SLIDESHOW

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Mellon Mays
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Slideshow and The Inquiry

The Journals of the Merle Kling Undergraduate Honors Fellowship and Mellon Mays Fellowship Programs
Dedicated to Undergraduate Research in the Humanities and Social Sciences

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editor's note

All the articles in this journal are formatted in the Chicago style, even social sciences papers that would normally use APA formatting. This was done for the sake of uniformity (to make the journal as professional looking as possible by giving it one style) and readability (to make the journal easier to read by not abruptly changing styles from article to article, particularly in regards for nonacademic readers, who constitute a significant portion of the journal's audience). We wish to make social science professionals who may read this journal aware of this fact and why this formatting was used. Aside from normal copyediting and uniform formatting, the content of these articles was not changed in any way.

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foreword

One of the most important aspects of the mission of the Center for the Humanities at Washington University is reaching out to undergraduate students. Relatively few humanities centers engage undergraduates, though this is slowly changing, most feeling that their universities provide enough services and activities for them. The centers are largely the province of faculty and graduate students. This is an understandable prejudice, if not quite, at this time, a sustainable one. Undergraduates occupy too large a portion of the population and the reality of a university to ignore them. Besides, if what humanities centers have to offer is a crucial form of enrichment to the general public with its colloquia and lectures, to graduate students with its reading groups and faculty seminars, and to faculty with its fellowships, why should undergraduates as a population be exempt from engagement? It seems almost a form of prejudice, as if humanities centers should not take undergraduates seriously because undergraduates do not have anything serious to offer and what humanities centers have to offer is too weighty for them. This is nonsense.

But how to engage undergraduates is the question: As the Center offers few courses and has no teaching staff, one way that this Center's advisory board thought we could engage students is through encouraging and supporting independent research for a select number of students who majored in any of the humanities disciplines. We were interested as well in students with social science majors who, we thought, might benefit from being around humanities students. We felt that humanities students would benefit as well from being part of a group where they had to grapple with and take seriously the work of their social science peers. In this way, it was felt that the Center might be able to contribute to the spirit of interdisciplinary exchange on the campus among the students, markedly different, though, from what they encountered in the classroom. Faculty did not often find undergraduate students very helpful as research assistants but have often thought that as professors they might be helpful in guiding undergraduates in the students' own research projects.

The Merle Kling Undergraduate Honors Fellowship Program, named in honor of former WU provost and political science professor Merle Kling, was inspired by the Mellon Mays Undergraduate Fellowship Program, established at Washington University back in the early 1990s and, while open to all students, meant particularly to encourage members of underrepresented minorities to consider pursuing the Ph.D. and becoming university teachers. (The naming of the program may have been in some small measure connected with the fact that I, as director of the program, hold an endowed chair named in honor of Kling, but it

was Dean of the College James McLeod's idea to identify the program more closely with the academic traditions and personages of Washington University itself, a very sound idea, indeed.) The MKUHF is a two-year program, which accepts a small number of its applicants at the end of their sophomore year. We pair the student with a mentor and guide the student through a long-term research project through the structure of weekly seminars devoted to the discussion and analysis of their research. Kling Fellows are also provided with a summer stipend and support during the academic year to facilitate their research, permitting them even to travel to archives and attend conferences. Finally, Kling Fellows, like their peers in the Mellon Mays Program, produce annually a journal of their work, *Slideshow*, the latest volume of which you hold in your hands. (Copies of the earlier volumes may be requested from the Center for the Humanities at cenhum@artsci.wustl.edu.)

The seniors of the MKUHF Program produced the work that is featured here. **Betty Gibson,** an Art History major, considers the transformation of art criticism in assessing the works of Matisse: specifically, how and why the so-called feminine "decorative" elements in his work were re-labeled "masculine"; History and Economics double major **Howie Rudnick**'s paper is about the young leadership of the Student Nonviolent Coordinating Committee, their trip to Ghana in 1964, and their encounter with Malcolm X while they were there; and finally **Michael Dango**, an English major, deploying both legal analysis and critical theory in his essay, examines the legal meaning of being disabled with AIDS, the nature of family, and the Americans with Disabilities Act.

These are independent essays, polished and meant to stand alone, extracted from the students' Honors theses. For undergraduates especially, this effort to produce a free-standing essay, meant to be read by non-specialists, culled from a larger work can be daunting. But if they are to consider becoming college professors and high-level researchers, they must come to understand this exercise as a necessary and useful skill. Redacting, editing, revising, recasting, reshaping, re-contextualizing are all writing and thinking skills that college professors who publish must have in order to get the most mileage out of their research. Professors must master many different forms of presentation of their work, and this is one of the goals of the Merle Kling Honors Fellowship Program: to teach undergraduate students how this is done.

Make no mistake; while the students themselves are in charge of producing this publication, it is no amateur indulgence. These essays have been vetted by their mentors, corrected by a professional copy editor, and tested over many

months in the crucible of the seminar. There is no guarantee that a student's work will be published in the journal. If the work is found to be substandard and if the student fails to meet the deadlines of the various stages of production, the work is not published. The students are tough on each other. This effort means a great deal to them, and they want very much to be taken seriously as contributors of merit to their fields. Moreover, the cost for producing this journal is about the same as it would be for a professional academic journal of the same size. We want the students themselves, the university, and the larger community to know that we at the Center take this work seriously as we take any good scholarly work by our colleagues seriously.

I hope you enjoy reading this journal. If you have any comments about what you have read, we would love to hear from you.

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All in the Family? HIV/AIDS, Disability, and Informal Caregiving Networks

Michael Dango

Abstract: *The jurisprudence of protections for persons with HIV/AIDS under the Americans with Disabilities Act (ADA) has tended to rely on three harmful mythologies: that disability is or should be asexual; that sexuality is coterminous with procreation, which is the prerogative of the married, heterosexual couple; and that caregiving is exclusively the purview of the nuclear family. Disability generally and HIV/AIDS specifically, however, have reworked assumptions about sexuality and family in America, notably expanding informal caregiving networks beyond the family. To better accommodate disability in line with the expressed intent of the ADA, the law should allow for increased access to caregiving networks, move toward a model of caregiving functions independent of caregiver identities confined to particular social arrangements, and advocate rhetoric that affirms caregiving whenever and wherever it occurs.*

Introduction

To realize its own intentions in publicly accommodating a wider range of citizens and in affirming the importance of informal caregivers, American law must re-formulate its HIV/AIDS jurisprudence. By necessity, American law in the past 25 years has assessed the intersections of sexuality and disability in considering the treatment of persons with HIV/AIDS under the Rehabilitation Act of 1973,[1] the Americans with Disabilities Act of 1990,[2] the decision of *Bragdon v. Abbott*[3] (the first and only Supreme Court case to assess ADA discrimination litigation brought by a person with HIV), and the ADA Amendments Act of 2008 (ADAAA).[4] When courts have relied on eugenical and heterosexist assumptions regarding disability, sexuality, and social support systems, they have tended to limit the capacity of antidiscrimination legislation to accommodate persons with HIV/AIDS. Many problematic court decisions were redressed by the passage of the Amendments and subsequent federal regulations, but these assumptions may remain uncontested and capable of misinforming future decisions regarding persons with HIV/AIDS in other contexts. In this article, I argue that disability generally and HIV/AIDS especially have reformulated a number of formerly axiomatic American ideas about community and caregiving that should be acknowledged by the law to better reflect the ways in which persons really live their lives today. In part 1, I review the development of judicial encounters with HIV/AIDS under disability antidiscrimination legislation. I draw from these encounters in part 2 to approach assumptions of eugenical disability, unessential sex, and privatized, familiarized caregiving that I argue need to be contested in the context of disability and HIV/AIDS. In part 3, I briefly suggest possible state actions beyond these assumptions, particularly to reflect how HIV/AIDS caregiving modifies currently assumed paradigms; the state could allow for increased access to caregiving networks, move toward a model of caregiving functions independent of caregiver identities confined to particular social arrangements, and advocate rhetoric that affirms caregiving whenever and wherever it occurs. Persons with HIV/AIDS and the intent of disability accommodation legislation both are best served with an expanded understanding of the connected social actors involved in this larger caregiving picture.

HIV/AIDS and Disability in American Law

In this part, I review the legislative and jurisdictional history of HIV/AIDS as a disability in American law. I begin with the Rehabilitation Act and relevant lower court cases addressing HIV/AIDS in that context. I then explain how the jurisprudence developed in these cases had expanded relevancy in court cases addressing the ADA. Problems in the logic of this jurisprudence developed in the Su-

preme Court decision of *Bragdon v. Abbott* and subsequent lower court holdings. Finally, the ADA Amendments Act redressed some but not all of these problems, yet also left unaddressed many of the problematic assumptions that originally informed these decisions.

The first substantial disability antidiscrimination legislation at a federal level was the Rehabilitation Act of 1973, enacted before the advent of HIV/AIDS in America.[5] The Act prohibits discrimination against a "handicapped individual" in federal employment, federal agency programs, or in programs and employment funded by federal dollars.[6] In 1973, the Act defined such an individual as one who "has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment" and "can reasonably be expected to benefit in terms of employability from vocational rehabilitation services … ."[7] As most recently amended, the Rehabilitation Act renames "handicapped individual" an "individual with a disability" and defines such an "individual" as a person who has at least one of the following three:

> (A) a physical or mental impairment that substantially limits one or more major life activities of such individual;
>
> (B) a record of such an impairment; or
>
> (C) being regarded as having such an impairment.[8]

The Act has never defined "handicapped," "impairment," or "major life activity," but courts found that Equal Employment Opportunity Commission (EEOC) regulations promulgated under the Act provide guidance that is entitled to some deference.[9] Before 2009, these guidelines provided that "physical or mental impairment" means:

> (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
>
> (2) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.[10]

"Major life activities" the EEOC defined as "functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working."[11]

As a condition that necessarily affects the immune system, hence the hemic and lymphatic systems, HIV would seem to be an "impairment" under the definition of the Act. If HIV progresses to AIDS, the impairment may further affect other systems, limiting any of the functions defined in the Act as major life activities.[12] However, it is less self-

evident that early-stage infection[13] of HIV is necessarily a disability in the terms of the Act when outward symptoms may not be manifest or "substantially limiting."[14] This determination has therefore fallen to the discretion of the courts.

A number of courts in the late 1980s and in the early 1990s affirmed AIDS as a disability protected under the Rehabilitation Act. Some courts considered AIDS a per se disability, indeed seeming to consider it the paradigmatic handicap.[15] Other courts were more interested in how AIDS directly affected the specific lives under review, for instance noting in one case that a student with AIDS is handicapped within the terms of the Act because the physiological disorder substantially limited his "involvement in contact sports," which was "certain to restrict social interaction with those of the opposite sex."[16] Under this individualized approach, some persons with AIDS may not be considered individuals with a disability, although this question was not raised directly under Rehabilitation Act jurisprudence,[17] such that by the time the Supreme Court came to consider the issue in 1997, it could find no lower courts who had not identified AIDS as a disability under the Rehabilitation Act.[18]

Some courts expanded the definition of AIDS as a disability to include HIV-infection per se, even in asymptomatic forms. This was most likely when a court considered HIV-infection as an impairment of the "hemic and lymphatic"[19] systems, because such an impairment is definitional of HIV-infection and indeed precedes the asymptomatic stage.[20] Other courts simply declined to distinguish asymptomatic from symptomatic HIV-infection, largely through recourse to the definition of disability as being "regard[ed] as having an impairment," therefore considering the former as also a protected class within the meaning of the Rehabilitation Act.[21]

Other courts declined to establish a per se rule for HIV-infection as a disability and supported their reasoning through an analysis based not on the impairment of the immune system but on impairment of reproductive activities.[22] Noting that persons with HIV risk transmitting the virus to sexual partners and that pregnant women with HIV risk transmitting the virus to a developing fetus, these courts claimed that persons with HIV at any stage of development were limited in the major life activity of procreation.[23] The courts did not claim that persons with asymptomatic HIV were limited in the capability of actual sexual congress, conception, or birth, but rather that the safety risks to others involved in such activities reasonably precluded them from seeking those activities.

This logic of substantially limited procreation also proliferated in court determinations of HIV as a disability under the Americans with Disabilities Act of 1990 (ADA). The ADA expands antidiscrimination protections for persons

with disabilities to non-federal contexts, including state and local governments, employment generally, and institutions providing public services.[24] The ADA also requires a number of accommodations for persons with a disability both in the workplace and in public institutions, especially public transportation and telecommunications.[25] The "person with a disability" is defined under the ADA identically to the three-prong definition under the Rehabilitation Act,[26] but the ADA of 1990 did not provide a partial list of "major life activities" or a fuller explanation of conditions included under "impairment." Like the Rehabilitation Act, it also declined to detail a list of per se disabilities, including HIV-infection as a disability, but the congressional record does indicate the law was intended to protect persons infected with HIV. In hearings, the Department of Justice concluded "a person infected with [HIV] is covered under the first prong of the definition of the term disability because of a substantial limitation to procreation and intimate sexual relations,"[27] and both the Senate and the House affirmed this claim.[28] The EEOC, charged by the ADA to develop regulations for enforcing the statue's antidiscrimination mandate,[29] also recognized HIV infection as a per se disability, indeed singling it out as the paradigmatic condition for per se disability; noting that "[s]ome impairments may be disabling for particular individuals but not for others," the EEOC nonetheless explains, "[o]ther impairments [...] such as HIV infection, are inherently substantially limiting."[30]

Many courts in the first five years of the ADA relied upon Rehabilitation Act jurisprudence and the meaning of the ADA as outlined by government agencies to find HIV infection as a disability.[31] All courts at this time seemed to consider AIDS to be self-evidently a disability,[32] and some courts developed an asymptomatic per se rule.[33] Because such a per se rule was not explicit in the ADA, however, such findings have been appealable. The case most important in this respect is *Abbott v. Bragdon*, which upon appeals reached the Supreme Court in 1998. Sidney Abbott, after disclosing to her dentist Robert Bragdon she was asymptomatic HIV-positive, was told she must have her cavity filled in a hospital at added expense rather than in the dentist's office.[34] Abbott sued Bragdon for discrimination, citing the ADA's prohibition on discrimination against a person "on the basis of disability in the . . . enjoyment of the . . . services . . . of any place of public accommodation by any person who . . . operates [such] a place."[35] The District Court and the First Circuit both found Abbott as a person with a disability protected under the ADA. On final appeal, the first question[36] posed to the Supreme Court was whether Abbott's HIV infection constitutes a disability under the ADA and therefore protects her from discriminatory denial of access to the professional office of a health care provider.[37] Under the first prong definition of a disability under the ADA,[38] the Court proceeded to

ask whether (1) asymptomatic HIV infection is a physical impairment, (2) the activity Abbott cites counts as a "major life activity" under the ADA, and (3) said physical impairment "substantially limits" said activity.[39] Drawing on the Rehabilitation Act and ADA jurisprudence of the lower courts,[40] as well as on the regulations and findings of numerous federal agencies,[41] the Court concluded (1) HIV is a physical impairment "from the moment of infection,"[42] (2), Abbott's proposed activity of procreation is indeed "major" because "[r]eproduction and the sexual dynamics surrounding it are central to the life process itself,"[43] and (3) HIV infection limits procreation because of the risk in transmitting the virus to a partner or to the fetus.[44] Asymptomatic HIV-infection is therefore an ADA-protected disability for women who intend, or did intend before seroconversion, to have children.

However, the Court declined to establish a per se rule for HIV-infection as a disability and therefore left open many other questions. If an individual cannot prove intent to procreate and therefore does not have a "major life activity" "substantially limit[ed]" by infection, does that individual's infection still qualify as a disability? Or from another angle, are "sexual dynamics" per se major life activities, or only if they "surround" the expressed purpose of reproduction? This is an especially important question given the disproportionate HIV-infection rate among men who have sex with men,[45] where the sexual dynamics involved have no directly causative relation with reproduction. Finally, to what extent is the ostensible description of Abbott's limitation in procreation also a prescription, that is, a claim she not merely cannot but also *should not* procreate?[46]

Given the Court's ambiguity on the matter, these questions fell instead to lower courts in the wake of *Bragdon*. Many courts applied *Bragdon* expansively, even claiming the Supreme Court decision did establish something like a per se rule.[47] Other courts noted the limitations of the *Bragdon* decision, especially the irrelevancy of procreation as a major life activity for many impaired persons, for instance infants, but nonetheless considered HIV infection as a disability for those persons either by considering other major life activities[48] or by relying on the "regarded as" prong[49] of the ADA's definition of a person with a disability.[50]

Drawing on the individualized, procreation-focused approach of the *Bragdon* Court, however, some lower courts have justified denying protection to persons with conditions identical to or even more progressed than Abbott's. Beginning with the realization that *Bragdon* did not establish a per se rule,[51] these courts have tended to deny protections for persons for whom they deem procreation is not a major life activity.[52] Thus, the United States District Court for the Northern District of Texas ruled in *Gutwaks v. American Airlines, Inc.*[53] that Fabio Gutwaks, an unmarried man with "full-blown" AIDS,[54] is not protected under ADA

mandates because his decision not to procreate is for reasons other than his HIV-infection; therefore whereas "the plaintiff in *Bragdon* testified that her HIV status dictated her decision not to have children," Gutwaks's decision is a "personal one."[55] The same logic has been used to deny protections to married individuals as well; in *Blanks v. Southwestern*, the United States Court of Appeals for the Fifth Circuit found that Albenjamin Blanks's asymptomatic HIV-infection does not constitute a disability because he and his wife do not intend to have more children and therefore the plaintiff fails to raise "a triable issue of fact to indicate that his HIV status substantially limited his major life activity of reproduction."[56]

The effect of these individualized inquiries, besides burdening the impaired plaintiff with a personal inquiry in the face of an already stigmatized disease, has been to narrow protections for persons with HIV under the ADA, in line with a general judicial trend of narrowing the ADA's scope of applicability across a range of contexts. Indeed, *Bragdon* is the only Supreme Court case to decide on behalf of the person with disabilities, with the Court substantially narrowing the scope of required employer provisions, usually through recourse to contesting the definition of disability, in at least six other cases.[57] To rectify these narrowing moves, Congress in 2008 passed the ADA Amendments Act (ADAAA)[58] to make clear the provisions accorded under the ADA of 1990 were, in fact, meant to apply widely and powerfully. It maligns Court holdings that "have narrowed the broad scope of protection intended to be afforded by the ADA, thus eliminating protection for many individuals whom Congress intended to protect."[59] The ADAAA maintains the statute's earlier definitions of disability but expands protection beyond the Court's rulings by clarifying the language of "major life activity," not only adding a list of specific activities, but also under the category of "major bodily functions" adding "reproductive functions" and "functions of the immune system."[60] Although the Amendments make no explicit mention of HIV/AIDS, they therefore provide a way of covering persons with HIV apart from procreative prescriptions, because an impairment of the immune system is definitional to the disease; furthermore, the ADAAA's added language that impairments which are "episodic or in remission"[61] constitute disabilities if they "would substantially limit a major life activity when active"[62] would seem to cover asymptomatic HIV as well. Facially, the Amendments seem positioned precisely to counteract the legacy of confused court interpretations of HIV under the ADA, finding on behalf of the HIV-positive.

Still, questions unanswered or at least not answered specifically by the ADAAA[63] raise potential problems as courts move forward in interpreting HIV under the new statute, especially when it is asymptomatic. In failing to include

HIV as a per se disability and in condemning by name Court cases that have narrowed the scope of the ADA[64] but failing to mention *Bragdon* explicitly,[65] Congress missed an opportunity to send

> a message that went beyond the simple irrationality of the reproduction standard and directly attacked the discriminatory view of HIV/AIDS and reproduction. […] Congress could have quashed some stereotypes by simply mentioning that the *Bragdon* standard is narrow and outdated. Instead, *Bragdon*'s legal authority lingers, and the stigma surrounding women with HIV/AIDS and reproduction remains.[66]

Even greater is a stigma around nonreproduction, where Congress's silence regarding the Court's irrelevant inquires into personal narratives and intentions to procreate is in turn a silence over whether scripted expectations over the normal behaviors and goals of sexuality are permitted to interfere with protection and equal treatment under the law.[67]

In the wake of the ADAAA, however, some ambiguity over HIV in the workplace has at least dissipated, although a specific description of an employer's requirements in accommodation for it has yet to be clarified. Like the ADA, the ADAAA provides necessary recourse for adapting definitions of disability beyond the static statute itself by granting the Equal Employment Opportunity Commission (EEOC) and the Attorney General under the Department of Justice (DOJ) authority to issue regulations for the implementation of the statute. The EEOC has, in its 2009 regulations, included HIV/AIDS as a per se disability, but is only responsible for Title I of the ADA. The DOJ, responsible for Title II and therefore the accommodations requirements, finally issued regulations after much delay on July 23, 2010, and did include "HIV disease (whether symptomatic or asymptomatic)."[68]

Although it may be a short time before these regulations have manifest effect on protections for persons with HIV, largely because courts have found the Amendments do not retroactively apply to cases antedating their passing,[69] it would seem not implausibly optimistic to believe persons with HIV will indeed become, as a class, better protected.[70] However useful the adoption of a per se rule may be for HIV and disability jurisprudence, however, this blanket correction may also have the disadvantageous effect of masking the underlying ideologies that informed earlier problematic decisions, because the Amendments call on courts to redress surface effects only, not those underlying ideologies. It is therefore necessary to examine the assumptions on which courts relied in these earlier decisions to anticipate how they may affect judgment on similar surface issues not directly affected by the Amendments. It is toward this end that I direct the following parts of this article.

Problematic Assumptions in HIV/AIDS Disability Jurisprudence

Although the ADAAA resolves the central statutory question courts were forced to confront in the wake of *Bragdon*, it does not directly question or remedy the working hypotheses and logic that led to the problems of the *Bragdon* decision in the first place. Indeed, precisely because the Amendments provide a symptomatic response by designating HIV infection per se a disability, they do not provide a systemic reformulation. *Bragdon* and the Amendments may even share problematic illations. For this reason, it is important to scrutinize the ideological assumptions underneath *Bragdon*, even if the Court would not need them if *Bragdon* were brought today rather than in 1997. These assumptions could still inform cases related to HIV/AIDS and disability in other contexts. Furthermore, the Amendments do not answer all the questions raised by *Bragdon*, and in this respect they do not provide a comprehensive program for accommodating HIV/AIDS as a disability in American law.

Before considering what positive propositions the state could adopt to this end, we must first more completely detail the questions and assumptions raised and deployed by *Bragdon* and left unanswered or unchallenged by the ADAAA. In this part, I begin with a brief consideration of how the ADA did challenge one very important assumption about disability generally by rejecting the medical model of disability. I then consider two assumptions the Court did not challenge in *Bragdon*, first that disability is asexual and concomitantly that sexuality is not per se substantial; and second that disability and caregiving are primarily the purview of the home, read as coterminous with the nuclear family.

The ADA and Socialized Disability

One reason disability activists claimed the ADA as a victory is because it radically re-defines disability in moving from a medical to a social model. The medical model of disability, both traditional and dominant in its ideology, holds that disability results from a person's intrinsic physical or mental impairment, where that person's best interests are therefore served through "curing" or managing the impairment. Although the reality of impairments cannot and should not be ignored, disability activists and theorists have criticized the medical model's disempowerment of persons with disabilities, portraying those persons as always already victimized, to be pitied rather than accomodated. The social model of disability, on the other hand, contends that disability is not a result of an individual's impairment, but of pervasive societal barriers; that is, a person's impairment does not become a disability unless a social consensus stigmatizes and fails to accommodate it. What needs to be "treated," then, are social attitudes and accessibility.

The ADA operates with an understanding of the social model of disability, not only by defining disability distinct from impairment per se, but also in its specific provisions and protections. Both Title I, which prohibits employment discrimination "against a qualified individual with a disability because of the disability,"[71] and Title II, which mandates "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity,"[72] explicitly counter unfounded negative views of impairment in the commercial and public spheres. Similarly, by requiring employers and public entities to "mak[e] reasonable accommodations to the known physical or mental limitations"[73] of a person with disabilities, the ADA also moves the "problem" of disability away from impairment and toward inaccessibility. Written into the statute is a requirement that a vast number of entities and social actors[74] annul the significance of impairment, not only by de-mythologizing it, but also by actively adapting. For once, the mandate is not merely for persons with disabilities to adapt to an inhospitable society, but also for society to adapt to them.

The social model of disability does have limitations. For one, it does not account for the real and individual emotional effects of impairment, not least because in precisely the moment it demands that society accommodate disability, it erases the person with disabilities as a subject of critical thought.[75] For another, the social model elides the minoritizing/universalizing question of disability,[76] that is, whether disability is something associated with a minority population that must be protected, or whether disability is something associated with everyone, inasmuch as all persons have different capabilities, and through age or accident, all capabilities may weaken over the course of persons' lives.[77] In response to the simultaneous danger of a medical model and the limitations of a social model, most disability scholars or activists assume a more "middle-ground position."[78] In Elizabeth Emens's words, this position "recognizes that there can be pain or difficulty associated with disability, and that sometimes disability does require more resources or more support than other states of being, but still emphasizes that much of what makes disability disabling is the way the world is currently constructed."[79] Disability is never purely the effect of a person, although that person cannot be overlooked; rather, it is the effect of an entire system of effects that include but do not necessarily emanate from a person's feeling of difficulty. Without necessarily adopting a purely social model, the benefit of adopting at least a socialized view of disability is to consider the person with disabilities as never alone with her disability; the relation is always more complex and implicates a

variety of social actors.

The logic of a socialized model of disability has been disrupted by the legal necessity of Courts to interpret and constitute the protected class of disability, thereby policing access to that class by reasserting an intensely individualized, impairment-centered analysis.[80] Although the ADA encourages a social vision of accommodating disability, its definition of disability still necessitates an analysis of medical components. As the review of cases in Part I begins to suggest, however, courts have not simply fallen back on a medical model to assess disability. Rather, courts continue to socialize disability by silently approaching it with a number of assumptions regarding what persons with disability mean in the context of others. Assumptions are not per se problematic, but at least two related to the role of sexuality in relation to disability are particularly misguided in the context of HIV/AIDS. In the next two sections, I contrast two of these assumptions with the reality of lived lives with HIV/AIDS and of caregiving networks that have risen in response to them. First, I consider the descriptive as well as prescriptive belief that disability is asexual, which I believe also relies on a fallacious conflation of sexuality with procreation that renders sexuality per se unessential. Second, I bring into focus and then question the presumption of disability as exclusively the purview of the private home, with caregiving networks seen as coterminous with biological kinship networks. In order to best reflect and accommodate the reality of HIV/AIDS, I argue in the following part that we must complicate, if not variously reject, these assumptions.

Eugenic Disability and Unessential Sex

As I discussed in Part 1, the *Bragdon* Court concluded that a woman with asymptomatic HIV was "substantially limited" in her ability to reproduce, because of the risk of transmitting the virus to currently uninfected sexual partners or to any fetus that may develop.[81] Medical authority provides evidence for risks detailed by the Court, and I do not dispute we can accept their descriptions in these respects as fact. However, it is not self-evident that the conclusion that these risks limit Bragdon's reproductive abilities is only descriptive. It may also be prescriptive. That is, the ostensible claim Bragdon cannot procreate might be, concurrently, a claim she *should not*.[82]

If the court is discouraging Bragdon's procreative efforts, it does so in line with a long eugenic tradition of regulating disability, a tradition at least discursively exacerbated rather than overruled by the stigma attached to the sexualized associations of HIV/AIDS. Led by combined fears of cultural degeneration and the developing (but not yet developed) science of genetics and heredity, the pseudoscience of eugenics came to popular prominence in late nineteenth-century Europe, advocating for the social control of reproduction in order to improve the gene pool for the development of a fit society.[83] Eugenic thought had come to the United States by at least 1907, when Indiana passed the first statute that allowed for the sterilization of undesirable persons.[84] Legal regulations continued to mature in the following decade, notoriously culminating in Virginia's 1924 statute authorizing the compulsory sterilization of "mental defectives."[85] The Supreme Court addressed the issue in *Buck v. Bell*,[86] which posed the substantive issue of whether tying the Fallopian tubes of the "feeble-minded white woman" Carrie Buck under the Virginia statute violates the Fourteenth Amendment's due process and equal protection clauses.[87] The Court affirmed it did not, claiming that "[t]hree generations of imbeciles are enough" and "[i]t is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind."[88] Misguided by a model where social strife is genetic and social values are hereditary, the Court denied the reproductive rights of the person with mental disabilities and affirmed that denial as a social good.

More sophisticated understandings of genetics and heredity, combined with the realization of what eugenics taken to its conclusion means under the genocidal regime of Nazism, have censored overtly eugenical discourse in the late twentieth century.[89] However, the search for the "gay gene" (among other things) does suggest that the social consciousness has not been completely evacuated of genetic reasoning with prescriptive ends.[90] Eugenic thinking is especially possible in the context of HIV/AIDS because while it is generally not accepted that a person with "undesirable" politics, say, might pass on that trait to offspring, it is accepted that a pregnant woman with HIV might pass on that virus to a fetus. That is, the perceived social bad and the moment of birth are simultaneous.

Few people today would likely call for the forced sterilization of persons with HIV/AIDS, but this does not remove the stigma attached to HIV-positive pregnant women. Arguments very similar to ones for sterilization in the earlier twentieth century might also be used to support this belief today, for instance claiming HIV-positive parents who give birth to an HIV-positive child place an undue burden on society to provide assistance.[91] These economic concerns displace the moral judgment from public circulation, but the normative assessment persists. Many studies indicate that most Americans believe what the Court assumed: persons with HIV/AIDS or with disability generally should not procreate.[92] Some scholars believe Congress also, in singling out Court cases that have narrowed the scope of the ADA while failing to explicitly mention *Bragdon*, missed an opportunity in the language of the ADAAA to challenge these stigmatizing beliefs.[93]

In proscribing procreation, the Court also asexualizes the person with HIV because its imagination is limited by a seeming inability to distinguish procreation from sexuality per se. As I discussed in the previous part, the *Bragdon* Court did not approach the question of whether sexuality regardless of motive is a major life activity.[94] It did not raise the question of whether pleasure, for instance, is essential in life. The ADAAA, too, avoids this consideration by leaving it to federal agencies to address HIV directly and by adding to the list of major life activities not the functions of the sexual organs generally, but rather and more specifically "[r]eproductive functions." The Amendments therefore incorporate genitalia, but only if they are in reproductive service.

Indeed, the vast expansion of clearly articulated major life activities has the effect of making the absence of unmentioned activities especially apparent, even though the Amendments make clear such a list is not exhaustive.[95] Much as the absence of a word from a dictionary renders that word as non-word, so, too, does a new detailing of "major bodily functions" that excludes sexual functions render those functions as non-major. A similar effect is at play when the Amendments include the sensations of "seeing" and "hearing" but does not include touch.[96]

This is also an effect we can notice already in the ADA of 1990, whose formally radical inclusion of vastly different conditions makes formal exclusions particularly striking. Social expectations of disability and citizenship arise not only in court interpretations of the ADA, but also in the statute itself. The Act excludes "[c]ertain conditions" per se from the definition of disability, among them "gender identity disorders not resulting from physical impairments" and "other sexual behavior disorders."[97] We might view these exclusions optimistically, in line with the ADA's similar exclusion of homosexuality and bisexuality following their declassification as mental disorders by the American Psychiatric Association (APA) in 1973;[98] but because the APA *does* classify some gender identity and sexual behavior disorders,[99] their categorical rejection here would seem to be a reification of moralism whereby sexual variance, especially transsexualism, is excluded from workplaces and social institutions. "Because the ADA is the most extensive civil rights law to address bodily norms," Adrienne L. Hiegel confirms, "the exclusion of sex- and gender-related conditions has tremendous expressive importance"[100]; "[r]ather than changing the ethical significance of all disabilities, the Act carves out a new class of untouchables defined by sexuality and sex behaviors."[101] Writing before the *Bragdon* decision, Hiegel continues, "By refusing to protect those with sexual behavior and gender identity disorders against discrimination based on their disabilities, the Act raises the specter of a 'moral qualification' for employment, the possibility of imposing a standard of qualification in addition

to the ability to perform the 'essential functions of the job already required.'"[102] The decisions of *Bragdon*, *Gutwaks*, and *Blanks* testify to this "moral qualification," read as an orientation of bodies toward heterosexual reproduction.[103] Disability becomes a mechanism whereby heterosexuality is normalized, not only for persons with disabilities, but also for the workplaces and institutions they seek to access.

More broadly operating here is a sustained separation of the sphere of disability from the sphere of sexuality, in line with a tradition, related to eugenics, of asexualizing disability. In recent years, disability activists have foregrounded and contested the view of disability as asexual,[104] especially confronting stereotypes that infantilize disability in a prepubertal mythology.[105] The association of disability with infantilization is especially prevalent in the law, as I will discuss in the next section. Whatever the context in which it appears, the assumed asexuality of disability either denies the relevancy of sexuality for humanity, or else denies humanity to the person with disabilities by assuming her lack of sexuality. In the context of HIV/AIDS, where the route of infection is often assumed to be sexual, the ostensible description, as we have seen, turns into a prescription: if you were not asexual before, you should be now.[106]

Many scholars have suggested sexuality has been recently affirmed, regardless of context, because of the Supreme Court decision in *Lawrence v. Texas*[107] striking down laws incriminating consensual homosexual sodomy.[108] The decision in *Lawrence*, however, did not approach the question of a fundamental "right to sex" per se, but rather the validity of a statute incriminating "two persons of the same sex to engage in certain intimate sexual conduct."[109] Justice Kennedy in his majority opinion expands on this "intimate" dimension by finding that "[w]hen sexuality finds overt expression in intimate conduct with another person, the conduct can be but one element in a personal bond that is more enduring."[110] The Court therefore makes a move from acts to relationships. In the words of Laura Rosenbury and Jennifer Rothman, the Court thereby conscripts sex "in the service of intimacy," devaluing sex per se while elevating certain modes of social relations.[111] When the Court proceeds to overrule *Bowers v. Hardwick*, it similarly rebukes the *Bowers* Court for making the question there "simply the right to engage in certain sexual conduct," which "demeans the claim the individual put forward, just as it would demean a married couple were it said that marriage is just about the right to have sexual intercourse."[112] The analogy to marriage here is especially telling, co-opting sodomy acts under a framework of heteronormative intimacy. At precisely the moment the Court seems to validate the nonnormative sexual act, it normalizes it by falling back on a model of stabilized, marital relations that affirm a tradition of normative homes.

As *Lawrence* begins to suggest, the state is generally

hesitant to recognize nonnormative sexuality unless it can channel it into normalized relations. The family therefore arises as the institution to manage nonnormative persons, largely to erase their nonnormativity or else to put it to newly productive use. Also constituted as nonnormative, the person with HIV/AIDS regardless of sexuality has similarly important relations to the normative family. I turn to the contradictions and the problems of these relations in the following section.

Dependent Disability and Caregiving Families

In the previous section, I claimed that eugenic beliefs and assumptions of disability as asexual place the person with disabilities and especially the person with HIV/AIDS outside normative sexuality, read as coterminous with procreation. In this section, I explain what this means in the popular imagination for persons with disability in the context of the family, beginning in the first subsection with a brief introduction to the issues at stake, then moving in the second subsection to a consideration of how the *Bragdon* decision relies on historical developments of disability inside the family home. Finally, I explore in the third subsection why this is problematic in the context of HIV/AIDS, which has, along with disability generally, re-structured the family as traditionally conceived.

Introduction. Before turning to the legal issues at stake, I would like to begin with a brief visual analysis that I believe captures the social discourses I will detail in the remainder of this section. Public institutions frequently provide three types of restrooms—for men, for women, and for wheelchair users—and typically indicate these different designs with three correlating symbols, apparently of a male body, a female body in a dress, and a body sitting on a wheelchair. These symbols do not, of course, refer to different anatomies of urinary or excretory organs (the female symbol could very well have a male body, but its symbolic force derives from the dress, thereby differentiating sex at the type of clothes worn or, since it is not apparent the male symbol wears anything, the presence of clothes), and they are meant to communicate something about the design of the rooms, not necessarily about the persons who enter them. This differentiation serves obvious practical goals related to, among other things, bodily safety. Practical intentions aside, however, many disability activists have suggested that, for the wheelchair user, the symbolic force of this tripartite differentiation might be received as a de-gendering, indeed placing the wheelchair user physically and metaphorically outside the entire system of gender.[113] This relates to the asexualization of disability discussed in the previous section.[114]

More recently, institutions that offer a third restroom have labeled it a "Family Restroom,"[115] and the signage for these rooms includes, on the left, a male and female body

connected by an ambiguously gendered child, and on the right, the usual symbol for a wheelchair user. A vertical bar separates the man-child-woman entity and the wheelchair user. Again, subsuming wheelchair use under the family has the practical and efficient effects of making the restroom available for a variety of uses that may require more physical space or privacy than can be afforded by the "Men's" and "Women's" restrooms. Again, the symbolic force is peculiar. On the one hand, disability is made other to male and to female, now by being co-opted by the family where the wheelchair user shares an ungendered existence with the child; this also aligns that user with a position of dependency. On the other hand, the vertical bar definitively separates disability from the (heterosexual and ostensibly nuclear) family, suggesting disability has no place in that entity, normatively imagined. In these ways, the signage suggests both that disability affirms the role of the family and that the family denies access to disability. As I will now suggest, this problematic and nonsingular relation between disability and family is particularly influential in the decision of *Bragdon.*

Disability in the Traditional Home. In the previous part, I claimed the Court description of Bragdon's limitation on procreation is also prescriptive.[116] Here, I claim that the focus on procreation at all as a "major life activity" is another prescriptive, rather than only descriptive, move. In basing their determination on procreation proper rather than on sexuality per se, the Court presupposes and also predetermines the nuclear family as the destiny of normative life narratives, with childrearing implicitly claimed as an activity all women necessarily want. This is predeterminative in that the assumption we all want to end up in normative parental roles may also be a mandate we direct our lives accordingly.

Actually, many Americans are born into nuclear families, and many go on to create nuclear families.[117] The Court might not be necessarily wrong in limiting their imagination to these instances. The prevalence of these lifestyles does not necessarily say anything about their goodness, however,[118] nor does it tell us who is living them and what sorts of privilege might be prerequisite to them. Many studies suggest nuclear family arrangements may not be viable for disadvantaged social groups and are not the primary organizational unit for kinship in working-class urban settings.[119]

Singularly assumed models of the family are particularly problematic in the context of disability and especially with a consideration of HIV/AIDS. Disability has always had a destabilizing relation to the American family because it disrupts concepts otherwise taken for granted, most notably the binaries autonomous/dependent, private/public, and marketplace/home. These binaries were especially dis-

rupted, as I indicated at the beginning of this part, with a transition from a more medical to a more social model of disability. Under a medical model, where disability is intrinsic to the individual, assistance in adapting to a society not expected to change was typically expected from an individual's immediate caretaking network, coterminous with the family.[120] Within an accepted dichotomous ideology of private and public, where the person with disabilities is assumed to have no place in the public and where the private is understood, in modern history, as the nuclear family,[121] responsibility for the person with disabilities—understood, again, as always already victimized and passive—fell to the domestic family.[122] The need of caring for the disabled also served to heighten the value of selfless motherhood.[123] Rosemary Garland Thomas notes a pattern beginning in nineteenth-century sentimental novels that introduces a "compensation model, in which disability is interpreted as a lack that must be compensated for by […] the 'benevolent maternalism' of […] middle-class women," hence although persons with disabilities "invoke a rhetoric of sympathy to achieve sociopolitical reform, they also define and legitimize the normalized, gendered role of the maternal benefactress that these novels promote for women of the emerging middle class."[124] "Casting these characters as endangered children and grandmothers demands intercession in the public realm,"[125] therefore amidst competing demands between the commercial public and what has been called elsewhere the "cult of true womanhood"[126] that demanded the woman monitor the home, "disabled figures […] legitimated the middle-class woman's move out of the sequestered home while remaining within the maternal role."[127] Disability thereby proliferates sites of maternity, where maternity is understood as synonymous with caring. This overlaps with the infantalization of persons with disabilities, where to be disabled is to be always in need and therefore always a child dependent on parental, read maternal, care; it also overlaps with the asexualization of disability, where the asexualization of children is seen as a prerequisite for caregiving, which often requires naked bodies and intimate relations, to operate purely.

At the same time that the medicalization of disability privatized it preferably out of social view[128] and into the family, it also institutionalized it as an alternative when the family could not accommodate the person with disabilities on its own. The institutionalization of disability was at its height in nineteenth-century America, when "asylums and almshouses […] flourished" and "provided custodial segregation as limited aid for disabled people."[129] Rayna Rapp and Faye Ginsburg note the continuation into the twentieth century: "In the 1950s and 1960s, for example, many middle-class parents were commonly advised to institutionalize 'non-normal' children whose survival rate was rising due to aggressive medical innovations, erasing their presence from the household and muffling their voices in family stories."[130] The legacy of institutions is but one example of the reality that disability affects and requires actors beyond the family, where to assume caregiving systems as synonymous with family systems is at best incorrect and often harmful.

Indeed, disability within the family has often necessitated re-imagining kinship outside the family, because it involves actors and identifications beyond the family. This is especially true when the resources of the family are not fully adequate for the care of the person with a disability. A hallmark of much productive feminist theory in the past decade has claimed along these lines that the self-contained and self-sufficient family is a problematic fantasy. Martha Fineman critiques the larger "autonomy myth" in American culture that privileges a notion of individuals as preferably independent, a myth that dates back to the founding fathers' notion of democratic independence from monarchy and that maintains "cultural and political practices that stigmatize and punish those among us labeled dependent."[131] But as Fineman points out, "dependency is a natural part of the human condition and is developmental in nature,"[132] where "developmental dependency should at least be regarded as both universal and 'inevitable,' and for these reasons, certainly not deserving of generalized stigma."[133] To ignore our own dependencies is only to overlook those who provide assistance or care for us on account of them. By contrast, Fineman calls for us to acknowledge all social actors who fulfill caregiving duties; she claims that "caretaking work creates a collective or social debt and that each and every member of society is obligated by this debt."[134] To repay this debt, we must first acknowledge that the caregiving function does not necessarily follow "any dictates as to family form,"[135] because in a model of "universal and 'inevitable'" dependency, caretaking is radically invoked across the public/private divide. Rapp and Ginsburg claim that caregiving for a disabled infant, for instance, "requires different and expanded resources than can be provided by most kin groups without additional forms of support. The complexities of mobilizing the necessary medical, therapeutic, and social support reveal the limits of kinship within a gendered nuclear family structure."[136] Similarly, in the past century, "[t]he proliferation of publicly circulating representations of disability as a form of diversity we all eventually share—through our own bodies or attachments to others—offers potential sites of identification and even kinship beyond the biological family."[137]

Thinking "beyond the biological family" is especially important in the context of HIV/AIDS, to which I turn in the following subsection.

HIV/AIDS Beyond the Family. The legacy of HIV/AIDS has been to re-materialize the ways in which a nuclear

family not only cannot, but also will not, assume caregiving responsibilities. Across the world, the high mortality rate of AIDS, combined with the particular economic interventions and structural changes needed to treat it, has implicated a wide range of informal caregivers. These caregivers may have been analogous to primary healthcare providers in the years before there was professional healthcare to provide for AIDS patients, but advancements in medicine that prolong patient life still rely on informal caregivers, not only for the emotional support desirable for a person with HIV/AIDS, but also to effectively mediate the caregiving process for that person. In an American context, studies show that the presence of informal caregivers accommodates more beneficial doctor-patient communication and increases the likelihood of patients correctly and regularly taking prescribed medications.[138]

In studies of countries in sub-Saharan Africa, informal caregiving has required thinking in terms of more dispersed kinship. In families where parents and children both have HIV, traditional paradigms of inter-generational caregiving are less tenable.[139] Extended family and community support in this context become vital.[140] Scholars disagree over whether extended families have adapted to resiliently confront the challenges of AIDS or whether those networks have collapsed under the burden of AIDS, and there seems to be a continuum of family survival across different contexts.[141] Fundamentally, however, the infection of multiple persons within a family and the reliance on diverse resources outside the family have had the effect of intensifying focus on the family unit as a mechanism of care. Thus, the Joint Learning Initiative of Children and AIDS (JLICA) in their recommendations for what needs to be done to respond to HIV/AIDS on a "global, regional, national and local level is," among, other things, to "[i]mplement family centered services integrating health, education and social support."[142] Recognizing the formal healthcare system as inadequate for all the necessary caregiving work, especially emotional, implicated by HIV/AIDS, it becomes necessary to support informal caregivers as well, where in many countries, these are family members.

While in some other countries, especially in sub-Saharan Africa, HIV/AIDS has therefore re-affirmed the importance of family, in America, where the majority of persons with HIV/AIDS are men who have had sex with men,[143] the relation to family is different. The stigma attached to HIV/AIDS infection, especially before the medical community had learned more about the virus and developed more effective treatment options for living with the syndrome, has had the occasional effect of separating persons with HIV/AIDS from their biological families.[144] When persons also belong to other stigmatized populations, such as gay men and intravenous drug users, and have disclosed those affiliations

before infection, this separation may have already occurred. Even when persons with HIV/AIDS are not separated from their families, their support systems very likely include actors beyond the family, especially because to mobilize the financial and emotional resources to care for HIV/AIDS may require those actors.[145]

This implies a radically different image of informal caregiving in the American context of HIV/AIDS, and "the informal care system that has developed around AIDS is historically distinctive."[146] It is not necessarily that that system has displaced the family model, but it has re-worked the role-call. Informal caregivers for persons with HIV/AIDS are likely to be younger than informal caregivers of the past; they are more likely to be unrelated to the person rather than biological kin; and they are more likely to be male than female.[147] These caregivers are less likely to be motivated by biological obligation or familial responsibility; they are more likely to be motivated by romantic affiliation and, especially in the context of gay caregivers, also "a sense of mission on behalf of a community with which they identify."[148] Thus, while they "bear a close functional resemblance to family caregivers, they nonetheless represent different institutional contexts. While AIDS has coalesced a community of unrelated individuals and created a powerful set of non-institutionalized social relationships, kinship ties remain highly institutionalized with well-established norms and expectations."[149] Judith Butler cites "the 'buddy' system set up by Gay Men's Health Crisis and other AIDS service organizations to fulfill the social and medical support needs of its patients" as an example of "the convergence of queer and kinship concerns," where kinship is not an asexualized caretaking but is instead re-imagined "beyond patrilineality, compulsory heterosexuality, and the symbolic overdetermination of biology."[150] The formation of alternative caregiving networks in the wake of HIV/AIDS rejects normative family constructs wherein the caregiver/care-receiver roles map neatly onto the parent/child positions.

Tim Dean takes the radical analysis of kinship further by suggesting the models of kinship employed in some HIV/AIDS communities are not only lived realities, but are also inscribed on the unconscious. In *Unlimited Intimacy*, Dean reflects on the gay male subculture of "barebacking" where unprotected sexual practices and serostatus ambivalence are the norm and where, for some, "HIV has been transvalued from a bad into a good object, something to be incorporated inside one's body rather than kept outside."[151] While neither praising nor condemning these ideologies, Dean notes that "[g]ay men have discovered that one of the things they can do with HIV is use it to create solidarity and form communities" and "HIV transmission has the potential to create social bonds that are both symbolic and material; membership is etched into the body like a tattoo."[152] Insomuch

as the virus circulates within a community, it provides a commodity exchange that can create kinships, but "beyond dyadic relations,"[153] with "kinship networks [that] are not easily recognizable as such because they do not involve children (except at the level of fantasy) and they are not institutionalized."[154] Conceptualizing "relatedness in terms less of marriage or family than of gangs or tribes,"[155] this form of kinship is "outside the law,"[156] since law only makes intelligible, precisely, marriage or family.

Dean's reflections on barebacking are illuminating, but his conclusions might be resisted on a number of grounds. For one, the eroticization of disease raises questions of agency and treatment, with a romanticization of HIV that renders life unsexy and HIV treatment undesirable.[157] For another, Dean's reliance on psychoanalytic concepts obscures the role of, for instance, the very real and lived pleasure in orienting persons away from condom use.[158] Nonetheless, what is useful in Dean's analysis is an elucidation of the ways in which HIV/AIDS has forced a re-imagination of the family in an American context.[159] It seems to me that what Dean recognizes as an ethics of a specific barebacking subculture is actually what is at stake in a larger and necessary reconceptualization of caregiving in the wake of HIV/AIDS in American culture, that is, "caregiving without children." This is not to say there are no children with HIV/AIDS, but rather to say that the caregiving networks around HIV/AIDS do not assume a parent/child context and that when children are involved, there may still be at stake caregivers who are not parents, carrying a stigma associated with sexualized adults.[160]

It is particularly startling, then, that the *Bragdon* Court relies upon a logic of the mother-father-child nuclear family in order to understand, define, and accommodate a disease that has occasionally split family arrangements, often has restructured them in communal models not necessarily populated by biological relations, and therefore has re-imagined what kinship even means. To more properly understand and accommodate persons with HIV/AIDS, we need to move beyond the assumptions outlined in this part that disability is or should be asexual, that sexuality is only procreation, and that informal caregiving is a function of the family. In the next part, I spell out three propositions to begin this movement beyond.

Accommodation Propositions from the HIV/AIDS Perspective

The social networks and caregiving functions invoked by HIV/AIDS in America call on us to conceptualize beyond the family. I want to stress from the beginning this call is not to abandon or reject the family but rather to acknowledge the family organization in parallel with other social organizations and to understand all these organizations

in one larger category of caregiving networks. Thus, any proposition to accommodate the person with HIV/AIDS in a caregiving context accommodates caregiving networks, which may include family members. While theorizing how to comprehensively accommodate caregiving networks is beyond the scope of this article, I here propose three tentative propositions toward that end: increasing access to caregiving networks, moving toward a model of caregiving functions rather than caregiver identities, and altering state expression to validate caregiving whenever and wherever it occurs.

Increase Access to Caregiving Networks.

HIV/AIDS has impelled creative modes of thinking about social relations, opening up new means of thinking about community, partnership, and empathy. This creativity is precisely what Elizabeth Emens believes to be one value of accommodating disability generally. Emens notes that accommodations for disability in the workplace provide underappreciated but salient third-party benefits, because accommodations ostensibly intended for a person with a disability generally might be useful or beneficial for persons without disability.[161] This is especially true when disability necessitates innovation, and "[d]isabiltiy accommodations can lead not only to innovative technology, but also to innovative processes."[162] Because disability requires us to think differently about social spheres, it opens up possibilities for innovation that benefit all. That is, when disability questions what we usually take for granted, it frees us to reformulate the status quo.

Of course, innovations are only useful if people can access them. Emens reminds us that under the ADA, "integrating people with disabilities also means integrating accommodations."[163] In the context of HIV/AIDS, informal caregiving networks are only useful if communities can continue to form them and if individuals can continue to join them. Here we can derive theoretical guidance from two statutory interventions made in other contexts, "visitability" legislation and propositions from a number of jurisdictions in the past decade, and the National Family Caregiver Support Program (NFCSP) established in 2000 under the Older Americans Act.[164]

"Visitability" refers to efforts making private residences accessible for persons who have difficulty with stairs, for instance persons who use wheelchairs. A visitable home meets three basic requirements: one zero-step entrance, doors with thirty-two inches of clear passage space, and one bathroom on the main floor accessible by wheelchair.[165] Many jurisdictions have adopted legislation that requires new homes be designed to be visitable.[166] The Inclusive Home Design Act, if passed by Congress, would also have visitability requirements for single-family homes to be constructed with federal financial assistance.[167] Legislation has furthermore encouraged retrofitting already constructed

homes to be visitable. In Virginia, a tax credit up to $500 is available for persons who make their private homes visitable. All these state interventions acknowledge the importance of, in Emens's words, "making intimate spaces more accessible."[168]

Here, accessibility refers to eliminating real and physical barriers. However, I believe visitability offers insight, in principle, for informal caregiving. By publicly acknowledging the importance of informal caregiving and by affirming rather than challenging caregiving beyond the home, the state makes caregiving more accessible. In the context of HIV/AIDS, making caregiving more accessible also necessitates confronting the stigma attached to persons with HIV/AIDS and their caregivers, and the state could encourage opening up and affirming discussions within communities implicated by HIV/AIDS. The state can also increase access to informal caregiving networks, not only by supporting caregiving directly as I consider in the following section, but also by accommodating the circulation of knowledge around networks. Much the way the Department of Health and Human Services maintains a searchable database of elder care community services nationwide,[169] it could also learn about and provide easily accessible information about community services available for HIV/AIDS caregiving.

In the context of care for the elderly, the expansion of knowledge has been one explicit goal of the NFCSP, which provides states and territories funding for services to support persons who care for aging loved ones.[170] These services, as outlined in the authorizing legislation, include the providing of "information to caregivers about available services"[171] and "assistance to caregivers in gaining access to the services."[172] In many ways, this provides a formal mechanism for acknowledging and referring to a number of largely informal community groups. This coordination of services has also proven highly effective. According to national survey data from the Administration of Aging, "77 percent of caregivers of program clients report that services definitely enabled them to provide care longer than otherwise would have been possible," and "89 percent of caregivers reported that services helped them to be a better caregiver."[173]

Positioned outside or above the informal caregiving networks working in parallel, the state has the capacity to encourage conversation among them. It can affirm informal caregiving networks and increase access to them. It can also directly support the caregiving function itself, as I discuss in the following section.

Move Toward a Model of Caregiving Functions

As I discussed in the previous part, Martha Fineman calls on us to recognize caregiving work across social institutions, including but not necessarily centering on the family. Fineman claims we owe a social debt to caregivers, and we should support them wherever they are. "If caretaking is

society preserving, and therefore productive, work," Fineman argues, "the political and policy questions should focus on an optimal reallocation of responsibility for dependency across societal institutions."[174] I now want to consider what this might look like in the context of HIV/AIDS, first by raising the possibility of acknowledging the caregiver position independent of the home, and second by arguing for the support of the caregiving function itself.

Drawing upon the work of Fineman, Laura Rosenbury notes that the law especially omits mention of the various kinds of caregiving work performed by those who self-identify as "friends."[175] By maintaining a divide between the domestic relations of the home and the friendships seen as beyond the home, the state devalues friendships and hegemonically elevates the status of marriage.[176] In addition,

> [b]y privileging marital and domestic care over the care provided by friends, family law, too, continues to play a role in the maintenance of gender inequality. Bringing friendship into the scope of family law could disrupt this pattern, potentially [...] leading to more freedom than that derived from friendship's placement outside of the law.[177]

Recognizing that the home is not the entirety of caregiving and social relations resists the narrative that one's destiny is marriage and also recognizes the real work women do that may be invisible and therefore undervalued under the current legal framework. Rosenbury questions the terms on which some citizens' work is valued over others, which often renders a woman's labor as selfless and hence as unnecessary to recognize. Inasmuch as caregiving work involved with HIV-positive persons also relies heavily, often exclusively, on non-formalized networks apart from the legally codified family, the law's exclusion of "friendship" as a meaningful or actionable category also multiplies barriers to equality and accessibility.

It is possible to theorize what the expanded recognition of "friends" might look like in the healthcare context. To begin, many policies or benefits currently available only to caregivers biologically related to patients might be expanded to anyone under a contractual obligation that recognizes nonbiological caregivers. The Family and Medical Leave Act (FMLA), for instance, currently entitles employees of covered employers to take up to 12 months of unpaid, job-protected leave in order to, among other things, "care for the employee's spouse, child, or parent who has a serious health condition."[178] The state could go further in recognizing the role of care outside the family by protecting persons who are the primary caregivers for "friends" with a serious health condition as well.

More radically, the law could also consider the HIV/AIDS patient not only as an isolated individual, but also as a social entity. A patient could formally identify in-

formal caregivers as part of her treatment program. This in turn would encourage or possibly require healthcare providers to communicate not only with the patient, but also with identified caregivers, who would be allowed but also formally obliged to be present at appointments with the provider. This might expand the healthcare picture to include the support networks in which a patient is involved. Such a provision would also apply equally to familial as well as nonfamilial networks. With family networks it might merely codify what is already assumed, for instance if a cared-for child has biological parents as primary informal caregivers. Beyond family networks, it would legitimize and substantiate important emotional connections in a social field with diverse possibilities for connection.

However, certain queer theorists make possible an important critique of Rosenbury's work in this respect. For these theorists, state identification of social actors tends to restrict rather than empower freedom, because identity normalizes and regulates behaviors. That is, assigning persons to predetermined categories shuts down, not opens up, creative or effective modes of relating with others. In this view, the change needed in the law is not an expanded formal recognition of relations, but rather a de-formalization of all relations.[179]

While I am sympathetic to the concern over state regulation of friendly relations, I do not accept the total disavowal of state support in these efforts. I agree that state regulation of a prescribed identity, presupposing a certain way we should live our lives, would reduce freedom in living those lives, but it is less obvious to me that it is problematic asking the state to support the ways in which we are already living our lives. Nonetheless, I recognize limitations in Rosenbury's approach. While it is clearly useful to recognize the value of relations outside the marriage contract, especially the importance of friends, the law will never be able to codify all relations. In this respect, "friends," even loosely defined, still fails to capture a number of actions, for instance anonymous caregiving work (such as by volunteers in caregiving institutions or communities). Proliferating more legal categories will similarly fail to capture the spectrum of attachments we develop in our lives.

It seems to me much could be gained by approaching the issue of caregiving not only through the category of caregivers, composed of persons with a caregiver-identity, but also through the function of caregiving itself. I am seeking a model, in other words, of acts rather than persons.[180] The state could more directly support the caregiving function by making resources available that are not necessarily attached to certain subject identities. The state could create and make widely available educational materials about HIV/AIDS caregiving and its potential emotional stressors. It could also support counseling services or the organization

of support training, which it already does for elder care under the NFCSP. What becomes crucial in this analysis is less identifying the caregiver, and more making it possible for anyone to become a caregiver without substantial burden. The state does not necessarily have to formally categorize and manage informal caregiving, but it should increase the capacity of persons to exercise the caregiving function.[181]

Alter State Expression

My previous two propositions have entailed economic or statutory re-structuring that requires debate and time to begin instituting change in any tangible way. Although the state cannot immediately change the law, however, it can immediately and effectively change rhetoric, and it should do so with regards to caregiving and dependency. I argue in this section that the state should validate caregivers whenever and wherever they are, and the state should not discuss disability as necessarily dependency or dependency as necessarily bad.

The state undeniably relies on informal caregivers to support the healthcare system. On a practical level, caregivers especially in the home reduce the time patients need to spend in hospitals and other public healthcare facilities. It is hard to imagine a single hospital functioning in a society where the traditional assumption was not that adult parents will care for their children and adult children will care for their elder parents. The Family and Medical Leave Act and the National Family Caregiver Support Program attest to this reality.

Acknowledging this debt to informal caregivers, at least in family contexts, the President each year since 1993 has proclaimed November "National Family Caregivers Month." President Obama's most recent 2010 proclamation[182] recognizes that "[m]any individuals in need of care—including children, elders, and persons with disabilities—would have difficulty remaining safely in their homes and community without the support of their relatives and caregivers."[183] The proclamation begins with a nod to a range of social actors—"family members, friends, neighbors, and concerned individuals across America"[184]—that would suggest a salute to all informal caregivers, regardless of biological relation to their care receivers. By its end, however, the proclamation has moved to honoring only "the millions of Americans who give endlessly of themselves to provide for the health and well-being of a beloved *family member*."[185] According to the proclamation, "[f]amily caregivers" are "the foundation of America's long-term care system."[186] This has the discursive effect of erasing, precisely, those "friends, neighbors, and concerned individuals" who also provide caregiving work without biological obligation.[187] While ostensibly acclaiming the ethics of care and selflessness generally, the proclamation ultimately

has the effect of acclaiming the family specifically because it is exemplary of those ethics.

If the value of caregiving is, as the proclamation claims, "easing concerns and contributing to the well-being of individuals and families as they go about their daily lives," it is not self-evident why the proclamation, and the entire month, should not honor caregiving per se, rather than family caregivers as persons exclusively. Indeed, confining the celebration of caregiving only to certain persons would seem counterproductive to the expressed goals of the President. Fairer, more productive, and more reflective of the American reality of caregiving especially in the context of disability and HIV/AIDS, would be to affirm caregiving whenever and wherever it occurs. This requires not only an affirmation of the caregiving ethic, abstractly realized. It requires also an affirmation of multiple contexts and persons. It will never be possible to exhaustively detail all caregiving, but this does not excuse the categorical exclusion of some caregiving contexts by choice rather than ignorance. To ignore nonfamilial caregiving work related to HIV/AIDS in particular would only perpetuate the stigma that already disadvantages caregiving work in that context. The interests of persons with HIV/AIDS, of their caregivers, but also of the state that relies on those caregivers, is best served by publicly acknowledging this caregiving work.

The proclamation is problematic not only in what it leaves out regarding caregivers, however, but also in what it does say about care receivers. Specifically, we should raise questions about what is meant by saying a perceived social good of caregiving is that it allows "individuals in need of care" to "remain safely in their homes and community."[188] Ostensibly, this voices a preference for maintaining persons in need of care outside hospitals, public institutions, nursing homes, and other places with especially economic requirements. In turn, the proclamation re-affirms the tradition of preferably non-subsidized, privatized disability. The proclamation, in asserting the role of family caregivers in "giv[ing] millions of Americans the peace of mind and security that only family can provide,"[189] attests to the tradition of uneasiness over dependency in the public realm. No doubt the proclamation would also agree that HIV/AIDS, with all its stigmatized associations, ought also be outside of the public mind.

The logic of the proclamation therefore turns out to be that the state values caregivers because it presupposes care receivers are a burden, especially an emotional one. This can only further stigmatize the realities faced by care receivers. Furthermore, because the stigma attached to persons receiving care also attaches to caregivers, the state undoes its goals by contributing to a cycle of troubling discourses. Not only persons receiving care but their caregivers and also the state supporting those caregivers would be best assisted with the use of rhetoric that does not consider dependency as necessarily ugly or disability as necessarily a burden. The state could more explicitly consider persons as always ends in themselves. Doing so would support persons with disability, including those with HIV/AIDS and caregivers, regardless of the contexts in which they arise.

Conclusion

The reality of disability generally and of HIV/AIDS in America particularly has challenged a number of assumptions regarding the role of sexuality and caregiving in relation to social functioning and family. First, disability neither is nor should be asexualized, as the law has tended to assume. Second, sexuality encompasses a range of experiences beyond procreation, and the law therefore needs to affirm its value outside the eugenical contexts in which it has typically confined its analysis. Finally, sexuality and caregiving must be seen in the HIV/AIDS context as processes that require attention beyond the nuclear family, which means an accommodation of persons with HIV/AIDS under the law requires a displacement of the family as the naturalized and privatized center of disability perspectives.

The state could better accommodate the reality of HIV/AIDS, as the intent of the ADA and the ADAAA requires, by distinguishing social functions, especially sexuality and informal caregiving, from the contexts in which they were traditionally identified, especially reproductive heterosexuality and nuclear families. This entails increasing access to informal caregiving networks wherever they occur; understanding caregiving functions independent of caregiver identities attached to confined social arrangements; and affirming caregiving always, without judgment of the contexts in which it occurs. In so doing, the state would be assisting people in living their daily lives, as well as assisting itself in better supporting the social actors on which it relies.

1   *Rehabilitation Act of 1973*, 29 U.S.C. § 701 et seq. (1973).

2   *Americans with Disabilities Act of 1990*, 42 U.S.C. §12101 et seq. (1990).

3   *Bragdon v. Abbott*, 524 U.S. 624 (1998).

4   *ADA Amendments Act*, Public Law No. 110-325, 122 Stat. 3553 (codified in 42 U.S.C. § 12101 et seq.).

5   See generally Center for Disease Control and Prevention, *HIV/AIDS Basics* (2010), available at http://www.cdc.gov/hiv/resources/qa/definitions.htm (noting "that the virus has existed in the United States since at least the mid- to late 1970s" and that AIDS symptoms became visible from 1979–1981, leading to public health officials' adoption of the term AIDS in 1982).

6   See 29 U.S.C. § 791 ("Employment of individuals with disabilities"), § 793 ("Employment under Federal contracts"), and § 794 ("Nondiscrimination under Federal grants and programs").

7   29 U.S.C. § 705(6)(A)-(B) (1973).

8   29 U.S.C. § 705(20)(B) (adopting the definition of the Americans with Disabilities Act of 1990, 42 U.S.C. 12102) (2010).

9   *De La Torres v. Bolger*, 610 F. Supp. 593, 596 (N.D. Tex. 1985).

10 29 C.F.R. 1613.702(b)(1)-(2) (1985).

11 29 C.F.R. 1613.702(c) (1985).

12 "AIDS is the last stage of HIV infection, when a person's immune system is severely damaged and has difficulty fighting diseases and certain cancers." Center for Disease Control and Prevention, *Basic Information about HIV/AIDS* (2010), available at http://www.cdc.gov/hiv/topics/basic/. These opportunistic diseases and cancers may be themselves protected disabilities.

13 HIV infection follows a trajectory of four stages. Center for Disease Control and Prevention, *Living with HIV/AIDS* (2010), available at http://www.cdc.gov/hiv/resources/brochures/livingwithhiv.htm#q2. After a primary infection stage in which a person may briefly exhibit flu-like symptoms, infected persons enter a second "asymptomatic stage" of typically ten years during which the virus continues to erode the body's immune system without manifesting any obvious symptoms. In the third stage, the immune system has been suppressed enough for physical symptoms to manifest; in the fourth stage, HIV progresses to AIDS. At stake in a consideration of asymptomatic HIV, then, are none of the mental or physical impairments that may arise later and be themselves per se protected disabilities under the antidiscrimination legislation.

14 The Supreme Court declined to answer precisely this question in *School Board of Nassau County v. Airline*, 480 U.S. 273 (1987). The Court did not address the question of whether asymptomatic infection of contagious diseases was a handicap under the Rehabilitation Act, claiming the instant case "does not present, and we therefore do not reach, the question whether a carrier of a contagious disease such as AIDS could be considered to have a physical impairment, or whether such a person could be considered, solely on the basis of contagiousness, a handicapped person as defined by the Act." 282 n.7.

15 See *Doe v. Garrett*, 903 F.2d 1455, 1459 (11th Cir. Fla. 1990) (dismissing plaintiff's claims on other grounds but nonetheless noting that "it is well established that infection with AIDS constitutes a handicap for purposes of the Act"); *Martinez v. School Board of Hillsborough County, Florida*, 861 F.2d 1502, 1506 (11th Cir. Fla. 1988) (holding that both mental retardation and AIDS are "handicaps under section 504 of the Rehabilitation Act"); *Thomas v. Atascadero Unified School Dist.*, 662 F. Supp. 376, 379 (C.D. Cal. 1986) (noting that "persons infected with the AIDS virus suffer significant impairments of their major life activities" and "may have difficulty caring for themselves, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working, among other life functions").

16 *Doe v. Dolton Elementary School District*, 694 F. Supp. 440, 445 (N.D. Ill. 1988). This anticipates the heteronormative logic of the procreation-test I discuss below. See infra text accompanying notes 45-56 and 81-111.

17 See *Doe v. Belleville Public School District No. 118*, 672 F. Supp. 342, 344 (S.D. Ill. 1987) (finding the Education for All Handicapped Children Act does not cover a child with AIDS because "there is virtually no evidence that this limitation has adversely affected his educational performance," but declining to reach the question under the Rehabilitation Act). Cf.

    District 27 County School Board. v. Board of Education, 130 Misc. 2d 398, 413 (N.Y. Sup. Ct. 1986) (noting that even though the Education of the Handicapped Act does not cover children with AIDS, "automatic exclusion from school of all children with AIDS would violate their rights under the Rehabilitation Act").

18 *Bragdon v. Abbott*, 524 U.S. 624, 644 (1998).

19 See supra note 10 and accompanying text.

20 See *Support Ministries for Persons With AIDS, Inc. v. Village of Waterford*, 808 F. Supp. 120, 132 (N.D.N.Y. 1992) (affirming the *Cain* decision that HIV infection, even asymptomatic, substantially limits major life activities and is therefore a disability under the Fair Housing Act); *Cain v. Hyatt*, 734 F. Supp. 671, 680 (E.D. Pa. 1990) (claiming that persons with HIV are substantially limited in major life activities not only because of impaired immune and reproductive systems, but also because "[societal] prejudices substantially curtail the major life activities of AIDS victims" and "[t]hey are shunned socially and often excluded from public life"); *Benjamin R. v. Orkin Exterminating Co.*, 390 S.E.2d 814, 818 (W. Va. 1990) (considering HIV infection as a disability under a Virginia statue because it limits that major life activity of "socialization"); *Ray v. School District of DeSoto County*, 666 F. Supp. 1524, 1536 (M.D. Fla. 1987) (drawing on the *Thomas* and *District 27* decisions that children with the AIDS virus cannot be denied access to public classroom settings); *District 27*, 130 Misc. 2d at 413-15; *Thomas*, 662 F. Supp. at 381 (noting limitation on major life activities exists across all stages of HIV infection).

21 See *Harris v. Thigpen*, 941 F.2d 1495, 1523 (11th Cir. Ala. 1991) (claiming Alabama's segregation of HIV-positive inmates suggests that "[w]hether or not asymptomatic HIV infection alone is defined as an actual 'physical impairment,' it is clear that this correctional system treats the inmates such that they are unable, or perceived as unable, to engage in 'major life activities' relative to the rest of the prison population," and they are therefore handicapped); *Chalk v. United States Dist. Ct.*, 840 F.2d 701, 706 (9th Cir. 1988) (noting that persons with HIV "may remain without symptoms for an extended period of time," but this is irrelevant for the consideration of risk in transmission of virus in school settings); *Martinez*, 861 F.2d at 1506 (focusing on "risk of transmission" as qualifying circumstance independent of symptomatic development); *Dolton*, 694 F. Supp. at 445 (claiming that "mere prospect of such a limitation [on interacting with others] is certain to restrict social interaction with those of the opposite sex" and limit major life activities); *Robertson v. Granite City Community Unit School Dist. No. 9*, 684 F. Supp. 1002, 1007 (S.D. Ill. 1988) (claiming an "AIDS-related complex" is "a physical impairment which substantially limits [plaintiff's] major life activities); *Local 1812, AFGE v. United States Dept. of State*, 662 F. Supp. 50, 54 (D.C. 1987) (claiming that in "the present period of speculation and concern over the incurable and fatal nature of AIDS there is no doubt that a known carrier of the virus which causes it is perceived to be handicapped").

22 For an analysis along both axes simultaneously, see, e.g., *Thomas*, 662 F. Supp., 379 (noting that "[p]ersons infected

with the AIDS virus suffer significant impairments of their major life activities," and that "even those who are asymptomatic have abnormalities in their hemic *and* reproductive systems making procreation and childbirth dangerous to themselves and others" (emphasis added)).

23 See *Cain*, 734 F. Supp. at 679 ("even if it were asymptomatic, the plaintiff's HIV infection constitutes a substantial physical limitation upon major life activities," because "significant injury to the reproductive system" impedes those "interests in conceiving and raising one's own children [that] 'have been deemed "essential," "basic civil liberties of man," and "rights far more precious… than property rights"'" (citing *Stanley v. Illinois*, 405 U.S. 645, 651 (1972) (citations omitted)).

24 See 42 U.S.C. §§ 12111-12117 ("Title I – Employment"); ibid., § 12132 ("no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity").

25 See 42 U.S.C. §§ 12141-12213 (public, private, and miscellaneous accommodations for persons with disabilities); 47 U.S.C. § 225 ("Telecommunications services for hearing-impaired and speech-impaired individuals"); ibid., 611 ("Closed-captioning of public service announcements").

26 42 U.S.C. 12102 (1990). See supra note 8 and accompanying text.

27 *Hearings on S. 933, the Americans with Disabilities Act Before the Subcomm. on the Handicapped of the S. Comm. on Labor and Human Resources*, 101st Cong., 346 (1989) (memorandum from Douglas Kamiec, Acting Assistant Att'y Gen. of the United States to Arthur Culvahouse, Jr., Counsel to the Pres.).

28 *See* H. R. Rep. No. 101-485, pt. 2, at 52 (1990); S. Rep. No. 101-116, at 22 (1989).

29 42 U.S.C. § 12116.

30 EEOC, *Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act*, T-II (1992).

31 See *Gates v. Rowland*, 39 F.3d 1439, 1446 (9th Cir. 1994) (expanding their decision in *Chalk* to an ADA context and finding "it is the possible transmission of the virus to others that is the basis of the individual's disability under the provisions of the Act"); *Doe v. Kohn Nast & Graf, P.C.*, 862 F. Supp. 1310, 1321 (E.D. Pa. 1994) (finding plaintiff with HIV is protected under ADA after paraphrasing the *Cain* decision as claiming "a person who is HIV-infected is substantially limited in a major life activity because of the significant risk of transmitting the HIV infection to a partner or a child, thereby endangering their lives").

32 See, e.g., *Gonzales v. Garner Food Services*, 855 F. Supp. 371, 374 n.5 (N.D. Ga. 1994) ("It is undisputed that AIDS is a disability within this meaning of the ADA").

33 *See Hoepfl v. Barlow*, 906 F. Supp. 317, 319 n.7 (E.D. Va. 1995) ("[i]t is now settled law HIV-positive individuals are 'disabled' within the meaning of the ADA"); *Howe v. Hull*, 873 F. Supp. 72, 78 (N.D. Ohio 1994) ("AIDS and HIV infection are both disabilities within the meaning of the ADA).

34 The added expense was only for "use of the hospital's facilities," as Bragdon "offered to perform the work at a hospital at no extra charge." *Bragdon*, 524 U.S. at 624.

35 42 U.S.C. § 12182(a).

36 A second question, outside the purview of this article, was

whether "the Court of Appeals, in affirming a grant of summary judgment, cited sufficient material in the record to determine, as a matter of law, that respondent's infection with HIV posed no direct threat to the health and safety of her treating dentist." The ADA permits a healthcare provider to deny accommodation to a person with a disability if "such individual poses a direct threat to the health or safety of others," §12182(b)(3). The *Bragdon* Court cited evidence that the threat of HIV transmission is sufficiently contained when proper medical procedures are followed, but ultimately declined to answer the question definitely and instead remanded it to the Court of Appeals for re-assessment in light of said evidence. *Bragdon*, 524 U.S. at 648-655.

37 *Bragdon*, 524 U.S. at 628-29.

38 See supra note 8 and accompanying text.

39 *Bragdon*, 524 U.S. at 631.

40 See supra notes 15-33 and accompanying text.

41 *Bragdon*, 524 U.S. at 646-647 (deferring to the DOJ and EEOC). *See also* agencies not cited by the *Bragdon* Court but addressed in lower court opinions, *e.g.*, 5 C.F.R. § 1636.103 (Federal Retirement Thrift Investment Board);); 7 C.F.R. § 15e.103 (Department of Agriculture); 22 C.F.R. § 1701.103 (Institute of Peace); 24 C.F.R. Ch. I, Subch. A, App. I (Department of Housing and Urban Development); 28 C.F.R. § 35.104 (Department of Justice); 29 C.F.R. § 34.2 (Department of Labor); 34 C.F.R. § 1200.103 (Department of Education); 45 C.F.R. § 2301.103 (Arctic Research Commission). 45 C.F.R. § 2490.103 (James Madison Memorial Fellowship Foundation). All agencies cited here expressly include "HIV disease (whether symptomatic or asymptomatic)" as a physical impairment.

42 *Bragdon*, 524 U.S., 637.

43 Ibid., 638.

44 Ibid., 639-642.

45 According to the most recent CDC data, male-to-male sexual contact continues to account for more than half of new HIV infection diagnoses in the United States each year. Center for Disease Control and Prevention, *HIV/AIDS Statistics* (2010), *available at* http://www.cdc.gov/hiv/resources/factsheets/us.htm.

46 See Lisa M. Keels, " 'Substantially Limited': The Reproductive Rights of Women Living with HIV/AIDS," *Baltimore Law Review* 39 (2010): 392-3 (claiming that "*Bragdon* inadvertently supported the notion that women with HIV/AIDS should not reproduce"); ibid., 403 (arguing "the Court's implicit suggestion that women with HIV/AIDS should not reproduce has contributed to an atmosphere in which women who would like to reproduce have been dissuaded from following the proper care protocol, due to fear of stigma or judgment." On the particular issues an HIV-positive, pregnant woman faces, see Taunya Lovell Banks, "Legal Challenges: State Intervention, Reproduction and HIV-Infected Women," in *HIV, AIDS and Childrearing*, ed. Ruth R. Faden and Nancy E. Kass (New York: Oxford University Press, 1996), 145 (noting "[m]any Americans believe that a pregnant woman should abort a fetus that will be born with a disability and that women with disabilities are inappropriate mothers. Disability in either mother or potential offspring is seen as a negative"). One scholar claims a "right to have children," and after addressing various oppositions, concludes, "many of the counterarguments designed to show that it may be morally

wrong to have children provide no compelling basis for re-stricting the rights of HIV-infected women to have children. Neither the potential for harm to children nor the adverse distributional consequences for society overall offer the kind of arguments that provide a secure foundation for restrictive or punitive public policies aimed at limiting women's rights to have children." Madison Powers, "The Moral Right to Have Children," in *HIV, AIDS and Childrearing*, ed. Ruth R. Faden and Nancy E. Kass (New York, Oxford University Press, 1996), 342. For court paradoxes resulting from the need to simultaneously accommodate an HIV-positive pregnant woman and acknowledge that person as disadvantaged, see *Lesley v. Chie*, 250 F.3d 47, 49 (1st Cir. Mass. 2001) (describing facts of the case with an HIV-positive pregnant woman suing her gynecologist for sending her to another hospital "better qualified to handle deliveries by HIV-positive patients"); Keels notes this case epitomizes an incongruous reproduction standard when "the plaintiff defined herself as substantially limited in reproducing, yet she wanted her obstetrician not to view her as such when she was pregnant." Keels, "Substantially Limited," 399.

47   See *Doe v. Dekalb County Sch. Dist.*, 145 F.3d 1441, 1445 (11th Cir. Ga. 1998) (paraphrasing *Bragdon*'s holding as "[a] person who is infected with HIV is 'disabled' for purposes of the ADA"); *Rivera v. Heyman*, 157 F.3d 101, 103 (2d Cir. N.Y. 1998) (paraphrasing "[t]he Supreme Court recently confirmed that HIV infection is a disability under the Americans with Disabilities Act of 1990."); *Pope v. Kaiser Foundation Health Plan*, 1998 WL 865646 (E.D. Cal. 1998) (while granting summary judgment on grounds that without allegation the employer had knowledge of HIV status, plaintiff's discrimination claim fails under the ADA, para-phrases *Bragdon* as "recognizing HIV as a disability under the ADA"); *Clark v. North Cent. Mgmt., Inc.*, 1999 U.S. Dist. LEXIS 5172 (N.D. Ill. Apr. 5, 1999) (claiming "there is no question plaintiff is a qualified employee with a disability" because under *Bragdon*, "HIV infection is a disability within the meaning of the ADA").

48   See *Wallengren v. Samuel French, Inc.*, 39 F. Supp. 2d 343, 347 (S.D.N.Y. 1999) (claiming plaintiff's "AIDS condition is well within the meaning of 'disability' under the ADA" because "of the substantially limiting effects of HIV and AIDS, as identified in *Bragdon*, on an individual's ability to work"); *Jones v. Rehabilitation Hosp.*, 2000 U.S. Dist. LEXIS 19082 (S.D. Ind. Nov. 29, 2000) (drawing on Ginsburg's concurrence to conclude "HIV and AIDS are impairments that substantially limit a major life activity," especially because affirmed by the fact that "both the agency interpretations of the ADA and the Act's legislative history support the conclusion that Congress intended HIV infection to be a per se disability"). See *Bragdon*, 524 U.S. at 656 (Ginsburg, J., concurring) ("HIV infection is 'a physical . . . impairment that substantially limits . . . major life activities,' or is so perceived, including the afflicted individual's family relations, employment potential, and ability to care for herself. . ." (citations omitted)).

49   See supra note 8 and accompanying text.

50   See, e.g., *Roe v. Village of Westmont*, 2003 WL 444508 (N.D. Ill.) (concluding a police officer deemed unfit for employment after testing positive for HIV is protected under the "regarded as" prong of ADA's disability definition). See also *U.S. v. Happy Time Day Care Center*, 6 F.Supp.2d 1073, 1079-80 (W.D. Wis. 1998) (noting procreation as a major life activity does not apply to the instant case of a three-year-old child

and so the court must begin "by identifying those activities that are important in the life of a three-year old," but finding the child no more limited in those other activities than other three-year-olds, defers instead to a "regarded as" test).

51   *Waddell v. Valley Forge Dental Associates*, 276 F.3d 1275 n.4 (11th Cir. 2001) (affirming summary judgment for defendants on other grounds, but noting in a long footnote that *Bragdon* did not decide whether HIV was a "per se" disability and that *Sutton* and *Kirkingburg* demonstrate the Supreme Court's insistence on individualized assessment of disability); *Solario v. American Airlines, Inc.*, 2002 WL 485284 (S.D. Fl.) (noting that when *Bragdon* is read together with Sutton's individual-ized inquiry mandate, HIV status is not a per se disability). See *Albertsons v. Kirkenburg*, 527 U.S. 555 (1999); *Sutton v. United Airlines*, 527 U.S. 471 (1999).

52   Cf. *Cruz Carillo v. AMR Eagle, Inc.*, 148 F.Supp.2d 142 (D.P.R. 2001) (even where plaintiff testified that his HIV status dictated his decision not to have children, plaintiff failed to meet burden because he did not introduce expert medical evidence as to how HIV substantially limits a man's ability to reproduce or "statistical evidence" of significant risk of infection of female partners by men with HIV).

53   *Gutwaks v. American Airlines, Inc.*, 1999 U.S. Dist. LEXIS 16833 (N.D. Tex. Sept. 2, 1999).

54   Although Gutwaks comments "there was gossip about his sexual orientation" in the workplace, the court's decision makes no reference to sexual orientation, and it applies to populations beyond homosexual men. Ibid., 2. Still, it is hard to ignore the possibility of heterosexist bias in the court's decision, especially where HIV/AIDS in America is indel-ibly marked with connections to homosexuality. See supra note 45 and accompanying text. It is a situation similar to the decision of *Bowers v. Hardwick* upholding a Georgia law that criminalized sodomy, a law that technically applies to all con-senting adults, but which was ruled on by the Court through answering the narrower question of whether the constitution confers "a fundamental right upon homosexuals to engage in sodomy." *Bowers v. Hardwick*, 478 U.S. 186, 190 (1986).

55   *Gutwaks*, 14.

56   *Blanks v. Southwestern Bell Communications*, 310 F.3d 398, 401 (5th Cir. 2002). But cf. *Teachout v. N.Y. City Dep't of Educ.*, 2006 U.S. Dist. LEXIS 7405, *25-26 (S.D.N.Y. Feb. 22, 2006) (repudiating the *Blanks* decision and concluding "[i]t is not necessary for a plaintiff to want to have children, or for a plaintiff to plan to have children, to show that his ability to have children has been substantially limited by infection with HIV. If, however, a plaintiff were to claim that his HIV infection substantially limited his ability to reproduce, but the evidence in the record showed that he was physically incapable of reproduction for reasons unrelated to his HIV-positive status, such as a voluntary irreversible sterilization, then in that case, the plaintiff would not have a disability under the ADA.").

57   See *Chevron v. Echazabal*, 536 U.S. 391 (2002), *U.S. Airways v. Barnett*, 535 U.S. 391 (2002); *Toyota v. Williams*, 534 U.S. 184 (2002); *Murphy v. United Parcel Service*, 527 U.S. 516 (1999); *Albertsons v. Kirkenburg*, 527 U.S. 555 (1999); *Sutton v. United Airlines*, 527 U.S. 471 (1999).

58   Public Law No. 110-325, 122 Stat. 3553 (codified in 42 U.S.C. § 12101 et seq.).

59   42 U.S.C. § 12101(a)(4)-(7) (2008).

60   42 U.S.C. § 12102(2)(B) (2008).

61 Ibid., § 12102(4)(D) (2008).

62 Ibid.

63 The greatest question is what accommodations an employer is required to provide an employee who does not have a disability per se, but is regarded as having one, that is, who qualifies for protection under the third and only the third prong of the ADA definition. *See supra* note 8 and accompanying text. See, e.g., Stephen F. Befort, "Let's Try This Again: The ADA Amendments Act of 2008 Attempts to Reinvigorate the 'Regarded As' Prong of the Statutory Definition of Disability," *Utah Law Review* (forthcoming 2010); Alex B. Long, "Introducing the New and Improved Americans with Disabilities Act: Assessing the ADA Amendments Act of 2008," *Northwestern Law Review Colloquim* 217 (2008): 103; John W. Parry and Amy L. Allbright, "The ADA Amendments Act of 2008: Analysis and Commentary," *Mental and Physical Law Report* 32 (2008).

64 The Amendments single out *Sutton* and *Toyota*. 42 U.S.C. § 12101(a)(4)

65 That *Bragdon* and its problematics were in the minds of at least some in Congress is evidenced in the Congressional record, but not codified in the law. *See, e.g.,* Rep. Tammy Baldwin's statement: "Although the ADA clearly intended to protect people living with HIV[,] . . . all too often whether or not they could proceed with their discrimination claim has turned on the court's view of evidence as to their child-bearing ability and intentions: highly personal, intimate matters that are completely unrelated to the discrimination they experienced," 154 *Congressional Report* H8297 (daily ed. Sept. 17, 2008).

66 Keels, "Substantially Limited," 420.

67 I turn to this point in the following sections. See infra text accompanying notes 81-111.

68 5 U.S.C. 301; 28 U.S.C. 509, 510; 42 U.S.C. 12134 § 35.104(1)(ii)

69 See, e.g., *Labrue v. GAB Robins N. Am.*, 2009 U.S. Dist. LEXIS 65570 (D. Kan. July 28, 2009) (collecting and affirming "numerous other circuit and district courts that have held that the ADA amendments do not apply to conduct prior to the effective date of the statute").

70 See, e.g., *Horgan v. Simmons*, 2010 U.S. Dist. LEXIS 36915 (N.D. Ill. 2010) (rejecting defendant's argument that HIV-positive plaintiff is not disabled because "[d]rawing all inferences in Plaintiffs favor, it is certainly plausible—particularly, under the amended ADA—that Plaintiff's HIV positive status substantially limits a major life activity: the function of his immune system").

71 ADA (1990), 42 U.S.C. § 12112(a).

72 ADA (1990), 42 U.S.C. § 12132.

73 ADA (1990), 42 U.S.C. § 12112(b)(5)(A).

74 See, in addition, explicit reference to entities and their responsibilities in subtitle B of Title II. 42 U.S.C. § 12141-12213.

75 See, e.g., Eli Clare, *Exile and Pride* (2nd ed., Cambridge, MA: South End Press, 2009), 8 (noting a social model "makes theoretical and political sense but misses important emotional realities").

76 The universalizing/minoritizing distinction draws from the work of Eve Kosofsky Sedgwick, who first theorized the distinction in the context of homosexuality. See Eve Kosofsky Sedgwick, *Epistemology of the Closet* (Berkeley: University of California Press, 2008), 1-2. Sedgwick comments on the contradiction of homosexual definition "on the one hand as an issue of active importance primarily for a small, distinct relatively iced homosexual minority […] and seeing it on the other hand an issue of continuing, determinative importance in the lives of people across a spectrum of sexualities." Ibid., 1.

77 Samuel R. Bagenstos has argued that inconsistencies within the statute and subsequent court cases reflect inconsistencies within the disability rights movement generally. See Samuel R. Bagenstos, *Law and the Contradictions of the Disability Rights Movement* (New Haven: Yale University Press, 2009), 41-2. Bagenstos points out that court cases have opposed the idea "that 'disability' is universal, because we all have a variety of abilities that exist on a spectrum," but notes "disability rights advocates subordinated that universality notion to the independence and minority-group arguments in the campaign to enact the ADA." Ibid., 44.

78 Elizabeth F. Emens, "Integrating Accommodation," *University of Pennsylvania Law Review* 156 (2008): 882.

79 Ibid. See also ibid., 889 (calling for a "radical social model" to "show that the world we inhabit is less than ideal for everyone, not just for people with disabilities").

80 See supra text accompanying notes 45-50.

81 See supra text accompanying notes 39-44.

82 See supra note 46.

83 See generally Edwin Black, *War Against the Weak: Eugenics and America's Campaign to Create a Master Race* (New York: Four Walls Eight Windows, 2003), 3-184 (tracing eugenical thought and policy in America from evolutionary biology to programs of sterilization and birth control before World War II); Harry Bruinius, *Better for All the World: The Secret History of Forced Sterilization and America's Quest for Racial Purity* (New York: Knopf, 2006), 23-81 (connecting programs of sterilization with eugenic thinking in early twentieth-century America); Marouf Arif Hasian, Jr., *The Rhetoric of Eugenics in Anglo-American Thought* (Athens: University of Georgia Press, 1996),1-51 (describing the origins of eugenic thought in America and its popularization from 1900-1940).

84 See generally Black, *War*, 63-67 (describing the development of forced sterilization in Indiana prisons and its statutory approval in 1907).

85 See generally Black, *War*, 67-68 (outlining statutory developments in other states that ratified forced sterilization before 1924); Bruinius, *Better*, 50-77 (describing Virginia's statutory developments before and after Supreme Court affirmation); Harry Hamilton Laughlin, *Eugenical Sterilization in the United States* (Chicago: Municipal Court of Chicago, 1922) (collecting all statutory developments in America related to sterilization before January 1, 1922).

86 *Buck v. Bell,* 274 U.S. 200 (1927).

87 Ibid., 205.

88 Ibid., 207.

89 See generally Black, *War*, 385 (describing a "retreat from eugenics" in America after World War II, but noting "the end was an inexorably slow process devoid of mea culpas, one that saw the major players withdraw only with great reluctance").

90 See Sedgwick, *Epistemology*, 40-44. In reference to the search for biological determinants of sexuality, Sedgwick worries "that there currently exists no framework in which

to ask about the origins or development of individual gay identity that is not already structured by an implicit, trans-individual Western project or fantasy of eradicating that identity." Ibid., 41. See also Black, *War*, 411 (eugenics is still alive in contemporary programs of "human eugenics" and "genetic counseling").

91 See supra note 46.

92 See supra note 46.

93 See supra note 46 and accompanying text.

94 See supra text accompanying note 66.

95 The Amendments state that major life activities "are not limited to" those listed. 42 U.S.C. 12102(2)(A).

96 Ibid.

97 46 U.S.C. §12211(b).

98 Homosexuality was removed from the Diagnostic and Statistical Manual of Mental Disorders when it underwent revisions for its third edition (DSM-III). The APA stated that "homosexuality *per se* implies no impairment in judgment, stability, reliability, or general social or vocational capabilities." American Psychiatric Association, "Position Statement on Homosexuality and Civil Rights" (1973), reprinted in *American Journal of Psychiatry* 131 (1974): 497.

99 See, e.g., American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders IV Text Revision* (DSM IV-TR), 302.6 (Gender Identity Disorder in Children), 302.85 (Gender Identity Disorder in Adolescents or Adults). Although beyond the scope of this article, it is interesting to note in this context intersexed persons born with ambiguous genitalia. The intersex condition could have radical implications for the workplace; as it is *not* transsexualism and because it *does* arise from a "physical" condition, it could qualify as a protected ADA disability. (See infra text accompanying notes 100-102.) Whether this is desirable is another question, and to label "intersex" per se a disability raises issues of stigma that both disability and intersex activists have fought to dispel. But if a workplace were to equally "accommodate" intersex persons, whether by progressive choice or by ADA mandate, the consequence might be no less than a deconstruction of the gender binary, with consequences for practices and policies ranging from dyadic bathrooms to reproductive health care. Kate Haas hopes that "as the Americans with Disabilities Act and other anti-discrimination laws integrate more and more people with different physical characteristics and abilities, society will begin to accept physical differences as a natural and positive part of being human. At the point that our society makes room for the intersexed through laws prohibiting gender reassignment surgery and unnecessary genital reconstruction surgery on children, then people will begin to acknowledge the existence of intersexuals." Kate Haas, "Who Will Make Room for the Intersexed?," *American Journal of Law and Medicine* 30 (2004): 68.

100 Adrienne L. Hiegel, "The ADA as a Moral Code," *Columbia Law Review* 94 (1994): 1453.

101 Ibid.

102 Ibid., 1476.

103 See supra text accompanying notes 45-56.

104 See generally, Tom Shakespeare et al., *The Sexual Politics of Disability* (London: Continuum International, 1997). "Stereotypes of disability often focus on asexuality, on lack

of sexual potential or potency. Disabled people are subject to infantilization, especially disabled people who are perceived as being 'dependent.' Just as children are assumed to have no sexuality, so disabled people are similarly denied the capacity for sexual feeling." Ibid., 10.

105 It is interesting to note in this respect that in many states, persons without a certain mental capacity are not considered capable under the law to consent to sexual relations. Elizabeth Emens, drawing on the work of Deborah Denno, claims that "[p]er se restrictions on sexual activity by and with people with disabilities stigmatize such individuals and permit families and guardians to deny the possibility of sexuality, a mindset that may itself contribute to the risk of abuse." Elizabeth F. Emens, "Intimate Discrimination: The State's Role in the Accidents of Love," *Harvard Law Review* 122 (2009), 1390. See Deborah W. Denno, "Sexuality, Rape, and Mental Retardation," *University of Illinois Law Review* 2 (1997): 315-434.

106 This gains special force in the HIV/AIDS context where the prescription becomes criminalization. Two thirds of American states have statutes criminalizing persons with HIV, often with a felony, if they do not disclose their serostatus to a sexual partner. See Lambda Legal, *HIV Criminalization* (2010), available at http://www.lambdalegal.org/our-work/publications/general/state-criminal-statutes-hiv.html.

107 *Lawrence v. Texas*, 539 U.S. 558 (2003).

108 See generally Laura A. Rosenbury & Jennifer E. Rotham, "Sex In and Out of Intimacy," *Emory Law Journal* 59 (2010): 823 n.85 (collecting scholarship that positively appraises the Lawrence decision for this reason).

109 *Lawrence*, 539 U.S., 558.

110 Ibid., 567.

111 Rosenbury and Rotham, *Sex*, 825-29.

112 *Lawrence*, 539 U.S., 567.

113 See Shakespeare et al., *Sexual Politics of Disability*, 87 (commenting how "typical situation of providing three public lavatories, for gentlemen, ladies and disabled people, is a symbolic representation of the degendering to which disabled people are subject").

114 See supra text accompanying notes 104-06.

115 This is in line with ADA AG A4.22.3 Clear Floor Space (allowing "the use of 'unisex' or 'family' accessible toilet rooms in alterations when technical infeasibility can be demonstrated. Experience has shown that the provision of accessible 'unisex' or single-user restrooms is a reasonable way to provide access for wheelchair users and any attendants, especially when attendants are of the opposite sex").

116 See supra text accompanying notes 81-93.

117 According to the 2006-2008 American Community Survey 3-Year Estimates, 50.2% of the population 15 years and over are married. U.S. Census Bureau, *2006–2008 American Community Survey* (2008), available at http://factfinder.census.gov/.

118 Note also that only a third of children are in married-couple family households, with approximately one third in male householder households with no wife present and one third in female householder households with no husband present. Ibid.

119 See generally Carol Stack, *All Our Kin: Strategies for Survival in a Black Community* (New York: Basic Books, 1975). Not-

ing in the context of poverty how "[t]he needs of families living at bare subsistence are so large compared to their average daily income that it is impossible for families to provide independently for fixed expenses and daily needs," Stack claims "[t]he poor adopt a variety of tactics in order to survive," especially "immers[ing] themselves in a domestic circle of kinfolk who will help them." Ibid., 29. In an analysis of the "Black urban poor," Stack argues "that the 'household' and its group composition [is] not a meaningful unit to isolate for an analysis of family life," because persons may belong to multiple households in order to achieve all the functions associated with the traditional family. Ibid., 31.

120 The first definition of "family" provided by the *Oxford English Dictionary* is "The servants of a house or establishment; the household," emphasizing etymologically the link between family membership and household duties or responsibilities, including the raising of children. *family*, *Oxford English Dictionary* I.1.a, 2nd ed. (New York, Oxford University Press, 1989). The OED defines "care-taking" as "Taking care of, esp. in the sense of taking charge of a house, etc.," and the contemporary understanding of the word's association with childrearing and assisting the impaired would seem to derive, then, precisely within a family context. *care-taking*, *Oxford English Dictionary*, def. b., ibid.

121 See generally Martha Albertson Fineman, *The Autonomy Myth: A Theory of Dependency* (New York: New Press, 2004). Fineman claims that "[f]or the modern private family, protection from public interference remains the articulated norm—state intervention continues to be cast as exceptional, requiring some justification." Ibid., 109. "However, privacy has not been awarded to just any group considering itself a family. The contour of the family entitled to protection through privacy has historically been defined as the reproductive unit of husband and wife, giving primacy to the marital tie." Ibid., 110.

122 The focus of much research into the social consequences of disability assumes the family as the environmental context, for instance by framing questions with reference to the effects of disability on marriage or on parenthood. One literature review of disability and the family notes that "[i]n accordance with the assumption of the independent, self-contained nuclear family, the majority of research on disability and family has focused on the impact of disability on the relationship between husband and wife." Julia Drew, "Disability and the Self-Contained Family: Revisiting the Literature on Disability and Family" (paper presented at the annual meeting of the American Sociological Association, New York, New York, August 11, 2007), available at http://www.allacademic.com/meta/p184356_index.html.

123 An assumption here is that the person with disabilities is a child, perhaps born with impairment, although a person might develop impairment through injury or genetic predisposition and be in fact a parent or occupy some other position in the family. What is important in the social discourse is not the actual age of persons, but rather their dependency on the family, hence their occupation of the child-role regardless of genealogical position. Thus, a literature review notes that the body of research on children of parents with disabilities tends to "indicate that these children inevitably undertake caregiving responsibilities" and as "young carers" the role of child has not disappeared from the family but merely been relocated, with impairment trumping age as qualification. Ibid., 12.

124 Rosemarie Garland Thomson, *Extraordinary Bodies: Figuring Physical Disabilities in American Cullture and Literatue* (New

York: Columbia University Press, 1977): 17.

125 Ibid., 89.

126 Barbara Welster, "The Cult of True Womanhood: 1820-1860," *American Quarterly* 18 (1966): 151.

127 Thomson, *Extraordinary*, 89.

128 The privatization of at least physical disability was also codified in many city ordinances in the form of what have been popularly called "ugly laws," which prohibited in public view any person "who is diseased, maimed, mutilated or deformed in any way, so as to be an unsightly or disgusting object" and which Susan Schweik has traced back to an 1897 San Francisco ordinance that spread across the country and most notoriously to Chicago in 1911 (where it was not repealed until 1974). Susan Marie Schweik, *The Ugly Laws: Disability in Public* (New York: New York University Press, 2009). As Thomson notes that "the history of begging is virtually synonymous with the history of disability," many of these ordinances were targeted at removing from sight not only the "ugliness" of disability, but also, I argue, the ugliness of economic dependency, where dependency is again only to be for children, in the home. Thomson, *Extraordinary*, 35. Thomson confirms: "Eliminating disabled people as discordant social elements is the logical extension of an ideology that esteems national and individual progress toward self-reliance, self-management, and self-sufficiency." Ibid.

129 Thomson, *Extraordinary*, 35.

130 Rayna Rapp and Faye Ginsburg, "Enabling Disability: Rewriting Kinship, Reimagining Citizenship," *Public Culture* 13 (2001): 544.

131 Fineman, *Autonomy Myth*, 31.

132 Ibid., 35

133 Ibid.

134 Ibid., 47.

135 Ibid., xxiii.

136 Rapp and Ginsburg, "Enabling Disability," 540.

137 Ibid., 534.

138 See generally Katie E. Mosack and Andrew Petroll, "Patients' Perspectives on Informal Caregiver Involvement in HIV Health Care Appointments," *AIDS Patients Care and STDs* 23 (2009): 1044 nn. 23-27 (collecting studies demonstrating informal caregivers "improve medication adherence among HIV-positive people" and suggesting informal caregivers could also productively "influence treatment planning considerations"); Mary M. Mitchell and Amy Knowlton, "Stigma, Disclosure, and Depressive Symptoms among Informal Caregivers of People Living with HIV/AIDS," *AIDS Patients Care and STDs* 23 (2009): 611 n.1 (collecting studies showing "the important role that informal caregivers play in improving HIV health outcomes among disadvantaged drug users who experience disparities in these outcomes compared to others living with HIV/AIDS).

139 See generally Jody Heymann and Rachel Kidman, "HIV/AIDS, Declining Family Resources and the Community Safety Net," *AIDS Care* 21 (2009): 35 (reflecting on studies where "HIV-infected parents, once the primary source of care for their children, often need to become the primary recipient"). See also Molly A. Rose and Barbara Clark-Alexander, "Coping Styles of Caregivers of Children with HIV/AIDS: Implications for Health Professionals," *AIDS Patient Care*

and STDs 13 (1999): 335 (noting in an American context that HIV-positive parents of children who have acquired HIV-infection perinatally "are often unable to care for their HIV-infected children due to the psychological and physical demands of their own HIV/AIDS disease" and therefore "there is a need for alternative caregivers for children with HIV/AIDS").

140 See generally Vuyiswa Mathambo and Andy Gibbs, "Extended Family Childcare Arrangement in a Context of AIDS: Collapse or Adaptation?," *AIDS Care* 21 (2009): 23 (decribing extended family assistance for AIDS caregiving and noting that "[i]n most of sub-Saharan Africa, family depicts more than biological parents and their children"); Heymann and Kidman, "Declining Family Resources," 37 (outlining the support communities provide for AIDS caregiving, but also noting "it is unclear to what degree communities are too overburdened to work alone to strengthen families").

141 See Mathambo and Gibbs, "Extended Family Childcare," 22 (collecting the literature on both sides).

142 See Linda M. Richter and Lorraine Sherr, "Strengthening Families: A Key Recommendation of the Joint Learning Initiative on Children and AIDS (JLICA)," *AIDS Care* 21 (2009): 1.

143 See supra note 45.

144 See generally Robert Bor et al., "HIV/AIDS and the Family: A Review of Research in the First Decade, *Journal of Family Therapy* 15 (1993): 187. Bor et al. note that most published research, at least in the first decade of HIV/AIDS in America, describes "the implications of HIV disease for the individual rather than the family or other social systems"; they hope that "[a]s the problems faced within the family and other support systems become clearer, there is likely to be a shift in focus in HIV care […] from the individual to the family system." Ibid., 188. That most research on disability and illness presumes a family context of care, but research on HIV/AIDS does not, only highlights the extent to which stigma is presumed and isolates the individual. See notes 122-23. But in line with presumed stigma and conflicts with the biological family, it is also interesting to note that "the family" Bor et al. have in mind is *not* that biological family, for "the fact HIV affects social networks beyond the 'nuclear family' […] has meant that researchers have had to re-examine definitions of the family." Bor et al., "HIV/AIDS and the Family,"189. That Bor et al. even have to spend two out of fifteen pages in a literature review "[d]efining the family" suggests just how much HIV/AIDS has radically altered what kinship even means. For an analysis on stigma's effect on the trajectory of disease, see generally Angelo A. Alonzo and Nancy R. Reynolds, "Stigma, HIV and AIDS: An Exploration and Elaboration of a Stigma Trajectory," *Social Science & Medicine* 41 (1995): 303.

145 See generally Karen I. Fredricksen-Goldsen, "HIV/AIDS Caregiving: Predictors of Well-Being and Distress," *Journal of Lesbian and Gay Social Services* 28 (2007): 67 (concluding "[t]here continues to be a need for interventions designed to assist family members caring for those living with HIV/AIDS").

146 Heather A Turner et al., "Sources and Determinants of Social Support for Caregivers of Persons with AIDS," *Journal of Health and Social Behavior* 39 (1998): 139.

147 Leonard Pearlin et al., "The Structure and Function of AIDS Caregiving Relationships," *Psychological Rehabilitation Journal*

17 (1994): 51.

148 Ibid., 57.

149 Turner et al., "Sources and Determinants," 139 (emphasis removed).

150 Judith Butler, "Against Proper Objects: Introduction," *differences* 6 (1994): 14.

151 Tim Dean, *Unlimited Intimacy: Reflections on the Subculture of Barebacking* (Chicago: University of Chicago Press, 2009), 53.

152 Ibid., 77.

153 Ibid., 80.

154 Ibid., 90.

155 Ibid., 95.

156 Ibid., 90.

157 See also Marc Spindelman's critique of Dean in "Sexual Freedom's Shadows," *Yale Journal of Law and Feminism* (forthcoming 2011). Wishing to de-romanticize the link between sex and death, Spindelman questions what is at stake in the question of consent to risky practices for persons who have been abused. He notes: "High-flying psychoanalytic accounts of the emergence of bodies and selves weren't required for them to know what many of them discovered for themselves in a flash of searing realization during the experience—or experiences of their abuse, and sometimes recurrently re-experienced after, as dissociation: the mind's escape from force and violence and injury being inflicted unwanted on the body." Ibid., 59.

158 Persons who eschew condom use or who find themselves in alternative kinship organizations probably did not need psychoanalytic accounts such as Dean's Lacanian ones to help them realize how they got there, nor do they need Lacan to sustain the kinship, when, as Dean acknowledges but does not adequately unpack, "material" obligations and relations might be more binding, especially caregiving needs.

159 For another analysis of barebacking kinship, indebted to Dean, see also Leo Bersani and Adam Phillips, *Intimacies* (Chicago: University of Chicago: 2010), 42-58. Bersani claims "[i]t is as if barebackers were experientially confirming a specifically Freudian and Lacanian notion of sexual desire as indifferent to personal identity, antagonistic to ego requirements and regulations, and, following a famous Freudian dictum, always engaged in group sex even when the actual participants are limited to the two partners of the socially approved couple." Ibid., 43.

160 This also means that for children born with HIV because of pretantal infection, the stigma more likely attaches to the parent than to the child. See supra note 46.

161 Elizabeth F. Emens, "Integrating Accommodation," *University of Pennsylvania Law Review* 156, no. 4 (2008): 839-922.

162 Ibid., 855.

163 Ibid., 842.

164 Public Law No. 106-501, codified in 42 U.S.C. 3030s-1 (2010).

165 See Visitability, http://www.visitability.org/ (last visited Dec. 10, 2010).

166 See Emens, "Intimate Discrimination," 1394 n.405, 1395 nn.408-414 (collecting relevant statutes at state and local levels).

167 H. R. 1408, 111th Cong. (2009).

168 Emens, "Intimate Discrimination," 1394.

169 Eldercare Locator, http://www.eldercare.gov/ (last visited Dec. 10, 2010).

170 Funds are allotted "among the States proportionately based on the population of individuals 70 years of age or older in the States." 42 U.S.C. 3030s-1 (f)(1)(A) (2010). In fiscal year 2010, the NFCSP was authorized $154,220,000. Department of Health and Human Services, *Justification of Estimates for Appropriations Committee* (Administration of Aging, 2010), 12.

171 42 U.S.C. 3030s-1(b)(1) (2010).

172 42 U.S.C. 3030s-1(b)(2) (2010).

173 Department of Health and Human Services, *Justification*, 42.

174 Fineman, *The Autonomy Myth*, 54.

175 Rosenbury, "Friends with Benefits?" 189.

176 Rosenbury claims this "contributes to gender inequality by encouraging individuals to engage in domestic coupling rooted in a history of patriarchy and then stigmatizing those who live outside of that coupling." Ibid., 212.

177 Ibid., 219.

178 29 U.S.C. 2612(a)(1)(C) (2010).

179 This argument has been made most forcefully in assessing the merits of expanding marriage to include homosexual couples. See generally Michael Warner, *The Trouble with Normal* (New York: Free Press, 1999), 81-148.

180 Of course, the law requires categories and works with the premise of them. This is an effect of the English language more generally. Persons raised to learn English as their primary language exhibit a "noun bias" that privileges reliance on nouns rather than on verbs. Our cognition therefore relies more often on things than on processes. It is more natural and usually more efficient for us to conceive subjects, not connections among subjects. In law, it might be easier to expand categories so as to include more subjects, rather than to directly address these intersubject connections. Thus, it is more plausible to ask the state to recognize the category of friends than it is to ask the state to recognize the various and dynamic work done by friends. Nonetheless, the state could easily accommodate a number of policies without having to radically alter this paradigm of law, as I discuss presently.

181 I have alluded here to the "Capabilities Approach" (CA) most forcefully detailed in recent years by Martha Nussbuam. See generally Martha C. Nussbaum, *Frontiers of Justice* (New York: Belknap, 2006). The CA, in Nussbaum's account, "holds that a key task of a nation's constitution, and the legal tradition that interprets it, is to secure for all citizens the prerequisites of a life worthy of human dignity—a core group of 'capabilities'—in areas of central importance to human life." Martha C. Nussbaum, "Foreword—Constitutions and Capabilities: 'Perception' Against Lofty Formalism," *Harvard Law Review* 121 (2007): 7. The "political goal" of legal projects should be "capability, not actual functioning," which is to say the law should make possible functioning without determining in advance what that functioning accomplishes, or who is doing the functioning, so long as it is freely available to all. Ibid., 12. In the context of care, Nussbaum notes that caregivers "frequently lose out in all sorts of ways through bad arrangements," and she calls for "public policies that make the choice to care for a dependent a real choice, not an imposition born of social indifference." Nussbaum, *Frontiers*, 170-71. This entails, first of all, public education that "should emphasize the importance of care work as a part of life for both men and women, trying to break down the reluctance men feel about doing this sort of work. *Id.*, 214. This may be especially important in the context of HIV/AIDS, which has in America implicated a number of male caregivers. See generally Betty Jay Kramer, "Men Caregivers: An Overview," in *Men as Caregivers*, ed. Betty J. Kramer and Edward H. Thompson, Jr. (New York: Springer, 2002), 12 (noting that "[m]any men will not be prepared" for the caregiving roles changing social and health trends rely on them to fill); Lenard W. Kaye, "Service Utilization and Support Provision of Caregiving Men," in *Men as Caregivers*, 363 (listing particular ideological beliefs that may limit a male caregiver from accessing support systems). In addition to education, the CA calls for a "transformation of the workplace, through new flexibility and new ethical norms," for as "young workers learn to think of care as part of their lives, they become less willing to accept rigid workplaces, and employers who offer flex-time and part-time options will attract the most skilled workers." Nussbaum, *Frontiers*, 214, 215-16. The Family and Medical Leave Act provides some support in this direction, although I have argued the state can go further in recognizing nonfamilial caregivers. To encourage the functioning of caregiving, the state must be attuned to the resources and protections necessary to make caregiving possible wherever it occurs.

182 Proclamation from 29 October 2010, available at http://www.whitehouse.gov/the-press-office/2010/10/29/presidential-proclamation-national-family-caregivers-month.

183 Ibid.

184 Ibid.

185 Ibid. (emphasis added).

186 Ibid.

187 Ibid.

188 Ibid.

189 Ibid.

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"Drawing is Nonetheless the Female and Painting the Male": The Rehabilitation of Color and Decoration by Henri Matisse and His Critics

Betty Gibson

Abstract: In the late nineteenth and early twentieth centuries in France, use of the conventionally "feminine" modes of expression, color and decoration, became more commonplace as the Academy began to lose influence. The way many art critics and artists began to write about art recategorized and reassessed color and decoration as potentially serious and praiseworthy elements of artistic expression. Although an increasing acceptance of "feminine" aspects of art appears progressive at the surface level, critics and artists continued, both explicitly and implicitly, intentionally and unintentionally, to use the conventional gender hierarchy to describe the relative merit of artistic practices. In this article I argue that the reassessment of color and decoration necessarily reconstructed these "feminine" modes of expression as "masculine." In order to illustrate such a shift in this process of gendering, I will use as a case study the art and criticism of Henri Matisse. I conclude with a consideration of the Pattern and Decoration Movement in the U.S. in the 1970s, when feminist artists "retook" this territory, with appreciation, from such male modernists as Matisse.

Introduction

"You throw like a girl." "You drive like a girl." "You're such a girl." In all three of these common colloquial phrases, as well as in cruder versions of them, the comparison of the listener to a girl is a slight on his or her strength, skill, and/or courage. When using phrases such as these, the speaker assumes that the listener understands the metaphorical meaning behind comparing him or her to a girl. The speaker depends on a shared set of stereotypes about "feminine" qualities (frivolous, weak, unskilled) that are lesser in status than "masculine" qualities (serious, strong/brave, skilled) to communicate an insult. It is evident that most people would rather be told they exhibit what are considered traditionally masculine qualities. Choosing to align oneself with actions and qualities considered "feminine" would be surprising and worth investigating.

In fact, in late nineteenth- and early twentieth-century France, avant-garde groups, beginning most notably with the Impressionists, did just that: they began to use bright colors to emphasize surface effects and to paint on a smaller scale, practices conventionally considered "feminine." Due to their small scale and perceived lack of cerebral content, such paintings were often criticized as "merely decorative." Furthermore, several avant-garde artists of this period experimented with decorative media such as ceramics, murals, and interior design, also associated with femininity.

Historically, large-scale history paintings with a firm basis in drawing would have been considered the most prestigious genre, thus considered "masculine." However, the use of these previously subjugated modes of expression was a way for avant-garde groups to rebel against the standards for high art upheld by the École des Beaux-Arts as well as a means for the avant-garde artist to assert his own individuality. In other words, instead of conforming to convention through practices coded as masculine, avant-garde artists sought to express their masculine individuality through "feminine" modes of expression.

As the use of these previously "feminine" modes of expression became more commonplace and as the Academy began to lose influence, the way many art critics and artists began to write about art recategorized and reassessed color and decoration as potentially serious and praiseworthy elements of artistic expression. Although an increasing acceptance of "feminine" aspects of art appears progressive at the surface level, critics and artists continued, both explicitly and implicitly, intentionally and unintentionally, to use the conventional gender hierarchy to describe the relative merit of artistic practices. As such, the reassessment of color and decoration necessarily reconstructed these "feminine" modes of expression as "masculine." In order to illustrate such a shift in this process of gendering, I take the art and criticism of Henri Matisse as a case study. It is unusual to take a male artist as the subject of a study of gendered art criticism, but doing so illustrates that using gendered lan-

guage to describe quality and value is ubiquitous. Gendered language affects not only the perception of female artists—such as whether or not they are seen to be working in an appropriate mode of expression—but also the perception of male artists.[1] Looking at Matisse and his critics through the lens of gendered criticism accounts for the tensions inherent in his art: the perceived frivolity (read feminine) of color and decoration versus the perceived seriousness of the avant-garde, modernist project (read masculine). These gendered biases influence the way his art is perceived, but also the way he as a person is perceived, with critics and the artist himself at times conflating the "masculinity" of his art with his identity as a man.

The work and criticism of Matisse is a particularly fertile area for investigation of the shifting valuation of color and decoration for three principal reasons. First, he is interested in color and decoration in both his art and writing throughout his career. Second, because he is a well-known artist with a long career, there is a wide range of available criticism and art to draw from. And third, the gendering of Matisse's work is both more complex and longer lasting than the criticism and work of other French avant-garde artists such as Claude Monet and Paul Gauguin from the previous generation.[2] However, before I enter into a discussion of color, decoration, and Matisse, it is necessary to consider the background of the marginalization and subsequent feminization of color and decoration. After the section on Matisse, a final section will look at a more recent movement, the Pattern and Decoration (P&D) Movement, to illustrate the legacy of the artistic gendering of previous centuries and feminist artists' perspectives on the gender associations of color and decoration.

A study such as this one examines the historical shift in the evaluation and subsequent gendering of two traditionally marginalized modes of expression, color and decoration. For an understanding of one site of such gendering, the use of color and decoration in the art of Henri Matisse is important because such a close, focused examination can thereby problematize the underlying assumptions of inequality and difference between men and women as "natural," logical, and effective as means of expression. Art is often seen as existing outside of culture and its conventions, but as feminist art historians have argued, the qualities associated with femininity and masculinity, and the unequal power relations that conventionally follow, are reflected in, but are also codified by, art, art criticism, and art history. Furthermore, in the history of art in general, studies of color and decoration in any sense have historically been neglected due to their low status. As Nicholas Watkins points out, "decorative painting is one of the most important, but least understood, issues in late nineteenth- and early twentieth-century art."[3] Similarly, art historian

and color theorist John Gage explains, "All color practices have their specific contexts and their specific rationale, so that color must be at last not simply a branch—and a minor one—of formal analysis, but must be fully integrated into the history of art."[4] This examination of Matisse will focus attention on two topics that have often been overlooked or rejected as not serious enough, and will flesh out the gendered associations that these two terms have accrued.

The Feminization of Color and Decoration

Why was color relegated to a subsidiary position in the Western art world? Why was it later coded as feminine? Color seems unthreatening, and it may seem odd for a concept that seems unrelated to anatomical differences to be gendered. This is particularly the case for English speakers who are not used to the concept of gendered nouns. In fact, color has been suspect since Antiquity, although the tendency toward gendering it evolved many centuries later. In *Poetics,* for example, Aristotle writes that line can cultivate morality and reason through its ability to define forms and therefore ideas, whereas color only functions as superfluous ornament.[5] Aristotle's views of line and color later reappear in Pliny the Elder's *Natural History.* New color pigments, such as indigo imported from India, he explained, cause great paintings to become only mediocre, or simply bad. He hoped that artists would return to the ways of the ancient Greek artists and use only the most basic colors: white, black, red, and yellow.[6] These ideas continued to resonate in Western culture in subsequent centuries, but they began to take on moral overtones. In the late Middle Ages in Northern Europe, the monochromatic outer wings of triptych altarpieces were used to cover the center panel during Lent; the sumptuous colors of the center panel were thought to incite the churchgoer to abandon proper Lenten abstinence.[7] By the Renaissance the color issue revealed itself in the disagreements over the relative merits of *disegno* and *colore.* Design began to be viewed as primary because of the perceived intellectual component of linear construction, whereas color began to be viewed as secondary because of its sensual associations.

When formal art academies, such as the École des Beaux-Arts in Paris, were established at the beginning of the sixteenth century, *disegno* driven art became firmly entrenched in the curricula and criteria of Academic art. Drawing was heavily emphasized. This was in part because drawing was essential to all three of the great arts of the Academy: architecture, painting, and sculpture. Color was necessary only to one of these.[8] The Academies only allowed experienced students access to colored paints, but even then discouraged improvisation with color. Direct application of color to the canvas without any foundation or modulation was discour-

aged. So strong was the academic prejudice against color that Joshua Reynolds, founder of the Royal Academy in England, wrote that color is "weak and unworthy of regard."[9]

However, despite the firm policies encoding the preeminence of line and the subordination of color, flare-ups in the debate over line versus color continued to occur for the next few centuries in the French Academy. In the seventeenth century, for example, the French Academy was divided between supporters of Peter Paul Rubens and Nicholas Poussin. In the early nineteenth century, before the Academy began to significantly lose influence, a fierce competition existed between the linearity espoused by Jean Auguste Dominique Ingres and the colorism championed by Eugène Delacroix. Artists, critics, and the public debated the merits of the two artists and their differing styles and art philosophies. Both influenced the next generation of artists, some of whom would work outside the Academy. Delacroix became a particular favorite of the Impressionists, and his use of color inspired their adoption of a more color-driven aesthetic.

But the adoption of a color-driven aesthetic was very controversial, and not just for formal and stylistic reasons. As color and line were debated, they accrued more and more associations with gender. For example, in Charles Blanc's popular art textbook, *Grammaire historique des arts du dessin* (1867), he explains the proper roles of color and line painting:

> The union of drawing and color is necessary for the engendering of painting, just as the union between man and woman for engendering humanity, but it is necessary that drawing retains a dominance over color. If it were otherwise, painting would court its own ruin; it would be lost by color as humanity was lost by Eve.[10]

As is apparent in Blanc's writing, color and line in the mid- to late-nineteenth century began to take on very specific gendered roles in painting that mirrored the expected roles of *fin-de-siècle* men and women. Line was not only important for the structure of a painting, but also constituted the rationality and logic behind a painting. Color was not only difficult to control; it also became the purveyor of emotions in a work of art. There is no reason that a line cannot be emotional (lines curving up are often considered happier than lines curving down), and there is no reason that a color cannot be rational (why shouldn't an observed blue sky be painted blue?). But somewhere along the way, these terms began to accumulate deeper meanings than just the concepts they describe. To gender color and line may seem extreme, but as Tamar Garb points out in her article "Berthe Morisot and the Feminization of Impressionism," in Blanc's writing, "a formal hierarchy is framed within an accepted hierarchy of gender…creating a naturalized metaphoric discourse that operates on the level of common sense in the late nineteenth-century parlance."[11] In other words, to gender color and line in these ways was made

out to be natural, not a function of interpretation. Furthermore, writing metaphorically of color as female and line as male was used to show how males and females view the world differently. Men were thought to see the world in a rational and organized manner (linear way of seeing), whereas women were thought to see the world in a state of constant emotion and to focus only on surface appearances (coloristic way of seeing). Garb describes this phenomenon saying, "[Linearity] was not only a descriptive term but an indicator of a manner of perceiving exclusively suited to the male of the species."[12]

In contrast to the fairly consistent subordination of color over many centuries, decoration—often defined as art that has a practical purpose, as opposed to fine art, which is thought to exist as an end in itself—has a much less checkered past and was revered as a mode of high art, particularly in the form of mural painting, until around the mid-nineteenth century. [13] The Academy considered public decoration one of the highest art forms whereas domestic decoration attracted strong connotations of femininity and inferiority. Under this idea, domestic decoration satisfied the senses, but did not intellectually stimulate the viewer because of its identification with commerce, handicrafts, tactile usefulness, and ordinary life.[14] On the other hand, public decoration, such as murals on public buildings, encouraged intellectual contemplation. Furthermore, size matters in art, and public decoration was large-scale whereas domestic decoration was almost always "small-scale commercial easel paintings" or practical objects such as lamps and table clothes.[15] Often allegorical or based on mythological subjects, the best public decoration was thought to embody the perfect union of the didactic and the aesthetic. Pierre Puvis de Chavannes' murals, for example, struck what the avant-garde and the Academy alike saw as the perfect balance between the pastoral and the cerebral. In the frenzy of modern Paris, in which people were often overcome by the "exhausting, overwhelming city life," the Third Republic did not want to commission public works of art that would over stimulate its citizens.[16]

The loss of prestige for decoration was triggered by the increasing separation between the domestic (feminine) domain and the public (masculine) domain. The domestic space developed stronger associations with femininity as the bourgeois woman's role at home was increasingly emphasized. Lisa Tiersten describes the late nineteenth century interior as "a separate sphere of feminine aesthetic self-expression and identity formation."[17] Only one public art school in Paris admitted women in this period—the École Nationale pour les jeunes filles. This school taught women arts such as flower arrangement and wallpaper design.[18] Such institutional exclusion of women indicates that the decorative arts were the one art form considered appropriate for them. In fact, decorating and making the home comfortable was considered a modern Frenchwoman's patriotic duty, and such a woman herself was viewed as part of the décor. As Tiersten notes, "[women] were

artists yet they themselves were objects of art."[19] Women's magazines, for example, instructed women to select fabrics and wallpapers that "blend with their hair and skin tone."[20] Man's objects, by contrast, remained separate from him; such co-ordination was not required since a man was typically characterized as self-sufficient.

French bourgeois women were also generally encouraged to remain within their own home and gardens; leaving the house alone was considered improper. Women were also thought to be more susceptible to extreme emotional responses, so, according to art historian Joyce Henri Robinson, they were "advised to avoid the excessive intellectual stimulation of the marketplace and counseled to remain within the confines of the domestic interior."[21] In a sympathetic description of the restrictions of women, French historian Jules Michelet wrote in 1859: "how many irritations for the single woman! She can hardly ever go out in the evening; she would be taken for a prostitute. There are thousands of places where only men are to be seen, and if she needs to go there on business, the men are amazed and laugh like fools."[22] An example of this resistance to women in public shows itself in the French language with the word *flâneur*. A *flâneur* is a popular term from the nineteenth century to indicate a dandified bourgeois man who strolls about the city at his leisure. No feminine equivalent for this word existed at that time, so a woman could not be described as strolling about the city at her leisure. Rather than *flâneur,* the most appropriate role for a bourgeois woman was the *femme-au-foyer,* or the housewife.

Furthermore, in advanced critical circles, surface decoration did not fit with the modernist emphasis on clean lines and smooth surfaces in both architecture and interior design. As Nancy Troy argues in her book *Modernism and the Decorative Arts in France,* modernism "aligned against the dependent status, purported superficiality and commercial implications of decoration and decorative arts."[23] In his screed against decoration, "Ornament and Crime" (1910), Adolf Loos argues, "The evolution of culture is synonymous with the removal of ornament from utilitarian objects."[24] For Loos, not only is decoration associated with "primitive" cultures and with women; it is also a marker of a culture's cultural evolution. "Not only is ornament produced by criminals," he declares, "but also a crime is committed through the fact that ornament inflicts serious injury on people's health, on the national budget and hence on cultural evolution…ornament is wasted power and hence wasted health."[25] Loos turns what could have been a strictly aesthetic issue into a moral and hygienic argument. Loos's stance may seem radical, but, in fact, his ideas disseminated rapidly and influenced various artists and movements in France. One of the most notable artists who adopted Loos's ideas was the architect and theorist Le Corbusier. Le Corbusier wrote in 1925, for example, "trash is always abundantly decorated" and it appeals mainly to women and the lower classes.[26] Le Corbusier added to Loos's moral

stance a class-specific argument about the elite quality of clean-lined modernism and the lower-class association with overly decorated interiors.

Even apparently neutral definitions betray modernist attitudes to decoration. Art critic Rioux de Mailloux, for another example that is more moderate than Loos and Le Corbusier, wrote in 1895, "the term *decorative* implies a subordination, the necessity of staying within a given boundary, of orienting oneself in a direction, determined by the manner of being and the character of the object being decorated."[27] Previously, the necessity to submit to the demands of an object in order to decorate it was not a concern because any work of art has to submit to the demands of its media. An easel painting, after all, is just paint on a canvas. An artist cannot work outside the confines of his materials. In the nineteenth and early twentieth centuries, however, French critics and art enthusiasts were focused primarily on the limitations of feminine decoration, not of easel painting and sculpture. In many ways the sentiments of Loos, Le Corbusier, and Rioux reflect what E.H. Gombrich calls "the neurotic compulsion of high art to divorce itself from the decorative."[28]

But not only did high art in the sense of the Academy seek to divorce itself from the decorative; later abstraction sought to make the same division. In the 1910's, when the first abstract paintings were made, and the Academy was losing influence, abstract art set itself in opposition to decoration. Despite the rhetoric of contrast that critics and art historians have spun around the terms decoration and abstraction, the two types of art are inherently related. Or to put it another way, they come from the same family tree. The stylistic concerns of decorative art— such as focus on color patterns, flattened picture planes, and the removal of a traditional subject (such as a Classical or religious story)—all aided in the development of pure abstraction. Furthermore, because abstraction lacks a traditional subject, it places more emphasis on what remains—line and color. Color was often described as the "heart of the decorative," and in many ways it became the heart of abstraction as well.[29] Much of the writing about art from the twentieth century focuses on either defending or attacking abstract art, and as Robert Herbert points out in his article "The Decorative and the Natural in Monet's Cathedrals," "the defense of abstract art grew in part from theories of the decorative, but it did so at the cost of denying the term its complexity." [30] Apologists of abstraction sought consideration for abstraction as a serious art form— the most serious art form— and its associations with decoration were thought by many to hinder that process. So, although abstract art and decoration are linked from the time of abstract art's genesis, defenders of abstract art seek to distance it from the negative connotations of decoration, thereby reinforcing the negative connotations of decoration.

Henri Matisse: Theoretician, Wild Beast, and Normal Man

Henri Matisse faced a wide range of criticism throughout

his career. From accusations that he was too theoretical to those that alleged he was "in no way profound," his art often received criticisms that directly opposed one another.[31] It is as if the public did not exactly know what to make of this new sort of painter: certainly avant-garde but incongruously possessing the look of "a well-groomed notary." [32] Similarly, Matisse's own writing on art does not often neatly align with what his critics were saying. His views on art, particularly à propos of color and decoration, were, for the most part, very progressive, whereas his apologists often try to legitimize his work by emphasizing the qualities they perceive as distinctly grand and "masculine." Many critics in support of Matisse's art employed tactics ranging from emphasizing the intellectual rigor of his work to proclaiming it the symbol of French artistic excellence. However, in other cases, the traditional masculine/feminine binary begins to break down. This dissolution begins however, not so much because the validity of gendered categories was being questioned, but because the rising status of color and decoration established them for some critics as no longer "feminine" characteristics of painting. Matisse, unlike his critics, certainly was interested in and valued both color and decoration and did not attempt to describe them as possessing "masculine" attributes. However, despite the increasing acceptance of the bright colors and decorative features of Matisse's art, he and his apologists still found it necessary on several occasions to emphasize Matisse's identity as a "normal man," which indicates that "masculine" qualities were still useful in adding legitimacy to his status as a serious artist.

One "masculine" common theme used by Matisse's defenders is the accent on seriousness of purpose and the intellect of both the artist and his production, focusing especially on Matisse's work ethic and the strong quality of organization in his painting. When tasked with the duty of defending the truth of Matisse's artistic program in the preface to the 1908 publication of Matisse's "Notes of a Painter," George Desvallières chooses to repeatedly describe Matisse as a conscientious researcher. He uses a tone that is both sober and comforting, which is, as Roger Benjamin points out, "quite contrary to the language of the art-market profiteering and metaphysical speculation with which Matisse's opponents denigrated him."[33] For example, Desvallières attempts to rationalize Matisse's application of bright colors by explaining, "The relationship of color which we observe in Persian rugs…has not been…without influence on the way [Matisse] studies the coloration of objects and beings. This has all been acquired with the aid of a method by no means removed from the findings of modern science; perhaps it is even too little removed from them."[34] Desvallières, in order to legitimize what "arouses the harshest criticism" from the French public expression, accents Matisse's influences, from Persian rugs to scientific theories.[35] By portraying Matisse's use of color as well researched and even overly scientific, he deftly eschews connotations of frivolity

and thus potentially perceived "femininity." Desvallières' emphasis on what he characterizes as Matisse's close relationship to modern science is particularly of note because in "Notes of a Painter" Matisse writes, "My choice of colors does not rest on any scientific theory; it is based on observation, on feeling, on the very nature of each experience."[36] In his introduction, Desvallières disregards Matisse's own description of how he works with color in favor of a more positivistic description of his method. This direct contradiction of Matisse's own words is less important than Desvallières' need to justify Matisse's work and writing.

Perhaps influenced by Desvallières' words on Matisse's scientific inclinations, Charles Estienne, in a 1909 interview for a newspaper series on modern art, writes that he is surprised to find that Matisse who has "aroused the harshest criticism," does not explain his artistic motivations by "random conversation, as one might imagine," but rather has "a thoughtful and curious conception of art."[37] He also compliments Matisse by saying that he sounds like Pierre Puvis de Chavannes because of Matisse's emphasis on reflection and serenity.[38] He concludes the article by judging Matisse's explanation of art to be "logical and acceptable."[39] Despite the negative reviews Matisse's art had received to this point and Estienne's preconceptions about the artist, by the end of the interview, Estienne deems his artistic program adequate. The logic and thoughtfulness he perceives behind Matisse's words allow him to support Matisse's artistic endeavors. It is interesting to note that Estienne's praise of Matisse stems purely from Matisse's description of his artistic program rather than from the art itself. With this in mind, for Estienne, Matisse's rationality and clear mindedness can justify the perceived wildness, as well as the "femininity" of his work.

One critic, Michel Puy, even goes so far in his review of the 1907 Salon d'Automne to characterize Matisse as a positive influence on younger avant-garde artists and on the spectators of the Salon because of his strong work ethic and the intellectual rigor of his art. He writes, "Matisse's merit, for a moment setting aside his own work, is to have created a discipline…Matisse has declared the value of self-control, he had brought together men…a little older than he, with his greater experience and his methodical mind…he has impelled them once and for all onto the path they were burning to tread."[40] Matisse's focus and discipline, according to Puy, make him an excellent role model for younger artists, and he describes these qualities as the best part of Matisse's endeavors. Again, it is interesting that this praise was not based on Matisse's artistic production; it is instead praise of Matisse himself, as a man. The praise of his methods and rigor identifies qualities distinctly divorced from the "feminine." Puy goes on to say that Matisse requires that "the spectator, in order to take in all that he had observed…have at his disposal an eye just as practiced, just as knowledgeable as the artist himself."[41] For Puy, not only is Matisse a responsible influence on a younger artist; he also

offers a challenge to the viewer. According to Puy, Matisse demands a deftly trained eye from his viewer, and to Puy's way of thinking this is something positive. The difficulty of Matisse's art makes it worthwhile. Puy's description of the knowledge and challenging aspect of Matisse's art is directly the opposite of how women's vision was understood.

Negative criticism of Matisse also focused on the intellectual qualities of his work. But such criticism found his work to be overly theoretical. For example, in his 1905 review of the Salon d'Automne, Maurice Denis complained of Matisse's work: "All the qualities of the picture other than the contrast of lines and colors, everything not determined by the painter's reason, everything which comes from our instinct and from nature, finally all qualities of representation and sensibility are excluded from the work of art."[42] It is significant that Denis perceives as a weakness the dependence on reason in Matisse's painting at the cost of artistic intuition. Based on general cultural attitudes, it would seem that Denis decries the lack of "feminine" qualities in Matisse's work. Similarly, André Gide wrote in 1905 for a review in the *Gazette des Beaux-Arts,* "The canvases [Matisse] presents today look like demonstrations of theorems…they are a product of theories. Everything in them can be deduced, explained—intuition has nothing to do with it…Yes, this is reasonable painting, or rather, it is overly rational."[43] Gide, like Denis, judges Matisse's art to be too contrived.

Considering that the criticism of more conservative critics of the same Salon determined Matisse's art to be bizarre and incoherent—Camille Mauclair described the art as "a pot of colors flung in the face of the public," deliberately invoking John Ruskin's criticism from 1877 of Whistler's *Nocturne in Black and Gold*—it is striking that Denis and Gide considered Matisse's art too thoughtful.[44] Their distaste may in part stem from Matisse's foray into the theories of Pointillism in the previous few years, in paintings such as *Luxe, Calme, et Volupté.* Louis Vauxcelles—the critic who termed Matisse and his fellow artists the Fauves in fall 1905—for example, reacted negatively to *Luxe, Calme, et Volupté* and wondered "Why this incursion into the realm of the theoreticians of the dot?...my dear Matisse…your gifts are too magnificent…for you to lose yourself in experiments that are sincere but go against your true nature."[45]

Figure 1: Henri Matisse, *Luxe, Calme, et Volpté*, 1904-05, oil on canvas, Musée d'Orsay. In *Henri Matisse: A Retrospective*, by John Elderfield, 131. New York: The Museum of Modern Art, 1992.

Like Vauxcelles, Denis and Gide may be troubled by what they perceive as Matisse abandoning his own natural talents to adhere to the strict theory of Pointillism. Nevertheless, their criticism of Matisse's paintings as overly rational, and the subsequent criticism they inspired does not fit neatly with the traditional masculine/feminine construction. Their reaction is notable in light of the common understanding of art historians that Matisse was anti-theoretical. Jack Flam, for example, writes in his introduction to *Matisse on Art*: "for many years [Matisse's] lack of theoretical program was mistaken for a lack of intellectual rigor, even for a lack of artistic ambition or significance."[46] Denis and Gide's criticism indicates that the colorful and decorative qualities of Matisse's art had gained the respect of some critics. Feeling and intuition, previously considered "feminine," rather than strict rationality and theory, once considered "masculine," were now admired and sought after qualities for the male artist.

On several occasions, Matisse sought to portray himself as rational, often placing particular emphasis on the fact that he was what he described as a "normal man."[47] In a 1912 interview with American journalist Clara T. MacChesney, Matisse exclaimed "Oh, do tell the American people that I am a normal man; that I am a devoted husband and father, that I have three fine children, that I go to the theatre, ride horseback, have a comfortable home, a fine garden that I love, flowers, etc., just like any man."[48] Matisse's concern to be seen as a typical man may correlate with the anxiety he felt about how his work would be received at the 1913 New York Armory Show. This article would be published in the *New York Times Magazine* a week before the show closed. It turns out that Matisse's concerns were justified. The American reception of his artwork was extremely negative. For example, when the show moved to Chicago, the students at the Art Institute held a protest during which they burned a copy of Matisse's *Blue Nude* from 1907.[49] Perhaps aware that the American audience was more conservative than the French one, he chooses to emphasize that he is not a madman, nor an effeminate man, but rather a regular man. His emphasis on his normality as a *man* indicates that he believed this portrayal of himself could defend him from accusations of his art as something other than rigorous and "masculine"—something "feminine." To further abate claims that his artistic endeavors were ridiculous or "revolting," he makes it clear that, when teaching, he makes his pupils "draw accurately, as a student always should do at the beginning. I do not encourage them to work as I do now."[50] Later, in a 1931 interview, Matisse articulated that he draws a lot "with an eye for detail," and even assigns himself drawing "homework."[51] By emphasizing that he still takes time to draw and draw carefully, he draws attention to the traditionally rational, mental side of his artistic practice. In light of negative criticism in both France and America—

such as that by Joséphin Péladan, who wrote that Matisse's innovations "in the employment of lines and colors, that is the idea of a savage or alcoholic"—it is not surprising that Matisse seeks to emphasize his proficiency as a draftsman, a "masculine" quality that would legitimize his art in the eyes of many, particularly more conservative critics. Matisse's emphasis on his program of drawing for his students and emphasis on his own drawing ability answer what Jack Flam calls "the tired old question, 'but can he draw?'"[52] This question was particularly important because drawing was historically allied with rationality and design, which were often understood to be the province of men. Drawing stood in contrast with color, which was considered ephemeral and emotional, often thought to be the province of women.

A second "masculine" theme that is emphasized by Matisse's apologists is the idea that his art is a positive representation of France. Léon Degand wrote in 1945: "What happiness that France should also encompass this place in the world, healthy, aerated, relaxed, without languor, smiling and as if perfumed with a consciousness with which Matisse is identical, man and artist."[53] Degand indicates that France should try to be more like Matisse and his airy, calming art. The positive reception Degand has for Matisse is tied up with a conception of France; however Matisse's relationship to France is not "masculinized." Matisse is seen to embody what would have been considered rather "feminine" qualities of France, which is also personified in the figure of Miarianne, as a female. Similarly, in a 1907 interview, poet and critic Guillaume Apollinaire begins by positing "This is a tentative essay about an artist in whom are combined, I believe, the most tender qualities of France: the strength of her simplicity and the gentleness of her clarity."[54] Here Apollinaire focuses on what he sees as the connection between Matisse and France. This is a clever way to support Matisse because Apollinaire is essentially indicating that to insult Matisse is to insult two admirable qualities about France. Like Degand, the qualities Apollinaire emphasizes are couched in "feminine" words, such as "gentleness" and "tender." Perhaps Apollinaire, as in the earlier case with Gide and Denis, did not believe he needed to "masculinize" Matisse's art in order to support it. On the other hand, in a 1910 interview, J. Sacs writes that he admires Matisse, "because he sees [him] as one of the strongest, most conscientious and intelligent exemplars of this tradition of artistic self-inspection, artistic didacticism and living aesthetics that is developing uninterruptedly in French art and in no other art in the word."[55] The same French nationalist sentiment can be observed in J. Sacs's article, but unlike Apollinaire and Degand, he also characterizes the French spirit as one that is "masculine." His concern for the strength and intelligence of French art (and Matisse's art) codes it as distinctly "masculine." Matisse's art and Frenchness are described as

both "masculine" and "feminine" here. Critics, it seems, do not agree about the most effective way to characterize Matisse's art. It seems "masculine" associations, which to some would now seem redundant, are not a foolproof way of legitimization.

The third theme related to ideas of "masculinity" used by advocates of Matisse is the emphasis placed on his rebelliousness and inventiveness. Matisse had separated himself from both the academy and Impressionism, which by that time had become a better-established and more accepted style. There were difficulties getting the French state to accept the Caillebotte bequest, but by the end of the nineteenth century, Impressionism had lost some of its edge of radicalism. Matisse describes the effects of the exposure to academic art and Impressionism early in his career by saying: "I have never avoided the influence of others…I would have considered this cowardice and a lack of sincerity toward myself. I believe that the personality of the artist develops and asserts itself through the struggles it has to go through when pitted against other personalities. If the fight is fatal and the personality succumbs, it is a matter of destiny."[56] Matisse describes the process of development of his own style in dramatic, violent terms. Because of what he describes as his courage and strong personality he was able to take his early influences and assimilate them to his own individual style. This type of rhetoric is framed in particularly "masculine" and very confident terms. But, as painter Auguste Bréal notes, "Matisse cannot get over the fact that he is Matisse. He can hardly believe his luck."[57]

The conception of Matisse as a rebel who possesses both inventiveness and genius is also a key way in which his art is legitimized by Matisse himself and by proponents of his art. An admirer of Matisse's work, Marcel Sembat, wrote in 1913: "Matisse is profoundly original…the artist has gone past nature, has dominated it, and has extracted the essential characteristics, the tendencies, choosing and reinforcing the characteristics with which the tendencies harmonized, rejecting and ignoring the others."[58] Here Sembat admires Matisse's originality, a distinctly "masculine" quality because women, and what was considered "feminine," were thought to lack what Linda Nochlin calls "the nugget of artistic genius" and were thought not to have the capability for innovation or originality.[59] For example, the art critic S.C. de Soissons comments in his review of women artists in Boston: "One can only understand that women have no originality of thought." In this view, women, and thus the late nineteenth-century and early twentieth-century conception of femininity, represented the opposite of reason and innovation. Furthermore, Sembat uses verbs like *dominate*, *choose*, and *extract* to suggest that Matisse is in complete control of his art, and even of nature. With terms of such control, the picture Sembat creates of Matisse is distinctly "masculine." The terms in which Matisse is discussed persist even very late into

his career. In 1951, in an article called "Matisse Speaks," the critic Tériade concludes by considering the cutout technique of *Jazz*: "It was Matisse's genius that gave these colors life. He had invented a new means of plastic expression, and this will surely be an important date in his career."[60]
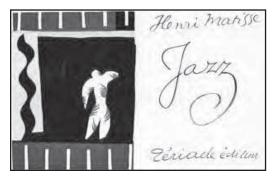

Figure 2: Henri Matisse, The Clown, Plate I from *Jazz*, 1947, twenty pochoir plates plus text, The Museum of Modern Art, New York. In *Henri Matisse: A Retrospective*, by John Elderfield, 423. New York: The Museum of Modern Art, 1992.

By discussing a non-traditional mode of expression—paper cut-outs—in terms of inventiveness and genius, Tériade finds a way to link this new, very decorative, colorful technique with how traditional great art is discussed. He even hyperbolically attributes a god-like power of life giving to Matisse. These types of grand statements remove Matisse's experimental art practices from the realm of "simply" decorative art ("feminine") and into the category of prestigious high art ("masculine"). But Norma Broude points out that this tactic of "borrowing from the decorative and applied arts…[creates] yet another form of high art, a form which by virtue of its very existence serves to reaffirm the separate and inferior status of its source."[61] So although Tériade may use this technique to elevate the status of Matisse's decorative art, he may simultaneously strengthen the divide between high art and decoration.

Even negative criticism of Matisse was sometimes couched in "masculine" terms. For example, by using the term *fauves* or wild beasts for artists who worked with bright colors, applying paint boldly even leaving portions of canvas "unfinished," Louis Vauxcelles created a metaphor that is distinctly "masculine." As Gill Perry describes, "the metaphor of 'wild beasts'…carried with it connotations of violent masculine force."[62] "Masculine" terminology such as Vauxcelles' for art that is highly colored starts to normalize such art by taking it out of the domain of the "feminine," and categorizing it as something perhaps not desirable for Vauxcelles, but still considered better suited for the male artist. Perry emphasizes this point by describing how it was particularly difficult for women to be grouped with the *Fauves,* as compared to, for example, the ease with which women could be considered Impressionists.[63]

Many supporters of Matisse's work implicitly and explicitly evoke the "masculinity" of his art and his identity in order to legitimize his artistic production. Although Matisse occasionally emphasizes his own masculine "normalcy," unlike his critics he does not characterize his art as "masculine" in his writing. The unconcern he shows for typical characterizations of color and decoration is most famously illustrated in "Notes of a Painter" from 1908: "What I dream of is an art of balance, of purity and serenity devoid of troubling or depressing subject matter, an art which might be for every mental worker, be he business man or writer, like an appeasing influence, like a mental soother, something like a good armchair in which to rest from physical fatigue."[64] This statement has aroused a lot of notice in part because of the fact that it eschews what was the typical understanding that art had a more noble, intellectual ("masculine") purpose than serving as something akin to a piece of furniture, merely decorative and functional. Joyce Henri Robinson notes that many of Matisse's clients were, in fact, businessmen and "mental workers," which leads to interesting implications for the gender associations of Matisse's work. To examine Matisse's focus on mental workers, she introduces the nervous system disorder, neurasthenia, "the result from the overcharging of the nervous system in confrontation with the incessant stimulation of urban existence."[65] This ailment was on the rise in late nineteenth- and early twentieth-century France due to the over-exhaustion of the metropolitan, bourgeois businessman. Having a good *femme-au-foyer*, or housewife, who would create a relaxing environment for her husband was thought to be an effective way to avoid the condition. Paintings such as those Matisse proposed as "soothing," would have been considered an excellent element of such a relaxing domestic environment. Robinson writes that "the domestic and pastoral realm of rest and beauty as envisioned by Matisse is, ultimately, a 'masculine dreamworld.'"[66] Even though, according to Robinson, Matisse is the producer of these "masculine" fantasies, he is, in a sense, fulfilling the traditional housewife's role of providing comfort to weary men with his soothing images meant for the home. Perhaps Matisse did not realize his statement could be interpreted in this way, but even aside from that, to refer to one's art as simply pleasant and decorative would be like Pascal calling his *Pensées* light *divertissements.*

According to Flam, this comment became so notorious that Matisse began to regret it. So in a later interview with Charles Estienne in 1909, when Matisse cites the passage from "Notes of a Painter" quoted above, he omits the portion about the armchair.[67] Despite this sort of sensitivity that Matisse had about people misunderstanding his art and comments, in large part, his writing on color and decoration is non-normative for his era. In a 1940 letter to Rumanian

painter Théodore Pallady, Matisse maintains that "drawing is nonetheless the female and painting the male."[68] This assertion is in direct opposition to the traditional view that color embodied the female element of painting and line the male element. John Elderfield explains this atypical observation by explaining that Matisse believed that "'drawing is female because like women and slaves, its privileged subject is to be hidden away, 'completely concealed'."[69] Elderfield's explanation asserts that Matisse's statement was not progressive, but rather he saw drawing embodying more "feminine" qualities than "line." However, several of Matisse's other statements contradict Elderfield's interpretation. For example, Matisse wrote in 1947: "If I have confidence in my hand that draws, it is because I was training it to serve me, I never allowed it to dominate my feeling."[70] And in a 1931 interview, he describes the laying on of color the "real work" involved in painting, whereas the drawing is preparatory work to support the color.[71] Unlike traditional academic views, Matisse *does not* want his drawing to overcome his feeling—the feeling is more important than the drawing. In other words, he does not want the "masculine" qualities in art to overcome the "feminine." Because of the importance Matisse placed in a balance between line and color in his art, such as he did in "Notes of a Painter," his focus on color seems particularly atypical, and even exaggerated, in light of the standard academic emphasis on line over color.

Matisse also eschewed academic conventions by working in media that were not considered high art. Furthermore, throughout his career, he remained consistently interested in decorative objects such as screens, tapestries and rugs as motifs in his paintings. We can see this attraction to decorative objects in many of Matisse's paintings, including, for example *The Moorish Screen* from 1921. In this painting, one can observe Matisse's detailed attention to the specific designs on the screen, the wallpaper, and the rug—so much so that they nearly obscure the figures in the painting.

Figure 3: Henri Matisse, *The Moorish Screen*, 1921, oil on canvas, Philadelphia Museum of Art. In *Henri Matisse: A Retrospective*, by John Elderfield, 328. New York: The Museum of Modern Art, 1992.

He also worked on projects in non-traditional media such as large-scale paper cutouts, or *découpées*. In part, he began to use this technique due to poor health, but also because he was interested in working with pure color areas; he felt that "[c]utting directly into vivid color reminds me of the direct carving of sculptures."[72] He also made a special project of the Rosary Chapel at Vence (1949-51), designing everything in the interior from the stained glass windows, to the murals, altar, and priests' garments. This interest and attention to detail in an interior space certainly points to a male artist unafraid to delve into both "masculine" forms of decoration, such as the murals, but also into "feminine" forms of decoration, such as designing the priests' raiment and the altar clothes. He described the Chapel at Vence as "the culmination of a lifetime of work, and the coming into flower of an enormous, sincere, and difficult effort."[73] Matisse clearly believed the Chapel to be the apogee of his career and something that required great effort. He thereby defends himself against any assumption that the interior decoration aspects of this endeavor could be described as simple.

The deeply entrenched assumptions about the sensual frivolity of Matisse's art persisted well into the twentieth century. Despite Matisse's move away from basing his artistic program on the typical gendered hierarchy of art, one generation later, Clement Greenberg, a strong advocate of Matisse's art, continued to fret over its colorful and decorative aspects. Well known for his championship of Jackson Pollock's Abstract Expressionism, and Post-Painterly Abstraction, Greenberg had conflicting feelings about the decorative nature of Matisse's art. On one hand, Greenberg consistently referred to Matisse as one of the crucial painters of the twentieth century and forthrightly admired Matisse's skillful application of color, simplification of forms, and spatial flattening. On the other, Greenberg felt it necessary to downplay the decorative nature of Matisse's work, particularly in his 1952 essay "Feeling is All."[74] Greenberg was inspired to write this essay by the 1952 major Matisse retrospective at the Museum of Modern Art in New York. He argues that Matisse's art is not "pure decoration," but rather his style presents the opportunity for near abstraction due to the spatial flattening in his paintings. This flattening has the effect of distorting space and simplifying the forms.[75] One can certainly see these features in Matisse's work. For example in *The Artist and His Model* (1919), a favorite of Greenberg's, the seat of the model's chair is tilted forward, which flattens the picture plane, showing more of the woman's body. The floor appears nearly vertical. The woman's face is not naturalistic, but highly simplified, reduced to a few brushstrokes.

Figure 4: Henri Matisse, *The Painter and His Model: Studio Interior*, 1918-19, oil on canvas, collection Mr. and Mrs. Donald D. Marron, New York. In *Henri Matisse: A Retrospective*, by John Elderfield, 321. New York: The Museum of Modern Art, 1992.

Despite these stylistic features, however, Matisse's stated objectives in "Notes of a Painter" do not align with abstraction because he believed that a painter who completely turned away from nature was "in error."[76] And while, as the philosopher Roland Barthes pointed out, the artist's account is not the only valid account of a work of art, that Greenberg feels such a inclination to describe Matisse's work as abstract is indicative of his strong distaste for previous associations of Matisse's art with "feminine" decoration, and his preference for abstraction.

Another example—pointed out by Norma Broude—of Greenberg's struggle to characterize Matisse's art as anything but decorative occurs in a section of "Feeling is All" in which Greenberg calls Matisse's découpées "more truly pictorial than decorative, in spite of the fact that Matisse intended them to serve mainly decorative ends."[77] This is a particularly good example of what Broude calls his "circumlocutions set to paper," considering that within this one sentence Greenberg contradicts himself.[78] In his essay, "Matisse in 1966," he claims that Matisse is "an orchestrator of color areas before he is anything else," which seems to privilege Matisse's focus on color.[79] However, the word "orchestrate" implies control. Control over color allowed Matisse's use of color to seem more methodical. In addition, earlier in the same essay Greenberg emphasizes that Matisse's "touch" is more important than his color usage.[80] By saying this, Greenberg accents a physical aspect of Matisse's art rather than what was perceived as an emotional aspect. It is understandable that Greenberg would feel the need to downplay the "feminine" decorative aspects of Matisse's art. As the art critic known for his championship of the heroic, "masculine" Jackson Pollock and Willem de Kooning, to try to fit the "feminine" decorations of Matisse into his theorizing would indeed be a challenge. Furthermore, in the period after World War II, abstraction seemed better suited than decoration to address the post-war mood. As Nicholas Watkins suggests, people felt that abstraction could express

the "violence, alienation and loss" of the war whereas decoration could only express "sex, euphoria and sensual well-being."[81] With their decorative motifs and bright, sensual colors, Matisse's paintings did not fit well with what people wanted from art after the Second World War. Greenberg's effort to "masculinize" Matisse's art represents an attempt to align it more closely with the mode of expression seen as appropriate to the era, abstraction.

The tensions inherent in Matisse's artistic goal to achieve "a condensation of sensations," between line and color, high and low art, masculine and feminine, lead to a variety of reactions. Even though some of Matisse's apologists still rely on previous masculinizing strategies, such as emphasizing seriousness and rebelliousness, others begin to praise what were traditionally considered "feminine" aspects of Matisse's art. In his writing, Matisse often discusses color and decoration without making an effort to classify them as "masculine," although on certain occasions he emphasizes his standing as "a normal man." For Matisse, and some of his most progressive critics, color and decoration had become accepted as serious modes of expression and thus did not need to be defended by being couched in "masculine" terms. However, among the following generation of critics Greenberg tries to defend Matisse's art from accusations of triviality and decadence in a way strikingly similar to that used in early twentieth-century France. Through Greenberg's writing, it is clear that using gendered terminology to express the importance of art does not end with Matisse.

Conclusion: Toward an Androgynous Criticism?

As an artist exploring areas outside the traditional realm of high art, Matisse began to stretch the boundaries of what was considered rigorous, profound art. As this occurred, the way of writing about non-traditional modes of expression, such as color and decoration, began to shift. Positive critical discussions of line and color were framed, explicitly and implicitly, in a way that avoided or negated the "feminine" connotations of these terms. Often this positive tone was achieved by attributing distinctly "masculine" characteristics to both the artist and his method of employing color and decoration. Matisse was called industrious, theoretical, and "a wild beast," but considered himself, above all, a seeker of "a condensation of sensations."[82] Matisse's goals as an artist did not always align with critical opinion. This was particularly the case with the criticism on Matisse by Clement Greenberg. It is a bizarre experience to compare Greenberg's Matisse and Matisse's Matisse or the early twentieth-century French view of Matisse.

As is evident from the examination of Greenberg's criticism of Matisse and from the brief history of color and decoration in the introduction, the construction of color and decoration as "feminine" aspects, thus aspects of perceived lesser importance than "masculine" line and high art, began

well before and continued past the turn of the nineteenth century and went farther than France. By way of a coda, brief consideration will be given to the American Pattern and Decoration (P&D) Movement of the 1970s. This informal, feminist group that included artists such as Miriam Schapiro, Judy Chicago, Valerie Jaudon, and Joyce Kazloff questioned the modernist alignment against the decorative that, in part, sprang from "Greenbergian reductivism."[83] These artists confront the dominant discourses about art, questioning both the mythology of the exclusively male artistic "genius" and the sexist nature of art terminology. After all, coding certain modes of expression and capabilities as "masculine" while others are coded "feminine" reproduces "in a variety of ways the dominance of men and the subordination of women."[84]

The sexist nature of the masculine/feminine dichotomy reveals itself in the criticism of Matisse, who borrowed from the decorative arts without attempting to elevate their status and without allowing his association with decoration to substantially lower his own. In this way, he actually propagated the "separate and inferior status" of the decorative arts, even despite the progressiveness of his artistic program. [85] By contrast, the P&D artists look at their decorative sources not as whimsical and in need of transformation, but rather as powerful, serious, and poignant in their own right. Miriam Schapiro, for example, in her "Femmages," such as *Anonymous Was a Woman* (1977), a suite of eight etchings based on doilies made by anonymous women, collaborates positively with other women and brings decorative art into the realm of "high art."

Figure 5. Miriam Schapiro, *Anonymous Was a Woman*, 1977, etching, University of California, San Diego. *In Feminism and Art History: Questioning the Litany*, edited by Norma Broude and Mary D. Garrard, 322. New York: Harper & Row, 1982.

By collaborating with other women, she questions the concept of "high art" as a category reserved for individual, male "geniuses." Schapiro also complicates the boundaries between "high art" and decorative art, as Norma Broude explains in her article "Miriam Schapiro and 'Femmage'":

It is this positive spirit, then, of collaboration and revelation that marks and defines Schapiro's feminist art, while it simultaneously presents us, on the art historical level, an ironic paradox. For through this blatant, and therefore consciously politicized, display of the despised and decorative products of the women's handicraft tradition, Schapiro has inadvertently and unavoidably separated her works from that tradition, allying them to some extent to the modernist mainstream. [86]

So although Schapiro's "Femmages" engage with the traditional definition of "high art" by providing the borrowed decorations ample significance, they still allow the decorative to exist for its own merits. The terms "worthwhile" and "decorative" are not mutually exclusive anymore.

Or are they? According to Jenny Anger, post-modernism still struggles to accept the "materiality and contingency" of decoration.[87] These qualities of the decorative are still seen as insufficient and something that needs to be reworked. For example, much post-modern emphasis on the decorative tries to eradicate its association with femininity by trying to read ornament as "pure form."[88] This view is remarkably similar to the verbal machinations used by the critics of Matisse (most famously perhaps by Clement Greenberg). One of the major problems of this purposeful rejection of the "feminine" characterization of decoration, according to Anger, is that the resulting "masculinized" ornament necessarily excludes much of the art created by women.[89] Both Anger and Broude would agree that the only way for decorative art to be embraced is for critical language and assumptions to be reformed to allow for a sort of "androgynous harmony" between decoration and high art, color and line to emerge.[90] Imagine if such an androgyny were extended to all realms of language. Phrases such as "you're such a girl" or "you throw like a girl" would be meaningless.

1   See Tamar Garb, "Berthe Morisot and the Feminizing of Impressionism," in *Critical Readings in Impressionism and Post-Impressionism*, ed. Mary Tompkins Lewis (Berkeley: University of California Press, 2007) for a detailed discussion of the perceived appropriateness of Impressionism as a mode of expression for a woman artist, Berthe Morisot. See also Gill Perry, *Women Artists and the Parisian Avant-Garde: Modernism and 'Feminine' Art, 1900 to the Late 1920s* (New York: Manchester University Press, 1995) for a study of a female artist, Emilie Charmy, working in what was seen as an inappropriate mode of expression for a woman, Fauvism.

2   Case studies of the legitimization through associations with masculinity on the part of Claude Monet and Paul Gauguin and their apologists were included with that of Matisse as part of the author's senior honors thesis.

3   Nicholas Watkins, "The Genesis of a Decorative Aesthetic," in *Beyond the Easel: Decorative Paintings by Bonnard, Vuillard, Roussel, and Denis 1890-1930*, ed. Gloria Groom (New Haven

and London: Yale University Press, 2001), 2.

4   John Gage, *Color in Art* (New York: Thames and Hudson, 2006), 215.

5   David Batchelor, *Chromophobia* (London: Reaktion Books, 2000), 29.

6   Gage, *Color in Art*, 200.

7   Ibid., 201.

8   Garb, "Berthe Morisot," 196.

9   Batchelor, *Chromophobia*, 30.

10 Charles Blanc, "The Grammar of Painting and Engraving," in *Nineteenth-Century Theories of Art*, ed. Joshua C. Taylor (Berkeley and Los Angeles: University of California Press, 1987), 620.

11 Garb, "Berthe Morisot," 196.

12 Ibid.

13 "Decorative Art," in *The Concise Oxford Dictionary of Art Terms*, Oxford Art Online, http://www.oxfordartonline.com/subscriber/article/opr/t4/e567 (accessed March 9, 2011).

14 Nancy Troy, *Modernism and the Decorative Arts in France: Art Nouveau to Le Corbusier* (New Haven: Yale University Press, 1991), 2-3.

15 Watkins, "The Genesis of a Decorative Aesthetic," 3.

16 See Joyce Henri Robinson, "Honey, I'm Home," in *Not at Home: The Suppression of Domesticity in Modern Art and Architecture*, ed. Christopher Reed (New York: Thames and Hudson, 1996), 98, for more information on effects of modernity and neurasthenia on public and private decoration.

17 Lisa Tiersten, "The Chic Interior and the Feminine Modern," in *Not at Home the Suppression of Domesticity in Modern Art and Architecture*, ed. Christopher Reed (New York: Thames and Hudson, 1996), 19.

18 Elizabeth Childs, "Painting Privileged Domesticity: Morisot and Cassatt" (lecture, French Art and Politics in the Belle Epoque, St. Louis, MO, February 21, 2011).

19 Tiersten, "The Chic Interior," 31.

20 Ibid., 32.

21 Robinson, "Honey, I'm Home," 101.

22 Tamar Garb, "Gender and Representation," in *Modernity and Modernism: French Painting in the Nineteenth Century*, ed. Francis Frascina (New Haven: Yale University Press, 1993), 236.

23 Troy, *Modernism and the Decorative Arts*, 2.

24 Adolf Loos, "Ornament and Crime," in *The Theory of Decorative Art: An Anthology of European and American Writings, 1750-1940*, ed. Isabelle Frank (New Haven: Yale University Press, 2000), 289.

25 Ibid., 291.

26 Briony Fer, "Luxury, Utility, and the Decorative," in *Realism, Rationalism, and Surrealism: Art Between the Wars*, ed. by Briony Fer, et al. (New Haven: Yale University Press, 1993), 155.

27 Troy, *Modernism and the Decorative Arts*, 2.

28 Watkins, "The Genesis of a Decorative Aesthetic," 21.

29 Robert Herbert. "The Decorative and the Natural in Monet's Cathedrals," in *Aspects of Monet*, ed. John Rewald and Frances Weitzenhoffer (New York: Abrams, 1984), 164.

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49 Ibid., 64.

50 Ibid., 67.

51 Ibid., 102.

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A Coincidental Cup of Kenyan Coffee: SNCC and Malcolm X Recast the Struggle in Nairobi

Howie Rudnick

Abstract: Challenging the traditional periodization of internationalism within the Student Nonviolent Coordinating Committee (SNCC), this article examines a fateful meeting between Malcolm X, John Lewis, and Donald Harris in a Kenyan courtyard café, and the role it played in altering the way SNCC's membership came to conceive of the scope of its struggle. On the heels of SNCC's first official delegation to Africa in September of 1964, during which eleven members of the organization spent three weeks in Guinea as the guests of President Sékou Touré, John Lewis and Donald Harris traveled for seven weeks across the African continent, forging relationships with African political figures, freedom fighters, radical American expatriates, and African lay people, sowing the seeds of collaboration and laying the foundations for SNCC's future trips to the continent. While their plane was grounded in Nairobi, the pair met Malcolm X, and the meeting proved a watershed moment in the political and philosophical trajectory of the organization. The trip marked the beginning of an important, though short-lived effort between Malcolm and SNCC to collaborate, and even after the budding relationship was severed with Malcolm's assassination, his internationalist message continued to play out in the life of the organization. While historians have largely overlooked the significance of the coincidental encounter, this study seeks to demonstrate the fundamental role it played in inciting among SNCC's membership dramatically increased interest and sustained action on the international front for years to come.

As John Lewis and Donald Harris' plane made its way southeast down the African continent, the plane was forced to land in Kenya. The airline paid for the pair of young activists from the Student Nonviolent Coordinating Committee (SNCC) to spend three days in Nairobi at the New Stanley Hotel, the most glamorous in the city, while the plane's mechanical issues were resolved. It was mid-October 1964, and as they sat sipping their coffee in the hotel café on their first afternoon in Nairobi, none other than Malcolm X appeared.[1] "'Hello,' he offered along with a small smile, 'what are you doing here?'" Lewis and Harris were stunned. They were well aware that Malcolm was in Africa, but had no idea they were again traveling right on his heels. Only a few days before the SNCC duo arrived in Ghana, he had departed. He was in the midst of his second African tour since breaking with the Nation of Islam in March earlier that year, and had made a remarkable impression on the many Africans whom he had met. Malcolm took a seat at their table and the three men began to talk. He explained that he had just flown in from Tanzania with Jomo Kenyatta, African revolutionary and President of Kenya.[2] They began to describe to one another what had brought them thousands of miles from home to this Kenyan courtyard café. Lewis and Harris explained to Malcolm that they had been among a group of eleven members of SNCC to travel to Guinea on the organization's first official delegation to

Africa that September and had been traveling together for the two weeks since the rest of the group had returned to the States. Malcolm reported that he had recently been in Cairo for the Non-Allied Nations Conference. There he had spoken about his new organization, the Organization of Afro-American Unity (OAAU) and how he hoped to bring the persecution of black Americans onto the international stage. Modeled after the pan-African Organization of African Unity, the OAAU, religiously unaffiliated, sought to unite black Americans and bring the United States government to the General Assembly of the U.N. and hold it accountable for violating the Human Rights Charter in its persecution of black Americans. He had returned to Africa for a second time that year to rally political support amongst the continent's leaders for his plan and to "raise the levels of awareness and involvement in Africa."[3]

The coincidental meeting, an ocean away from Malcolm's base in Harlem and SNCC's central office in Atlanta, left an indelible imprint on SNCC and helped to fuel the organization's philosophical shift towards internationalism. The encounter marked the beginning of a concerted though short-lived effort between Malcolm and SNCC to collaborate, a moment ripe with possibility. Most importantly, the chance cup of coffee awakened Lewis, Harris, and many of the organization's staffers to the broader context of SNCC's work and elucidated the tremendous inspiration and power that lay in understanding their struggle as part of a global

effort to liberate people of color all over the world.

Historians have largely overlooked the significance of the coincidental encounter between these three men in October 1964. Indeed it occurred at a moment in time in which SNCC was seriously reevaluating its priorities, direction, and philosophy and Malcolm had been doing much of the same.[4] Malcolm had come to realize that he needed the collaboration and support of the movement, and SNCC aligned most closely to his evolved philosophy. The encounter provided Lewis and Harris an opportunity to look through Malcolm's evolved philosophical lens and reinforced their growing conviction that their struggle stretched far beyond the American South. The encounter prompted SNCC to expand the scope of its struggle and see its work within a broader internationalist context. The trip was not the first experience SNCC would have with internationalism, and it would certainly not be the last, but it was crucial in that it served as a philosophical awakening, nourishing the notion in the minds of many in SNCC's ranks that their organizing work was part of something much bigger, a struggle for the liberation of black people across the globe. When Lewis and Harris returned to Atlanta, SNCC would begin to take substantive steps towards collaborating with Malcolm X and pursuing their contacts in Africa, and in doing so continue to reinforce the importance of expanding the scope of the struggle.

The Student Nonviolent Coordinating Committee's 1964 delegation to Africa is barely discussed in historical literature on SNCC and the American Civil Rights Movement.[5] Scholarly writing about the black rights struggle has undoubtedly evolved tremendously since the late 1960s and early 1970s, as historians have moved beyond the traditional focus on national figures and legislative battles to a more dynamic investigation of the movement. New histories have sought to tease out the complex mix of national and grass roots efforts that shook the American racial status quo and fought for an improved quality of life and citizenship for black Americans. Unlike many areas of historical inquiry for which scholarly engagement waxes and wanes considerably, the black freedom movement has drawn sustained interest from the historical community for the last four decades, perhaps in part because the American public continues to be fascinated by the people, places, and events of the era that reshaped the American racial landscape. And yet, despite garnering sustained historical inquiry from an increasing number of angles, the tendency to study the movement within a domestic vacuum persists. The complex intersections between liberation struggles on both sides of the Atlantic during the height of the movement have been largely neglected in the standard historical narrative. The tendency to ignore international linkages has prevented historians from developing a complete and nu-

anced understanding of SNCC's philosophical and political development.

In 1981, Clayborne Carson published *In Struggle: SNCC and the Black Awakening of the 1960s,* which would henceforth be recognized by scholars in the field as the preeminent history of the organization.[6] Written as an institutional and intellectual history, Carson's work is one of prodigious research and captivating writing. The book brilliantly traces SNCC's trajectory from its seeds in the sit-in movement of 1960 to its disintegration as the decade of struggle came to a close. Incorporating discussion of SNCC's relationship with other civil rights organizations, if at times lacking a comprehensive framing that stretches beyond the organization, Carson's is a work of historical mastery. And yet, in its largely domestic and institutional focus, it fails to fully account for the internationalism that played an important part in motivating and directing many of SNCC's members.

When SNCC's internationalism has been discussed in the literature, it has been largely within the context of a strict periodization, in which nearly everything that transpired within the organization before 1966 was domestic in orientation, and it was not until the latter years of the organization's work that international events and ideologies came to shape SNCC's program. Carson's foundational study of the organization adopts this periodization and outlook and indeed, most scholars that have written about SNCC have followed suit. The traditional narrative cites 1965 as a dividing point within the movement, when SNCC stopped seeking change through existing political structures and, with calls of black power, sought a complete reconstruction of the American racial order. Carson's account suggests that in 1966 and 1967, SNCC's organizational politics evolved substantially, at which point it was difficult to recognize the SNCC of the early 1960s in the band of radicals that SNCC had become. His account discusses SNCC's international engagement in 1966 and 1967 as largely independent from the organization's earlier domestic orientation.[7]

During his discussion of the 1964 delegation Carson explains, "The African tour contributed to SNCC's increasing awareness of the international implications of its struggle," but quickly qualifies this by adding that "pressing internal problems prevented the organization from following up at once on its contacts in Africa."[8] Furthermore, Carson implies that the trip had no tangible results, pointing out that an office of international affairs was not established until later SNCC visits to Africa by the likes of Robert Moses, James Forman, and others.[9]

Carson's brief treatment of the trip deemphasizes its pivotal role in prompting SNCC's members to develop an internationalist understanding of their struggle, and

downplays the efforts of the SNCC staffers who sought to expand SNCC's international profile as a result of the trip. Lost entirely in Carson's narrative is the development of an African Project, spearheaded by Guinea delegate Dona Richards, which was designed to sustain international interest across SNCC's projects.[10] While in Carson's account, there is a brief mention of the instances in which SNCC and Malcolm came together in the months before his death, Carson neglects to explain the broad impact that the trip had on the way SNCC staffers came to understand Malcolm's ideas and the extent to which the trip propelled SNCC's internationalism. He implicitly suggests that it was Malcolm who drove the developing relationship, describing the encounters as "attempts by Malcolm to forge links with SNCC."[11] In fact, within SNCC, the trip initiated a markedly increased interest in Malcolm and his philosophy, and generated serious interest in collaborating with him. Far from marking a sharp break in the organization, 1965 marked the year in which SNCC members began to collaborate with Malcolm X, discovering ways to integrate a broader international outlook into their organization's political philosophy and programmatic agenda. SNCC's international engagement in 1965, emerged as a result of its 1964 trip to Africa and meeting with Malcolm X, and laid the foundation for SNCC's pronounced internationalism in 1966 and 1967. Indeed, the pair's encounter with Malcolm was a watershed moment in the political and philosophical trajectory of the organization and changed the way many within SNCC came to understand the struggle. While the meeting between Malcolm, Lewis, and Harris was fundamentally important, philosophies are ever evolving and are seldom sipped in a single cup of coffee. The meeting was meaningful because of the circumstances and context within which it occurred. For more than seven weeks Lewis and Harris traveled across the continent, meeting a broad spectrum of people and engaging a wide range of organizations in their quest to bridge the gap between the struggles on each side of the Atlantic and develop personal contacts in pursuit of that goal.

Swept Up in the Spirit of Revolution

"Our group stay in Guinea was basically a vacation," John Lewis would recall. "It was once the others left to return to America and Don and I moved on deeper into Africa that the real substance of our journey began. Now, instead of being a large group wined and dined by dignitaries, we were two young black men, Americans, encountering and meeting and conversing with young people like ourselves, young men and women swept up in the spirit of revolution, of change."[12]

On 2 October the rest of the delegation, who together with Lewis and Harris had spent the last three weeks as the

official guests of Guinean President Sékou Touré, returned to the States, and Lewis and Harris began their extended journey around the African continent. Harris had been the only one among the group who had been to Africa before that fall. He had spent time in 1961 as a volunteer in what at the time was Northern Rhodesia with an organization called Operation Crossroads Africa. The people of Northern Rhodesia had at long last won their independence from Great Britain, and had made plans for an epic celebration that October in Lusaka, the capital of the nation that was to be reborn as Zambia. Harris wanted desperately to join in the festivities; "to get that close…and pass up an opportunity to be at the independence ceremony" would be "absolute insanity."[13] Together with Lewis, he had managed to procure five hundred dollars from the American Committee on Africa to stay on the continent until mid-November for seven weeks of exploration—a trip that took them to Liberia, Ghana, Zambia, Kenya, Ethiopia, and Egypt. The five hundred dollars would only go so far, but Lewis and Harris were determined to make numerous contacts and were convinced that with the help of the people they were hoping to meet along the way, they could manage.[14] Extending the trip would allow them to stay for the celebration, but more importantly for SNCC, they hoped it would help to "cement the relation between the liberation movement of Africa and the Civil Rights struggle" and allow them to secure as many contacts as they could in Africa that could be followed up on upon their return.[15] While the official delegation to Guinea had a tremendous personal impact on the group, the most salient philosophical impact of the trip on the organization, the expansion of the struggles' scope, would materialize more concretely once the rest of the group flew home and Lewis and Harris were the only two SNCC staffers left on the continent.

The trip did not begin quite as Lewis and Harris had planned. The Air Guinea flight that was supposed to take them to Ghana was canceled, so instead they made arrangements to spend two days in Monrovia, Liberia. They had no particular plans or anyone to call, so they proceeded first to the United States Information Service office to sort out logistical issues for the rest of the trip and then to the Liberian Information Service office. They introduced themselves and explained why they had come, but no one at the office seemed to care very much. During their short visit in the nation's capital they made a radio recording for all four of the local radio stations, arranged to be interviewed by the two major newspapers, the *Liberian Star* and *Liberian Age*, and wandered the streets talking to people to learn more about the country. They left Liberia convinced they had made all the contacts there were to be made, but that little would come of them. They sensed that the country on the whole was politically stagnant and as far as they could

see there were "no political clubs or groups right or left of even the least significance."[16]

Ghana: Activist Nation

On 7 October, the pair flew from Monrovia to Accra, Ghana, and their outlook brightened. Unlike Liberia, Ghana, in their view, was a nation of activists.[17] One of Harris' relatives, a Ghanaian businessman named Gus Kwabi, who had studied in the United States and was well connected in the Ghanaian government, met them at the airport and was instrumental in helping them to establish their first contacts. Ghana had won its independence in 1957, the first in a wave of newly independent nations in sub-Saharan Africa. In the years since liberation, a vibrant black American expatriate community had developed, and Lewis and Harris would come to meet some of its most influential members.[18] The first they came across was Dr. Robert E. Lee, a dentist whom they described as a "militant, intellectual, and activist."[19] Through Dr. Lee they were introduced to Shirley Graham Du Bois, wife of late renowned black intellectual W.E.B. Du Bois and prominent member of the expatriate community. The couple had come to Ghana in 1961, and at the time they met her, Shirley Graham was involved in establishing a television network in Ghana. Lewis and Harris sat with Lee and Du Bois and discussed at length trying to build a bridge between the Civil Rights Movement stateside and the newly independent African nations. Both Lee and Du Bois were members of the newly formed Afro-American Information Bureau (AIB), which had been created to keep Ghanaians "informed about what was going on in the States."[20] Du Bois pledged to help Lewis and Harris in any way she could.

Next, Lewis and Harris were introduced to Leslie Lacy, another expatriate who was studying and doing research at the University.[21] Lacy took Lewis and Harris around the Legon Campus of the University of Ghana and introduced them to a range of people in and outside the University. One of those people was Dr. Frank Irvine, a California native who had been active in the Bay Area friends of SNCC, one of a number of such "friends of SNCC" groups around the country that helped to garner financial support for the organization. Like Du Bois, he offered to help inform students at the University about the American civil rights struggle.[22]

Lewis and Harris recalled that they spent a great deal of their time in Accra at the offices of the Bureau of African Affairs and Pan Africanist Congress, where "militants… and nationalists…[many of whom were] exiles from still dependent countries and South Africa built, began, sustained and continued revolutions against colonial, imperial and racists powers."[23] Accra had become a hub for African revolutionaries, who felt drawn to Ghana's president,

Kwame Nkrumah, and his anti-imperialist pan-African vision. Lewis and Harris had the opportunity to meet with and were greeted warmly by many of the revolutionaries who frequented the Bureau of African Affairs and Pan Africanist Congress offices, who could not help but engage them in long conversations every time they came through. The Bureau of African Affairs would prove to be an important contact for Lewis and Harris, not only because the people there showed great interest in developing a relationship with SNCC, but also because it provided them with further contacts throughout Africa—nationalist groups and political parties they hoped to contact. The Bureau published a journal that was circulated to many of the important cities in Africa and had for some time wanted to include articles about the rights struggle in the U.S. but never had the material; they hoped SNCC could fill the void.[24]

Unlike their experience in Liberia, in Ghana, the pair had an opportunity to get away from the capital city. They toured Tema, the newly built harbor for which the Ghanaian government had high expectations to become the country's new shipping hub, and traveled to Akosombo, site of the Volta River Dam, the focal point of a key government project that was to provide power to the greater region.[25] Once they returned to Accra, they were even allowed to tour the National Archives and government headquarters, an opportunity not afforded to most visitors.

The day before Lewis and Harris were to leave Accra, they met Julian Mayfield, who had just returned from the Non-Allied Nations Conference in Cairo. Lewis and Harris' timing had not been perfect. Regrettably, they would recall, many of the key government figures, journalists, and exiled freedom fighters in Ghana had been in Cairo for the conference. Nonetheless, thanks to the contacts they had made, they were fortunate enough to get in touch with some of these people when they returned.[26] Like Du Bois, Mayfield was a prominent member of the expatriate community. A writer, actor, and political activist, Mayfield had challenged the insular and integrationist stance which prevailed in the Civil Rights Movement in the 1950s and after being exiled from the United States had found in Ghana a "forum for [his] criticism of American racism and empire" and a home for his "quest for a radical alternative to the U.S. Civil Rights Movement."[27] When they met him, Mayfield was writing for a number of Ghanaian newspapers and working in President Nkrumah's office.[28] Mayfield spoke with the pair at length, and they would later recall that he had been quite impressed with why they had come. He exclaimed that "this kind of thing should have been done long ago" and as the person who had spearheaded the AIB, promised that if they regularly updated him on SNCC's activities stateside, he would make sure the

information made its way into the Ghanaian papers and onto Ghanaian radio. They agreed with Mayfield that it was crucially important to keep "the issue in front of the Ghanaian people" as well as Americans "all the time," and to continue to cultivate the Ghanaian good will towards the Civil Rights Movement. For all the disappointment that Atlantic City had brought SNCC, along with the other organizing efforts of the Freedom Summer, it had drawn SNCC's efforts into the public eye and garnered far more attention from the American public than any of SNCC's previous organizing work. The summer had taught them the importance of publicity. Lewis and Harris made plans to send regular press releases and photographs to Mayfield when they returned to the States.[29] Lewis and Harris' time in Ghana had been far more productive then their Liberian visit. If only for a brief time, they had tapped into a vibrant community of African and African-American expatriates who had shown a marked interest in their African mission and in a sustained relationship with SNCC. Through the widely publicized Freedom Summer and challenge in Atlantic City, SNCC had rapidly emerged as a key voice within the civil rights struggle in the States. But in Ghana, they quickly became aware that it was another voice that was echoing across Africa, a voice that they would hear first hand in a few days time.

While Lewis and Harris did not meet Malcolm in person until Nairobi, it was in Ghana where they first became aware of Malcolm X's pervasive influence on the way Africans understood the American civil rights struggle. Between his two extended African tours in 1964, Malcolm had spent a substantial amount of time in Ghana, and his understanding and articulation of the black rights struggle in the States had resonated with nearly everyone he had met. In many ways, the strong reception Malcolm and his ideas received initially led many on the continent to view Lewis and Harris with "skepticism and distrust."[30] On one of their first few days in Accra someone approached them and bluntly offered, "Look, you guys might be really doing something—I don't know, but if you are to the right of Malcolm, you might as well start packing right now 'cause no one'll listen to you."[31] In fact, they found that this fascination with Malcolm was not unique to Ghana and the "pattern repeated itself in every country" they visited.[32] They were continually confronted with questions about Malcolm and where they and SNCC stood in relation to his positions. They were amazed how well received Malcolm's ideas were in Africa—his impact had been "just fantastic."

Lewis later explained that in the United States, SNCC was considered by mainstream society to be a radical organization, and Malcolm X was categorized even further along the spectrum as an "extremist, a revolutionary."[33] But in Africa, he and Harris were "dismissed as mainstream, and it was Malcolm who was embraced."[34] As Lewis understood it, the Africans they met were "extremely politically astute" and "for the most part, true revolutionaries, far more radical than we in SNCC." That's why he had "struck such a chord with them."[35] It quickly was evident to Lewis and Harris that Malcolm was the "main criteria" through which Africans had come to understand Black Americans and their politics.[36] In Ghana, they were grilled on a range of international issues, forced to articulate where SNCC stood on Cuba, Vietnam, the Congo, communist China, and the United Nations. Only by detailing SNCC's involvement in the civil rights struggle and insisting that they had come to bridge the gap between Africa and the States were Lewis and Harris able to gain a reception and garner respect and interest among the many Africans they encountered. As the pair left Ghana and flew south, they were filled with anticipation and excitement; they were about to see first hand the fulfillment of years of revolutionary struggle in Northern Rhodesia. The celebration promised to be extraordinary. But they would have to wait a few days longer.

Shared Ground on Foreign Soil: Lewis and Harris Meet Malcolm X in Nairobi

Lewis and Harris had not intended on stopping in Nairobi, but their plane was grounded, and if they had to wait a few days before joining in the Zambian independence celebrations, the New Stanley Hotel proved a fateful place to do so. The British had built the hotel at the turn of the twentieth century to serve the colonial elite, and it was in the hotel's lavish courtyard café that the pair shared coffee with Malcolm.

The conversation that had begun over a cup of coffee stretched through the evening and continued the following day. Lewis and Harris discussed their impressions of Africa with Malcolm and "compared notes," having been to a few of the same places and having met a number of the same people.[37] Malcolm explained to them that he had visited eleven African countries, met with many heads of state and addressed the parliaments of most of the countries. He was worn down, but he intended to visit five more African nations before he returned to the States. Malcolm made it clear to them that he had not yet garnered the kind of support among the American Civil Rights Movement that he hoped he would in his attempt to use the OAAU to hold the United States government accountable for systematically subjugating their people. Lewis and Harris later recalled that the question at the time was whether "the civil rights voices" in the States would support him, and it "ultimately was evident that support…was not forthcoming." They would reflect in their report to SNCC in December that "the American black community" was not in a position "to

attempt such a move without looking like complete asses and embarrassing our most valuable allies."[38]

Malcolm expressed to them that he thought what they were doing was critically important and that making ties with Africa was a "crucial aspect of the human rights struggle that the American civil rights groups had too long neglected."[39] Emphasizing "how happy he was to see SNCC reaching out like this to Africa," he stressed that "more black people in America needed to travel and see and learn what was happening with blacks outside our country, not just in Africa, but all over the world."[40] It was clear to them that "Africa was doing for him the same thing it was doing for [them]—providing a frame of reference that was both broadening and refreshing."[41] Lewis later recalled, "Thinking globally. That was essentially the reason Don and I had made this trip. To see Malcolm X so swept up with such enthusiasm was inspiring."[42]

Malcolm noted what their experience had already begun to confirm: that the African leaders and people were in strong support of the freedom struggle stateside and were eager to support it, though they would "not tolerate factionalism or support particular groups or organizations within the movement as a whole."[43] Malcolm had long been perceived as a divider by many within the mainstream movement, but since his break with The Nation, he had been reaching out to the members of the very organizations he had distanced himself from in previous years. Harris later recalled, "where he and we were coming out was that listen, we all need to be operating off of the same page, we all need to be in sync with each other. There is a great opportunity to bring together the independence and freedom movements in Africa and the Civil Rights Movement in the United States to a human rights movement. But, importantly, people in Ghana or Zambia or Kenya or wherever, do not and will not be able to make a fine distinction between the NAACP, SCLC, SNCC, the Urban League," and such.[44] Both parties confirmed their conviction that they needed to be "moving down the same track," and if they did not they were "not going to be able to get the kind of support and cohesion" they sought. Malcolm's efforts trying to recruit support for the OAAU had made him even more aware of and sensitive to the "various frictions that were continuing to grow within the movement, and he didn't mind sharing his observations with the Africans—or with us," Lewis recalled. Lewis, as SNCC's chairman, was all too familiar with that factionalism. That August, there had been heated dispute among many of the key civil rights leaders about how the Mississippi Freedom Democratic Party should react to the Johnson orchestrated "compromise." Malcolm's words would continue to ring true in the coming months of the struggle.

On 8 March 1964, Malcolm X first announced his break

with The Nation of Islam and four days later called a press conference at the Park Sheraton Hotel in New York City to explain the break and chart a new path for himself and the black rights struggle as a whole. It was under Elijah Muhammad's tutelage that Malcolm had developed and come to master the articulation of his religious and political ideology. The Nation had served as his power base, his inspiration, and the venue through which he came to understand and transmit his philosophy. For the better part of the last decade, he had been fiercely committed to spreading the word of the honorable Elijah Muhammad and expanding The Nation's reach. In December 1963, Malcolm and Muhammad's close relationship began to unravel and by March they personally and philosophically had arrived at a breaking point.[45] "I felt as though something in nature had failed, like the sun, or the stars," Malcolm recalled in his autobiography.[46]

With his formal announcement of the break, Malcolm explained that he was creating a new organization called Muslim Mosque, Inc., which would have both religious and secular components[47] and seek "the active participation of all negroes in our political, economic, and social programs, despite their religious or non religious beliefs."[48] He initially founded a religious organization because most of those who were still committed to working with Malcolm at the time were Black Muslims who were still dedicated to Islam but sought to remain apart from The Nation.[49] Initially, he announced his intention to organize a black-nationalist convention first in June and then in August, in his effort to generate nationwide support. During his first trip to Africa,[50] however, it became clear to him the convention would not materialize and that the Muslim Mosque Inc. was not ideally suited to accomplish his broad goals, and thus he directed his efforts towards forming the OAAU.[51]

Since his break with the Nation of Islam in March, Malcolm's life and philosophy had been in constant flux.[52] It was evident to Lewis and Harris that his time in Africa had changed him—he wasn't the "angry…brooding" man who had been presented in the media. "He seemed very hopeful," Lewis would recall of Malcolm. "His overwhelming reception in Africa by blacks, whites, Asians and Arabs alike had pushed him toward believing that people *could* come together."[53]

Malcolm told them how powerful and "eye opening" it had been for him to see that so many of the people he encountered in Cairo were fair skinned. During his time in Africa, Malcolm had been exposed to a wide range of socialist ideas, and his time in Cairo had begun to validate them. The American racial problem had to be seen within a broader imperialist paradigm; race was not the only issue.[54]

Lewis would attest in his autobiography, like many who knew Malcolm at this point in his life, that "beyond his excitement and blossoming optimism, there was fear in the

man, a nervousness that was written all over him." He was convinced that somebody wanted him killed and carried the burden of that anxiety with him everywhere. Little did Lewis know this was the last time he was ever to see Malcolm alive.

As Lewis and Harris parted ways with Malcolm they expressed hope that their respective organizations would communicate and collaborate more going forward.[55] Malcolm told the pair that he really supported what SNCC was doing and wanted to come visit SNCC in the South, something Lewis would write he "couldn't have imagined hearing him say six months earlier" and had convinced him "this was clearly a man in the process of changing."[56] They agreed they had to "be in better contact, and work more closely together."[57] Their time with Malcolm in Nairobi proved to be a pivotal point in the trip even though it was entirely incidental. They described it to their fellow SNCC staffers upon their return as a "very important meeting."[58] Indeed it was "a very very significant exchange," Harris would recall animatedly, even after nearly forty-five years had passed.[59]

The pair spent the majority of their short time in Nairobi with Malcolm, leaving them little time to pursue many new African contacts. Even had they never crossed paths with Malcolm, they would not have found many productive contacts in the city, as most key members of the government were on holiday for "Kenyatta Day" during their short stay."[60] As they prepared to depart for Zambia now a second time, they thought deeply about their discussions with Malcolm. His influence and message would not escape them throughout the duration of the trip. The Africans they came to talk with in Zambia, Ethiopia, and Egypt were just as fixated on him and his views as the ones they had encountered before that fateful meeting in Nairobi.

Zambia: A Taste of Freedom

Lewis and Harris landed in Lusaka, the Zambian capital, late on 19 October with less than three dollars between them. It seemed every room in the city was full with the influx of people for the independence celebrations, but they were fortunate enough to run into an old friend at the airport who arranged for them to stay with a local Indian family that they would grow close to during their time there. Staying with the family made them more aware of how different racial stratification was in Southern Africa from what they were used to in the States. Here, there were four racial communities: African, Coloured, Indian, and European; each had its own economic and political role and oftentimes the groups were segregated geographically as well.[61]

At once, they sought to make contact with the United National Independence Party, with which Harris had met during his stay in '61. As they spoke with Abed Muleunge,

the party's regional secretary, and he explained to them the types of organizing the party had been working on, Lewis and Harris saw many similarities with SNCC's organizing. They had been organizing youth, holding "political training and action seminars," and trying to develop and "build up district and village leadership."[62] Like Lewis, Harris, and many SNCC staffers, Muleunge and others they met in the party knew how it felt to be jailed fighting for freedom. They spent a good portion of the next few days talking with members of the party and were pleased to be so welcome. The Africans were themselves glad that representatives of the rights struggle in the States had come to their independence celebration, as the usual contacts they had with Americans were with diplomats and U.S. State Department employees.[63]

The duo took pleasure in fraternizing on what had come to be referred to as "Nationalist Row,' a secluded second floor suite of offices," a meeting place for exiled members of nationalist parties and groups from all over southern Africa. It was as if you could "pick your country that wasn't already independent and their exiles had an office and were operating from there," Harris recounted.[64] The pair sat around with various nationalists, smoking cigarettes and arguing about which part of the continent produced the most beautiful women. Despite the casual nature of conversation, Lewis and Harris developed a deep respect for the exiles' dedication to liberation. These were "intense, nervous people" who knew the deep "loneliness of being separated from family and friends"; Zambian Independence had only strengthened their resolve to achieve Independence for their own people. It became clear to Lewis and Harris that Lusaka had become a crucial stop for many of these revolutionaries. As the closest liberated African city to South Africa, it served as a place where those who had fled apartheid could "first rest, walk the streets without fear, meet friends, and receive aid from a people and a government who all too well knew the evils…of colonial rule." But it also functioned as the "last refuge" for those freedom fighters who were to return to South Africa after spending months out of the country training and acquiring "new skills with which to keep the fight going." The pair felt deep empathy for the men they met and began to see their struggle as very much a part of SNCC's. The American rights struggle and that of African liberation are crucially interdependent. "Whatever we do to help them will be a significant step in helping our own struggle here," they would insist when they met with the SNCC staff upon their return. Many of them expressed their commitment to begin direct communication with SNCC and assured Lewis and Harris that "SNCC will not be forgotten very soon in Zambia."[65] "Let's join hands so we can all be free together," one of the men offered. "We learned a great deal [from them]" Lewis and Harris recalled, "more than we

knew we didn't know."[66]

After spending time engaging with those still immersed in the struggle for liberation, the time had come to celebrate a victory in the struggle; the long anticipated independence ceremony had arrived. The festivities carried on for more than a week, but on the evening of 23 October, more than 175,000 people crowded into the city's brand new Independence Stadium. Undoubtedly a highlight of the trip, the ceremony deeply stirred Lewis and Harris. The pair recounted the evening's events with exhilaration and awe to their comrades back in SNCC when they returned to Atlanta. As planes flew overhead, the shrills of excitement competed with pounding music as the procession of parades, marches, traditional dancers and singers, acrobats, and military men all took their turn demonstrating their pride in independent Zambia. Dignitaries from across the continent looked on, joined finally by president elect, Dr. Kenneth Kaunda.[67] Minutes before midnight, the stadium went dark. Two spotlights suddenly shone on the floor of the stadium. Dr. Kaunda and a commissioner of the queen stood between the flagpoles as the British national anthem played and the British flag was lowered to the ground. Slowly, the new Zambian flag rose along the adjacent pole as the stadium erupted in noise. As the flag reached the top of the pole, fireworks shot into the dark night. As everyone looked on with confusion, a woman ran from the stands toward Kaunda, then fell at his feet and embraced him. The thousands that packed the stands hugged as tears spotted the stadium floor. The *Kwacha,* the freedom flame, burned high on a nearby hill and small torches were lit for runners to carry its light to all corners of the country. Freedom had finally come to Zambia.[68]

Lewis and Harris departed Zambia on one of the country's new jets, stopping again briefly in Nairobi on their way to Ethiopia. Dr. Kaunda, who was headed for Cairo, joined them on their flight to Nairobi, and an enormous crowd gathered to see off their new president.[69] Lewis and Harris did not have the opportunity to speak with Kaunda personally but shared in the admiration of the man who had helped bring freedom to his people.[70]

As they made their way back north towards Ethiopia, the pair reflected on the people they had met and the experiences the last few weeks had brought them. They thought about Malcolm X, about the revolutionaries who were risking their lives for freedom miles below the clouds, about that stadium filled with people. They began to write about their trip and ponder how they would share it with SNCC when they returned to the States.[71]

Following the Election from the Highlands of Addis Ababa

The plane touched down in Addis Ababa, Ethiopia,

on the chilly morning of 2 November, "as the coronation celebrations for Emperor Haile Selassie were beginning for the thirty-second time."[72] Lewis and Harris had just come from Africa's newest independent nation to its oldest. Ethiopia, with the exception of a brief Italian occupation, had been the only region of the continent that had managed to fight off the Europeans and maintain autonomous rule. The pair spent only two days in Ethiopia and thus were limited in what they were able to accomplish. They stayed at a Peace Corps house and had the opportunity to see the permanent meeting place of the Organization of African Unity with which they were quite impressed. Lewis made contact with the Ministers of Education and Information, but found them "quite detached, uninformed, not quite sure what to do about the proposals" that he offered them. Like the pair had in Ghana, Lewis made a few tapes to be played on Voice of America, the USIS radio program. It was clear to him that he and Harris were not the only ones who had picked up on Malcolm's pervasive influence on the continent. Lewis was sure the USIS wanted to use Harris and him "to counter the impression that Malcolm had made" when he had recently visited.[73] There is no doubt that federal and local police agencies were keeping close tabs on Malcolm well before his break with The Nation, but his burgeoning internationalism was cause for increasing concern among many in the State Department and FBI. Stateside, the FBI bugged his office, recorded his phone calls, and followed all of his public appearances closely.[74] In Africa, U.S. officials, including those in the USIS and USIA, who were charged with building and maintaining relations with African nations within the larger context of the Cold War power struggle, made concerted efforts to hide the realities of the American racial divide. In Guinea, the SNCC delegation had seen first hand the length to which the USIS was willing to go to protect America's reputation on the continent, and indeed how successful the officials had been.[75] And yet, in spite of this, it seems that Lewis and Harris thought it best to use whatever media accessible to them to disseminate information about the civil rights struggle, even if that meant using federal government propaganda channels to spread their message.

While Lewis and Harris were in Addis Ababa, across the Atlantic, Americans went to the polls in an election in which President Johnson would defeat Arizona Senator Barry Goldwater handily. The duo listened to Voice of America to stay up to date with the results. The election was the first national one in which SNCC's chairman was eligible to vote, and he would later recall that he "hated not being there to do it." He later offered, "After all I'd done in the name of the right to vote, it seemed crazy that I was halfway around the globe when it came time to do it myself." The wounds of the summer were still fresh, and

Lewis still resented Johnson for his pivotal role in undermining the MFDP effort in Atlantic City, but Johnson was clearly the better alternative to Goldwater, and Robert Kennedy had been elected Senator of New York, so Lewis was pleased with the results.[76]

Cairo: The Epicenter of African Liberation

The final stop of the trip for Lewis and Harris was Cairo, the most important political stop of them all.[77] At that time, Cairo served as the epicenter of a vast communication network that stretched across the continent as well as to the Muslim world and to Europe. While Lewis and Harris had been in Ghana, Julian Mayfield had insisted that they must visit Cairo because it was "the most important single center on the continent."[78] Mayfield and Shirley Graham Du Bois had told the SNCC duo to get in touch with David Du Bois, Shirley's son, as soon as they arrived, and they heeded the advice. David Du Bois was working as a writer in Cairo and was involved with the Egyptian government. Lewis and Harris recognized him as "a very important liaison between the Ghanaian and Egyptian governments" and his help enabled them to make many contacts they would have never been able to otherwise.[79]

The pair's first destination was the African Association building. Similar to Nationalist Row in Zambia, the building served as a place where nearly every "nationalist group, political party of a dependent country or freedom movement, no matter how small or from what country on the continent had a central office." First they met with a man by the name of Ahmed Ebrahim, who worked with the Pan African Congress. They spoke with him for hours, but as they had now grown accustomed to, he only opened up when they articulated their position in relation to Malcolm X's. The following day, Ebrahim arranged an opportunity for Lewis and Harris to address the entire African Association, an opportunity previously only afforded to Malcolm X. The two were "surprised and flattered" and spoke to the fourteen different groups that were there, answering the "eager audience's" questions over a number of hours. Throughout the rest of the week they met with a number of these groups privately to continue their discussion, and most proved "eager to begin some kind of exchange," many asking if SNCC could arrange tours for their members already in the United States "to see what was going on in the American South."[80] Along with meeting the various members of the Association, they spoke with a variety of newspaper editors and journalists, including a Mr. Hassan, Foreign Editor of The Middle East News Agency, who promised them that "any time [they] could cable information to him he could assure…it would get into a majority of the 36 or so newspapers that are printed in Cairo."[81]
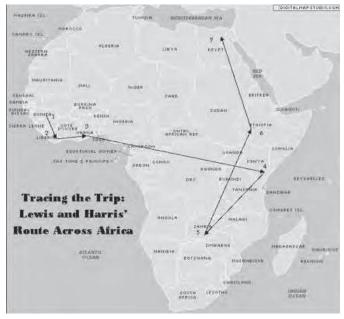
In addition to spending time with the groups they met through the African Association, Lewis and Harris visited the Afro-Asian People's Solidarity Committee building, home of the organization that brought together 72 nations to represent people of color around the world, as they would later explain to SNCC. They met with a Mr. Edward, assistant to the chairman of the Committee, and while their meeting was primarily "informational" they thought it nonetheless important because having close contact with the organization would be important once they established an African Bureau within SNCC as they planned to.[82]

When Lewis and Harris met Malcolm in Nairobi, he had spoken at length to them about his experience in Cairo, and now that they had made it to Cairo themselves, they would come across not only Africans with whom he had made a strong impression, but black Americans as well. The pair had an "interesting, yet confusing" meeting with a group called the American Muslim Student Union. David Du Bois had connected them with the group because it was comprised of Americans or former Americans, and he thought the group might be interested in collaborating with SNCC. When they met, Lewis and Harris quickly realized that many among the organization's ranks were former Black Muslims. They expressed "a certain respect for SNCC" because "at least it was doing something," but had problems with non-violence as a principle. Even in Africa, the pair had been confronted with what was becoming a growing debate within SNCC stateside, whether a categorically non-violent approach was viable. Despite the hesitant stance of the organization as a whole towards SNCC, a pair of men from the group insisted, "they didn't care what the Union's position was, they wanted to form a Cairo Friends of SNCC."[83]

Cairo was an international city, and to Lewis and Harris it seemed the center of the liberation struggle for people of color around the world. Harris later recalled that when they returned to Atlanta, they explained to SNCC that Cairo had been important because it exposed them directly not just to African revolutionaries, but to the institutions of African liberation. Their time in the international city reinforced the importance of a more internationalist self-conception of SNCC. Both on Nationalists Row in Lusaka and at the African Association building in Cairo, the pair had met revolutionaries from across the continent and seen intimately that the struggles they were engaged in were interrelated; they shared aspirations, motivations, and fears to a far greater extent than Lewis and Harris previously had the opportunity to understand. They determined, "Here were people who were directly engaged in the struggle…with whom we should have ongoing contact… continuing communication and correspondence, and sharing of ideas."[84]

On Lewis and Harris' last full day on the continent, they spent the morning at Cairo University, speaking with stu-

dents and professors. In the mid-afternoon, they boarded a bus to Giza, to see the famed pyramids and sphinx. Their bus pulled in as the sun was starting to set. Renting two camels, they rode out to the pyramids and gazed out across the desert as the sun slipped behind the pyramids and cast fading shadows on the white sand. They sat in silence and reflected on all that had happened in the two and a half months since they had boarded the plane in New York back in September. "Dusk fell and the loudest noise was the breathing of the camels."[85]

Louis and Harris arrived back on American soil on 22 November. They'd been gone seventy-two days, and in the coming weeks would come to learn what had transpired in the organization while they were away. Lewis recalls that once they returned he and Harris did a number of interviews with the press and had "a lot of opportunities to spread the lessons we'd learned from our journey."[86]

Lewis and Harris' Route Across the African Continent.
Courtesy of Custom Digital Maps.

Reporting Back

On 14 December, Lewis and Harris submitted a report to SNCC in which they detailed the trip and offered a number of proposals. Their experience in Africa had reshaped the context within which they understood SNCC and the movement as a whole, and they wanted desperately to convey their new perspective to the rest of the organization. They wrote about the various contacts they had made on the continent and expressed their belief that it was "eminently important that these contacts be utilized to their best advantage, not only for SNCC, but for the Movement as a whole."[87] They acknowledged that many other key figures and organizations within the movement "have not yet recognized the necessity of a strong link between the

Freedom Movement here and the various liberation movements in Africa" and were "completely disregarding" the potential that lay in these contacts and those with African students and embassies already in the States. The "growing importance…political and economic ideologies, as well as [the] increasing influence in world opinion" of countries throughout Africa and Asia, had to be recognized and "communicated to the people" with whom SNCC worked.

Yet, implicitly, in the way they presented their proposal, Lewis and Harris seemed aware that maintaining many of the contacts they had gathered abroad would be no simple task, and perhaps more importantly, would require a regular stream of resources that simply were not at SNCC's disposal at that point in time. They thus also stressed that African students in the States and the many African diplomats who worked in Washington and New York could prove important contacts and allies. The "failure to utilize" both of these groups was indeed "a great lack in the Rights Movement," they insisted. Ultimately, what Lewis and Harris wanted to convey to the organization was not merely the importance of one particular political contact or another, but rather their conviction that "SNCC and the entire movement [had] a need to increase its scope."

Hoping to take a substantive step in that direction, Lewis and Harris proposed establishing "an international wing— specifically an African Bureau or Secretariat."[88] Having such a wing of the organization, they insisted, would enable SNCC to funnel these contacts in a productive way. They recommended that the new bureau be linked with SNCC's communications department and focus on "writing" and "receiving communications from international contacts," thereby developing an international mailing list to which SNCC could regularly send updates and SNCC publications. [89] Lewis and Harris suggested that the project would require the ful-time work of at least two SNCC staffers, individuals who were not afraid of personal confrontation. Recognizing SNCC's characteristic disorganization, they emphasized that these people had to be intensely devoted to this particular project, and work to meet people face to face. This could not devolve to "four and five different people communicating with someone and, in SNCC tradition, telling them four or five different things."[90]

Some of the proposals Lewis and Harris offered took some time to develop into concrete action. Almost a year would pass before Dona Richards began the work of creating an Africa Project in earnest. Indeed, despite the optimistic tone of the report, Lewis and Harris implicitly acknowledge in it the potential areas in which the more involved goals of the proposed program might be difficult to implement both financially and organizationally. Following up on their meeting with Malcolm, however, would not require sustained financial or human resources and proved

crucially important in conveying the vision the trip had generated. SNCC increasingly began to see itself as more than merely a part of the civil rights struggle, as its staffers widened their perspectives beyond American shores.

Sowing the Seeds of Internationalism and Collaboration

Less than a month from the day when Lewis and Harris' plane touched down in the United States and less than a week after the pair submitted their official report of the trip to SNCC, the seeds of collaboration between Malcolm and SNCC began to take root. In December, a group of representatives from the MFDP traveled to a number of northern cities in an attempt to gain both political and financial support for their newest endeavor; they planned to block the five segregationist representatives from Mississippi from being seated in Congress when it convened again in January on the grounds that they had been elected illegally because the blacks in the state had been systematically disenfranchised.[91]

At a rally held at Williams Institutional CME Church in Harlem on 20 December, which had been organized to support the MFDP effort, Fannie Lou Hamer spoke, followed by a performance from the SNCC Freedom Singers. In fact, Hamer generally joined the singers, recalled Charles Neblett, one of the Freedom Singers on the trip. "We'd let her sing all the songs we did that she knew" Neblett remembered, "When somebody puts their inner self into a song, it moves people. Her singing showed the kind of dedication that she had—the struggle and the pain, the frustration and the hope…Her life would be in that song."[92] That afternoon, Hamer explained to the audience the challenge ahead; unseating five southern members of Congress would undoubtedly prove difficult. Despite her disappointment at the convention in August, she believed that if Americans pushed their representatives on the issue of the disenfranchisement of blacks in Mississippi, success was not out of reach.[93] Following Hamer's address, the Freedom Singers engaged the audience at the church with a number of their songs, among them "Oginga Odinga of Kenya" a tribute to the Kenyan revolutionary.[94] Kenya had gained its independence a year earlier and had transitioned to a republic the previous week. As they concluded, Malcolm X stood up to address the crowd. Hamer had invited Malcolm to share some words at the rally. It was after all in Harlem, the base of his support and the center of the OAAU. Neblett and the freedom singers were thrilled that Malcolm had agreed to speak at the rally. "He was so brave and courageous. We all wanted to meet him," Neblett remembered.[95] Malcolm began his address by directly engaging the Freedom Singers. He remarked that it was "quite significant" that they had decided to sing about Odinga. A few years earlier they would not have seen him as a paragon because their eyes were not cast beyond the Atlantic. "Two or three years ago most of our people would choose to sing about someone who was…passive and meek and humble and forgiving." Odinga was none of these, but he *was* free, Malcolm asserted.[96]

Black Americans, he assured the audience, could best learn how to liberate themselves by studying how the Kenyan revolutionaries Kenyatta and Odinga had brought freedom to their people. Referencing the Kenyan Mau Mau Rebellion he proclaimed, "In Mississippi we need a Mau Mau. In Alabama we need a Mau Mau. In Georgia we need a Mau Mau. Right here in Harlem, in New York City, we need a Mau Mau." Malcolm explained that the Africans who had won their independence did not just "sit around and talk about their plight" or sing "We Shall Overcome"; they demanded and took their freedom.[97] He called upon his audience to summon the anger that had pushed the Africans to action and use it to force change.

Repeatedly recalling the brutality that Mrs. Hamer had experienced in Mississippi for which she had garnered attention with a stirring address at the convention in Atlantic City in August, Malcolm challenged black manhood for allowing the violence against black women and children to continue. He urged the audience of the need to address white racist America in their own "language," even if that language was "a rifle" or "a rope."[98] He was trying to make his audience see that non-violence as a principle was flawed by equating it with speaking a language that racist America could not understand. "Some people wonder," he remarked, "What has Mississippi got to do with Harlem?" Then he answered, "It isn't actually Mississippi; it's America. America is Mississippi...There's no such thing as the South—it's America."[99] He continued, "So, what happens in Mississippi and the South has a direct bearing on what happens to you and me here in Harlem."[100] Malcolm truly believed that the struggle needed a wider lens, that the movement had been relying on ineffective strategies, and he conveyed this to those in SNCC and the others at the rally as he had to Lewis and Harris in Nairobi. The pair had shared their experiences with the organization, and hearing Malcolm emphasize the same message of internationalism reinforced it for Hamer and the Freedom Singers. Malcolm "had tremendous respect for Mrs. Hamer and a "tremendous respect for what we were doing," Neblett would recall.[101] SNCC reached out to Malcolm, and he offered his hand to SNCC. As he concluded his speech, Malcolm extended a public invitation to Hamer and the Freedom Singers to a meeting of the OAAU that same evening at the Audubon Ballroom in Harlem. They excitedly accepted.

That evening, Malcolm spoke again, reiterating his themes from the afternoon. He explained that blacks in

America had tried myriad different methods to achieve their freedom, and yet they still had not quite figured it out, because "everywhere you look, people get their freedom faster than we do"[102] That's why, he continued, before they could spell out a program for the new organization they had to first acknowledge and understand that "all existing programs aren't programs that are going to produce productive results" and before they could take action they needed to "analyze and analyze and analyze" to better understand the problem they faced.[103] Malcolm continued, "When you and I are inside of America and look at America, she looks big and bad and invincible" and "when we approach her in that context, we approach her as beggars with our hat in our hands." If people would only broaden their perspective and look beyond the country's shores, they would see "a freedom struggle of people all over the world."[104] They would see that "you can't understand what is going on in Mississippi if you don't understand what is going on in the Congo… They're both the same. The same interests are at stake. The same sides are drawn up, the same schemes are at work."[105] Malcolm implored the modest gathering to open their eyes to the worldwide revolution going on around them, "The Africans see it, the Latin Americans see it, the Asians see it. So when you hear them talking about freedom, they're not talking about a cup of coffee with a cracker. No, they're talking about getting in a position to feed themselves and clothe themselves and make these other things that, when you have them, make life worth living."[106]

Pointing to the infighting in the movement, Malcolm asserted that rather than arguing amongst themselves, black Americans needed to come together, to rely on the support of their revolutionary brothers, to form their power base not in a crooked American political system, but rather "among brothers and sisters…among people who have something in common with [them]," among the oppressed peoples of the world. Malcolm's impassioned words had a tremendous impact on Hamer and the SNCC Freedom Singers, but they were not ready to give up on the political establishment.[107] They were convinced that the new MFDP challenge had promise and that progress could be made. But Malcolm had also opened up their eyes to an alternative, and they began to see the international scope of their struggle.

Only weeks later, Hamer returned to Harlem, this time with a group of thirty-seven teenagers from McComb, Mississippi. The trip, sponsored by SNCC, took the students to New York during their Christmas vacation to attend various meetings and discussions in Harlem, to reward them for their commitment to civil rights in McComb and provide them an opportunity to learn more. As part of their trip, Hamer arranged for Malcolm to speak with them on the last day of 1964 in Harlem's Hotel Theresa. As the youth eagerly listened, Malcolm implored them to think for themselves and realize that they were not alone in Mississippi, but rather that they had "as much power on [their] side as that Ku Klux Klan [had] on its side."[108] The entire black world was behind them. As the youngsters listened to Malcolm, they came to see the power of an internationalized struggle. Malcolm explained that his generation "sat around like a knot on a wall while the whole world was fighting for its human rights," but the youngsters had the opportunity to join that fight. He committed his support to the group and their efforts to register blacks in Mississippi, remarking, "If you don't have enough people down there to do it, we'll come down there and help you do it."[109] He added that they shouldn't need to worry about being the victims of racist violence, and if confronted with violence, they had a right and responsibility to protect themselves. If they needed help doing that too, he concluded, "we're with you one thousand percent."[110] Malcolm had a remarkable impact on the young Mississippians; he made "a hell of an impression" Stokely Carmichael remembered.[111] SNCC had provided them exposure to Malcolm X and his distinctively accessible and articulate way of interpreting and describing the struggle. In turn, Malcolm had offered them an international lens that had largely not been utilized amongst the youth. Carmichael recalled, "The youth came back elated, just elated, talking about nothing but Malcolm.[112]

In early February, James Forman invited Malcolm to speak to a group of students at Tuskegee Institute. The Southern Christian Leadership Conference was at this point in the midst of a voting rights campaign in Selma, Alabama, which would ultimately lead to the famed Selma to Montgomery marches. SNCC's presence in Selma had been relatively small, but the regular staffers who worked in Selma had gotten involved with the campaign as had Chairman Lewis.[113] Knowing Malcolm was nearby, newly elected Selma project director, Silas Norman, and SNCC Secretary Faye Bellamy, drove to Tuskegee and invited Malcolm to join them in Selma. They were sure he would be able to frame the voting rights campaign in a new light and enable the group to engage Malcolm's militant perspective. Recalling the trip to Tuskegee, Bellamy later remarked, "When he talked to us, little doors in my mind would literally just pop open; I could feel the impulses in my brain pulsating with energy. It was visceral and astonishing." She knew it would be "a good idea to expose the young people to Malcolm's thinking and teachings. Malcolm readily accepted the invitation and arrived in Selma on 4 February.[114]

Martin Luther King Jr. had been arrested a short time earlier, and Malcolm's arrival in Selma put SCLC staffers on high alert. They worried he might say something to jeopardize their efforts in Selma, and before he spoke at a rally at Brown's Chapel they urged him not to incite anything.[115] Bellamy later recalled that Malcolm used the opportunity

to share his views on nonviolence; he sought "to give people an alternative to think about."[116] He refused to march with the organizers, claiming he could not support a nonviolent demonstration, but reaffirmed to the SNCC staffers his commitment to SNCC. "He told us if we ever needed his help in Selma—or anywhere else—to call him" and "he sounded sincere."[117] He explained to the SNCC staffers that he had plans to start recruiting for the OAAU in the South "in about two weeks." Later in the church, he whispered to Coretta Scott King, who had come in place of her husband, that he "was trying to help." He hoped his involvement might make it easer for whites to come around to King's proposals. "He seemed rather anxious to let Martin know he was not causing trouble or making it difficult, but that he was trying to make it easier." Like Bellamy, she remembered, "He seemed sincere."[118] Program Director at the time, Cleveland Sellers, later elucidated why they had decided to bring Malcolm to Selma. "Our idea was to expand on Malcolm's identification with our struggle and young people in the South but at the same time to get young people to begin to appreciate the leadership and the efforts on the part of other leaders who were not as popular in the press."[119]

Since his break with the Nation in March, Malcolm had been seeking to develop ties with mainstream civil rights leaders and organizations. He believed that only if he united the movement could his new organization flourish. And yet, Malcolm had found few people within the movement receptive to his invitation. Earlier in the year, even SNCC, the most radically left of the prominent organizations in the movement, kept its distance from Malcolm's embrace. Stokely Carmichael, who soon adopted many of Malcolm's ideas and became famous two years later for articulating many of them in the Black Power Movement, questioned what Malcolm could offer to the movement. Forman, who later attested to Malcolm's profound influence on SNCC, responded negatively when asked by Joseph B Cumming, Jr., of *Newsweek* whether SNCC and Malcolm might come together. "Come on, man. I don't know anything about Malcolm X." When asked if SNCC would work with him, "Look, man, come on." He insisted, "I don't feel threatened [by Malcolm X]. We're pretty secure psychologically… Look, man, nobody's worried about Malcolm X."[120]

Despite hesitation less than a year earlier by many in SNCC's ranks, the trip introduced SNCC to a new Malcolm, one who seemed to articulate a fresh direction for the struggle, one who helped confirm the militancy to which some in SNCC were already leaning. "There was no question that our time in Nairobi brought him closer to SNCC and to the work we were doing," Harris remembered. Malcolm's evolving relationship with SNCC subsequent to his and Lewis' meeting in Africa "was based in good measure on the fact that we were certainly hoping for it, encourag-

ing it, and saw that as the way to go." It was "heart and soul what we were talking about."[121]

As Lewis and Harris explained perceptions of Malcolm in Africa, members of the organization, including those who didn't even know who Malcolm was "began to sit up and take notice."[122] "People began to look closer," Carmichael recalled, "of course the closer they looked at Malcolm X, the quicker they got hooked on Malcolm X." Lewis and Harris' impression of Malcolm in Africa spread throughout SNCC's ranks, and when Malcolm was invited into Selma to speak, Carmichael recalled, "no one in SNCC could oppose it. As a matter of fact everyone was happy."[123] Malcolm had a "profound impact" on SNCC.[124]

The trip had opened SNCC's eyes to Malcolm's evolving philosophy and the importance of an internationalist awareness in the struggle, and in SNCC Malcolm had found an organization willing and ready to collaborate. Carmichael later recollected in his autobiography, "Since his return from Africa, Malcolm, now free of the political and ideological constraints of the Nation, had been reaching out to movement leaders…some of us had been talking about a role for him with SNCC. The voting rights bill was coming. I knew we in SNCC would have to begin looking seriously to the ghettos in the North for the kind of grassroots organizing we'd been doing in the South. Malcolm would be key. We weren't sure how it could work, or if such a thing was even possible, but it wasn't as strange as people seemed to think." Indeed, Carmichael would assert, "Of all the civil rights groups, I knew he felt closest to us, to the SNCC spirit."[125]

Key Moments 1964–1965

1964

January: The Summer Project Proposal is Approved by the SNCC and COFO Executive Committees

March 8th: Malcolm X Announces His Break with The Nation of Islam

June 13th: The First Wave of Student Volunteers Arrives in Oxford, Ohio to Begin Training to Work in Mississippi

June 21st: Summer Project Workers Andrew Goodman, James Chaney, and Michael Schwerner are Murdered

August 24th – 27th: The Democratic National Convention in Atlantic City and MFDP Challenge

September 11th: The SNCC Delegation Leaves for Guinea

October 2nd: John Lewis and Donald Harris Begin Their Extended Trip Around the African Continent and the Remaining Members of the Delegation Return to Atlanta

Mid October: Lewis, Harris, and Malcolm X Meet in Nairobi

October 23rd: Zambian Independence Ceremony

November 2nd: Lewis and Harris Arrive Back in the United States

December 14th: Lewis and Harris Submit Their Trip Report to SNCC

December 20th: SNCC and Malcolm X Meet in Harlem at Both a MFDP Rally at Williams Institutional CME Church and at an OAAU Meeting in the Audubon Ballroom

December 31st: Malcolm X Speaks to Mississippi Teens at Hotel Theresa on a SNCC Sponsored Trip to Harlem

1965

Early February: Malcolm X speaks in Selma at the Request of SNCC Staffers

February 21st: Malcolm X is Assassinated

September: Dona Richards Spearheads the Creation of the SNCC African Bureau

Timeline of SNCC and Malcolm X, 1964-1965
Courtesy of Author

On 15 February, during the question and answer period following a speech at the Audubon Ballroom, Malcolm discussed his recent experience in Selma. "Those people down there aren't afraid, they're just waiting for somebody to tell them what to do. That's all….And I promised the brothers and sisters in Alabama when I was there that we'd be back. I'll be back."[126]

He never came back. Malcolm and SNCC were poised to take strides together. Only a week later, on 21 February 1965, Malcolm was assassinated and the growing relationship was forever severed. People in SNCC were "devastated."[127]

"Before his assassination most of us were convinced that his awesome charisma and brilliant insights would have resulted in his becoming one of the first men in history to lead a multi-continental revolutionary movement," Sellers commented in his autobiography. Perhaps the expectations were a product of SNCC's idealism. Perhaps they were more than that.

Lewis, who himself knew the struggles of leadership and mobilization lamented the loss of the singular leader. "More than any other single personality, he was able to articulate the aspiration, bitterness and frustration of the Negro people. Not only in the Northern ghettos, but also in the black-belt Delta area of the Deep South. Malcolm was a living link between Africa and the civil rights movement in this country."

The coincidental encounter between Lewis, Harris, and Malcolm X, though discussed only in passing in most scholarly writing about SNCC and Malcolm, came at a time when Malcolm's evolved philosophy and increasingly open attitude toward the movement coalesced with SNCC's increased interest in internationalism and deep respect for Malcolm's influence. Malcolm found in SNCC an organization that was receptive to his message of international black unity and collaboration, and SNCC found in Malcolm a man who could articulate the interconnectedness of the international black struggle in a way no one had before. Though short lived, the collaboration with Malcolm that grew out of the encounter in Kenya marks perhaps one of the greatest "what if" moments in the history of the American black rights struggle. One can only imagine what might have happened had Malcolm not lost his life and had the relationship been granted an opportunity to develop. An enduring collaboration between Malcolm, one of the most articulate and most efficient organizers of the twentieth century, with SNCC, an organization of national prominence with the rare ability to harness the idealism and commitment of America's youth, may have entirely redirected the trajectory of the American Civil Rights Movement.

Malcolm's assassination in February of 1965 ended any hope of a blossoming relationship between SNCC and Malcolm. And yet, the message that Malcolm conveyed to Lewis and Harris in Nairobi had begun to take root as a crucial philosophical tenet in SNCC and would outlive Malcolm and his collaboration with the organization. The encounter with Malcolm and the entire extended trip on the continent dramatically increased interest and sustained action on the international front for years to come. SNCC henceforth always understood itself within a context much bigger than the American South, within an immense struggle for the empowerment of people of color the world over. The subsequent evolution of SNCC's orientation and priorities, which had enormous implications for SNCC and the entirety of the American Civil Rights Movement, must be in part attributed to Malcolm X and that coincidental cup of coffee.

1   John Lewis and Michael D'Orso, *Walking with the Wind: A Memoir of the Movement* (New York: Simon & Schuster, 1998), 287.

2   John Lewis and Donald Harris, "'The Trip Report' on Travels in Africa." 14 December 1964, reel 1, no. 37. SNCC Papers (microfilm), 8.

3   Lewis and D'Orso, *Walking with the Wind*, 287.

4   In the summer of 1964, Freedom Summer, SNCC orchestrated its largest and most involved organizing project to date, mobilizing hundreds of northern college students and local volunteers to fight black disenfranchisement in the state of Mississippi and force confrontation between state and federal authorities over black civil rights. The Mississippi Freedom Democratic Party challenge at the Democratic National Convention in Atlantic City, which SNCC staffers had hoped would be a glorious capstone to the summer's work, ultimately failed, teaching SNCC's staff a bitter lesson in power politics and compelling them to reassess the organization's goals and tactics.

5   On 11 September 1964, an eleven-person delegation from SNCC traveled to newly independent Guinea on the organization's first official trip to Africa. Following their time in Guinea, John Lewis and Donald Harris remained on the continent, while the rest of the delegation returned to the States on 2 October to address a number of unresolved organizational issues. For a more in depth discussion of the entire trip, including the official delegation to Guinea, see my Senior Honors Thesis in history.

6   Clayborne Carson, *In Struggle: SNCC and The Black Awakening of the 1960s* (Cambridge, MA: Harvard University Press, 1995).

7   In the penultimate chapter of his treatise, Carson examines SNCC's growing connection with internationalism in the final years of its relevance on the American civil rights scene. He discusses SNCC's establishment of an International Affairs Commission in 1967, its heightened resistance to American involvement in Vietnam, and its public expressions of solidarity with foreign radical and revolutionary groups. Carson elaborates on SNCC's increasing collaboration and association with Third World revolutionary movements and describes trips that SNCC staffers took to North Vietnam, Cuba, the Dominican Republic, Japan, and the Soviet Union in 1966 and 1967. "Increasingly convinced that racial violence in the United States was moving toward a stage of revolutionary

struggle, staff members sought inspiration from Third World revolutionaries who had forcefully and sometimes successfully resisted European domination," he asserts. Devoting great attention to Stokely Carmichael's role in SNCC's increased international engagement, Carson explains that, after finishing his term as chairman in 1967, Carmichael spent four months traveling the globe trying to "establish the revolutionary credentials of Afro-Americans in the eyes of Third World revolutionaries." He recalls Carmichael's message that "Our struggle will be one and the same…Our struggles should be coordinated."

Describing in detail Carmichael's visit to Cuba, Vietnam, China, the Soviet Union and Guinea, Carson fails to bridge SNCC's international interests in 1966 and 1967 to earlier developments in the organization. He writes of how Carmichael met Shirley Graham Du Bois during his travels and that she urged him to go to Guinea and meet with President Sékou Touré and recently exiled former Ghanaian President Kwame Nkrumah. Yet he makes no mention of the fact that John Lewis and Donald Harris met with Du Bois during their extended trip around the continent in 1964. In fact, he draws no link between Carmichael's trip to Guinea and meeting with Touré and SNCC's delegation to Guinea three years earlier. The two events are inexorably connected by a coherent trajectory of internationalism within SNCC, but Carson treats them as independent events. SNCC's delegation to Guinea and Lewis and Harris' extended trip around the African continent laid the foundations for SNCC's later engagement with Pan-Africanism, but Carson fails to elucidate the connection. In the years following the trip, Carmichael would later speak extensively about its importance in spurring SNCC's evolving international consciousness, but Carson makes no mention of the connection. See Carson, *In Struggle*, 265-286.

8   Carson: *In Struggle*, 136.

9   Ibid.

10 Fannon Che Wilkins published a brilliant article in 2007 in which he argues for the importance of SNCC's internationalism in the years before the organization officially turned to black power. In his article, he discusses the delegation to Guinea, Lewis and Harris' trip that followed, as well as the establishment of the African Bureau, all within the context of arguing that SNCC's interests and activities went far beyond the South even before the time in which civil rights historians have tended to periodize SNCC's internationalism. He, however, does not discuss the collaboration between SNCC and Malcolm X after the trip. See: Fanon Che Wilkins, "The Making of Black Internationalists: SNCC and Africa Before the Launching of Black Power, 1960-1965," *Journal of African American History* 92, no. 4 (2007): 468-490.

11 Carson, *In Struggle*, 135.

12 Lewis and D'Orso, *Walking with the Wind*, 286.

13 Donald Harris Interview with Author, 5 November 2010.

14 Lewis and D'Orso, *Walking with the Wind*, 285.

15 Statement by John Lewis, Chairman, Staff Meeting February 1965, reel 1, no. 37, SNCC Papers (microfilm).

16 Lewis and Harris, "The Trip Report," 1.

17 Ibid., 5.

18 Kevin Gaines has written a fascinating account of the expatriate community in Ghana and its importance in the early years of the nation. Entitled *American Africans in Ghana: Black Expatriates and the Civil Rights Era,* his narrative weaves together the life stories of a number of influential members of the community, including those whom Lewis and Harris met during their stay in Accra. An entire chapter of the book is devoted to Malcolm X's visits to Ghana and the pervasive influence he had on both the expatriate community and the broader nation. Malcolm arrived in Ghana for the first time on 5 May 1964 and was greeted warmly by the expatriate community. He explained to them his desire to work toward unity of the various civil rights organizations in the States and explained his plan to charge the United States government with human rights violations before the UN. He explained to them his desire to "bypass the civil rights movement's reliance on white goodwill and bring the U.S. government to account before the international community." The message he conveyed to the group in May was almost identical to the one that he conveyed to Lewis and Harris in October. See Kevin K. Gaines, *American Africans in Ghana: Black Expatriates and the Civil Rights Era* (Chapel Hill, NC: University of North Carolina Press, 2006), 190-192.

19 Lewis and Harris, "The Trip Report," 2.

20 Ibid.

21 Lacy's memoir discusses at length life in Ghana among the expatriate community. See Leslie Alexander Lacy, *The Rise and Fall of a Proper Negro* (New York: Macmillan, 1970).

22 Lewis and Harris, "The Trip Report," 2.

23 Ibid., 3.

24 In an attempt to determine what, if any, evidence of Lewis and Harris' time in Ghana was documented and archived, I spent an extensive period of time searching through the Bureau of African Affairs papers at the National Archives of Ghana and George Padmore Library. Though I was unable to uncover any direct references to the trip, the search at the National Archives proved fruitful in that it situated the trip within the broader Ghanaian and African political climate. My time at the Padmore was less productive because the library was in the process of digitalizing its archives and, as a result, I was only able to view a small amount of the archived material.

25 Lewis and Harris, "The Trip Report," 2.

26 Ibid., 3.

27 Gaines, *American Africans in Ghana*, 141.

28 Wilkins, "Making of Black Internationalists," 481.

29 Lewis and Harris, "The Trip Report," 4.

30 Ibid., 3.

31 Ibid.

32 Ibid.

33 Lewis and D'Orso, *Walking with the Wind*, 286.

34 *Ibid.*

35 *Ibid.*

36 Lewis and Harris, "The Trip Report," 4.

37 Donald Harris Interview with Author, 5 November 2010.

38 Lewis and Harris, "The Trip Report," 8.

39 Ibid.

40 Lewis and D'Orso, *Walking with the Wind*, 287.

41 Ibid.

42 Ibid., 288.

43 Ibid.

44 Donald Harris Interview with Author, 5 November 2010.

45 For a detailed secondary account of the precipitating factors and events leading to Malcolm's break with the Nation see the first chapter of George Breitman's detailed exegesis of Malcolm's final year of life. See: George Breitman, *The Last Year of Malcolm X: The Evolution of a Revolutionary* (New York: Pathfinder Press, 1967).

46 Alex Haley and Malcolm X, *The Autobiography of Malcolm X* (New York: Ballantine Books, 1999), 311.

47 Malcolm would remark during a speech in early April, "It's true we're Muslims and our religion is Islam, but we don't mix our religion with our politics and our economics and our social and civil activities—not any more." See George Breitman, ed., *Malcolm X Speaks: Selected Speeches and Statements* (New York: Grove Press, 1965), 38.

48 Breitman, *Malcolm X Speaks,* 21.

49 Breitman, *Last Year of Malcolm X,* 73.

50 On 13 April 1964, Malcolm began a trip that would last five weeks and take him to Mecca and Africa for the first time.

51 Breitman, *Last Year of Malcolm X,* 77. Breitman explains that on 24 June Malcolm sent a public letter to the heads of local and national civil rights organizations as well as representatives of African nations in the United States inviting them to attend a 28 June rally of his new OAAU at the Audubon in New York, where the aims and objectives of the new organization would be publicly announced for the first time. His letter acknowledged their sincerity in the struggle and noted that the new organization "would in no way compete with already existing successful organizations." Few attended the rally or joined the organization.

52 Breitman explains that Malcolm's autobiography fails to adequately convey the state of Malcolm's philosophy at the end of his life because of the pace with which that philosophy evolved in his final year. Much had changed in his final year by which point much of Malcolm's story had already been dictated to and recorded by Haley, and Haley insisted Malcolm not revise large portions of the work. Some material was added in the spring of 1964 and then again in December of 1964. There is very little written about his second and longer international trip and nothing written about his final three months of life when Breitman explains, "his ideas were developing most rapidly." The autobiography thus fails to demonstrate Malcolm's fully evolved state of thinking at the time of his death. For a more detailed explanation of the changes Malcolm intended to make to his autobiographical account see Breitman, *Last Year of Malcolm X,* 4-5. Breitman further explains the inherent difficulty in pinpointing Malcolm's philosophy in the transition period between his break and early work building the OAAU. With the freedom to develop a more nuanced personal philosophy after his break with Muhammad, he had to work out where he stood on a range of issues. "Inevitably," Breitman explains, Malcolm "made mistakes…made some false starts and had to retrace his steps." As a result, some of what he said in speeches and press releases seems contradictory in these transitional months and ultimately the positions Malcolm took changed in the final months of his life. Furthermore, as Frank Kofsky points out, Malcolm's speeches alone do not provide an entirely clear picture of his evolving political philosophy. "Given the work-horse schedule of Malcolm's final months and the absence of any opportunity for sustained reflection, one must expect that here and there an occasional solecism, murky generalization, or even self-contradiction will crop up. But these minor lapses are to be found in the rhetoric of anyone who speaks extemporaneously with the frequency that Malcolm did during those hectic days; they are entirely inconsequential in comparison with the overall tendency of Malcolm's thinking." See Breitman, *Last Year of Malcolm X,* 22-25.

53 Lewis and D'Orso, *Walking with the Wind*, 286.

54 Ibid., 288. For a firsthand account of Malcolm's visit to Cairo earlier that summer for the Organization of African Unity conference see chapters nine and ten of David Graham Du Bois's autobiographical piece: David Graham Du Bois, *And Bid Him Sing: A Novel* (Palo Alto, CA: Ramparts Press, 1975). Alternatively, for a good secondary source account of Malcolm's two months in Cairo, see chapter twenty-five of Peter Goldman, *The Death and Life of Malcolm X* (Urbana: University of Illinois, 1979).

55 Lewis and Harris, "The Trip Report," 8.

56 Lewis and D'Orso, *Walking with the Wind*, 288.

57 Donald Harris Interview with Author, 5 November 2010.

58 Lewis and Harris, "The Trip Report," 8.

59 Donald Harris Interview with Author, 5 November 2010.

60 Lewis and Harris, "The Trip Report," 9.

61 Ibid., 6.

62 Ibid., 5.

63 Ibid.

64 Donald Harris Interview with Author, 5 November 2010.

65 Lewis and Harris, "The Trip Report," 7.

66 Ibid., 6.

67 Ibid.

68 Ibid., 7.

69 Ibid., 8.

70 Donald Harris Interview with Author, 5 November 2010.

71 Lewis and D'Orso, *Walking with the Wind*, 289. Lewis's account suggests that he and Harris wrote notes throughout the duration of the trip, which helped them to write their formal report to SNCC upon their return.

72 Lewis and Harris, "The Trip Report," 9.

73 Ibid.

74 Goldman, *The Death and Life of Malcolm X*, 256.

75 One afternoon in Conakry, a number of the staffers came across the office of the USIS. As they passed the office they were startled by what they saw in the window display. "There were all these pictures of Negroes doing things. Negro judges, Negro policemen, and if you didn't know anything about America, like Africans would not, you would think these were really commonplace things," Bond recalled. "That's the worst kind of deceit." The blatant misrepresentation infuriated the young activists, particularly Moses, who had grown remarkably cynical about the government's intentions in response to Johnson and his administration's maneuverings that summer. See John Neary, *Julian Bond: Black Rebel* (New York: William Morrow, 1971), 73.

76 Lewis and D'Orso, *Walking with the Wind*, 289.

77 Lewis and Harris, "The Trip Report," 12.

78 Ibid., 3.

79 Ibid., 10.

80 Ibid., 12.

81 Ibid., 11.

82 Ibid., 12.

83 Ibid., 11.

84 Donald Harris Interview with Author, 5 November 2010.

85 Lewis and Harris, "The Trip Report," 12.

86 Lewis and D'Orso, *Walking with the Wind*, 290. I have been unable to locate any substantial coverage in either the national media or the black press about the trip, leading me to question what came of these interviews to which Lewis refers in his autobiography.

87 Lewis and Harris, "The Trip Report," 13.

88 Ibid.

89 Ibid., 14.

90 Ibid.

91 Chana Kai Lee, *For Freedom's Sake: The Life of Fannie Lou Hamer* (Urbana, IL: University of Illinois Press, 2000), 108.

92 Kay Mills, *This Little Light of Mine: The Life of Fannie Lou Hamer* (Lexington, KY: University Press of Kentucky, 2007), 140.

93 Ibid., 141.

94 Matthew Jones, who had represented the Freedom Singers on the delegation to Guinea, composed the tribute piece. Almost exactly a year prior to the December meeting with Malcolm in Harlem, a number of SNCC staffers in the Atlanta office had met Mr. Oginga Odinga during his visit to the city on a State Department tour. He spoke with SNCC about "the history of Kenya's liberation movement and their vision of maintaining a 'people's struggle,'" Judy Richardson remembered. See Faith S. Holsaert et. al., eds., *Hands on the Freedom Plow: Personal Accounts by Women in SNCC* (Urbana, IL: University of Illinois, 2010), 352-353.

95 Mills, *This Little Light of Mine,* 141.

96 Breitman, *Malcolm X Speaks,* 106.

97 Ibid., 107.

98 Ibid., 108.

99 Ibid.

100 Ibid., 109.

101 Mills, *This Little Light of Mine,* 140.

102 Breitman, *Malcolm X Speaks,* 116.

103 Ibid., 118.

104 Ibid., 117.

105 Ibid., 125.

106 Ibid., 128.

107 Lee, *For Freedom's Sake,* 103-104.

108 Breitman, *Malcolm X Speaks,* 143.

109 Ibid., 144.

110 Ibid., 146.

111 Stokely Carmichael and Ekwueme Michael Thelwell, *Ready for Revolution: The Life and Struggles of Stokely Carmichael (Kwame Ture)* (New York: Scribner, 2003), 440.

112 Ibid.

113 Lewis and D'Orso, *Walking with the Wind*, 312.

114 Fay Bellamy recounts bringing Malcolm to Selma in the newly published compilation of women's oral histories. See Holsaert et al., *Hands on the Freedom Plow,* 373-475.

115 Alvin Adams, "Malcolm X 'Seemed Sincere,'" *Jet*, March 11, 1965, 30.

116 Ibid., 28.

117 Ibid.

118 Ibid., 30.

119 Interview with Cleveland Sellers, conducted by Blackside, Inc. on October 21, 1988, for *Eyes on the Prize II: America at the Racial Crossroads 1965 to 1985*. Washington University Libraries, Film and Media Archive, Henry Hampton Collection, 5.

120 Goldman, *The Death and Life of Malcolm X*, 142. During his years with The Nation, Malcolm had developed a reputation as a pariah among many of the leaders in the mainstream organizations of the movement. His separatist ideology had been fundamentally at odds with the integrationist stance of the mainstream movement, and Malcolm had repeatedly criticized many of the movement's leaders as 'toms' who were simply pandering to the white establishment. After years of this legacy, Malcolm found it exceedingly hard to penetrate any of the organizations from which he sought support and collaboration. As Goldman explains, "Their mutual history of no faith and ill will stood between them; so did their irreconcilable ideologies and strategies for change; so did Malcolm's wretched media reputation as an anti-white, anti-Semitic demagogue and now as an advocate of taking up guns as well." Certainly there was a wide range of opinions about Malcolm in SNCC in the early months of 1964, and different members of the organization had varying levels of exposure to him and his ideas. What is clear is that the mainstream media regularly presented him as a fanatic, and many in SNCC did not have much exposure to him personally because his sphere of influence emanated from Harlem, far from the organizing efforts of the SNCC staffers. Harris explained to me in an interview that being from New York, he had more exposure to Malcolm than many others within the organization. He had seen him speak on a number of occasions in New York out of "personal curiosity," and Malcolm had even spoken to a group of students at Rutgers while Harris was enrolled as an undergraduate there.

121 Donald Harris Interview with Author, 5 November 2010.

122 Interview with Stokely Carmichael, conducted by Blackside, Inc. on November 7, 1988, for *Eyes on the Prize II: America at the Racial Crossroads 1965 to 1985*. Washington University Libraries, Film and Media Archive, Henry Hampton Collection, 2.

123 Ibid.

124 Ibid.

125 Carmichael and Thelwell, *Ready for Revolution,* 440.

126 Bruce Perry, ed., *Malcolm X: The Last Speeches* (New York: Pathfinder, 1989), 146.

127 Donald Harris Interview with Author, 5 November 2010.

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Biographies for the Authors of *Slideshow*

Michael Dango is majoring in English Language and Literature with minors in Physics and in Women, Gender, and Sexuality Studies. His feminist work grows from the belief that language matters in how we live our lives and that this is of special importance in the law. In addition to queer politics, his research interests include modernism and literary theory; his honors thesis in English is entitled, *"Writing in Bed": Naked, Ill, and Vulnerable Selfhoods in D. H. Lawrence and Virginia Woolf*. At Washington University, he has also worked in Cornerstone as a writing mentor and in the Community Service Office as the coordinator of volunteer connections between the University and St. Louis area public schools, for instance founding multiple after-school programs at Brittany Woods Middle School led by John B. Ervin Scholars. He will remain at the University next year with a post-baccalaureate fellowship in the digital humanities.

Betty Gibson, an Art History major with minors in French and German, became interested in gender, color, and decoration as a sophomore while taking a course focused on the art of fin-de-siècle France. She continues to be interested in gender-related art historical topics, including representation of prostitutes in the paintings of Henri de Toulouse-Lautrec and portrayals of women and family life in caricatures from the Belle Époque. Next year Betty will be working as a product consultant at Morningstar, Inc., an independent financial research firm in Chicago. In her free time, she enjoys training for half and full marathons, baking and cooking, and reading murder mysteries.

Howie Rudnick, born and raised in Worcester, Massachusetts, is a double major in History and Economics with a minor in Writing. He first became fascinated with the ideas and people of the American Civil Rights Movement as a freshman, introduced to the writings of Malcolm X and Stokely Carmichael in a history course taught by Henry Berger. Marveling at the spectrum of philosophies and tactics that defined the movement, he often found himself reading the impassioned speeches of the era late into the night as his roommate lay sleeping. His project has since brought him to archives across the country and even as far as Accra, Ghana, to conduct research. During his time at Washington University, he has also been an active member of the Men's Club Water Polo team as well as a Disk Jockey at KWUR, the campus radio station. He would like to thank his mentor, Jean Allman, and the entire Merle Kling Undergraduate Honors Fellowship without whose guidance and support this project would not have been possible.

The Inquiry

foreword

We [the American people] can, within a ten-year span, provide decent housing for every family, make adequate jobs available for every able-bodied person, provide the kind of education that each child is able to absorb, make accessible medical care for all, abolish poverty and malnutrition, and permit each man to advance on his merit without his being penalized because he is black.

President John F. Kennedy could predict that in ten years we would place a man on the moon, and his prophecy came true […]. If we can set a timetable to get to the moon […] God knows we can set a timetable to build a more just society. It's a matter of national will and commitment. It is also a matter of individual responsibility.
—Dr. Benjamin E. Mays[1]

Several years ago, the Mellon Undergraduate Fellowship took on the name of Dr. Benjamin E. Mays (1894-1984) to become the Mellon Mays Undergraduate Fellowship (MMUF) Program. Dr. Mays, a scholar and an activist, was an outspoken and articulate critic of segregation and an early mentor of Dr. Martin Luther King, Jr. A dedicated intellectual, for many years he served as the president of Morehouse College, the renowned historically black college for men in Atlanta, Georgia.   As illustrated in his words above, he possessed a clear and determined vision for American society, a vision forged as he struggled against the inequalities and oppression faced by black citizens in the U.S.   Though his particular experiences with injustice and vision for equality were shaped by his being an African-American man, the passage above indicates that the reach of his vision for a "just society" was universal,

extending to everyone—*every family* deserves a good home; good health care is a necessity *for all*; poverty should be abolished *for everyone* and so on. Therefore, it is entirely fitting that the program, dedicated to remedying "the serious shortage of faculty of color in higher education,"[2] bears the name of Dr. Mays as a tribute to his commitment to equity and justice.

As one of The Andrew W. Mellon Foundation's "premier programs,"[3] the Mellon Mays Undergraduate Fellowship Program provides college juniors and seniors, particularly those from underrepresented racial and ethnic groups, with the opportunity to explore what it means to be a scholar and professor. Working on their own independent research projects with advice and guidance from expert faculty mentors, the Fellows form an intellectual community in a special seminar that they attend for the two years they are in the program. They present their work, offer each other feedback on their writing, refine their own research and ideas, and hear from guest speakers who provide information about everything from how to apply to graduate school to networking in an academic environment. The Fellows at Washington University also belong to a national network of Fellows from other participating colleges and universities with whom they will have the opportunity to meet during or after their fellowship years. As of July 2010, approximately 3,500 undergraduate students representing 25 cohorts have been selected as Mellon Mays Fellows nationally. Since its inception in 1993, the MMUF at Washington University has helped inspire and prepare many students to pursue PhDs. To date, fifteen of our alumni have obtained

PhDs and another twenty are currently enrolled in PhD programs, in schools such as Yale, Columbia, the University of Pennsylvania, the University of Maryland, and Emory. This year's five graduating MMUF seniors, whose work appears in this journal, will join a prestigious group of Mellon Mays alumni, greatly enriching the pool of promising junior scholars to join the ranks of academia.

As the Faculty Facilitators of the weekly seminars, it has been our honor to work with the MMUF students. We cherish working with the Fellows not only because they are talented, motivated, and intellectually independent but also because they embody the spirit of Dr. Mays. Their research projects are based in a host of disciplines, but a unifying theme of their articles is a critique of society. By a "critique of society" we mean a careful and thoughtful reflection on how representations and social processes work to establish, maintain, and justify the racial/ethnic and socioeconomic status quo but also to perpetuate a form of "structural violence," or systemic ways in which social structures or institutions impede progress. These structural issues must be recognized and addressed in order to achieve social justice and equity, goals that were at the core of Dr. Mays's intellectual pursuits.

We are pleased to briefly introduce you to our seniors' research projects, as represented by the articles in this volume. **Kimberly Daily**'s research investigates the political climate motivating various anti-Affirmative Action ballot initiatives that have adopted the rhetoric of the Civil Rights Movement. Drawing on theories that connect the issues of race, power, wealth, and justice, Daily defends Affirmative Action as a corrective measure to address past injustice. In her article, **Naia Ferguson** uses socio-linguistic theory and analysis to explore the polysemous use of the word "nigga" as deployed by the main characters in the animated series *The Boondocks*. Ferguson demonstrates how the creator's strategic use of the word "nigga" can be read as a wider social critique of the American culture and race relations in the U.S. **Thomas Herandez** conducted ethnographic research and interviews in the Republic of Azerbaijan for his Mellon Mays project. Drawing upon his research, Herandez applies anthropological theories and critiques of development to illuminate the unintended consequences of non-governmental "transparency" programs that are promoted by international donors. Rather than achieving their intended goal of decreasing state corruption, Herandez argues that these programs often work to promote a problematic "Sovietization of the mind." In her article, **Maria Santos** develops a feminist critique of what she calls "*Senderologist* literature"—or, scholarly writings about the Shining Path, the Maoist insurgent guerrilla organization in Peru (1980-2000). Santos argues that the *Senderologist* literature is analytically ill-equipped to deal with, and thus

fails to capture, the lived experiences and complex personalities of women who performed acts of extreme violence. In effect, this literature performs discursive violence on these women by narrowly portraying their actions within traditional, gendered war roles—those of resister and peacekeeper. Finally, **Monica Smith**'s essay analyzes the implementation of the GI Bill of 1944, in order to expose the ways in which the benefits of supposedly "colorblind" legislation were meted out differently to whites and blacks. Focusing on higher education in particular, Smith argues that state and local authorities, who were often given responsibility for implementation, subverted the ability of African-Americans to take advantage of the bill's provisions.

We may not yet have achieved Dr. Mays's vision for a "just" nation or world, but we are encouraged that our Mellon Mays Undergraduate Fellows, who are capable of producing such profound and productive critiques of the world around them, are on the case. We present to you their impressive work!

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1   Benjamin E. Mays, *Born to Rebel: An Autobiography*. With a Revised Foreword by Orville Vernon Burton (Athens: University of Georgia Press, 2003), 321.

2   From The Andrew W. Mellon website: http://www.mellon.org/grant_programs/programs/higher-education-and-scholarship/mellon-mays-fellowship#Diversity (accessed April 18, 2011).

3   Ibid.

Meet Me at the Crossroads:
A Revitalized Analysis of Race, Preference, and Affirmative Action

Kimberly L. Daily

Abstract: This paper brings to light and analyzes the social and political forces that paved the way for affirmative action policies and California's Proposition 209 to change the social policy landscape of America. As the United States faces increased economic challenges, terms such as "merit," "preferential treatment," and "colorblindness" saturate our political vocabulary. Thus it is critical that we gain a more textured understanding of the policy streams that allowed for the introduction of Civil Rights Initiatives into our public consciousness. Analyzing the particular policymaking episode that allowed for radical transformations in public higher education policies, this paper argues that the adoption of California Proposition 209 was the result of conservative voters' perceptions of competition for jobs and higher education opportunities.

Introduction

In 1996, the state of California passed Proposition 209, otherwise known as the California Civil Rights Initiative. This groundbreaking ballot initiative made illegal any consideration of race, sex, or ethnicity in California public institutions, effectively dismantling all existing federal affirmative action policies in the state. More explicitly, the "civil rights" proposal mandated that "the state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting."[1]

In essence, Proposition 209 claimed to put an end to "preference programs" and usher in a new era of "equal opportunity" in the state of California. One decade later, in 2006, the state of Michigan followed suit, passing and implementing a similar pronouncement of social policy reform. Proposal 2, more commonly referred to as the Michigan Civil Rights Initiative, amended Michigan's state constitution to delegitimize and invalidate its affirmative action policies. Co-opting language from the Civil Rights Act of 1964 and the Equal Protection clause of the 14th amendment, each of these proposals successfully abated the consideration of race and gender, among other factors, in hiring practices and higher education admissions.

Maintaining that "no state shall…deny to any person within its jurisdiction, equal protection of the law," Thomas Wood and Glynn Custred, architects of the anti-affirmative action ballot initiative, relied heavily on the legal status quo established by previous legislation. In 1977, the United States Commission on Civil Rights defined affirmative action as "any measure, beyond simple termination of a

discriminatory practice, adopted to correct or compensate for past or present discrimination or to prevent discrimination from recurring in the future." Although the formal definition has not changed, the understanding of affirmative action as programs designed to affirm the civil rights of socially and politically marginalized groups has. In the past decade, a handful of Civil Rights Initiatives (CRIs) have gained traction in the national political arena. In addition to Proposition 209 and the Michigan Civil Rights Initiative, Washington's I-200 proposal passed in 1998, while Nebraska's I-424 passed and Colorado's CRI failed in 2008.

Confronted with a fluctuating trend towards the reversal of social policies and legal advancements that benefit historically and contemporary marginalized groups, I propose to bring to light and analyze the social and political forces that paved the way for affirmative action policies and California's Proposition 209 to change the social policy landscape of America. As the United States faces increased economic challenges, terms such as "merit", "preferential treatment", and "colorblindness" saturate our political vocabulary. This, I hope, is a more textured understanding of the civil rights tension that has allowed the introduction of anti-affirmative action initiatives into our public consciousness. Analyzing the particular policymaking episode that allowed for radical transformations in public higher education policies, I argue that the adoption of California Proposition 209 was the result of conservative voters' perceptions of competition for jobs and higher education opportunities.

I hypothesize that in California, in particular, social policies benefiting underrepresented racial groups are compromised when a majority of white voters' social and political rights are perceived as under threat. In the larger realm of referendum politics, research shows that this phenomenon

is not exclusive to solely race-based issues and rights.[2] Most legislation directed towards underrepresented groups tends to be marginalized in a ballot initiative system. This legislation includes, but is not limited to: gay rights, immigration reform, bilingual education, welfare, as well as affirmative action. In other words, if voters are voting for their preference in the initiative system, then the preference of the majority group will prevail; underrepresented groups or minorities have little chance of translating their preferences into policy. As Kimberlé Crenshaw asserts, we are charged with the responsibility of rethinking "the mystifying role of law in naturalizing and insulating the status quo."[3] In investigating this issue on what was the existing state of affairs pre-Proposition 209, "Meet Me at the Crossroads" offers insights into the effect of the framing of affirmative action on the American public, the increasing inclination to use socioeconomic status as a legal proxy for race, and the political viability of college and university affirmative action policies.

Moving beyond the simplistic determination of whether affirmative action policies are "good" or "bad" and gaining a deeper understanding of the political environment in which they are situated, this article investigates the shifting political conditions under which higher education affirmative action policies were introduced into American policy, legitimized through a promulgation of race-conscious policies, and ultimately challenged. I chose to use this particular ballot proposition, California's Proposition 209, because it was the first of its kind to reach a statewide ballot. I understand that a more comprehensive study of all five Civil Rights Initiatives that reached the ballot, as well as anti-affirmative action initiatives in all fifty states may be more beneficial. However, the scope of such an undertaking is outside the range of this project. As we investigate how policymakers were able to embed anti-affirmative action proposals into the policy agenda, we stand to gain a wealth of knowledge about referendum politics, social policy, and public opinion on racial issues in America.

California: The Nexus of Political Crossroads

The title of this article, "Meet Me at the Crossroads," is derived from a 1995 song entitled, "Tha Crossroads," by Bone Thugs-n-Harmony, a Grammy-award winning hip hop music group.[4] Though seemingly out of line with the focus of this article, the song's message actually speaks of an intersection, often marked with strife, where a critical decision must be made. Packed with refreshing contradictions—soft instrumentals with a quick tone, a deeply spiritual lesson in the midst of despair, good will in negative circumstances, and old school music with a new school message—"Tha Crossroads" eloquently captures the center of any politically charged conflict. As the song opens with,

"tell me what cha gonna do when there ain't no where to hide//when judgment comes for you, 'cause it's gonna come for you," we are ushered into California, often referred to as the hotbed for controversial politics. As the Bone Thugs cry out, "see you at the crossroads so you won't be lonely//see you at the crossroads so you won't be lonely," I am reminded of the fact that the steps California takes in policy reform are usually duplicated by other states. Consider the following: in the eight months after California's Proposition 209 was proposed, twenty states moved on bills or resolutions to limit affirmative action, with fifteen of them copying California's Civil Rights Initiative word for word.[5] In particular, California serves as a key state in this anti-affirmative action analysis because its initiative and reform system allows citizens to propose amendments to the state constitution by a simple collection of signatures.

Widely criticized for using the initiative process to punish racial and ethnic minorities,[6] California represents one of the great liberties of the democratic process: the transformation of personal opinion into political power. In its barest form, a ballot proposition allows for the near direct translation of public opinion into social policy, as these initiatives depend largely on the personal preference of the majority of voters. In 1996, 54.5% of California voters supported Proposition 209. Another factor influencing California's importance in staging political reform is reflected in the fact that California has relatively recently become a majority-minority state. Not only does California's ethnic makeup reflect that projected for the rest of the country, but also it presents a beautiful paradox with the argument that the preferences of the presumable white majority outweigh those of the non-white minority. Of course, in the context of a majority-minority state, this argument is complicated by who holds political power in the most meaningful places.

♫ "And we pray and we pray and we pray, everyday, everyday, everyday" ♫

Much of the existing literature on affirmative action deals with issues of its legitimacy as a set of social policies, questioning and debating whether or not such policies are necessary in the post-Civil Rights era.[7] With specific regard to the aforementioned ballot proposals, much attention is understandably given to explore the impact the CRIs have had on minority groups' access to higher education. Most notably, contemporary scholarship has fostered national dialogue addressing the necessity of affirmative action in a purportedly post-racial society. As Ira Katznelson eloquently summarizes in his 2006 book *When Affirmative Action Was White*:

> Unresolved and unsatisfactory, debate seems almost endless between advocates of reparations and defenders of non-discrimination and equal treatment

who often seem blind to the organizing power of race in American life. In effect, broad and often unfocused claims for restoration have competed with anti-racist principles that direct us to racial neutrality…Those of us who think the work of affirmative action is incomplete need to bolster our case.[8]

Though recent scholarship has shed light on the broader claims for and against racialized social policies, few scholars have interrogated the particular contexts that engendered these Civil Rights Initiatives. An investigation of these circumstances could elucidate the role that prejudice, or misinformation in general, plays in shaping public policy.

This case study proceeds in three parts. To begin, I present a brief historical analysis of affirmative action policies, delineating the legacy of racialized social policies in the United States. By "racialized," I am referring to the tendency for social policy to be classified by the racial group perceived to benefit most from it. Because history and legal precedent play a vital role in social policies, it is critical that we understand the context in which affirmative action has integrated itself into the fabric of American social policy. Then, I enter into the conversation on ballot initiatives with a review of extant literature, highlighting common understandings of the referendum process in the discipline. The third section establishes an argument on the impact that media framing has on social policy, specifically affirmative action. To many, affirmative action can be viewed as the education arm of welfare policy, or any other racialized government program. In other words, it is perceived as undeserved handouts to unqualified non-white students. As such, its depiction in the media plays an integral part in constructing voter preferences. Lastly, this paper concludes with a discussion of the ramifications of California's Proposition 209, arguing that social policies that are directed towards marginalized groups are compromised when the political desires of the median voter are threatened.[9] The evidence I present is consistent with the notion that under strained economic and political conditions, policies that largely benefit racial minority groups are retrenched in favor of those that maintain the status quo and reinforce white privilege in the United States.

Before Affirmative Action Was Black

During the 1930s, President Roosevelt's New Deal programs heralded unprecedented changes and renewals in American public policy. As America made concerted efforts to recover from the Great Depression, policies and programs like federal Social Security and the Works Progress Administration were created to reform the American welfare and ensure that society would be protected from tremendous collapses in the economy. Focusing on relief for the poor and unemployed, and assistance to one of America's most vulnerable populations—the elderly—these programs signaled landmark advancements in the history of public and social policy in the United States.

Many of these new social policies, however, served to bolster an already established hierarchy of power among the races in America, this time with much more subtlety. As Ira Katznelson details in *When Affirmative Action Was White,* though not specifically targeting racial minorities, these national government interventions resulted in a flourishing white middle class, while most African-Americans were systematically excluded from enjoying the benefits conferred upon their fellow Americans. For example, while the creation of Social Security and minimum wage laws benefited a significant number of the American labor force, agricultural and domestic workers were, by legislation, denied these benefits. Though this exclusion did not explicitly designate race, nearly 75% of African-Americans lived in the South, where they were mostly employed in agriculture and as domestic workers. This fact signals the impact that social policy can have in ameliorating or exacerbating race-based divisions in America.[10]

Similarly, policies such as the Serviceman's Readjustment Act of 1944, otherwise known as the G.I. Bill, transformed economic, social, and political benefits for war veterans. Specifically designed to help over 10 million veterans re-enter American life and eventually, the workforce, without disrupting the economy, the Bill delegated power at the state, rather than federal level. As it provided veterans the opportunity to acquire an education, gain technical training, utilize medical benefits and learn other skills that would help them gradually enter the workforce, the G.I. Bill was described as the "greatest single piece of social legislation" and a landmark policy that "cut across economic strata."[11] This legislation, however, left African-Americans particularly vulnerable to the caprice of local administrators. Theoretically, the aforementioned policies should have helped all Americans, but as implementation was delegated to the state level, administrators systematically excluded African-Americans, resulting in race-based advantages in public and social policies for white Americans.[12] When, however, social policies deal explicitly with issues of race and discrimination, they are highlighted and designated affirmative action. As African-Americans were denied the benefits that an ostensibly colorblind policy meant to provide them, we are given a compelling example of how affirmative action-esque policies have shaped our political, economic, and social realities.

Entering the Conversation: Minority Interests, Proposition 209, and Direct Democracy

In *The New Jim Crow: Mass Incarceration in an Age of Colorblindness*, legal scholar Michelle Alexander boldly and

vigorously argues that when thinking about a system of racial caste in the United States, we have not ended it. Rather, she attests, we have merely redesigned it. She explains:

> The emergence of each new system of control may seem sudden, but history shows that the seeds are planted long before each new institution begins to grow…While it is generally believed that the backlash against the Civil Rights Movement is defined primarily by the rollback of affirmative action and the undermining of federal civil rights legislation by a hostile judiciary, the seeds of the new system of control—mass incarceration—were planted during the Civil Rights Movement itself, when it became clear that the old caste system was crumbling and a new one would have to take its place. With each reincarnation of racial caste, the new system, as sociologist Loic Wacquant puts it, "is less total, less capable of encompassing and controlling the entire race." However, any notion that this evolution reflects some kind of linear progress is misguided.[13]

Here, Alexander cogently articulates some of the nuances of political control. Although the correlation between mass incarceration and affirmative action is loose, the presence of political power predicated upon caste systems is deeply interwoven into the social fabric of America. And though labeling our current system of American governance "The New Jim Crow" is risky, such a paradigm shift is necessary for us to fully consider the realities of the impact of Proposition 209.

In *The States and Public Higher Education Policy: Affordability, Access, and Accountability*, Donald E. Heller and other educational scholars offer a rich set of perspectives on the cost, educational access obstacles, and policy issues that obscure, rather than enhance, a student's ability to obtain a university education.[14] In a thorough discussion of the interplay between these three factors, Heller argues that as the cost of tuition rises nationwide, states constrain financial resources, increasing the difficulty of accessing higher education. Further complicating these issues is affirmative action, which, as posited by Heller, fits weakly in the institutional politics of higher education. Similarly, from an education policymaking perspective, Brian Pusser cogently details the political climate surrounding California and the passage of Proposition 209.[15] To begin, Pusser discusses the depth of issues blocking access to higher education in California pre-Proposition 209. At the time, Pusser notes, access to California colleges and universities was decreasing as tuition rates rose; rising SAT scores made for more qualified students than available seats; and the state's new efforts at financing tuition proved less effective than before.

Between 1990 and 1996, for example, the University of California eligibility rates decreased across the board for Latino, black, and Asian students, and remained the same for white students. As he details these rising barriers, Pusser discusses the impact that Proposition 209 had on the policymaking relationship between political branches and higher education institutions and officials, noting the blurred lines that were beginning to develop as each branch fought for control over the decision-making process. According to Pusser, immediately after Proposition 209 passed, the Republican Party enjoyed brief victories until the aftermath of Prop. 209 set in and the Democratic Party was able to rise in prominence in response to voter dissatisfaction. Nevertheless, Pusser expunges the notion that Proposition 209 increased the power of the Republican Party as he explains the critical impact Proposition 209 had on both student access to higher education and the politics of access policy.

At the same time, Pusser and other scholars note, as eligibility rates for minority students were rapidly decreasing (2% of blacks were eligible for admission to the University of California whereas 51% of white students were), "the passage of Proposition 209 made [admissions] considerably more difficult. Neither the CSU system nor California community colleges had been using affirmative action in their admissions processes, yet both were concerned about a possible decline in the enrollment of racial/ethnic minority students after Proposition 209."[16] Thus, as Pusser notes, the University Of California Board Of Regents were actually the first to adopt Proposition 209. One prominent member of this board, Ward Connerly, established the American Civil Rights Institute, the organization behind "Civil Rights Initiatives." The California decision, because of the weight of social, political, and economic authority that the regents have, influenced the state's response to the ballot initiative. Pusser reminds:

> The UC system is one of the state's largest employers, and it receives annual general funding of more than $2 billion. UC policy has significant state and national visibility and symbolic and practical political value.[17]

Clearly articulated here is the critical intersection of civil rights boiled in the same container with a constitutionally autonomous institution (the University of California system).

According to a report by the 1971 Carnegie Commission on Higher Education, forty states, California included, confer corporate powers on their higher education boards and allow those boards wide latitude in educational policy making and fund disbursement. Pusser explains:

> Given UC's constitutionally autonomous status, the length of terms of the regents, and the high cost of monitoring their actions, the confirmation dynamic for the regents' appointment process

should follow the agenda control model. Although both the governor and the legislature can take such measures as cutting UC's budget if it moves in directions contrary to legislative preference, such measures risk very public exposure and challenges from university supporters.[18]

As a result of Proposition 209, though, Latino and African-American enrollment at California's highest performing public universities has decreased significantly. In some cases, for the freshman class entering in the fall of 1997, the African-American enrollment was at or above 50% less than before the enactment of Proposition 209.[19] Though proponents of Proposition 209 cite the rise in graduation rates for these minority students, implying a more qualified post Proposition 209 student body, the initiative has profoundly affected minorities' access to higher education.

Another body of literature, and in particular, work by Alisa Hicklin,[20] uses a rational choice framework to test the widespread claims that surfaced post Proposition 209 about the effect that affirmative action, or the absence thereof, had on higher education admissions. Using data from 1990 to 2000 from all public universities that were bound by Proposition 209, Hicklin concludes that the marked shifts in minority enrollment stem not from affirmative action policies, *per* se, but largely from selectivity of an institution. From the perspective of bounded rationality, where managers act under the assumption that all other actors will behave rationally, Hicklin approaches the affirmative action phenomena from a concertedly objective standpoint.

By equating university administrators to "public managers," the university to a bureaucratic agency, and students as consumers of public goods, Hicklin boils down the affirmative action debate into an evaluation of supply and demand. Hicklin establishes that from the perspective of bounded rationality, the burden of reduced minority enrollment lies not in higher education policies, but in K-12 education and the states' funding of public higher education. She notes:

> Restricting the use of race in admissions leads to a 5.5% drop in minority enrollment over 10 years for the most selective universities (i.e. UCLA, UC-Berkeley), a 3.5% drop in the highly selective universities (i.e. UT, Texas A&M), and a 1% drop in more selective universities (i.e. LSU, Mississippi State). For the other universities, this restriction on using race would result in a 1% increase in the somewhat selective universities (i.e. University of New Orleans, University of Houston), a 3.3% increase in the less selective universities (i.e. San Francisco State, University of Southwestern Louisiana), and a 5% increase in the nonselective universities (i.e. University of Texas at Tyler, Northeast Louisiana State).[21]

In essence, Hicklin's data reveals that the restrictions of race-based admissions do not push minority students out of higher education; rather, they usher these students into less selective universities. Therefore, according to Hicklin, the impact of Proposition 209 is redistribution, not reduction in minority student populations. Here, Hicklin narrowly concludes that the consequences of Proposition 209 are massively overstated, and what we are witnessing is a political reshuffling of the deck, with students "falling in place" where they belong according to merit.

Another body of literature, led by University of Michigan's Elisabeth Gerber, suggests that ballot initiatives have the potential to undermine the rights and interests of under-represented minorities. These researchers (Hajnal, Gerber, and Louch) however, contend that the detrimental effects of the referendum process have been overemphasized.[22] With a holistic view of all California ballot initiatives and propositions, Gerber argues that, overall, racial and ethnic minorities win on more ballots than they lose. With this argument in mind, these scholars maintain that ballot initiatives present a unique dynamic in which the rights and preferences of all groups have the potential to be lost in translation. Speaking against the idea of the "tyranny of the majority" Gerber and researchers attest that current research ignores the fact that, taken together, the vast majority of direct legislation measures are less racially detrimental than we think. Even considering "the passage of several high-profile initiatives including California's Proposition 187 (which denied social services to illegal immigrants and their children), Proposition 209... and Proposition 227 (which dismantled bilingual education)," Gerber maintains that with less than 5% of statewide initiatives focusing explicitly on racial minority groups, this entire conversation has been de-contextualized and made to appear like something it is not. Though it is true that nationwide, initiatives that curtail or undermine civil rights pass more regularly than other types of initiatives,[23] Hajnal, Gerber, and Louch conclude that the negative impact of ballot initiatives has been vastly overstated. The problem, they suggest, is that research only looks at implicitly racial issues, rather than all political issues which inevitably have race-based consequences.

In many ways, Hajnal, Gerber, and Louch's analysis offers a relieving perspective in the conversation on minority rights and ballot propositions. At the same time, however, this viewpoint effectively clouds our understanding of the interplay between race, preference, and political action, specifically, affirmative action in higher education. On the issues that materially affect their lives, racial and ethnic minorities are losing, consistently. It is from this angle that I enter into the conversation, examining and arguing for the urgency of rethinking this potential racial caste system. In essence, my argument is not an explicit critique of the ballot

initiative system, or the process of direct democracy. Rather, I am asking that we as voting members of the American public have the boldness to recognize our personal biases in the ostensible pursuit of democracy and equal rights.

The Politics of Preferential Treatment

According to the United States Census Bureau, in 1996 California ranked number four on the list of states with the highest civilian labor force unemployment rate.[24] While the percentage of unemployed had decreased from 9.5% in 1993 to 7.2% in 1996, competition for jobs remained a salient factor during 1996 election year. Led by Republican governor Pete Wilson, California faced an even greater amount of pressure from conservatives to mitigate and alleviate the economic effects of the high unemployment rate. A January 1996, nation-wide *USA Today*/CNN/Gallup poll demonstrated that only 28% of the 1000 people polled reported that the current economic conditions were good. On the contrary, 47% reported that they were "only fair," and 23% responded that they were bad. In addition, when asked if they thought the economic conditions in the United States were improving or worsening, 50% of those polled answered that they were staying the same while 36% reported that they were getting worse. Finally, to the question: "In general, are you satisfied or dissatisfied with the way things are going in the United States at this time?" 72% responded that they were dissatisfied, while 24% responded that they were satisfied.[25]

Thus, in the 1996 elections, politicians, policy entrepreneurs, and other public officials held the responsibility of alleviating the public's concern about the increasing barriers to a public university education, among other factors, as the cost of tuition rose to compensate for a readjustment in the state budget.[26] Each of these issues was further intensified by the media-infused notion that minority students, particularly Latino and African-American students, were given preferential treatment in college admissions because of affirmative action policies. This notion of preferential treatment, however, skews the truth behind affirmative action policies: in employment practices, white women are the primary beneficiaries and affirmative action does not involve admitting under-qualified applicants.[27] In the public conversation surrounding the 1996 elections, beyond gender, class, political affiliations, or level of education, race surfaced as the greatest impediment to equality of opportunity in access to higher education.[28]

How Social Policy Gets Colored

Officially introduced under President John F. Kennedy's Executive Order 10925 in 1961, affirmative action has left an indelible imprint on American social policy history. Unlike many social policies, affirmative action policies are fundamentally concentrated on race, ethnicity, and sex, rather than socioeconomic status. Though funding undoubtedly weighs heavily in the conversation on affirmative action, states do not set budgets for affirmative action policies, though many budgeted policies employ them. For example, as states set aside money for the funding of higher education, public colleges and universities allocate funds towards the recruitment and retention of underprivileged minority groups. In California, specifically, state-funded universities average 3% black student populations. Private universities such as Stanford, however, consistently keep their black student population at 10%, a feat largely accomplished by the monetary resources allocated towards student recruitment and retention. As demonstrated in this case, we must acknowledge that public higher education policies (affirmative action included) are inextricably linked to the distribution of public resources. Therefore, they are subject to the "priorities and incentives—explicit and implicit—that affect government's support of priorities and institutions."[29] Included in these priorities and incentives are the preferences of the voting population, which are easier to gauge in state-level policy initiatives than in nation-wide policies.

Familiar with public opinion polls and the work of Sniderman and Piazza in *The Scar of Race*, Thomas Wood and Glynn Custred knew that Californians supported the idea of affirmative action programs, but were explicitly against racial set-asides, preference, or quota systems. Armed with this knowledge, Wood and Custred framed Proposition 209 in terms of ending preference and forging the path for equal opportunity. In the economically and politically unstable period leading up to the victory of the anti-affirmative action ballot initiative in California, public opinion surveys illustrated that middle class Californians felt particularly vulnerable to the increased competition for higher education.[30] To assess this vulnerability, I conducted a study of all news articles in major U.S. publications between November 1, 1995, and November 5, 1996, that dealt substantively (mentioned the topic at least 5 times) with the issue of affirmative action. Of the 1,721 articles (editorials and opinion pieces excluded) in the LexisNexis Academic Database, 799 (46.4%) grouped affirmative action programs with preferential treatment, suggesting that they were unfair handout programs. In addition, 189 (10.9%) articles used the two terms ("affirmative action" and "preferential treatment") interchangeably. As titles such as the *Washington Times*'s "Pernicious Racial Preferences" and the *Houston Chronicle*'s "White House Shelves Set-Aside Programs; Preferences Helped Minorities, Women" infiltrated the discussion on affirmative action, these policies came to be viewed by many as a hand-out program for minorities, particularly African-Americans. Words such as "pernicious," "preferences," and "set-aside programs" literally and

metaphorically color the conversation on affirmative action. As Martin Gilens posits, "when we are trying to understand popular opposition to welfare, public perceptions are more important than demographic realities."[31] In other words, politically speaking, people act on what they perceive, regardless of whether or not that is reality. As Gilens' insights pertain to welfare, this conflation of affirmative action with unfair advantage for African-Americans has permeated our consciousness, resulting in a misconception of policy that has great influence in the mind of voters.

To further illustrate this effect on voters, consider the January 27, 2005, cover of *Newsweek* magazine. *Newsweek,* the second largest weekly news magazine in the United States, featured a young, fair-skinned, professionally dressed, glasses-wearing African-American male with the question, "Do We Still Need Affirmative Action?" superimposed over his image.[32] The accompanying article, "10 Ways to Think About It Now" offered an analysis of how affirmative action policies were like an African-American entitlement program, unfairly advantaging African-Americans over other qualified applicants. As John Kingdon notes, "through the framing or manipulation of policy… policy entrepreneurs attempt to satisfy preconceived notions" of race-based social policy issues.[33] Though *Newsweek* does not constitute a policy entrepreneur, the newsmagazine does play a role in shaping public opinion. The *Newsweek* example, featuring an intelligent, light-skinned, and affluent looking black man, highlights the ability of policy framing to manipulate voter's ideas and opinions. Rather than conventional damage imagery, *per se,* this picture more accurately represents *damaged imagery.* That is, the flawed notion that because there are a number of African-American political leaders, business owners, and exemplars of the American Dream, affirmative action has achieved the purpose it was designed for and can, therefore, be dismantled. This problem with this ideology, however, is that there have always been and always will be successful leaders of non-white ethnic backgrounds. As Michelle Alexander attests, we have always had free and successful blacks, but that does not negate the fact that a racial caste system could actually exist.[34] Had the student appeared less "well-off," viewers likely would have shifted back to their notions about affirmative action being a handout program. With this image of success in the black community, however, viewers are prompted to consider whether or not affirmative action should persist, in light of its successes.

On Class-Based Affirmative Action

As a result of Proposition 209, Latino and African-American enrollment at California's highest performing public universities has decreased significantly. In some cases, for the freshman class entering in the fall of 1997, the African-American enrollment was over 50% less than before

the enactment of Proposition 209.[35] Though proponents of Proposition 209 cite the rise in graduation rates for these minority students, implying a more qualified post-Proposition-209 student body, the initiative has profoundly affected minorities' access to higher education.

As a compelling alternative to affirmative action, many policymakers of all races support the idea that we should enact mean-tested, colorblind affirmative action policies. In other words, admission to colleges and universities should be more contingent on socio-economic status than race. Such policies will, legislatively, be fairer to all races by not privileging any race, white or black. The argument continues: much of our country's present issues of inequality and disparity stem from class issues, rather than racial discrimination. Thus, class-based affirmative action would have the greatest effect on restructuring both our economy and our politics of power in the United States. *Prima facie*, this logic is alluring as it upholds the American value of justice as fairness and promotes the improvement of the American welfare state. A 2006 study on redistribution and affirmative action by David Austen-Smith and Michael Wallerstein, however, argues that issues of race weaken support for social policy expenditures, even when voters' preferences are considered colorblind:

> While blacks always prefer some affirmative action policy to the laissez faire level at any benefit level, in general whites might prefer no affirmative action or some modicum thereof. Unlike blacks, whites face a tradeoff: at any laissez faire level…whites benefit from the efficiency gains induced by small levels of affirmative action (Lemma 2(5)) but are hurt by the distributional losses that such action implies for the majority group.[36]

More specifically, Austen-Smith and Wallerstein's research is consistent with the argument that people who have historically held more privilege in the United States than other groups are reluctant to accept policies that may infringe on that power. In accordance with the median voter theorem, the most politically wise decision to make regarding affirmative action is to either restructure the policies so that no one group's political status is compromised or end the policies altogether. Because the former argument proves exceptionally difficult in the national arena, opponents of affirmative action lean towards the latter argument.

The trouble with both of the above propositions, however, is that they rest on the assumption that the United States has reached, or has asymptotically approached, a state of racial equilibrium where race is no longer the most salient barrier to equality of opportunity. When Chief Justice John Roberts pronounced in 2007 that "the way to stop discrimination on the basis of race was to stop discriminating on the basis of race," he effectively articulated the ideology that opened the

policy window for Proposition 209. In the past two decades, policymakers have tried to eschew the issue of race because of the polarizing effect it has in the political, social, and economic realms. These color-blind and race-neutral efforts, though reasonably grounded in laudable intentions, have effectively diminished the significance of race in political rhetoric, as well as in access to educational and professional programs, erasing the race-laden context of politics. Furthermore, the idea of a class-based scheme of affirmative action undermines the original motivation for it: to redress or prevent discrimination on the basis of race. While race and class are truly inextricably linked,[37] affirmative action was designed to address primarily race-based issues.

As Kam and Nam established, as resources become more constrained, government support flows into places and people where the assistance is projected to yield the greatest returns.[38] In the context of higher education policy, middle class Americans, who have had greater access to better K-12 education, among other resources, are those to whom resources will be dispensed. We have seen how, when the pre-existing social structure is threatened, programs and policies that target marginalized groups are compromised.[39] Indeed, because of the interplay between underrepresented minorities, the initiative system, and public policy that is endemic in our society, it is crucial to note that such actions systematically preference white Americans, while further relegating African-Americans to the margins of society.

Conclusion: Legitimacy, Equality, and Affirmative Action

In his 1971 *A Theory of Justice*, John Rawls contends that justice is that which reconciles notions of liberty and equality in a concerted effort to develop a society that operates on fair principles. In bringing into harmony these two noble ideals, Rawls posits that a moral nation embraces notions of justice mutually acceptable to all rational persons. In the pursuit of "justice as fairness," society is obligated to ensure that equality of opportunity is available to and accessible by all members of the society.[40] As Charles Mills in his 1997 *The Racial Contract* asserts, the state in which our country finds itself is one of willful oblivion to the unequal allocation of the basic rights and liberties that Rawls and other social contract theorists seek to protect.[41] If, Mills contends, we are to consider liberty and equality to be the standards by which our country abides, we ought to have a system in place for mitigating the violations of these tenets. In the realm of American education, race-based stratifications exist and persist due to the deficiencies in the application of our current social contract.

Blinded by a pseudo-meritocracy, where one's rank in society is determined by effort and merit, we may view the inequality extant within American education as the natural product of a fair system. Arguing that no blatant infringements in one's liberty to pursue education exist, we may try to dismantle affirmative action policies because they appear to preference one group of people over another. As Mills exhorts us to "[rid] ourselves of class and gender bias, coming to recognize as political what we had previously thought of as apolitical or personal…looking with new eyes at the old world around us," we must not fail to acknowledge the Racial Contract under which we all live and operate.[42] To do so would be complicit with or would explicitly perpetuate race-based stratifications in education and thus further our unjust racial order. In accordance with Rawls' principles of justice, each member of society, regardless of race, "is to have an equal right to the most extensive scheme of basic liberties compatible with a similar scheme of liberties for others."[43] Affirmative action provides the framework necessary for ensuring access to this "extensive scheme."

1   California Constitution, art. 1, sec. 31.

2   Elizabeth Gerber, "Legislative Response to the Threat of Popular Initiatives," *American Journal of Political Science* 40, no. 1 (1996): 99-128.

3   Kimberle W. Crenshaw, "Framing Affirmative Action," *Michigan Law Review* 105 (2007): 5.

4   Bone Thugs-n-Harmony. "Tha Crossroads." E. 1999 Eternal. CD. Ruthless Records, 1995.

5   Dale Maharidge, *The Coming White Minority: California's Eruptions and America's Future* (New York: Times Books, 1996).

6   See David Broder, *Democracy Derailed: The Initiative Campaign and the Power of Money* (New York: Harcourt, 2000); Dale Maharidge, *The Coming White Minority*; and Peter Schrag, *Paradise Lost: California's Experience, America's Future* (New York: New Press, 1998).

7   See Terry H. Anderson, *The Pursuit of Fairness: A History of Affirmative Action* (New York: Oxford University Press, 2004); Terry Eastland, *Ending Affirmative Action: The Case for Colorblind Justice* (New York: Basic Books, 1997); John D. Skrentny, *The Ironies of Affirmative Action* (Chicago: University of Chicago Press, 1996).

8   Ira Katznelson, *When Affirmative Action Was White* (New York: W.W. Norton, 2006), xiii.

9   The median voter theorem states that in a majority election, if all voters vote for the politician who commits to a policy position closest to their own preference, and if there are only two politicians, then a politician maximizes his or her number of votes by committing to the policy position preferred by the median voter.

10 See Katznelson, *When Affirmative Action Was White*.

11 Quoted in David Onkst, "First a Negro, Incidentally a Veteran." *Journal of Social History* 31, no. 3 (1998): 517-43.

12 See Monica Smith's "Jim Crow's Middle Class: An Examination of the Socioeconomic Impacts of Devolution on Colorblind Legislation" (April 2011), in *The Inquiry*, a journal of research projects by Mellon Mays Undergraduate Fellows at Washington University in St. Louis.

13 Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2010): 22.

14 Donald E. Heller, ed., *The States and Public Higher Education Policy: Affordability, Access, and Accountability* (Baltimore, MD: Johns Hopkins University Press, 2001), 31.

15 Brian Pusser, "The Contemporary Politics of Access Policy: California After Proposition 209," in *The States and Public Higher Education Policy: Affordability, Access, and Accountability*, ed. Donald E. Heller (Baltimore, MD: Johns Hopkins University Press, 2001), 121-143.

16 Ibid., 137.

17 Ibid., 127.

18 Ibid.

19 Ibid., 139.

20 Alisa Hicklin, "The Effect of Race-Based Admissions in Public Universities: Debunking the Myths about Hopwood and Proposition 209," *Public Administration Review* 67, no. 2 (2007): 331-40.

21 Ibid., 337.

22 Zoltan L. Hajnal, Elisabeth R. Gerber, and Hugh Louch, "Minorities and Direct Legislation: Evidence from California Ballot Proposition Elections," *Journal of Politics* 64, no. 1 (February 2002): 154-177.

23 See Barbara Gamble, "Putting Civil Rights to a Popular Vote," *American Journal of Political Science* 41, no. 1 (1997): 245-269.

24 U.S. Department of Commerce, Bureau of the Census. *State and Metropolitan Area Data Book*. 5th ed. Washington, D.C., 1998.

25 AllPolitics- A CNN/USA Today/Gallup Poll. CNN Time, 1997. http://www.cnn.com/ALLPOLITICS/1996/polls/cnn.usa.gallup/050996.shtml.

26 Patrick M. Callan, "Reframing Access and Opportunity: Problematic State and Federal Higher Education Policy in the 1990s," in *The States and Public Higher Education Policy: Affordability, Access, and Accountability*, ed. Donald E. Heller (Baltimore, MD: John Hopkins University Press, 2001).

27 George E. Curry and Cornel West, *The Affirmative Action Debate* (Reading, MA: Addison-Wesley, 1996).

28 Kenneth Meier, "Race, Structure, and State Governments: The Politics of Higher Education Diversity," *The Journal of Politics* 70 (2008): 851-860.

29 Callan, "Reframing Access," 93.

30 Ibid.

31 Martin Gilens, *Why Americans Hate Welfare: Race, Media and the Politics of Antipoverty Policy* (Chicago: University of Chicago Press, 1999), 68.

32 Ellis Cose, "Do We Still Need Affirmative Action." *Newsweek* 27 January 2005.

33 John W. Kingdon, *Agendas, Alternatives, and Public Policy* (Boston: Little, Brown, 1984), 14.

34 Alexander, *The New Jim Crow*, 21.

35 Pusser, "Contemporary Politics," 137.

36 David Austen-Smith and Michael Wallerstein, "Redistribution and Affirmative Action," *Journal of Public Economics* 90, no. 10 (2006): 1798.

37 See Melvin L. Oliver and Thomas M. Shapiro, *Black Wealth, White Wealth: A New Perspective on Racial Inequality* (New York: Routledge, 2006).

38 Cindy Kam and Yunju Nam, "Reaching Out or Pulling Back: Macroeconomic Conditions and Public Support for Social Welfare Spending," *Political Behavior* 30, no. 2 (2008): 234.

39 See Katzneslon, *When Affirmative Action Was White*.

40 John Rawls, *A Theory of Justice* (Cambridge, MA: Belknap Press of Harvard University Press, 1971), 11.

41 Charles W. Mills, *The Racial Contract* (Ithaca: Cornell University Press, 1997).

42 Ibid., 123.

43 Rawls, *Theory of Justice*, 23.

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"Nigga What, Nigga Who":
"Nigga" as a Tool of Characterization and Social Critique in *The Boondocks*

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Abstract: Most of the research about the word "nigga" has been on the history of the word or the political correctness of saying the word based on race. This is no surprise since "nigga" only shows up in the media as a source of controversy. Still, there is much more that the word "nigga" offers. In Aaron McGruder's animated series, The Boondocks, four characters use the word as a tool of characterization as well as social critique. In an attempt to understand this way of using "nigga," I first recount the history of "nigga" as well as the controversy surrounding The Boondocks in its use of the word. I analyze Huey Freeman, Riley Freeman, Granddad, and Uncle Ruckus both for their individual ways of utilizing the word and for the overall message that The Boondocks presents about "nigga." These findings, while specific to the show, will hopefully lead to more research about "nigga" outside of political correctness and history.

Introduction

A nigger is a nigga is a nigger. My grandmother used to tell me that when I was little, trying to convey that certain Black people all shared the same negative traits. At the same time, she confounded the meanings of "nigger" and "nigga," inferring that she believed that they, too, were exactly the same, which seems to hold true for an entire population of people who run the professional gamut from scholars to politicians to civil rights advocates to laypeople. The word "nigga," etymologically derived from "nigger," is a racial epithet for Black people. However, it has multiple meanings, some positive, some negative, and some neutral, and it continues to be a term used quite extensively within the Black community. In Aaron McGruder's animated series *The Boondocks*, "nigga" is used to help create the identities and personalities of the different characters in the cartoon series. However, this is not a careless implementation but a purposeful tool in order to create humor, characterization, and social/political critique, especially about how the word is used in society.

In Geneva Smitherman's 1994 dictionary of Black slang, *Black Talk*, under the heading "nigga" (listed separately, it bears mentioning, from the word "nigger"), seven definitions are listed including "close friend, my backup," "culturally Black and rooted in Blackness and the African American Experience," and "the loud, vulgar stereotype of a nigga"; and "a term for any cool, down person who is deeply rooted in hip hop culture."[1] A bulk of the other major scholarship about the word "nigga" deals with issues such as definition, history,[2] and who is allowed to say the word and in what contexts.[3] In the case of Aaron McGruder's animated series *The Boondocks*, these questions do not cover a vital point—

within the show, the word "nigga" is used to convey elements of various characters' stereotyped personalities[4] and beliefs in ways that fall both within and outside of the currently accepted definitions of "nigga." The current qualitative study consists of an analysis of the use of "nigga" in *The Boondocks*, by four characters in four episodes. The purpose is to explore how the word "nigga" functions as a tool of both characterization and critique as well as how the currently understood meanings of the word "nigga" cover the situations in which it is being used to develop a character.

History of "Nigga" and Controversy

One newspaper editor at the University of North Carolina declared that "no matter what's done with the last syllable of the word [nigger/nigga], it doesn't make it any less offensive or demeaning,"[5] and many would agree, even to the extent that the New York City Council discussed symbolically banning what they only cautiously referred to as "the n-word"[6]. When the original history of "nigga" is taken into consideration, it's easy to see why people would think in such a manner. While not native to the English language, "Negro" has been utilized in English as a term for Black Africans since 1555, and spellings like "negar," "niger," "neger," and "negur" can be traced back as far as 1584; however, the exact spelling "nigger" seems to have first appeared around 1775[7]. While not all uses of the word in its infancy can be determined to have arisen from hate, they have few, if any positive connotations. For example, the first time the word "nigger" as a racial slur appeared in a Supreme Court decision was in 1871 in the case of *Blyew v. United States*, where two white men were prosecuted for brutally killing members of a Black family for racial reasons. Witness accounts say that "one of the codefendants

had declared that 'there would soon be another war about the niggers' and that when it came, he 'intended to go to killing niggers.'"[8] The obvious intent behind their violent crime is highlighted by the use of the slur "nigger."

With a past of varied, negative uses, it is easy to see why the word "nigga" would be considered to have no real difference from "nigger," especially as they have the same etymological roots. Some people mistakenly consider it to be a "lazier" pronunciation, a failure to properly articulate the "–er" at the end of the word. This difference is actually called "postvocalic-r deletion," a common feature of African-American Vernacular English in which the final –r sound is replaced with –a.[9] This feature lends itself to the definite split between "nigger" and "nigga," both in sociolinguistics and in practice within the Black community, with the former ("nigger") described as a "racial epithet, used by whites to insult or offend a person of African descent"[10] and the latter ("nigga") as "used with a variety of meanings, ranging from positive… to negative."[11] The split can especially be highlighted in the benign and even positive ways that "nigga" is used in the Black community to mean "your best friend, your homey [sic]" in phrases such as "down-ass nigga on my team."[12] This definite split, however, does not resolve many of the complicated questions that revolve around the word "nigga." If the "various neutral and positive uses appear to still be off-limits to whites"[13] as Smitherman claims, then one is left to wonder if the opposite is true. If there is, indeed, a racial component that bears on what the meaning of "nigga" is, where Black speakers always employ a wide range of uses *except* as an epithet and white speakers *only* employ it as a racial epithet, then complications arise when "nigga" is implemented to do more than just refer to the target, but also to define the speaker.

When the complexities of the word "nigga" are brought to light, it is very easy to see why controversy would follow. For example, in 2006, Nicholas "Fat Nick" Minucci, a white individual, made New York City headlines when he argued in court that his use of the word "nigga" when beating Glenn Moore, an African-American man, with a baseball bat was benign, a result of growing up in a mixed neighborhood where "the word no longer carries the racially charged overtones it has historically."[14] Jurors had to then discuss the weight of the word in modern society, considering speaker and target as well as current general social beliefs and attitudes.[15] Other controversies about the use of "nigga" came in the form of a more unsuspecting medium—animation.

The Boondocks is not the only animated series to use "nigga" uncensored. Originally aired on March 7th, 2007, an episode of *South Park*, entitled "With Apologies to Jesse Jackson," used the word "nigger"[16] a total of forty-three times, uncensored.[17] The episode centered around a mistake one of the characters made as a contestant on the TV game show *Wheel of Fortune* where the puzzle hint was "people who annoy you" and he solved "N_GGERS" as "niggers" rather than the correct answer, "naggers." The episode sparked very little controversy. This might have to do with the fact that it is always treated as a racial slur, a word that has obvious sting and should not be treated lightly, despite the continued use of the word. Towards the end of the episode, there seems to be a sort of reconciliation when a young, white character named Stan tells Token, the only Black child in the neighborhood, "I've been trying to say that I understand how you feel, but I'll never understand. I'll never really get how it feels for a black person to have somebody use the N-word."[18] The issue is resolved cleanly and the word gets no further recognition than as a racial slur. *The Boondocks*, on the other hand, wields "nigga" to discuss a deeper message about its use in American society. It is also used as a characterization tool, allowing the way the various characters use the word to become a statement about who they are and what they believe in. This is in no way accidental and is a subtle method of further revealing who each character truly is to the audience.

The Boondocks

Before the show ever hit cable television, *The Boondocks* existed only as a comic strip. Aaron McGruder, who was a student of the University of Maryland, College Park, at the time, drew the cartoon for the university's newspaper, *The Diamondback,* in 1996 and was paid $30 per strip, which was more than twice the pay that his fellow cartoonists received. A year later, after it ended its college run, the hip-hop magazine *The Source* caught wind of the humble strip and printed it on a monthly basis, significantly broadening the audience from a primarily university/academic audience to a mainstream African-American population. *The Boondocks'* popularity only continued to climb from there, and on April 19th, 1999, it made its debut as a nationally syndicated strip after being picked up by Universal Press Syndicate. At the height of its popularity, *The Boondocks* was syndicated by 300 clients, and it ran until March 26th, 2006, originally intended as a hiatus. The strip never returned to newspapers and magazines, though some reruns were printed for a short while and previous strips are available online. Originally intended for the FOX network, *The Boondocks* graduated from a comic strip to an animated series as a television program and found its home on the Adult Swim network on the Cartoon Network channel after tailoring it for FOX became too difficult. It premiered on November 6th, 2005, and currently consists of three seasons.

The Boondocks has been a lightning rod of controversy for a myriad of reasons: the way certain celebrities and political figures are portrayed, both directly and in allegory, that can be construed as negative; the sensitive topics that are

explored; and, most publicly, the uncensored use of the word "nigga." Much outrage[19] has been focused on not only the audacity of the show to use "nigga" without censorship, but also who or which character is using the word. This is most notable in an episode where Martin Luther King, Jr., scolds a crowd of African-Americans, referring to them as "a bunch of trifling', shiftless, good-for-nothing niggas."[20] What many critics fail to realize is that *The Boondocks* wields "nigga" in such a way as to discuss a deeper message about its use in American society. Moreover, as a characterization tool, it allows the audience to have insight into a character's beliefs by how he or she uses the word, and it creates a subtle way of further revealing who each character truly is to the audience. In *The Boondocks*, the word "nigga" is used in a way that falls both in and out of the scope of Smitherman's seven definitions.[21]

In the current qualitative analysis, I will discuss how four characters in *The Boondocks*—Huey Freeman, Riley Freeman, Robert "Granddad" Freeman, and Uncle Ruckus—use the word "nigga" and how it ties into their personalities and also presents the wider message that Aaron McGruder is portraying about modern American society by implementing the word "nigga" in his show.[22]

Methodology

For this project, I use the definitions of "nigga" provided by Geneva Smitherman in her 1994 dictionary-style book, *Black Talk: Words and Phrases from the Hood to the Amen Corner*, to discuss additional meanings and perhaps nuances that are indicated in *The Boondocks*. To analyze the characters of Huey Freeman, Riley Freeman, Granddad, and Uncle Ruckus,[23] I focus on one episode from season one of *The Boondocks* ("The Garden Party") and two episodes from season two ("The Uncle Ruckus Reality Show" and "The Story of Gangstalicious 2"), along with an episode from season two that I believe gives significant insight into all four characters and their use of the word "nigga" ("The S Word"). Other episodes will come into play as need be as far as details about the characters are concerned, but will not be the main point of focus. The four episodes used in the current analysis were transcribed, not in their entirety, but in relation to the use of the word "nigga." I also analyze the episodes for the employed contextual meaning of "nigga" in a scene and how that meaning and scene played into who the character in question is meant to be to the audience.

The Boondocks: Episode Descriptions

In "The Garden Party," the pilot episode of the series, we are introduced to Robert "Granddad" Freeman and his two grandsons, Huey and Riley Freeman, who have just moved to Woodcrest. When Ed Wuncler, the man who owns the bank that holds the mortgage on the Freeman home, comes by to visit Granddad, he invites the family to his garden party. Granddad graciously accepts and immediately begins trying to prepare Huey and Riley for the party, telling them bits of advice such as, "the word for today is 'behave': H-E-A-V-E, 'behave.'"[24] It is implied throughout the episode that Granddad wants to fit in with his white neighbors in this new neighborhood. Much to his chagrin, this becomes a seemingly hard task since Riley befriends Ed Wuncler's trigger-happy Iraq-war-veteran grandson, Ed Wuncler III, and later shoots him out of a third-story window, and Huey continues to speak about how Jesus was Black and how governmental conspiracies were behind the September 11th attacks. Further complications come when Uncle Ruckus, the Black security worker, actively works to show how the Freemans are not special, just regular "niggas," despite the perceived elevated opinion that the whites have of them. Despite these problems, the party goes smoothly and Granddad emerges with an intact relationship with Ed Wuncler.

"The Uncle Ruckus Reality Show" centers on the new reality show that BET [Black Entertainment Television] gives to Uncle Ruckus, showing his daily activities and revealing his beliefs and thoughts. While this show is a sort of follow-up to the episode "The Hunger Strike,"[25] in which Huey refuses to eat until BET's offices are shut down, it goes further into both the "evil" of BET in their quest to destroy Black people (an over-exaggerated statement about the slump in quality programming that airs on the network) and the life of Uncle Ruckus. While chronicling his various jobs and recording his outspoken beliefs on race relations and racial-social problems,[26] it is revealed through a DNA test that Ruckus is "one hundred and two percent African, with a two percent margin of error."[27] The news is so devastating that Ruckus works endlessly to fulfill all the racist assumptions he has about Black people: quitting all of his jobs, drinking malt liquor, and reading *Jet* magazine to see the *Jet* Beauty of the Week. After living a life he hates, he prepares to commit suicide by hanging himself on the show. While the cameramen and producers make no moves to stop him, one of the heads of BET comes in just in time to stop him, bringing with him a new, fake genealogy report stating that Ruckus is mostly White. Ruckus abandons the ideas of suicide and returns to life as normal.

"The Story of Gangstalicious 2" follows the rapper Gangstalicious, with occasional commentary from a show segment entitled "I Love Gay Rappers" by two outwardly homosexual rappers named McBooty B and Homo D, who came out in the 1980s, providing their thoughts about whether the world is ready to accept a hip-hop artist who is gay and proud of it. Gangstalicious has come out with a line of clothing that seems more geared towards females:

tank tops, crop tops, and "skort"[28] sets, a box of which he sends to Riley for keeping quiet about his sexuality. Due to the sudden change in attire, Granddad begins to worry that Riley is actually gay and spies on him, trying to find out the truth. Huey doesn't much care, but stays silent about the truth because Granddad has said that if Riley is gay, he will have to move him to the garage, leaving Huey with his own room. The episode ends with no definite answer about Riley's sexuality.

"The S-Word" centers on the controversy and media blitz following an incident in which Riley's teacher, Mr. Petto, calls him "nigga." The actual exchange is never seen, but Riley and Granddad contend that Mr. Petto used "nigger" while Mr. Petto maintains his innocence, claiming (for various and inconsistent reasons he gives over the course of the episode) that he was using the word "nigga" and not "nigger." In an attempt to gain notoriety and possibly money, Granddad and Riley decide to milk the situation for all that they can, taking advantage of the media attention. Huey doesn't approve and tries to show his grandfather and brother that they're being hypocrites due to their daily use of "nigga," but they laugh off his comments and ignore him. A man who is shown to be a reverend, activist, and TV personality, Rev. Rollo Goodlove, becomes the one to start representing the Freeman family on television, though it is revealed that he represents them, not out of the good of his own heart, but to advertise his current career endeavors. However, the appeals for monetary compensation fall through, and the media attention fades away, much to Granddad and Riley's chagrin.

Characters in *The Boondocks* and Their Use of "Nigga"
Huey

Huey, the older of the two Freeman brothers, is a ten-year-old who is presented as being self-educated. This is evident in the fact that the issues that he cares about are not those that are taught in the elementary school he attends or publicized in the news, but rather those such as individuals on death row who are wrongfully imprisoned. He is also unashamedly pro-Black, seen in his founding of multiple radical leftist organizations, including "Africans Fighting Racism and Oppression" [AFRO], the "Black Revolutionary Organization" [BRO], and the "Black Revolutionary Underground Heroes" [BRUH].[29] Moreover, in the cartoon he is considered dangerous by the U.S. government, enough so to warrant being followed and observed by an FBI agent only known as "The White Shadow" who tells him, "just because you are paranoid, doesn't mean we aren't

out to get you."[30] His self-education, radical thoughts, and leftist organizations, all style him after the Black Panther co-founder Huey P. Newton.[31] Although cynical and harsh in his criticism of government and society, Huey often has the best insight and clearest thought process on various situations, which, in many cases, simply means that he is using common sense. This is portrayed in an episode where two men spend unnecessary time violently interrogating people in the neighborhood in pursuit of information about a murderer that they never get. Frustrated, Huey tells them, "I know who did the killing. I've known for twenty minutes. Guy's name is Terrell Jackson, he's been braggin' about it all day. Everybody knows. He lives five minutes away. I've got MapQuest directions right here."[32]

Created as a Black Nationalist, Socialist, and overall leftist, Huey rarely uses the word "nigga" throughout the course of the show. When he does, it is often in such a casual way that it could be taken as a throwaway line, such as when an adult character calls him from holding en route to prison and asks for help, to which Huey replies incredulously, "Nigga, I'm *ten*!"[33] He uses the word quickly and without much thought, lending to it the idea that it is a careless implementation, though his usage. The fact that his character rarely uses the word, as well as the situation in which he is using it, proves that it is meaningful. This usage falls in line with Smitherman's definition of "nigga" as a generic term for African-Americans; however, it also shows how Huey uses it to unashamedly critique the people around him. His other utilization of "nigga" continues to shape him as a social critic. Huey often uses "nigga" to question others on their own contradictory usage, especially in reference to this grandfather:

> **Granddad**: Which one of y'all drank the last glass of orange juice? That's the last full day's supply of vitamin C! What am I supposed to do about my vitamin C now? Y'all need to start appreciating your granddaddy! I went and spent your inheritance on this beautiful house in this neighborhood and all I ask you to do is act like you got some class… [continues talking in the background]
>
> **Riley**: [half-whispering to Huey] Aye… what's class?
>
> **Huey**: It means don't act like niggas.
>
> **Granddad**: See? That's what I'm talkin' 'bout, right there! We don't use the N-word in this house.
>
> **Huey**: Granddad, you said the word "nigga" forty-six times yesterday. I counted.
>
> **Granddad**: Nigga, hush![34]

Huey: You both say the word "nigga" all the time.

Granddad: [offended] I do *not*!

Huey: Riley thought it was a name until he was three![35]

Huey's use of "nigga" in these two situations shows his apparent disdain for those who claim that "nigga" is wrong when used in public, but then turn around and use it in the same manner, helping to create him as both outspoken and threatening.

His social critique extends past his family and into the African-American as well as the general American community. In one episode, Huey sits in on the R. Kelly trials[36] and watches an exaggerated version of the verdict. Once Kelly is found not guilty, he immediately jumps up on a table and begins performing, leading the courtroom to erupt in dancing and celebration. Clearly fed up with the actions of those around him, Huey gets up and addresses the entire courtroom:

> "What the hell is wrong with you people? Every famous nigga that gets arrested is *not* Nelson Mandela! Yes, the government conspires to put a lot of innocent Black men in jail on fallacious charges, but R. Kelly is *not* one of those men! We all *know* the nigga can sing, but what happened to standards? What happened to bare minimums? Are you a fan of R. Kelly? You wanna help R. Kelly? Get some counseling for R. Kelly! Introduce him to some older women! Hide his camcorder! But don't pretend that the man is a hero! [walks off, then comes back] And stop the damn dancing! Act like you've got some goddamn sense, people!"[37]

His critique of the situation begins with admonishing the crowd, reminding them that if a "famous nigga" is arrested, then he or she isn't equivalent to a political activist or someone wrongly imprisoned for attempting to do the right thing. He acknowledges that the government has been guilty of wrongfully prosecuting Black males, critiquing the American justice system for its failures in that respect, but simultaneously lets them know that this is not a situation where that is true. He offers solutions, but mostly, his rant centers around charging the audience with not having any sense and holding Kelly in higher esteem than they should simply because of his celebrity status.

Riley

Huey's eight-year-old brother, Riley, is his near polar opposite. While Riley is also outspoken, his idols include rappers who glorify the "gangster rap" lifestyle of getting money (possibly through criminal means) and the objectification of women, as seen in the close friendships he develops with another *Boondocks* character, the rapper Gangstalicious,[38] as well as the rap group Lethal Interjection. His only other

close friends are Ed Wuncler III and Gin Rummy, two white males in their early twenties who spend most of their time committing crimes for the sake of committing them and getting away with them. Riley's primary concern is to appear as "real" as possible, which means, in part, not being seen as a homosexual and being affiliated with various illicit and often illegal activities. In "The S-Word," during a highly publicized scandal in which a teacher calls Riley "nigga," Ann Coulter appears on a news program and refers to Riley as a "foul-mouthed gang member" and a "thug." While the rest of his family expresses shock and outrage, Riley responds with "did she just call me a thug? …yeah!"[39] One of Riley's common phrases is also "nigga, you gay," which he uses freely anytime someone expresses something he considers to be feminine, as in expressing too much emotion, coming too close to him physically, or engaging in any other behavior he deems questionable.

> **Riley**: [entering the bedroom as Huey is exiting] Damn, Morpheus. What chu 'bout to do?
>
> **Huey**: [hugs Riley] I love you, man. [lets go and continues out]
>
> **Riley**: [watching him leave] Ewwwww! Nigga, you gay. [40]
>
> **Huey**: And you're okay with his… lifestyle? [referring to Gangstalicious]
>
> **Riley**: Well, I mean, I know he ain't no real gangsta, but that's cool, 'cause, see, he's an entertainer – he ain't gotta be out in the streets like I do. He's telling *our* story *for* us.
>
> **Huey**: So you're okay with him being gay?
>
> **Riley**: [snickers] *Gay?!* Who, who said he was *gay*? Nigga, is you crazy? [keeps laughing] Gangstalicious gay… Huey, you crazy.
>
> **Huey**: Come on, Riley: the song, the dance. I mean, "do the homie"?
>
> **Riley**: [defensive] The homie dance ain't gay! *I* do the homie!
>
> **Huey**: [folds his arms] That's not gay? You who thinks everything in the world is gay--
>
> [Brief montage of Riley saying "nigga, you gay" in various situations]
>
> **Huey**: --don't find any of this gay at all?
>
> **Riley**: Okay, so, all that other stuff *was* gay, but Gangstalicious ain't gay! You can't just go throwing that "gay" thing around, Huey, that's a serious accusation![41]

In the first scene above, Huey is about to leave the house, thinking he might be killed or imprisoned and will never see his brother again, explaining his moment of heartfelt admission. Rather than allowing himself to partake in this

moment of vulnerability, Riley expresses disdain and even disgust at Huey's emotionality. In the second scene, he shows not only that he finds the idea of being gay to be a personal insult, but also that he does not think it should be treated lightly. Despite this, his brother points out his repeated use, highlighting Riley's proclivity to point to such "unsavory" behaviors in others while protecting himself and his close friends from the same accusations.

The way Riley uses "nigga" not only falls within a "generic, neutral use" to refer to an individual, but also becomes his way of referring to "a rebellious, fearless, unconventional, in-yo-face Black man" and a "cool, down person who is deeply rooted in hip hop culture."[42] The term "nigga" here is used not only to say something about the target, the person being spoken to, but also about the speaker. On the one hand, one could interpret that Riley is using "nigga" as a term of address to the person he's speaking with, be it his brother, his friends, or a stranger, as "nigga" when he says "nigga, you gay," but he is actually using it to critique others' portrayal of non-masculine behavior (i.e., showing emotion, hugging, etc.) and uses the term to reflect his opinion of their sexuality based on their behavior. Simultaneously, he builds himself up by wielding "nigga" in a casual but purposeful way. His connections with the gangster rap community as well his sometime illegal everyday activities and interactions help to back up his self-aggrandizing use of "nigga." He is trying to live fast, dangerous, flashy, and masculine, putting him above those whom he critiques for their questionable behavior.

Granddad

Riley and Huey's primary caretaker is their grandfather, Robert Jebediah Freeman, usually referred to as simply "Granddad" by Riley and Huey. He is retired, which is the reason the Freeman family moved to the affluent White suburb that they live in presently. He is single, but there has been no explicit explanation of what happened to his wife. The audience is led to believe that he is a widower, which is evidenced when Riley creates a mural of Granddad's wedding photo on the side of their house, an action that moves Granddad to tears.[43] Despite this, his primary concerns seem to be money, appearing well-off and fitting in with his upper-middle-class neighbors and finding a younger woman to date. Due to his more material- and status-oriented goals, his overall point of view seems to line up better with Riley's than with Huey's since he prefers to spend time creating a more comfortable lifestyle for himself than being a voice of reason or clarity. His conflicts with Riley usually involve Riley's behavior, while his conflicts with Huey have to do with Huey's critique of his grandfather's behavior and/or decisions.

Unlike his grandsons, Granddad seems to have a two-tiered relationship with the word "nigga." While he enjoys using the word colloquially in his personal time, he also acts as if he knows that "nigga" is unacceptable in the public sphere and often pretends that he eschews using it. Granddad often portrays himself as being active in the Civil Rights Movement, even though he had little direct contribution to the movement[44] and, as such, carries a certain disdain for the use of "nigga." In fact, when the local news interviews Granddad about his reaction to Riley's teacher calling him "nigga," he immediately launches into a lamenting speech:

> **Granddad**: Oh, I remember those proud days, marching with Dr. Martin Luther King [points to picture of MLK hanging in the hallway] We used to hear *that hateful word* all the time.
>
> **Reporter (voiceover)**: Robert Jebediah Freeman, Riley's grandfather, says the incident *takes him back to the Civil Rights Movement.*
>
> **Granddad**: Oh, what sad times these are, when educators can go around willy-nilly calling our kids the *N-word*! Me and my boy have suffered tremendous, unspecified mental and physical damage from this![45]

In his interview, Granddad takes care to refer to "nigga" as "the N-word" since his comments will be aired to the general public, much in the same way that the school superintendent does in his own interview:

> **Superintendent Richards**: We have a very strict policy against teachers using the [makes quote fingers] N-word or any other racially insensitive words. The district's policy is that teachers should always say [quote fingers] N-word instead of the actual N-word…[46]

He also makes sure that he not only mentions that he marched with Dr. Martin Luther King, Jr., but also conducts the interview in front of the portrait as to conjure up images of the Civil Rights Movement and evoke its meaning to those watching the news program on which his interview will be aired. However, this somber attitude disappears as soon as the press leaves the premises and the Freeman family is alone once again and Granddad has to explain his new celebratory attitude to a skeptical Huey:

> **Granddad**: It's like winnin' the lotto!
>
> **Huey**: How?
>
> **Granddad**: Look at your brother! [voice cracking] He's traumatized.
>
> [Riley is dancing in a circle, wiggling his butt, chanting "booty dance, uh, booty dance, booty dance, do the booty dance."]
>
> **Huey**: Granddad, Riley's doing the celebratory booty dance.

Granddad: He's traumatized on the inside.

Huey: You both say the word "nigga" all the time.

Granddad: [displaying exaggerated offense] I do *not*!

Huey: Riley thought it was a name until he was three!

Granddad: Well, that's different. [walking over to Huey] You see, it's okay between us behind closed doors. We flipped the word into a term of endearment. That's what I call my homies. You feel me? [hugs Huey] My nigga![47]

While Granddad is quick to bring up his involvement in the African-American struggle for equal rights and to imply that it pains him to even say the word (as seen in his tendency to say "N-word" rather than "nigga") in public, he also indicates and discusses his personal use of the word.

Granddad is the only character who has different private and public uses of "nigga." Publicly and when he is trying to portray himself as a moral authority figure, Granddad condemns "nigga," referring to it as "the N-word" and labeling it as "hateful" and even traumatizing. Still, he uses the word sporadically in his personal life without ever giving it the same negative air. This contrast works as a foil to Huey's scrutiny, further illustrating the very real conflict of hypocrisy in Black use of the word "nigga." In fact, I would argue that this conflict is one of the most widely-discussed issues concerning "nigga"—how can Black individuals tear down the word in public and for the press, but use it in their home lives without any remorse?

I think that this conflict of public vs. private opinion can be likened to the double-consciousness paradox that W.E.B. Du Bois first brought to light in his renowned 1935 publication, *The Souls of Black Folk*. Double-consciousness refers to the need of the African-American individual to compromise himself or herself into "two-ness,—an American, a Negro; two souls, two thoughts, two unreconciled strivings"—they have their Black consciousness as well as "this sense of always looking at one's self through the eyes of others, of measuring one's soul by the tape of a world that looks on in amused contempt and pity."[48] In other words, there is an in-group view of the self and the world, a view that is uniquely and distinctly African-American[49] as well as an outward and white majority view of the world and the self.

Uncle Ruckus

The last and arguably most intriguing of all the characters in *The Boondocks* is Uncle Ruckus. Outspoken, hefty, and aesthetically unpleasing, Uncle Ruckus is an anomaly: a Black man with a strong belief in white supremacy. While he understands that he is phenotypically African-American, he refuses to believe that he is, even though a lab test

report that he requested stated that he is "one hundred and two percent African, with a two percent margin of error."[50] Uncle Ruckus holds fast to the idea that he has revitiligo, a skin-darkening disease that is "the opposite of what Michael Jackson's got" which he tries to control using "topical ointment made of bleach and sulfur."[51] He limits himself to various menial jobs, such as janitorial work, part-time security, and driving the local school bus to J. Edgar Elementary School and appears to have no other goals in life. He adores white people and white culture even though most white people seem to have an inherent distaste for him. Ruckus even goes as far as to build "small shrines to certain special white people who are important" such as John Wayne, George Bush, Sr., and Barry Manilow.[52]

Uncle Ruckus's aspirations of whiteness, disdain for Blacks and Black culture, fierce loyalty to white employers and complete dedication to work that pleases whites, are all integral parts of who he is as a character. He is perfectly content in his inferiority and his subordinate social position, meaning that he serves whites in his various jobs (bus driver, doorman, etc.) with gladness and warmth, as seen when he continues to refer to the white children on his school bus as "mister," "miss," and even the affectionate "my little sunshine" as when they push past and insult him.[53] The only moment where he seems not to be content with his status is in "The Garden Party" when he tells Granddad, who is Mr. Wuncler's guest, that in all the years he has been working for Mr. Wuncler, he has never been invited to a party. His aspirations of whiteness are portrayed through his dedication to the concept that he is not actually Black, but rather is suffering from a skin condition that he has been trying to slow down and hopes someday to cure. However, there is still something to be said about his inherent racism, what some would call self-hate,[54] which is further reflected in the gap between his use of the word "nigga" and how other characters use the term.

Ruckus's use of the word "nigga" within the show could be argued to be the "generic neutral" use that Smitherman writes about, but more closely resembles the way that a white person would use "nigger." Since he views himself as a white supremacist, as far as his belief in the superiority of whites and in the inherent ignorance and overall ineptitude of African-Americans, it could be possible for him to be using the word "nigger" with postvocalic-r deletion, which changes the "-er" sound to "-a," but Smitherman's definition of "nigger" clearly states that it is "used by Whites to insult or offend a person of African descent."[55] Even though he aspires to be white and makes excuses for his dark skin, Uncle Ruckus's self-subjugation (purposefully choosing menial jobs) and self-segregation (having only Black friends despite his desire to be white) proves that he fully understands that he is Black. Therefore, Ruckus must be using

the term "nigga." The next assumption would be that the way Ruckus uses "nigga" falls in line with "the loud, vulgar stereotype of a nigga." This becomes problematic when considering the following use in Ruckus's statement below:

> "Naw, I don't thank (think) we should use the woid (word) and I tell ya why—because niggas have gotten used to it, that's why! Hell, they like it now. It's like when you growin' crops an' you strip the soil of its nutrients and goodness and then you cain't grown nothin'. You gotta rotate yo' racist slurs! Now, I know it's hard, 'cause 'nigga' just rolls off the tongue the way sweat rolls off a nigga's fo'head, but we can*not* let that be a crutch! 'Specially when there are so many other fine substitutes: spade, porch monkey, jiggaboo! I say, next time you gon' call a darkie a nigga, call that coon a jungle bunny instead."[56]

In this example, Ruckus uses "nigga" as a general term, discounting individual behavior completely by referring to African-Americans as a population, and often using other racial epithets as stand-ins. In fact, in the episode "The S-Word," Uncle Ruckus unabashedly details his views about the word "nigga" and other racial slurs In this scene, "nigga" has no situational bearing, but instead reflects solely on the race of the person in question, showing that Ruckus, as a Black person, is using "nigga" as a racial epithet despite the word's lack of the "-er ending.

"Nigga" in *The Boondocks*

Huey, Riley, Granddad, and Uncle Ruckus, as characters within *The Boondocks* using the word "nigga," all say something larger about real life and society outside of the parallel but fictional world within which they exist. *The Boondocks* is social, racial, and political satire, providing commentary on many of the issues that the creator, Aaron McGruder, sees in the world around him. It would be completely unfair to assert that there is a perfect correlation between what the characters say and believe and how it relates to real life—their words are scripted, their personalities are chosen carefully, and their comments are often grossly exaggerated for the sake of comedy. However, since the animated series is, as aforementioned, satirical, there are larger ideas at play, especially in regards to the word "nigga" and the characterizations of these four characters within the show.

Huey, who represents one form of critique about the Black community, uses "nigga" during his scathing critiques of society and individual behavior, referring to the ignorance of those around him. The situations he finds himself in when he uses these words are not unlike those that can be found in our own society. To be sure, there are people who will denounce the word "nigga" in public for being

filthy, uncouth and even flat-out racist, but will continue to use the word in their homes, with their friends, and in other everyday speech. The hypocrisy that some display in the dissonance between their portrayed belief and how they use the word "nigga" is real, though it may not go as far as exaggerating the truth for media attention, as Riley and Granddad did in "The S-Word." The deeper message Huey gives about the word "nigga" and real life is that there is still something to be said about consistency between preaching and practicing, between what one says about society's use of the word and how an individual uses it, race notwithstanding. Huey's negatively tinged use of "nigga," calling out perceived ignorance, discusses the larger problem of what some would call ignorance through inconsistency of portrayed belief and practice of the use of "nigga."

While the critique aspect remains when changing the focus to what Riley's use of "nigga" says about real life, two specific issues arise: gangsta rap culture and homophobia. Riley wants to be seen as tough, as someone who makes a lot of money without having to work hard, as someone to be feared, respected, and revered, and his use of the word "nigga" as a tool of self-aggrandizement shows this. This is perhaps best explained through the chorus of "The N Word Song," a song by Brooklyn rapper Sha Stimuli:

> "Nigga, nigga, nigga, nigga, nigga, nigga, nigga / I try not to say it but I feel much bigger / nigga, nigga, nigga, nigga, oh, but please pardon us / But 'where my brothers at?', it doesn't sound hard enough / So nigga, nigga, nigga, nigga, nigga, nigga please / nigga, nigga, nigga, it comes out with ease / So I keep sayin' it, guess I gotta figure / You can look like my brother, but I call you my nigga."[57]

The chorus expresses how "nigga" makes the speaker "feel much bigger" since phrases like "my brother" do not pack the same punch, or "sound hard enough." Riley embodies this point of view perfectly. As someone who spends a lot of his time with older males, especially rappers and men who are known to commit crimes, he wants to portray himself as someone who is of the same status. Since he cannot do all of the things that they do, such as attract many women, make thousands of dollars, or even own a gun, using the word "nigga" then becomes his way of projecting himself into that lifestyle. At the same time, and sometimes in the same instance, Riley uses the word to insult those who do anything that he deems "gay." This can include behavior that actually lends itself to homophobia, such as two men kissing passionately, or emotional behavior, such as his brother sitting in the seat directly next to his in the movie theater. This speaks to a larger fear of homophobia in gangsta rap music and culture. "Faggot" and "gay" are commonly used in rap lyrics to demean others,[58] questioning their sexuality and, therefore, their manhood and masculinity, two things that

Riley personally cherishes. While the situations he gets into are not carbon copies of real-life situations, they still speak to the larger pattern of homophobia and self-aggrandizing in gangsta rap music and culture.

Granddad's use of "nigga" creates a portrait of the problem of double-consciousness in the Black community, the battle to be both fully Black and fully American. In this struggle, Black people must try to reconcile their Black "private" selves with (or even hide these selves from) the public domain, which has the power to accept or shun them as individuals. It can be argued that a Black individual who struggles with double-consciousness also struggles with two feuding points of view regarding the word "nigga." There is the internal "Black" colloquial view, the same view that says, as Granddad did, that "it's okay between us […] we flipped the word into a term of endearment," which wars with the "American"[59] point of view, which generally villainizes the word "nigga" in all forms. Granddad's use of "nigga" specifically speaks to the dual attitudes that people have towards "nigga" as far as public vs. private opinions. This duality of opinion stems from the core concept of double-consciousness that Granddad's conflict represents. In fear of such condemnation, the creation of an American "public" self is necessary, giving off the impression that the individual, much like society at large, shuns "nigga" and all its uses.

Uncle Ruckus, as an exaggerated character, seems to speak to nothing specifically in real life, save that his beliefs in white supremacy do exist in our society. While his exact personality is not characteristic of an archetype that can be seen often in our society, the way Aaron McGruder created his character still says something important about society. His steadfast beliefs in stereotypes about "niggas," such as how they are too ignorant to benefit from college courses, how they cannot hold a job, and how they never did anything worth doing or never did anything that a white person did not do better, are all symptomatic of real beliefs about African-Americans as a population. They are far from true, pointing out some of the irrationalities of racism, but represent many of the negative stereotypes that are threaded throughout society. Uncle Ruckus's character also speaks directly to current definitions of the word "nigga" by creating a situation in which "nigga" is used by a Black person in the same way it is expected that "nigger" would be used by a white person. As someone who believes in white supremacy, it comes as no surprise that "nigga" would be used as "nigger," but the color of Ruckus's skin complicates the situation since no meaning of "nigga" runs parallel to the meaning of "nigger" and since "nigger" is a "racial epithet, used by whites."[60]

Conclusion

The debate about the history, current usage, and political correctness of the word "nigga" is not one that I would easily discount. For a word with such a long, bloody, and at times muddled past, it would be detrimental *not* to trace where it has come from in order to assess its value today. Still, I contend that the history, current usage, and political correctness are not the sole factors that make up "nigga." The fact that "nigga" is nuanced and complex means that the corpus of monochromatic scholarship thus far has been too narrow to encapsulate all that this word is capable of. Simply saying that the scope of the work about "nigga" hasn't widened to its full potential is an easier claim, however, than trying to actually broaden this particular area of research.

This is where the factors of characterization and critique come in. *The Boondocks* stands as a case study of the ways in which "nigga" can be used and/or studied outside of history, current usage, and political correctness. In fact, *The Boondocks* manages mostly to discard the factors of political correctness and history in its use outside of a few references (i.e., mentioning what it meant during the era of the Civil Rights Movement, creating a conflict over the difference between "nigga" when white people use it and when Black people use it) to focus on the other ways "nigga" can be used/studied. This results in an untapped source of raw data, a starting point not only to rethink "nigga," but also to remold it, possibly tossing out old conceptions and formulating new ones. Since *The Boondocks* is one show, it cannot possibly tackle all of these, so it centers on two specific factors that have yet to be explored in scholarship—characterization and critique.

While Huey, Riley, Granddad, and Uncle Ruckus use "nigga" in very different ways, they carry two distinct features—the use of "nigga" distinguishes who is speaking, and it acts as a vehicle of critique. The phrase "nigga, you gay" has nearly become Riley's catchphrase in the show, one of the ways he is known. Huey and Uncle Ruckus both use the word to refer to the greater Black community, especially when it comes to flaws, except that Uncle Ruckus leans more towards reinforcing racial stereotypes and making fun of Black people while Huey tries to a come from place of righteous anger, understanding the greatness that the Black community can achieve. Granddad's usage is strictly divided between a general colloquial "nigga" and referencing a racial slur, purposefully standing in staunch opposition to each other. Still, while all of these uses are unique enough to identify each character, they all stand as direct or indirect critiques. Huey focuses his critique on the Black community at large, looking at it through the lens of someone who sees more potential while still bluntly pointing out major perceived flaws and inconsistencies. Uncle Ruckus also focuses his critique on the Black community. Riley critiques the way he perceives the sexuality of those around him while simultaneously representing a larger critique of

homophobia in gangsta rap culture, and Granddad represents a critique of the issue of double-consciousness in the Black community, both with the word "nigga" and in general.

If Huey, Riley, Granddad, and Uncle Ruckus can use "nigga" in ways that are all specific to their character, yet all hold very similar purposes as far as critique is concerned, then there is clearly more that can be explored about the word. Because *The Boondocks* is a satire, its purpose is to find a comedic way to make social and political commentary, and "nigga" plays a big role in that endeavor. The correlation between the show and reality is not 1:1 since language in *The Boondocks* is scripted, but since it is modeled after real-life situations, it continues to speak to everyday life. In light of these revelations, I would like to see later scholarship about the word "nigga" move away from the standbys of history, current usage, and political correctness in order to dig more deeply and explore its other functions. I believe that my analysis can be the springboard for the expansion of the current definition, if not the creation of another definition of the word "nigga." My ultimate hope is that "nigga" will be unbound from the two-dimensional view it has been stuck in for the last few decades and be further studied as more than just another term to be censored.

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1   Geneva Smitherman, *Black Talk: Words and Phrases from the Hood to the Amen Corner* (New York: Houghton Mifflin, 1994), 210-211.

2   See Randall Kennedy's *Nigger: The Strange Career of a Troublesome Word* (New York: Vintage Books, 2002) and parts of Jabari Asim's *The N Word: Who Can Say It, Who Shouldn't, and Why* (New York: Houghton Mifflin, 2007).

3   See Asim, *The N Word.*

4   This is purely from an audience member's standpoint, with emphasis on sociolinguistic, historical, and social research on the word "nigga." Communication studies and animations will not be focuses of this project. Also, the term "stereotype" here is not meant to be a negative term, simply one that refers to archetypes of various personalities in society.

5   Rob Nelson, "The Word 'Nigga' is Only for Slaves and Sambos," *Journal of Blacks in Higher Education* (1998): 117.

6   Jen Chung, "City Council Closer to Banning the N Word," *Gothamist*, February 2007.

7   Asim, *The N Word,* 10-11.

8   Kennedy, *Nigger: The Strange Career,* 33.

9   Geneva Smitherman, "The Chain Remain the Same": Communicative Practices in the Hip Hop Nation," *Journal of Black Studies* 28, no. 1 (September 1997): 10, 19.

10   Smitherman, *Black Talk,* 212-213.

11   Ibid., 210.

12   Smitherman, "The Chain Remain the Same," 19.

13   Smitherman, *Black Talk,* 213.

14   Chung, Jen, "What's in a Word: Howard Beach Hate Crime Trial," *Gothamist*, May 18, 2006.

15   Nicholas Minucci was later sentenced to fifteen years in prison for a hate crime once it was decided that his use of the word "nigga" was racially charged.

16   The word "nigger" and not "nigga" is used here to illustrate that South Park treated the word entirely as a racial epithet, with no positive or neutral connotations, as well as to accurately reflect the article that discussed it.

17   Vanessa E. Jones, "No Offense, But…," *The Boston Globe*, January 29, 2008.

18   Ibid.

19   Charles E. Rogers, "What Image Does NAACP Project with Award for N-Word Cartoon?" *New York Amsterdam News*, March 9, 2006: 25.

20   "The Return of the King," *The Boondocks*: *The Complete First Season,* DVD. Aaron McGruder, Rodney Barnes. 15 January, 2006, Sony Pictures Home Entertainment, 2006.

21   Smitherman, *Black Talk,* 210-212.

22   In interviews, McGruder gives no explicit reason behind using "nigga" in *The Boondocks*, so his opinions are left out of the current analysis since they are unavailable.

23   I am only analyzing men because there are no stable female characters to analyze.

24   "The Garden Party," *The Boondocks: The Complete First Season*, DVD. Aaron McGruder, Rodney Barnes. 6 November 2005, Sony Pictures Home Entertainment, 2006.

25   Both "The Hunger Strike" and "The Uncle Ruckus Reality Show" were banned in the United States for the way that BET and its heads of staff were depicted.

26   By this, I mean his beliefs about the way problems with various racial groups play out in the social sphere. For example, Ruckus rants about how a Black person going to college is pointless because all Blacks do is party.

27   "The Uncle Ruckus Reality Show," *The Boondocks: The Complete Second Season*, DVD. Aaron McGruder, Rodney Barnes. 23 March 2008, Sony Pictures Home Entertainment, 2008.

28   A pair of shorts with a wrap-around skirt component.

29   "The Real," *The Boondocks: The Complete First Season*, DVD. Aaron McGruder, Rodney Barnes, 8 January 2006, Sony Pictures Home Entertainment, 2006.

30   Ibid.

31   Although not discussed at all during the course of the show, this fact is revealed early on in the comic strip.

32   "A Date With the Health Inspector," *The Boondocks: The Complete First Season*, DVD. Aaron McGruder, Rodney Barnes, 4 December 2005, Sony Pictures Home Entertainment, 2006.

33   Ibid.

34   "The Garden Party."

35   "The S-Word," *The Boondocks: The Complete Second Season*, DVD. Aaron McGruder, Rodney Barnes. 21 January 2008, Sony Pictures Home Entertainment, 2008.

36   Robert "R." Kelly, an R&B star, was on trial in the mid-2000's, charged with having sex with a minor and child

pornography. He was found not guilty on all counts.

37 "The Trial of R. Kelly," *The Boondocks*: *The Complete First Season*, DVD. Aaron McGruder, Rodney Barnes. 13 November 2005, Sony Pictures Home Entertainment, 2006.

38 "The Story of Gangstalicious 2," *The Boondocks: The Complete Second Season,* DVD. Aaron McGruder, Rodney Barnes, 4 February 2008, Sony Pictures Home Entertainment, 2008.

39 "The S-Word."

40 "The Passion of Reverend Ruckus," *The Boondocks: The Complete First Season,* DVD. Aaron McGruder, Rodney Barnes, 19 March 2006, Sony Pictures Home Entertainment, 2006.

41 "The Story of Gangstalicious 2."

42 Smitherman, *Black Talk,* 210-211.

43 "Riley Wuz Here," *The Boondocks: The Complete First Season*, DVD. Aaron McGruder, Rodney Barnes, 19 February 1006, Sony Pictures Home Entertainment, 2006.

44 "The Garden Party."

45 "The S-Word," emphasis added.

46 "The S-Word."

47 Ibid.

48 W.D.B. Du Bois, *The Souls of Black Folk* (New York: Barnes & Noble Classics, 2003).

49 I mean this in a loose sense—the African-American experience varies in countless ways, but, in general, it is different from the "American" experience.

50 "The Uncle Ruckus Reality Show."

51 Ibid.

52 Ibid.

53 Ibid.

54 By "self-hate," I am not referring to Uncle Ruckus hating himself, but rather to Uncle Ruckus hating all Black people while still being part of the Black race.

55 Smitherman, *Black Talk,* 212.

56 "The S-Word."

57 Sha Stimuli, "The N Word Song," Hip-Hop Docktrine 2 (The Saga Continues), 2007.

58 Two good, solid examples would be Nas' song "Ether" when he refers to then-nemesis Jay-Z as "Gay-Z" and his label, Rocafella Records, as "Cockafella Records" and in Juelz Santana's song "Kill Yourself" in which he says, "I'm all back in the game / bringing more crack to the game / so all faggots and lames should kill yourself."

59 Here, "American" refers to the median citizen, so really it refers to a white middle-class point of view as far as the public is concerned.

60 Smitherman, *Black Talk,* 212-213.

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Knowledge, Society, and the State:

Civil Society Participation and Legitimization through Transparency Initiatives in Azerbaijan

Thomas Hernandez

Abstract: This study investigates how "political development" initiatives in the Republic of Azerbaijan restructure representations of the actors involved. In particular, it examines how a body politic lacking agency is transformed by providing civil society leaders a space for political participation. Through interviews with Azerbaijani civil society leaders, textual analysis, and field observations, I specifically consider the discourse of "transparency," or the notion that societies should have free access to state revenue and budgetary information as a means of mitigating corruption. The first section of this article provides a brief political history of modern Azerbaijan and describes the political and social impacts of oil and natural gas export on formal state institutions, along with an associated increase in state corruption. In the second section I explain the theoretical framework of transparency and the formation of a small endogenous civil society organization (CSO) network that employed a broad range of "political development" initiatives meant to mitigate corruption. In the third section I draw upon the interviews of civil society leaders to explain a common Soviet–legacy narrative employed by interviewees. Leaders attribute problems to the social consciousness of both state actors and the body politic, thereby reifying the position of civil society leaders as actors incapable of producing political change. Similar to Ferguson's work on governmentality's "unintended consequences," transparency discourse recreates the common Azerbaijani as lacking political agency, thereby providing civil society leaders a legitimized space for political participation and contestation of the state.

Introduction

> *"Knowledge is of no value unless you put it into practice."* –Anton Chekov

On the 10th floor of a high-rise office building in downtown Baku sits a middle aged-man wearing modest but cleanly Western business attire. This man's name is Mr. Sizad,[1] and he is the director of a public finance monitoring civil society organization (CSO),[2] an Azerbaijani institute charged with weighty responsibilities. The building, Mr. Sizad informs me, is not the one that had all of the "big name" development organizations, but it is a good one nonetheless. In it are dozens of other CSO and international business offices. Our conversation is not long and is interrupted by brief but seemingly important phone calls to Mr. Sizad, one in Russian, another in Azerbaijani, and yet another in English. While on the phone the director sits leaning back in his chair, often gazing out a tall window at a Baku skyline congested with construction and other "development" projects. As I sit waiting for him to return to my questions, my eyes are drawn to a small framed quote hanging on an otherwise barren wall: "Knowledge is of no value unless you put it into practice." Who, I ask the director, puts this knowledge into practice? "We do" the director says, "Our office and others like it!"

I met with Mr. Sizad in the summer of 2010 because he was the director of the organization whose mission is to "monitor and track the budget expenses of the republic of Azerbaijan," an organization funded by exogenous public and private institutions that advocate for greater governmental transparency. I traveled to Azerbaijan interested in "political development" initiatives, measures under the heading of "good governance" that are meant to bring the developing world out of poverty by fixing broken or underdeveloped political institutions. "Good governance" is widely endorsed by international political development experts as an important method in improving society's check on governing institutions by bolstering democratic mechanisms. One key aspect of political development is the promotion of increased state "transparency," the idea that society should have access to information about state activities as a means of holding state leaders accountable. Political development experts claim that the more knowledge a society has about their government, the greater their capability to enact change via formal or informal political mechanisms. This capability is created through participation in activities that include, but are not limited to, participation in democratic elections, canvassing for political candidates, and protesting against incumbents.

Mr. Sizad's comments were fascinating because they suggested a shift in the locus of control away from societal forms of political representation predicated on a faith in majority rule via democratic elections, to the participation of a small, mostly homogenous group of Azerbaijanis citizens who claim to represent the body politic. His remarks also raise the questions of how to analyze political reform

of this sort. In the first 20 years after the collapse of the Soviet system, economic and political scientists dominated the political development discussion, typically focusing on formal changes within the systems of government and social and economic reforms, with the objective of evaluating the speed and viability of democratization in different post-soviet states.[3] These scholars were concerned with the efficacy of political development laws and initiatives, and whether they would effectively mitigate the effects of the "resource curse."[4] But few have used ethnographic analysis of everyday life to examine how transparency theory as a discourse is operative within civil society organizations. Unlike previous research that has asked "is political development working in Post-Soviet spaces?" I instead ask, as James Ferguson does, "what are the unintended consequences of political development initiatives?"

Working from this different perspective, I contend that in Azerbaijan (a) civil society leaders legitimate their actions by constructing the general Azerbaijani population as lacking political agency because of a shared Soviet legacy, and (b) these leaders make the mistake of assuming that access to state budgetary information creates a form of political participation. To explore these claims I consider the small faction of Azerbaijani citizens like Mr. Sizad, who are involved in transparency advocacy through endogenous civil society organizations. These organizations have the explicit purpose of increasing resource contract, revenue, and budgetary transparency of the state. The groups I analyze are all organizations that are staffed primarily by Azerbaijani citizens but receive a majority of their funding from international public and private development institutions.

A Century of Politics and Oil

Mr. Sizad and many of the Azerbaijanis I interviewed reflected the complex socio-historical past of the state, just as the multiple languages they speak or the overlapping histories they draw from do. This history is the context for civil society leaders' perception of the modern day Azerbaijani as lacking political agency, and it helps explain the events informing civil society leaders' collective imagination. One part of this explanation is the feeling of being at the intersection of various forces of history. The republic of Azerbaijan, formed only in 1991 out of the remnants of the Soviet Union, has often been conceptualized by its citizens as a country situated at a spatial and temporal crossroads. Economically, Azerbaijan is currently at the cusp of a shift from command economy stagnation to market economy growth, prompted by an estimated $10 billion in investment over the next five years, much of which will come from the oil and natural gas industries.[5] Socially and politically, area experts often describe the country as being caught between Soviet-style authoritarianism and Western-

promoted democracy. The United States and many European countries view Azerbaijan as an important ally due to its strategic location and its role as a transport corridor between East and West. With Russia to its north, Iran to its south and ethnically related Turkey to its west, regional powers often pander to Azerbaijan because of its geopolitical importance. For many reasons Azerbaijan serves an important role to the world community as a provider of energy resources and an important ally to the West in a volatile region.

For modern day Azerbaijanis, foreign intervention and interest in the region in the past were usually perceived to be instigated by economic motives, which meant state

Map of Middle East highlighting Azerbaijan, courtesy of CIA World Factbook (https://www.cia.gov/library/publications/the-world-factbook/geos/aj.html)

Map of Azerbaijan, courtesy of CIA World Factbook (https://www.cia.gov/library/publications/the-world-factbook/geos/aj.html)

economic decisions were made with deals between business tycoons and state leaders. The modern history of Azerbaijan seems to possess similar themes of foreign intervention prompted by a thirst for oil. For instance, the country's brief period of democratic freedom in the early twentieth century was truncated in part because of Soviet demand for oil. After the collapse of the Russian Empire during World War I, Azerbaijan, Armenia and Georgia formed the Transcaucasian Democratic Federative Republic. When the republic dissolved in 1918, Azerbaijan declared its independence as the Azerbaijan Democratic Republic, making it the first modern parliamentary republic in the Muslim World. Azerbaijanis today often take pride in the short-lived republic, and point to its accomplishments—such as granting universal suffrage to women before the United States or Britain, or establishing Baku State University, the first modern university in the Muslim East—as reason to set Azerbaijan apart from its Muslim neighbors.

It was the young republic's key energy reserves in the Caspian Sea that prompted Soviet Russia to invade Baku in 1920. Vladimir Lenin, the Communist revolutionary leader, said for instance that the invasion was justified because Soviet Russia could not survive without Baku oil. The Soviet experience helped create a new Azerbaijani identity that focused on "modernization" and scientific progress, arguably at the expense of basic political freedoms, culture, and religious freedoms. As a result, large differences exist today between Azerbaijanis who lived in Soviet Azerbaijan and others who lived south of the Araxes River in Iran. Both groups led similar existences before 1921, but by the time Azerbaijan became an independent republic in 1991 millions of Soviet Azerbaijanis had served in the Soviet army, attended Soviet universities, and were discouraged from following the once dominant Shi'a Islamic practice.[6] Political pluralism was discouraged in Azerbaijan, and in 1921 Joseph Stalin, the first General Secretary of the Communist Party of the Soviet Union, abolished all independent political institutions in Azerbaijan's Musavat party. These policies were carried out in the name of economic reconstruction and modernization, with Stalin saying that integration into the Soviet system would end "the overheated atmosphere of national hatred."[7] The Soviets also desired to see Azerbaijan become a progressive Muslim republic, as they closed mosques and created laws banning women's headscarves.

The Soviet Union also indirectly encouraged the growth of the informal economy, the part of trade that is not monitored or taxed by the state. Across post-Soviet spaces the shadow economy and corruption emerged as unofficial networks of relations within the complex hierarchies of the party-state apparatus.[8] In Azerbaijan, the importance of kinship relations served as a response to the Soviet market economy, which may have also encouraged bribery.[9] Political bribery was also common in Soviet Azerbaijan, as Communist Party posts were bought and sold within a web of local obligations.[10]

The political uncertainty created after the Soviet Union's disintegration helps us understand why the current political climate discourages dissenting voices. Political instability started in the late 1980s, when Soviet leader Mikhail Gorbachev's policy of *glasnost* (openness) encouraged opposition to the ruling Azerbaijani Communist Party, the main source of which was the Azerbaijan Popular Front (APF). In October of 1991, the Supreme Council of Azerbaijan adopted a Declaration of Independence that was affirmed by a nationwide referendum in December of 1991 when the Soviet Union was officially dissolved. The primary years of independence were overshadowed by the Nagorno-Karabakh War with Armenia, a conflict that has a current cease-fire but is by no means resolved. By the end of the war in 1994 Azerbaijan had lost 16% of its territory, and one million internally displaced refugees still live in large makeshift communities around Baku. In 1993 the APF leadership was overthrown and former communist KGB official Heydar Aliyev was elected president in an overwhelming landslide victory. Aliyev remained president under the New Azerbaijan Party (*Yeni Azərbaycan Partiyası)* until his death in 2003. Since then, his son Ilham Aliyev has served as president. Up to 2005 the government of Azerbaijan faced a quite vocal and active opposition, which was to some degree spurred by the hope for institutional change in ruling elites after the death of Heydar Aliyev and by the color revolutions in Georgia and Ukraine. The government's suppression of the opposition has meant that little formidable opposition currently exists in Azerbaijan. This could perhaps be why civil society organizations serve as an alternative space for contestation.

Currently, control of the state political system also means strong control of oil and natural gas export—the life-blood of the Azerbaijani economy. After gaining independence Azerbaijan began attracting much needed foreign investment to support the development of its oil and gas industries. The first contract was signed in 1994 by SOCAR, the state oil company of Azerbaijan. The contract began the development of the *Azeri-Chirag-Guneshli* (ACG) and deep-water *Gunashli* oilfields in the Caspian Sea, and is referred to in Azerbaijan as the "Contract of the Century" because its potential reserves are estimated to spur huge economic growth. However, foreign direct investments from American and other European companies meant the oil sector in the newly created state began to reemerge before any democratic institutions capable of providing for transparency and accountability of the decision-making process had taken root. It seems then that in a political,

economic, and cultural sense Azerbaijan is still impacted by its Soviet legacy. Prominent Soviet Azerbaijanis such as Nariman Narimonov (Nəriman Kərbəlayi Nərimanov) and Meshadi Azizbekov (Məşədi Əzizbəyov) are commemorated in statues, parks, and town names.

Narimonov Statue in Baku. Picture courtesy of Thomas Hernandez

So as to manage the expected increase in energy revenues, The State Oil Fund of Azerbaijan (SOFAZ) was created in 1999 to ensure the "intergenerational distribution of wealth regarding oil funds,"[11] which controls the revenues from SOCAR and maintains all state collected royalties from multinational oil companies operating in Azerbaijan. It was not until 2006 though, when the Baku-Tbilisi-Ceyhan (BTC) pipeline was officially opened, that Azerbaijan began transporting sizeable quantities of crude oil, approximately 1 million barrels from the ACG to European markets. For the 2010 fiscal year, SOFAZ reported earnings of approximately $1.6 billion, a large sum for a state whose 2010 gross domestic product estimate was approximately $52 billion.

Corruption and the State

We should not be too surprised that unchallenged political control of economic wealth from a single source could encourage state corruption. Political development scholars have for years written about a related concept known as the "resource curse," the idea that developing states who export large amounts of natural resources often perform worse economically and socially than their non-resource rich counterparts.[12] As in Venezuela, Iran, or Nigeria, state control and reliance on energy revenues in developing states have often promoted increased informal uses of state funds.[13] It was the abundance of evidence indi-

cating this trend that served as one of the earliest questions that motivated my interest in Azerbaijan. Since the state relies heavily on energy exports as a form of revenue, will the same "resource curse" develop there as well?

Answering this question empirically is problematic because corruption perception indices are created *by* civil society organizations, *for* civil society organizations, to legitimize the need for civil society interventions. First, given the secretive nature of acts defined as corruption, it is very difficult to reliably measure the number or scope of corrupt state actions. As such, most comparative figures instead focus on quantifying the perception of corruption, not the direct action. Reports by development experts ask for local civil society leaders to answer questions, such as how many times they are required to pay bribes, to quantify the perception of corruption. These perceptions are therefore not only secondary measures of corruption, but are taken from a small sample of participants who have a vested interest in proving the pervasiveness of state corruption. The second challenge to quantifying corruption is that doing so is imbued with end goals influenced by its intended use. As De Maria says, these indices often serve the market, as transnational corporations need a way to assess the risk of potential foreign direct investment projects, and many political economists are concerned with how increased corruption correlates with decreased economic growth.[14] As such, transparency perception indices do not consider corruption as a hindrance to the state/society relationship, but as an obstruction to a market-oriented business environment. Despite these two concerns, the most widely cited measure by academics, state institutions, and businesses is the annual Corruption Perception Index (CPI) produced by the transnational CSO Transparency International. This yearly empirical index currently ranks 178 states drawn from 13 surveys and assessments published in each state. Azerbaijan, as indicated by Table 1, has steadily ranked in the lowest quartile of indexed states. However the CPI's importance to us is not that it proves the existence of corruption in Azerbaijan, but that it aids in the construction of Azerbaijan as a corrupt state. Proving the perception of high corruption therefore sets Azerbaijan as an entity that must be intervened upon via "political development" initiatives.

Instead of focusing on how corruption is measured by civil society leaders, I am instead interested in how knowledge of corruption is operative in the social consciousness of Azerbaijanis. After thinking about this, I was in the city approximately one hour before hearing one of the most notorious state corruption stories. After I remarked how impressive the highways were, my taxi driver retorted, *"This is not a highway. This is a crime scene!"* When I inquired what he meant, the driver told me the story of a modern-day highway robbery. In 2008, the Azerbaijani state government

Year	Rank	Total number of surveyed countries	Score from 0 (very poor) 10 excellent
2000	87	90	1.5
2001	84	91	2
2002	95	102	2
2003	124	133	1.8
2004	140	146	1.9
2005	137	159	2.2
2006	130	163	2.4
2007	148	179	2.1
2008	159	180	1.9
2009	143	180	2.3

TABLE 1: Corruption Perception Index, courtesy of Transparency International (transparency.org)

decided to upgrade the Azuzbekov highway connecting the airport to the capital city of Baku, despite having just finished a similar project a few years prior. For the highway project, the State Transportation Ministry earmarked $315 million for a road that stretched a mere 14 kilometers. That put the price tag at a dubious $23 million per kilometer, well over the price of what similar highway projects cost. Many millions of dollars of the expenditures are widely believed to have been siphoned off by politicians and construction tycoons. The airport highway has become known in Baku as the "golden highway" since people say that one could pave the road with gold and it would cost less!

The airport highway is by no means the only symbolic physical reminder of state corruption fueled by the energy industry. Just as the airport highway served as a symbol of corruption and state inefficiency to the taxi driver, so do many state projects represent state corruption in the consciousness of modern-day Azerbaijanis. Predatory rent seeking, weak state institutional capacity, and a lack of transparent oversight are believed by Azerbaijani citizens to be caused or at least propagated by windfall state profits from oil and gas sector revenues.[15] Many citizens will speak of innumerable construction projects in Baku alone as providing an easy means for the leadership to inflate line items and pocket the excess. But it is not only citizens who understand and talk about the level of state corruption in Azerbaijan. Large transnational CSOs, foreign governments, and even businesses note that state corruption is something to be fixed, to be mitigated through technical solutions and structural adjustments to Azerbaijan's political and legal apparatus. These technical solutions are the focus of the next section.

Transparency in Azerbaijan

We know the highway's cost because of new access to information laws in Azerbaijan. Access to information laws and initiatives are part of what James Ferguson calls, the "conceptual apparatus," the official thinking and planning involved in development studies. In this section I will explain the conceptual apparatus idealized by transparency discourse. Governmental transparency, or reliable public access to information about state activities, is widely accepted by international development experts as an important method to improve society's check on governing institutions. Governmental development agencies note that transparency is essential to good governance. It is inherent in the notion that governments should be "participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law."[16]

Wanting to be prescriptive rather than simply analytic, development policy experts have proposed policy measures to correct such effects. For instance, political development researcher Ann Florini responds to the phenomenon of increased corruption by saying that greater transparency, or public access to information about state resource revenues, will help address many of the resource curse problems and improve governance. In her view, transparency is in demand because it allows citizens to enjoy a wider array of basic rights by increasing their capacity to make informed political decisions. Florini considers the theoretical shift in decision-making power by saying:

> Transparency is on the rise, touted as the solution to such disparate problems as financial volatility, environmental degradation, money laundering, and corruption. But transparency faces much opposition, particularly from those under scrutiny. Such actors often have strong incentives to avoid providing information. To explain the growing demand for transparency and to assess its prospects for success requires attention to matters of politics—that is, power. Power is often needed to induce disclosures or restructure incentives. And the information thus revealed can shift power from the former holders of secrets to the newly informed.[17]

Florini goes on to say that greater transparency permits citizens to hold institutions accountable for their policies and performance, thereby diffusing the state's monopoly on power. Similarly other scholars such as Joseph Stiglitz believe that a citizenry with a greater capacity to make informed decisions will improve governance by allowing citizens to build support for public leaders, improve decision making abilities, and help deter corruption.[18] For the proponents of this model, good governance can be achieved in part through the successful implementation of transparency mechanisms.

In Azerbaijan, transparency efforts have been a source of pride for the state government and multinational oil companies.[19] To say that it is a hot topic within Azerbaijani political and business circles would be an understatement, and in this connection the most publicized effort has been the internationally accessible Extractive Industries Transparency Initiative (EITI), which was launched in 2002 by the former United Kingdom Prime Minister, Tony Blair. The EITI is a voluntary initiative that aims to increase the transparency of natural resource revenues by developing standardized reporting requirements for companies and governments.[20] The Azerbaijani government was one of the first in the world to enact the initiative. Indeed the Cabinet of Ministers formed The National EITI Committee in 2003, making Azerbaijan the first-ever ratified member. The EITI principles—the cornerstone of the initiative— state "that a public understanding of government revenues and expenditure will help public debate and inform choice of appropriate and realistic options for sustainable development."[21] The formation of the EITI initiative was historically an important landmark, as it also encouraged the growth of a more robust formal civil society sector. It was out of the EITI initiative that the first CSO coalition formed, and the subsequent founding of the organizations examined in this article.

Going beyond the pragmatic arguments for transparency found in the EITI, proponents of transparency make tacit moral claims about what an ideal society should look like. This article will show that transparency theory implies the existence of a certain type of society, namely one with a politically active citizenry, a robust civil society, and high trust in the public sector. The discourse of international transparency initiatives works under the development framework of "capacity building," based on the work of the Nobel prize winning sociologist and development scholar Amaryta Sen. In his model, development as an ideology should focus not on aid alone, but on increasing the capability of individuals so that they may seek out things like nourishment, literacy, or good health for themselves. This process occurs, according to Sen, through increasing a person's "entitlements," or set of commodities that a person can command in a society using the totality of rights and opportunities. Entitlements can include access to transportation facilities, public health services, or adroitly functioning democratic apparatuses.

While Sen did not specifically address transparency initiatives as an entitlement, political development policy makers have borrowed capacity building language. They note Sen's inclusion of "functioning democratic apparatuses" as the reason resource transparency acts as an entitlement. Luis Bresser for instance writes that if citizens of resource rich states are given knowledge about revenue expenditures, then "they will have the capacity to act in

an informed way which is favorable to their situation."[22] If the government does not behave according to the terms set by the voters, in principle it can be replaced through an election.[23] Within this model, accountability does not work properly when information is scarce; therefore greater transparency is presumed to lead to a greater ability for citizens to make informed political decisions.

Approximately four years have passed since the implementation of EITI in Azerbaijan, so we should perhaps see signs that it is working. But a great deal of evidence points to the continuation of the status quo.

In addition to the EITI, the Azerbaijani Parliament passed the Freedom of Information Act in 2005. The act constitutionally ensured the public's right to obtain information on state activities including budgetary information. However there are also serious gaps between the guarantees of the Act and its implementation. The Authorized Agency on Information Matters or Information Ombudsman envisioned by the act has not been set up, nor has the single electronic registry of documents available on the Internet been created. No systematic and comprehensive training for those civil servants required to respond to requests for information has been provided, and there have been no instances of public civil servants being held accountable for failure to comply with the requirements of the aforementioned law. However state ministries have improved their performance in replying to queries and, as a result, the rate of responses to information queries is in the range of 25-30% for the general public and 70-75% for civil society organizations.[24] A number of government agencies have also enhanced their websites and set up information hotlines, speeding up the process of obtaining information.

Additionally, societal acceptance of democratic mechanisms, such as voting rights, and the effectiveness of protesting that greater transparency is intended to bolster have not yet materialized. Annual survey data from the Caucasus Research Resource Center's[25] 2009 survey of approximately 1700 Azerbaijanis found that when respondents were asked if protesting was an effective tool in enacting change, only 35.5% of respondents answered "yes." Also, when asked if their vote in national elections "makes a difference," only 9.1% responded "yes." While there are clearly a number of factors that influence responses, it seems that despite the adoption of landmark transparency legislation Azerbaijani citizens have not begun to trust democracy as a way to enact change.

Along with continued corruption and society's distrust of democratic mechanisms, an interesting paradox presents itself from the CRRC's survey data. When asked for the most important issue facing their country, 20.8% of respondents said "corruption."[26] Yet interestingly, respondents report trust of the state bodies that control resource revenues,

	Parliament	Executive	President
1: Fully Distrust	14.4%	13.2	3.9
	259	237	74
2	11.2	9.9	2.8
	201	177	54
3	22.8	23	6.1
	409	412	115
4	34.7	33.7	20.4
	623	604	387
5: Fully Trust	17	20.2	66.8
	306	363	1,269
	100	*100*	*100*
	N=1798	*1,794*	*1,899*

TABLE 2: 2008 Public Trust in Azerbaijani Government Branches, courtesy of Caucasus Research Resource Center (crrc.az)

the very bodies that Western governments and civil society groups blame for being the primary beneficiaries in corrupt acts. The parliament, the judiciary, and the executive branches all have high levels of approval from respondents, as indicated in Table 2. Most notably, President Aliyev received high levels of trust from respondents even though he is described by many as the one who benefits most from resource revenue rentierism.

The juxtaposition of these two facts presents a seeming contradiction because it demonstrates that many citizens recognize that corruption is a problem in Azerbaijan, but there are still many who are supportive of the ruling government. While it is not the goal of this paper to explain this phenomenon, it presents an interesting difficulty for transparency advocates. Even if society has knowledge of, and access to information about the state budget, they may still be reluctant to challenge the state apparatus they believe to be responsible for state corruption.

CSO Profiles

Unlike other anthropological analyses of "development"[27] which focus on the subjects to be developed (typically grouped as "the poor") I focus on the ideas and understandings of the groups doing the developing, or CSO organizations and their leadership. This group is a small pocket of Azerbaijani citizens who are involved in "political development" through transparency advocacy. These are individuals who work for endogenous civil society organizations with the explicit purpose of increasing resource contract, revenue, and budgetary transparency. I have chosen to analyze interview data from this group because they claim to represent the mediators between society, state institutions, and the private sector. While both the SOFAZ and locally operating transnational oil companies such as BP and Statoil are involved in transpar-

ency efforts, seeking out their perspective proved difficult and ultimately unhelpful to the larger project of explaining the constructive nature of transparency implementation. Actors within state institutions have a vested interest in blocking access to information, and transnational oil companies, typically cited "state sovereignty" as the reason for their non-interventionist approach in enhancing "political development" of any sort.

The following table lists the organizations and mission statements of the groups analyzed in this study. The statements were obtained from the organizations' printed publications and websites.

Organization Name	Mission Statement	Year Established
Public Financing Monitoring Center	"Promote the effective and sustainable civic engagement in all levels of public administration and thus more citizens' access to the related information through building favorable interactions between the government and civil society."[1]	2003
Revenue Watch Institute - Azerbaijan	"Promote the responsible management of oil, gas and mineral resources for the public good. With effective revenue management, citizen engagement and increased transparency, natural resource wealth can drive development and national growth."[2]	2004
International Budget Group	"To ensure that government budgets are more responsive to the needs of poor and low-income people in society and, accordingly, to make budget systems more transparent and accountable to the public."[3]	2006
National Budget Group	"To ensure public participation in state budgeting and transparency in the use of budgetary funds, to seek spending of the state budget (public funds as a whole) in compliance with the interests of the Azerbaijan people"[4]	2006
Economic Research Center	"Dedicated to strengthening participatory governance and overall economic growth. ERC mission is to nurture the economic growth and improved administration practices throughout the country, especially in areas of participatory democracy amplifying the voices and opinions of lower government tiers and ordinary people."[5]	2007
Center for Economic and Political Research	"Promote research and analysis into domestic economic and social issues for the purpose to positively influence the public policy decision-making processes. The Center is a leading Azerbaijani think tank specializing in economic and social policy issues working with and establishing a bridge between the government and the various representatives of civil society."[6]	2005

TABLE 3: CSO Organization Mission Statements (various sources)

The civil society organizations analyzed in this study mirrored the theoretical discourse of transparency outlined above, emphasizing the importance of budgetary knowledge as enhancing the "society" and the "state," through the enhancement of "participatory democracy" and "citizen engagement." The organizations reviewed are all young, formed after the establishment of the EITI initiative six years ago. It is important to note that each group was founded by and is usually receiving primary funding from external sources such as the United States Agency for International Development (USAID), the World Bank, external embassies such as the Norwegian Embassy, and transnational CSOs such as The Soros Foundation. Keeping in mind the influence such fund-

ing relations create, I contend that while endogenous civil society groups share roughly similar mission statements, they differ from their donors' missions of an ideal democratic society in the sense that they see themselves as experts speaking on behalf of the society.

Twelve interviews were conducted from June 14, 2010-July 8, 2010, in the capital city of Baku. All took place during work hours in the offices of these organizations, which had been named by EITI to serve as the civil society monitoring section of the initiative. Interviewees ranged in age from 23 to 64, included 3 women and 9 men. A total of 10 interviews were conducted in English and 2 were translated from Russian. Almost all interviewees have worked or studied in Europe or North America within the last 15 years. Interviewees had a variety of work and education experiences, including teaching at state universities, working in the state oil ministry as top officials, leading opposition parties, or attending college abroad. While personal experiences varied greatly among the interviewee pool, they were similar in that each interviewee had achieved a postsecondary education degree or higher (often in a European or North American university), had a modest but comfortable salary, and had access to international social networks through a supporting exogenous institution. The study design, informed consent, and confidentiality procedures were approved by institutional review boards at Washington University in St. Louis on May 26, 2010.

Construction of the "Sovietization of the Mind"

Civil society organization interviewees, while espousing the benefits and impact of transparency as outlined in the previous section, employed an explanatory framework that seemed to contradict the viability of transparency's ability to bring about change. Specifically civil society leaders defined the "greater society" as a single and non-differentiated entity that is incapable of utilizing increased state budgetary knowledge on their own. Interview data taken from the summer of 2010 was used to (a) analyze CSO leaders' understanding of transparency and good governance (b) explain the relationship between CSO leaders and government officials and (c) collect CSO leaders' perceptions of the viability of transparency initiatives in Azerbaijan. All interviewees were asked the same set of general questions, followed by a series of specific questions tailored to their organizations. The follow-up questions were meant to clarify the goals of organization-specific programs and initiatives. The general interview questions were as follows:

1. What stakeholders benefit from transparency initiatives, in theory and in practice?

2. What are the short- and long-term goals of transparency initiative endorsers, and what is be-

ing done to reach these goals?

3. How do CSO local leaders interact with government officials?

4. What problems does your organization face in achieving its mission and goals?

5. Do you think Azerbaijan is headed in the right direction?

Mirroring the rhetoric of each organization's mission statements, respondents answered questions 1 and 2 by pointing to the greater Azerbaijani "society" that benefits from transparency initiatives. However Azerbaijani "society" was constructed by interviewees as a holistic non-stratified whole, obscuring gender, class, and political power relations as subcategories that may benefit from greater budgetary knowledge. It is not within the purview of this paper to explain the process of constructing society as a unified whole, but this finding nonetheless indicates that transparency initiatives are taken to apply to Azerbaijani society as a singular entity. For instance, when I asked one of the younger male interviewees if transparency initiatives helped a group within Azerbaijani society more than others, he responded by saying:

> No, no *every* Azerbaijani without class will benefit from EITI. Nobody will benefit more because everybody will have one vote. If there are many poor villagers in Sheki [Azerbaijani province] then they will elect new leaders to better the economic situation. Transparency makes it so every person can participate. People just need to believe that the budget is for them not for Aliyev [the president].

With these comments we see that the interviewee indicates that greater budgetary transparency will help "every Azerbaijani" with no mention of who will actually carry out this plan. These views were further reflected in the mission statements found on the organizations' websites and in printed literature that are typically given to donors and scholars.

Question 3 yielded the most unified response from interviewees, in that their interactions with government leaders primarily occur through the budget review process. Answers to this question also revealed that opposition leaders were more inclined to openly participate and support their efforts and initiatives. One interviewee noted that if a majority YAP parliamentarian was seen with one of his organization's documents, the parliamentarian would be accused by other YAP politicians of conspiring with the opposition. A few opposition parties collaborate with the CSOs. Because the opposition parties, such as the Equality Party (*Müsavat Partiyası*) or the Azerbaijan Popular Front Party (*Azərbaycan Xalq Cəbhəsi Partiyası)*, are smaller and lack revenue, these politicians use CSO reports to criticize YAP policy decisions.

While questions 1 through 3 were important in understanding the explicit motives of civil society organizations and showed how they constructed Azerbaijani society as a unified whole, Questions 4 and 5 are of primary interest to this article. Interviewee responses about the challenges that transparency efforts face and about the general direction of the country shared a general frustration with the "minds" of Azerbaijani citizens and government leaders. They expressed a frustration that problematizes public consciousness in such a way that "society" is viewed as incapable of using budgetary information to enhance a participatory voice. As Mr. Sizad reminded himself in a quote noted earlier, knowledge is of no use when left in the hands of a disinterested public. One way to conceptualize this is through what is termed by CSO leaders as a "Sovietization of the mind"[28] and the effects that the collapse of the Soviet Union had on the population's trust in government institutions. While by no means the only explanatory mechanism, this phrase was used often by interviewees and more generally refers to the adoption of a way of life and mentality that emerged in the Soviet Union era. Attributes of the "Sovietization of the mind" include distrust of government, lack of ownership of government budgets, a residual culture of fear and silence, and a general depression. The interview data I provide will help explain how civil society leaders construct the Azerbaijani public as possessing all of those attributes.

Civil society group interviewees pointed to the "Sovietization" of the public sector, which has led to a general distrust among citizens of each other and the government as a reason for the irrelevance of transparency initiatives in Azerbaijan. One woman interviewee in her mid-thirties said, "a lot of our obstacles, why we have such problems on the free market, is because of Soviet values. Not just in our country, but in other Post-Soviet countries." She explained that there are common problems related to a distinctly "Soviet mind" that still exists. Another organization member noted that this mindset exists by saying:

> People cannot see the correlation between their actions and change; they cannot see that they have to be active in order for there to be change. Citizens are not really interested [in government], but the CSO sector and the opposition is interested. Even though the CSO and opposition are not powerful, they are still interested.

Thus one of the primary distinctions CSO interviewees made was between an impartial public and a more interested and enlightened CSO sector. The interviewees implicitly assume that citizens are not aware of their rights and thus will never be able to enact "change." Later in the interview, the individual noted that Azerbaijanis were left with a residue of distrust of one another from the Soviet era. This takes the form of a culture of fear and self-censorship by media outlets and citizens. While not all interviewees expressed concern over their own safety, one interviewee when asked whether his personal safety was compromised by his work said, "It's not that easy to live here; they kept that old KGB[29] system that keeps us wondering." Interviewees also cited mechanisms that keep citizens afraid to speak about, or report on, contentious political issues. Several interviewees explained cases where citizens organizing protests were arrested on supposed drug possession charges or for "public indecency." For instance, a lot of attention was given by local and international media to the conviction of two young bloggers for "public indecency." The bloggers have received so much attention because they were also writing anti-government sentiments, and it is alleged by CSO interviewees that the indecency charge was spurious. The case of the two young men was mentioned several times by interviewees as one of many examples of intimidation and use of political power to silence dissenting voices. Respondents described intimidation tactics as a challenge to perceived political agency, which also contributes to the general public's lack of political protest. A respondent noted that "Azerbaijanis are not willing to fight for their rights; they give up easily." As such, there is little perceived activism even on issues that people have strong opinions about. Several respondents explained that the existence of an "I don't care" attitude towards bribery and corruption meant even with access to information, little action against corrupt state actors would come about.

The interviewees who had interacted with community members through CSO initiated programs noted that a concept of citizen ownership of state funds does not yet exist and is only promoted by SOFAZ's distant relation to public revenues. One of the interviewees said:

> The most common thing I hear from citizens is, "I'm not paying anything to the budget, it's all in oil revenues. Therefore I don't need to care about it." This is a great problem because of an absence of feeling ownership of resources which makes it hard for people to care.

Indeed a common feature of resource rich states during periods of great export is comparatively low taxes.[30] While this may mean the state can provide services without excising taxes, interviewees explained that one consequence of this approach is the belief that the state budget is not publicly owned or litigated. Similarly other interviewees explained the many other daily worries the vast majority of Azerbaijanis face in regards to employment, education and healthcare. Interviewees described concerns tied to the immediate wellbeing of citizens as reasons for an overall disinterest in budgetary particularities. One older interviewee who had formerly taught in a state university said, "It is a luxury to care about such things here."

Last, many interviewees highlighted the traumatic nature that the post-Soviet experience had on them and their families. One interviewee explained that the older generation of Azerbaijanis experienced an "invisible depression" derived from seeing one system collapse and another created, followed by an increasingly distant young generation that looks beyond what they were able to imagine as citizens of the Soviet era. Furthermore, after the collapse of the Soviet Union, many people lost all of their life savings. This happened because many of the banks in which they had placed their savings were shut down in the span of a few days. One interviewee explained that this was the reason why "people's minds are not rendered towards a market economy." As such, the new system of democratic participation calls on people to go well beyond what they understand and believe.

The interviewees described Sovietization as a prevalent way of thinking about the state government. In the Center for Economic and Political Research's latest policy recommendations guide, the document's authors assert that the primary problem the state faces is the remnants of a Soviet mentality, in that a large gap and a weak relationship exist between authorities and citizens. The Soviet mentality includes no formal dialogue mechanisms or accountability systems between government officials and citizens. The document states:

> The [aforementioned problems] are a continuation of the Soviet tradition of alienating the government from the people combined with the well-known inclination to authoritarianism typical for countries with oriental and Islamic mentality. The government pyramid in Azerbaijan is upside down.[31]

Additionally, the report noted problems of protectionism and nepotism, noting:

> The nomenklatura system,[32] which was affected by protectionism, group interests and nepotism in Soviet times, was destroyed following the collapse of the Communist Party. However, the sources moved to the new apparatus of public administration and became quite widespread. [33]

Hence civil society groups in Azerbaijan express a need for transparency not simply for the purpose of connecting citizens to their governments, but as a way of holding politicians accountable in a way not allowed during the Soviet era. Some groups responded to this challenge through specific projects aimed at increasing civic participation or measuring success through engagement with state ministers. These are usually described as "de-Sovietization" efforts and suggest that respondents do not currently view the capacity building framework as viable in their country. De-Sovietization efforts included specific programs and initiatives that each organization implemented as a means of increasing the effectiveness of transparency initiatives. These included things

such as the Open Society Institute's "Civic Responsibility Network," an initiative meant to increase civic participation and by training local CSO groups how to request state agency information and how to involve local people in their decision-making processes. When asked about the successes and challenges the program faced, one interviewee said:

> So far 46 CSOs have been trained, who mostly work in the regions. We are very happy about that. In one case there was no drinking water in a village, and an investigation showed that there was equipment purchased but it was not working. So they got the Minister of Ecology and Minister of Finance involved and solved this problem. To answer your question about challenges, the national budget is a very sensitive topic, more so than human rights, than democracy. The people feel pressure from the government not to ask questions, so it is hard to engage with them.

The CRN was created by The Open Society Institute to address a technical problem (local CSOs' lack of knowledge about performing agency inquiries), to involve an otherwise voiceless public, and to hold ministers accountable. Yet the interviewee claimed that because public mentality has been so affected by Sovietization, they are still reluctant to participate in CSO efforts because of perceived state pressure. The existence of all these efforts to increase civic engagement suggests that transparency initiatives will not be effective when there is a disinterested or cautious public.

In general, I find that civil society members' explanations of the "Sovietization of the mind" provide a useful umbrella for their understanding of the negative factors that cause a lack of perceived political agency. Transparency theory typically assumes that if citizens are given knowledge of where money is being spent, they will have the capacity and motivation to act against politicians who work against their interests. The interview and textual data I have presented, however, suggest that CSO leaders in Azerbaijan contend that for capacity to be built there must be cognitive relevance for the entitlement, which to them is not fully present. As such, the theory of civil society being the arbiter between the state and society is called into question, and among other things, this promotes their own importance as representatives of Azerbaijani society.

Lastly, interviewees indicated that the inclusion of CSO leaders in the state budget making process via accountability mechanisms found in the EITI and Access to Information Laws reinforces the notion that they are the representatives of the greater society. These accountability mechanisms—which require the state budget office to hold bi-annual consultation meetings with civil society leaders and the office of accountability to honor budget information requests—legitimate civil society leaders' participation

in the budget decision process. These laws create spaces for civil society groups to have access to budgetary information, criticize unfavorable policies, and request changes in budget allocations. Inclusion of non-political organizations in the political budget making process thus may serve not to create a stronger state/society relationship, as the transparency theory supposes, but to establish a new mechanism of participation for civil society leaders. In Azerbaijan, this may be done by the inclusion of critical elements of civil society in the budget review process.

The Unintended Consequences of Development

If CSO leaders construct the general society as incapable of turning knowledge into action, then for whom is Mr. Sizad's quote useful? Some insight into this question can be derived from returning to the conceptual framework of James Ferguson, who explains that even "failed" development projects can bring about important structural changes.[34] The construction of Azerbaijani citizens as having mental inclinations that make them unlikely to participate in democracy is part of the picture in the case, and this has effects on initiatives that CSOs implement. Using Michel Foucault's concepts of "governmentality" and "knowledge/power"—taken as the organized practices (mentalities, rationalities, and techniques) through which subjects are governed[35] --Ferguson's analysis of planned technical development interventions suggests the likelihood of unintended outcomes that end up "incorporated into constellations of control (authorless strategies in Foucault's sense) that turn out in the end to have a kind of political intelligibility."[36] In Azerbaijan the construction of citizens as apathetic, afraid, or unable to use budgetary knowledge imparts this form of knowledge/power.

As such it may be nobody's explicit intent to take away the participatory power of citizens in Azerbaijan (in fact CSOs claim to do just the opposite), but civil society organizations can help reify this authorless strategy by reaffirming the belief in the lack of political agency on the part of citizens. Those putting knowledge into practice are not then, as transparency theory supposes, the larger society making "proper" use of democratic mechanisms, but a small and educated sector of society whose careers it is to represent society's interests. It may therefore not be just a coercive state but the shared belief that citizens lack agency, which prevents the use of budgetary information as a tool for direct action. Transparency discourse therefore creates a legitimized space for participatory contestation of the state's activities, but contestation is understood to be in the domain of CSOs.

The findings I have reported are consistent with those who have questioned the efficacy of transparency as a state/

society-enhancing tool. Ben Worthy for instance indicated that increases in state budgetary knowledge may not lead to greater trust on a societal level. Worthy found that even in the United Kingdom, a state that, compared to Azerbaijan, has much less perceived state corruption, the enactment of transparency laws did not produce greater political participation.[37] Worthy however stops short at explaining what transparency mechanisms do if they do not fulfill their intended effect. I suggest in this study that one such effect is to reinforce the assumption that it is up to CSOs, not the public, to watch state activities.

Finally, it is worth noting that the construction of the "Sovietization of the mind" to explain the weakness of the state/society relationship is not limited to CSO leaders in Azerbaijan. The prominent Russian writer Alexander Zinoyev notes, for example, two common features of "Sovietization," which are indifference to common property and petty theft from the workplace and obedience or passive acceptance of everything that government imposes on them. An abundance of post-Soviet research in the social sciences has tried to explain the "weakness" of civil society in post-Soviet spaces in terms of a shared Soviet legacy.[38] Whether or not the effects of "Sovietization" are real, future scholars should consider not only why civil society is relatively weak in post-Soviet spaces, but also how this explanation might further perpetuate the "Sovietization of the mind" narrative for governments and development policy makers.

Conclusions

Even though this work does not seek to explain the "resource curse" or prescriptive measures that could mitigate its effects in Azerbaijan, it does provide an understanding of the way in which locally operating civil society groups imagine problems in ways that view the everyday Azerbaijani as incapable of producing political change. Interview responses suggest that the concept of "good governance" can be embraced by civil society groups in theory but can be implemented via unforeseen pathways. In theory greater access to information via the EITI and Access to Information Act would mean greater ability for large-scale public mobilization. In practice, it seems that the people who utilize these new transparency mechanisms are a small, Western educated group of intellectuals who have found a way for their organizations to plug in to the political system. While there are social, institutional, and economic explanations for the challenges to transparency or the mismanagement of resource revenues, the way in which civil society leaders explain this failure is in the context of a socio-historical narrative linked to Sovietization, which is important to understand, for it influences their policy decisions.

This study treats "society" as an undifferentiated unit because it is the way both transparency theory and CSO

leaders define it. However further work should nuance the differences gender, sexuality, socioeconomic status, class, or place of residence plays in the implementation and viability of access to information initiatives. While this study is not the only mechanism that shapes policy, or is an independent explanatory model, the narrative created by CSO leaders must be included in any discussion about the unforeseen impacts of transparency initiatives.

Mr. Sizad's comment symbolizes a deviation from the theory of political development, but shows how its implementation is still operational in changing the imagined realities of the state/society relationship. In this article I have investigated how the implementation of "political development" initiatives in the Republic of Azerbaijan restructures representations of the subject to be developed, by conceptualizing the body politic as lacking agency and by providing civil society leaders a space for political participation. As Ferguson says, even "failed" development projects can lead to real structural changes in the state.[39] In the case of transparency initiatives in Azerbaijan, those real changes have significant impacts. First, access to state budgetary information creates a form of participatory political power for civil society leaders. Second, civil society leaders construct society as lacking the capacity to affect the types of political change these leaders would like to see.

1   The name Mr. Sizad is a pseudonym, as all interviews were conducted anonymously. "*Siz ad*" means "without name" in Azerbaijani.

2   CSOs are also considered by other scholars as non-governmental organizations (NGOs). I specifically choose instead to use the term "civil society organization" because of the attention civil society has been given in post-Soviet spaces; see Marc Morje Howard, *The Weakness of Civil Society in Post-Communist Europe* (Cambridge: Cambridge University Press, 2003). Civil society is taken to be forms of voluntary and social organizations that are outside the structures of state institutions and commercial institutions of the market.

3   Larry Jay Diamond, *Developing Democracy: Toward Consolidation* (Baltimore: Johns Hopkins University Press, 1999); Jon Elster, *The Roundtable Talks and the Breakdown of Communism* (Chicago: University of Chicago Press, 1996); Mary Kaldor and Ivan Vejvoda, *Democratization in Central and Eastern Europe* (London: Pinter, 1999).

4   The "resource curse" is a term given to countries with an abundance of natural resources that tend to have less economic growth and worse development outcomes than countries with fewer natural resources.

5   Michael Warner and Rory Sullivan, *Putting Partnerships to Work: Strategic Alliances for Development between Government, the Private Sector and Civil Society* (Sheffield, UK: Greenleaf Publishing, 2004), 99.

6   Thomas De Wall, *The Caucasus: An Introduction* (Oxford: Oxford University Press, 2010), 74.

7   Ibid., 133.

8   R. Mrowczynski, "Administrative Hierarchies and Networks in the Soviet Union," *Osteuropa* 55, no. 10 (2005): 210.

9   Ibid., 220.

10   Ibid., 221.

11   State Oil Fund of Azerbaijan, http://www.oilfund.az/en. (accessed January 1, 2011).

12   James A. Robinson, "Political Foundations of the Resource Curse," *Journal of Development Economics* 79, no. 2 (2006): 447.

13   Terry Lynn Karl, *The Paradox of Plenty: Oil Booms and Petro-States* (Berkeley: University of California Press, 1997), iv.

14   William De Maria, "Why Is the President of Malawi So Angry? Towards an Ethnography of Corruption," *Culture and Organization* 16, no. 2 (2010): 145.

15   "Predatory rent seeking" occurs when an individual, organization or firm seeks to earn income by capturing economic rent through manipulation or exploitation of the economic or political environment. An example would be a construction firm paying a bribe in order to receive a large government contract. "Weak state institutional capacity" refers to the state's inability to effectively allocate resources. "Lack of transparent oversight" refers to the absence of clear or reliable mechanisms that provide information on state activities, including spending. Some say that the state has an increased incentive to keep spending information secret because it wants to monopolize the large sums of revenue it controls.

16   James Ferguson, *The Anti-Politics Machine: "Development," Depoliticization, and Bureaucratic Power in Lesotho* (Cambridge: Cambridge University Press, 1990).

17   Ann Florini, ed., T*he Right to Know: Transparency for an Open World* (New York: Columbia University Press, 2007), 1.

18   Joseph E. Stiglitz, Foreword to *The Right to Know: Transparency for an Open World*, by Ann Florini, ed. (New York: Columbia University Press, 2007), vi.

19   Much to the chagrin of civil society organizations, the State Oil Fund of Azerbaijan won the United Nation's 2007 Public Service Award, for Improving Transparency, Accountability and Responsiveness in Public Service. Watchdog groups say this exemplary status has meant that government officials respond to their concerns by reminding them that the state received the award, which serves as proof of the successful implementation of transparency initiatives.

20   Specifically, it requires SOFAZ and multinational oil companies working in Azerbaijan to report revenues on a bi-annual basis. An external auditor then compares SOFAZ's reported revenues, with all of the oil companies' reported payments, in hopes that the two numbers will be equal.

21   EITI Extractive Industries Transparency Initiative, "The EITI Principles and Criteria." Web. http://eiti.org/eiti/principles.

22   Pereira Bresser, Luiz Carlos, Jose Maravall, and Adam Przeworski, "Economic Reforms in New Democracies: A Social Democratic Approach," in *Latin American Political Economy in the Age of Neoliberal Reform: Theoretical and Comparative Perspectives for the 1990s* (Coral Gables, FL: North-South Center, University of Miami, 1994), 181.

23   This notion comes from traditional American social scientists such as Kesselmen, who regard political order as dependent upon value consensus.

24   *European Neighborhood Policy: Monitoring Azerbaijan's AntiCorruption Commitments.* Report. Baku: Transparency International, 2010.

25   The Caucasus Research Resource Centers program (CRRC) is a network of research and training centers established in 2003 in the capital cities of Armenia, Azerbaijan, and Geor-

gia with the goal of strengthening social science research and public policy analysis in the South Caucasus.

26 Interestingly, this number was only 2nd out of 15 response choices, and was beaten only by "maintaining territorial integrity," which is a sensitive topic given Azerbaijan's unresolved dispute with Armenia over the Nagorno-Karabakh region.

27 See also: June C. Nash, *We Eat the Mines and the Mines Eat Us: Dependency and Exploitation in Bolivian Tin Mines* (New York: Columbia University Press, 1979); and Aihwa Ong, *Spirits of Resistance and Capitalist Discipline: Factory Women in Malaysia* (Albany: State University of New York Press, 1987).

28 This term was popularized by writers such as Alexander Zinovyev in his book *Homo Sovieticus*, (Boston: Atlantic Monthly Press, 1985).

29 The KGB was an internal security, intelligence, and secret police organization during the existence of the Soviet Union, and is known for extensively monitoring public and private opinion, internal subversion, and possible revolutionary plots in the Soviet Bloc.

30 Karl, *The Paradox of Plenty*, 171.

31 Center for Economic and Political Research, 2009 Policy Recommendation Guide, 11.

32 Nomenklatura were a small elite group within the Soviet Union and other Eastern Bloc countries who held various key administrative positions in all spheres of those countries' activities such as government, industry, agriculture, and education.

33 Center for Economic and Political Research, 2009 Policy Recommendation Guide, 12.

34 Ferguson, *The Anti-Politics Machine*, 16.

35 Michel Foucault, *The Foucault Reader*, ed. Paul Rabinow (New York: Vintage Books, 2010), 111.

36 Ferguson, *The Anti-Politics Machine*, 21.

37 Ben Worthy, "More Open But Not More Trusted? The Effect of the Freedom of Information Act 2000 on the United Kingdom Central Government," *Governance* 23, no. 4 (October 2010), 561.

38 See: Joseph Rothschild, *Return to Diversity: A Political History of East Central Europe Since World War II* (New York: Oxford University Press, 1989); and Howard, *The Weakness of Civil Society*.

39 Ferguson, *The Anti-Politics Machine*, 276.

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Senderologist Literature:
Gendered Language and Representations of Women in the Shining Path

Maria Santos

Abstract: Gender is sometimes overlooked as a category of analysis, even though it functions as a tool of social categorization. Most social identity categories are limiting and prescriptive because the characteristics of each are thought to be inherent or essential. My article highlights how representations of revolutionary women who perform gender-atypical acts of violence reify essentialist views about women as emotional and sacrificial. Using the guerrilla women of the Shining Path as a case study, I will highlight the problems that arise when scholars and journalists fail to acknowledge how a gendered discourse can influence women's experiences. Alternatively, when they use gender as a category of analysis, it is to reify the differences between men and women. Their limited nuance of gender creates representations that can be prescriptive and limiting for women, and men, who are not conforming to essentialist gender tropes.

In 1982, roughly 30,000 people attended Edith Lagos Saez's funeral in Ayacucho, Peru.[1] Edith Lagos Saez is a central figure in the history of women's participation in the "Shining Path" (*Sendero Luminoso*),[2] a Maoist terrorist group in Peru that attempted to overthrow the Peruvian government by means of widespread and persistent violence in the 1980s. Edith Lagos's assassination is legendary, and journalists and scholars have retold her story many times; the varying versions add to the different interpretations of her life. Although Edith is perhaps the most mystical and legendary woman in the Shining Path (SP), and in spite of all that journalists and scholars have written, little factual information is known about her. Due to the strict and violent nature of the Shining Path's communist doctrine and its ideologies, information about the movement, its participants and their actions is limited. Factual information about the women who participated in the Shining Path is particularly scarce.

Both scholarly literature about violent women in politically subversive movements and literature about the *Sendero Luminoso* (Senderologist literature)[3] mention women's active participation in the movement, but each frames women's involvement differently, ascribing to them different levels of agency. Much of the literature on violent women in revolutionary movements includes discussions of the *Sendero* women as prime examples of women who participated in various roles: leaders, fighters, and supporters.[4] The language of the literature often highlights the anomalous nature of the violent woman and often includes evidence to disprove gendered assumptions that characterize women as inherently passive, apolitical, and peaceful. However, Senderologist literature places less of an emphasis on the contribution of women; at best, an anthology includes a chapter about women's roles in the Shining Path, but of those chapters, many focus on women as the peacekeepers or as figures of resistance to the violence. In the relatively small archive of information about female Shining Path members in Senderologist literature, the analysis and representations of these women is largely superficial, meaning that it is not founded on primary sources or on the women's personal narratives. The Senderologists' diction and conclusions about the female terrorists' bodies suggest that they base their ideas on general inferences or inconclusive information rather than researched accounts of these women's experiences.

When Senderologists (or other scholars who do not use gender as a primary category of analysis) are missing information about the experiences of women, their writing relies primarily on external witness information. For example, the narratives about Shining Path women are limited to stories shared by one terrorist's acquaintances and friends and political interpretations of their bodies by journalists, Senderologists, *Sendero* terrorists and even the people of the highlands. Because these external sources interrogate poorly how gender affects the experiences and actions of these women, they rely on long-held stereotypical beliefs about what is thought to be essentially feminine. Thus, while scholars draw from these outside sources, they also participate in the validation and promulgation of uncritical, essentialist gender assumptions. They are contributing to women's inability to represent themselves accurately in the public sphere, which has resulted in the reductive description of their bodies and attributes and, consequently, a minimizing of the perceived impact of women in such movements.

I mentioned Edith Lagos as a primary example of a woman whose death was used politically by the Shining Path, the government, and the people and the church in Peru. Senderologist gendered characterizations of her often contradict the findings of violent-women scholars. I will use "violent-women scholars" to mean scholars who specifically study violent women in revolutionary groups, and especially the way gender affects their experiences in such environments. Senderologists, alternatively, often ignore how gender could affect the experience of a female Shining Path cadre, and as a result, their descriptions of *Sendero* women seem to be gender-neutral, as if gender did not influence them. However, I argue that their failure to acknowledge the influence of gender on the experiences of women results in defaulting to explanations premised on established gender roles, even when the examples of these women are very clearly breaking established roles. While these women were performing radical violent actions, the language that Senderologists use to describe them does not reflect the revolutionary nature of the actions. This paper will limit its scope to analyzing the representations of female guerrillas, more specifically Edith Lagos and Augusta La Torre, in scholarly texts and mass media in order to provide examples of how gendered assumptions, masked as analysis in scholarship, function to limit the conceptualization of female guerrillas. Ultimately, such writing ignores the anomalous participation of violent female terrorists, and the Senderologists' framing of the women in the Shining Path continues to limit the way that we conceptualize women's agency and capabilities.

History: A Culture of Silence

Many reasons explain why we have very little factual information about Shining Path women, and why even the sources that do exist create only an incomplete composite history of any of their lives. From the Shining Path political standpoint, each cadre's individual identity had to be erased when s/he entered the movement. The group was founded upon Maoist ideals; as such, the communist ideology demanded renunciation of individualism. The group was working as one entity towards one goal and could not be distracted by individual needs or personal struggles. On a more practical note, having an identity and participating in the Shining Path was very dangerous. The state militia was always trying to capture Shining Path members, and although knowing names of cadres would not be helpful in finding comrades who were in hiding, guerrillas' family members were interrogated (and "disappeared")[5] because of their affiliation with a *Sendero* subversive. Consequently, aside from insubstantial interviews with Shining Path members in which former guerrillas recite rehearsed and scripted *Sendero* rhetoric, scholars sim-

ply do not have access to unique narratives from individual guerrillas.

The Shining Path's violent terrorism, and even the state's response to the terrorism, created a "culture of silence" in which the Peruvian people were scared to come forward with information for fear of reprisal, which made it cumbersome for scholars to conduct research on this group. Experts consider the Shining Path to be one of the most violent subversive groups in Peru, and even all of Latin America. While their members did not necessarily use torture practices on their victims, they used widespread violence to advance their mission to replace the democratic government with a Maoist dictatorship of the proletariat in a longer-term plan to institute state-sponsored communism. Their resolve led them to use acts of violence against anyone or any institution that tried to hinder their objective. For example, they bombed private organizations that benefited from government money, such as the Bayer industrial plant that provided electricity to towns all over Peru; they took over towns, such as Yanaccollpa, Ataccara, Llacchua, Muylacruz, and Lucanamarca, in order to access resources; and they assassinated prominent dignitaries, such as María Elena Moyano and Olegario Curitomay, who encouraged resistance against the Shining Path. No one was safe from their violence. The culture of fear—caused by *Sendero* violence—in turn created a culture of silence. The Peruvian people were scared to speak out against the Shining Path or in favor of the government for fear of reprisal from the Shining Path; they were also scared to speak out against the government and in favor of the Shining Path for fear of the state militia. People were better off not speaking at all. As a result, most of the information collected about the Shining Path appeared after the acme of its influence on Peru from 1980-1992. Because no one was willing to speak during the height of the violence, people's retrospective accounts about the Shining Path were based on memories.

Senderologist Literature

In order to conduct this project, I will be looking at Senderologist literature that mentions individual women in the Shining Path, mainly Edith Lagos, Augusta La Torre and "Betty,"[6] and their impact on the movement. First, I will describe the major Senderologists whose work I will examine, and then I will introduce the violent-women scholars whose work I will compare to Senderologists' works.

While the term "Senderologist"[7] appears on a website, I have my own working definition of Senderologist for this paper; s/he is someone who is preoccupied with studying the nuances of the Shining Path, be s/he a scholar or a journalist. Admittedly, I draw primarily from Senderologists who were journalists at the time that they were writing about the Shining Path. Examples include Robin

Kirk, an American journalist who wrote a narrative about her experiences in Peru from 1983 to the early 1990s, and Gustavo Gorriti, a Peruvian journalist who wrote about the Shining Path in a famous news magazine called *Caretas*. Even though Robin Kirk and Gustavo Gorriti are both journalists, both of their books, *The Monkey's Paw: New Chronicles from Peru* and *The Shining Path: A History of the Millenarian War in Peru*, are cited extensively in other scholarly works.

In fact, Mario Fumerton, the only scholarly Senderologist and Professor at the Center for Conflict Studies at Utrecht University, whom I cite for this paper, uses both Kirk and Gorriti as secondary sources for his book *From Victims to Heroes: Peasant Counter-Rebellion and Civil War in Ayacucho, Peru, 1980–2000*. Scholars are citing these journalists, and therefore legitimizing them in their works as academic sources; I, therefore, decided to examine both types of writing. The fact that the journalists themselves are establishing themselves as scholars (Kirk now teaches at Duke University) reveals a real conflation of the two fields and justifies an examination of the language that both journalists and scholars, whom I term Senderologists, use in their work.

That being said, I also acknowledge that the accounts and information of Senderologists may be biased but not necessarily with an ulterior motive. I do not seek to discredit their work because I do believe that their work and the work of other Peruvian authors and organizations[8] is valuable in piecing together a past that is hard to access. Instead, I argue that the language they use to describe women of the Shining Path is assumptive and not always based on fact, particularly because the "culture of silence" inevitably limits it. Consequently, Senderologists' texts re-iterate a series of common assumptions about women, even when their subjects do not ascribe to those gender roles, as passive followers, as objectified bodies (sacrificial, virginal and sexualized), and—especially when they break too many norms—as crazy agents.

Using Caroline Moser and Fiona Clark's book *Victims, Perpetrators or Actors? Gender, Armed Conflict and Political Violence*, Kim Cragin and Sara Daly's book *Women as Terror-ists: Mothers, Recruiters, and Martyrs*, and Laura Sjoberg and Caron E. Gentry's book *Mothers, Monsters, Whores: Women's Violence in Global Politics*, I hope to show that there is a wide gap between the language that authors who have studied fe-male terrorists (violent-women scholars) use and the way that Senderologists describe female participation in the Shining Path. A large part of this article demonstrates the ways that Senderologist diction often limits agency for the women of the Shining Path, representing them as having less initiative and power than the male members of the group.

Lastly, I want to be clear that I am speaking specifi-

cally about women in this paper, not because I believe that women are inherently different from men, but instead because "the difference between men and women is habitu-ally represented, and reinforced as a norm. […] Gender is so normal that it goes unexamined."[9] In other words, while it is not something that I believe to be a natural phenomenon, people, through scholarship, discourse and lived experi-ences, are constantly reinforcing differences between men and women and as a result set up social structures accord-ing to gender. Furthermore, these structures are set up as guidelines for the way that individuals assert and identify themselves, so while gender may be a useful tool in catego-rization, it may also be a limiting tool for individuals who do not fit into that norm (i.e. female political terrorists). The fact that these women are breaking the norm may be a part of the reason that Senderologists lack the appropriate language to relay their stories accurately.

The Shining Path's Appeal

In the past 30 years, many Senderologists and violent-women scholars who have studied the Shining Path have explored the question of why particular Peruvian women joined the movement. Both the fear and mysticism evident in accounts of the violent *Sendero* women are symptomatic of a lack of knowledge about their motivations and reason-ing behind their actions and decisions. Cragin and Daly are able to shed some light as to why people join terrorist movements: put simply, "[they] desire to fight grievances and social influences."[10] The educated youth of the *sierra*,[11] including young Edith Lagos, were drawn to the Shining Path's ideology of revolution. Their intellectual curiosity and dissatisfaction with the status quo—Peru's eroding economy closed opportunity for the advancement of the youth, and the new land reforms further marginalized the indigenous poor—led them to join a group like the Shin-ing Path. Not only were they preaching about a cultural change to empower the poor, and especially the disenfran-chised indigenous people, but they were also mobilizing physical efforts, by using violence to redistribute land or to hold their own criminal trials, to institute agrarian reform.

Thus, people's decisions to join the Shining Path were not based on their sex but instead on the motivation to enact change. In fact, in her formative work *Women & Guerrilla Movements: Nicaragua, El Salvador, Chiapas, Cuba*, Karen Kampwirth discusses women's motivations for joining guerrilla movements and the special circumstances that allowed women in the 1980s to join revolutionary move-ments. She does not argue that women joined the move-ment for reasons that are necessarily different from those of men.[12] Instead she focuses on the social changes that encouraged or permitted women to join a revolutionary movement. It is important to note that social changes

affect both women and men, and most of the time, in very similar ways; however, once they joined those movements, men's experiences were privileged because of their gender.

For example, Lagos was inclined to fight the injustices perpetrated by the government, yet the added pressures that the dynamics of the group probably imposed on her political actions have gone largely unnoticed. Senderologists such as Mario Fumerton and Gustavo Gorriti use wording about Edith to indicate that her education provided her agency, suggesting that knowledge afforded her choices. Community members characterized Edith as a socially conscious individual who was ready to take action to equalize opportunity for those less fortunate than she. Her neighbor had this story to illustrate her character:

> Once, in the middle of a hot summer when there was a water shortage, many families in our neighbourhood had no running water for many days due to insufficient water pressure in the pipes. Being on the ground floor, however, Edith's house could still receive some water. In spite of this, her mother told everyone in their household not to share their water with the neighbours. Edith didn't agree, and so one day after her mother had gone out she invited all the neighbours to come over with empty buckets, which she then filled with water from their tap. When her mother came home and found out what Edith had done, she became so angry. But Edith didn't seem to care. She knew that what she did was right.[13]

She clearly cared for those less fortunate than she was, but whether or not those beliefs would lead her directly into the Shining Path is debatable. Here, she is characterized as someone who would not simply follow along, but instead as someone who would act to rectify an injustice, even if that meant defying authority.

Fumerton implies that Edith, like other young revolutionaries, had enough knowledge (and agency) to drive her to take political action that included violence but fails to acknowledge that her fellow comrades would have inevitably led her to question her motivations directly because she was a woman. Admittedly, Edith joined the Shining Path at sixteen; although sixteen may seem like a young age, her youth does not necessarily provide a reason to invalidate her agency, as some Senderologists have intimated. Moreover, because women often face "recrimination by men in the revolutionary group and their families," they, unlike Sendero men, have to "reconfirm their choice on a daily basis."[14] She had to be determined in order to join a group that may have been constantly questioning her motivations. In other words, not only was she likely an isolated subversive, but her own comrades may have doubted her resolve.

Ideologically, the Shining Path encouraged female par-

ticipation and created a space for their influence. Sendero's popular schools taught to women that they had a lot to benefit from the Shining Path's success: once the movement gained economic equality for all, then the systems of oppression that affected women would be eliminated as well.[15] Betty, a Senderista whom Robin Kirk interviewed clandestinely, recounts that during training, she was very quiet and submissive. But the Shining Path chastised her for not voicing her opinion: "Once she was criticized for not speaking up."[16] The Senderistas[17] seemed to want all of their members to be able to defend their rhetoric, including women. Clearly, both their intellect and their loyalty were important to the movement's success.

Moreover, one of the most important and memorable tasks that primarily women performed was the "coup de grace" during an assassination, but the intense level of violence that this act required points to a gender-specific revolutionary tactic. Tarazona-Sevillano makes three assertive arguments as to why the Shining Path assigned women to the "difficult, dangerous and mentally demanding missions"[18] First, this task allowed them to "prove themselves and enhance[d] their self-confidence." Second, "it serve[d] to convince them and their colleagues of their capability of assuming leadership roles within the movement and within their future state." Lastly, it "allow[ed] them to strike back violently against the system that restrained them for so long."[19] Tarazano-Sevillano suggests that there was a certain value attached to committing an act of violence, in that it provided an opportunity for women to prove themselves as loyal and able, and it furthermore "convinced" the male terrorists that women were capable of certain masculine traits, such as leadership. These acts of violence were based on the assumption that women needed to outperform men in order to be considered their equals. Moreover, the gender specificity of Tarazano-Sevillano's third reason insinuates that the women were acting to fight against the larger social restraint of women, implying that women only fight for women's causes. While that may be true in some instances, the politics of the Shining Path did not endorse disparate politics of individuals and dissenters; they would not have been thought of as respected cadres.

Actually, Kirk suggests that women's inclusion, and the rhetoric of their equality to men, is superficial, at best. Betty's experience epitomizes the contradiction between equality rhetoric and unequal gender practice. Betty explains the rhetoric of her training: "Men respected women. We had the same rights."[20] Kirk's analysis is quick to disagree with Betty's opinion of the treatment of her gender in the movement. She explains that ultimately a male Senderista ruined Betty's opportunities in the Shining Path: "Despite the guerrilla promise of equality, in the end a man was her downfall. He wooed her, beat her, then left her.

It was the old story."[21] Even the phrase "old story" connotes certain preconceived notions of women's experiences. Eventually, Betty did have to go into hiding because a male comrade had impregnated her, and getting pregnant would have been a betrayal to the party. Kirk evinces a sense of disapproval not only towards *Senderista* practices, but also towards Betty's self-analysis of her experiences. Again, this is Kirk's opinion of Betty's life, an account of a woman who felt included when she was part of the movement, and rightly bitter when she had to leave because of one man. Kirk thus imposes her own beliefs about how gender equality in the Shining Path should manifest itself. More importantly, she portrays Betty's experiences as failures, while Betty's language points to a more enfranchised experience. Ultimately, Kirk privileges her own opinion over Betty's account of her own experience.

Similarly, the narrative about another legendary woman from the Shining Path, Augusta La Torre, the leader of the Popular Women's Movement,[22] is at times overshadowed by writers who privilege her marital relationship to Abimael Guzman over her political achievements. Jaymie Patricia Heilman's brief but impressive analysis on La Torre focuses on the influence of family ties on the decision of a *Senderista* to participate in the movement. Heilman's argument includes factual and relevant details about the substantive kinship relationships amongst La Torre's family members and her husband, Guzmán. Similar to Kampwirth, Heilman suggests that the influence of family members and kinship structures were important motivators to join a revolutionary movement for both men and women. However, the distinction between men and women terrorists exists in gendered rhetoric and analysis; Heilman points out how those objective facts about La Torre's family led many scholars to question La Torre's politics. Consequently, scholars' focus on her domestic life over her public life genders her narrative primarily as female.

According to Sjoberg and Gentry, gendered narratives about violent women are not uncommon. In *Mothers, Monsters, Whores: Women's Violence in Global Politics*, they outline violent-woman narratives based on established gender tropes—the Mother, the Monster or the Whore—that interpret violent behavior as a feminine act. La Torre's motivations could be questioned, especially if she were labeled a "mother" or a "whore." Sjoberg and Gentry explain that a mother narrative depicts violent women as "avenging lost love and/or a destroyed happy home"[23]; in other words, they commit violence only to protect their domestic domain. The mother, in the mother narrative, does not necessarily need to have physical children, but instead is emblematic of how women are defined through their sacrificial function in their respective kinship systems. Additionally, La Torre's narrative fits in Sjoberg and Gentry's whore category; her

body was used by *Sendero* as a bridge between political families, and her availability as a sexual partner to Guzman seemed to be her most valuable attribute. Augusta La Torre's gendered story can fit very neatly into a mother narrative; she was acting not only as a determined daughter but also as a passionate lover. Therefore, this narrative deploys the role of woman as the sacrificial caretaker, even if that means putting aside her own needs or life. In such narratives, it is specifically a family-tie motivation that reinforces the idea that women should forfeit their bodies for the benefit of the family and its goals, even by committing atrocious acts of violence.

According to Heilman, "Franco Silva attributed Augusta La Torre's politics to her father, explaining that because Carlos La Torre Cárdenas belonged to the PCP, 'his daughter Augusta already had a certain orientation, a certain disposition, before meeting Guzmán.'"[24] Heilman uses Silva's quote to make evident that family is influential when getting involved with the movement. However, Silva's assertion privileges kinship ties as the reason that La Torre "met Guzman," and more importantly joined the movement. His comment downplays both her agency and the independent work that she did for the movement. Silva may not have intended to gender La Torre's motivations, but without an acknowledgment that this reasoning is often employed for revolutionary women and not men, scholars will continue to write about women as domestic. Heilman does point out that "La Torre's marriage to Abimael Guzmán has led numerous observers to call her revolutionary credentials into question."[25] Had Heilman failed to acknowledge that this was a common occurrence, the comment could have reinforced the idea that women act out of responsibility to their families and not necessarily out of their own volition. Additionally, even though La Torre's family connections could have strengthened her reliability as a member of the Shining Path, the focus of scholars and family friends on kinship connections questions her agency as a woman in the movement. Furthermore, these uncritical gendered comments cause Senderologists to overlook the more important gender-neutral correlation between joining the Shining Path and having family members who were already involved in the Popular Movement; kinship was a useful political strategy for both women and men.

Despite the fact that La Torre's political actions were being relegated to a woman's domestic duty[26] to her husband, Kampwirth suggests that women had a unique political incentive to join a terrorist revolutionary group. She cites that female participation in guerrilla movements seemed like political strategy conducive to combat gender-oppressive government policies.[27] Women's frustration with the government's handling of social problems, more specifically, the disenfranchisement of women, can lead to an

increased interest from female participants in revolutionary movements. Kampwirth cites Gonzalez: "because the organization itself is revolutionary, challenging tradition, the group is much more likely to challenge the conventional view of women and their historical gender roles."[28] For example, in August 1981, the Shining Path started tribunals to punish thieves publicly. Then two months later, they returned to hold tribunals aimed at people who disrupted the family stability; an adulterer and a wife-beater were publicly castigated.[29] Because women were mostly relegated to domestic spaces, policing private infractions publicly benefited women.

The government, meanwhile, did little to police familial infractions, and while we will never know if this Shining Path protocol was instituted by women for women, its existence hints that women, or their presence, affected the actions of the Shining Path. Therefore, not only were women constantly showing and proving their devotion to the movement, but they were also appropriating the movement for ends that would benefit women and, arguably, by extension, men and society. Senderologists arbitrarily describe some women's motivations as gendered (sacrificial female-bodied guerrillas) and at other times ignore the more apparent political motivation to combat policies that oppress women. Both of these choices seem contradictory and arbitrary, but if we acknowledge the influence of gendered assumptions both from the literature and its sources, we are able to provide an explanation for that phenomenon.

Gender Matters: The Unequal Treatment of Women Under the Pretext of Equality

In addition to the aforementioned tribunals, women were able to perform unique tasks, because of their female gendered bodies, that men could not execute. In fact, Edith Lagos' origins singled her out as a unique asset to the Shining Path, which indicates that she had the qualities to lead others and recruit people of the highlands. Because she was from a family from Ayacucho, she was able to draw sympathy from other people in the *sierra*. Rural and urban Peru have been historically divided: rural people have systematically been disenfranchised because of social and racial barriers. The central government in Lima made a series of policy changes that have affected the rural parts of Peru, with no input from the mostly indigenous people of the highlands (*serranos*).[30] Most *serranos* speak Quechua (an indigenous language with no alphabet—it remains primarily oral). They rarely have government citizenship papers and receive little to no education; the disenfranchised *serranos*, for the most part, do not or cannot get involved with Peruvian politics.

Therefore, when the Shining Path was trying to gain support from the rural indigenous people of Ayacucho, they needed people who were not from cities; because of her

background, Edith Lagos could relate to people of the *sierra*. Pompeyo Rivera Terres, a teacher from Ayacucho, affirms:

> Soon after I had just been transferred to teach at the primary school in Huayao, I remember coming home one evening and my aunt saying to me, "Nephew, this evening we have a meeting at about eight o'clock, in the school, because Comandante Edith Lagos has just arrived."
>
> I was surprised. "A woman guerrilla commander?" I asked.
>
> "Yes!" she replied. "A woman who they say speaks splendidly. And they also say she is fighting for the poor!"
>
> So here was my aunt, an uneducated woman who couldn't have filled half a sheet of paper with all the writing that she knew, going off to a political meeting. She really wanted to meet Edith Lagos, so she set off at seven o'clock carrying a bowl of toasted maize in one hand, and a pot of barbecued beef strips in the other, all for Edith Lagos.[31]

This anecdote points to an instance in which an older woman, a categorically marginalized person, was willing to engage in politics. Her emphasis on Edith's identity—as a "woman guerrilla commander"—suggests that the gender of the terrorist mattered to her.

Admittedly, Edith's education did separate her from the rural people of the Peruvian highlands, but *serranos* were nevertheless excited to hear her talk. This was in part because of her ethnicity but also, it would seem, because of her gender, something that surprisingly does not emerge in Fumerton's analysis.[32] Lagos's gender made her unique in the movement; as Cragin and Daly, authors of *Women as Terrorists: Mothers, Recruiters, and Martyrs,* explain, "The notoriety of these women terrorists was derived from their gender more often than not, rather than their strategic thinking, creativity, or even operational prowess."[33] Cragin and Daly are not speaking specifically about the Shining Path, but instead basing this conclusion on their study of female terrorists in various revolutionary groups. So I posit that the previous quote by Fumerton, when contextualized by Cragin and Daly's conclusions, suggests that his account fails to acknowledge that it was also her gender that allowed her to access the people of the *sierra*. Senderologists who do not focus on gender directly but write about women, especially women performing masculine acts of violence, need to have responsible discussions about the importance of gender to the way that people relate socially. Without such a discussion, scholars fail to nuance gender, because they ignore how it influences social structures, and they instead rely on and reify assumptions and prescriptions about women (and men) when they don't acknowledge it.

For example, Edith was a symbol of change for the people of Ayacucho, but the change was welcomed because she was a woman. So while her ethnicity gained her access to people, just as it would for an *Ayacuchano* (man from Ayacucho), her gender made her even more approachable to *serranos*. While her feminine body makes her an oddity in politics and revolution, it also, as mentioned in the previous section, invokes ideas of nurture and sacrifice. The aunt in Fumerton's story is specifically excited to meet a "female" commander, indicating that her excitement was over her gender. Had she said commander, rather than "female commander," we could infer that she was just excited to meet a *senderista*. Additionally, the aunt is excited that she "speaks splendidly," emphasizing her willingness to hear Shining Path rhetoric. Lastly, she trusts that she is "fighting" for the poor, framing it as noble. I would argue that her willingness to listen to Edith is based on her ability to trust her. Edith was a personable *female* orator, who could reframe the Shining Path's violence as a cause to "fight for the poor." Fumerton recounts the aforementioned story only to indicate that *Serranos* believed that the Shining Path "were harmless teenagers," but they would be proven wrong. He cites this as his example of how many different types of cadres would recruit, but he fails to recognize that revolutionary groups strategically use women to draw recruits.

Not only did Edith Lagos excite Peruvian people, but she was also a female commander (like other Shining Path men) who led many elaborate plans for the Shining Path. Unlike other Shining Path men, however, her gender would prove to be the reason for abuses she suffered. Gustavo Gorriti, the Peruvian journalist writing for a Peruvian newsweekly, *Caretas*, during the height of the attacks by the Shining Path, relates a brief but descriptive account of Edith's 1980 capture.[34] She had been charged with using dynamite to blow up an Ayacucho municipal building and the home of an Election Board president. However, instead of being taken to jail, the military forces sent her to Lima, which indicates that "her importance went far beyond her role as a leader."[35] The militia not only considered her responsible for the attacks but targeted her to be questioned for further information. During this time, suspected terrorists were violently interrogated, but because she was a woman she would also be subject to sexual violence in the custody of the Peruvian state. Moser and Clark explain: "Gender consciousness [invites us] to see how men and women are positioned differently, have different experiences, different needs [and strengths]."[36] Gorriti's narrative is biased and gendered because it makes no attempt to contextualize her experience, failing to relay that her loyalty and worth for the movement came at an added price for her, and for female cadres.

In her article "Guerrilleras in Latin America: Domestic and International Roles," International Studies scholar Margaret Gonzalez-Perez cites Griset and Mahan, criminal justice professors and authors of *Terrorism in Perspective*, who present a typology of women's participation in guerrilla organizations. Griset and Mahan break down women's roles in terrorist groups based on the types of activities that the female guerrillas perform and according to the amount and quality of authority that these women have over the group's actions; the four categories for women are Sympathizers, Spies, Warriors, and Dominant Forces.[37] "Spies" are women who act as decoys, messengers, and intelligence gatherers. Being a Spy means possession of important, potentially lethal information, which can indicate a Spy's worth. Gonzalez-Perez explains that many scholars up to the 1980s described women's roles as secondary or supportive.[38] While that is changing, I believe that Gorriti's account is complicit in promoting that very belief. Gorriti's account fails to explain the sensitivity of this information and the fact that female comrades faced a higher threat to their safety when they maintained their loyalty. On the one hand, Senderologists cite gender as the reason for differences between male and female terrorists, but on the other hand sometimes they fail to mention gender, especially at moments that would revolutionize essentialist notions about women and men. These tactics that both mention gender and ignore it seem to be contradictory, but both are in fact reinforcing gender stereotypes.

For example, loyalty from both men and women in the movement was essential and valued, but some critics do state that "women were valued for their "loyalty rather than their intellect."[39] The need to make the two concepts—loyalty and intellect—mutually exclusive reveals that there are distorted underlying assumptions here. Loyalty does not necessarily mean the lack of intelligence, but rather it can be a valued necessity in the movement. The separation of the terms overlooks in particular the power of knowledge and information clearly evident in Edith's participation. When women were captured, they could have easily surrendered Sendero's sensitive information, including names, places and actions that had or were going to take place, which would have severely threatened the success of the movement. Therefore, two negative consequences arise: first, in scholar's representations loyal women are stripped of intellect, and second, the sacrifices that they made to maintain their loyalty are undermined.

When Edith Lagos was sent to Lima, she was in a precarious position, not only because the government considered her a terrorist, but especially because she was a female comrade. Edith Lagos had information that the police wanted, and it was popular knowledge that they would use various interrogation tactics, including rape, in

order to extract it. Meanwhile, the Shining Path, according to Maoist ideals, treated (and punished) their men and their women equally when members of the group broke the rules. Yet equality in the movement came at an unfair price for women when they were asked to defend the Shining Path in other contexts where differences in gender dictated what types of torture would be used. Even though treachery against the party was very serious and was not tolerated from anyone in the movement, women endured the added threat of sexual violence from the police and military in order to remain loyal. Robin Kirk, who reported in Peru during the beginning and peak of the Shining Path's violence, adds that to the group "the fact that [women] had been tortured and raped by the police was immaterial," and they were consequently punished for giving information to the police.[40] Like men, the women had to write self-criticisms and attend criticism sessions. They were also beaten and had their heads shaved. Women had to be wary not only of punishment by the Shining Path (which was not dictated by the gender of the person who was receiving the punishment), but also of the gendered abuses of the police.

The literature clearly explains the gender-equality policies of the Shining Path but makes no effort to verify whether or not such ideals were practiced in everyday life. There is a lack of nuance when Senderologists write about situations affected by gender. Lagos proved her loyalty as she repeated the words that all comrades are forced to repeat when they were captured: "I am innocent and have nothing to do with the accusations the police have made…everything they accuse me of is false…in a society where human rights are respected, freedom is a right and it is a duty to defend it."[41] However, those same words probably spoken by male comrades as well did not signify the same "duty." With some legal help, Lagos was allowed to go back to Ayacucho, where she continued to be a loyal member and force for the Shining Path.   However, the sacrifices that she made in Lima remained unrecognized by Gorriti.

In fact, Senderologists cast women in subservient roles in the movement despite their obvious contributions to and accomplishments in the movement. However, even with gaps in the history, scholars can responsibly account for such biases. In the following example, Heilman includes gendered comments that another comrade makes about Augusta La Torre, but also contextualizes those comments, and speaks to their level of validity. Heilman explains that the mere fact that La Torre was married to the most important man in the revolution meant that she would constantly be judged as his partner; this means that her life was subject to public scrutiny. For example, Ramirez Durand, the comrade directly lower in rank than both La Torre and Elena Iparraguirre (another female comrade in the Central Committee), described them as Guzmán's '*mujercitas*' (little women). Not only does he reinforce Guzman's ownership of them, but

also he belittles their importance as agents and as subjects by accentuating their oppressed identities. Guzmán had intimate relationships with both women, so Durand's dismissive language is linked to perceptions that the general public has about women in relationships with men of power. And this is evinced by Durand's consequent comment: "Guzmán fantasized about being alone, surrounded by women in the Political Bureau."[42] The use of the word "fantasized" connotes a sexual tone with regards to the women as objects. Whether or not this was true about Guzmán, Durand's comment had no bearing on the women or their political worth, and for that matter exposes more about Guzmán's preferences than about what roles the women filled in the movement. Heilman responsibly highlights the power dynamic—woman subservient to man—that scholars often associate with marriage, which is useful to indicate the different ways in which comrades and scholars have tried to undermine La Torre's authority.

Heilman is cautious about making assumptions concerning the women solely based on the known relationships with the people closest to them. She describes the correlation between Augusta's political family and her politics using phrases such as: "We cannot say for certain," and "we cannot make decisive statements."[43] In other words, the fact that La Torre's family was heavily politically involved with the PCP-SL does not provide information about the causality of her motivations to join the movement. Senderologists could only make an academic claim about the influence of family using the study by Lewis Taylor, which Heilman cites, showing that Augusta La Torre's siblings were all involved with the Shining Path to some extent. In fact, Heilman prefaces her entire study with a note about the focus of familial relations as being able to "overshadow the political ideas, efforts and legacy of a given militant."[44]

Heilman does not seem to have included in her article previously undiscovered information about Augusta La Torre, but she does contextualize the narrative that she chooses to include about La Torre. Her article admits the limitations and preconceived notions that influence the narrative that she relays about Augusta. In the end, she cites another example when other comrades spoke of La Torre's great contribution to the movement. Guzman described her as "the greatest heroine of the party and the Revolution," and another militant said she was the "shining example of giving her life to the Party, the Revolution and communism."[45] Heilman's article is a great example of a responsible portrayal of a Shining Path woman because she is questioning her sources and providing context when she cites them.

Edith: The Body of Sacrifice

Unlike Augusta's well-documented participation and family history, Edith's history is less well substantiated, which leaves to scholars the task of recreating her story.

The mystery and questions primarily surround the day of her death. Gorriti narrates the story:[46] the Republican Guards (the state police) were driving around in civilian clothing when they were stopped by a man and a woman who were armed. According to a priest who spoke to journalist Nicholas Shakespeare, the man was Lagos's lover, and he was trying to teach her how to drive; so they had decided to steal a truck.[47] The state police just happened to be driving by, and as soon as they saw that Edith and her lover were armed, the police started shooting at them. Her lover took cover and survived, while Edith "dropped" to the ground.[48] The guards did not stick around to find out whether she was alive or not. Her body was apparently not retrieved until hours later (in other versions, the next day) from a hut nearby. No one knows exactly how her body ended up in the hut or even precisely when she died.

The writing of history is a careful balance between incomplete memory and unforgettable events that often times reinforce societal and cultural beliefs. At the point that "reality does not coincide with deeply held beliefs, human beings tend to phrase interpretations that force reality within the scope of these beliefs."[49] So not only do "historians" choose the stories that readers are accepting as an official story of past events, but these historians are also part of the biased histories that exist, and they are subject to the same internalized, socially-constructed notions of gender. Trouillot points out that "historical narratives are premised on previous understandings, which are themselves premised on the distribution of archival power."[50] When scholars reproduce a story without context, the story is then contextualized by assumptions and commonly held beliefs of the readers. Thus, "the absence of gender in analyses of political events and relations cannot be read simply as blind omission, but as (intentional or unintentional) bias."[51] So not only do authors make assumptions, most of the time subconsciously, but their failure to identify their own biases also promulgates more normalized (unspoken) cultural assumptions about gender, such as gendering a woman with female traits like passive and emotional.

Therefore, because violent women do not fit into the mold of female gender stereotypes, scholars and the general public create narratives that explain women's actions within the familiar gendered framework. Sjoberg and Gentry explicitly state that narratives about violent women create and reinforce biological, psychological, and sexualized assumptions in what they call the Mother, Monster or Whore narratives, respectively. Additionally, more central to their argument is the idea that all the narratives "share the dual move of denying women's agency in their violence and condemning women's femininity."[52] They explain away violent women in accordance to the established notions about women, instead of focusing on the more fundamental question of how these women destabilize gendered assumptions. Lagos's story is a prime opportunity to show how people, both scholars and the people who retell the narratives about *Senderistas,* will reframe the story of a violent terrorist into that of a martyred and/or sacrificed body of a dead female comrade.

For example, during Edith Lagos's career in the Shining Path, she was known for her impassioned speeches and her well-organized prison breaks, but Senderologists, such as Gorriti and Kirk, focus primarily on analyzing her body. In the aforementioned example, Gorriti describes Lagos's physical demeanor as an indicator for the type of person that she was. In another instance, when Lagos was later jailed, Kirk also mentions her physical state: "In a mug shot in 1981, her nose and cheeks were swollen from a beating. Gone was the curiosity from her eyes…Here I am, they seemed to say, with my mind made up."[53] Both accounts focus on her determination, on her body, meaning that this analysis emerges from her body and her gestures, not her actual character traits. I take less issue with the description of her body than the assumptions that are extracted from them. Both Gorriti and Kirk make statements about the type of person she is based on her body, instead of on the impressive actions that she carried out. Even though "[Edith] is credited with playing a major role in a spectacular assault on Ayacucho prison in March 1982, freeing nearly 300 prisoners, [and] Lagos herself, escaped prison five times before being killed in captivity that same year, at the age of 19," scholars place less emphasis on such facts.[54] Her actions do not get the same analytic detail as do her physical traits. I am not suggesting that either scholar wrote about her with this particular focus because s/he had an ulterior motive, but instead I want to illustrate that the analysis and focus on women's bodies is very ingrained in Senderologist epistemology. Moreover, such a focus inevitably alters the historical legacy of terrorist women as thinking actors—instead making them just bodies. Therefore such scholars are doing an injustice to their investigation if their sources are limited to bodies as evidence.

Edith embodied both the desperation and hope of the youth who sacrificed to live in a better society. Although she had been a fierce murderer, her 19 years of age were a reminder that young people—the theoretically untainted youth—mobilized this movement. Gorriti explains that even before her death, in Ayacucho, there were clay figurines of a female guerrilla in uniform standing next to a budding tree, almost like "an Andean Diana, Huntress, glazed with the ambiguity of fertility and war."[55] While Diana herself was virginal, she looked after other virgins and women to ensure the preservation of kings and mankind. She was a sacrificial symbol in that she herself did not have children, but her responsibility was to ensure the well being of posterity. In this incarnation, her body was no longer that of a violent woman

because that does not fit into the gender paradigms; instead, she became a martyred symbol of fertility, all attributes that comfortably belong to a woman.

Kirk places an emphasis on how *Sendero* used Edith Lagos's body as a symbol for sacrifice: "Edith became the Shining Path's rallying cry, their martyr. They needed one."[56] It did not matter how many comrades had died before or after her; she was nineteen and beautiful, and that is why her death was indispensable. For his part Gorriti argues that Lagos, unlike Abimael Guzman, the old male leader of the Shining Path, symbolized purity of devotion to the cause because of her youth. She had done something that the deaths of many other male cadres were not able to do; she created sympathy for the movement.

Edith's "sacrificed" body thus symbolized various political objectives for different people. Her casket was covered with the symbol of the Shining Path, so their presence in the funeral was apparent. However, a fiercely anti-communist priest presided over her funeral, and the majority of the people were not Shining Path supporters: "It would certainly be grossly misleading to say that most of those who took part in the procession that day were Shining Path supporters. Rather, the vast majority of mourners had come simply to bury one of their own, an Huamanguina who, in spite of how the control mechanisms of the Party had eventually transformed her, continued in their hearts to symbolize their own collective desire for enduring social justice."[57] Her dead body was the unifying object of peace for everyone in the procession. In fact, in the novel *Finding Cholita*, author and anthropologist Billie Jean Isbell notes that "clay figurines of Edith Lagos wearing a Maoist uniform and posed as the Madonna were sold in local markets."[58] She and her story became a myth that humanized the Shining Path's cause. The clay figures were no longer of an unnamed woman next to a tree, as Gorriti previously mentioned, but now had a name and an identity, even if those had only symbolic and not factual relevance. Only because she was a young, attractive female was she able to embody the seemingly pure motives of the Shining Path. So not only did Senderologists ascribe traits to Edith; *serranos* were also mobilizing to make her a positive figure, rather than focusing on her political terrorism.

While Gorriti does admit that Edith Lagos's gender (and age) changed the way that the general public interpreted her death, he fails to point out explicitly how her death was gendered, and as a result, he denies her agency as a guerrilla. The failure to do so and the ways that ideas and politics of sacrifice were imposed on her body work negatively twofold. First, if the reader does not question Gorriti's interpretation, then the reader's implicit assumptions that lead him/her to agree with his conclusion are quietly reaffirmed, and second, Gorriti's unquestioned logic remains unchecked and therefore validated.

Conclusion

We cannot assume that gender assumptions always work against the conceptualization of a woman as a powerful agent, but we can see that they limit the way that we talk about women. This is especially true when we discuss women in extreme situations, such as women who were part of a terrorist group. Furthermore, the incessant practice of reading women's bodies in terms of conventional scripts or ideas limits our assessment of their agency in historical interpretations. If Senderologists and other scholars, who do not have access to sources in which women speak for themselves about themselves, continue to relegate common gendered traits to them, then scholars perpetuate common stereotypes about women, including these in the Shining Path. We, the future scholars, as a result, may not be able to think of women and their character traits as different from prescriptive stereotypes, even when scholars examine women who so clearly defy gender roles. We, then, take away the ability for a woman who does not want to subscribe to gender roles to step out of them. Women constantly make choices about who they are and how they represent themselves because gender serves to structure relations, especially when signifying power onto a person. But if scholars constantly confine women to defined gendered spaces, then there is no room for freedom of expression beyond these prescribed limits. This limitation is detrimental not only to the story of women from the past but also to women of the future who are continually contributing to the diversity of what it means to be a woman.

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1   Ayacucho is the capital city of the Huamanga Province in Peru's highlands where the Shining Path is said to have started.

2   Sometimes referred to as Sendero or SL.

3   A term used to describe anyone that was preoccupied with studying the nuances of the Shining Path, be they scholars or journalists.

4   See Linda Reif, "Women in Latin American Guerrilla Movements: A Comparative Perspective," *Comparative Politics* 18, no. 2 (January 1986); Caroline O. N. Moser and Fiona C. Clark, eds., *Victims, Perpetrators or Actors? Gender, Armed Conflict and Political Violence* (New York: Zed Books, 2001); Karen Kampwirth, *Women & Guerrilla Movements: Nicaragua, El Salvador, Chiapas, Cuba* (University Park, PA: Pennsylvania State University Press, 2002); and Paige Whaley Eager, *From Freedom Fighters to Terrorists: Women and Political Violence* (Burlington, VT: Ashgate, 2008).

5   A term used in Latinamericanist scholarship for people who went missing as a result of civil violence. Often, the state would suspend civil rights under the pretext that it was trying to capture subversives in order to protect civilians. However, this gave the state access and power over people.

6   Betty was a former *Sendero* member who met Robin Kirk

for an interview in an unidentified place. Kirk names her "Betty" because she is in hiding; she still fears the consequences of her desertion from the Shining Path.

7   "Senderologist" is a term that I found on a website (http://www.blythe.org/peru-pcp/) that describes itself as "an archive of historical files uploaded by the Communist Party of Peru (PCP) in the 1990s." NY Transfer, a web page for "All the News That Doesn't Fit," owns the site and claims to keep it for "historical and political purposes only" despite the fact that it has not been updated since November 1998 and that it is not in contact with the site's creators anymore.

8   The Truth and Reconciliation Committee.

9   Cynthia Cockburn, "The Gendered Dynamics of Armed Conflict and Political Violence," in *Victims, Perpetrators or Actors? Gender, Armed Conflict and Political Violence*, ed. Caroline O. N. Moser and Fiona C. Clark. (New York: Zed Books, 2001), 14.

10   Kim Cragin and Sara A. Daly, *Women as Terrorists: Mothers, Recruiters, and Martyrs* (Santa Barbara, CA: Praeger Security International, 2009), 15.

11   Spanish word for highlands.

12   Kampwirth, *Women & Guerrilla Movements*, 123.

13   Mario Fumerton, *From Victims to Heroes: Peasant Counter-Rebellion and Civil War in Ayacucho, Peru, 1980-2000* (Amsterdam: Rozenberg Publishing, 2002), 9.

14   Cockburn, "Gendered Dynamics," 15.

15   David Scott Palmer, ed., *The Shining Path of Pe*ru (New York: St. Martin's Press, 1994), 199.

16   Robin Kirk, *The Monkey's Paw: New Chronicles from Peru* (Amherst: University of Massachusetts Press, 1997): 69.

17   A Shining Path member in Spanish is known as a *Senderista*. The word, unlike most Spanish words, does not specify whether it is referring to a male or female gendered person.

18   Palmer, *The Shining Path of Peru*, 199.

19   Ibid.

20   Kirk, *The Monkey's Paw*, 85.

21   Ibid., 108.

22   This was a faction of the Shining Path.

23   Laura Sjoberg and Caron E. Gentry, *Mothers, Monsters, Whores: Women's Violence in Global Politics* (New York: Zed Books, 2007), 32.

24   Jayme Patricia Heilman, "Family Ties: The Political Genealogy of Shining Path's Comrade Norah," *Bulletin of Latin American Research 29*, no.2 (April 2010), 161.

25   Ibid., 157.

26   This is not to suggest that domestic duty is in any way inferior to a political life but instead to highlight how, even when there are political motivations, Senderologists will still employ gendered attributes that happen to deny agency to violent women.

27   Kampwirth, *Women & Guerrilla Movements*, 127.

28   Ibid., 315.

29   Palmer, *The Shining Path of Peru*, 84.

30   People from the *sierra* (highlands).

31   Fumerton, *From Victims to Heroes*, 45.

32   It is important to note that race plays a very important role in the way that people are perceived in Peruvian society. Indigenous people *(indigenos)* are usually of a lower class and disenfranchised. *Mestizos* (people who are a mix between indigenous and Spanish, racially white) are associated with the city and as a result with wealth. These distinctions are in no way defined, and there are many other cultural markers that would indicate how someone would be categorized. Edith was not indigenous, in that she was educated and came from a middle-class family, but she was from Ayacucho, a town that is primarily populated by an indigenous population.

33   Cragin and Daly, *Women as Terrorists*, 85.

34   The story that Gustavo Gorriti acquired during an interview with the Interior Minister of Peru at the time, José Gagliardi Schiaffino, who first identified Lagos's body during an unrelated trip to Andahuaylas (a town close to Ayacucho).

35   Gustavo Gorriti, *The Shining Path: A History of the Millenarian War in Peru*, trans. Robin Kirk (Chapel Hill, NC: University of North Carolina Press, 1999), 80.

36   Ibid., 28.

37   Margaret Gonzalez-Perez, "Guerrilleras in Latin America: Domestic and International Roles," *Journal of Peace Research 43*, no. 3 (May 2006): 316.

38   Ibid.

39   Ibid., 321.

40   Kirk, *The Monkey's Paw*, 87.

41   Gorriti, *The Shining Path*, 80.

42   Heilman, "Family Ties," 165.

43   Ibid., 161.

44   Ibid., 157.

45   Ibid., 164.

46   A story that Gorriti acquired during an interview with the Interior Minister of Peru at the time, José Gagliardi Schiaffino, who first identified Lagos's body during an unrelated trip to Andahuaylas (a city in the Southern Sierra of Peru about 10 hours away from Ayacucho).

47   Gorriti, *The Shining Path*, 241.

48   Ibid., 241-242.

49   Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History* (Boston: Beacon Press, 1997), 72.

50   Ibid., 55.

51   Sjoberg and Gentry, *Mothers, Monsters, Whores*, 175.

52   Ibid., 30.

53   Kirk, *The Monkey's Paw*, 80.

54   Nicole Ann Dombrowski, ed., *Women and War in the Twentieth Century: Enlisted with or without Consent* (New York: Garland Publishing, 1999), 273.

55   Gorriti, *The Shining Path*, 241.

56   Kirk, *The Monkey's Paw*, 83.

57   Fumerton, *From Victims to Heroes*, 34.

58   Billie Jean Isbell, *Finding Cholita* (Urbana: University of Illinois Press, 2009), 76. It is important to note that Finding Cholita is unlike the other works that I have been examining. It is a fictional ethnography set in Ayacucho, Peru. The anthropologist is trying to find Cholita, a Shining Path member

who may have killed her father, her mother's rapist. Consequently, the anthropologist actively looks for stories about women who were raped by Peru's militia. This fictional story is not necessarily historically true, but I cite the novel because the mention of these figurines in a novel points to how pervasive the legend of the female guerrilla is for different media about Peru.

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Jim Crow's Middle Class:

An Examination of the Socioeconomic Impacts of Devolution on Colorblind Legislation

Monica Smith

Abstract: *This study proposes that state-level implementation of the GI Bill of 1944, as mandated by devolution, permitted local agencies and bureaucratic figures to undermine the provisions of the bill. To examine one of the least studied but more consequential elements of the bill, that is, access to higher education, a statistical analysis of black veteran representation in higher education is conducted to assess whether significant state-level differences exist. Such an analysis supports V.O. Key's black-belt hypothesis regarding the ways a white minority reacts to a large black population. This study demonstrates that devolution of the GI Bill of 1944 contributed to differential distribution of military benefits based on race and suggests that devolution may be instrumental in the propagation of discriminatory practices in the U.S.*

Introduction

> We view [the GI Bill of 1944] as a true economy, the best money that can be spent for the future welfare of the nation. The men and women who compose our armed forces . . . not only now hold the destiny of this Republic firmly in their hands, they will so hold it for a generation to come.[1]

Upon the end of World War II, Congress enacted the Serviceman's Readjustment Act of 1944, hereafter referred to as the GI Bill of 1944, in an effort to assimilate America's World War II veterans into civilian society without endangering the fragile economy. The primary elements of the GI Bill attempted to defer veterans from the existing labor force by encouraging them to instead attend college or vocational school, acquire a new trade, or invest in an agricultural or business enterprise. These unprecedented military benefits provided a unique opportunity for veterans to achieve socioeconomic mobility, resulting in the bill's legacy as "the best investment the U.S. government ever made."[2] Moreover, the GI Bill of 1944 challenged prevailing social norms by allowing all veterans, regardless of their race, to reap its benefits, earning it the title of America's first piece of colorblind legislation.[3]

Despite the GI Bill's reputation as "the great democratizer," it is unclear that those charged with implementing the bill's provisions abided by its mandate of equal access to all veterans, regardless of race.[4] Indeed, scholars argue that the framers of the bill intentionally delegated implementation to the state level, so as to appease regional interests that favored the subordination of nonwhites.[5] The possibility that the GI Bill of 1944 may have been constructed in such a way as to permit discrimination against an entire demographic brings to light a political conflict between federal intentions, as expressed in legislation, and a state's power to undermine those intentions. Moreover, it suggests that the federal government's practice of devolution may ultimately act as an obstacle to the economic mobility meant to result from such social welfare programs.

A closer examination of the mechanisms of the GI Bill of 1944 will reveal how a single item of colorblind legislation produced drastically different results for veterans based on their race. Determining *how* these results came about will provide greater insight into the history of Southern politics and the consequences of devolution, the practice of empowering non-federal entities to implement federal legislation that is based on the premise that "locals know best."[6] Exploring the devolution of the GI Bill of 1944 will demonstrate how colorblind legislation might produce race-based outcomes while contributing to a more textured understanding of present discrepancies in the net worth of black families and their white counterparts.

Purpose

This study examines the relationship between federal and state-level governments in the distribution of social welfare programs. The language of the GI Bill mandated "the Administrator of Veterans' Affairs is authorized to administer this title and shall, insofar as possible, utilize existing facilities and services of Federal and State departments or agencies on the basis of mutual agreements with such departments or agencies." Furthermore, it "empowered the Administrator to delegate to any officer or employee of his own or of any cooperating department or agency of any State such of his powers and duties, except that of prescribing rules and regulations, as the Administrator may consider necessary and proper to carry out the purposes of this title."[7] These two clauses of the GI Bill represent devolution of the distribution

of benefits, wherein the responsibility to administer federal legislation is shifted to a lower level of government. Indeed, each of the primary elements of the bill, including provisions for education, home or business loans, and occupational assistance, was subject to such devolution clauses that essentially empowered state governments and local agencies to administer the military benefits.

The devolution of the provisions of the GI Bill of 1944 necessarily created a tension between the seemingly race-neutral language of the federal legislation and the race-based interests that dominated state-level politics in the 1940s. This study investigates the relationship between the federal government and the local- and state-level agencies charged with carrying out federal legislation. An examination of the GI Bill of 1944 within the context of the postwar era will demonstrate how a local agency or state government might undermine the spirit of federal legislation by prioritizing the maintenance of local regimes of power over equal access to government programs.

This study proposes that the state-level implementation of the GI Bill of 1944, as mandated by devolution, permitted local agencies and bureaucratic figures to undermine the provisions of the bill, resulting in unequal access to benefits for African-American veterans. Furthermore, individuals who were dedicated to the maintenance and control of the black population compounded these discriminatory practices. In other words, this study demonstrates that the maintenance of regional interests, namely the promulgation of extant racial hierarchies, prevented the GI Bill of 1944 from truly living up to its colorblind nature.

To provide a clearer understanding of the role of regional interests in the implementation of this legislation, this study first reviews the major elements of the GI Bill of 1944 in the context of the Southern political system, focusing on how these implementation practices served as obstacles to African-American veterans. Next, it provides a more detailed analysis of arguably the most valuable element of the GI Bill—the provision for subsidized college education. A statistical analysis will then reveal the qualities of certain states that correlate with a higher support for black veteran education. Finally, this study concludes with a case study of the state of Georgia that will provide a compelling example of how regional political bodies used devolution clauses as an opportunity to maintain racial hierarchies in the face of colorblind federal legislation.

African-Americans and the GI Bill

Veterans' experiences with World War II prepared them to take advantage of opportunities presented by the altered economic landscape of the United States. The combination of the development of new industries and the need for intense wartime production manifested itself in an environment that was ripe for economic improvement. In fact, "[e]conomists sometimes refer to the post-war era as 'the Great Compression,' because the disparity in earning power between blue- and white-collar workers grew smaller across society as a whole for the first time in history. Economic classes in America literally compressed as never before."[8] More importantly, "the postwar era was characterized, however, by wage compression, which elevated the earnings and benefits of those without college degrees and depressed the wages of the more highly educated individuals."[9] Thus, for the years directly after the end of World War II, the type of job one held did not necessarily limit one's potential for social mobility.

The skilled and semiskilled industries that blossomed during and immediately after the war, including the telephone, automotive, and television industries, boasted an abundance of well-paid occupations that did not require a college degree. For black World War II veterans, this situation seemed to promise economic mobility, particularly for those who received technical training while serving in the military.[10] By and large, the military required soldiers to be technically trained. As such, southern black servicemen were equipped to fill a number of skilled positions, including auto mechanics, radio operators, and welders, upon their return to the States.[11] Veterans that acquired occupational skills via military training could utilize those same skills after the war in industries that paid more than other unskilled positions, which would have significantly improved their economic standing. The training black veterans received in the military might have qualified them to secure employment that would improve their economic status upon the termination of the war. To procure employment under the terms of the GI Bill of 1944, veterans were to work with state level agencies created by the federal government.

The Veterans Administration and the United States Employment Service

Two federal agencies, the Veterans Administration (VA) or the United States Employment Service (USES), were charged with assisting veterans in locating jobs that would appropriately utilize their occupational skills. Although the VA and USES were federal bodies, local branches had the responsibility of administering the GI Bill's provisions. Unfortunately for black veterans, neither the federal funding of these two agencies nor the "colorblind" nature of the GI Bill itself could override the pervasive racial prejudice that characterized many of these local branches throughout the South.[12] One way that these local agencies denied black veterans access to their benefits was by refusing to hire many black counselors. Onkst notes, "By 1947, for example, the VA had employed a total of approximately a dozen African-American counselors in Georgia and Alabama, and not one in Mississippi…From 1944 through 1946, the [USES] only employed approximately fifteen black counselors in Georgia, Alabama, and Mississippi, and all of those counselors, except one, worked in Georgia."[13] Because the VA was staffed almost entirely by white counselors, it became known

as an enemy of sorts to black veterans.[14] A lack of black counselors meant that black veterans were at the mercy of a predominantly white staff that gradually developed a series of practices that undermined the provisions of the GI Bill while preventing black veterans from obtaining their benefits.

For instance, the GI Bill mandated that all veterans except those who had received a dishonorable discharge should receive the benefits it outlined. However, as Onkst describes, "white counselors often refused to help black veterans who had received a 'general' or 'blue' discharge (as it was commonly known), which the Army had issued disproportionately to black 'troublemakers.'"[15] While these 'general' or 'blue' discharges were not the same as a dishonorable discharge, they did signify some sort of demerit while in service. Black veterans were often given these discharges if they did not comply with segregationist policies. In this way, white counselors exploited the discriminatory tactics of the Army to deny black veterans their military benefits. Moreover, these particular methods of discrimination were facilitated by powerful local agencies that were not held accountable concerning their adherence to the provisions of the GI Bill.

A slightly more intricate strategy used by white counselors to deny black veterans their benefits concerned job placement and unemployment compensation. Under the provisions of the GI Bill, veterans could receive unemployment compensation of twenty dollars per week for up to a full year, so long as they did not hold a job that paid more than twenty-three dollars per week. To receive these benefits, a veteran had to actively pursue employment through either the VA or USES. A veteran would not qualify for this additional compensation if he or she refused to take a job deemed "suitable" for him or her by the agency through which he was seeking employment. In other words, local agencies, staffed predominantly by white counselors, had the power to determine what types of jobs were "suitable" for black veterans.[16] In general, white counselors in the South refused to suggest skilled or semi-skilled positions to black veterans, and instead required them to take menial labor positions that required long hours and afforded very little pay. A survey conducted by the VA in 1946 indicated that, "86 percent of the skilled, professional, and semiskilled jobs went to white veterans, while 92 percent of the nonskilled and service positions went to black vets."[17] That is, whites filled the majority of skilled positions available while blacks filled the majority of unskilled positions. Black veterans offered unskilled or menial positions found themselves in a difficult predicament: if they decided to accept such an offer, they would waste their occupational skills in a job that did not provide them with enough income to support themselves and their family. However, if they declined such an offer, they were denied federal unemployment compensation, possibly resulting in a lower income than if they had accepted the job offer. Thus, in order to receive their unemployment compensation, many black veterans had to accept jobs that were unskilled and low-paying, despite the fact that many black veterans had the skills necessary to secure employment in professional and skilled occupations.

Apprenticeships

For those veterans who did not receive technical training during their military service, the GI Bill provided access to occupational skills training through apprenticeships and on-the-job training programs. When participating in such a program, a veteran would receive regular wages from his employer, hands-on training for a particular trade, and a monthly living stipend. Taken together, these benefits would provide a veteran with the assistance needed to earn a living while acquiring occupational skills that could enable him to secure a higher paying position in the future. To receive these benefits, a veteran could either search for a program through the Veterans Administration, or he could locate an employer willing to train him and have that apprenticeship opportunity approved by a state-level Veterans Administration coordinator.

Both of these options presented significant obstacles for black veterans, primarily because predominantly white VA staff members had the opportunity to cling to their racist ideology when assisting black veterans in locating apprenticeship programs. Black veterans in the South who attempted to locate on-the-job training programs without the assistance of the Veterans Administration faced little success. More often than not, white businesses were unwilling to hire and train blacks. Investigations by the SRC clearly indicated the widespread lack of apprenticeship programs for black veterans:

> In Atlanta, during March 1946, the American Council on Race Relations found black veterans participating in just six of the 246 on-the-job training programs that the state of Georgia had approved for veterans…an SRC field agent calculated that only one out of every ten black Alabama veterans interested in obtaining instruction could find a program in which to enroll… the SRC estimated that southern black veterans, who collectively represented approximately one-third of the South's World War Two veteran population, could only enter one out of every twelve on-the-job training programs within the region.[18]

Essentially, these surveys demonstrate that apprenticeship options for black veterans seeking on-the-job training were quite limited.

Unfortunately, the black veterans who were able to enter into apprenticeship programs reported abuse and exploitation. Employers approved as teachers would often train their employees for the purpose of using them as cheap labor, charge veterans to enter training programs, provide inadequate training, and require their apprentices to work long hours with very few breaks.[19] Thus, many business owners took advantage of black veterans by exploiting their labor and not providing adequate training in return, violating

the guidelines of the GI Bill. Moreover, black veterans that complained about the conditions in which they worked were usually stripped of their GI benefits by local agencies who considered them unwilling to accept "suitable" employment. The federal government, particularly the national Veterans Administration, failed to notice any of these abuses, largely because oversight of such programs had been delegated to state-level departments of education. Many states did not develop uniform standards or oversight committees for these programs, resulting in a slew of ineffective training programs fueled by racist ideology.

Vocational Schools

While some veterans attempted to secure a position in an on-the-job training program, others found the idea of a full-time vocational school more appealing. According to the provisions of the GI Bill, veterans enrolled in a vocational school would have their tuition paid by the federal government and receive a monthly stipend to cover living expenses. Vocational training qualified as a viable option for those veterans who were unable to enter college and, consequently, could not apply their educational benefits to a four year university. Among the Army troops during World War II, only 17 percent of black soldiers had already graduated from high school compared to 41 percent of white soldiers. Because high school completion is generally regarded as a prerequisite to college attendance, it is not surprising that black veterans were less likely than whites to use their GI benefits to attend college.[20]

As with occupational training and apprenticeship programs, the federal government delegated implementation of vocational school benefits to the states. State-level departments had the power to regulate the admission requirements to vocational institutions, leading to the widespread confinement of black veterans to all-black institutions in the South.[21] Horace Bohannon, a field agent for the Southern Regional Council's Veteran Services Project, visited the Georgia State Industrial College, a vocational school that allegedly provided the best vocational training for black veterans in Georgia, in February 1946. For instance, Bohannon:

> …found the classrooms too small to accommodate many veterans, with the students only receiving training in some of the less desirable trades. Meanwhile, white veterans at a nearby school were acquiring instruction in such advanced skills as radio repair, diesel engineering, and electrical appliance restoration. Bohannon reported that when he asked Benjamin Franklin Hubert, the president of the college, whether he was planning to get permission from the state to develop advanced training courses, Hubert recoiled at the suggestion and displayed his 'Uncle Tommishness' by insisting that he already knew very well what type of training the veterans wanted. According to Hubert, the school

was already offering such instruction.[22]

In addition, many of these vocational schools that instructed black veterans lacked the proper structural elements necessary to a learning environment. When visiting the Ward Street School, a small vocational school located in Georgia, Bohannon found, "an old dilapidated building with virtually no doors or windows, a very poor heating system and most despairing of all poor teachers and worse subject matter."[23] Essentially, Bohannon discovered that vocational schools for black veterans were content to teach their students less desirable trades and had no motivation to advance their curriculum to the level found at vocational schools for white students.

Unfortunately, some of these vocational schools, particularly those that targeted black veterans, were "fly-by-night" schools, vocational programs that had quite literally started overnight with the intention of charging the federal government outrageous tuition rates in exchange for insufficient vocational training. A number of independent organizations, including the National Urban League, compared the instruction for blacks in these "fly-by-night" programs with that of vocational schools before the war and found that the newer schools were wholly inefficient and functioning much worse than schools in 1945. As a result, many black veterans attempted to acquire vocational training that acted as a barrier to their education. If they were successful in enrolling in such programs, they often received less than adequate training in fields that did not provide high-paying jobs. Thus, as with apprenticeship programs and occupational placement programs, quality vocational education was largely out of reach to black veterans in the South. However, the federal government eventually took note of veterans' difficulties in accessing their GI Bill benefits.

Education and the GI Bill

As early as December 1950 Congress recognized flaws in the implementation procedures of the GI Bill, resulting in the initiation of an investigation to uncover some of the most flagrant abuses that had surfaced since the bill's passage. However, the GI Schools Investigation Committee decided to focus its efforts "on the single field of below college level training," simply because "publicity during the past year has focused on this phase of the program and because there appears to be a widespread belief on the part of the public and many Congressmen, mistaken though that belief may be, that the most flagrant abuses have taken place here."[24] As such, while this committee explored in great detail abuses within the realm of the vocational schools and on-the-job training programs, it did not address issues within the sphere of higher education. Determining the mechanisms whereby such abuses occurred would certainly illustrate some issues surrounding devolution. Moreover, determining whether all veterans had equal access to their education benefits would add to the existing body of knowledge regarding the legacy of the GI Bill of 1944.

The G.I. Bill provided unprecedented educational benefits for returning veterans, including tuition payment of "$500 per year for up to 4 years plus a living allowance of $50 to $75 per month."[25] Under these provisions, the government would be responsible for all expenses related to a veteran's enrollment in a college or university. At the time the government created these benefits, the degree to which returning soldiers would utilize these benefits was largely unknown. A series of three surveys conducted by the War Department attempted to ascertain veterans' plans to utilize their benefits. The first found that 7 percent planned to return full time to school or college; another concluded that around 8 percent of veterans would become students; and the last determined that between 8 and 12 percent of all veterans would attend college.[26]

The actual number of people that benefited from the educational benefits of the GI Bill surpassed initial estimates. Approximately 2.2 million veterans used their GI Bill education benefits to attend college or university and 110,000 more veterans who had failed to complete high school before entering service had returned to high school to earn their diplomas."[27] Scholars generally consider the enrollment of veterans in institutions of secondary and higher education as an indication of the success of the GI Bill. These claims are supported by an oft-cited study by Norman Frederiksen and W.B. Schrader conducted in 1951 that found that 20 percent of the freshmen college veterans surveyed were greatly influenced by the GI Bill when deciding to enter college.[28] A significant number of veterans that used their educational benefits would have been unable to attend institutions of higher learning had those benefits not been made available to them through the GI Bill.

The education provisions of the GI Bill of 1944 contributed to positive socioeconomic outcomes for veterans. A study conducted by the Joint Economic Committee of Congress estimates that veterans utilizing their GI Bill benefits earned between $10,000 and $15,000 more per year than their nonveteran counterparts, supporting the GI Bill's reputation as "the best investment the U.S. government has ever made."[29] A recent study of the educational attainment of World War II veterans versus their nonveteran counterparts utilizes an estimation strategy to analyze the educational outcomes of men born between 1915 and 1929. The findings of this study indicate that military service and GI Bill benefits are correlated with more years of education, indicating the positive impact of the GI Bill on the educational attainment of veterans.[30]

Implementation of Education Provisions

As with the other major elements of the GI Bill, Congress empowered state and local agencies to administer these benefits. Indeed, the GI Bill actually limited the power of federal agents in overseeing the education provisions, declaring, "No department, agency, or officer of the United States, in carrying out the provisions of this part, shall exercise any supervision or control, whatsoever, over any State educational agency, or State apprenticeship agency, or any educational or training institution."[31] As such, states had complete authority to administer these benefits without oversight from the federal government.

For a number of reasons, the provisions of the GI Bill discouraged the enrollment of black veterans in institutions of higher education. Because the initial education of African-Americans was generally inferior to that of their white counterparts, black veterans were less able to meet the educational requirements for entry into colleges and universities as outlined by the GI Bill.[32] As such, many African-American veterans had a compelling reason not to utilize their education benefits: insufficient academic preparation. The separate-but-equal elementary and high schools available to most blacks before World War II were not equal at all. Service records on the educational levels of servicemen in World War II reveal that, as a group, African-Americans had completed fewer years of school and had higher illiteracy rates than white recruits.[33] Because African-American soldiers were not afforded the same quality elementary and secondary education as white soldiers, they were less able to meet the requirements for admission to post-secondary institutions of learning.

The provisions of the bill did not eliminate the prejudices of educational institutions. That is, schools that refused to admit individuals because of their race were not required to amend this practice. Nevertheless, a number of black veterans were able to pursue higher education. Those residing in the South had no choice but to enroll in one of about one hundred historically black colleges or universities which, because of the prevailing separate-but-equal doctrine, were small, underfunded, and certainly unprepared for the drastic increases in enrollment, a notion that calls into question the *quality* of education received by those veterans enrolled in these institutions.[34] As such, black veterans' access to higher education and the quality of the education available to them is unclear.

In analyzing access to higher education, one must consider the broader context of Southern politics, as control of black education might easily be equated with control of the black population.[35] That is, limiting access to education may have been used as a way to limit the social and political influence of the black population. In examining the persistence of white supremacy throughout the South, political scientist V.O. Key argues that the "hard core of the political South—the backbone of southern political unity—is made up of those counties and sections of the southern states in which Negroes constitute a substantial proportion of the population. In these areas a real problem of politics, broadly considered, is the maintenance of control by a white minority."[36] Key contends that the politics of the South in areas with large black populations revolves around the white minority's ability to control the black majority. Indeed, he argues that such control is crucial to the upkeep of white political, economic, and social supremacy throughout the South. Control of higher education constitutes one way that

white minorities may have attempted to limit the political, economic, and social power of the larger black population. This study hypothesizes that the devolution of the GI Bill of 1944 permitted local agencies and mid-level bureaucrats to undermine the provisions of the Bill by prioritizing racial hierarchies over equal access to higher education, resulting in fewer educational opportunities for black veterans and lower quality education for those black veterans that were able to enter a college or university.

Methodology

I employ a quantitative strategy to explore the impact that devolution of the GI Bill of 1944 had on the educational attainment of black veterans. Specifically, the statistical regression employed in this study seeks to establish variance among states with regard to the representation of black veterans enrolled in institutions of higher education. Additionally, the regression attempts to attribute this variance to certain qualities of the states. This statistical analysis demonstrates that state-level variance is significant, indicating that devolution played an important role in the distribution of educational benefits to veterans of World War II.

Statistical Analysis Strategy

Population statistics and rates of enrollment for black veterans were used to determine the degree to which black veterans were equitably represented in institutions of higher education. Rates of black veteran enrollment were then regressed against a number of characteristics that provide insight into why a state might be more or less willing to support black veteran education. These independent variables include the overall African-American population, the percentage of the population employed in the armed forces, the number of veterans pursing higher education, the amount of federal aid received for education, affiliation with the democratic party, and the percentage of institutions of higher education open to African-American students. [37] Once correlated with the aforementioned measure of enrollment of black veterans in higher education, the regression analysis will establish that states supported black veteran education to different degrees.

Taken together, the statistical analysis of black veteran representation in higher education and a state-level case study provide a clear picture of how implementation practices under the GI Bill of 1944 resulted in widely varying outcomes for black veterans. In describing the state of education for black veterans and demonstrating the political mechanisms that contributed to such a state, this study seeks to provide a complete picture of the sociopolitical factors contributing to the difficulties black veterans faced in accessing education under the GI Bill. Essentially, the synergy of these two methodologies enhances the broader claims of this study by describing the process whereby political actions impacted the potential beneficiaries of federal legislation.

Data

Examining the implementation of the GI Bill of 1944 as it relates to devolution requires analysis of the state-level differences in access to higher education for black veterans. Table 1 displays the rate of black enrollment as a percentage of the total veteran population in higher education. Additionally, it displays the rate of black veteran enrollment as

Table 1: Black Veteran Representation in Higher Education[38]

State	Column 1: Total # Veteran Students	Column 2: # Black Veteran Students	Column 3: % Black Veteran Students	Column 4: Black Population 1940	Column 5: Representation in Higher Education
Alabama	16,241	2463	15.17%	34.71%	0.44
Arkansas	8,415	567	6.74%	24.76%	0.27
Delaware	1,305	166	12.72%	13.46%	0.94
District of Columbia	18,173	2046	11.26%	28.24%	0.40
Florida	15,965	854	5.35%	27.10%	0.20
Georgia	17,291	1822	10.54%	34.73%	0.30
Kentucky	14,513	321	2.21%	7.52%	0.29
Louisiana	16,507	1323	8.01%	35.93%	0.22
Maryland	14,462	582	4.02%	16.58%	0.24
Mississippi	9,308	696	7.48%	49.21%	0.15
Missouri	26,918	128	0.48%	6.46%	0.07
North Carolina	20,383	2585	12.68%	27.47%	0.46
South Carolina	10,266	987	9.61%	42.86%	0.22
Tennessee	17,316	1363	7.87%	17.45%	0.45
Texas	60,332	3683	6.10%	14.41%	0.42
Virginia	15,392	1921	12.48%	24.70%	0.51
West Virginia	11,288	954	8.45%	6.19%	1.37

compared to the total black population. This ratio demonstrates the degree to which black veterans are represented in higher education, with values closer to 1 demonstrating more equitable representation.

The values conveying Black Veteran Representation in Higher Education attest to variance within the experiences of black veterans at the state level, with some states, such as West Virginia and Delaware, achieving nearly equitable representation. The large range of these values indicates a significant difference in the degree to which veterans could access higher education.

To examine the significance of the independent variables in predicting the value of the dependent variable, in this case, black veteran representation in higher education, this study employed a multiple regression model. The independent variables for this analysis include the black population in 1940, the percentage of the population employed in the armed forces, the percentage of veterans enrolled in institutions of higher education, the amount of federal aid received in thousands of dollars, the percentage of the population voting for the Democratic Party in the 1940, 1944, 1948, and 1952 presidential elections, the percentage of the population voting for the States' Rights Democratic Party in 1948, and the percentage of institutions of higher education open to black students. Table 2 provides basic descriptive information about these variables.

Table 2: Descriptive Statistics

	Mean	Std. Deviation	N
Black Rep	0.34708529	0.208261898	17
Negro 40	0.2516	0.1266287	17
Armed Forces	0.0124667	0.0111731	17
Vets HE	0.0057333	0.0012228	17
FedEdu	1.77E+03	678.856419	17
Dem 40	0.7416	0.14218037	17
Dem 48	0.4468	0.19484177	17
Dem 44	0.6921333	0.13507716	17
SR 48	0.2559333	0.30593591	17
Dem 52	0.5224	0.07635799	17
HBCU	0.2118667	0.11992073	17

Table 3 indicates the value of the simple correlations of these variables with one another, and with the dependent variable, black representation in higher education. Of the independent variables tested, the percentage of institutions of higher education open to black students demonstrates a strong positive correlation with the dependent variable. This correlation is statistically significant, with a significance value of 0.015. This finding indicates that those states that maintained more institutions for black students observed higher enrollment of black veterans in the years following World War II. Although this finding seems logical, it attests to the fact that state-level differences in the treatment of black institutions may have influenced the educational outcomes of black veterans.

Table 3 also indicates a very strong positive correlation between a state's black population and the percentage of that state voting for the Democratic Party in presidential elections. The correlation values for the years 1940 and 1944 are 0.905 and 0.930, respectively, and both demonstrate significance values of 0.000. These particular correlations strongly support V.O. Key's black-belt hypothesis, which states that whites in areas with high concentrations of the black population will react more strongly against the black population, in this case, by strongly supporting the Democratic Party which was, at this time, known for its repression of the black population. In other words, this correlation indicates that as the black population increases, the percentage of the population voting for the segregationist Democratic Party also increases.

The particular correlation between party politics and the black population is further solidified when examining the 1948 presidential election, in which the States' Rights Democratic Party emerged within the South as an extreme version of the Democratic Party. In this particular election year, states supporting the States' Rights Democratic Party identified more with segregationist and supremacist aims than did those voting for the Democratic Party. In other words, for the year 1948, the support of the Democratic Party indicated a rejection of the extreme ideology of the States' Rights Democratic Party. Table 4 indicates a strong positive correlation of 0.860 between the black population and the percentage of a state voting for the States' Rights Democratic Party, and a strong negative correlation of -0.684 between the black population and the percentage of a state's population voting for the Democratic Party in 1948. Both of

Table 3: Simple Correlations

Pearson Correlation:	Black Rep	Negro 40	Armed Forces	Vets HE	FedEdu	Dem 40	Dem 48	Dem 44	SR 48	Dem 52	HBCU
Black Rep	1.000	-0.257	0.053	-0.284	-0.276	-0.298	0.106	-0.295	-0.276	-0.133	0.563
Negro 40	-0.257	1.000	0.045	-0.325	-0.004	0.905	-0.684	0.930	0.860	0.558	0.348
Armed Forces	0.053	0.045	1.000	0.177	0.162	-0.014	0.165	-0.065	-0.203	-0.369	-0.504
Vets HE	-0.284	-0.325	0.177	1.000	0.631	-0.148	0.283	-0.204	-0.294	-0.246	-0.456
FedEdu	-0.276	-0.004	0.162	0.631	1.000	0.295	0.091	0.257	0.076	0.089	-0.429
Dem 40	-0.298	0.905	-0.014	-0.148	0.295	1.000	-0.547	0.981	0.827	0.559	0.235
Dem 48	0.106	-0.684	0.165	0.283	0.091	-0.547	1.000	-0.614	-0.905	-0.358	-0.476
Dem 44	-0.295	0.930	-0.065	-0.204	0.257	0.981	-0.614	1.000	0.871	0.629	0.290
SR 48	-0.276	0.860	-0.203	-0.294	0.076	0.827	-0.905	0.871	1.000	0.536	0.403
Dem 52	-0.133	0.558	-0.369	-0.246	0.089	0.559	-0.358	0.629	0.536	1.000	0.374
HBCU	0.563	0.348	-0.504	-0.456	-0.429	0.235	-0.476	0.290	0.403	0.374	1.000
Sig. (1-tailed):											
Black Rep		0.177	0.425	0.153	0.160	0.140	0.353	0.143	0.160	0.319	0.015
Negro 40	0.177		0.437	0.119	0.494	0.000	0.002	0.000	0.000	0.015	0.102
Armed Forces	0.425	0.437		0.264	0.282	0.481	0.278	0.409	0.234	0.088	0.028
Vets HE	0.153	0.119	0.264		0.006	0.299	0.153	0.233	0.143	0.189	0.044
FedEdu	0.160	0.494	0.282	0.006		0.143	0.373	0.177	0.394	0.376	0.055
Dem 40	0.140	0.000	0.481	0.299	0.143		0.017	0.000	0.000	0.015	0.200
Dem 48	0.353	0.002	0.278	0.153	0.373	0.017		0.007	0.000	0.095	0.036
Dem 44	0.143	0.000	0.409	0.233	0.177	0.000	0.007		0.000	0.006	0.147
SR 48	0.160	0.000	0.234	0.143	0.394	0.000	0.000	0.000		0.020	0.068
Dem 52	0.319	0.015	0.088	0.189	0.376	0.015	0.095	0.006	0.020		0.085
HBCU	0.015	0.405	0.028	0.044	0.055	0.200	0.036	0.147	0.068	0.085	

these correlations are statistically significant.

These two correlations further demonstrate V.O. Key's central claims, that those states with larger black populations would take more measures to repress that population. Indeed, as the black population increased, the percentage of a state's population voting for the ideologically extreme States' Rights Democratic Party also increased. On the other hand, the smaller the black population, the more likely that state was to vote for the less extreme Democratic Party. Essentially, this particular table demonstrates that the size of a state's black population is related to the degree to which a state's population supported a political party known for its racist ideology.

Table 4 indicates that three of the model's independent variables are statistically significant, including the black population in 1940, the percentage of veterans in higher education, and the percentage of colleges or universities open to black students.

Table 4: Coefficients

Model	Unstandardized Coefficients		Standardized Coefficient		
	B	Std. Error	Beta	t	Sig.
Constant	-0.241	0.315		-0.763	0.501
Neg40	-2.304	0.716	-1.401	-3.217	0.049
Armed Forces	3.13	4.049	0.168	0.773	0.496
VetsHE	-87.882	23.662	-0.516	-3.72	0.034
FedEdu	1.43E-05	0	0.046	0.24	0.826
Dem40	1.707	0.903	1.166	1.891	0.155
Dem48	-2.654	1.046	-2.483	-2.537	0.085
Dem44	2.093	1.287	1.357	1.626	0.202
SR48	-2.708	1.014	-3.978	-2.67	0.076
Dem52	0.547	0.349	0.2	1.565	0.216
HBCU	1.469	0.339	0.846	4.338	0.023

Model	R	R^2	Adjusted R^2	Std. Error of Estimate
1	0.992	0.983	0.922	0.058197

The black population in 1940 variable has a negative coefficient, indicating that as the population increases, the black representation in higher education decreases. This finding once again confirms V.O. Key's black-belt hypothesis, as it demonstrates yet another way that a small white population might work to repress a larger black population—by limiting access to education. The percentage of veterans in higher education also has a negative coefficient, indicating that as the total number of veterans enrolled in colleges or universities increases, black representation in those institutions decreases. This seems to suggest that although veterans overall may have had access to education benefits, blacks did not have the same level of access as their white counterparts, as an increase in the presence of white veterans in institutions indicates a decrease in the presence of black veterans in those institutions. Finally, the percentage of institutions of higher education open to black veterans has a statistically significant positive coefficient, suggesting that a state with more institutions of higher education for blacks observed higher rates of black veteran enrollment. Though unsurprising, this result

provides support for the idea that the way a state treats its schools for blacks has a very real impact on access to education for black veterans. States that spend more money or effort to maintain their black institutions of higher education were able to provide education access to more black veterans than those states that did not maintain as many colleges or universities for black students.

The summary of this model, as displayed in Table 4 indicates the large statistical significance of the aforementioned independent variables on black representation in higher education. Additionally, a number of elements within the model confirm V.O. Key's hypothesis that whites in black-belt areas, those with very high concentrations of black people as compared to white people, demonstrate higher entrenchment in southern conservatism meant to repress and disenfranchise the black population.

The simple correlations displayed in Table 4 also indicate a very strong correlation cluster between the percentage of the population voting for the Democratic Party in various election years. That is, because each of these independent variables is highly correlated with another nearly identical variable, the overall effect of these variables may be overstated in the aforementioned multiple regression model. To address this issue, this study employed a second multiple regression, that included all of the original independent variables except for the Democratic Party affiliation for the presidential years 1940, 1944, and 1952. In other words, this second model only drew upon election results for the presidential election of 1948. A description of the variables used in this subsequent analysis is listed in Table 5.

Table 5: Descriptive Statistics

	Mean	Std. Deviation	N
Black Rep	0.34708529	0.208261898	17
Negro 40	0.2516	0.1266287	17
Armed Forces	0.0124667	0.0111731	17
Vets HE	0.0057333	0.0012228	17
FedEdu	1.77E+03	678.865419	17
Dem 48	0.4468	0.19484177	17
SR 48	0.2559333	0.30593591	17
HBCU	0.2118667	0.11992073	17

This particular year was selected because it is the only year in which the States' Rights Democratic Party was on the ballot. Because of the significant political differences between these two parties, this election year should clearly indicate the degree to which a state was affiliated with traditional Southern conservatism or more extreme conservatism that sought to repress the black population even further. In other words, this election year is unique in that its statistical outcomes will be very stark, as indicated by the extremely high negative correlation found in the first regression.

The simple correlations of variables in this particular regression model can be found in Table 6.

Table 6: Simple Correlations

Pearson Correlation:	Black Rep	Negro 40	Armed Forces	Vets HE	FedEdu	Dem 48	SR 48	HBCU
Black Rep	1.000	-0.257	0.053	-0.284	-0.276	0.106	-0.276	0.563
Negro 40	-0.257	1.000	0.045	-0.325	-0.004	-0.684	0.860	0.348
Armed Forces	0.053	0.045	1.000	0.177	0.162	0.165	-0.203	-0.504
Vets HE	-0.284	-0.325	0.177	1.000	0.631	0.283	-0.294	-0.456
FedEdu	-0.276	-0.004	0.162	0.631	1.000	0.091	0.076	-0.429
Dem 48	0.106	-0.684	0.165	0.283	0.091	1.000	-0.905	-0.476
SR 48	-0.276	0.860	-0.203	-0.294	0.076	-0.905	1.000	0.403
HBCU	0.563	0.348	-0.504	-0.456	-0.429	-0.476	0.403	1.000
Sig. (1-tailed):								
Black Rep		0.177	0.425	0.153	0.160	0.353	0.160	0.015
Negro 40	0.177		0.437	0.119	0.494	0.002	0.000	0.102
Armed Forces	0.425	0.437		0.264	0.282	0.278	0.234	0.028
Vets HE	0.153	0.119	0.264		0.006	0.153	0.143	0.044
FedEdu	0.160	0.494	0.282	0.006		0.373	0.394	0.055
Dem 48	0.353	0.002	0.278	0.153	0.373		0.000	0.036
SR 48	0.163	0.000	0.234	0.143	0.394	0.000		0.068
HBCU	0.015	0.102	0.028	0.044	0.055	0.036	0.068	

The values of the correlations of each variable to every other variable within the study are the same as in the first regression, suggesting that even with the removal of some presidential years, the percentage of institutions open to black students remains highly correlated with black representation in institutions of higher education. In other words, the significance of this variable despite manipulation of the independent variable suggests that the initial finding of significance was not due to the conflation of certain variables, but rather, that this variable is, indeed, highly correlated with the dependent variable regardless of other changes to the model. Additionally, this model still displays the statistically significant negative correlation between a state's black population and black representation in higher education, indicating that states with a higher population of blacks observed lower rates of black veteran enrollment in institutions of higher education. As hypothesized, the strong positive correlation between the black population and the percentage of the state's population supporting the States' Rights Democratic Party supports the black-belt hypothesis, in that states with higher populations of blacks are likely to support an extremely conservative political party focused on the repression of the black population.

Table 7 shows slightly different results in this second regression than in the first. In this particular model, neither the percentage of the population that is black nor the percentage of veterans in institutions of higher education is statistically significant. The percentage of the population employed in the armed forces is, however, statistically significant. In this second model, the percentage of institutions open to black veterans has remained significant.

These results indicate that the extent to which a state supports its military or is involved in the military may be related to the access of black veterans to higher education. That each of these variables was significant in one of the models indicates that a state's relationship to its military may be important in this model, but that the particular element of that relationship is not fully captured in either of these independent variables.

On the other hand, the consistency in the statistical significance of the percentage of institutions open to black students indicates that this variable is, indeed, related to black veteran representation in higher education. In other words, the degree to which a state maintains its black institutions had a very real impact on whether black veterans were able to pursue higher education. The significance of this model is displayed in Table 8 and indicates a very strong relationship between the independent variables and black representation in higher education.

Table 7: Coefficients

Model	Unstandardized Coefficients		Standardized Coefficient		
	B	Std. Error	Beta	t	Sig.
Constant	0.135	0.329		0.410	0.694
Neg40	-1.140	0.616	-0.693	-1.850	0.107
Armed Forces	12.457	3.536	0.668	3.523	0.010
VetsHE	-57.494	28.952	-0.338	-1.986	0.087
FedEdu	0.000	0.000	0.336	1.680	0.137
Dem48	0.125	0.487	0.117	0.256	0.805
SR48	-0.033	0.493	-0.049	-0.067	0.948
HBCU	2.094	0.304	1.206	6.896	0.000

Model	R	R^2	Adjusted R^2	Std. Error of Estimate
1	0.960	0.921	0.843	0.082602602

Discussion

Overall, the multiple regressions allow for an assessment of the significance of these independent variables as they relate to one another. The two models used for this study indicate that despite changes in the independent political variables, the percentage of institutions of higher education open to blacks is significant when considering black veteran representation in those institutions. This finding demonstrates that states that are charged with maintaining institutions of higher education have a direct influence on black veteran access to education, in that their maintenance of those institutions allows more black veterans to access education under the GI Bill, whereas states that do not maintain those institutions have essentially limited black veterans' access to higher education, despite the presence of their military benefits. The devolution of the GI Bill of 1944 to the state level thus places the educational outcomes of black veterans in the hands of state actors that may not have been concerned with the education of blacks at all. That is, varying levels of maintenance of education systems for black veterans suggests that black veterans trying to enter these systems would experience different outcomes based on the degree to which their state cared to maintain black institutions of higher education. Although the language of the federal legislation guaranteed them access to education, the devolution of the bill meant that black veterans were subject to the will of their state government, and those whose state did not invest in black schools faced limited opportunities for higher education.

These regression models have both also statistically supported the black-belt hypothesis of V.O. Key, which states that in states with a large black population, the smaller white population will make more efforts to repress the black population. In the political context of the mid-1940s South, support of the Democratic Party clearly indicates a desire for such repression. Moreover, support for the States' Rights Democratic Party in election year 1948 further confirms this hypothesis, as that party represented an extreme of Southern conservatism that focused on control and repression of the black population.

The Case Against Devolution

The results of this study frame one of the major consequences as a conflict between the intention of federal legislation and state- and local-level interests. If the federal government relinquishes control of social welfare legislation to the states without any form of oversight, there is no guarantee that racially discriminatory policies will not interfere with the equitable distribution of those benefits. In his study of the racial outcomes of New Deal programs, Robert Lieberman distinguishes between two types of federal programs: national, which are regulated by centralized authorities that operate under uniform administrative guidelines and are insulated from narrow political interests. And, "at the other end of the spectrum are parochial policies, policies that are fragmented both politically and administratively, so that the power to make allocation decisions is dispersed among many forces. Not only do administrators and officials of lower-level governments exercise substantial power over parochial policies, but such policies are also subject to political influence from partial, private interests that respond to narrow local concerns."[39] The GI Bill of 1944 seems parochial in nature, as evidenced by its delegation of administration to lower and lower levels of government that are unchecked by any central authority. Unfortunately, such parochial legislation has very real social, economic, and political implications for individuals that are unable to access benefits.

The unequal distribution of veteran education benefits in the late 1940s under the GI Bill of 1944 is a stark example of the "practice of denying access to African-Americans and other racial groups [that] was pervasive, insidious, and deeply embedded within the nation's K-12 and higher education communities."[40] Indeed, this particular situation represents one of the earliest instances of a federal mandate for equal opportunity regardless of race. Understanding *how* and *why* this mandate was undermined raises questions about the conflict between national interests and regional or state traditions.

More recent studies of higher education continue to struggle with the federal/state conflict. For example, in examining enforcement of Title VI of the Civil Rights Act of 1964, John B. Williams questions whether the failure of states to administer higher education according to federal intentions is proof of inevitable failure or of a failed attempt at implementation. In other words, can states with a highly charged racial history enact and enforce race neutral policy, or will the delegation of federal legislation to the state level always result in disadvantages for racial minorities? Williams continues: "A mountain of research today emphasizes the important semi-independent role that mid-level government officials play within policy implementation in large bureaucratic organizations. A major finding of such studies is that so-called street- and mid-level bureaucrats strongly affect policy outcomes, simultaneously interpreting decisions reached by decision makers and taking into account other factors, like their own self-interest."[41] Essentially, "[w]hat is at stake in a discussion of institutional racism is not simply whether it exists by the precise mechanisms by which particular institutions embody and make real socially and politically constructed racial differences."[42]

Conclusion

Although the GI Bill of 1944 provided unprecedented socioeconomic opportunities for millions of America's World War II veterans, African-Americans faced a number of obstacles in accessing their benefits. In demonstrating the role of devolution in permitting the manifestation of such obstacles, this study calls for increased federal oversight of social welfare programs, particularly with regard to political issues with which states may have an interest in prioritizing

regional interests above federal mandates. An additional layer of concern exists when a powerful minority group reacts to a threat to their power by limiting access to social benefits for the majority. In maintaining some degree of control over social welfare programs meant to provide benefits for a group, regardless of minority status, the federal government can work to prevent the promulgation of institutional discrimination and instead promote equal access for all.

1   "G.I. Bill of Rights." *Time.* 3 April 1944.

2   Hilary Herbold, "Never a Level Playing Field: Blacks and the GI Bill," *The Journal of Blacks in Higher Education* 6 (1994): 104-08.

3   The GI Bill of 1944 earned this reputation because unlike other New Deal legislation it did not explicitly limit the opportunities of non-whites to take advantage of its provisions. For an overview of legislative practices that hindered access of non-whites to the legislation's benefits, see Ira Katznelson, *When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-Century America* (New York: W.W. Norton, 2005).

4   Herbold, "Never a Level Playing Field," 104.

5   See Ira Katznelson for an analysis of the racial implications of the construction of New Deal legislation, including the GI Bill of 1944.

6   Richard A. Musgrave, "Devolution, Grants, and Fiscal Competition," *American Economic Association* 11, no. 4 (1997): 65-72.

7   Serviceman's Readjustment Act, 78th Cong., Enrolled Acts and Resolutions of Congress, 1789-1996; General Records of the United States Government; Record Group 11; National Archives. (1944) (enacted).

8   Edward Humes, *Over Here: How the G.I. Bill Transformed the American Dream* (Orlando: Harcourt, 2006).

9   Suzanne Mettler, "'The Only Good Thing Was the G.I. Bill': Effects of the Education and Training Provisions on African-American Veterans' Political Participation." *Studies in American Political Development* 19 (2005): 31-52.

10   Humes, *Over Here*, 229.

11   Onkst, David. "'First a Negro… Incidentally a Veteran': Black World War Two Veterans and the G. I. Bill of Rights in the Deep South, 1944-1948." *Journal of Social History* 31, no. 3 (1998): 517-43.

12   Herbold, "Never a Level Playing Field," 106.

13   Onkst, "First a Negro," 520.

14   Herbold, "Never a Level Playing Field," 106.

15   Onkst, "First a Negro," 521.

16   Onkst, Ibid., 522.

17   Humes, *Over Here*, 230.

18   Onkst, "First a Negro," 524.

19   Onkst, Ibid. 525.

20   Ira Katznelson and Suzanne Mettler, "On Race and Policy History: A Dialogue about the G.I. Bill," *Perspectives on Politics* 6, no. 3 (2008): 519-37.

21   Ibid., 522.

22   Onkst, "First a Negro," 526.

23   Ibid., 528.

24   United States. Cong. House. House Select Committee to Investigate Educational and Training Program Under the GI Bill. *Investigation of GI Schools*, by Olin E. Teague. 81st Cong., 2nd sess. H. Rept. Washington DC: Government Printing Office, 1951.

25   Betsy Bannier, "Join the Conversation: The Impact of the GI Bill on Developmental Education," *The Learning Assistance Review* 11, no. 1 (2006): 35-44. At the time of the implementation of the GI Bill, $500 per year was enough to cover tuition at the vast majority of institutions, including those in the Ivy League.

26   Keith W. Olsen, "The GI Bill and Higher Education: Success and Surprise," *American Quarterly* 25, no. 5 (1973): 596-610.

27   Charles B. Nam, "Impact of the 'GI Bills' on the Educational Level of the Male Population," *Social Forces* 43, no. 1 (1964): 26-32.

28   Ibid., 28.

29   Herbold, "Never a Level Playing Field."

30   John Bound and Sarah Turner, "Going to War and Going to College: Did World War II and the G.I. Bill Increase Educational Attainment for Returning Veterans?" *Journal of Labor Economics* 20, no. 4 (2002): 784-815.

31   Serviceman's Readjustment Act.

32   Katznelson, *When Affirmative Action Was White*.

33   Humes, *Over Here*, 229.

34   Ibid.

35   James D. Anderson, *The Education of Blacks in the South: 1860–1935* (Chapel Hill: University of North Carolina Press, 1988).

36   V. O. Key, *Southern Politics in State and Nation* (New York: A. A. Knopf, 1949).

37   For this particular variable, the percentage of the state's population voting for the Democratic Party in the Presidential election was used. The prevalence of the all-white Democratic primary and close alignment of the Democratic Party with segregationist ideology makes this factor a suitable independent variable for this study. Although black voter turnout for Presidential election years would likely be a better measure of the degree to which a state has disenfranchised the black population, a comprehensive measure of this for all Southern states was not available.

38   For Table 1, Columns 1 and 2 are raw numbers taken from the Statistical Abstracts of the US (1948) and Martin D. Jenkins' 1947 report. Column 3 is calculated by dividing Column 2 by Column 1. Column 4 is raw data from the Statistical Abstracts of the US (1945). Column 5 is calculated by dividing Column 3 by Column 4.

39   Robert C. Liberman, *Shifting the Color Line: Race and the American Welfare State* (Cambridge, MA: Harvard University Press, 2001).

40   John B. Williams, *Race Discrimination in Public Higher Education: Interpreting Federal Civil Rights Enforcement, 1964–1996* (Westport, CT: Praeger, 1997).

41   Ibid., 37.

42   Lieberman, *Shifting the Color Line*, 12.

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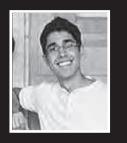
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Thomas Hernandez is a senior from San Antonio, Texas, majoring in Anthropology and International Studies, and Philosophy-Neuroscience-Psychology. Directed by Dr. James Wertsch, his project is titled "Knowledge, State, and Society" and considers the effects of political development initiatives in the post-Soviet state of Azerbaijan. Regionally he is interested in social and political change occurring in the South Caucasus and Central Asia, and more particularly political development efforts initiated by exogenous state actors. His current topical interests are in the cultural dimensions of corruption, aid and development implementation, and the complexity imbued in rapidly changing post-Soviet regions. The MMUF program has excited him about the possibility of pursuing a doctoral degree in Cultural Anthropology within the next two years.

Maria Santos is a senior majoring in Women, Gender and Sexuality Studies, with minors in Latin American Studies and Psychology. She was born in Peru and immigrated to Queens, New York, when she was eight years old. She is interested in the way that sex and gender create and inform various social structures and individual agency. Her Mellon research focuses on the scholarly and journalistic writing about women in the Shining Path, a Communist revolutionary group from Peru (1980-2002). Her intimate relations with various Peruvian women inspired her research. Maria hopes to use her privileged education to continue to focus on and help populations that have been systematically marginalized and misrepresented.

Monica Smith, a senior Political Science major, hails from Dallas, Texas. Her academic interests include American politics, policies affecting educational opportunities, and veterans' legislation. "Jim Crow's Middle Class" explores the intersection of socioeconomic mobility and education policy in post-World War II America. In her spare time, Monica enjoys volunteering with the Campus YMCA and the Saint Louis Family Court Mentoring program. Monica hopes to pursue a Ph.D. in Political Science at Columbia University in the near future.