sup> He and many of his men repeatedly lied to the British government about this and other subjects like bribery, obtaining the firman using his position, and more.<sup>220</sup> Though claiming to want to preserve the marbles, Elgin and his men caused significant damage to the Parthenon and many sculptures in the process of removing the marbles.<sup>221</sup> Some even sunk when a transport ship sunk on the journey, and some of the marbles were never recovered.<sup>222</sup> Elgin was criticized by collections and noblemen when he returned to England because the marbles were in such poor condition.<sup>223</sup> Finally, if Elgin wanted to preserve the marbles it is logical that he would have just given them or tried to sell them to the British government upon his arrival in England in 1803, instead of waiting until 1811 to do so.<sup>224</sup>

Lord Elgin and some of his supporters also claim that bringing the marbles from the Parthenon to England would contribute to artistic learning across the world. He allowed many

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<sup>218</sup> James Cuno, *Who Owns Antiquity? Museums and the Battle over Our Ancient Heritage* (Princeton: Princeton University Press, 2008), x-xi.

<sup>219</sup> Hitchens, *The Parthenon Marbles*, 12.

<sup>220</sup> See 'Beginning of Controversy' section.

<sup>221</sup> Hitchens, *Imperial Spoils*, 12.

<sup>222</sup> Hitchens, *The Parthenon Marbles*, 33-35. See also: Hitchens, *Imperial Spoils*, 24. And Tournikiotis, *The Parthenon*, 302.

<sup>223</sup> Rothenberg, "Descensus ad terram," 164-165.

<sup>224</sup> Rothenberg, "Descensus ad terram," 256-257.

See also: Tournikiotis, *The Parthenon*, 233.

artists to view the marbles when they were being stored at his home, and a lot of artists praised the marbles for their beauty and superiority to modern sculpture. This admiration caused some artists to be influenced very heavily by the Parthenon and its marbles in their work.<sup>225</sup> Of the artists interviewed by the select committee of the House of Commons, only two said that they were not comparable to other great classical works of art.<sup>226</sup> While there was some definitive impact that the marbles had on British art, generally British art did not significantly change due to the presence of the marbles. Certainly artists may have learned about and appreciated classical art more, but the arrival of the marbles did not significantly change art.<sup>227</sup>

#### *The British Museum Is More Accessible*

Some modern critics of the repatriation movement of the marbles argue that more people can see the marbles if they stay at the British Museum.<sup>228</sup> This would definitely hold true of the 1800s and part of the 1900s, but is not necessarily true today. Greece and Europe in general has become much more accessible with the invention of modern modes of transportation. Although more people visit the British Museum annually than do the Acropolis Museum,<sup>229</sup> the British Museum is much bigger in scale and the number of visitors does not necessarily reflect the number that see the marbles in the museum. Finally, it is important to note the difference in presentation of the two museums. Perhaps more people are able to see the marbles if they stay in the British Museum, but this is not more important than viewing them in their original context on the Acropolis for a better understanding of them.

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<sup>225</sup> Rothenberg, *"Descensus ad terram,"* 228-283.

<sup>226</sup> Rothenberg, *"Descensus ad terram,"* Pg.408.

<sup>227</sup> St. Clair, *Lord Elgin*, 264-266.

<sup>228</sup> Hitchens, *The Parthenon Marbles*, 64.

<sup>229</sup> "Annual Report," *The Acropolis Museum*, n.d., accessed Oct. 10, 2017.

[http://www.britishmuseum.org/about\\_us/news\\_and\\_press/press\\_releases/2015/annual\\_review\\_2015.aspx](http://www.britishmuseum.org/about_us/news_and_press/press_releases/2015/annual_review_2015.aspx).

And: "The British Museum celebrates successes in London, the UK, and around the world: Annual Review Launch 2015," *The British Museum*, n.d., accessed Oct. 10, 2017. <http://www.theacropolismuseum.gr/en/content/annual-report>.



The marbles can be better understood and appreciated when placed next to the rest of the marbles and the building from which they came.<sup>230</sup> Right now the collection of marbles are separated, which contradicts their purpose. The sculptors who carved the marbles intended them to be shown unified in order to tell a story.<sup>231</sup> The sculptures were conceived and made together, and should be shown together as originally intended.<sup>232</sup> Furthermore, the buildings on the Acropolis were made to be cohesive and portray a sense of order.<sup>233</sup> The buildings in the city of Athens had been improved, and therefore the Acropolis was rebuilt in order to match these improvements.<sup>234</sup> It is logical then<sup>235</sup> to display the marbles together and in their original context in Greece in order for visitors to better understand the marbles as a whole, what they signify, and their place of importance in relation to the Acropolis and Athens as a whole.

#### *Repatriation Would Set A Precedent*

Another major criticism of repatriation of the marbles is that this action would set a precedent for all other objects in museums to be returned to their original place of origin. First it should be acknowledged that this case is a unique one and does not relate well to any other cases for repatriation. The marbles may have been taken illegally,<sup>236</sup> but there is not enough evidence to support either a legal or illegal conclusion, which limits significantly the number of cases of repatriation for which this decision would set a precedent. Greece has the capacity and ability to display the marbles, which not all other countries have if they were to be given repatriated artifacts. Although countries may develop more modern techniques and technologies for displaying and

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<sup>230</sup> Hitchens, *The Parthenon Marbles*, 15.

<sup>231</sup> Hitchens, *The Parthenon Marbles*, 24.

<sup>232</sup> Hitchens, *Imperial Spoils*, 26.

<sup>233</sup> McGregor, *Athens*, 38.

<sup>234</sup> Boardman, *The Parthenon*, 22.

<sup>235</sup> Sharon Waxman, *Loot: The Battle over the Stolen Treasures of the Ancient World* (New York: Henry Holt and Company, 2008), 238.

<sup>236</sup> For more information, see 'Legal Considerations' section.

preserving artifacts in the future, in which case this precedent would apply, currently many countries do not have these capabilities and will not in the near future. Another unique aspect is that about half of the artifacts are in one place and about half are in another, the British Museum and the Acropolis Museum.

A final factor that distinguishes this debate from others is the number, frequency, and length of time that Greece has been asking for repatriation of the marbles. As soon as Greece gained independence they began unofficially asking and pressuring Britain to repatriate the marbles from the Parthenon. This practice continued until the late 1900s, mostly due to the political systems in Greece during this time. The first official request for repatriation was submitted to Britain in 1983, not even a decade after Greece transitioned into a democracy.<sup>237</sup> The request was rejected formally in 1984 on the grounds that Elgin's actions were legal at the time, and on the multiple occasions such requests have been made since.<sup>238</sup> Greece also requested repatriation of the marbles through the UNESCO procedure for return of cultural treasures, but in 1985 the British government again claimed that Elgin legally acquired the marbles.<sup>239</sup> In 1988 a member of the House of Commons proposed that the marbles be repatriated to Greece, but this was rejected by Parliament on the grounds that this action would set a dangerous precedent.<sup>240</sup> Greece asking for the marbles back for hundreds of years, although unofficially at first due to political constraints, also signifies a unique aspect of this case which would not imply that precedent would be set if a decision was made to repatriate the marbles.

### **Legal Considerations**

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<sup>237</sup> Neils, *The Parthenon Frieze*, 241.

<sup>238</sup> Jeanette Greenfield, *The Return of Cultural Treasures* (Cambridge: Cambridge University Press, 1989), 83-84.

<sup>239</sup> Greenfield, *The Return*, 87.

<sup>240</sup> Greenfield, *The Return*, 87.

The legality of Lord Elgin's actions would help to shed some light on the obligation of the British Museum to repatriate the marbles to Greece. Whether or not Elgin used his influence or money to obtain the firman, he did supposedly have one. The only evidence that we have to go off about the contents of the firman is an Italian copy of the firman, testimonies from Elgin's men who worked in Greece, and letters from Lord and Lady Elgin about the firman.<sup>241</sup> The wording that allowed Elgin's men to take away "some pieces of stone with inscriptions or figures thereon..." were originally interpreted by allowing excavation and removal of pieces that were already detached from the Parthenon. Both Lord and Lady Elgin took the firman to mean this, although interpretation was up to the person reading it, which allowed Elgin's men to convince Turkish officials on the Acropolis that they had permission to remove marbles.<sup>242</sup> In addition to the vague meaning of the firman, only a copy of it has been produced, which is arguably not enough evidence to prove that Elgin had the legal right to remove marbles.

There are a few main bodies and conventions that have passed legislation and guidelines about the trade, selling, and repatriation of artifacts and antiquities. The two main conventions that produced protocol relating to artifacts and objects of significance are the Hague Convention of 1954 and the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention of 1970. The protocols released under these conventions have a few sections relevant to the Parthenon marbles debate. Article 1 of the Hague Convention protocol states that "a State party must prevent the export of cultural objects from territory it occupies during armed conflict" and "following cessation of hostilities, a State party must return all cultural objects removed in contravention of the protocol to the competent authorities of the territories occupied....there is no

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<sup>241</sup> St. Clair, *Lord Elgin*, 256-257.

<sup>242</sup> St. Clair, *Lord Elgin*, 91-92.

time limit for lodging a claim for the return of such cultural objects.”<sup>243</sup> The 1970 UNESCO protocol provided support and further detail, saying that “the export and transfer of ownership of cultural property under compulsion arising directly or indirectly from the occupation of a country by a foreign power shall be regarded as illicit” and all State parties should “take all appropriate measures to prohibit and prevent the illicit transfer of cultural property within the territories for the international relations for which they are responsible.”<sup>244</sup>

Although neither of these conventions have bodies for enforcing these protocols, Greece and the UK ratified the Hague protocol, Greece ratified the UNESCO protocol, and the UK accepted the UNESCO protocol.<sup>245</sup> This implies that these bodies agree with these protocols, although they seem to contradict Britain’s stance on the repatriation and legality of the Parthenon marbles being in the British Museum. Since there is so much uncertainty about the conditions of how the marbles were taken, it can be argued that this case does not fit neatly under any of these protocols, but it is at least similar and relevant to the ones presented. International bodies like the UN do not have authority to force countries to repatriate artifacts, but they can try to foster agreements.

In 1978 UNESCO created the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation Committee (ICOM), whose job was to facilitate agreements between countries about restitution

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<sup>243</sup> Ana Filipa Vrdoliak, *International Law, Museums and the Return of Cultural Objects* (Cambridge: Cambridge University Press, 2006), 149.

<sup>244</sup> Vrdoliak, *International Law*, 209.

<sup>245</sup> “Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention 1954,” *United Nations Educational, Scientific and Cultural Organization*, n.d., accessed Oct. 14, 2017. [http://portal.unesco.org/en/ev.php-URL\\_ID=13637&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13637&URL_DO=DO_TOPIC&URL_SECTION=201.html). And: “Convention on the means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. Paris, 14 November 1970,” *United Nations Educational, Scientific and Cultural Organization*, n.d., accessed Oct. 14, 2017. <http://www.unesco.org/eri/la/convention.asp?KO=13039&language=E&order=alpha>.

claims for objects removed prior to the 1970 convention.<sup>246</sup> Although this committee has not always been successful in brokering agreements, it has released several statements about what illicit trade is and guidelines for what objects should be repatriated. To summarize the relevant parts, ICOM states that museums should see evidence of a valid and legal title before accepting objects; museums should not accept objects that created damage to their monuments to be removed; museums should avoid purchasing objects removed from occupied territories as usually these are illegally exported; museums should repatriate objects that violate the UNESCO 1970 protocol if the country of origin asks; and members of the museum profession should fully comply with the ICOM code and other codes on museum ethics.<sup>247</sup>

UNESCO directly addressed the famous case of the Parthenon marbles and provided recommendations, and Greece also brought their concerns to ICOM. In 1982 at the UNESCO World Conference on Cultural Policies, the convention recommended that the marbles be returned, since they are “a symbol of eternal significance for the Greek people.”<sup>248</sup> In 1983 Yannis Tzedakis, then the Director of the Department of Antiquities at the Ministry of Culture in Athens, said that removing the marbles “destroyed the unity of a unique monument,” and “all countries have the right to recover the most significant part of their respective cultural heritage lost during periods of colonial or foreign occupation.”<sup>249</sup> In addition, the director-general of UNESCO in a speech in 1970 said that “the return of a work of art of record to the country which created it enables a people to recover part of its memory and identity, and proves that the long dialogue between civilizations which shapes the history of the world is still continuing in an atmosphere of mutual respect between

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<sup>246</sup> Vrdoliak, *International Law*, pg. 211. See also: Greenfield, *The Return*, 221.

<sup>247</sup> Marie C. Malaro, *Museum Governance: Mission, Ethics, Policy* (Washington: Smithsonian Institution Press, 1994), 151-155.

<sup>248</sup> Greenfield, *The Return*, 76-77.

<sup>249</sup> Greenfield, *The Return*, 67-68.

nations.”<sup>250</sup> ICOM attempted to facilitate an agreement between the British Museum and the Acropolis Museum, but Britain refused to acknowledge their attempts.<sup>251</sup>

In an ideal world, most repatriation cases could be solved through international committees like ICOM, however since they have no official power many countries simply ignore the parts of code and protocol that they do not wish to follow since there are no real repercussions. Even if a committee like ICOM makes a ruling on a case, they have no way to enforce that ruling. The only body that could force the British Museum to repatriate the marbles to Greece would be the British Parliament. Since they have denied all political requests to repatriate the marbles to Greece, it is doubtful that they will ever force the museum to do so. Since these legal considerations of the legality of the firman and how this case applies to international protocol are inconclusive in providing a clear answer, it is necessary to turn to ethics for further consideration.

### **Ethical Considerations**

In order to debate ethical concerns, the term cultural property must first be defined and applied as it is used throughout scholarly literature about repatriation and this specific case. As one prominent scholar writes, “antiquities are the cultural property of the nation, products of the collective genius of its nationals, important to their identity and self-esteem. They are of the nation and cannot be alienated from it.”<sup>252</sup> In simpler terms, cultural property should be thought of as property of its culture since it is part of their heritage. Some scholars argue that cultural heritage should belong to the world instead of individual countries, but this is dangerous because this allows the most powerful countries to justify their taking of antiquities by using this logic.<sup>253</sup> Especially in the case of the Parthenon marbles, the country of origin should have access to the most famous and

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<sup>250</sup> Vrdoliak, *International Law*, 197.

<sup>251</sup> Greenfield, *The Return*, 87.

<sup>252</sup> Cuno, *Whose Culture?*, 1.

<sup>253</sup> Greenfield, *The Return*, 81.

revered antiquities of their culture in order to preserve their heritage and proud moments of their forebears. The ICOM committee of UNESCO argues that “an object likely to provoke a call for restitution is defined as that object which is highly charged with cultural significance. It therefore follows that the removal of this object from its original cultural context irrevocably divests that culture of one of its dimensions.”<sup>254</sup>

Some museums like the British Museum argue that the universality of major museums is more important than individual countries keeping all of their cultural property to themselves.<sup>255</sup> Many major museums around the world have published their stance that repatriation presents a threat to the universality of their museums.<sup>256</sup> Many scholars have criticized ‘nationalist retentionist cultural property laws’ as “segregating the world’s cultural property within the borders of modern nation-states” and that they “serve the interests of one particular modern nation at the expense of the rest of the world.”<sup>257</sup> By this line of thinking, any artifact that is extremely culturally significant could be displayed in any museum in the world. Arguments like this ignore the value of seeing objects in their original place of origin, whether that be an archaeological site or just the country it came from.

These arguments also diminish the importance of cultural property for the country who owns it, when normally pieces of cultural property relate to the heritage of a culture and are important for cultures to keep objects related to and learn about and from their heritage.<sup>258</sup> The Acropolis and Parthenon are inalienable parts of Greek history and belong to the people of

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<sup>254</sup> Greenfield, *The Return*, 253.

<sup>255</sup> “The Parthenon Sculptures,” *The British Museum*, n.d., accessed Oct. 20, 2017.

[http://www.britishmuseum.org/about\\_us/news\\_and\\_press/statements/parthenon\\_sculptures.aspx](http://www.britishmuseum.org/about_us/news_and_press/statements/parthenon_sculptures.aspx).

<sup>256</sup> Gail Anderson, ed., *Reinventing the Museum: The Evolving Conversation on the Paradigm Shift* (New York: Altamira Press, 2012), 414.

<sup>257</sup> Cuno, *Who Owns Antiquity?*, 124-126.

<sup>258</sup> See earlier argument in ‘Ethical Considerations’ section.

Greece.<sup>259</sup> Monuments and artifacts such as the Parthenon and its marbles are a “crucial link between group members and their ancestors and heirs; a relationship that satisfies a basic need for identity and also symbolize[s] shared values.”<sup>260</sup> By ignoring the importance of heritage and context, the meaning behind the marbles and their value to Greek society are lost.

Ethical conduct standards have developed over time, but current standards for the museum profession are relatively consistent and should be seriously considered by museums around the world. Legal requirements are the very minimum requirements that museums should abide by, but ethics requirements are higher and reflect the integrity and character of museums. Some museums do not abide by ethical codes since usually they are non-enforceable, whereas legal codes are.<sup>261</sup> Ethical codes can be indirectly enforced however, by “self-education, self-motivation, and peer pressure for their promulgation” and “a consistent and voluntary commitment from a sizable portion of the profession.”<sup>262</sup> Museums that do not follow codes such as ones set forth by UNESCO and ICOM may be subject to such indirect enforcement. In addition, these codes may be indirectly enforced by the fear of public outcry if museums fail to follow ethical guidelines.

Another aspect of ethical behavior is to update standards and beliefs based on modern realities and practices. Whereas once the marbles may have been better off in Britain, today Greece has the ability to house the marbles just as well.<sup>263</sup> The marbles from the Parthenon are scattered around the world today, which creates associability problems. As many scholars argue, “there is little basis for objects from one site to be housed in several museums. If such a scattered collection could be consolidated at the museum closest to the site of origin, archaeological interpretation would be

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<sup>259</sup> Cuno, *Whose Culture?*, 172.

<sup>260</sup> Cuno, *Whose Culture?*, 173.

<sup>261</sup> Heather Hope Kuruvilla, *A Legal Dictionary for Museum Professionals* (Lanham: Rowman & Littlefield, 2016), 172-173.

<sup>262</sup> Malaro, *Museum Governance*, 17.

<sup>263</sup> See previous arguments in the ‘Ethical Considerations’ section of this paper.



enhanced” and “the field has matured to a point where avarice is a professional disservice that impedes research, forcing investigators to criss-cross the country examining portions of the same collection in multiple museums.”<sup>264</sup> It can easily be argued that the British Museum is being selfish, and perhaps even nostalgic of its imperial past,<sup>265</sup> in not wanting to give up some of their most prized collections, instead of realizing the modern realities of the situation and adjusting their behavior according to modern ethical standards.

The actions of the British Museum do not fit with modern ethical standards, even if it was somehow able to prove the legality of Lord Elgin’s actions in the early 1800s. Museums must be held accountable to modern ethical standards and reevaluate their actions based on modern considerations instead of focusing solely on the past. If actions of the past were legal but are not considered ethical today, a museum with integrity would correct their actions and views to reflect modern standards of ethics. As it is, the current legal debate about the Parthenon marbles is inconclusive; therefore ethics must be significantly considered in this case.

### **Possible Solutions**

There are multiple possible solutions that could be agreed upon in order to solve the repatriation debate of the Parthenon marbles, but Greece and Britain would have to work together in order for any of these to occur. One possible solution would be that the British government rules that the British Museum has to repatriate the marbles to Greece. This is possible since they have the power to do this, however unlikely because they have repeatedly denied political propositions of repatriation submitted by Greece.<sup>266</sup> Greek officials have threatened to sue the British Museum in British court, however it is also unlikely that British courts would decide in favor of Greece.<sup>267</sup> This

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<sup>264</sup> Ernestene L. Greene, *Ethics and Values in Archaeology*. (New York: Free Press, 1984), 137.

<sup>265</sup> David Lowenthal, *Possessed by the Past: The Heritage Crusade and the Spoils of History* (New York: Free Press, 1996), 5-6.

<sup>266</sup> Refer to ‘Legal Considerations’ section of this paper.

<sup>267</sup> Greenfield, *The Return*, 87.

solution is possible, but unlikely and would not resolve the tension between the British Museum and Greece. A legal ruling would be more straightforward and easy to enforce, but there would likely be resentment from the British Museum and possibly British citizens.

Another possible solution is that the British Museum loans the marbles to Greece for a period of time, or indefinitely. Even a short-term loan seems unlikely, since the British Museum would not loan the marbles to Greece even when they hosted the 2004 Summer Olympics.<sup>268</sup> If the museum decided on a loan, even short-term, this could be an important first step to a permanent agreement of some sort between the two countries. However a loan, even long-term, would not completely dissipate tensions but would prolong them. It could even create anger from British citizens, which would make the British Museum less willing to make a permanent agreement with Greece.

It seems like the best, and most ethically and logically sound solution, would be for the British Museum to repatriate the Parthenon marbles to Greece. This solution seems highly unlikely due to prevailing attitudes in British government and the British Museum. If this was decided however, the British Museum could keep casts of the sculptures to display in their museum, much like the Acropolis Museum uses today.<sup>269</sup> This way they could still keep the display open and would not completely lose one of their most valuable collections. If the British Museum did decide on repatriation they would likely gain more respect from international communities and museum professionals, and could even be a leader which influences more museums to reconsider how modern ethics relates to their policies. This could cause some museums to fear repatriation precedents being set; however, it is important for all museums to consider modern ethics and

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<sup>268</sup> Jason Felch and Ralph Frammolino, *Chasing Aphrodite: The Hunt for Looted Antiquities at the World's Richest Museum* (Boston: Houghton Mifflin Harcourt, 2011), 229.

<sup>269</sup> "Troubled history capped with success," *The New Acropolis Museum*, n.d., accessed Nov. 2, 2017. <http://www.parthenon.newmentor.net/museum.htm>.

evaluate their policies. Considering the inconclusive legal debate, modern ethical principles, and the length and depth of the concerns over repatriation, the best course of action appears to be repatriation.

## **Conclusion**

Since the debate over repatriation of the Parthenon marbles is very unique, it seems illogical and unfair to compare other debates and cases with this one. One must focus on the modern arguments, which have changed from past arguments due to development and changing political and professional practices in Greece and Britain. Modern arguments about where the Parthenon marbles would be most safe are inconclusive, since both countries are equally capable of protection and preservation today. Legal arguments about whether Lord Elgin's actions were legal are also inconclusive due to lack of evidence. One must rely on the only arguments left, which are logical and ethical. It seems logical for the marbles to rejoin the rest of the collection and to be displayed as close to their original context as possible. It seems ethical for the British Museum to repatriate the marbles based on current ethical standards on illicitly exported artifacts and on artifacts taken during foreign occupation. Although no one can force the British Museum to repatriate the marbles from the Parthenon, hopefully they will seriously consider these points being made and decide to change their stance.

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**Author Biography**

I am currently a senior and will be graduating in May with majors in History and Classical Studies and minors in Leadership Studies and Museum Studies. I am a member of the National Honors Society Alpha Chi, History Honors Society Phi Alpha Theta, Classics Honors Society Eta Sigma Phi, and Leadership Honors Society Omicron Delta Kappa. I am a member of Classics Club and the Master of Rituals for Alpha Kappa Psi business fraternity. I have had internships at The Mariners' Museum, The Library of Congress, and I am currently a Historian intern at NASA Langley Research Center. I will be starting graduate school in the fall in pursuit of a Master's degree in History and Library and Information Science.

**“A Shifting National Identity in Twentieth Century Mexican Photography”**

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**Abstract**

The Mexican Revolution differed from other major revolutions in the past because, due to advanced technology in the twentieth century, it was one of the first to be documented on camera. Not only did the resulting photos provide a better overall image of various aspects of the conflict, but they also captured the shifting national identity during the Mexican Revolution and post-revolutionary Mexico. For this reason, in the essay I will analyze six images taken by three distinct photographers during the time period—Agustín Victor Casasola, Hugo Brehme and Tina Modotti—in order to support my argument that separate regions in Mexico built a homogenized national identity by putting aside their differences in order to fight against social and economic injustices during the Mexican Revolution, but that this identity fell apart in post-revolutionary Mexico. I will analyze the photos by examining them for elements of propaganda in addition to applying Roland Barthes’s theory about *studium* and *punctum*, Bertolt Brecht’s theory about the distancing effect, and Jacques Rancière’s theory of the emancipated spectator. By doing so, I will determine whether each of the three photographers aimed to portray a homogenized national identity in their work or the identity’s ultimate decline following the Mexican Revolution.

According to John Mraz in *Looking for Mexico: Modern Visual Culture and National Identity*, “Social revolution sweeps away established ways and makes problematic the very structures of identity that had reigned until that pivotal moment” (76). This claim rang true for the decade-long Mexican Revolution that began in 1910. The conflict created a homogenized national identity that united different regions in Mexico like never before. However, the portrayal of the Mexican Revolution differed from depictions of revolutions in the past because, due to advancing technology in the twentieth century, the Mexican Revolution, post-revolutionary Mexico, and Mexicans’ shifting identity were all documented on camera for the first time by three major photographers: Agustín Víctor Casasola, Hugo Brehme and Tina Modotti. In this essay, I will contend that the Mexican Revolution sparked a homogenized national identity in which various regions in Mexico put aside their differences and came together to fight against social and economic injustices that had been occurring for years before the conflict. However, I will then assert that the homogenized national identity faded in the years following the Mexican Revolution. In order to support the argument, I will analyze whether each photographer places more emphasis on Roland Barthes’s theory of *studium* or *punctum*. Additionally, I will study the photographs in order to determine whether they exhibit elements of propaganda. Finally, I will apply Bertolt Brecht’s theory about the distancing effect and Jacques Rancière’s theory of the emancipated spectator to photographs that emphasize *punctum*. Applying these theories to various photographs will allow me to discover whether each photographer aimed to portray the homogenized national identity or its decline.

Before introducing each photographer, however, it is necessary to discuss the importance of the Mexican Revolution for three groups: *campesinos*<sup>270</sup>, industrial workers and *pequeña burguesía*<sup>271</sup>, and provincial elites. These classes of Mexicans joined forces during the Revolution in order to fight for

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<sup>270</sup> Peasants; farmers

<sup>271</sup> Petite bourgeoisie



their rights, and they also became the main focus of various photographs, a few of which I will analyze throughout the essay. In the late 1800s, the government passed new laws about land possession, which allowed wealthy landowners within Mexico to acquire land (Boyer 41). Foreign landowners also began taking over land throughout Mexico and creating haciendas. These circumstances resulted in less farmland for *campesinos* throughout Mexico. John M. Hart explains in *Revolutionary Mexico: The Coming and Process of the Mexican Revolution* that, “by 1910, American real estate holdings totaled over 100 million acres and encompassed much of the nation’s most valuable... agricultural and timber properties” (6). This dispossession of property for *campesinos* led to their rebellion during the Mexican Revolution, in which they fought to reacquire their land and municipal independence (348).

Provincial elites in Mexico also became concerned about foreign—mainly American—colonists possessing land and resources in the country, but for different reasons than the *campesinos*. As a result of excessive foreign capital in Mexico, provincial elites feared losing territories to North American colonies. According to Hart, “those concerns, combined with a fiscal crisis... led provincial elites to feel they were being denied the opportunity to participate in the country’s economic growth,” which resulted in their participation in the Revolution (6).

As a result of oppression, poor working conditions, and inequality in the workforce throughout Mexico, industrial workers and the *pequeña burguesía* fought in the Revolution in order to overthrow Porfirio Díaz’s dictatorial government. Their goal was to reach a more equal and democratic society. Hart added that the two groups called for “wage equity with foreigners, income sufficient for a decent living, women’s rights, more civil liberties, secular education, opportunity for all, and... workers’ control over the means of production” (355).

Before the Mexican Revolution began, different classes within Mexican society rarely identified with one another. Instead, people would identify with others who were members of their specific groups or regions. However, during the conflict, different classes and regions in Mexico, including the *campesinos*, industrial workers, *pequeña burguesía*, and provincial elites altered their various local identities into one strong national identity. They homogenized their identity in order to join together and fight for social and economic justice within Mexico. Even though the circumstances leading up to the Mexican Revolution affected each region in a different manner, Mexicans realized they should become united in order to fight against the problems they were facing in society so that they would become stronger and have a better chance at success. For this reason, the newly homogenized national identity became “an all-inclusive concept that elevated the indigenous heritage, peasant tradition, entrepreneurship, and industrial spirit” (Moreno 9).

Keeping this information in mind, the “basic idea of [social identity theory] is that a social category (e.g. nationality...) into which one falls, and to which one feels one belongs, provides a definition of who one is in terms of the defining characteristics of the category” (Hogg et al. 259). This definition means that, when people see themselves as part of a group—which would be Mexico as a whole after the homogenization of identity—then they are able to define who they are and what their identity is. Hogg et al. also add that, when contextual factors that define an identity change (the Mexican Revolution being the contextual factor in this case), then people will reconstruct their identity based on the situation (265). This applies to Mexicans during and after the Mexican Revolution because regional identities throughout Mexico transformed into a homogenized national identity for all Mexican people in order to oppose social and economic injustice in the country. However, as earlier stated, this shared identity did not last long after the conclusion of the conflict. Throughout the essay, I will refer to the homogenized national identity as *mexicanidad*—a term

borrowed from Mraz—while discussing each photographer’s depiction of the concept within their photographs.

The first photographer that played a key role in documenting the changing Mexican identity was Agustín Víctor Casasola (1874-1928). Casasola was born in Mexico City, Mexico, and because he owned a well-known newsphoto agency during the Mexican Revolution, he was a major contributor in both photographing and compiling images from the conflict. Additionally, Casasola’s photographic style consisted of images with an explicit and pronounced idea or message, and the explicit idea was typically focused around brave, strong, proud and determined leaders and rebels from the Mexican Revolution. Therefore, it is evident that Casasola’s photos aimed to both demonstrate and promote the homogenized national identity that formed in order to fight against social and economic injustices.

In order to express ideas explicitly and promote the *mexicanidad*, Casasola utilized propaganda within his photos. Propaganda is a form of persuasion that portrays ideas in a direct and straightforward manner so that viewers do not need to think critically to understand the message. Additionally, two major characteristics of propaganda are that it appeals to the feelings of the masses and that it tends to follow a stereotypical formula (Casey 102-103). Casasola’s photographs had such a strong element of propaganda that they became known as postcards, which “[strove] to reassure the viewer that the horrific stories told about the revolution [could not] be all true” by portraying strong and courageous leaders that guided united Mexicans in a fight against injustice (Legrás 12).

As a result of these propagandistic elements, it becomes evident that Casasola’s photographs exhibited an emphasis on *studium*, which is the aspect of a photograph that initially attracts the attention and general interest of the viewer. Additionally, it is something that the spectator understands without having to think critically about the significance of the photo (Fried 539). For

this reason, according to Barthes, *studium* ‘is inevitably to encounter the photographer’s intentions... to approve or disapprove them, but always to understand them’” (542). In contrast, *punctum* is the additional element in a photograph that further catches the viewer’s attention and interest, which prompts the viewer to think more critically in order to interpret a subtle significance within the photo. For instance, Barthes explains that the *punctum* “‘pricks’ or ‘wounds’ or ‘bruises’ a particular viewer’s subjectivity in a way that makes the photograph in question singularly arresting to him or her” (539). This quote also demonstrates that the elements of both *studium* and *punctum* depend on each specific viewer’s interpretations.

Two images that demonstrate Casasola’s photographic style and emphasize *studium* are Figures 1 and 2, both of which were taken from the Casasola Archive.<sup>272</sup> Figure 1 depicts Emiliano Zapata on horseback, and a building from a small *pueblo* is most likely in the background. If this is the case, it would be a fitting location for a photograph since Zapata was the leader of the *campesinos* on the agrarian side of the Mexican Revolution, and many *campesinos* lived in pueblos (Boyer 46). In the photo, Zapata sits with his back straight and his arm resting firmly on his right leg while facing the camera; a lasso is suspended beside his knee. Figure 2 portrays Francisco “Pancho” Villa sitting in the presidential chair alongside Emiliano Zapata, and the two men’s followers surround them. Villa was another key figure in the Mexican Revolution, well known for leading rebels from Northern Mexico, most notably in Chihuahua (Hart 13-14). In the photo, Villa smiles while Zapata and the majority of their followers have stern expressions. Additionally, there are several different

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<sup>272</sup> The Casasola Archive is a collection of Casasola’s photographs and compilations from his years of working with photography, several of which were taken during the Mexican Revolution. Casasola often removed photographers’ names from their photos and replaced them with his own name. For this reason, unnamed photographers took many of the photographs in the Casasola Archive, so it is impossible to identify the true photographer of each image. Therefore, I will refer to the photos from the Casasola Archive as a compilation instead of referencing a specific photographer (Gautreau 114).

hats in the photograph, including the sombrero of the *campesinos*, smaller hats that resemble a cowboy hat, and the general's hat that Villa holds.

The two images follow Casasola's style of demonstrating explicit messages about the bravery, determination and pride of leaders and followers during the conflict in order to both portray and promote the homogenized national identity. For instance, in Figure 1, Zapata's stance and position on horseback, along with the way in which he holds the horse's reigns, represent his role as a confident and determined leader during the Revolution. Furthermore, his demeanor and clothing choice also show that he is an experienced and professional commander, despite allegations that he "and his *campesinos*... [were] cruel and ferocious savages" (Mraz 69). Additionally, Zapata's and the followers' serious expressions in Figures 1 and 2 demonstrate their determination to win the conflict and achieve their goals of social and economic justice. Villa is the only person in the photo smiling besides a young child, and there are a few reasons that the photographer might have portrayed him in this way. The first would be in order to demonstrate his pride for the union of followers that he and Zapata brought together in order to fight against injustices. Another possibility might be that the photographer was attempting to reject the belief that Villa was a "'primitive,' 'barbarous,' and 'vain'... [leader] who ruled by fear" by having him smile in order to show viewers that he was a humble and compassionate leader whose main goal was to lead his followers to victory alongside Zapata (69).

These photographs also exhibit propagandistic elements that assist Casasola in his attempts to make the message explicit. The main characteristic of propaganda in Figure 1 is its stereotypical formula because, as described earlier, Zapata sits on a horse with a confident posture and stern expression like leaders in images throughout history. Zapata poses this way in order to convince viewers of his determination and courage to succeed in reaching social and economic injustice. The

principal aspect of propaganda in Figure 2 is its appeal to the emotions of the masses. The masses in this case are the Mexican people because the Revolution affected all Mexicans for some reason or another, and since many participated in the conflict, the photo attempts to show viewers how success will look when Zapata, Villa, and their followers succeed in winning the conflict and reaching social and economic justice. This is demonstrated in the photo because leaders from the Mexican Revolution that assisted in uniting Mexicans against unfair treatment are holding positions of power (demonstrated by the presidential chair) and have brought together Mexicans from different social classes—made evident by the varying hats and clothing choices—into one group, which demonstrates their accomplishment of equality and justice for all.

When tying together all these factors of Casasola's photographs, it becomes evident that he placed more of an emphasis on *studium* in his images. Several aspects from the photographs that were described above could catch someone's initial attention, but the viewer should easily be able to understand each element without thinking critically because of the propagandistic features in the photos. Therefore, Casasola utilized an emphasis on *studium* in order to promote the idea of strong, confident and determined leaders and followers during the Revolution in an attempt to both demonstrate the homogenized national identity of those fighting during the conflict and also to promote the identity for the rest of Mexico.

The second photographer that made a significant impact by documenting the shifting Mexican identity in the twentieth century was Hugo Brehme (1882-1954). Brehme was born in Germany, and he moved to Mexico just before the revolution in 1906. However, unlike Casasola's straightforward method of photography, Brehme's photographic style demonstrated much more ambiguity because his photos did not portray one fixed identity. The lack of a single established identity in his images most likely occurred because Brehme worked as a photographer in Mexico

during the transition between the Mexican Revolution and post-revolutionary Mexico. For this reason, I will contend that his earlier photographs depict the homogenized national identity that Casasola aims to illustrate in his photos while Brehme's naturalistically themed images following the conflict begin to show a shift toward the diminishing of *mexicanidad*.

Since Brehme's photographs from the Mexican Revolution follow the same theme as Casasola's images of an explicit idea that depicts proud and confident leaders and rebels in an attempt to portray *mexicanidad* during the fight against injustices, they also share the same characteristics of propagandistic elements and an emphasis on *studium*. For instance, Figure 3 shows a group of Zapatistas<sup>273</sup> standing in a line while gripping rifles. All of the Zapatistas pose in the same way by having stern expressions, holding their rifles upright, and wearing sombreros to show that they are most likely *campesinos*. In addition, each member of the group wears the same shirt and shoes and similar pants. Some men also have bandoliers across their chests, and three men wear sarapes as well.

Brehme demonstrates the explicit message of bravery, confidence and strength in this photograph by having the Zapatistas look at the camera with stern expressions while forcefully gripping their rifles. The expressions on their faces show that they are taking the fight for social and economic justice seriously, and that it will be difficult to overpower them during the conflict because they are entering the battle with both bravery and confidence. Furthermore, the fact that they are holding rifles shows their preparation for fighting in the conflict, and their strong grip on the guns represents the strength with which they plan on entering the conflict to demonstrate that they will not be easily defeated.

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<sup>273</sup> Followers of Zapata that fought on the agrarian side of the Mexican Revolution for social and economic justice for *campesinos*

The photo also exhibits characteristics of propaganda that help Brehme make his idea more explicit and direct for the viewer. The main aspect of propaganda in Figure 3 is the stereotypical formula. For example, the photo is very obviously posed, which means that it is attempting to portray a specific image for the public eye. In this case, that image is one of determination and confidence because, even though viewers will see that the photo was not candid, it will most likely still paint a picture in their minds that the Zapatistas are strong and capable, so they will have a better chance of winning the Mexican Revolution. Another aspect of the stereotypical formula in the photo is that all of the men are dressed the same, standing in the same position, and holding the same weapon. This demonstrates to the viewer that the men are all very clearly united for a single cause and, for that reason, are more likely to win the conflict. This is also the most direct representation of the homogenized national identity in the image because the men all share the same identity of Zapatistas—and, most likely, *campesinos* because of their sombreros and clothing choices—that have joined forces to fight against social and economic injustices in Mexican society.

Since Figure 3 demonstrates characteristics of propaganda, I will contend that the photographer also emphasizes *studium* in the image. This is because there are several aspects of the photo that could initially catch the viewer's attention, including their stern expressions, the rifles in their hands, or the fact that they are all standing in the same position. However, Brehme's utilization of propagandistic elements in the photo causes the message about bravery, courage, and determination to be even more explicit in the photograph. Therefore, there is no reason for the viewer to think more critically about the image, so viewers are likely to recognize the portrayal of the homogenized national identity simply through elements of *studium*.

Despite the photographer's explicit portrayal of a homogenized national identity in his work during the Mexican Revolution, however, Brehme's photographic style changed drastically during



the societal shift to post-revolutionary Mexico. Instead of utilizing propagandistic elements and an emphasis on *studium* to illustrate confident leaders and followers, Brehme began to focus on the idealistic, romanticized, and beautiful elements of the Mexican landscape. This version of Brehme's photography was "influenced by the Pictorialist movement, which reflected painterly principles of composition and idealized the rural life" (Mraz 79). Additionally, his photography of landscapes often included *campesinos* somewhere in the images because they worked with the land more than anyone else in Mexico. For this reason, he aimed to portray "Nature... as the quintessence of Mexico, and *campesinos*... as products of earth and sky" (80).

Since Brehme's photography from post-revolutionary Mexico seemed to romanticize the country, many people viewed it as a type of propaganda that attempted to attract tourists to the country. For this reason, Brehme's photography received attention and was eventually "published in tourist guides, illustrated magazines, newspapers, and books in Germany, the United States, and Mexico, including *National Geographic*" because it idealized and beautified a country that was still recovering from a decade of violence (81). The Mexican government during this time period even supported and promoted Brehme's naturalistic photography because, according to Mraz, Brehme "gave the people and the government what they wanted to see, rather than challenging them to think about photography or Mexico in different ways" (81).

However, this is the point when Brehme's style, along with the idea that he aims to portray, become more ambiguous. The uncertainty mainly occurs because Brehme does not seem to be demonstrating a homogenized national identity in the photographs of landscapes since the images lack any sort of unity between Mexicans in society or fighting against injustices. Instead, he typically only shows that *campesinos* are attached to the land in Mexico. Therefore, despite the common belief that Brehme's photos of nature in Mexico only acted as a method of tourism, the idea presented in

Brehme's work might not have been this explicit. It is possible that viewers must examine and reflect more on these photos in order to interpret a less obvious idea in them. For instance, the subtle inclusion of *campesinos* in the photos seems to demonstrate that the *mexicanidad* faded in post-revolutionary Mexico because this group was still facing social and economic inequalities that Mexicans began to ignore once again. These injustices were occurring because, even though some agrarian reforms resulted from the conflict, it took time to redistribute land to the *campesinos* (Nolan-Ferrell 551). Additionally, even though *campesinos* did gain more land, they still "[received] scant economic benefits from labour and agrarian policies," meaning that many still suffered from poverty (581). Therefore, I will contend that Brehme's photographs of *campesinos* and the Mexican landscape attempted to demonstrate the continuation of economic injustice for *campesinos* in Mexican society following the conflict that resulted in their marginalization and, consequently, their inescapable bond to the land that provided them with a small income and, therefore, was their only source of survival.

Figure 4 is a primary example of Brehme's landscape photography in post-revolutionary Mexico that demonstrate injustices for *campesinos*. In this image, a group of *campesinos*—made recognizable by their sombreros and simple clothing—stand underneath a stone archway in Atlixco, Mexico. Brehme successfully demonstrates the connection between *campesinos* and nature because the men blend in so well with their surroundings of dirt and stone—both natural elements—that they seem to be extensions of the earth. The walls of rock and clay surrounding the men also stand out in the photo because of the camera's angle and focus, and the tree interrupts the image, so it also becomes a focal point. Finally, even though the arch is a manmade object, it appears to grow out of the hillside—much like the trees and grass that surround it—giving it a naturalistic quality as well. In contrast to these elements of the photo, the city of Atlixco seems to simply act as a blurred background to the image's natural aspects, showing the viewer that it is not meant to be the focus.

These characteristics of the photograph go along with the common belief that Brehme's main goal was to portray natural landscapes and scenic views in Mexico in order to increase tourism.

However, after further analyzing the photograph, the viewer might notice that there are other less explicit ideas in the image as well. The elements that cause the viewer to interpret these ideas are the *punctum*, which Brehme places more of an emphasis on in his landscape photography. Viewers may identify different elements of *punctum* depending on their specific analysis, but, upon examining the photo more thoroughly, the element of *punctum* that caught my attention was the divide between the *campesinos* and the city, which is made evident by the arch and the walls coming to an end before the city comes into view. This divide seems to represent the marginalization of *campesinos* in Mexican society because it separates them from the progress in Atlixco with an invisible boundary. In doing so, it shows that the *campesinos* are still facing unequal treatment following the conflict because they are figuratively blocked off from the city. This boundary could represent the lack of economic benefits that resulted from the agrarian reforms, meaning that these *campesinos* and many others are still living in poverty while the city becomes wealthier and prospers. For this reason, the *campesinos* may not be extensions of the land, but instead, simply attached to and controlled by the land because they have no other option for work and income; it is their only means of survival. Brehme's image demonstrates that *campesinos* are still facing social and economic injustices, but the difference in this photo and his previous one is that there is no unity between different regions that seem to be fighting for the rights of *campesinos*. This, in turn, demonstrates the diminishing of a homogenized national identity in post-revolutionary Mexico.

The *punctum* mentioned in this photo—and in Brehme's landscape photography in general—produces the distancing effect, which is an effect that “[strips] the event of its self-evident, familiar, obvious quality and [creates] a sense of astonishment and curiosity about [it]” (“Brecht's ‘Epic

Theatre”). The theory was initially meant for theater, but it applies to photography as well because of the elements of *punctum* that cause viewers to become more interested in an image. For example, in Figure 4, even though there are familiar qualities within the photo, such as its natural elements, the *punctum* produces curiosity that causes the viewer to further examine the photo. Consequently, the viewers of this photo—and of all images that exhibit *punctum*—become emancipated spectators because they are actively contemplating subtle meanings within the photograph and making their own conclusions (Rancière 22). For instance, my interpretation is that of an emancipated spectator because I analyze the elements of *punctum* in the photograph and deduce that Brehme’s idea behind the image was not only to promote tourism, but also to portray the inequalities that *campesinos* continued to face following the Mexican Revolution despite the agrarian reforms that were passed. Additionally, the interpretation led to the conclusion that Brehme simultaneously indicated the decline of a homogenized national identity in post-revolutionary Mexico because the various regions returned to ignoring injustices instead of fighting against them.

The third photographer that greatly impacted twentieth century Mexican photography by documenting the altering national identity was Tina Modotti (1896-1942). Modotti grew up in Italy, and she moved to Mexico in 1923, which was about six years after the Mexican Revolution concluded. She was also a Marxist, so her leftist ideas about the need for equality greatly influenced the focus and messages in her work (Mraz 82). For example, she aimed to photograph different groups in Mexican society, including *campesinos*, women, industrial workers and the *pequeña burguesía*, in order to demonstrate social and economic injustices, inequalities for women, and class disparities that still occurred regularly in post-revolutionary Mexico. Therefore, the focus of her photography represents that the homogenized national identity did not last in Mexico after the conflict came to an end because there were still ongoing inequalities throughout Mexican society, but a lack of unity in fighting against them. However, Modotti’s expression of her ideas is much like that of Brehme’s

landscape photos because she does not convey them in an explicit manner. Instead, the viewer must examine the images more thoroughly in order to interpret the Marxist ideas within them. For this reason, Modotti emphasizes *punctum* in her work because viewers must find elements within the photos that cause them to think critically in order to interpret it. Additionally, as earlier stated, these elements of *punctum* lead to the distancing effect, meaning that viewers of her work become emancipated spectators because they draw their own conclusions about the ideas in the images.

Figures 5 and 6 both exemplify Modotti's Marxist ideas and the diminishing of the *mexicanidad* through *punctum*. For example, at first glance, a viewer might think there is nothing more to Figure 5 than a woman carrying a jug of water on her shoulders since this is a fairly common image to see in countries around the world. However, after finding an element of *punctum* within the photo and thinking critically about it, an emancipated spectator is more likely to see examples of inequalities and Marxist ideas within the image. For instance, after examining the image thoroughly, the woman's clothing, along with the task she is completing, show that she is most likely a *campesina*.<sup>274</sup> Additionally, the elements of *punctum* that stood out to me were the water droplets rolling down the sides of the jug, the woman's clenched hand and bent elbow while straining to hold the weight, and the blanket on the woman's back that provides support. All these aspects of the photo represent the jug's excessive weight, and that the woman is most likely using all of her strength, but still struggles to carry the water. Therefore, the elements aim to represent the *campesinos* in Mexico that are forced to complete strenuous work for their entire lives in order to survive because of the economic inequalities they face in Mexican society, such as agrarian reforms that provided few economic benefits for the impoverished. Mraz further contributes to the analysis of the *campesina* by writing that she is "condemned to a life of arduous tasks, and... [the] shawl [is]

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<sup>274</sup> A female farmer or peasant living in rural Mexico

incorporated into the labor process rather than as an exotic trapping” (Mraz 77). Mraz makes an interesting point when he mentions that the woman utilizes her shawl for labor processes. This indicates that, instead of having a shawl for fashion purposes like others in society, the *campesina* must use her shawl as another tool in her work. This once again demonstrates that *campesinos* were forced to complete strenuous tasks constantly, and were always consumed by their work because it was their only means of survival. For this reason, they had to utilize clothing that other people might have worn to different events for labor purposes. Through the inequalities for *campesinos* that Modotti portrays in the image, she also demonstrates that the homogenized national identity had dissolved in post-revolutionary Mexico because nobody was joining forces to fight against the injustices that were still prominent. Many Mexicans most likely reverted to worrying solely about their own regions after the conclusion of the conflict, so, through her photography, Modotti attempts to call attention to these inequalities once again so that Mexicans will unite in an effort to stop them.

Another important aspect of Figure 5 is that Modotti not only demonstrates her Marxist ideas by illustrating the injustices that people in rural Mexico still faced, but also by photographing a *campesina* instead of a *campesino*. By choosing to do this, Modotti was able to focus on two groups in Mexican society that were facing inequalities—*campesinos* and *women*. The fact that the photo focuses on a woman is an element of *punctum* because all of the photos analyzed up to this point have solely pictured men, which is most likely because of the machismo society in Mexico at the time the photos were taken. For instance, women were often pressured into having traditional roles, including childbearing and household tasks, such as the task in the photo because the *campesina* is most likely carrying the jug of water to her home for use. In machismo society, men are meant to dominate women while “women are submissive daughters prior to marriage and long-suffering, self-sacrificing wives and mothers afterwards” (Howell 99). Since unfair treatment of women was so

prominent in Mexican society during the twentieth century and Modotti advocated for a more equal society in her photos, she most likely included a woman in the photo in order to address the oppression of women in the machismo Mexican society that had been occurring for centuries. In doing so, she simultaneously spoke out to viewers about the need for reformation of the homogenized national identity so that people from all regions would unite and finally fight against unfair treatment of women in society.

Figure 6 also reflects Modotti's ideas for a more equal society, so even though it differs considerably from Figure 5, she still takes the same approach at demonstrating ongoing social and economic inequalities in post-revolutionary Mexico. In the image—taken from her photomontage entitled *Those on top and those on the bottom*—Modotti depicts a dejected man sitting on the sidewalk and holding his head in his hands while a fashion advertisement on the wall above him announces elegant clothing for educated gentlemen. The ad reads, “Desde la cabeza a los pies, tenemos todo lo que requiere un caballero para vestir elegante.”<sup>275</sup> However, in addition to the text, the billboard also displays “a monocled light-skinned man in a tuxedo... helped into his overcoat by his mestizo butler” (Mraz 83). Mestizo signifies that the butler is of mixed race—white European and native Mexican (Seed 572). On the other hand, the light-skinned man on the billboard could be creole, which signifies that he is of white European descent, and was born in Mexico (Chance 155). Both of these races were part of the caste system in Mexico. Mestizos made up a large percentage of the population, but “creoles occupied elevated positions in society” (Seed 570). This is important because it demonstrates another inequality within Mexican society that Modotti was addressing: unfair treatment based on race.

When glancing at the image, a viewer might not initially notice a reference to racial discrimination. However, upon thinking more critically about the photo, an emancipated spectator

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<sup>275</sup> “From head to toe, we have everything a gentleman needs to dress elegantly.”

would likely find some element of *punctum* that reflected Modotti's attempts to address the inequalities between race in Mexican society while also once again demonstrating the diminishing of *mexicanidad*. When analyzing the photo, the main element of *punctum* that stood out to me was the juxtaposition between the man on the sidewalk and the billboard ad because the two images create such a stark contrast. For instance, the dejected man wears simple yet worn clothing, which sends the message that he most likely lives in poverty, while the light-skinned man on the billboard wears a very elegant suit. His butler assists him in putting on his seemingly expensive overcoat, which also creates an image of power over the butler as well as in society. In addition, he wears a monocle, which tends to symbolize both intelligence and wealth.

Despite the contrasts, however, one noticeable similarity is that the man on the sidewalk seems to be Mestizo like the butler on the billboard. This parallel creates the idea that Mestizos in Mexican society both work for and are controlled by Creoles because they are members of the highest social class while Mestizos fall below them in social structure. In addition, the parallel then connects the two images by seemingly illustrating that being in a lower class because of skin tone and, consequently, being controlled by light-skinned members of society creates a feeling of hopelessness and utter despair for Mestizos. Modotti represents this with the man on the sidewalk, who stares at the ground with his head resting on his hand as if he has lost all ambition and confidence because of the constant unfair treatment that he faces. By utilizing this juxtaposition of an impoverished Mestizo man who is both physically below a billboard of a creole man, and also below the Creole population in Mexico's social structure, Modotti brings attention to racial inequalities toward Mestizos that she believed people in society should recognize. In doing so, she not only demonstrates that the society's homogenized national identity has faded since prominent racial inequalities are overlooked, but also that Mexicans must unite as they had done during the



Mexican Revolution in order to fight against racial discrimination and attain equality for all Mexicans.

Through examining photographs from each photographer and determining whether they emphasize *studium* or *punctum*, and consequently, whether each image utilizes propagandistic elements or reflects the distancing effect and the emancipated spectator theory, I have discovered that Casasola attempted to both display and promote *mexicanidad* during the Mexican Revolution. Brehme's approach was more ambiguous in that he portrayed the homogenized national identity during the conflict, and then depicted its decline in the following years. Finally, Modotti focused on addressing the fading of *mexicanidad* in post-revolutionary Mexico by illustrating ongoing inequalities in society.

The above information demonstrates that the Mexican Revolution was unsuccessful in its attempts to attain social and economic justice for all Mexicans because the homogenized national identity diminished, meaning that Mexicans stopped uniting to fight for equal rights. To further emphasize this decline of *mexicanidad* in post-revolutionary Mexico, results from a survey in 1997 entitled, "Perceived Fulfillment of the Revolution's Basic Principles" indicate that Mexicans were still dissatisfied with the amount of change that had occurred following the conflict (Gawronski 382). For instance, less than 30 percent of voters believed the principles of "Social Justice," "National Economic Sovereignty," and "Respect for Labor Rights" had been fulfilled, and less than 35 percent of participants agreed that the principle of "The Land Belongs to Those Who Work It"—which applies to the rights of *campesinos* to own their land—had been fulfilled (383). Even though the survey was taken twenty years ago, the results still conclude that Brehme's and Modotti's work related to ongoing inequalities was relevant almost a century after the conflict ended, and that it will likely continue to be pertinent until Mexicans unite once again under a homogenized national

identity and fight against social and economic injustices until equal rights are finally upheld within Mexican society.

## Appendix



Figure 1. Casasola Archive. *Emiliano Zapata on horseback.*



Figure 2. Casasola Archive.



Figure 3. Hugo Brehme. *Zapatistas during the Mexican Revolution.*

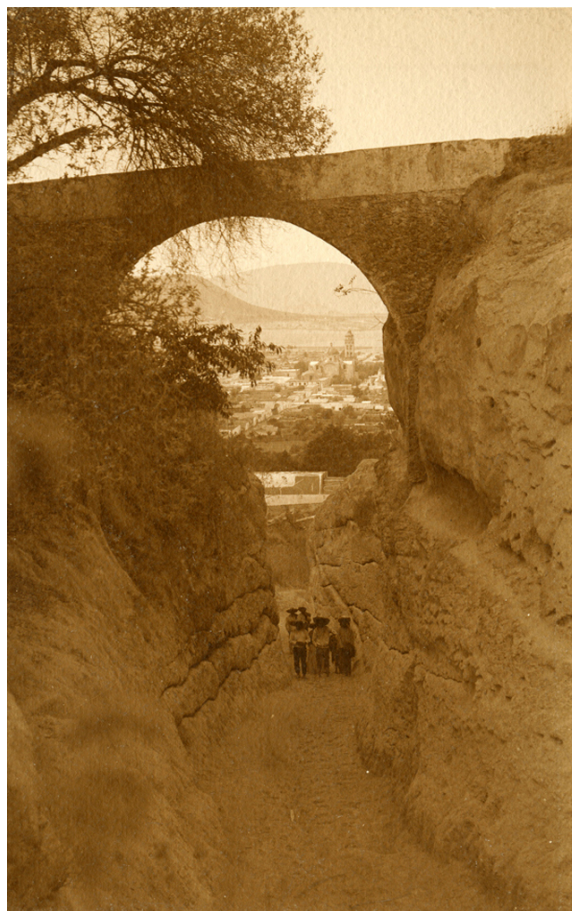


Figure 4. Hugo Brehme. *Men standing under stone archway.*

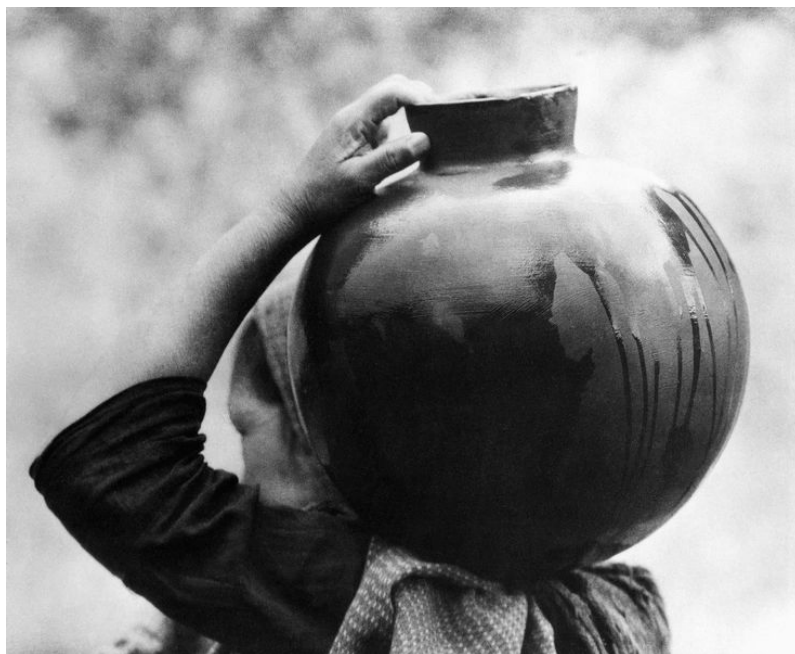


Figure 5. Tina Modotti. *Woman with water jug*.



Figure 6. Tina Modotti. *Elegancia y pobreza*.

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**“Welcome To Your Tape:’ An Analysis of Suicide, Signs of Suicide, and Sexual Assault in  
*13 Reasons Why*”**

**Kaija Craft**

**Faculty Sponsor: Dr. Linda Waldron, Department of Sociology**

**Abstract**

Suicide is the second leading cause of death for individuals between the ages 10 and 24 (Suicide, 2015). The Netflix original television series, *13 Reasons Why* brings this epidemic to the forefront. The D.H.H.S provides three main recommendations for presentation of suicide in the media. They include: Avoid prolonged exposure to depictions of suicide, avoid presenting suicide as a viable solution for obtaining personal goals and avoid graphic details of the method used. The series neglects each of these recommendations. Further, signs of suicide are not identified when present throughout the series. Hannah dismisses the concept of warning signs. When adults disclose information concerning warning signs, the information is difficult to understand. Finally, the series also portrays sexual assault in a way that does not show positive affirmations for seeking help. Jessica insists on not seeking help from adults, and when she does, the response is cut off. When Hannah talks to her school counselor, Mr. Porter, about her sexual assault, he victim-blames her until she storms off and takes her own life later that day. This paper demonstrates how the series is potentially harmful, instead of helpful, to adolescents.

## Introduction

Throughout the United States, suicide is the tenth leading cause of death (Suicide, 2015). The National Institute of Mental Health reported that suicide resulted in approximately 44,000 deaths in 2015, essentially double the number of total homicides (17,793) (Suicide, 2015). The suicide epidemic is especially of concern to younger individuals. Suicide is the second leading cause of death for individuals between the ages 10 and 24 (Suicide, 2015). Since 1999, the rate of suicide for girls between the ages of 10 and 14 has increased by 200 percent, while teen boys experienced a suicide rate increase of 37 percent (Suicide, 2015). The Netflix original television series, *13 Reasons Why*, brings this epidemic to the forefront.

*13 Reasons Why* was released in full and made available for international distribution on March 31, 2017 (Ayers, Althouse, & Leas, 2017). Inspired by the teen novel written by Jay Asher, *13 Reasons Why* follows high school student Clay Jensen as he receives a set of cassette tapes, recorded by classmate Hannah Baker before she committed suicide. The cassette tapes function as a suicide note, blaming her classmates who bullied, harassed, and sexually assaulted her, as the ultimate cause of her death. While the topic may seem heavy for younger viewers, the show's popularity can be partially attributed to Netflix's most popular viewing demographic of 16-24-year-olds, which makes up for 65% of Netflix's total users (Sullivan, Annet, Simon, Luo & Dahlberg, 2015). Not only were young viewers watching the hit series, viewers consumed the show at a shockingly fast rate. Netflix ranked *13 Reasons Why* as one of the "most devoured" shows of 2017, defined by Netflix as a show in which viewers watch two or more episodes per day (Dwyer, 2017). The series was also a critical success. Katherine Langford, who plays Hannah Baker in *13 Reasons Why*, was nominated for the Golden Globe Award, Best Actress in a Drama Series (Nguyen, 2017).

This paper analyzes suicide, signs of suicide, and sexual assault in the television series, *13 Reasons Why*. The Department of Health and Human Services (DHHS) recommends that suicide in the media should avoid prolonged exposure, details regarding the method used, and suicide as achieving a personal goal. The series, however, disregards each of these recommendations. Additionally, the series neglects to identify any signs of suicide presented in the series. Hannah furthers the idea that there are no warning signs through personal narration on her tapes. When the series does mention signs of suicide, the edited conversations make the content is hard to discern. Finally, the series also presents a victim-blaming theme through the portrayal of sexual assault. Clay learns of Jessica's sexual assault and advises that she should seek help, to which she refuses due to Hannah's negative experiences with her school counselor. Once Jessica decides to speak with her father about her sexual assault, the series does not show her father's response. Lastly, the only shown experience of seeking help from an adult after sexual assault is potentially harmful. Hannah experiences victim blaming with her school counselor, Mr. Porter, and ultimately ends her life after visiting him.

### *Suicide Contagion*

Debates over the cultural representations of suicide began hundreds of years ago with what is now commonly referred to as the "Werther Effect." According to Phillips (1974), an 18th century popular novel by Goethe, *The Sorrows of Young Werther*, in which the main character commits suicide was said to be the catalyst for a series of imitation suicides across Europe. Although evidence of such widespread copycat behavior was never substantiated, the "Werther Effect" continued to be used to describe the effect that representations of suicide might have on subsequent suicidal behaviors (Phillips, 1974). More recently scholars have referred to this phenomenon as 'suicide contagion' (Bohanna, 2013). Suicide contagion is defined by the Department of Health and Human Services as the "exposure to suicide or suicidal behaviors within one's family, one's peer group, or

through media reports of suicide and can result in an increase in suicide and suicidal behaviors" (DCD, 2015). Pirkis and Blood's (2001) systematic review of nearly 100 research studies on the relationship between the portrayal of suicide in newspapers, television, books and the Internet and subsequent suicidal behaviors discovered a strong association between the two. The possible 'Werther Effect' of the television show *13 Reasons Why* has already become an issue for the producers of the show.

Two families are in the process of suing Netflix, linking the suicide of two adolescents to watching *13 Reasons Why* in the final days preceding their decision to take their own life (Musumeci, 2017). *13 Reasons Why's* global outreach continues this trend. In Peru, a 23-year-old male has taken his own life after watching the television series, leaving his tapes to the people he accused of being their "reasons why" (Lindsay, 2017). Copycat suicides may be rare, and suicide is often linked to preemptive conditions such as depression and mental illness, but it is still important to consider the extent to which shows like this contribute the growing epidemic of suicide among teenagers.

Although it would be difficult to prove a direct causal relationship between the show and suicide attempts, one study has been able to associate the time period of the release of the show and increased internet searches related to suicide (Sullivan et al., 2015). According to a recent study published in JAMA Internal Medicine, phrases related to suicide dramatically increased on a search engine following the release of *13 Reasons Why* (Sullivan et al., 2015). Within 19 days following the Netflix release of *13 Reasons Why*, there was an estimated increase of 900,000 to 1.5 million more searches regarding suicide than what usually takes place (Sullivan et al., 2015). For example, the phrases "suicide prevention" increased 23% and "suicide hotline number" went up 21%. Increases in searches related to suicidal ideation are particularly troubling. "How to commit suicide" rose about 26% above the normal amount of searches, followed by an increase in "commit suicide" by 18%, and "how to kill yourself" by 9% (Sullivan et al., 2015). The study was limited to 19 days after the

initial release of the series, to control for other pop culture or societal events related to suicide. While this could demonstrate the show's intention to create suicide awareness, it also shows a correlation between the release of this show with an increase in suicidal thoughts and feelings among the public.

It is unclear if the people inquiring on the Internet about suicidal ideations in the wake of *13 Reasons Why* resulted in people seeking help with trained professionals. In contrast with another popular culture representation of suicide, the release of the song titled "1-800-273-8255" by musician and rapper Logic showed a direct improvement. The song, narrated from several different points of view, includes someone who is considering taking their own life, a response to a hotline crisis worker, and finally the suicidal caller finding hope (Tinker, 2018). The song's title, which is the actual number for the National Suicide Prevention Hotline, gave listeners a direct connection to a resource of trained professionals. The song gained national attention and was even nominated for the Grammy Award for Song of the Year and the Grammy Award for Best Music Video (Armstrong, 2017). As a result, The National Suicide Prevention Hotline released call metrics from the day of the song release. On April 28, 2017, the Lifeline received the second highest daily call volume with a total of 4,573 calls that day, "an increase of 27% when compared to the average volume on the same day of the week for the previous three weeks" (Armstrong, 2017). Following Logic's MTV Video Music Award performance on August 28, 2017, the Lifeline received a surge of 5,041 calls and had received a steady higher call volume since the release of the song. Google searches for the hotline number increased more than 100% on the day of release, creating "a new baseline that is 25% higher than before the song was released" (Armstrong, 2017). Whereas viewers of *13 Reasons Why* looked up how to commit suicide, those who listened to Logic's song called a hotline and connected with a mental health professional equipped to deal with a suicide crisis. As there continues to be growing evidence that exposure to suicide can lead to imitation (Bohanna,



2013; Pirkis & Blood, 2001), it becomes even more critical that these representations involve seeking help instead of providing a playbook for how to take your own life.

### *Content Warnings*

Before the start of the series, as well as at the beginning of episodes nine and twelve, Netflix presents a content warning informing that there are depictions of suicide and sexual assault. For support, Netflix offers direction to the website "13reasonswhy.info." This website lists suicide helplines for various countries, but the screen itself does not readily provide resources, such as a hotline number, for emergency situations. These resources are valuable because, as Pirkis and Blood's research (2001) revealed, the association between television portrayal of suicides and imitation suicides was strongest immediately following the media stimulus. Thus, having a suicide hotline immediately available before, during, and after a person views, this show is crucial since this is the time that a copycat suicide is most likely to take place. Viewers suffering from suicidal ideations may feel disinclined to take extra steps by visiting the website, clicking desired location information, following to another website, and then dialing a phone number. Viewers should be readily prepared to contact emergency services if they feel so inclined, but Netflix and the producers of the show did not take proactive steps to ensure this.

The new content warning, released a year after the initial release, suggests "this series might not be right for you," if you are dealing with these difficult topics such as "sexual assault, substance abuse, suicide, and more." Nevertheless, most people that are tuning into the second season have already seen the first, where these issues are shown in-depth. The new content warning promotes watching or talking about the series with a trusted adult, which is a step in the right direction. This new content warning, though, continues to run counter to a dominant message of the series, which do not trust adults. While the new content warning is an upgrade from the previous, it still fails to

provide direct access to a helpline, still redirecting their viewers to their website, which then lists various helplines.

The overwhelming popularity of this television series coupled with the growing crisis of teenage suicide warrants further examination. This paper asks: how are the issues of youth suicide and sexual assault constructed on *13 Reasons Why*? To what extent do the producers of the show adhere to professional guidelines about the portrayal of suicide? How are signs of suicide presented on the screen? Does the series acknowledge the extent of sexual assault?

### **Background on *13 Reasons Why***

The television series, *13 Reasons Why*, follows Clay Jensen, a junior at Liberty High School, after the suicide of his classmate, Hannah Baker. Clay receives and listens to a package of 13 cassette tapes recorded by Hannah before her death. These tapes detail experiences Hannah had with twelve individuals that have wronged her in some way, blaming each as a contributor to her eventual suicide. Each tape corresponds to one of the individuals Hannah blames for her death, to which she says, "Welcome to Your Tape." The tapes include a set of instructions to be obeyed by each listener. First, the tapes are to be listened to by every individual described on the tapes. Then, each tape is passed onto the next person. If these instructions are ignored, the second set of tapes is to be released in a public manner, a tactic for Hannah to seek revenge on her classmates. The tapes provide insight into Hannah's life, including vivid descriptions of bullying, stalking, sexual harassment, rape, and more. As a result, the subjects of the tapes, Hannah's classmates and her guidance counselor, Mr. Porter, are driven to guilt-ridden madness. Her tapes even lead to suicide attempts from other classmates on the tapes, like Alex Standall's inferred suicide attempt, as well as a confession that Justin Foley almost committed suicide, and even the main character, Clay, who tells Mr. Porter in the final episode that he considered throwing himself off a cliff. While the classmates listen, they are also being called to testify in court proceedings by Hannah's parents, who are suing

the school for the negligence of Hannah's excessive bullying. The first season concludes with Clay recording an admission of guilt from Hannah's rapist, the popular jock, Bryce Walker, onto "side B" of tape thirteen. Clay then hands the complete set of tapes to the last recipient, Mr. Porter, confronting him about neglecting Hannah's rape and suicidal thoughts. The last episode explicitly shows Hannah committing suicide, and is eventually found dead by her parents. Her parents do not find out about the tapes until the very end of the last episode.

### Methodology

This study analyzes the thirteen episodes of the teen drama, *13 Reasons Why*. For the purpose of this study, a teen drama is defined as one hour long episodes of television with storylines primarily centered around adolescents between the ages of fifteen and eighteen. The hit television series, *13 Reasons Why*, is produced by the online streaming service Netflix and, is only available to its subscribers. Subscribers include users who pay a monthly fee to obtain Netflix's services, while prices vary according to each payment plan. After paying the monthly fee, Netflix subscribers are permitted to watch and re-watch any content they please at any time. The first season of *13 Reasons Why*, consisting of thirteen episodes, was released in its entirety on March 31, 2017. It is nearly twelve hours long, consisting of a total of 717 minutes. Each episode ranges from a total of 49 to 61 minutes long, with an average episode length of 55 minutes.

The first four episodes were transcribed in their entirety. Following the initial four episodes, Hannah's narrative on the suicide "tapes" in each episode was transcribed. The set of "tapes" left behind by Hannah act as a suicide note, blaming individuals for contributing to her death. An inductive content analysis was utilized, and codes were created in accordance with dominant themes and concepts present in the dataset. This form of qualitative analysis focused on both manifest and latent content underlying the storylines present throughout the series, *13 Reasons Why*.

Coding, as defined by Babbie (2014) is "the process whereby raw data are transformed into standardized form suitable for machine processing and analysis" (p.361). The qualitative software program ATLAS.ti was used to open code the first four episodes in their entirety. While watching and transcribing episodes one through four, a series of codes were developed pertaining to the central themes and storylines of the series. More than 230 total codes were constructed. Recoding focused on bringing together codes under similar categories or concepts. For example, codes were created about sexual harassment, sexual assault, and suicide. After initial codes were developed, the transcripts of episodes one through four were coded line-by-line a second time to assure reliability. These codes formed the basis of focused coding of the storylines of each episode in the series.

The central unit of analysis for the more focused coding is the storyline. According to Kelly (2010), a storyline focuses on "a series of related events that continues over several episodes" (p.482). Consequently, storyline analysis "allows for the examination of complex ongoing narratives" in context with the individual characters (Kelly, 2010, p.482) In *13 Reasons Why*, storylines addressing Hannah's suicide are heavily present in each episode. Each episode is centered on Clay listening to one of Hannah's "tapes," citing each person as a direct contributing factor to her eventual death. Each episode was carefully analyzed in accordance with the storyline of Hannah's suicide. Some persistent storylines include, but are not limited to, Hannah's suicide, the school's response to Hannah before and after she takes her own life, sexual harassment and bullying from her peers, witnessing and experiencing sexual assault for both Jessica and Hannah, teenage alcohol abuse, and Hannah's parents creating a lawsuit against the school for negligence.

Since one of the main research questions involves understanding how the portrayal of suicide in this show compared to best practices for the representation of suicide in the media, axial coding was utilized to compare the initial and focused coding of the show to the Department of Health and Human Services guidelines. According to Saldana (2013), axial coding involves

strategically reorganizing the data to connect initial and focused codes to other categories. In this case, the codes were reanalyzed in the context of the DHHS's guidelines. To minimize the risk of suicide, The Department of Health and Human Services provides suggestions on their website for the media when involving depictions of suicide (DCD, 2015). These include, but are not limited to: repetitive and prolonged exposure to suicide, details of the method used, and portraying suicide as an effective way to achieve a goal (DCD, 2015). After an individual is exposed to suicide, the Department of Health and Human Services then recommends that the individual should seek help from a mental health professional (DCD, 2015). This paper found that the television series, *13 Reasons Why*, does not follow these suggestions, and therefore, has the potential of creating suicide contagion among its viewers.

### **Ignoring the Guidelines**

#### *Prolonged Exposure*

The Department of Health and Human Services recommends "[depictions of] suicide should not be repetitive, as prolonged exposure can increase the likelihood of suicide contagion" (DCD, 2015). Unfortunately, this is difficult to avoid as the entire series revolves around Hannah's suicide. Throughout thirteen episodes, resulting in 12 hours of content, Hannah's suicide is detailed throughout Clay's flashbacks, visuals accompanying the script of her tapes, as well as scenes depicting the present-day aftermath of her suicide. Her suicide tapes are used as a plot device, furthering the development of each episode. Each episode starts with the beginning of one tape, and most episodes also conclude with the end of the tape. Therefore, viewers are repeatedly exposed to other teenagers dealing with exposure to suicide. While most of the characters involved in the show dealing with the exposure to suicide are teenagers, the series also highlights a few adults, like principal Gary Bolan, guidance counselor Kevin Porter, and Hannah's parents, Olivia and Andy Baker. The series often shows Hannah's parents dealing with grief, and even suing Liberty High

School for neglecting to stop Hannah's excessive bullying. While the word "suicide" might not be directly stated in each scene, it is mentioned in other euphemisms and indirectly referenced throughout scenes, the series. For example, such as her parents are shown picking up things from her old locker, decorated as a memorial. Throughout the first four episodes, "suicide" was coded for 15 times, the fifth most coded principle, only following the codes "Hannah on a recording," (in reference to the tapes) "school counselor," "lie/lying," and "profanity." Although the Department of Health and Human Services does not provide direct guidelines as to what is counted as "prolonged exposure," one may assume that twelve hours does count as "prolonged exposure."

#### *Detailed Method*

The second recommendation that the Department of Health and Human Services makes is that "detailed descriptions of the method used" should be avoided to prevent duplication. In the series, Hannah's method of committing suicide is very detailed. Using razors that she stole from her parent's convenience store, Hannah slits her wrists in a bathtub. Then, her parents find bloody water seeping out through the bathroom door. While the bathtub is overflowing with bloody water, Hannah's parents hold Hannah's body, and her father calls for an ambulance. Eventually, emergency services arrive at the house, carrying Hannah out on a stretcher, but it was too late to save her. The depiction of Hannah's suicide is approximately 2 minutes long. The short scene is hardly representative of a real suicide, considering suicide by cutting one's wrists could take several hours. Nonetheless, this depiction of suicide could be the most graphic depiction in modern day television.

It is not that the show's producers completely disregarded the seriousness of this issue, but instead, that the show's producers wanted the suicide depicted particularly graphic. A clinical psychologist, the showrunner, and the director, all advised a dramatic and vivid suicide. The producers hired Helen Hsu, a clinical psychologist, as a mental health advisor on set, consulting with directors, producers, and actors concerning the troublesome topic (Buis, 2017). Hsu advised that

"The suicide has to be [illustrated] really painful and ugly and sad, really show the waste and the pain that it brings, and the anguish to her parents especially," encouraging the graphic depiction of suicide (Buis, 2017). Her suggestions are in direct contrast with the Department of Health and Human Services suggestion to avoid prolonged exposure, but also detailing the method used. In the show, Hannah commits suicide by slitting her wrists in a bathtub. After the showrunner, Brian Yorkey, originally portrayed Hannah as being naked in that crucial scene, Hsu suggested that the suicide method of cutting her wrists in a bathtub usually occurs in ratty, old clothes instead of being naked (Buis, 2017).

The showrunner, Brian Yorkey, also stands by his decision to portray the suicide graphically (Sheff, 2017). When confronted about the show, Yorkey stated that, although he was concerned with the number of teens that are finding the show "triggering," he believes, "The only alternative to doing the show was not doing this show. We did a show that was honest and was unflinching, and I think that the conversation sometimes seems to be dominated by controversy" (Sheff, 2017). In discussing the show in this way, Yorkey suggests a false dilemma that either the show should be portrayed as extreme or not created in the first place. Finally, the creative direction of Kyle Patrick Alvarez also promotes the graphic depiction of suicide. Alvarez has an established reputation when it comes to creating torture on screen. Alvarez is known for directing the film, *The Stanford Prison Experiment*, based on Zimbardo's famous experiment. He also directed three key episodes that depict Hannah's suicide, including episodes five, six, and the finale, which features the scene of Hannah's suicide (Sheff, 2017). When asked about the controversy, Alvarez commented, "If you don't show the horror of it, then you're inviting people to conjecture that maybe the act itself isn't so bad. I think you're inviting much more trouble" (Sheff, 2017). However, scholarship supports that graphic depiction of suicide could lead to an increase in suicide contagion (Bohanna, 2013; Pirkis & Blood, 2001; Pirkis et al. 2006; Phillips, 1974).

### *Achieving a Personal Goal*

The Department of Health and Human Services also discourages the implication that "suicide was effective in achieving a personal goal" (DCD, 2015). One of the main premises of the series is The premise of the series is Hannah's personal goal is to seek revenge on her classmates by creating tapes that blame 12 individuals for her suicide. Therefore, Hannah achieves her personal goal when her classmates are driven to guilt-ridden insanity as a result of her revenge. As previously mentioned, the tapes cause so much guilt that multiple classmates consider taking their own life as well. Clay's experiences become more violent as he listens to each tape, like lashing out and keying another classmate's Zach's car and getting into a fist fight with Bryce, Hannah's rapist. Not only is Hannah effective at achieving her personal goal, but also she is also effective at forcing it upon others.

Once Hannah's revenge is brought upon her classmates, Hannah then encourages her classmates to seek revenge on the others mentioned in the tapes. For example, the subject of tape four is a classmate, Tyler Down, who stalked Hannah and took unsolicited pictures of her. In the tape, Hannah states that she is recording the tape from outside his window, in order to "return the favor" and stalk him. She also encourages the other 12 people listening to do the same by stating; "You made me paranoid, Tyler. So now I'm giving that to you. Maybe I'll never know why you did what you did. But I can make you understand how it felt to be me. That's why I'm outside your window, Tyler. And after people hear this, I bet I won't be the only one." Later, Clay takes Hannah's advice and decides to take revenge on Tyler. Once Clay is outside Tyler's window, listening to Hannah's tape on Tyler, he is found by a classmate that also received the tapes, Marcus Cooley. When Clay is shocked that Marcus found Clay, he says, "Besides, you're not the first one to come



look at the famous window." This indicates to the viewers that the other classmates have heard the tapes, and consequently, have also come to the back window to seek revenge on Tyler. Finally, Clay sends around a picture of Tyler's bare behind as "payback" for what he did to Hannah. Therefore, not only is she showcasing prolonged exposure to suicide, detailing the method used, and using suicide as the means to achieve a personal goal, the show does not follow the guidelines suggested by the Department of Health and Human Services. Additionally, in doing so, this paper argues that the show missed opportunities to be proactive about recognizing the signs of suicide.

### **Signs of Suicide**

Hannah's suicide works as a plot device to weave together the rest of the series. The series starts after Hannah has already committed suicide; however, the viewers are retrospectively learning about her experiences as Clay listens to her tapes in chronological order. Therefore, the scene depicting Hannah taking her own life does not take place until the very last episode. Up to this point, the series does not indicate to its viewers that any warning signs are leading to Hannah's suicide. Although the series incorporates thoughts and behaviors that do constitute as warning signs, the series neglects to identify them as warning signs to the viewer. For example, warning signs such as a drastic change in appearance, feeling hopeless, and withdrawing from friends or hobbies, are demonstrated within the show, but never regarded as possible warning signs. Furthermore, Hannah states to the listeners of her tapes, if they were looking for possible signs of suicide, it would seem as if there were no signs. Finally, when adults mention warning signs after Hannah's death, the details are edited out in a way that does not provide the viewer access to the information. By omitting this information, the show does not acknowledge warning signs and misses an opportunity to help its viewers.

Warning signs are present throughout the series, but were not demonstrated to the viewer as warning signs. According to the American Psychological Association (A.P.A.) and Suicide

Awareness Voices of Education (S.A.V.E), some warning signs of suicide include a sudden change of appearance, a sense of hopelessness, and withdrawal from friends or hobbies (Warning Signs of Suicide, n.d.) (Suicide Warning Signs, n.d.). Additionally, a risk factor leading to suicide can be a recent trauma or life crisis. The series illustrates several warning signs and risk factors. For example, in episode seven, Hannah suddenly cuts her long hair into a short bob, making a drastic change in her appearance. A sense of hopelessness is also revealed in episode seven. Hannah states, "The kind of lonely I'm talking about is when you feel like you've got nothing left. Nothing. And no one. Like you're drowning, and no one will throw you a line." Next, Hannah withdraws from activities and friends. In episode two, Hannah, Jessica, and Alex part ways and no longer meet at the coffee shop. Hannah then quits her job at the Cresmont movie theater in episode twelve. Moreover, it is also important to note that a risk factor is experiencing a recent trauma (Warning Signs of Suicide, n.d.) (Suicide Warning Signs, n.d.). Hannah witnesses her friend Jessica's sexual assault in episode nine, and Hannah herself is sexually assaulted in episode twelve. Both of these experiences occur within a short time frame before her suicide. While someone who has pursued information concerning signs of suicide would be able to identify these warning signs and risk factors, the average viewer may not. Although these indicators do occur in the series, the series does not consider them warning signs or risk factors.

Hannah then explicitly discredits the very idea of warning signs on tape seven. In this tape, Hannah states, "And for those of you who will be looking for signs everywhere, what does it really look like? Here's the scary thing. It looks like nothing." Hannah implies that, in retrospect, someone looking to identify signs that Hannah was feeling suicidal or depressed would not be able to do so. By stating on tape seven that warning signs "look like nothing," Hannah virtually makes the argument that there are no signs of her suicidal ideations, amplifying the show's decision to disregard clear warning signs as mentioned earlier. Further, all of the tapes, and consequently, most

of the series, are told from Hannah's perspective. Hannah's tapes, in general, showcase a perspective that does not believe that there were warning signs and do not identify warning signs in her narration. While Hannah is accurately telling her side of the story from the first-person point of view, what she is saying may not be what is actually true, making Hannah an unreliable narrator. The viewers, however, may not be able to discern her as such. Because Hannah claims there were no signs, the viewers may believe her. This storyline runs counter to research that identifies multiple indicators of suicidal ideation and risk factors (Warning Signs of Suicide, n.d.) (Suicide Warning Signs, n.d.).

When the series mentions warning signs, the television show edits out the essential information. Authorities within the school, such as teachers and school counselors, announce several warnings signs of suicide. The editing of the scene, however, made it nearly impossible for the viewer to understand the signs of suicide. For example, Mrs. Bradley, Hannah and Clay's teacher, asks her class about if anyone they know is showing signs of suicide, noting a few indicators such as, "Are they withdrawing from friends and family? Is there a change in their appearance? Are they having trouble in...?" But, her voice trails off while Clay is having a flashback about Hannah. Clay zones out the teacher, and therefore, Clay and the viewers do not learn other signs. This is not the only instance where the show mentioned that there are possible warning signs of suicidal behavior but did not explicitly detail them to its viewers. Mr. Porter also mentions signs of suicide that fade into the background during the fourth episode. Mr. Porter says that some signs would include: "refusal to participate in group activities, change in their appearance, declining GPA, and substance abuse." These signs would be helpful and informative for its viewers, but it is nearly impossible to discern because the parents of Hannah's classmates are talking over Mr. Porter's presentation. Not only did Clay zone out his teacher earlier, but also the parents are also not paying attention to information that would be crucial to know after their child is exposed to suicide. As a result, the

audience misses out on this information as well. Somehow, some of the most important information the show could offer is regarded as just mere background noise. The series thereby selectively omits information, such as warning signs, that would be beneficial to its viewers. Similar to selectively omitting information on the signs of suicide, the show also selectively omits information concerning sexual assault.

### **Sexual Assault**

An overlooked risk factor in the series is sexual assault. Two women are sexually assaulted in the series. Hannah is sexually assaulted in the twelfth episode. Hannah also witnesses her friend Jessica's sexual assault earlier during episode nine. Jessica's sexual assault follows a traditional party rape script, listing alcohol consumption as a significant element (Ryan, 2011). Hannah's sexual assault leads to an unfortunate encounter with her school counselor, causing her to spiral instead of receiving support. Bryce, a popular jock, sexually assaults both characters. Sexual assault often results in PTSD, which can also be an indicator traumatic experience associated with suicide attempts (PTSD: National Center for PTSD, 2014). Further, sexual assault should be treated as a significant element and contributor to Hannah's eventual suicide. Despite this, the series does not treat sexual assault as a precursor to suicide. Additionally, the show does not present recovery about sexual assault. Jessica is shown heavily drinking as a coping mechanism after her assault. Hannah does not have a coping mechanism, which could be a contributor to her death. When Jessica finally tells her dad about her assault, the viewers do not get to see her dad's response. The series also fails to portray seeking help as a viable option for victims of sexual assault. When Clay suggests Jessica should seek help, Jessica rejects his idea while referring to a specific moment between Hannah and her school counselor. When Hannah goes to Mr. Porter for advice and emotional support regarding her assault, Mr. Porter victim-blames her until she storms out of his office. Later that afternoon, Hannah takes her own life. Overall, the portrayal of sexual assault, within the in the media.

The first of the two sexual assaults occur during episode nine. After initially objecting, Justin, Jessica's then-boyfriend, lets Bryce into the room where Jessica is incapacitated, and Bryce sexually assaults her. Unknown to Justin and Bryce, Hannah is in the same room and witnesses the whole thing. At first, Jessica does not remember that night, and after she listens to the tapes, Justin says that Hannah was lying. The assault later comes back to her in flashbacks. In the final episode, Jessica admits to her father that Bryce sexually assaulted her. Jessica's dad, who is absent for most of the series due to military deployment, asks Jessica how she is doing after giving her testimony in the trial. While inquiring if she was okay, she responds through her tears, "Daddy? I need to tell you...something happened...to me." At this time, the viewers, as well as classmates on the tapes, know that she was sexually assaulted. While the viewers may infer that Jessica is about to tell her father about being sexually assaulted, Jessica never actually says that she was sexually assaulted. The scene is then cut off and ends without the viewers getting to see the result of this conversation. The series selectively omits a conversation between a child and a parent concerning the recovery of sexual assault. The show could have demonstrated to the viewers that seeking help from a trusted adult can be a positive experience. Instead, the viewers are left to fill in the blanks for themselves. The omission of a conversation between a teen and a trusted adult is indeed not helpful to the viewer, but it is potentially harmful that the only depiction of a conversation following a sexual assault is a victim-blaming experience between Hannah and her school counselor.

During episode twelve, Bryce sexually assaults Hannah during a party at his house. While she does not explicitly say "no," or tell him to stop, she repeatedly says that she has to go and physically tries to leave. He pushes her up against the hot tub, and she grabs at the edge of concrete trying to escape until she finally succumbs to his strength. In her tapes, she indicates that others may criticize her and say that she could have done more, but "it felt like I was already dead." Not only was she worried others might blame her for not trying other things to prevent the assault, but also that she

honestly felt she could not have done more at this time. In contrast, According to RAINN, the Rape Abuse Incest National Network, one of the best things a victim of sexual assault could do is to seek help from a mental health professional (Victims of Sexual Violence: Statistics, n.d.). In the final episode, episode thirteen, Hannah talks to Mr. Porter, the school counselor, and insinuates that she has been sexually assaulted.

In his office, Mr. Porter asks if Hannah "made a decision to do something with a boy that now (she) regrets." Mr. Porter infers that maybe she regrets losing her virginity, inquires further and repeatedly asks what boy was involved. He says, "If you can't give me a name, if you don't want to press charges against this boy, if you're not even sure if you can press charges, then there really is only one option... I'm not trying to be blunt here, Hannah, but you can move on." When Hannah refuses to disclose this information, Mr. Porter continues, "Hannah, I didn't say get over it. But sometimes moving on is the only option." First, Mr. Porter should have advised Hannah to seek emotional support, whether or not she tells him the name of the perpetrator. Additionally, according to Title IX, a student can file a formal complaint, "which could trigger an investigation and, potentially, disciplinary action...as well as accommodations" or "ask only for particular accommodations and remedies" (Title IX in High School, n.d.). This takes place under school jurisdiction, and not the criminal justice system. However, if a victim is under eighteen, like Hannah, school officials may be required to tell the police, which could then lead to a criminal investigation (Title IX in High School, n.d.). Through Mr. Porter's actions, the show perpetuates a cultural myth that one must disclose information about the perpetrator in order to receive guidance after sexual assault. While victim-blaming does permeate our culture, *13 Reasons Why* does nothing to challenge this perception. It only reinforces that, when looking for help, a sexual assault victim may be doubted and mistreated.

At every turn, the show reinforces the belief that even professionals can not help teens solve their problems and are undeserving of trust, especially when it comes to issues such as sexual assault. When Clay learns of Jessica's assault via the tapes, he suggests that she should seek help. Jessica quickly rejected Clay's encouragement because of Hannah's tapes. Jessica says to Clay, "You know what happens when girls try to get help." Therefore, Jessica further enforces to the viewer that bad things occur as a result of girls trying to receive help in regards to sexual assault. Mr. Porter's victim blaming interaction coupled with Jessica's response makes it clear to the viewer that seeking help is discouraged.

Previously mentioned, a recent traumatic event is often a risk factor for attempting suicide (Warning Signs of Suicide, n.d.) (Suicide Warning Signs, n.d.). There is also a strong correlation between women who have been sexually assaulted and attempting suicide. According to the National Women's Study, as cited in RAINN, one-third of women who are raped contemplate suicide and approximately 13% of women who are raped attempt suicide (Victims of Sexual Violence: Statistics, n.d.). As indicated tape thirteen, Hannah expresses that her sexual assault and a corresponding inappropriate response made by school counselor as the final reason she committed suicide. Immediately following her return from the party where she was sexually assaulted, she states, "I knew I could never live that down...so I started making tapes." Then, Mr. Porter's response is presented as the trigger that leads Hannah deeper into the depths of her suicidal ideation as she begins her plan to take her own life. Once Hannah leaves Mr. Porter's office that afternoon, attempting to get help regarding her sexual assault, she heads straight to her parents' drugstore to steal the razor blades that she uses to kill herself later that afternoon. Her tapes function as her suicide note, directly after her sexual assault, thereby attributing her sexual assault and Mr. Porter's response as her final "reasons why."

The portrayal of suicide in the series overshadows the portrayal of sexual assault in the media. Several resources have created guides for viewers that include signs of suicide and suggested talking points for viewers and parents in response to the show. Despite these efforts, resources tend to discuss the suicide and mental illness portrayed in the show, ultimately disregarding sexual assault. The portrayal of suicide overshadows in numerous guides available concerning the series. The American Association of Suicidology states that *13 Reasons Why* showcases "loss of romantic relationships, sexual assault, bullying, and suicide," however, only provides talking points for suicide and not provide suggestions sexual assault (American Association of Suicidology Responds to "13 Reasons Why," 2017). By minimizing the sexual assault, which is Hannah's final reason that pushes her over the edge to commit suicide, the media is not allowing the proper attention to the delicate subject. The American Association of Suicidology is not the only credible organization that dismisses sexual assault. Another organization, The National Association of School Psychologists, provided a memo exercising cautions and guidance for educators regarding the show. The National Association of School Psychologists also focused on the signs of suicide and ways to process the show's suicide, and created nothing in regards to how to correctly handle sexual assault (NASP: The National Association of School Psychologists, 2017). Because Hannah attributes her sexual assault and Mr. Porter's improper response as a school counselor as her final reasons for taking her own life, there should be equal emphasis on suicide and sexual assault. Without providing helpful information for the root of why she committed suicide, the show does not adequately address the problem. Therefore, existing guides concerning the series, *13 Reasons Why*, need to be revised in order to include accurate information of both sexual assault and suicides.

## **Conclusion**

### *Summary*



The series, *13 Reasons Why*, showcases difficult topics, such as youth suicide & sexual assault, gaining drastic media attention. While it is important to start a conversation concerning these difficult topics, it is also important to do so in a manner that is beneficial to its audience. This paper attempts to examine the portrayal of suicide, signs of suicide, and the portrayal of sexual assault. The portrayal of suicide is analyzed according to guidelines set by the Department of Health and Human Services (DHHS). These guidelines, such as prolonged exposure, detailed method, and achieving a personal goal, are set by the DHHS to prevent suicide contagion. The series, however, fails to adhere to these guidelines. This is demonstrated through thirteen, 45 minute to an hour-long episode containing a graphic depiction of the method used and achieving a personal goal of seeking revenge on others. Additionally, when present in the series, signs of suicide are never explicitly identified to the viewers. Hannah is portrayed with behaviors typically regarded as signs of suicide, such as a sudden change in appearance, a feeling of helplessness, and withdrawal from friends, but these are not pointed out as signs of suicide to the viewers. Signs of suicide are disregarded even further when Hannah indicates on her tapes that there were no signs. Finally, when adults disclose signs of suicide in the series, they are formulated in a way that makes the information difficult to obtain. Finally, the series does not show positive responses or a path of healing for victims of sexual assault. When Clay learns of Jessica's sexual assault through Hannah's tapes, he tells Jessica to talk to someone, to which she declines, referring to Hannah's negative experience with a school counselor. When Jessica decides to talk with an adult about being sexually assaulted, the scene is cut off before the viewers can witness her father's response. Finally, when Hannah seeks support following her sexual assault from the school counselor, Mr. Porter, he repeatedly questions her and responds inappropriately. As a result of this victim blaming experience, Hannah leaves his office and takes her own life later that afternoon. The series, therefore, neglects to identify signs of suicide, as well as the risk factor of sexual assault, as a precursor to suicide. While guides were released advising how to

discuss suicide in the series, the media avoids what Hannah refers to as the most significant contributor, her sexual assault, and Mr. Porter's response.

### *Limitations*

There are some limitations to this analysis of suicide, signs of suicide, and sexual assault in *13 Reasons Why*. Similar to other content analyses, the data was examined through various storylines in the series. The research emphasized storylines regarding the topics of suicide and sexual assault from the youth perspective. Other storylines that were present in the series, such as teen substance abuse, bullying, and sexual harassment were not researched at length. Also, storylines relating to the representation of adults were overlooked. By conducting research using a lens of suicide and sexual assault, there could be elements of the series that were avoided. Additionally, while the content of the series was analyzed, the researcher does not know the real intent of all those involved in creating the series. The researcher also did not conduct any surveys or interviews regarding viewer reactions to the series.

### *Further Research*

A limited amount of research has been released in regards to the series as a whole. A recent study from Northwestern University surveyed reactions made by young adults and parents (Yandoli, 2018). Notably, the research identified that the majority of young adults felt that the series should provide more discussion regarding how to receive help (Yandoli, 2018). Likewise, most parents wanted more resources provided at the end of the show (Yandoli, 2018). Further research is still recommended to adequately cover the scope of the effect the series has on its viewers. Further research should include surveys or interviews centered around sexual assault and suicidal ideations, in addition to the surveys and interviews about suicide. Due to the prevalence of youth suicide and sexual assault within society, further research should be conducted examining how popular culture depicts serious topics such as suicide and sexual assault.

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**“Of Men and of Angels”:  
An Axiology of Communication  
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ABSTRACT: Much of what we know as reality is founded on the phenomenon of communication. Every human institution, every relationship, every great achievement and advancement, from penicillin to the moon landing, marriage to the Nobel Prize, hinges fundamentally on communication. The vast preponderance of that which we call knowledge is gained through communication: books, radio, the internet, a teacher, or friendly gossip. In short, communication undergirds the human condition in virtually every way. And everyone participates. To a person, every individual participates in the human world created and sustained by communication. Indeed, as communicators ourselves, every human contributes to the creation, or destruction, of the world in which we live. The human condition is also characterized by plurality, diversity, and finitude, i.e. we are many, we are different, and we are limited, in both understanding and capability. The human world, then, is one built and shared by a plethora of imperfect individuals, each with various powers to create and destroy. In response to this reality, fraught with equal gravity and possibility, this essay proposes a model for understanding and practicing communication in a manner ethical and productive: as an act of love, specifically agape love a la the Judeo-Christian Bible. Using Saint Paul's description of love from I Corinthians 13, supplemented with philosophy from Plato and Aristotle, in this essay I propose that viewing and practicing communication as an act of love is an excellent response to the human condition, and provide a model to that end.

“If I speak in the tongues of men and of angels, but have not love, I am a noisy gong or a clanging cymbal.”<sup>276</sup> For generations, communication scholarship has focused largely on communicating effectively. In his book *Speaking into the Air*, named for another verse from this same epistle, John Durham Peters exhausts chapter after chapter decrying the manner in which modern communication model their studies around transporting information from one mind to another. In the above verse, the Apostle Paul makes the bold and timeless proclamation that perfect communication means naught if it is not rooted in the fertile context of love. We may speak in all the tongues of men, eliminating linguistic and semantic barriers, but nothing good will come of it without patience, kindness, and truthfulness. We may communicate as Aquinas’ angels do, with the perfect revelation of interiority unhindered by obstacles of body, will, and capacity,<sup>277</sup> the sort of fellowship enjoyed by Burke’s characterizations of “The Lord” and “Satan” in *Epilogue*, “between two persons that are somehow fused with each other in a communicative bond whereby each question is its own answer, or is answered without ever being asked.”<sup>278</sup> Even still, without love we are but “a noisy gong or a clanging symbol,” our speech tending towards dissonance, harm, and offense. As it stands, I Corinthians 13, the ‘love chapter,’ is situated aptly between chapter 12, which deals with the plurality and diversity of the church, and chapter 14, a lesson on effective communication in the church. Incidentally, the Apostle Paul structures these three chapters in such a way as to first address the nature of the human condition (plurality, diversity, and also finitude), then to address it with a detailed conception of *love*, and only then to proceed into solving errors in

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<sup>276</sup> I Corinthians 13:1 ESV

<sup>277</sup> Peters, John Durham. *Speaking into the Air: A History of the Idea of Communication*. (Chicago, IL: University of Chicago Press, 1999), 77

<sup>278</sup> Burke, Kenneth. “Epilogue: Prologue in Heaven.” In *The Rhetoric of Religion: Studies in Logology*, 273- 316. 1961. (Reprint, Berkeley: University of California Press, 1970), 273

communication methods and practices. This essay will follow a similar structure. In essence, I will argue that humans are defined by both communication and limitation, that communication has immense and innate power for good and evil, and thus that love, as described by Paul, is a superior axiological model that ought to be universally adopted by every communicator. In brief, communication, at its best, ought to be understood as an *act of love*.

To continue this conversation, it is necessary to briefly lay out the historical context of communication scholarship in general. The academic study of communication first significantly arose in Ancient Greece, and since then much of it has been rooted in the Greek philosophers.<sup>279</sup> Beginning with the Sophists, their emphasis was on the power of persuasion, but between the Sophists' relativism, Plato's dialogue and Aristotle's systematized rhetorical technique (*techné*), the ancient Greeks inspired and anticipated communication scholarship all the way to the present.<sup>280</sup> The Romans, influenced by the Greeks, emphasized civic progress, championed by Cicero and his concept of *eloquence*.<sup>281</sup> The modern concept of communication as information transfer developed during the 17<sup>th</sup> and 18<sup>th</sup> centuries, beginning with Locke's *Essay Concerning Human Understanding*.<sup>282</sup> During the same time, French scholars initiated the first sociological theories regarding communication, with Vico categorizing the "three ages" of man by their means of communication and de Condollac speculating as to the power of language to shape culture.<sup>283</sup>

It was not until the 19<sup>th</sup> century, when communication was generally viewed as a mechanism for liberal enlightenment progress, that it really began to gain momentum as a diverse field of study.

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<sup>279</sup> Simonson, Peter. "Communication History." *The International Encyclopedia of Communication Theory and Philosophy*, 2016, 1-11. doi:10.1002/9781118766804.wbiect180., 9

<sup>280</sup> Ibid., 2-3

<sup>281</sup> Ibid., 3

<sup>282</sup> Ibid., 10

<sup>283</sup> Ibid., 3

Mill theorized politically in his support of “free expression,” and Cooley theorized sociologically about communication as a series of “complex symbol systems.”<sup>284</sup> New terminology was birthed by diversified inquiry, like “solipsism” (1874) and “telepathy” (1882). The question of dualism, communication as “bridge” or “chasm,” arose from the development of new technologies which seemed to transcend time and space, such as electricity, radio, and the telegraph.<sup>285</sup> Most work since the late 1800s has taken on a more sociopsychological slant.<sup>286</sup>

The 20<sup>th</sup> century was punctuated by two earth-shaking events, the World Wars, each of which catalyzed a momentous spurt of new communication scholarship.<sup>287</sup> The first half of the 20<sup>th</sup> century was characterized by leaps and bounds in transportation and communication technology and an ideology grounded in the Enlightenment, and bore the works of Wallas and Dewey on social cooperation.<sup>288</sup> After WWI, the plurality of communication scholarship can be roughly categorized into five groups based on their concepts of communication: Bernays studied mass communication and the capacity to influence mass opinion; Ogden and Richards sought to sterilize information transfer by clarifying semantic meaning; Kafka delved into solipsism, theorizing communication to be fundamentally a hopeless endeavor; Heidegger desired authenticity, self-disclosure, and recognition of otherness; and Dewey, the pragmatist, saw communication as a flawed tool for public cooperation.<sup>289</sup> After WWII, with its preponderance of propaganda, mass communication became the serious focal point of communication study, witnessing the work of Merton, Schramm, and the Frankfurt school.<sup>290</sup> Peters asserts that communication theory *qua* theory truly began in the 1940s.<sup>291</sup>

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<sup>284</sup> Ibid., 3-4

<sup>285</sup> Peters, *Speaking into the Air*, 5

<sup>286</sup> Simonson, “Communication History,” 10

<sup>287</sup> Peters, *Speaking into the Air*, 10

<sup>288</sup> Simonson, “Communication History,” 4

<sup>289</sup> Peters, *Speaking into the Air*, 12-19

<sup>290</sup> Simonson, “Communication History,” 4-5

<sup>291</sup> Peters, *Speaking into the Air*, 9

As technology improved, information began to unite everything, from the hard sciences in the form of DNA to the liberal arts in language and literature to the social sciences as social interaction.<sup>292</sup> Information and its transfer became the model for virtually every field in the academy, and thus communication studies in that sense flourished. Problems of communication could be reduced from the days of Aristotle, when it required an in-depth understanding of good character and morality, human emotions, and logical reasoning,<sup>293</sup> to merely improved information transfer media.<sup>294</sup> Communication had gone from *techné* to technology.

Contemporary communication scholarship is richly diverse, though still heavily influenced by the late-20<sup>th</sup> century fascination with information technology. Robert Craig offers what he calls a “constitutive metamodel of communication,”<sup>295</sup> a relatively comprehensive tool for understanding the expanse of communication traditions. The *rhetorical* tradition is that which is rooted most firmly in Aristotle and the Sophists, emphasizing technique for persuasion and oratory, the “practical art of discourse.”<sup>296</sup> (This is perhaps a somewhat unsatisfactory characterization, granted, given the work of Kenneth Burke and his ilk; more on that later). The *semiotic* tradition, including Locke and Saussure, studies the meaning of symbols, or “intersubjective mediation by signs.”<sup>297</sup> By contrast, the *phenomenological* tradition of Buber and Rogers is more concerned with authenticity, the “experience of otherness.”<sup>298</sup> The *cybernetic* tradition, associated with names like Shannon and Turing, emphasizes

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<sup>292</sup> Ibid., 25

<sup>293</sup> Aristotle. *Rhetoric*. Translated by W. Rhys Roberts. Edited by Jenny Bak. (Mineola, NY: Dover Publications, 2004), 7-8

<sup>294</sup> Peters, *Speaking into the Air*, 29

<sup>295</sup> Craig, Robert T. "Communication Theory as a Field." *Communication Theory* 9, no. 2 (1999): 132.

<sup>296</sup> Ibid., 135

<sup>297</sup> Ibid., 136

<sup>298</sup> Ibid., 138

functionality and transmission, i.e. “information processing,” and is perhaps the most direct descendant of the aforementioned late-20<sup>th</sup> century mentality.<sup>299</sup> *Sociopsychological* is related, characterized as “communication science” by Berger and Chaffee (1987), calling communication “a process of expression, interaction, and influence.”<sup>300</sup> Finally, the *sociocultural* and *critical* traditions are similar, both calling communication “a symbolic process that produces and reproduces shared sociocultural patterns.”<sup>301</sup> *Critical* is distinct in its emphasis on “discursive reflection” on the problems inherent in the systems we create.<sup>302</sup> So much for the breadth of scholarship in our time. Having established the above context, I now transition to my argument for how communication ought to be viewed and conducted, which necessitates first an inquiry into the human condition.

The human condition in regards to communication is aptly painted in the words of Milton, in the words of Adam speaking to God before meeting Eve:

But Man by number is to manifest  
His single imperfection, and beget  
Like of his life, his Image multipli'd,  
In unity defective, which requires  
Collateral love and dearest amity.<sup>303</sup>

Humanity is plagued by innate conditions which constitute enormous difficulties in communication with one another. The first of these is *plurality*. This is, in a sense, the condition which makes

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<sup>299</sup> Ibid., 141

<sup>300</sup> Ibid., 142

<sup>301</sup> Ibid., 144

<sup>302</sup> Ibid., 147

<sup>303</sup> John Milton, *Paradise Lost*, (1667), quoted in John Durham Peters, *Speaking into the Air: A History of the Idea of Communication* (Chicago, IL: University of Chicago Press, 1999), 273-74.



communication necessary in the first place. We are “multipli’d.” There are many of us, and we each are not the same being as the other. As William James said, each person’s world is divided in at least one place: between “me” and “not me.”<sup>304</sup> That is to say that there is an *other*. Many others, as it turns out.

Directly related to this is the second condition: *diversity*. Peters observes that “the difficulty of communication across various social boundaries—gender, class, race, age, religion, region, nation, and language—confronts us daily.”<sup>305</sup> James Davison Hunter names this condition among the greatest cultural difficulties in the modern world, and calls the problem “difference,” simply the problem of relating to people who are different than us.<sup>306</sup> Peters summarizes these conditions, noting the “morally intractable condition of plurality, that is, of life among other creatures whose perspectives are both hidden from us and never exactly our own.”<sup>307</sup> Hence we are “in unity defective.” Yet even Aquinas’ angels had some degree of plurality and diversity. It is the final condition, that of *finitude*, perhaps that “single imperfection,” which is finally responsible for our woes. We are bound in mortal bodies, and with that come a plethora of limitations. As Schultze observes, we are limited by time and space, lack of skill in communication, and the ambiguity of our symbol systems (languages; more on that later).<sup>308</sup> Additionally, our minds are not available and apparent to others; our thoughts, feelings, and cognitions are concealed within our opaque mortal

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<sup>304</sup> Peters, *Speaking into the Air*, 4

<sup>305</sup> *Ibid.*, 2

<sup>306</sup> Hunter, James Davison. *To Change the World: The Irony, Tragedy, and Possibility of Christianity in the Late Modern World*. (New York: Oxford University Press, 2010), 200

<sup>307</sup> Peters, *Speaking into the Air*, 108

<sup>308</sup> Schultze, Quentin J. *Communicating for Life: Christian Stewardship in Community and Media*. (Grand Rapids, MI: Baker Academic, 2000), 69

forms. “Humans are hardwired by the privacy of their experiences to have communication problems.”<sup>309</sup> Fundamentally, our spatial, temporal, cognitive, and semantic limitations, combined with our plurality and diversity, are intractable difficulties inherent to human communication.<sup>310</sup>

Even given those difficulties, we cannot abandon communication, for it is as inherent to humanity as the above conditions. Kenneth Burke famously made this point in his “Definition of Man,” where he characterizes our species as “the symbol-using (symbol-making, symbol-misusing) animal, inventor of the negative (or moralized by the negative), separated from his natural condition by instruments of his own making, goaded by a spirit of hierarchy (or moved by a sense of order) and rotten with perfection.”<sup>311</sup> Our symbolicity is not only definitional and inescapable, Burke claims, but responsible for much of who we are. We are “symbol-using animals” in that much of our reality depends fully on language, from history to geography and everything in between: “however important to us is the tiny sliver of reality each of us has experienced firsthand, the whole overall ‘picture’ is but a construct of our symbol system.”<sup>312</sup> The remainder of the definition draws attention to how our conception of morality and our tendency to create and live out ideologies stems from this symbolicity.<sup>313</sup> Communication is bound up in and intertwined with who we are as a species every bit as much as our plurality, diversity, and finitude. In short, “Communication is a trouble we are stuck with.”<sup>314</sup> As a result, “we all struggle with imperfect symbols, erroneous definitions, broken communities, and confusing technologies.”<sup>315</sup> Perhaps this would not be such an urgent issue of communication were merely a passive element of our existence. However, that could not be further

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<sup>309</sup> Peters, *Speaking into the Air*, 4

<sup>310</sup> *Ibid.*, 271

<sup>311</sup> Burke, Kenneth. “Definition of Man.” In *Language as Symbolic Action: Essays on Life, Literature, and Method*, 3-24. (Berkeley: University of California Press, 1966), 16

<sup>312</sup> *Ibid.*, 5

<sup>313</sup> *Ibid.* 9-19

<sup>314</sup> Peters, *Speaking into the Air*, 263

<sup>315</sup> Schultze, *Communicating for Life*, 35

from the truth. Indeed, this entire essay is predicated on the immense power of language, symbol, and communication.

The fact that communication has momentous power, that word and symbol may be wielded as tools to forge worlds or weapons to destroy them, has been recognized since ancient times. In a letter to the early church, the apostle James wrote, “Look at the ships also: though they are so large and driven by strong winds, they are guided by a very small rudder wherever the will of the pilot directs. So also the tongue is a small member, yet it boasts of great things.”<sup>316</sup> Indeed, allusions to the power of words pervade the scriptures. The Proverbs tell of their power to edify or to harm the others and to influence others.<sup>317</sup> Genesis 1 and 2 relate how God created the universe by speaking into the void (ESV). Even the process of becoming a Christian, of receiving the Christ’s lordship and salvation, hinges on words: “For one believes with his heart and is justified, and one confesses with the mouth and is saved.”<sup>318</sup> Thus, the Bible is rich with lessons as to the power of communication to create and destroy, to alter the very fabric of reality. The text also includes stringent passages warning us to be careful with this power. Matthew 12:36-37 warns us that we will be held accountable for “every careless word [we] speak, for by [our] words [we] will be justified, and by [our] words [we] will be condemned” (ESV).

The power of language, symbol, and communication has pervaded communication scholarship since its birth in ancient Greece. Aristotle worked with the power of language to persuade overtly through *ethos*, the cultivation of trust, *pathos*, the inspiration of emotion, and *logos*, appeal to reason.<sup>319</sup> His thought has dominated theorization about communication as influence all the way up to the present, to include Richard Weaver and his profound contribution to rhetorical thought, the idea

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<sup>316</sup> James 3:4-5 ESV

<sup>317</sup> Proverbs 12:18, 15:1, 16:24 ESV

<sup>318</sup> Romans 10:10 ESV

<sup>319</sup> Aristotle, *Rhetoric*, 7-8

that language itself is fundamentally rhetorical, or “sermonic.”<sup>320</sup> Isocrates, who predated Aristotle, was arguably the first to recognize the more fundamental role of language in shaping our realities, detailed in his *Antidosis*: “there is no institution devised by man which the power of speech has not helped to establish ... none of the things which are done with intelligence take place without the help of speech, but that in all our actions as well as in all our thoughts speech is our guide.”<sup>321</sup> This concept of language and symbol as foundational to human institutions was taken even further by Burke and Derrida in the 20<sup>th</sup> century. Burke’s concept of the “terministic screen” describes how our understanding of and thus our very interaction with reality is constantly mediated by symbols.<sup>322</sup> “In brief,” says he, “much of what we take as observations about ‘reality’ may be but the spinning out of possibilities implicit in our particular choice of terms.”<sup>323</sup> Derrida made similar observations, summarized in his famous mantra “there is nothing outside the text.”<sup>324</sup> In other words, the world is best understood not as a collection of objects to be observed but of texts to be read; everything is understood via our use of language, and thus interpretation is a constant.<sup>325</sup> Recalling Burke’s definition of man, and the observation of how much of our realities are constructed, learned, and exchanged symbolically, it is obvious that the power of communication to literally shape realities, and at the very least our conceptions of realities, is undeniable.

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<sup>320</sup> Weaver, Richard M. “Language Is Sermonic” In *Language Is Sermonic: Richard M. Weaver on the Nature of Rhetoric*, edited by Richard L. Johannesen, Rennard Strickland, and Ralph T. Eubanks, 201-25. (Baton Rouge: Louisiana State University Press, 1970), 221

<sup>321</sup> Isocrates. “From *Antidosis*.” In *The Rhetorical Tradition: Readings from Classical Times to the Present*, edited by Patricia Bizzell and Bruce Herzberg, 75-79. 2nd edition. (Boston: Bedford/St. Martin’s, 2001), 75

<sup>322</sup> Burke, Kenneth. “Terministic Screens.” In *Language as Symbolic Action: Essays on Life, Literature, and Method*, 44-62. (Berkeley: University of California Press, 1966), 45

<sup>323</sup> *Ibid.*, 46

<sup>324</sup> Note: Though Burke and Derrida view the problem of interpretation differently (“ambiguity” and “undecidability,” respectively), with Burke looking at the problem pragmatically/ontologically and Derrida semiologically/epistemologically, both recognize the totality of symbolic mediation and consequent necessity of interpretation (McClure & Cabral, 77).

<sup>325</sup> James K. A. Smith, *Who’s Afraid of Postmodernism?: Taking Derrida, Lyotard, and Foucault to Church*. (Grand Rapids, MI: Baker Academic, 2006), 35.

Given the fact that language and symbol are the foundation, bricks, and mortar of much of our reality, clearly our own communication, our own use of language and symbol, is an innately powerful thing. In the words of Schultze, “Every time we communicate, we creatively exercise God’s gifts by contributing good or bad pieces of culture to the world.”<sup>326</sup> When we speak, we contribute to symbolic realities and institutions, everything from board game rules to political parties, but we also impact our own identities and those of others.<sup>327</sup> Hegel was another proponent of this view, seeing communication as fundamentally the “founding of a world.”<sup>328</sup> Given the power of communication, we have the power to co-create reality, and to do so constructively or destructively, and it is a power we exercise constantly, in every act of communication.<sup>329</sup> Van der Leeuw speaks of this power in the archaic form of poetry and magic: “We have seen how the holy power which resides within men is loosed by the spoken word. It can be directed toward a specific goal: toward the hunt, or toward war. That is the magical transfer of power...”<sup>330</sup> In line with Schultze and Hegel, he sees the power of words to create, noting the role of the ancient poets in utilizing the mysterious, “magical” power to construct elaborate myths which defined the theological, and thus political and social, realities of the day.<sup>331</sup> It is important to note that the responsibility of interpretation is practically as powerful as the capacity to communicate. To recall Derrida, interpretation is a constant. Communication transpires between at least two entities, and, as Hegel asserted, worlds are created collectively.<sup>332</sup> In a sense, interpretation is as much an element of communication as speaking or sending. To summarize, communication plays an essential role in defining our realities, and thus to communicate

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<sup>326</sup> Schultze, *Communicating for Life*, 19

<sup>327</sup> Ibid., 24

<sup>328</sup> Peters, *Speaking into the Air*, 112

<sup>329</sup> Ibid., 25

<sup>330</sup> Van der Leeuw, *Sacred and Profane Beauty*, 125

<sup>331</sup> Ibid., 133

<sup>332</sup> Peters, *Speaking into the Air*, 110

is to wield enormous power. To quote Schultze again, “Our symbolic action breathes heaven or hell into the world.”<sup>333</sup> It is this immense power upon which the thesis of this essay is predicated.

Philosophically speaking, the conception of communication described above demands a definition more sophisticated than merely the transfer of information, the exchange of signs. Locke and Rousseau’s concept of words as merely indicators of discrete information to pass ideas from one mind to another, as pack mules to bear immaculate meaning across the ‘chasm,’ cannot possibly account for the incredible richness, complexity, mystery, and power of communication as theorized by Burke, Schultze, Peters, and company.<sup>334</sup> Likewise and for the same reasons, the late-20<sup>th</sup> century conception, one “explicitly a theory of signals and not of significance,” will not do.<sup>335</sup> Peters lists a number of senses in which communication was understood and studied during the early 20<sup>th</sup> century, to include “partaking,” “connection,” “transmission,” and “exchange,” each of which is legitimate but none of which capture the heart of the issue.<sup>336</sup> I agree with Peters’ critique of Williams’ definition, that “Communications are ‘the institutions and forms in which ideas, information, and attitudes are transmitted and received;’” these may be the means of communication, but do not define the thing itself.<sup>337</sup> Given the conception of communication as the faculty of utilizing language and symbol to build, shape, interpret, create, and destroy realities, I propose that communication can be broadly defined as *symbolic influence*, that is, employing the use of symbols and symbol systems to influence another or oneself. This includes both the act of sending and receiving, creating and interpreting. All are involved in the formation of realities. Communication as symbolic influence accounts for the fact that all communication is impactful, minutely or magnificently, on the other and the self. It is also broader than merely the transmission

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<sup>333</sup> Schultze, *Communicating for Life*, 138

<sup>334</sup> Peters, *Speaking into the Air*, 44; Smith, *Who’s Afraid of Postmodernism?*, 36

<sup>335</sup> Ibid., 23

<sup>336</sup> Ibid., 7-8

<sup>337</sup> Ibid., 9

or exchange of meaning. Communication has power and mystery; it creates meaning where there was nothing before. This definition accounts for the difficulties of communication inherent to human nature as well as the inherency of communication itself.

Assuming the above conception and definition of communication, it becomes necessary to adopt a postpositivist and social constructivist ontological stance. This is implicit, of course, but nevertheless one must philosophically acknowledge the role of language in constructing and defining reality and thus admit that not all reality is absolute and objective. Granted, there is no need to abandon objective reality, only the acknowledgement that not all reality falls into that category. Epistemologically, however, one must adopt an interpretivist stance, acknowledging that though objective reality may exist, it is all but inaccessible apart from symbolic mediation and therefore interpretation (à la Derrida and Burke). These philosophical commitments are obviously necessary to one who acknowledges or accepts all that has been detailed above. What remains is the question of axiology. From an academic standpoint, an interpretivist stance follows; how could values not play a role in as complex and dynamic a picture as is painted above? It is the question of ethics with which the remainder of this essay, the most important component, will be concerned. Given the difficulty, necessity, and power of communication for humanity, how ought we to go about it? If we seek to use the power of communication for good and not for evil, to “breathe heaven” instead of hell, I propose another conception of communication, one to transcend the definition above: communication as an *act of love*.

The history of love in communication is a long and rich one, beginning once again, and this time perhaps most significantly, in ancient Greece. Love was the one subject that Socrates claimed to

understand.<sup>338</sup> Plato's idea of love is that of *eros*: passionate, romantic love. The connections he draws between *eros* and philosophy are many, but, famed for his distaste of rhetoric and writing, his linkage between *eros* and communication is primarily limited to dialogue.<sup>339</sup> In particular, the ideal friendship was born out of an *eros* for knowledge, pursued by mutual support. He proposes that the only use for rhetoric is to care for the souls of lesser men.<sup>340</sup> His concept of the "noble lover," the ideal communicator, is one who invests in personally knowing his audience in order to deliver speeches ethically and productively.<sup>341</sup> Thus, for Plato, love serves communication as fuel serves a fire.

Aristotle had a somewhat different view of love, that of *philia*, generally translated as "friendship." For him, *philia* is "that in virtue of which a man will put up with, and will resent, the right things and in the right way."<sup>342</sup> Some friendships are based on mere utility or pleasure. This conditional version has its value, but is not ideal.<sup>343</sup> The ideal *philia* forms between two people who are good in themselves, who love each other unconditionally and have no reason not to, for they are both virtuous.<sup>344</sup> "Now since friendship depends more on loving, and it is those who love their friends that are praised, loving seems to be the characteristic virtue of friends, so that it is only those in whom this is found in due measure that are lasting friends, and only their friendship that

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<sup>338</sup> Plato. *The Symposium*. Translated by Christopher Gill. New York, NY: Penguin Books, 1999), 177d

<sup>339</sup> Peters, *Speaking into the Air*, 36-37

<sup>340</sup> Plato. *Gorgias*. Translated by Donald J. Zeyl. (Indianapolis: Hackett, 1987. ISBN: 978-0-87220-016-6), 81

<sup>341</sup> Plato. *Phaedrus*. Translated by Alexander Nehamas and Paul Woodruff. (Indianapolis: Hackett, 1995. ISBN: 978-0-872-20220-7), 83

<sup>342</sup> Aristotle, *Ethica Nicomachea*, 1126b

<sup>343</sup> Ibid., 1156a

<sup>344</sup> Ibid., 1156b



endures.”<sup>345</sup> Hence, love serves communication more in terms of connection than anything else.

Rather than *eros* spurring two men on to dialectical pursuit of knowledge, *philia* binds two virtuous men in the communion of friendship.

Brockriede offers a more modern example of connecting love and communication scholarship. His concept of “arguers as lovers” differentiates between the various mentalities and corresponding strategies of an arguer using relational metaphors: “rapist” for the coercive persuader, “seducer” for the manipulative one, and “lover” for the ethical arguer whose devotion is first and foremost to the benefit of the interlocutors and not to achieving victory.<sup>346</sup> This serves to drive home an important point: this essay argues that communication *should* be viewed and practiced as an act of love, not that it is inherently so. The Biblical James compares the tongue to a spark capable of destroying an entire forest.<sup>347</sup> Schultze summarized the point nicely:

“As sinners, we sometime communicate maliciously. We lie and manipulate... We talk too much and fail to listen. We intentionally remain silent when we need to speak on behalf of others. We intimidate. We gossip. In fact, we enjoy warping communication for our own ends. Some of us even silence powerless individuals and propagandize exploited communities. With our sins of omission and commission, we are symbolic predators in the communication jungle of a fallen world.”<sup>348</sup>

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<sup>345</sup> Ibid., 1159a

<sup>346</sup> Wayne Brockriede, “Arguers as Lovers,” *Philosophy & Rhetoric* 5, no. 1 (1972): 1-11.

<http://www.jstor.org/stable/40237210>.

<sup>347</sup> James 3:5 ESV

<sup>348</sup> Schultze, *Communicating for Life*, 75

This is true both on the individual and the institutional level.<sup>349</sup> The fact that this is so should not be a discouragement, but rather induce a sense of appropriate gravity concerning the situation. Given all the horrible possibilities for communication, the final step is to illustrate the alternative.

The ideal model for communication can be found in scripture, but was first suggested by the ever-insightful ancients. In his *Symposium*, Plato's insights into love certainly stray miles from the Christian ethic. However, interestingly, Plato decides to characterize love as a spirit which mediates between man and God, conveying prayers from humans to their deities and gifts back down to earth.<sup>350</sup> This fantastic notion has a grain of truth at its core which anticipates future teachings of Jesus and his followers: *love is the mediator*. In the Scriptures, we are told that Jesus Christ is the "Logos," the Word, that he was one with God (thus enjoying perfect communication), but chose to "become flesh," to take on the same conditions of limitation and symbolism with which we must now contend.<sup>351</sup> By becoming flesh and conquering death, Christ became the mediator between man and God.<sup>352</sup> Hence, the Word, perfect communication, who is God, who is Love (*agape*, unconditional love), took on our limitations to become the mediator, the means of communication, between us and God.<sup>353</sup> *Love is the mediator.*<sup>354</sup>

To return to ancient Greece, in *Symposium*, it is Eryximachus, among the least-known characters, who delivers the punctuation for this nugget of wisdom when he claims that love creates the harmony between two dissonances.<sup>355</sup> It solves the problem of plurality, diversity, and finitude. "But it is the love whose nature is expressed in good actions, marked by self-control and justice, at the

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<sup>349</sup> Ibid., 78

<sup>350</sup> Plato, *Symposium*, 202d-203a

<sup>351</sup> John 1:1-14 ESV

<sup>352</sup> I Timothy 2:5 ESV

<sup>353</sup> I John 4:8 ESV

<sup>354</sup> [This brings a whole new context to "the meaning is the message"... (McLuhan, 1964)]

<sup>355</sup> Plato, *Symposium*, 188a

human and divine level that has the greatest power and is the source of all our happiness. It enables us to associate, to be friends, with each other and with the gods, our superiors.”<sup>356</sup> That quote describes almost perfectly what Schultze, Davidson, and Wolterstorff call *shalom*, the goal of good communication.<sup>357</sup> If symbolic influence is what I observe communication to be, this is what I propose communication ought to be: an act of love. What remains is only to describe practically what that means; what is love in the context of communication, or communication in the context of love? Aristotle said that love is a feeling, and friendship a state of character.<sup>358</sup> In response I cite the immortal John Mayer: “Love ain’t a thing. Love is a verb.”<sup>359</sup>

The model I propose for understanding communication as a love act comes directly from I Corinthians 13, the reference with which this essay began. To reiterate, after acknowledging the plurality, diversity, and, indirectly, the finitude of the church, he launches into a concise but comprehensive definition of love. Simple and elegant, it is cataphatic and apophatic, describing what it is and what it is not:

Love is patient and kind; love does not envy or boast; it is not arrogant or rude. It does not insist on its own way; it is not irritable or resentful; it does not rejoice at wrongdoing, but rejoices with the truth. Love bears all things, believes all things, hopes all things, endures all things. Love never ends.<sup>360</sup>

My proposal is simply to replace the word “love” with “communication,” and to take this as a model for how to conduct communication universally.

Communication is patient and kind; communication does not envy or boast; it is not arrogant or rude. It does not insist on its own way; it is not irritable or resentful; it does not

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<sup>356</sup> Ibid., 188d

<sup>357</sup> Schultze, *Communicating for Life*, 26

<sup>358</sup> Aristotle, *Ethica Nicomachea*, 1157b

<sup>359</sup> John Mayer, “Love is a Verb,” 2012

<sup>360</sup> I Corinthians 13:4-8 ESV

rejoice at wrongdoing, but rejoices with the truth. Communication bears all things, believes all things, hopes all things, endures all things. Communication never ends.<sup>361</sup>

How can this be interpreted into a useful model for practical purposes? Surely a book, nay, several volumes could be composed on that subject. Here I will strive to paint an intuitive and useful picture of what I consider to be a good interpretation.

“Communication is patient.” As Schultze observed, “Failure to communicate is more often a divergence of commitment or a deficit of patience.”<sup>362</sup> It is no coincidence that the Apostle Paul listed this first. In this world of plurality, diversity, and finitude, i.e. difference and imperfection, if one is not willing to be patient, to suspend judgement and resist annoyance or anxiety, relationship cannot occur. So it is with communication. With the power of words built into our very being, taking care not to use that power hastily is absolutely essential.

“Communication is kind.” Aristotle placed “friendliness,” or kindness, as the virtuous mean between unpleasantness and flattery.<sup>363</sup> That seems a fair characterization. Our communication ought not to be merely patient, generally a passive state, but kind, an active state of striving to do good to and for others (and oneself) in a way that is agreeable. Communication at its best will not be brash and offensive nor empty and pandering, but intentionally kind.

“Communication does not envy.” In other words, communication is not a tool for achieving self-centered goals at the expense of others. Communication is not a Machiavellian implement, but is characterized by cooperation and kindness.

“Communication does not boast and is not arrogant.” To not boast is obvious; it takes no modification to apply to communication. That power is at best wasted on merely building up the self at the expense of others. At worst, it could do serious harm. Arrogance differs from boastfulness.

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<sup>361</sup> I Corinthians 13:4-8 ESV

<sup>362</sup> Schultze, *Communicating for Life*, 287

<sup>363</sup> Aristotle, *Ethica Nicomachea*, 1108a

Even the lowliest creature can boast. It requires some amount of stature to have a character of arrogance; one must be better than someone or something. Communication is not arrogant. It is not relegated to the ivory tower. Communication is not merely the stuff of PhDs and politicians and poets. Communication is the most common, and therefore humble, faculty of man.

“Communication is not rude.” This is a highly countercultural concept in today’s day and age, in which it is common knowledge that rudeness is often par for the course in day to day communication, particularly when disagreeing with someone, and particularly when said communication takes place in a mediated context. Look no further than Facebook or the comments section on your favorite news site. Communication is not rude, it is civil, to put it in Schultze’s terms.<sup>364</sup> This concept goes hand in hand with patience and kindness. Communication strives to be civil and to treat the other with respect regardless of the circumstances.

“Communication does not insist on its own way.” Does this rule out debate or persuasion? Should communication be fundamentally passive? By no means. This component recalls the work of Eugene Garver, who reinterpreted the Aristotelian concept of *ethos* for use by contemporary religious public figures. In essence, he asserts that for ethical communication to take place, there must be a climate of trust between the parties involved.<sup>365</sup> To cultivate this climate of trust, both speaker and audience have responsibilities. The duty of the speaker, says Garver, is to foster a healthy *ethos*, that is good character.<sup>366</sup> This may be accomplished by espousing virtue, practical wisdom, and well-mindedness.<sup>367</sup> The audience for their part must practice the “hermeneutic

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<sup>364</sup> Schultze, *Communicating for Life*, 157

<sup>365</sup> Eugene Garver, “How Can a Liberal Listen to a Religious Argument? Religious Rhetoric as a Rhetorical Problem.” In *How Should We Talk about Religion? Perspectives, Contexts, Particularities*, edited by James Boyd White, 164-93. (Notre Dame, IN: University of Notre Dame Press, 2006), 171

<sup>366</sup> *Ibid.*, 169

<sup>367</sup> *Ibid.*, 171

principle of charity,” striving to see the message in the best possible light and be diligent in their interpretation.<sup>368</sup> The humility and charity involved in Garver’s model is what this component is getting at. Good communication must be willing to listen and to change.

“Communication does not rejoice in wrongdoing but rejoices in the truth.” This element speaks to a number of things, but the most important is honesty. In particular, communication ought not to lie. It ought not to mislead, to influence another contrary to reality or to what is good. This is critical in all aspects of communication, even paramount. If good communication is able to symbolically influence and construct favorable realities, lying will only tear those down and erect vile structures in their place.

“Communication bears all things.” This can be included in the elements which roundly describe patience and endurance in communication. However, it can also be reminiscent of Burke, Derrida, and Isocrates, as to how communication literally “bears all things” in the sense that columns bear a temple roof. Institutions founded on good communication will bear up under the weight of adversity.

“Communication believes all things.” This is not a proposal of naïveté. Rather, this is a call once again for charity, to strive to believe the best about the other. It recalls the scholarship of Wayne Booth and his term “rhetorology,” the practice of both parties in a debate searching deeply and intentionally for commonality on any possible grounds.<sup>369</sup> It is this sort of rigorous pursuit of commonality and cooperation which characterizes communication at its best.

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<sup>368</sup> Ibid., 168

<sup>369</sup> Wayne C. Booth, “Science versus Religion: Can Rhetorology Yield an Armistice?” In *How Should We Talk about Religion? Perspectives, Contexts, Particularities*, edited by James Boyd White, 144—63. (Notre Dame, IN: University of Notre Dame Press, 2006), 147

“Communication hopes all things.” In essence, communication does not give up in the face of communicative difficulties. It remains faithful that communication *can* be ethical and effective, even despite conditions of plurality, diversity, finitude, and any other limitations which may obstruct the endeavor.

“Communication endures all things.” This goes along with “patient,” “bears all things,” and “not irritable or resentful.” Obviously the Apostle Paul knew, probably first hand, that patience and endurance are such key components of love that they out to be stated and restated and stated again. It bears restating: communication at its best must endure the hardships inherent to the human condition and strive for the good in the face of that adversity.

“Communication never ends.” Perhaps this can constitute an allusion to heaven, that communication will not disappear with our shabby mortal bodies but go in into perfection and eternity. It serves equally well as a summative reminder that “Communication is a trouble we are stuck with.”

“But Man by number is to manifest his single imperfection, and beget like of his life, his Image multipli’d, in unity defective, which requires collateral love and dearest amity.” The theory is rather simple in the end. Plurality, diversity, and finitude are inherent to the human condition. Communication equally so, and enormously powerful inasmuch as it forms and influences virtually every branch of the human existence. To loosely borrow from Biblical symbolism, humans are essentially dragons with swords for tongues and flames in their breath. We all hold the power of life and death in the breath of our lungs. This power (I do not want to say merely ‘tool,’ for that is far too instrumental a word; van der Leeuw’s “magic” is more appropriate) can edify or assault, birth or kill, create or destroy. Given that, it is not only necessary, but good, right, virtuous and beautiful that we should take up a model of communication which understands it fundamentally as powerful and

determines to use that power for the greatest possible good. I propose I Corinthians 13 as just such a model. Love transcends communication, or rather, ideally, subsumes it. *Love is the mediator*. To conceptualize and utilize communication as an act of love is the most elegant manner I can imagine in which to structure our communication for good.



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**“Lincoln to Guantanamo: Civil Liberties in Wartime”****Daniel Glenn****Faculty Sponsor: Jonathan W. White, Department of Leadership and American Studies**

Abstract: This paper traces the history of American civil liberties in wartime. The exploration hinges on correspondence between President Abraham Lincoln and a group of Democrats in New York. This dialogue is significant not only in its elucidation of an important legal case and Lincoln's own political philosophy, but also because it displays a recurring tension between procedural justice and national exigency. The United States, like all constitutional republics, has seen—and continues to see—instances when civil liberties declined in the shadow of national threats.

Clement Vallandigham awoke in the early hours of May 5, 1863, to find a group of Union soldiers in his bedroom. The soldiers arrested the Ohio politician as his wife and children watched helplessly. A few days earlier, Vallandigham had delivered a speech protesting the war and encouraging Union soldiers to desert (Goodwin, 2005, p. 522). After his arrest, he was tried before a military tribunal and swiftly sentenced to imprisonment for the duration of the war (Neely, 1991, p. 65). Finding himself denied access to usual judicial process, Vallandigham wasted little time in requesting a writ of habeas corpus, but with no success (Witt, 2013, p. 273). Although President Lincoln heard about the arrest and trial after it occurred, he felt obliged to defend it, and subsequently faced the brunt of the backlash (Neely, 1991, p. 66). Protests erupted across the North regarding the injustice of the arrest and the stark lack of due process afforded to Ohio's most vociferous opponent of the war (pp. 66-67).

So heated was the controversy that a group of Democrats in New York issued a set of resolutions condemning Vallandigham's military arrest as unconstitutional. Lincoln responded, and what followed was an earnest back-and-forth about the Vallandigham case and questions of civil liberty. This correspondence is significant not only in its elucidation of the Vallandigham case and Lincoln's own political philosophy, but also because it displays a recurring tension between procedural justice and national exigency. The Vallandigham case was by no means the first spurn of civil liberties in wartime; nor was it the last. The United States, like all constitutional republics, has seen—and continues to see—instances when civil liberties declined in the shadow of national threats. Even so, the general trend throughout American history is that these liberties tend to return once danger subsides.

*Lincoln and the Democrats: A Dialogue on Civil Liberties*

In their initial resolutions, the Democrats denounced Vallandigham's arrest and sought to demonstrate the dangers of eroding constitutional liberties—even in times of national crisis (Moore, 1864, pp. 298-99). They asserted that the Constitution applies in peace and war alike to prevent the rise of arbitrary and tyrannical rule regardless of its military necessity. "Never in the history of civil wars," they resolved, "has a government been sustained with such ample resources of means and men as the people have voluntarily placed in the hands of the Administration" (p. 298). The resolutions outline the ways in which the Lincoln administration had expanded its power far beyond what it had been imagined to possess, and called for the preservation of procedural justice:

That this assumption of power by a military tribunal, if successfully asserted, not only abrogates the right of the people to assemble and discuss the affairs of government, the liberty of speech and of the press, the right of trial by jury, the law of evidence, and the privilege of habeas corpus, but it strikes a fatal blow at the supremacy of law, and the authority of the State and federal constitutions (p. 299).

As historian Doris Kearns Goodwin (2005) notes, "Lincoln needed the proper forum in which to present his ideas" regarding military necessity and civil liberties during the present rebellion (p. 524). Lincoln saw in the Democrats' resolutions a unique opportunity. He published his response in Horace Greeley's widely circulated *New York Tribune*. Lincoln defended the handling of the Vallandigham case, and in doing so, spoke volumes about the relationship between wartime and civil liberties. Vallandigham, he asserted, was not arrested for criticizing the administration, but for "laboring, with some effect, to prevent the raising of troops, to encourage desertions from the army,



and to leave the rebellion without an adequate military force to suppress it” (Moore, 1864, pp. 300-01). If left unchecked, Lincoln explained, Vallandigham’s demagoguery could cause increased desertion rates. In his typical fashion, Lincoln argued with great clarity and eloquence. One question he raised impressed even his most stalwart opponents: “Must I shoot a simple-minded soldier boy who deserts, while I must not touch a hair of a wily agitator who induces him to desert?” (p. 302).

Lincoln’s response to the New York Democrats was praised by Democrats and Republicans alike for its force and eloquence (Goodwin, 2005, p. 524). Nonetheless, military arrests continued, and as the war dragged on, more citizens were arraigned before military tribunals. Union authorities found that skirting the normal criminal process through military tribunals—even in areas where the court systems were fully operational—supplied much needed expediency (Witt, 2013, pp. 266-69). As historian Jonathan W. White (2011) notes, it was—and still is—exceedingly difficult to convict someone of treason (p. 45). It is no surprise, then, that using military tribunals and denying prisoners the *writ of habeas corpus* seemed far preferable to the slow, prudent, backed-up criminal justice system. In areas “teetering on the edge of rebellion,” Union military officers were particularly inclined to arrest civilians who seemed to pose a threat to the war effort (p. 44). Newspapers and politicians railed against the administration’s continued circumvention of due process despite Lincoln’s brilliant apologia (Weber, 2011, pp. 33-35). These questions continued to challenge Lincoln’s policy, and to this day, historians speculate on the necessity of Lincoln’s constitutionally questionable decisions, including the thousands of military arrests of civilians (Neely, 1991, pp. 233).

The tension between constitutional liberties and military necessity was by no means unique to the Civil War. Political theorists had grappled with questions of liberty and military necessity long before America's founding. Perhaps most notably, the English philosopher John Locke includes in his *Second Treatise of Government* a discussion of "prerogative," which he defines as "the power of doing public good without a rule" (Peardon, 1952, p. 95). Locke argues that in some governments, "the lawmaking power is not always in being, and is usually too numerous and slow for the dispatch requisite to execution" (p. 92). Moreover, there is an infinite number of "accidents and necessities" that are "impossible to foresee, and so by the laws provide for" (p. 92). While rule by legislation and rule by prerogative are, Locke suggests, necessary to preserve a society, they necessarily exist in tension with one another.

This discussion forms Locke's basis for an executive's assumption of authority where the law is either silent or too slow to meet an exigent need. Central to this formulation is Locke's trust in "rational" people to choose the right executive. "If men were so void of reason and brutish," he writes, as to enter into a society in which the executive views them as a "herd of inferior creatures under [his] dominion," then surely prerogative becomes an arbitrary and hurtful force for the people (Peardon, 1952, p. 93). However, Locke contends that a "rational creature" would never permit himself to be subjected to another for his own harm. If vigilant, he will find so wise a ruler as will make it neither "necessary or useful to set precise bounds to his power" (p. 93).

Locke had a profound influence on the American founding, and his discussion of prerogative is echoed in various founders' writings. In *Federalist* #23, Alexander Hamilton argued that a constitution must give sufficient "energy" to the government ensure the preservation of the Union (Scigliano, 2001, p. 140). Hamilton recognized the inevitable tension between the procedural shackles a constitutional republic places on its leaders and the daunting responsibility of those

leaders to defend it. With regard to the appropriate amount of power to be entrusted to government for the common defense, Hamilton maintained that it “ought to exist without limitation, *because it is impossible to foresee or to define the extent and variety of national exigencies . . . [and] the means which may be necessary to satisfy them*” (p. 140). For Hamilton, there was no point in “confiding to a government the direction of the most essential national concerns, without daring to trust it to the authorities” that execute that prerogative (p. 144).

### *Civil Liberties in the Wake of the Founding*

In the decades following the Constitution’s ratification, the federal government adopted a broad, Hamiltonian interpretation of congressional and executive powers (Paulsen & Paulsen, 2015, p. 48). This is particularly evident—and infamous—in the Alien and Sedition Acts of 1798 (Halperin, 2016, pp. 70-71). As tensions between the US and France escalated, the threat of war and the fear of foreign espionage weighed heavily on the mind of President John Adams (McCullough, 2001 p. 504). Already unpopular in the shadow of Washington, Adams garnered even harsher criticism in signing a series of laws that allowed the President to expel citizens of foreign nations whom he thought to be dangerous. The legislation also made it illegal to publish “false, scandalous, and malicious” writings against the US government (Paulsen & Paulsen, 2015, p. 133). As law professor Michael Paulsen notes, “It is difficult to think of a more clear violation of the First Amendment rights to freedom of speech and freedom of the press than the Sedition Act” (p. 133). Remarkably, the Alien and Sedition Acts faced no opposition from any branch of government; “Congress passed it, executive branch prosecutors enforced it, and the courts upheld its constitutionality” (p. 133). Soon, journalists, satirists, and other critics of the Adams administration were tried and convicted under the Alien and Sedition Acts.

These laws sparked colossal outrage. In the wake of their enactment, James Madison and Thomas Jefferson drafted resolutions in Virginia and Kentucky, respectively, denouncing the legislation. Incredulous at Adams' flagrant disregard of freedom of speech and the press, Jefferson accused the administration of exceeding its prerogative (Hall, Wiecek, & Finkelman, 1991, pp. 99-100). In similar fashion, Madison's *Virginia Resolution* expressed the General Assembly's "deep regret, that a spirit has, in sundry instances, been manifested by the federal government to enlarge its powers by forced constructions of the constitutional charter which defines them" (p. 100). Both Jefferson and Madison insisted that when constitutional protections and procedures were breached, and all three branches failed to check those violations, state governments could resist those acts (Paulsen & Paulsen, 2015, pp. 133-34).

The Virginia and Kentucky Resolutions of 1798 & 1799 reveal the danger of Hamilton's vision of an infinitely energetic means of national security. As Paulsen (2015) poses the conundrum, "Who checks the national government?" (p. 133). The quasi-war with France was the first major national security scare under the new constitution, and Adams did not take his decision to sign the acts lightly (McCullough, 2001, p. 505). Yet for many, the threat of French espionage was insufficient to justify the enlargement of executive authority. As Jefferson put it, "In questions of power, then, let no more be said of confidence in man, but bind him down from mischief by the chains of the Constitution" (Hall, Wiecek, & Finkelman, 1991, p. 100). The Alien and Sedition Acts left a bitter taste in the mouths of many Americans and heightened fears of how times of crisis could chip away at the newly adopted Constitution (p. 58).

If the quasi-war with France seemed to threaten the safety of the United States, the War of 1812 threatened its very existence. As the war dragged into December 1815, General Andrew Jackson declared martial law in New Orleans to prevent its capture. "If New Orleans were taken," Jackson later recalled, "I well knew that new difficulties would arise . . . . My determination, therefore, was formed not to halt at trifles, but to lose the city only at the boldest sacrifice; and to omit nothing that could insure success" (Jackson, 1862, p. 13). Among the "bold sacrifices" Jackson thought necessary to defend New Orleans were the liberties and legal rights of its citizens. Jackson forbade all citizens to leave the city without permission, ordered all street lamps be darkened after 9:00 P.M., and compelled all able-bodied men to serve as soldiers or sailors (Groom, 2007, p. 114). Most importantly, the declaration gave the general supreme authority over the city, complete with discretion to summarily execute those suspected of spying for the British (p. 114).

From the beginning of February until March 1816 Jackson's soldiers arrested and imprisoned over thirty citizens without ever charging them. Many of those arrested during the siege remained in jail for three months without a trial (Warshauer, 2006, p. 29). The official prison guard report recorded these prisoners as "Citizens Without Charges" (p. 30). Such persons had few avenues to seek redress of their grievances. One exasperated prisoner wrote to Jackson:

I have been Confined in Neworleans Guardhouse now twenty days doing no good for myself nor my country. I have not heard of any Charge against me if there is no Charge I hope your Excellency will be so good as to have me liberated . . . if there is any Charge against me your Excellency will Please to be so Condescending as to Inform Capt Chaveaux what Security your Excellency will require for my appearance at Court martial, if no Security can be taken I beg your Excellency will have me brought before yourself or the court for trial (pp. 30-31).

Evidently, Jackson obliged him, as his name does not appear on the guardhouse report (p. 31).

Others were not so lucky, and languished in jail for months awaiting the return of the regular judicial process.

Jackson's strategies were tremendously effective. His forces successfully defended the city and inflicted over seven times as many casualties on the British as they sustained (U.S. Army Center of Military History). Moreover, though his strategies distressed some, their ultimate effect was to calm the general alarm at the British approach and bolster confidence in the city (Remini, 2001, p. 58). Despite his victory, Jackson kept New Orleans under martial law for two months after the British had withdrawn (Warshauer, 2006, p. 29).

There was little doubt about the illegality of Jackson's martial law. The general himself later admitted that his actions in New Orleans were unconstitutional. "I very well knew the extent of my powers," he recalled, "and that it was far short of that which necessity and my situation required. I determined, therefore, to venture boldly forth, and pursue a course correspondent to the difficulties that pressed upon me" (Jackson, 1862, p. 13). Knowing this, Jackson assured himself that "if a successful defense could be made," the general populace "would *lose sight of and forget* the means that had been employed" (p. 13).

### *Civil Liberties in the Early 20th Century*

Despite the instances when the freedoms of speech and press in America were curtailed during 18th and 19th centuries, the Supreme Court did not wrestle with the meaning of the First Amendment until the 20th century. During World War I, President Wilson advocated for the enactment of the Espionage Act of 1917, and its subsequent amendment, the Sedition Act of 1918. These laws imposed substantial restrictions on freedom of speech due to its "dangerous tendencies"

(Paulsen & Paulsen, 2015, p. 207). Wilson saw these acts as “tools for combatting opposition to the war, the draft, and the administration’s wartime policies” (p. 207). In June 1917, Charles Schenck, a General Secretary for the Socialist Party in Philadelphia, distributed pamphlets through the US Postal Service to men recently selected for the draft. The pamphlet denounced the draft as unconstitutional and encouraged its readers to “Assert Your Rights” (Paulsen & Paulsen, 2015, p. 207-08). Schenck was convicted of obstructing the recruitment and enlistment service under Section 3 of the Espionage Act of 1917. The Supreme Court heard his case in 1919 and unanimously upheld his conviction (Schenck, 1919).

In his opinion of the court, Justice Oliver Wendell Holmes Jr. established a test for what constituted protected speech under the First Amendment. If the words in question presented “a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent,” then Congress may constrict it (Schenck, 1919). Justice Holmes’ opinion contains his most famous adage: “The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing panic.” *Schenck v. US* clarified the meaning of the First Amendment, especially in times of war. The “clear and present danger” standard would become the root of numerous First Amendment cases including the subsequent case, *Abrams v. US*.

On August 12, 1918, a group of Russian immigrants (including Jacob Abrams) were arrested for throwing armfuls of flyers out of a window in New York City. The flyers called for a general strike and urged workers in weapons factories to refuse to produce weapons and other military materials to be used by American soldiers against Russia. The immigrants were charged with violating the Espionage Act of 1917’s prohibition of language “intended to incite, provoke, and encourage resistance” to the prosecution of the war and to “urge, incite and advocate curtailment”

of military production (Beeman, 2012, p. 31). Once again, the Court upheld their conviction, harkening back to the “clear and present danger” doctrine (pp. 31-32).

The *Abrams* case was not unanimous as was *Schenck*. In fact, Justice Holmes famously dissented in *Abrams*, appealing to a view that saw free speech as a marketplace of ideas, and that “the best test of truth is the power of the thought to get itself accepted in the competition of the market” (Abrams, 1919). He stressed the importance of being “eternally vigilant against attempts to check the expression of opinions that we loathe” (Abrams, 1919). Moreover, he addressed the clear and present danger doctrine in *Schenck v. US*, noting that unless Abrams and his companions “imminently threaten[ed] immediate interference with the lawful and pressing purposes of the law,” they posed no such danger (Abrams, 1919).

Even with dissenters like Holmes, the Court’s continual defense of the Espionage Act of 1917 and Sedition Act of 1918 signaled a willingness to constrict civil liberties when national security appeared to require it. As the security concerns of the nineteen-teens subsided, so did the Court’s allowance of laws abridging the freedom of speech. Justices Holmes and Louis Brandeis began dissenting in the Court’s anti-free speech rulings and by the mid-1920’s, the Court began to rule in favor of free-speech (Paulsen & Paulsen, 2015, p. 210).

### *Civil Liberties in World War II: Japanese Internment*

Several decades later, war again exposed the tension between civil liberties and national security. Within weeks of the attack on Pearl Harbor in December 1941, Japanese forces had taken Guam, the Philippines, and other islands (Chrisp, 2004, p. 18). Subsequently, President Roosevelt authorized the detention and imprisonment of all persons of Japanese descent (Paulsen & Paulsen, 2015, p. 236). Although the Executive branch issued the order, both Congress and the Supreme



Court did nothing to stop it. In fact, Congress enacted laws making it illegal to violate military directives and the Supreme Court initially upheld the constitutionality of the internment camps (p. 236). The camps, which Paulsen calls “one of the greatest injustices ever perpetuated by the United States against a class of US citizens,” sparked several landmark Supreme Court cases, namely *Korematsu v. United States*, *Hirabayashi v. United States*, and *Ex parte Endo* (pp. 236-40). The Justices’ opinions in these cases echo the arguments of Lincoln and the Democrats, and exhibit the difficulty of squaring military necessity with Constitutional freedoms.

The Supreme Court was largely split on the Japanese internment cases, and those in the majority against Japanese litigants were by no means comfortable with their rulings. A 6-3 decision, *Hirabayashi v. United States* decided whether a curfew order, requiring persons of Japanese descent to remain indoors after dark for fear of espionage and sabotage, was constitutional (Hirabayashi, 2013, p. ix). Writing for the majority, Chief Justice F. Harlan Stone deferred to the military’s judgement that the action was a necessity of war. While he admitted that the “number and strength” of disloyal Japanese citizens “could not be precisely and quickly ascertained,” he recognized that the Executive branch had “ground for believing that in a critical hour such persons could not readily be isolated and separately dealt with, and constituted a menace to the national defense and safety” (Wilson & Herman, 2000, p. 88).

The next case, *Korematsu v. United States*, again upheld Roosevelt’s action. Fred Korematsu, a loyal citizen of Japanese descent, resisted military authorities while as they forcibly removed from his home for relocation to an internment camp. The court majority again—albeit rather nervously—deferred to the military’s judgement, assuming the necessity of the measure to the national security (Paulsen & Paulsen, 2015, p. 237). In a forceful dissent, Justice Robert Jackson demonstrated the dangerous implications of the case:

It would be impracticable and dangerous idealism to expect or insist that each specific military command in an area of probable operations will conform to conventional tests of constitutionality. When an area is so beset that it must be put under military control at all, the paramount consideration is that its measures be successful, rather than legal . . . . The principle then lies about like a loaded weapon ready for the hand of any authority that can bring forward a plausible claim of an urgent need (p. 240).

Jackson recognized that the justification of military necessity is exceedingly compelling, as it plays on the urgency and fear national crisis inevitably brings. Yet the temptation to yield to the discretion to military authorities on the grounds of national defense is itself a “loaded weapon” in the hands of government (p. 240).

The same day that the Court decided *Korematsu*, they also came down on another case, *Ex parte Endo*. Mitsuye Endo was a Japanese-American who worked for the California Department of Motor Vehicles and whose brother fought in the US army. There was no doubt as to her loyalty. After being confined in an internment camp for some time, her loyalty was confirmed by an administrator, who then approved her for release. However, because government policies kept the release of Japanese detainees at a slow trickle, officials continued to confine her to the camp (Paulsen & Paulsen, 2015, p. 240). The Supreme Court unanimously decided that, her loyalty proven, there was no risk of espionage or sabotage to continue her confinement (p. 241). *Ex parte Endo* in effect ordered the closure of the detention camps, but it did so while still recognizing the internment camps’ constitutionality if danger of espionage and sabotage were present (p. 242).

The attacks on September 11, 2001 changed the way the US government viewed civil liberties in the twentieth century. The first massive attack on US soil since Pearl Harbor, the September 11 attacks led to one of the most sudden increases in presidential power. President George W. Bush asked Congress for what Paulsen describes as “the most sweeping declaration of war in American history” (Paulsen & Paulsen, 2015, p. 312). Congress obliged him, and the subsequent Authorization for Use of Military Force (AUMF) allowed the president to employ “all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks” on September 11 (Elsea, 2011, p. 14). The Bush administration took full advantage of these new powers, and in the subsequent months, was aggressive in waging war on al-Qaeda and its allies (Paulsen & Paulsen, 2015, p. 313).

Despite the general anxiety about other attacks, the Bush administration’s employment of broad executive power under the AUMF garnered substantial controversy. Among the most contentious actions was the release of a set of legal memoranda titled “Humane Treatment of Taliban and al Qaeda Detainees,” but soon came to be known as the “Torture Memos” (Cohen, 2012). Drafted by Deputy Assistant Attorney General John Yoo and signed by Assistant Attorney General Jay Bybee in August 2002, the memorandum in effect authorized the abandonment of America’s commitment to the Geneva Convention’s prohibition on torture (Cohen, 2012). The “Torture Memos” set forth a system for implementing “enhanced interrogation” techniques and vowed to treat detainees humanely but only “to the extent appropriate and consistent with military necessity” (Cohen, 2012). The Yoo/Bybee memo in particular, as one journalist observed, “read like the advice of a mob lawyer to a mafia don on how to skirt the law and stay out of prison” (Pyle, 2009, p. 90). It narrowed the definition of torture to refer to physical harm “equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily functions, or even death” (p. 88). Many criticized the language for appearing to be “an advance

pardon” or a “get-out-of-jail-free card” for the administration to do as they wished in the name of military necessity (Pyle, p. 90).

John Yoo, a self-proclaimed Hamiltonian, drafted the memos with the understanding that the President had virtually unlimited authority as Commander-in-Chief to dictate how the military should respond to terrorist threats. “Those decisions,” he wrote, “are for the President alone to make” (Mayer, 2006). When asked about Congressional checks on the President’s ability to regulate torture, Yoo replied, “Congress may no more regulate the President’s ability to detain and interrogate enemy combatants than it may regulate his ability to direct troop movements on the battlefield” (Mayer, 2006). Those of Yoo’s persuasion saw the September 11 attacks introduce a shift in the framework for civil liberties. In 2005, Yoo wrote that the war against Al-Qaeda could not be prosecuted “within the framework of the criminal law.” The attacks were not mere crimes, but acts of war, and to effectively respond to them “requires a military approach to the conflict” (Yoo, 2005).

Perhaps equally controversial as the “Torture Memos” was the Bush administration’s detention of captured enemy combatants at Guantanamo Bay, an offshore military base in Cuba. Additionally, the administration saw al-Qaeda fighters as war criminals, not soldiers; and as a result, the President authorized their trial by military tribunal (Paulsen & Paulsen, 2015, p. 313). The detentions at Guantanamo along with the military tribunals received mass criticism from the American public, and before long, challenges to their constitutionality reached the Supreme Court. The first of these cases, *Hamdi v. Rumsfeld* (2004) involved a US citizen who was captured as a Taliban fighter in Afghanistan and subsequently detained in naval brigs near Norfolk, Virginia (Beeman, 2012, p. 23). Hamdi sought a writ of habeas corpus, and his case soon reached the Supreme Court. The Court sided with Hamdi, and in an opinion by Justice Sandra Day O’Connor, ruled that Hamdi’s right to due process right had been violated and that he was entitled to contest

his label of “enemy combatant” (p. 23). In subsequent cases, such as *Rasul v. Bush* (2004), *Hamdan v. Rumsfeld* (2006), and *Boumediene v. Bush* (2008), the Court further defined the limits of executive power in the treatment of captured enemy fighters. Paulsen suspects that the Court may have been “haunted by the ghost of *Korematsu*” (Paulsen & Paulsen, 2015, p. 313).

### *Conclusion*

Despite Lincoln’s rhetorical genius, the New York Democrats remained vehemently opposed to Vallandigham’s fate. In the end, Lincoln maintained a position which Locke and Hamilton would likely have approved, closing his last letter with the assurance that he “must hereafter, as heretofore, do so much as the public safety may seem to require” (Moore, 1864, p. 376). As in so many times throughout American history, when military necessity collided with liberty, the former prevailed—at least in the short term. A notable trend for civil liberties is that despite their frequent decline during wartime, they usually returned after the danger subsided. Once the necessity of Jackson’s martial law, Lincoln’s arbitrary arrests, Wilson’s war effort, or Roosevelt’s internment camps receded, constitutional freedoms generally returned to their normal status. An exception to this trend is seen in the ongoing war on terrorism, which, it is argued by some, continues to pose a threat to US national security a decade and a half after the September 11 attacks. Apart from this, however, civil liberties seem rather elastic, even when abrogated during crises.

If there is any common thread throughout the history of constitutional law, it is the tension between constitutional liberty and national necessity. American history is punctuated with episodes of crisis in which civil liberties are challenged and decline, but return once the conflict subsides. Even before America’s founding, thinkers like John Locke predicted that the infinite number of threats and risks would often collide with the regular rule of law. Hamilton also recognized this

tension, and advocated for a government with sufficient energy to effectively provide for the common defense. John Adams and Andrew Jackson—whom Lincoln would reference as justification for his controversial actions—found themselves caught between preserving the freedoms and principles enshrined in the Constitution, and ensuring the very survival of their infant nation. The controversy in which Lincoln and the Democrats found themselves was not unprecedented; similar questions have arisen throughout American history, and are sure to appear once more.

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**“Mental Health Stigma and Advocacy on U.S. College Campuses”****Paige M. Long****Faculty Sponsor: Dr. Michelle Lange, Department of Psychology****Abstract**

Even when research suggests that up to 50% of people will experience a mental illness at some point in their lifetime, a pervasive fear of mental illness persists in America and around the world today.

This literature review examines the research on mental health stigma in the United States and, particularly, how this stigma affects the college population. The goal of this literature review is to identify the main causes of mental health stigma, its impact on treatment-seeking, and ways to eliminate stigma and encourage individuals with mental illness to seek help.

*Keywords:* stigma, college students, mental illness, mental health, treatment-seeking

## Mental Health Stigma and Advocacy on U.S. College Campuses

Mental illness affects approximately 20% of the U.S. adult population. According to the Substance Abuse & Mental Health Services Administration [SAMHSA] (2016), 1 in 5 American adults experience a mental illness each year. Further, in a 2001 survey of 70,000 American adults, less than 50% of respondents who had a mental illness had received some sort of mental health treatment in the previous year (SAMHSA, 2003). Because many occurrences of mental illness go unreported in the United States, it is likely that the true statistic is even smaller.

College students are not protected against this phenomenon. In fact, the average college age group (between 18 and 24 years old) mirrors these statistics (Hartrey, Denieffe, & Wells, 2017). This may be because the societal, family, and personal pressures to perform well in a post-secondary academic setting can lead to increased levels of stress, anxiety, and depression (Hartrey et al., 2017). According to a recent article published by USA TODAY College, 67% of college student respondents did not seek or receive professional treatment for their mental illness (Sabatke, 2016). Clearly, something is preventing college students from seeking on- and off-campus mental health treatment.

The stigma that surrounds mental illness is pervasive and entrenched both in the culture of the United States and in cultures around the world. While research has found that mental illness affects 20% of the U.S. population (Substance Abuse & Mental Health Services Administration, 2016), the stigma that surrounds mental illness persists. It is engrained into the societal expectations of every role or position an individual may serve in society: from (a) the full-time student who should be involved in extra-curricular activities while maintaining a 3.0 grade point average to (b) the single mother who must work 60 hours per week to support her children to (c) the standard employee who may only to call out of work when burdened with a 'legitimate' physical ailment. This

stigma may serve as a barrier between individuals who suffer from a mental health condition and the mental health treatment they need to recover or to prevent their symptoms from worsening.

### **Literature Review**

**College students' mental health.** According to the USA TODAY College article, 49.5% of the students surveyed indicated feelings of hopelessness in the past year while 60.5% of the students surveyed indicated feelings of loneliness in the past year (Sabatke, 2016). These feelings, along with other common warning signs of a mental health condition, have become normalized in the college culture. Since undergraduates are exposed to higher levels of stress and expectation than the average person, it is viewed as 'normal' for a student to deprive themselves of sleep, ignore feelings of anxiety and depression, and not to be concerned when seeing another student doing the same. Because of this normalization, it is easy to forget that these feelings are also common symptoms of mental illness. Thus, these symptoms often go undetected or even ignored by both the individual and members of their social support network.

A recent survey of 765 American college students revealed many striking conclusions about the state of mental health in college students today. Although the report did not specify the percentage of respondents who dropped out of their post-secondary studies, 64% of these individuals did so due to a mental health-related reason (NAMI, 2012). This research also found that 50% of these individuals did not seek professional treatment and over 45% did not receive accommodations from their institution (NAMI, 2012). These decisions are often made when students do not feel supported by their institution, particularly when they are denied the accommodations they request to be successful academically or when they feel as though they are asking for an advantage over other students when requesting accommodations (Hartrey et al., 2017). 50% disclosed their mental illness to their institution, but the other 50% decided against doing so for

reasons such as fear of the impact disclosure would have on faculty's perceptions of them (NAMI, 2012). This illustrates the far-reaching influence that stigma has on college students who are experiencing a mental illness.

**Stigma.** Stigma is a frequently reported factor that prevents individuals from seeking mental health treatment and is often the result of a widespread lack of education on and awareness about the issues at hand. A survey that assessed stigma- and non-stigma-related barriers to mental health treatment found that all five of the most frequently reported barriers were related to stigma: (a) 83.2% of respondents indicated concern that seeking mental health treatment would harm their chances of securing a job, (b) 80.0% of respondents indicated concern that their peers would not take them as seriously, (c) 79.9% of respondents indicated concern that others would perceive them as weak, (d) 78.2% of respondents indicated concern about how coworkers would respond, and (e) 77.9% of respondents indicated concern about their own self-stigma (Dockery et al., 2015). These percentages show that three-fourths to four-fifths of respondents experienced stigma-related unease when considering the option to seek treatment. According to a prominent leader in mental health stigma research, stigma deters treatment-seeking behavior in two ways: (a) by inciting the desire to avoid perceived public stigma, and (b) by inciting the desire to experience internalized stigma, or feelings of embarrassment and shame (Corrigan, Mittal, Reaves, Haynes, Han, Morris, & Sullivan, 2014). Other research has shown that perceived stigma is directly correlated with self-stigma and inversely correlated with attitude toward treatment-seeking (Jennings et al., 2015). Perceived stigma is thought to reinforce common stereotypes of mental illness, such as weakness, oversensitivity, incompetency, and incurability, thereby decreasing the likelihood that the mentally ill individual will seek professional treatment (Jennings et al., 2015). Additionally, individuals with mental illness may anticipate stigmatization due to past experiences of discrimination (Quinn, Williams, & Weisz as

cited in Lucksted & Drapalski, 2015), further decreasing the likelihood that they will seek professional treatment.

Because of the stigma that surrounds mental illness, some individuals, particularly in the United States, tend to prefer to handle their mental health issues on their own rather than seek professional treatment (Clement et al., 2015; Corrigan, 2004; Gulliver, Griffiths, & Christensen, 2010; Jennings et al., 2015; Judd, Komiti, & Jackson, 2008). Findings show that two of the factors that prevent young people from seeking mental health treatment are stigma and self-reliance (Clement et al., 2015; Corrigan, 2004; Gulliver et al., 2010). Treatment-seeking in college students may be hindered and discouraged by perceived stigma, leading them to rely only on themselves to improve their mental health condition or prevent it from worsening (Jennings et al., 2015). Additionally, studies have shown that males are less likely to seek mental health treatment because of the cognitive dissonance caused by the male stereotype of being strong contradicting the mental illness stereotype of weakness (Clement et al., 2015; Judd et al., 2008). There were no conflicting findings across these studies. Individuals may also prefer to handle their mental health issues on their own because American society pushes the values of individualism, independence, and hard work.

***Stigma in American society.*** American culture breeds stigma by emphasizing the importance of individuals being independent (Ey, Henning, & Shaw, 2000; Jennings et al., 2015; Taylor et al., 2004). The individualistic culture of the U.S. encourages independence and perfectionism and discourages dependence (Ey et al., 2000; Jennings et al., Taylor et al., 2004). Now that American society views mental illness as something that is controllable and manageable by the individual, those with mental illness “are more likely to avoid, withhold help, and endorse coercive treatment” (Corrigan, 2014, as cited in Markowitz, 2011, p. 39).

***Fear of association with violence.*** A theme that was anticipated to be found in this literature review was that people with mental health conditions are afraid that others will associate them with violence, but this was not found. Markowitz (2011) discovered an increase in those who associate mental illness with violence, despite the public's bettered understanding of mental illness has increased over the last half century. This is explained by news and entertainment media's widespread false reporting and portrayal of individuals with mental illness (Markowitz, 2011). Although a very small percentage of the mentally ill are dangerous or violent, news and entertainment capitalize on these stories, causing the public perception that the dangerous and violent comprise most of the mentally ill population. It seems logical, then, that an individual with mental illness, after disclosing a mental illness, would anticipate peers associating them with violence, but this is not the case. Findings did not show that these people are afraid of being feared and associated with violence (Clement et al., 2015; Jennings et al., 2015). This theme had never been a focus of mental health stigma research, was never included in the self-report measurements, and should be an upcoming focus of research to determine whether the stereotypes of dangerousness, violence, and unpredictability may prevent disclosure of mental illness to friends, family, or institutions.

## **Discussion**

Mental illness affects a large portion of the population. If an individual does not suffer from a mental illness, it is likely that they have a close friend or family member who does. Because of the stigma that persists in American society today, the mentally ill overwhelmingly decide against seeking professional treatment for their mental illness. Further, U.S. culture encourages individualism and perfectionism and discourages dependence and seeking help, causing the mentally ill to feel as though they should be able to 'fix' themselves without professional intervention.



**Advocacy.** As seen in the United States over the past half century, the public's perception of mental illness can dramatically improve. Several small changes can be made to decrease the stigma that surrounds mental illness in American culture, thereby increasing the likelihood that those with mental illness will feel comfortable and supported enough to seek professional treatment.

The first step is to encourage those suffering from a mental illness to seek counseling services. Because therapists are trained for many years to ask the right questions, understand problems from all angles, teach coping skills, and change an individual's thought processes, the mentally ill should be encouraged to pursue therapy for as long as necessary. The majority of the mentally ill have not received the training to do this, so they should feel the need to see a therapist in order to better their cognition and behavior and hopefully improve their mental health conditions.

The second step is to develop programming that can be utilized at colleges nationwide. This programming should be designed to target the young adult age group and serve to educate college students about the effects of stress on the body and brain, different mental illnesses and their symptoms, and determining when to seek professional help. In doing so, this program will educate students on the importance of self-care as well as the importance of monitoring one's symptoms. This may also help counteract the individualistic culture of the United States by making everyone aware of the warning signs and thereby making students more likely to look out for these signs in their friends and classmates.

Additional programming should be developed to target college faculty members. Because students are more likely to confide in a trusted professor or staff member about their struggles than to seek help from on-campus counseling services, faculty should also be knowledgeable about the symptoms of various mental illnesses.

Guidelines should also be created to stop the news and entertainment media from promoting the idea that mental illness equates to dangerousness, violence, and unpredictability. Although the mentally ill have not been found to avoid disclosure for the sake of preventing association with these characteristics, stigma is perpetuated when the public is shown extremely negative aspects of mental illness and made to think that most of the mentally ill are, in fact, dangerous.

Lastly, the mentally ill should be encouraged to speak out about their experiences. This can be done using celebrities or social media campaigns. The more often mental illness is spoken about by an individual who has personally dealt with it, the more mental illness will become 'normalized' and less scary to the people who will never experience it. Speaking out will educate others on the loneliness of mental illness and the stigma that surrounds it, and by doing this, more people who are not affected by mental illness will join the fight to eradicate stigma, improve mental health treatment, and increase access to mental health care in the United States.

While mental illness stigma at the college level continues to persist, researchers remain hopeful that further research and implementation of education and awareness efforts will lead to a reduction in stigma and increase treatment-seeking among college students.

### **Conclusions and Directions for Future Study**

There is still controversy in this area: Are college students worried about others thinking they will act out violently due to their mental illness? Will asking this question plant the worry in their head? Self-reports may be the only way to find this.

While research on mental health stigma in U.S. society and on U.S. college campuses has been tremendously helpful thus far, there are many gaps in the research that must be filled before stigma can be fully understood and eliminated. First, most studies did not look for demographic differences such as gender and ethnicity. A more diverse sample would provide a better understanding of how culture and family upbringing affect perceived stigma and self-stigma. Second, Jennings et al. (2015) suggest examining whether a relationship exists between self-stigma and perfectionism, particularly in countries such as the United States where there is a focus on independence and individualism. Third, it would be beneficial to examine possible third variables that may mediate or moderate the relationship between perceived stigma, self-stigma, and treatment-seeking. Lastly, future research should attempt to answer whether people with an educational background in psychology (e.g., have taken an introductory psychology course) have significantly different rates of perceived stigma and self-stigma compared to those who do not have an educational background in psychology. This would determine whether education is truly key in decreasing the effects of stigma on treatment-seeking.

With how widespread mental illness is, the mentally ill should be encouraged to seek treatment in the form of counseling and/or medication. These individuals should be made to feel that they are not inferior to the rest of the population, and mental illness, counseling, and medication should be normalized to eradicate the stigma that surrounds them. Particularly for college students and faculty, educational anti-stigma programs should be held often to educate about mental illness and explain when and why it is important to seek help.

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Paige M. Long received her Bachelor of Arts in Psychology from Christopher Newport University in May 2018. After transferring from Longwood University in 2015, she tailored her education and extracurricular activities to further her knowledge of mental health and mental illness, particularly among young adults. As President of the National Alliance on Mental Illness (NAMI) at Christopher Newport for a year and a half, Paige served on two mental health-related committees whose purpose was to make a positive impact on campus culture and policy regarding mental health. Some of her most memorable advocacy and awareness efforts include bringing the first-ever suicide prevention training program to Christopher Newport in 2016 and 2017, speaking at the Governor's Budget Hearing on the importance of increasing funding on statewide mental health resources in January 2018, and lobbying at the Virginia General Assembly for the passage of four mental health-related bills with NAMI Virginia in February 2018. Paige looks forward to continuing her relentless efforts to spread mental health awareness and suicide prevention and advocate for individuals who live with mental illness.

**“The Cognition of Animals: Why Descartes was Wrong”****Haley Reynolds****Faculty Sponsor: Dr. Matthew Homan, Department of Philosophy and Religion****Abstract**

The questioning of nonhuman animal cognition is not a recent development. Scholars from fields ranging from biology to philosophy have attempted to define and demonstrate various levels of cognitive functionality in animals. Many of the foundational philosophical beliefs regarding the cognitive capacity of such animals stem from the assertions of Rene Descartes. Believing animals to be fundamentally distinct from humans, Descartes argues that these ‘beasts’ are not only incapable of thought but reason, learning, and language as well. Using empirical data from recent studies, Descartes’ assumptions and conclusions regarding the cognitive abilities of animals can be shown to be overwhelmingly barbaric and outdated.



## The Cognition of Animals: Why Descartes was Wrong

The core of Descartes' philosophy regarding animals is built upon several key principles including a lack of cognitive processing and an inability to reason, use language, or learn based on past experiences. Before defining these terms myself, I would like to review Descartes' beliefs in regards to the aforementioned qualities. As "the only thing that makes us men and distinguishes us from the beasts,"<sup>370</sup> the ability to reason is the primary function that, in Descartes' opinion, make humans superior to animals. Insisting that they have no intelligence, Descartes asserts that animals have no capacity to use reason whatsoever. Stemming from this lack of reason, Descartes subsequently denies animals the capacity to use and understand language. When exploring the infinite possibilities of language use, he says "there is no other animal, however perfect and well-endowed it may be, that can do the like."<sup>371</sup> Although he recognizes the mimicked gestures of parrots and apes, he refuses to recognize their use of 'language' due to the failure to expand upon that which they have been taught. Descartes also emphasizes the inability of animals to learn from their mistakes and make correction based judgments. As human beings, we have an innate propensity to innovate and find new solutions to problems in the face of failure. Descartes suggests that in beasts, "it is nature which acts in them according to the disposition of their organs,"<sup>372</sup> rather than the mind recognizing a failure and attempting to correct it. In his denial of reason and language, Descartes also denies thought to beasts as an obvious implication of the lack of reason. As one of the only exceptions to his previous assertions regarding the lack of all thought in animals, Descartes suggests that the presence of sense organs similar to those found in humans is indicative of similar functionality, "since thought is included in our mode of sensation, similar thought seems to be

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<sup>370</sup> Descartes, Rene. "Discourse on Method." In *Selected Philosophical Writings*, by Rene Descartes. Translated by John Cottingham, Robert Stoothoff and Dugald Murdoch. (New York: Cambridge University Press, 1988), 21.

<sup>371</sup> Descartes, *Discourse on Method*, 45.

<sup>372</sup> Descartes, *Discourse on Method*, 45.

attributable to them.”<sup>373</sup> Eventually rejecting this idea, Descartes spent a considerable amount of time contemplating possible modes of thought exhibited by animals. He also notes the mechanical nature of their actions and movements, relating them to the programmable motions demonstrated by robots. Suggesting that animals are similar to automatons, Descartes relates the actions of animals to that of a machine which “contains in itself the corporeal principles of the movements for which it is designed.”<sup>374</sup> If you were to press a key on a piano for example, you would expect a sound to be produced in response. Similarly, in Descartes’ mind, if you were to kick a dog you would expect to get a cry in return. This response does not necessarily indicate pain and recognition, rather it should only be suggestive of the internal programming of such an animal to respond in that exact way. The combination of these factors leads Descartes to his final conclusion, that the souls of animals are “completely different than ours.”<sup>375</sup> He suggests that, compared to the rational souls of human beings capable of reason and intelligence, the “souls [of animals] are nothing but their blood.”<sup>376</sup> With the support of modern science, Descartes’ philosophy regarding animals has been marked as outdated as new evidence of animal cognition and consciousness continuously flows in from researchers across the world.

The most notable quality of the human mind that Descartes denies in animals is reason. Defined as “the power of judging well and of distinguishing the true from the false,”<sup>377</sup> the capacity to reason is, at least in Descartes’ philosophy, exclusively human. Primarily focused on logic and

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<sup>373</sup> Descartes, Rene. “To More,” in *The Philosophical Writings of Descartes*, by Rene Descartes. Translated by John Cottingham, Robert Stoothoff, Dugald Murdoch, and Anthony Kenny. (Cambridge: Cambridge University Press, 1984), 362.

<sup>374</sup> Descartes, Rene. “The Passions of the Soul.” In *Selected Philosophical Writings*, by Rene Descartes, translated by John Cottingham, Robert Stoothoff, and Dugald Murdoch. (New York. 1988), 219.

<sup>375</sup> Descartes, Discourse on Method, 45.

<sup>376</sup> Descartes, Rene. “To Plempius for Fromondus,” in *The Philosophical Writings of Descartes*, by Rene Descartes, translated by John Cottingham, Robert Stoothoff, Dugald Murdoch and Anthony Kenny. (Cambridge: Cambridge University Press, 1984), 61.

<sup>377</sup> Descartes, Discourse on Method, 20.

complex cognitive functioning, he excludes instinct from reason, attributing this form of intelligence to the programming of nature rather than individual cognition. In terms of the reasoning ability of animals, Descartes relates the actions of beasts to those of machines; for now let's call it mechanical reasoning, an example of which can be seen in the execution of tasks by computers. When programmed to do a specific task, a computer will execute that task regardless of the residual effects; a toaster will always toast its contents for the time it is set even if the house it sits in burns down in the process. Technology far more advanced than a toaster, artificial intelligence for example, even when programmed to solve a problem, must engage in the testing of very possible answer in order to find the appropriate solution, unable to use prior knowledge as a reference point for future action. Neither of these machines show evidence of problem solving ability or reason. It is when an entity, regardless of species or general form, is able to think about a problem in terms of causality and residual effects, internalize several possible solutions, and execute what they believe to be the best option based on intelligence and past experiences, that true reason is demonstrated. I would, therefore, like to amend Descartes' definition of reason to the following: the capacity to think about abstract problems in terms of a cause and effect relationship, followed by the development and execution of a reasonable solution.

For the sake of brevity I will focus on one genetic family in particular that exceeds most others in regards to reasoning ability; the Corvidae family. More commonly known as Crows, Jays, Magpies, and other birds of similar physique, Corvids are renowned for their high levels of intelligence both in and out of the animal kingdom. Outside of captivity, these birds have not only been known to drop acorns in front of cars on the highway in order to open them, and are the only species besides humans that have been seen creating and using hook tools for foraging.<sup>378</sup>

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<sup>378</sup> Taylor, Alex H. "Corvid Cognition." *WIRE's Cognitive Science* 5. (2014).

A study led by Alex H. Taylor in 2007, designed to test the abstract problem solving ability of corvids, found evidence suggesting high levels of analogical reasoning along with a restricted sense of self awareness. In this study, members of several different genetic pools were presented with an eight stage puzzle meant to encourage metatool use, each stage requiring the use of a tool that could only be obtained by completing the previous task. This concept was developed to indicate higher intelligence in animals and is difficult for most to understand without multiple attempts. The same test was conducted amongst different species in order to establish a baseline for comparison when analyzing the results from the Corvid family. From the primate family, only five out of six Gorillas and a mere three out of six orangutans were able to complete the task, indicating generally lower levels of cognitive processing among non-human primates. Other bird species were also tested to avoid phenotypical advantage due to variations in anatomy such as beak length and cranium width. Requiring a total of fifty tests to achieve an overall success rate of 75%<sup>379</sup> (Taylor, Hunt, et al. 2007), rooks demonstrated a very low percentage of spontaneous reasoning, suggesting that the postcranial anatomy of a bird provides no distinctive advantage in regards to tool use. In comparison, every corvid tested solved all stages of the puzzle with little to no difficulty, a majority of which were able to solve the puzzle on the first attempt. However, those that failed to use the correct tool on the first attempt were able to successfully retrieve the reward with no more than three attempts. While this study does demonstrate the superiority of problem solving ability in corvids, it also illustrates that most species when confronted with the same problem, will exhibit meta-tool use, even if it may take some trial and error.

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<sup>379</sup> Taylor, Alex H., Gavin R. Hunt, Jennifer C. Holzhaider, and Russell D. Gray. "Spontaneous Metatool use by New Caledonian Crows." *Current Biology* 17. (2007).

Defined by Descartes as the ability to “use words, or put together other signs, as we do in order to declare our thoughts to others,”<sup>380</sup> the use of language is generally indicative of higher intelligence and cognitive functioning within a species. However, it is not the ability to recreate such signs that indicates genuine use of language; rather language is characterized by a constant innovation that allows the one communicating to deconstruct and reconstruct a series of symbols in order to convey meaning.<sup>381</sup> Although Descartes recognizes the fact that some animals, such as parrots, are able to repeat phrases that they have previously heard, stating “we must not confuse speech with the natural movements which express passions and which can be imitated by machines as well as by animals,”<sup>382</sup> he does not acknowledge this mimicking as true use of language. Attributing this to the divinely programmed nature of the animal, Descartes compared mimicked speech to the communication skills demonstrated by an automaton. Although automatons can be programmed to spell or write, in the end they are only able to construct a limited number of replies to any given question. This means that, although animals may be capable of imitating language, they do not demonstrate the same infinite flexibility of response that humans do as “epistemic engines”<sup>383</sup> (Dayton 2004, 65); constantly innovating, creating, and searching for knowledge, fueled by this adaptability of language and communication. For example, the ability of Koko the Gorilla, a forty-six year old western lowland gorilla, to use sign language to communicate with her care takers, can be attributed to nothing more than classical conditioning; associating certain hand movements with specific responses or rewards from her trainers. Although she is able to remember basic units of communication and rearrange them to form different responses, this is not necessarily indicative of higher cognitive processing.

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<sup>380</sup> Descartes, Discourse on Method, 44.

<sup>381</sup> Cottingham, John. "A Brute to Brutes?": Descartes' Treatment of Animals." *Philosophy* 53, no. 206 (1978).

<sup>382</sup> Descartes, Discourse on Method, 45.

<sup>383</sup> Dayton, Eric. "Could It Be Worth Thinking about Descartes on Whether Animals have Beliefs?" *History of Philosophy Quarterly* 21, no. 1. (2004), 65.

Believing Descartes' definition to be too vague, I would like to include the following four criteria in the definition of formal language: discreteness, grammar, productivity, and displacement. Discreteness is generally defined as the ability to create a set of individual sounds, words, or actions that can be combined to communicate new ideas. As individual units of communication, these created sounds or words function as building blocks for the construction of meaningful phrases and sentences. These units can exhibit an impressive degree of variance, ranging from individual letters of the alphabet to the pitched calls of chimpanzees and prairie dogs, and are generally governed by a specific set of rules. Providing this system of rules for the combination of such units of communication, grammar is another foundational component of language. Grammar is the underlying structure within language itself that serves to create order from seemingly meaningless gestures, images, and sounds. Descartes' definition of language emphasizes the importance of grammar and reason in regards to distinguishing true language from random amalgamations of basic units of communication. In terms of language, reason is what "places signs in order in the mind"<sup>384</sup> (Melehy 2005, 267), allowing for meaningful communication of needs and desires between beings. The third qualifier I've chose in productivity, defined as the ability to use language to create an infinite number of messages using the aforementioned units of communication. This ability to "produce different arrangements of words so as to give an appropriately meaningful response"<sup>385</sup> (Descartes, Discourse on Method 1988, 44) is, at least in Descartes' opinion, distinctively human. The last quality of language is displacement, the ability to talk about things that are not currently in one's presence. Examples of this include referencing past events, speculating about the future, giving directions to a distant location, or imagining fictional scenarios. Therefore I would also like to amend Descartes' definition of language as follows: the creation and use of signs, gestures, symbols,

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<sup>384</sup> Melehy, Hassan. "Silencing the Animals: Montaigne, Descartes, and the Hyperbole of Reason." *Symploke* 13, no. 1/2 (2005), 267.

<sup>385</sup> Descartes, Discourse on Method, 44.

or sounds made in some general order that can effectively describe past, present, or future scenarios or objects to another being, exhibiting a minimum of two of the four criteria previously mentioned.

Admitting that “all animals easily communicate to us, by voice or bodily movement, their natural impulses of anger, fear, hunger and so on”<sup>386</sup> (Descartes, To More 1984, 366), Descartes notes a key fundamental difference between communication and language. Scientists generally distinguish the two by implying that pure communication is too basic in structure and content to be considered a type of language. Relying heavily on grammar as a fundamental factor, Descartes’ version of language adheres to this strict dichotomy of language versus communication. In my personal opinion, the difference between language and communication is too nuanced to be of use in regards to animal cognition. Both language and communication serve to fulfill the same goal, to inform another being of what you are thinking; one just does that in simpler terms with less restrictions. That being said, communication is an obvious sign of basic intelligence but generally offers little evidence of higher cognitive functioning. Contrary to Descartes, I believe that even at the lowest level, communication is still evidence of thought, conveying the most basic of messages to others and implying some form of foundational cognition.

Another obvious, yet frequently overlooked, facet of language is the origination of such language within a species; did the species in question create the signs and symbols themselves or were they created and taught by human beings? This question of productivity (naturally occurring language versus human-imposed language) seeks to understand the fundamental differences between human language and animal language, implying that human made language should not be considered a sign of intelligence in animals due to its origin of composition. Referring back to the four qualities of language defined earlier, discreteness (the ability to create novel signs and phrases) is one of the

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<sup>386</sup> Descartes, “To More,” 366.

key foundational criteria in the search for language within animal species. Although it is true that the sign language used by Koko the Gorilla did not originate from her own mind, there are many examples from the same species that illustrate productivity including the previously mentioned study of prairie dogs. If anything, the ability of the members of a single species to exhibit both the ability to learn manmade language and the formation of their own system of calls and expressions should be indicative of relative intelligence amongst the members of that species.

Although many species do not exhibit all of these qualities, most are able to conform to at least two out of the four, providing a solid foundation for further investigation. Prairie dogs in particular exhibit an impressive capacity to communicate using fundamental organized language. One notable feat of prairie dog communication is the extent to which they exhibit productivity and discreteness. A study conducted in 2004 in Flagstaff, Arizona by a team of researchers lead by C. N. Slobodchikoff was meant to analyze differences in prairie dogs calls in relation to the color of shirts worn by three participant ‘predators’. As they walked by the colony, a distinct call was made by one of the animals to warn the rest of the colony. When analyzed, it was found that each call for each experiment was significantly different depending on which color shirt was being worn, illustrating the ability of the colony to use discretion in terms of warning calls<sup>387</sup> (Slobodchikoff and Paseka 2008). Another study conducted by the same research team was meant to investigate the extent to which a colony of prairie dogs could differentiate between particular predators using three plywood silhouettes. The first two predators presented to the colony were a skunk and a coyote, both of which elicited the calls that had been previously recorded and defined in relation to their respective predator cut out. When presented with the third predator, a plywood silhouette of an oval never before seen by this colony of prairie dogs, the call was completely different than anything that the

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<sup>387</sup> Slobodchikoff, C.N., and Andrea Paseka. "Prairie Dog Alarm Calls Encode Labels about Predator Color." *Animal Cognition* 12, no. 3. (2008).



researchers had recorded thus far. By using a previously unrecognized call to define an unknown predator, these prairie dogs display two of the core components of language. This demonstration of discreteness and productivity illustrate at least basic functionality of language within the prairie dog colony.

Although Descartes' never explicitly refers to the learning process as such, there seems to be an underlying assumption in his *Discourse on Method* that animals are unable to learn from their mistakes. Offering no clear definition for 'learning', Descartes alludes to the ability of humans to make adjustments to failed behavior in order to correct their errors. I believe that this ability to learn from past mistakes is a core component of logical reasoning, and should therefore be included as part of the analysis. Descartes notes that animals are often believed to be "acting not through understanding but only from the disposition of their organs"<sup>388</sup> (Descartes, *Discourse on Method* 1988, 44), implying the reliance on natural programming rather than the capacity to adapt. This is also shown in his assertions regarding the training of animals. Although he recognizes the ability to train animals to exhibit certain behavior, he does not necessarily understand this to be evidence of conscious adaptability; instead the reinforced motions of the animal are generally attributed to the programmable nature of beasts. Because most instances of animal training rely on reinforcement using treats such as food, Descartes disregards the behavior learned as evidence of the passions acting on the subject in question. This means that because animals are preprogrammed with specific inclinations and possible actions, it is in the nature of the beast to exhibit such behavior in order to satisfy its inner passions, eliminating cognitive processing and relying on the nature of the animal-machine instead. By analyzing the basics of animal training, Descartes further strengthens his argument regarding their programmable nature, suggesting that by using commands such as 'sit' or

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<sup>388</sup> Descartes, *Discourse on Method*, 44.

‘roll over’ we are simply tapping into the automatic processes that govern all beasts. This connection between training and programming can be disproven by taking another look at Koko the Gorilla. Although her ability to create and use language is questionable at best, she has been trained to use each hand signal, recognizing the flexibility of the system and learning how to combine different signs to communicate messages far more complex than that of a trained dog. It is this understanding and subsequent adaptability to circumstance that defines learning. I would, therefore, like to establish the definition of learning to mean the following: the ability to demonstrate that one is acting through understanding rather than programmed response.

A classic scientific example of learning is illustrated in the trials of rats navigating mazes. Researchers have been utilizing different types of mazes to test the spatial memory of rats for decades. The basic concept is as follows: a rat is placed in a maze with a reward at the end, after a few minutes the rat scuttles his way to the big cheese at the end of the tunnel only to be removed and placed at the start of the exact same maze to start all over again. This process of repeated navigation allows the rat to form a mental map in order to determine the quickest way to the reward. Eventually most rats are able to navigate their respective mazes with no difficulty, illustrating a clear use of spatial memory. In an attempt to test the spatial memory of rats in a less demanding setting, two researchers from California trained and analyzed a set of mice that were made to navigate a Barnes circular maze<sup>389</sup> (Suzuki and Imayoshi 2017). After introducing them to the maze, the mice quickly learned the pattern and were able to solve it efficiently after a few days. By relying on past experience in order to complete the maze, remembering the turns of the walls, and proceeding accordingly, these mice demonstrate the fundamental principles of mistake based learning and memorization.

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<sup>389</sup> Suzuki, Yusuke, and Itaru Imayoshi. "Network Analysis of Exploratory Behaviors of Mice in a Spatial Learning and Memory Task." *PLoS One* 12, no. 7. (2017).

There also exists controversy in regards to specific types of learning. Descartes refers to the ability to correct actions based on the result of that action; I will refer to this as ‘adjustment learning.’ Another type of learning that should be considered is reward-based training. Stating that “some animals are more easily trained than others”<sup>390</sup>, Descartes refuses to acknowledge the ability to be trained as a type of learning. Although this type of learning does not necessarily involve advanced reasoning skills or even the lower levels of cognition required for adjustment learning, there are still traces of reason to be found. For example, when teaching a dog to sit, the dog begins to associate the sound of the word ‘sit’ with the action of sitting down and receiving a treat. This association leads to the dog choosing to sit when the word is said, even when no reward is given, whereas previously if the command word was said aloud the dog in question would not have done the desired action. Through reinforcement, the dog has learned that the word that sounds like ‘sit’ will usually come with a treat if the right action is performed. Although Descartes may argue that this example has no value due to its reliance on ‘passions’ alone, there are still obvious signs of new associations and actions that previously had not existed, implying general learned behavior.

Descartes was a product of his time; predating the Italian renaissance but flourishing well after the revival of humanism. It is clear that a majority Descartes’ philosophy regarding animals is extremely outdated, insisting that the cognitive differences between humans and animals lie within a dichotomous relationship of ‘us versus them’. Rather than viewing these differences as polar opposites, I would like to suggest that cognitive processing should be represented by a spectrum, ranging from the higher intelligence of humans to the simple learning exhibited by dogs. Although there is still a lot of research to be done, it is clear that most species of animals are at least capable of basic reasoning skills, some variance of communication and language, and experience-based learning.

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<sup>390</sup> Descartes, Discourse on Method, 45.

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### Author Biography

Haley Reynolds is a rising senior pursuing a degree in Sociology with a concentration in Anthropology, with minors in History and Medieval and Renaissance Studies. She will be conducting research with Dr. Charlotte Cartwright in the summer of 2018 with the Summer Scholars program regarding the controversial status of post-Roman London. After completing her undergraduate degree she plans to continue her studies at graduate school in pursuit of a Ph.D. in Medieval Archaeology.