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**The ART of Producing Responsa:
Feminist Critiques of Rabbinic Law through the Lens of Assisted
Reproductive Technologies**

Andrea Pemberton

Prior to the mid-twentieth century, when assisted reproductive technologies (ART) stepped into the medical scene, supplications and prayers to God were the primary means for religious Jewish couples to cope with the issue of infertility. However, with the advent of artificial insemination techniques, fertility hormones, in vitro fertilization, and surrogacy, new medical technologies have successfully generated proactive methods for infertile individuals to have biological children of their own. Yet as these controversial technologies emerge, and prove to be of interest and usefulness to Jewish persons, rabbis are compelled to contend with the newly developed and highly contentious issue of assisted reproductive technologies. In compliance with *halakha*, or rabbinic law, modern rabbis have interpreted ART in various ways. These interpretations have led some rabbis to place restrictions on certain assisted reproductive technologies and to implement guidelines for their use in general. For religious Orthodox Jews, *halakha* is a prominent feature of everyday life that influences each action and interaction in the most direct way. Because of this observance, Orthodox couples undergoing fertility treatment and utilizing ART take seriously the guidance of their rabbis, who are seen as authorities on *halakha*. Considering that the majority of assisted reproductive technologies takes place within the female body, a potential problem emerges when their use is dictated by the tractates of a male-dominated religious legal system. The purpose of this paper, then, is to explore gender inequality in *halakha* by utilizing feminist critiques of legal systems to analyze Orthodox rabbinic discourse on assisted reproductive technologies. Due to the unique cultural situation in Israel, which boasts a relatively strong Modern Orthodox presence, a pro-natal government, and unparalleled access to cheap fertility treatments for its citizens, this research will focus primarily on the assisted reproductive scene in Israel. In addition, this paper will reflect on the importance of working within the *halakhic* system to achieve greater gender equality for Orthodox feminists, and explore some potential methods for realizing that goal.

Before a critique of gender bias in *halakhic* rulings on assisted reproductive technologies is possible, it is first necessary to establish that a gender bias exists in this legal framework. While it is well known that rabbinic law has been generated and interpreted exclusively by an all-male academic elite for thousands of years, there are multiple interpretations about the significance of this fact. Those that deny any gender bias in *halakha* do so on the grounds of a formalist understanding of this legal system. Legal formalism is a system of thought that understands the law

to be independent and objective. In legal formalism, judges are required to use strictly deductive reasoning, with their decisions unaffected by personal values or goals (Irshai 2012:12). A formalist understanding of *halakha* may be most notably demonstrated by R. Soloveitchik's viewpoint that, "The *halakha* has no need to reflect the character of the *halakhist*, and neither do circumstances nor historical events contribute to shaping it...Psychologization or sociologization of the *halakha* are an assault on its soul...If *halakhic* thought depends on psychological factors, it loses all its objectivity and deteriorates to a level of subjectivity lacking all substance" (Irshai 2012:13). While R. Soloveitchik's absolutist interpretation of *halakha's* dependence on objectivity may be more extreme than many Modern Orthodox Jews accept, it certainly does suggest potential benefits of a formalist approach to this legal system. Formalism assures that objectivity is an essential feature of *halakha*, which promotes the idea that it is stable, timeless, authentic, and immutable. Additionally, the *halakhic* formalist approach supported by Soloveitchik's statement further suggests that any judge who has participated in its formulation and interpretation has always necessarily been entirely objective and free of gender bias. While there are obvious benefits to taking a formalist approach to *halakha*, a major issue that emerges from this viewpoint is that it presents rabbinic law as being free of moral or ethical considerations throughout time, which has not historically been the case, nor is it the general understanding of how *halakha* operates by Modern Orthodox Jews (Irshai 2010). Considering that examples of rabbinic rulings based on moral, ethical, or extra-*halakhic* ideology have been discovered by historians, and that *halakha* is not understood to be entirely objective in character even by those who observe it, then it reasons that there exists in *halakha* a great possibility for personal subjectivities and gender bias to enter into the legal rulings.

Identifying gender bias in the law has become a major objective for feminist legal scholars, some of whom have proposed theories for uncovering these biases. These theories are particularly useful for critically analyzing the legal system of *halakha*. One approach to uncovering gender bias in legal systems is proposed by the cultural feminist, Carol Gilligan. This theory, as summarized by Ronit Irshai, contends that gender bias in the law stems from legal systems' predominantly masculine mode of thought, or the "ethics of justice," which contrasts with the feminine mode of thought, referred to as the "ethics of caring" (Irshai 2012:7). With an "ethics of justice" mode of thought, abstract ideas and rules are applied to concrete cases, whereas with an "ethics of caring" mode of thought, there is a greater focus on resolving disputes through a relational and personal approach. This theory suggests that laws constructed by men are gender biased by virtue of utilizing a mode of thinking that is not suited to women's personality system (Irshai 2012:7). A second theory about the

origin of gender bias in the law is proposed by the radical feminist, Catherine MacKinnon. This theory, as summarized by Ronit Irshai, proposes that gender bias in the law stems from men's interest in structuring the law to maintain male dominance (Irshai 2012:8). Robin West presents an alternative theory to the origin of gender bias in the law. According to the summary by Ronit Irshai, West's theory suggests that male bias in the law stems from its failure to reflect, and even its propensity to disregard, women's subjectivities, because each sex's subjectivities are mitigated through distinct biological experiences (Irshai 2012:9). Each of these theories serve to counter the argument that the law is objective and gender-neutral by pointing out that legal systems constructed through an exclusively male narrative and frame of reference will maintain androcentric assumptions and interests. These theories, then, are useful tools for recognizing and understanding gender bias in *halakha*, and each harbor unique implications for rabbinic law.

The implication for *halakha*, according to Gilligan's theory, is that rabbinic decision-making would be interpreted completely differently by women than by men (Irshai 2012:14). According to this theory, *halakha* constructed by women would necessarily be dramatically reimagined and transformed, because women maintain a different mode of thought, use different analytical tools, and have different frames of reference. Tamar Ross echoes this sentiment in her discussion of potential feminist impacts on *halakha* by stating that "the very concept of a religion that is law-governed, dependent upon our performing a detailed series of mandated tasks, is regarded as a male way of thinking...a feminine view might emphasize more the importance of religious feeling and a sense of the presence of God" (Ross 2000:20). By proposing potentially radically different interpretations of *halakha* by women and men based on differences in each gender's modes of thinking, this statement reflects an essentialist view of men and women that is presented by Gilligan's theory. Another implication for *halakha*, according to MacKinnon's theory, is that rabbinic law is structured to preserve male dominance and the existing patriarchal order (Irshai 2012:15). Applying this theory to *halakha*, any rabbinic interpretation that privileges male authority and prerogatives can be understood as an effort to systematically subjugate women and maintain the patriarchal status quo. A different *halakhic* implication, taken from West's theory, is that *halakha* does not and cannot suitably express the values and subjectivities of women, because it has been completely informed and structured by distinctly male biological and life experiences (Irshai 2012:16). Therefore, even when *halakha* claims to express women's life experiences, it does so only by filtering it through a male lens. Moreover, because male subjectivities are dominant in constructing *halakha*, women's experiences are only a secondary consideration and are not equated with those of men. West's theory is particularly pertinent for analyzing *halakhic*

rulings on assisted reproductive technologies, because it understands differences in men and women's subjectivities to be a result of biological experiences that are unique to each sex. Equipped with these theories as tools for recognizing and understanding gender bias in *halakha*, it is now possible to take a critical approach toward modern Orthodox rabbinic responsa on assisted reproductive technologies, particularly as it appears in the Israeli context.

Israel is fertile ground for understanding the broader significance of Orthodox rabbinic rulings on assisted reproductive technologies for several important reasons. As of 2012, Israel boasts the highest rates of fertility treatments in the world, as measured by the number of IVF cycles per capita (Shalev and Werner-Felmayer 2012). The propensity for utilizing assisted reproductive technologies in Israel stems from several cultural factors, including the serious weight Jewish Israelis give to the biblical command to "be fruitful and multiply" (Gen 1:28), and also their regard of the family as a central feature of normative Israeli society (Shalev and Werner-Felmayer 2012). A strong pro-natal social conviction in Israel is evidenced by a 2005 survey of Jewish Israeli married couples that reported that 59% of households "support public interventions that might encourage larger families" (Della Pergola 2009). For the Israeli government's part, it demonstrates its support of a pro-natal society by implementing social policies including, but not limited to, "incremental monthly government stipends paid to mothers for the birth of each child, state-funded day care, protection for pregnant women from job termination, compensation for losses from job absences resulting from fertility treatment and pregnancy" (Rosenblum 2013). However, the most important reason that Israel is a particularly exemplary place for understanding the broad social impact of Orthodox rabbinic rulings on assisted reproductive technologies, is that religion and state are intimately linked in this country. Susan Sered of Bar Ilan University summarizes Orthodox Judaism's institutionalization in Israel by highlighting a series of direct connections that exist between religion and the state, such as state-funded religious schools and synagogues, rabbinic control of weddings and divorces, and publically recognized rabbinates whose legal rulings hold significant cultural weight (Sered 2000:194). Orthodox rabbinic courts' full authority over marriage and divorce for Jewish Israelis was codified in 1958, when the Israeli Knesset passed the Rabbinical Courts Jurisdiction (Marriage and Divorce) Law (Kahn 2000:72). Not inconsequentially, it is the Marriage and Divorce Law that became the main vehicle through which Orthodox rabbis gained dramatic influence over the government regulation of assisted reproductive technologies in Israel. Since Orthodox rabbis have a monopoly over marriage for all Jewish Israelis, those who desire to be married in-state, even if they are not Orthodox or religious, are obligated to comply with *halakhic* rulings in this

particular area. One significant *halakhic* category that determines marriageability in Orthodox Judaism, and that is also intimately linked with reproduction, is that of the *mamzer*. A *mamzer* is an illegitimate child born of biblically defined incest, or of an adulterous relationship between a married Jewish woman and a Jewish man other than her husband. Because of the sinful sexual acts involved in his or her conception, a *mamzer* is prohibited from marrying another Jew, unless the intended spouse is also a *mamzer*. Since a *mamzer* is disqualified from marrying another Jew under Orthodox rabbinic law, and Orthodox rabbinic courts have full authority on marriage in Israel, a *mamzer* is unable to participate in this important normative aspect of Israeli society (Kahn 2000:79). Producing socially debilitated Jewish Israelis is a concern for politicians, rabbis, and citizens alike, and because Orthodox rabbis understand *halakhic* principles used in determining *mamzer* status to cross over to assisted reproductive technologies, rabbinic considerations were allowed to enter into the government regulation of ART in Israel.

The direct effects of Orthodox rabbinic influence on the assisted reproductive technology scene in Israel can easily be discerned by analyzing government regulations on ART. In order to circumvent several potential rabbinic concerns, Chapter B of the Embryo-Carrying Agreements Law of 1996 stipulates several conditions for contracting a pregnancy with the use of a gestational surrogate (Kahn 2000:143). Some conditions listed in this law mandate that the commissioning mother and surrogate mother must be of the same religion, that the sperm used to conceive the child must come from the husband of the commissioning couple, that the gestational surrogate cannot use her own ovum, and that every effort must be made to find a surrogate who is unmarried (Kahn 2000:143). The first stipulation, mandating that the two contracting mothers be of the same religion, comes from rabbinic concern with establishing which mother is the *halakhic* mother. Determining the *halakhic* mother is an important task for rabbis, because the status of “Jewish” is inherited by the child from the mother. While the general rabbinic consensus on this issue is that the birth mother is the *halakhic* mother, assuring that the two mothers are of the same religion circumvents any dissenting views on this subject. The second mandate, concerned with the use of the husband’s sperm in the conception, assures that the male partner will have biological children of his own while simultaneously avoiding the highly contested debate about artificial insemination donation. In Orthodox Judaism, men are commanded by God to “be fruitful and multiply” (Gen 1:28), but women are not considered to be equally obligated. This stipulation, therefore, ensures that the husband will be able to fulfill his religious duty. The third and fourth mandate combined reflect a concern with the issue of adultery, and attempt to avert this *halakhic* concern by stipulating that the gestational mother be unmarried and that

her ovum not be used in the conception. Considering that these stipulations ensure that conception does not involve the surrogate's ovum and that the embryo is conceived outside of her womb, "the illicit sexual union at issue here," as Martha Susan Kahn explains, "is that between the contracting husband's sperm and the *womb* of the carrying mother" (Kahn 2000:145). Many rabbis would contend that if a married woman carries the child of another Jewish man, even if her egg is not used and no sexual intercourse took place, that the act would still be equivalent to adultery. Furthermore, because she is the birth mother, and, therefore, the *halakhic* mother of the child, she would consequently render that child a *mamzer*. This exact sentiment is reflected by Chief Sephardi Rabbi, Rav Eliyahu in his criticism of the loophole in the Embryo Carrying Agreements Law's that allows for a married woman to become a surrogate in extenuating circumstances:

The Surrogacy Law should not have come into the world at all. Let me just take the law as it exists in front of me. "It is possible that in extenuating circumstances the surrogate may be a married woman." This is a disgrace to the people of Israel. The rabbi who approved this committed a sin; it is adulterous, promiscuous, and licentious...As to the question: Is a woman who receives an ovum the mother in all respects? The answer is yes. The child belongs to the carrying mother...So all you infertile men and women out there, pray to God Almighty and you will get a son or a daughter, don't contract a surrogate mother. And you should all have as many children as you can, which will speed the coming of the redemption. (Kahn 2000: 144)

Rav Eliyahu's particular criticism of surrogacy, his delineation of who should be considered "the mother in all respects," and his subsequent call for a religiously prompted pro-natal mentality is worthy of further analysis in many respects. Firstly, the rhetoric used in his disavowal of surrogacy is centered on the issue of adultery. Understood through MacKinnon's theory of dominance, restricting surrogacy on the basis of adultery, which applies only to married women and not equally to married men, would be interpreted as an attempt to maintain a husband's control over his wife's reproductive capacities. While a counterargument may be made, and, indeed has been made, that rabbis who rule more stringently on assisted reproductive technologies do so because they recognize that there are other values more important than the command to procreate (Irshai 2012:244), I argue that Rav Eliyahu's emphatic prompting to have "as many children as you can" does not support this claim, unless the more important values in question are those that serve to maintain the patriarchal status quo.

Furthermore, while it may not necessarily reflect male interests, Rav Eliyahu's determination of the birth mother as the "mother in all respects" is an interesting topic for analysis, because it does not appear to

reflect on any other issues other than the determination of the halakhic mother. Reflecting on West's theory, which understands gender bias in the law as stemming from different gendered subjectivities informed by unique biological experiences, and incorporating Elly Teman's discussion on the subjectivities of Israeli surrogates and commissioning mothers, it is possible to elucidate how Rav Eliyahu's definition of "mother" does not and cannot account for the lived experiences of women and their particular understandings of motherhood. In *Birth of a Mother*, Teman details women's experiences with the phenomena of "shifting body," or the process through which "the very aspects of pregnancy that the surrogate has distanced, detached, and disembodied are channeled into the intended mother's construction of a 'pregnant identity'" (Teman 2010:134). This process involves, among other things, verbal communication between the surrogate and the intended mother about the physical, emotional, and psychological aspects of pregnancy experienced by the surrogate in an attempt to distance herself from the pregnancy while simultaneously helping the intended mother recognize herself as being "pregnant" (Teman 2010:146). For some intended mothers, the "shifting body" phenomena manifests itself in the form of the intended mothers experiencing the same physical and emotional symptoms as their surrogate partners. In more extreme cases, intended mothers even perceived their bodies to be completely merged with the body of the surrogate mother, yet understood their own sense of self to be dominant (Teman 2010:166). The effect of this perception is that, even though they did not physically gestate the child, they understood the pregnancy to be *theirs*. Given these women's particular subjective experiences, informed by embodied strategies of the surrogate mother to detach herself from the pregnancy and maternity, and by the intended mother to intensely identify with a vicarious pregnancy, Rav Eliyahu's overarching statement that the birth mother is the "mother in all respects" can readily be identified as insufficient, because it fails to acknowledge women's subjective experiences with pregnancy, and consequently, to account for the women's multiple understandings about what constitutes a "mother" and "motherhood."

Thus far, gender bias in *halakha* has been considered and acknowledged by exploring rabbinic discourse on assisted reproductive technologies. Accepting that gender bias exists in rabbinic law, and recognizing that rabbis exert considerable influence over government regulation of assisted reproductive technologies in Israel, what are some possible solutions for realizing a more gender equal approach to these issues? One possible solution for reducing rabbis' influence over government regulation of ART is to repeal the Orthodox rabbinic monopoly on marriage and institute civil marriages in Israel. By implementing civil marriages, government regulation of ART would no longer be directly constrained by *halakhic* concerns pertaining to

reproduction and marriageability. While this does not completely eradicate gender bias in the government system that implements regulations on ART, it does eliminate the constraints of having to haggle with a legal system that is completely informed by male narratives and perspectives. Repealing Orthodox rabbinic control over marriage in Israel may liberate secular individuals, non-Orthodox Jews, and religious minorities from the current institutionalized constraints of *halakha*, but for observant Orthodox Jews, working around the *halakhic* framework is not a sufficient nor satisfying solution.

Striving for greater gender equality from within the *halakhic* framework is the project of the largely expanding group of Orthodox feminists. Currently, the Orthodox feminist agenda focuses primarily on achieving greater recognition in the spiritual community by participating in public rituals, such as reading aloud from the Torah. However, Orthodox feminists' unique position as insiders of the Orthodox community and outsiders of the religiously obligated and privileged male community allows them to recognize specific gender biases and fight against injustices on issues that Orthodox women, in particular, and the Orthodox community, in general, deem to be important (Irshai 2010). In Yael Israel-Cohen's discussion of Orthodox women's passive and active resistance to exclusion from synagogue ritual, she clearly credits the recent surge of Orthodox feminist activism to be a direct result of the recent increase of women studying Torah (Israel-Cohen 2011). By gaining knowledge of the Torah and *halakhic* discourse and tools, Orthodox women are now in an unprecedented position to address gender bias in rabbinic law by utilizing newly equipped *halakhic* principles and tools to eliminate some of these injustices. While the ethical and moral issues surrounding assisted reproductive technologies may not yet explicitly be on the Orthodox feminist agenda, gains in eliminating gender bias and achieving greater gender equality within the general framework of *halakha* may inadvertently lead to halakhic rulings on assisted reproductive technologies that are more equitable and applicable because they account for the subjectivities, values, and perspectives of both *men* and *women*. Moreover, as Orthodox feminists make gains in achieving greater gender equality on current issues and continue to increase their knowledge of halakhic discourse, perhaps they will someday soon forthrightly incorporate issues of assisted reproductive technologies to their agenda and directly confront gender bias in *halakha* as it pertains to this contentious subject.

References Cited

DellaPergola, Sergio

2009 Actual, Intended, and Appropriate Family Size Among Jews in Israel. *Contemporary Jewry* 29(2):127-152.

Irshai, Ronit

2012 *Fertility and Jewish Law: Feminist Perspectives on Orthodox Responsa Literature*. Waltham, MA: Brandeis University Press.

2010 Toward a Gender Critical Approach to the Philosophy of Jewish Law (Halakhah). *Journal of Feminist Studies in Religion* 26(2): 55-77.

Kahn, Susan Martha

2001 *Reproducing Jews: A Cultural Account of Assisted Conception in Israel*. Durham and London: Duke University Press

Rosenblum, Irit

2013 Being fruitful and multiplying: legal, philosophical, religious, and medical perspectives on Assisted Reproductive Technologies in Israel and internationally. *Suffolk Transnational Law Review* 36(3):627.

Ross, Tamar

2000 Modern Orthodoxy and the Challenge of Feminism. *In Jews and Gender: The Challenge to Hierarchy*. Jonathon Frankel, ed. Pp. 3-38. Oxford: Oxford University Press.

Sered, Susan

2000 Replaying the Rape of Dinah: Women's Bodies in Israeli Cultural Discourse. *In Jews and Gender: The Challenge to Hierarchy*. Jonathon Frankel, ed. Pp. 3-38. Oxford: Oxford University Press.

Shalev, Carmel, and Gabriele Werner-Felmayer

2012 Patterns of globalized reproduction: Egg cells regulation in Israel and Austria. *Israel Journal of Health Policy Research* 1:15.

Teman, Elly

2010 *Birthing A Mother: The Surrogate Body and the Pregnant Self*. Berkeley: University of California Press.

**Fancydancing: the Art of the Self
Sherman Alexie and the Self-Sovereignty in *The Business of
Fancydancing***

Melissa Doan

“I’m not limited by writing about Spokane Indians.... I feel challenged by trying to write about Spokane Indians. They’re a powerful people, and it’s a powerful place. I’m never going to run out of stories or themes. To suggest otherwise, or to suggest I should be interested in something else, is ridiculous.”

–Sherman Alexie

Visual images of the drunken, vanishing, or stoic Indian are commonplace within the popular imagination. Indigenous films have provided a medium to challenge and refute these stereotypes. As a Native American writer and filmmaker, Sherman Alexie aims to blur and destabilize the boundaries at the intersections of these categories. Only then do these categories become tangible and meaningful, particularly in regard to their role in comprising the modern Indian identity. Through his film, *The Business of Fancydancing*, Sherman Alexie explores the themes of alcoholism, reservation life, and masculinity within the Native American condition to challenge his audience to negotiate multiple identities. He subverts the stereotypes and categorization of these themes through developing characters who struggle to reconcile these themes within their own identities. With films featuring relatable characters that are complex and flawed, Alexie cultivates sovereignty of self-identity as an artistic and sociocultural practice through filmmaking.

A Spokane/Coeur d’Alene American Indian, Sherman Alexie is a poet, writer, screenwriter, filmmaker, and performer. He has self-identified as an urban Indian since 1994 and currently lives in Seattle, Washington. He is named after his father, Sherman Joseph Alexie, who was Coeur d’Alene. His mother, Lillian Agnes Cox, was Spokane, Kootenay, and Colville Indian, all considered to be related as Salish people with the same spoken language (Alexie and Peterson 2009, 21). Born in 1966, Alexie grew up on the Spokane Indian Reservation in Wellpinit, Washington. At that time, the reservation was composed of approximately 1,000 Spokane Indians.

Alexie’s father was an alcoholic and frequently left the house for days at a time. Alexie’s mother worked as a clerk at the Wellpinit Trading Post and sold hand-sewn quilts to support her six children. His childhood experiences of alcoholism and the economic realities of reservation life became central themes in his early written work. His father’s interest in reading sparked Alexie’s passion for language (Berglund and Roush 2010, xi). In an early essay titled “Superman and Me,” Alexie speaks about his predilection for reading:

I refused to fail. I was smart. I was arrogant. I was lucky. I read books late into the night... I read anything that had words and paragraphs. I read with equal parts joy and desperation. I loved those books, but I also knew that love had only one purpose. I was trying to save my life (Alexie as quoted in Berglund and Roush 2010, xii).

Although both fluent in Salish, his parents did not teach their language to Alexie. From a young age, Alexie was told it would not be the Salish language but English that would become his best weapon and lifeline (Alexie and Peterson 2009, 22).

Alexie attended the elementary school located on the reservation. In contrast to tribal culture and his classmates, Alexie was ambitious, competitive, and individualistic. In addition, he had various health problems that excluded him from activities considered to be rites of passage for Native American boys. After eighth grade, he decided to transfer to Reardan High School located off the reservation in a German immigrant community. He was the only Native American attending the school at the time. He discovered that the qualities that had marked him an outcast on the reservation marked him for success at Reardan (Alexie and Peterson 2009, 22).

Alexie earned a scholarship to attend Gonzaga University, a Jesuit university in Spokane, Washington. Alexie eventually transferred to Washington State University. As a collegiate student, Alexie confronted his own alcoholism, renounced drinking, and has remained sober since the age of twenty-three. Indecisive for a time, Alexie took a variety of different courses related to several majors with the intention of going into medicine. After continually fainting in his human anatomy class, Alexie searched for a career change. The only class that fit into his schedule was a poetry writing workshop. Realizing he had never heard of or been exposed to books written by Indian people, Alexie dove in. His professor, Alex Kuo, gave Alexie a book titled *Songs from This Earth on Turtle's Back*. This became his first introduction to contemporary Native American poetry by native writers such as Linda Hogan, Simon Ortiz, Joy Harjo, James Welch, and Adrian Louis (Berglund and Roush 2010, xii). For the first time, Alexie saw his own life reflected in the stories and poems of these writers. Nothing he had read before resonated with him in such a way. With Professor Kuo's encouragement, Alexie began writing poetry in the year he still remembers: 1989 (Alexie and Peterson 2009, 23).

Alexie has collectively published over twenty books consisting of screenplays, poetry, short stories, and novels. *The Business of Fancydancing* was published by Hanging Loose Press in 1992 as Alexie's first book of poetry. The Atlantic Monthly Press published his first book of short stories in 1993 with the title *The Lone Ranger and Tonto Fistfight in Heaven*.

It soon earned a PEN/Hemingway Award for best first book of fiction (Berglund and Roush 2010, xvi). Published in 1995 by Atlantic Monthly Press, his first novel, *Reservation Blues*, was set on the Spokane reservation and told the story of an all-Native American Catholic rock-and-roll band (Alexie and Peterson 2009, 27). Alexie was awarded the Before Columbus Foundation's American Book Award for *Reservation Blues*. He was named one of Granta's best young American novelists and his short stories have frequently appeared in *The New Yorker* and the annual O'Henry Award and Best American Short Story collections. Published in 2009, *War Dances* won the PEN/Faulkner Award for fiction in 2010 (Berglund and Roush 2010, xvii).

Early on, Alexie expressed personal interest in exploring screenplay writing and filmmaking as a new, powerful medium in reaching a Native American audience since most of his books were predominantly read by non-native people. It was this early success with a non-native audience that propelled people to begin contacting Alexie as a potential filmmaker. However, he declined their offers when they showed interest in implementing changes that conformed Alexie's stories to "commercial Indianness" (Alexie and Peterson 2009, 56). Then, Chris Eyre, a graduate student at New York University at the time, expressed interest in Alexie's work. Eyre's interests and vision aligned with Alexie's dream of indigenous collaboration. This partnership resulted in the production of *Smoke Signals* in 1998 through the film-production company ShadowCatcher. Based on a short story titled "This Is What It Means to Say Phoenix, Arizona" in Alexie's first book, *Smoke Signals* was the first feature film coproduced by Native Americans based on a book with a Native American author (Alexie and Peterson 2009, 57). Alexie found the process of transforming a story from book to screenplay relatively smooth "because it's more like poetry—about images" (Alexie as quoted in Alexie and Peterson 2009, 57). Alexie appreciated and enjoyed film as an imaginative, demanding, and immediate form of media.

In addition to film, Alexie has explored poetry, short stories, novels, screenplays, sketches, conversations, and essays as mediums for defying categorization as well as quasi-autobiographical excursions. Arguably one of the most prolific and successful contemporary Native American writers, Alexie characterizes his work as a cultural investigator in search of the subtle layers of identities and meanings that comprise the Indian condition (Alexie and Peterson 2009, 122). Furthermore, he explores "the influence of popular culture and the media, the importance of orality in Native American tradition, and the significance of humor as a method of survival for Indian people" (Tammy Wahpeconiah as reprinted in Lewis 2012, 87). This multiplicity of analyses makes his work a dynamic force within today's Native American genre.

The Business of Fancydancing as Alexie's first book of poetry came out of his first semester poetry manuscript at Washington State University. Part of the assignment was to submit one's work to a literary magazine. Alexie chose *Hanging Loose* magazine because it was established in 1966, the same year he was born. After publishing several of his poems over the course of a year, *Hanging Loose* asked Alexie for a manuscript, which eventually became *The Business of Fancydancing: Stories and Poems* (Alexie and Peterson 2009, 26). It is a collection of five short stories and forty poems. Arguably the most well-known piece of this collection is the seven-stanza poem narrating the story of fancydance aspirants driving through the night to compete in different fancydance contests. They participate in hope of winning enough prize money to survive while they drive to their next competition. Throughout this poem, Alexie employs a powerful incorporation of figurative language to weave native folk traditions in a modern setting.

Alexie believes his first published manuscript remains the most relatable to Native Americans because it was written at a time when Alexie himself was struggling with what it means to be a Native American in the contemporary (Alexie and Peterson 2009, 47). The rawness and authenticity that arose as a result was largely maintained in Alexie's screenplay of the book that later became produced as a film in 2003. After co-producing *Smoke Signals* with Chris Eyre, Alexie was captivated by the tremendous cultural power of film. Wanting to produce another movie, Alexie explored multiple channels in Hollywood. After finding a lack of interest in movies centered on Native Americans there, Alexie became interested in the economic, social, and aesthetical appeal of self-produced digital video. Alexie took a video class offered by 911 Media Arts in Seattle, Washington. It was from 911 Media Arts that Alexie drew most of his crew, including Holly Taylor as the cinematographer and editor. The film is the story of a trio of Spokane men who grew up together as childhood friends on the Spokane Reservation. Seymour Polatkin, played by Evan Adams, and Aristotle Joseph, played by Gene Tagaban, graduate from high school to leave the reservation to attend college. They leave behind their friend Mouse, played by Swil Kanim, who remains on the reservation. Aristotle eventually returns to the reservation while Seymour graduates from college and becomes a successful Native American poet. With Mouse's sudden death, Seymour returns, confronting the reservation both as a source of his successful poetry and the heritage he left behind. Through the interactions and narratives of these characters, Alexie acknowledges popular Native American stereotypes in order to challenge and destabilize them.

There exists a stereotype of the American Indian as overwhelmed and overcome by alcohol addiction. Alexie refuses to indulge such a

reductive stereotype and simple-minded presentation of Native Americans. Rather, he subverts this familiar stereotype to convey “realistic valences of meaning for modern reservation life and people” (Evans 2001, 1). Alexie’s drunken Indians, such as Mouse in *The Business of Fancydancing*, possess “artistic and moral strengths” that become focal points of the story (Evans 2001, 1). As one of the first scenes of the film, Mouse’s death orchestrates Seymour’s return to the reservation. Implied to have involved substance abuse, Mouse’s death initially appears to re-inscribe the stereotype of the “drunken Indian.” However, Alexie carefully crafts Mouse as the only visible character in the film who suffers from drug abuse and addiction. There is a passing scene of Seymour attending an alcohol rehab group session. Aristotle is shown inhaling gasoline fumes in another scene. However, neither Seymour, Aristotle, nor any other character is shown unable to manage their alcohol or other drug use. In this way, alcoholism may affect the lives of multiple characters but it is only implied to have ended the life of one—that is, Mouse.

This astutely constructed balance “defies the stereotype at the same time it allows the film to make an honest presentation” (Schweninger 2013, 129). It provides middle ground. Moreover, even in death, Mouse continues to play a vital role in the film as his story unfolds and resonates through each character. Mouse is brought alive to the audience through flashbacks, insights offered by other characters, Seymour’s poetry, and Mouse’s own scenes filmed by his handheld camera. For example, during Mouse’s funeral, his friend Teresa narrates a multi-layered account of his life during which the film cuts to a living Mouse in a flashback. The audience hears Mouse playing his violin as she describes the first time she heard his music. At one point, there is a voiceover where Mouse himself narrates Teresa’s story of him. Throughout the movie, Mouse appears to Seymour as if he were a living ghost. His violin-playing comprises most of the film’s background music. The characters who knew Mouse bring him to life for the audience as each scene adds another layer to his story (Schweninger 2013, 129). His death may have begun the film, but it is his life that propels its storyline. Alexie develops Mouse as a complex character because his identity is only appreciable comprehensively at the film’s end. In effect, a story initially about an alcoholism-induced death becomes a celebration of life.

In *The Business of Fancydancing*, Alexie explores the causes of alcoholism rather than solely focusing on the effects. In this way, the film offers “fuller, more nuanced and more realistic depictions of alcohol consumption and illicit drug use” (Schweninger 2013, 166). For example, in a scene titled “In the Car,” Seymour reads one of his poems about four children waiting in a car for their parents to emerge from the reservation tavern. The story tells of how the children were passing the time while the

night progressed, despite their parents' promises of leaving soon. The poem assuages the listener as Seymour recites, "This is not a story about sadness / This is about the stories I created / How I build landscapes and imaginary saviors" (*The Business of Fancydancing*). The scene unfolds with images and sounds of children rough-housing within the close quarters of the car, Mouse playing his violin, and their shared laughter. Coupled with Seymour's rhythmic reading of the poem's compelling language, the vivid imagery evokes one of the most powerful scenes in the entire film. What began as another narration of Native American alcoholism transforms to a story about bonds, laughter, love, trust, forgiveness, and imagination. The story ends with the children tucked safely into bed, listening to their parents breathe deeply, and "in the reservation dark, that meant [they] were all alive and that was enough" (*Business*). Through humanizing the "drunken Indian" stereotype, Alexie presents alcoholism as a reality rather than a categorization. In this way, Alexie creates new meanings when the "images of the drunken Indian function as 'open containers'... to house or decant realistic valences of meaning for modern reservation life and people" (Evans 2001, 1). Consequently, Alexie provides a middle ground upon which Native Americans can negotiate the role of alcoholism within their own identities.

Alexie explores the Native American struggle to resolve the past and present through his representation of reservation life in *The Business of Fancydancing*. Alexie boldly delves into "the dysfunctional nature of contemporary reservation life," which ultimately amounts to "the fragmented, often alienated 'bicultural' lives of characters who daily confront the white civilization that encaptives their world—physically, historically, spiritually, and psychically" (Evans 2001, 1). This is most exemplified by Seymour, who "fetishizes his own definitions of 'Indianness' and his own identity as a Native person" as well as the identities of those he left behind on the reservation (Meredith James as reprinted in Lewis 2012, 243). Both poet and poetry are clear contradictions. Seymour's work criticizes mainstream notions of "Indianness," yet it is the approval of his white audience that he associates with success. The reservation and heritage he abandoned as a young adult becomes the source of his poetry and resulting success. This is the great conflict of the film.

Alexie illustrates the contemporary Native American identity as a conflict between conforming to the category of a reservation Indian or an urban Indian throughout the film. When Seymour tells Steven, his male partner, of his decision to return to the reservation, Steven refutes Seymour's connection to his past when he states, "They aren't your tribe anymore. I'm your tribe now" (*Business*). Steven claims Seymour must abandon his "old" Indian self in order to embrace a "new" Indian identity. Since leaving the reservation, Seymour has attempted to cut off any and all

ties from his heritage. He does not visit or attempt to contact any friends or family. He takes on a white boyfriend and enjoys the success of achieving the American Dream. He perceives his reservation Indian heritage as a permanent and concrete part of his past. His poems are essentially stories of Aristotle and Mouse frozen in the past as reservation Indians who are “unable to break free from the romantic and damaging notions of ‘Indianness’” (Meredith James as reprinted in Lewis 2012, 246). These scenes depict Seymour’s attempts to maintain a separation between a reservation Indian identity and an urban Indian identity as stark categories.

However, Alexie asserts such a separation is superficial at most and in reality, a blending occurs to compromise between the two categories. Similar to his portrayal of alcoholism, Alexie presents a middle ground. When an unnamed interviewer claims 95% of Seymour’s poems are about the reservation, Seymour responds by saying, “Every time I sit down to write a poem, I want it to not be about the reservation. But the reservation just won’t let me go” (*Business*). It is the first time in the film that Seymour verbally admits to a discrepancy in his constructed separation of reservation and urban Indian life. Additionally, the juxtaposition of Aristotle and Seymour also highlight this discrepancy. When Aristotle announces he is leaving the university, he asks Seymour to join him in returning to the reservation. When Seymour declines, Aristotle accuses him of performing his role as Indian:

You like it out here, don’t you? Playing Indian, putting on your feather and beads for the white folks? Out here, you’re the Public Relations warrior, you’re Super Indian, you’re the expert and authority. But back home, man, you’re just the tiny little Indian who cries too easy (*Business*).

Aristotle refers to the pressure of conforming to a particular category as an Indian off the reservation. As a successful poet, Seymour becomes an authority, expert, and representative when he is away from the reservation. Though “[t]he whole world is a prison with a million confines, wars, and dungeons,” Seymour asserts “[t]he reservation is just the worse of them” (*Business*). In this way, the film displays the pressure to conform to multiple identity categories according to different physical locations. This allows the discussion of the geopolitics of identity by exploring how each character reconciles differing performances within a single identity.

Alexie uses the juxtaposition of Seymour and Aristotle to discuss the role of “truth” in reconciling constructed categories within a contemporary Native American identity. In a scene narrating a childhood experience of stealing apples, the film alternates between Aristotle and Seymour’s differing versions of the same event. This exposes Seymour’s

poems as his selection of exaggerated, blurred, and silenced experiences (Berglund and Roush 2010, 250). The tension between Aristotle's and Seymour's respective perceptions of truth reaches a climax at Mouse's wake. Aristotle accuses Seymour of living in an illusion while reminding him "it's real" on the reservation. In response, Seymour argues the impossibility of his continual return to the reservation to save every Indian. Believing he deserved it, Seymour states he made a better life for himself without help from anyone. Aristotle potently reminds Seymour of the source for his poetry and life: "These Indians you write about, they are helping you every day.... We've been helping you since you were born" (*Business*). Aristotle's words remind Seymour the reservation has been and always will be an integral part of his life. Rather than a symbol of a vanishing past, the reservation is not only a place existing in the present but also a spirit that will continue to exist through its people.

Ultimately, Alexie shows that Seymour's struggle between being a reservation Indian and an urban Indian is a product of negotiating between the past and present according to the geopolitics of identity. The reservation becomes a dialogue internalized by each character rather than existing as a physical space. This internalization subverts the idea that reservations are superficial remnants of the past. The film exposes Seymour's role as simultaneous insider and outsider. The concluding scene shows Seymour backing out of the driveway to return to Seattle, leaving behind a mirror image of himself at the house. The scene cuts to a solitary Seymour gradually ceasing to fancydance. He falls abruptly to the ground before slowly removing his ceremonial regalia. This suggests to the audience that Seymour's internal conflict between reservation Indian and urban poet may never be reconciled.

If this attempted reconciliation is futile, "[w]hy do we spend all of this time talking about the impossible?" (*Business*). In responding to Agnes' question, Seymour also responds to the audience when he answers, "Because the rest is silence" (*Business*). Alexie argues this attempted negotiation is a part of the contemporary Native American identity, despite the possibility it may never be reconciled. Alexie claims the struggle inherent in every contemporary Indian identity combats silence by making noise and causing ripples. Consequently, this continual negotiation creates meaning where identity categories intersect. In effect, it is this struggle that is not only inherent but integral to the identity of the modern Native American.

Another familiar image within the popular imagination is that of the stoic Indian warrior dressed in feathers, decorated with war paint, and armed with a tomahawk. At the beginning of the film, Alexie acknowledges this stereotype when Mouse's ceremonial garb is displayed at his wake and funeral. The headdress, beads, and decorated tunic do not

stand out because it is consistent with the mainstream portrayal of the Native American male. It implies the existence of a hegemony of heterosexual masculinity that is pure, distinct, and historically perpetuated in the present. And yet, Alexie challenges this stereotype by developing male characters that are emotional and reactive. His portrayal of Native American masculinity is both heterogeneous and complex. Firstly, Seymour is a gay protagonist. In the director's commentary, Alexie states his decision to create a homosexual character was partially influenced by his desire to confront the homophobia he grew up with on the Spokane Reservation (*Business*). He aimed to confront the hegemonies of heterosexuality and masculinity he had experienced first-hand.

Alexie uses Seymour and Mouse to “[destroy] the romanticization of the stoic male heterosexual Indian warrior prevalent in classic American Westerns and photography” (Brian Klopotek as cited in Estrada 2010, 1). In one scene, Aristotle and Mouse repeatedly punch and kick a white male stranger whose car had run out of gas on the side of the road. This unprovoked brutality directly disrupts the popular image of the stoic and reserved Indian. Seymour is a successful character in expanding the role of masculinity within the modern Indian identity because he “both ‘queers the Native American sphere’ and disrupts white fantasies of ‘utopic’ Native American homosexual traditions” (Quentin Youngberg as quoted in Estrada 2010, 1). Seymour is neither wholly homosexual nor wholly heterosexual. Throughout the film, Seymour sways between his attraction to Steven, Agnes, and Aristotle. This challenge of the dichotomy between heterosexuality and homosexuality questions the very idea of a pure identity. Rather than homogenous and harmonious, identities are fragmented and multi-faceted. Thus, Alexie creates space for his characters, and consequently his audience, to negotiate sexuality as well as multiplicity within their identities.

Furthermore, Alexie juxtaposes the theme of masculinity with femininity primarily through the character of Agnes Roth. Agnes serves as a moral and spiritual focal point of the film. From a Spokane and Jewish heritage, Agnes is introduced as a character of mixed background, immediately contributing to Alexie's theme of multiplicity within modern Native American identities. Not only has Agnes appeared to have reconciled the two halves of her heritage, she also decides to return to the reservation to teach after graduating from college. Unlike Aristotle and Seymour, Agnes does not appear to exhibit an internal struggle in reconciling her identity as a reservation and urban Indian. Agnes fluidly assimilates within the reservation's men, who regard her with respect and deference. Also Seymour's ex-lover, Agnes maintains a deep friendship with Seymour, who looks to her as a source of wisdom and support.

After his return, Seymour and Agnes talk about the role of the reservation in their lives. After comparing themselves to “Indian products and commodities,” Agnes challenges Seymour to “realize the absurdity of commodifying his identity... and that material ambition without a sense of home will lead to his destruction and the destruction of his people” (Meredith James as reprinted in Lewis 2012, 248). She helps Seymour reconcile his success as well as restore his place on the reservation. When she says, “The res has missed you,” Agnes reminds both the reservation men and Seymour of his heritage, his home, and his right to belong to a place. Agnes tells the other men Seymour has kept in touch through his poetry. And in telling Seymour, “You can always come back,” she lends her unconditional support while allowing Seymour time to resolve his internal conflict himself (*Business*). As Doug Marx notes, “[t]he need for female strength and wisdom is a primary theme of Alexie’s” (as reprinted in Alexie and Peterson 2009, 17). Alexie asserts femininity is a fundamental part of the modern Indian identity. In tying the reservation and its people to Seymour and vice versa, Agnes not only exemplifies the strength of an individual who negotiates between multiple identities but also the tremendous potential of a community who does so as well.

In subverting familiar stereotypes of Native Americans, Alexie acknowledges the system that categorizes the world in order to destabilize the categories. Like many postcolonial artists, Alexie “appropriate[s] culturally relevant symbols or images and reinvent[s] in a way that disrupts or disturbs the originally intended meaning” (Jones 2011, 174). Furthermore, Alexie openly acknowledges filmmaking as a social process that perpetuates visual images within the public imagination. He utilizes the character of Mouse as cameraman to develop a sense of self-reflexivity that exposes the artifice of film (Schweninger 2013, 129). In addition to reservation life portrayed in Seymour’s poetry, Mouse becomes Seymour’s coauthor as he selects what scenes to film as documenter. Mouse’s power of filmic selection hints at the documentary genre that so long portrayed Native Americans as subjects or objects of films and history rather than creators.

The visualization of Mouse’s handheld camera reminds the viewer there are two cameras, one seen and one unseen. In an ingenious and astute way, Alexie simultaneously “evoke[s] the idea of documentary and... expose[s] its artifice and represent[s] it as the construct it is” (Schweninger 2013, 133). The interplay of reality and representation in film is also present in stereotypes. Just as film can provide various “lenses” through which to perceive reality, stereotypes are also a means of shaping perception. Alexie calls attention to the nature of stereotypes and categories as social constructs that are neither universal nor absolute. They can be denaturalized and broken down just as they can be built up.

Like many postcolonial artists, Alexie openly presents his work as only one deconstruction of a set of stereotypes amongst a multitude of possible portrayals. He approaches his work as an artist would. Presenting his work as one possible interpretation opens the way for other interpretations either complementary or contrary to his. It is this freedom of artistic interpretation that “identifies stereotypes and biases and breaks them apart through exposure representations that do not conform to the predictable visual codes” (Jones 2011, 193). Because it results in the liberation of meaning rather than limitation, art is essential to postcolonial thinking. Its inclusive nature facilitates a dialogue between varying interpretations. Art then becomes an essential force in creating visual sovereignty as “the space between resistance and compliance wherein indigenous filmmakers and actors revisit, contribute to, borrow from, critique, and reconfigure ethnographic film conventions” (Raheja 2007, 1161). Furthermore, in simultaneously “operating within and stretching the boundaries created by these conventions,” indigenous people establish visual sovereignty as a sociocultural phenomenon (Raheja 2007, 1161). In other words, indigenous media production becomes an act of self-determination and cultural autonomy “that reclaims the screen to tell aboriginal stories from aboriginal perspectives” (Dowell 2013, 2).

The Business of Fancydancing provides a space for Indians to simultaneously critique, deconstruct, and reconcile the historically constructed cultural knowledge that Hollywood films have produced (Raheja 2010, x-xi). In the director’s commentary, Alexie asserted the film was not only a discussion of his politics but also the embodiment of them in the production of the film (*Business*). Alexie wanted to create a space to not only discuss the multiplicity of identities but also to assert and practice this multiplicity. Being director allowed Alexie to become a communistic leader and create an atmosphere where everyone involved was an equal within the production process. Alexie wrote the screenplay as a series of stories, poems, and scenes that were loosely connected, leaving room for creativity and imagination. Scenes in the film were largely improvised with biographical details of Alexie, the actors, and production staff. (Aileo Weinmann as cited in Alexie and Peterson 2009, 101). Therefore, the stories represented on-screen serve as a vital off-screen catalyst for communicating, creating, shifting between, and reconciling different cultural identities. More than a mere representation of cultural narratives and traditions, indigenous films “are also constitutive of aboriginal social relationships” (Dowell 2013, xii). Due to its communal nature, indigenous media is characterized by a responsibility to the community, creating a unique indigenous aesthetic.

Alexie employs the interpretative freedom of art and the sociality of visual sovereignty within his presentation of “fancydancing” in the film.

Consequently, it became a means of expression and dialogue. Alexie includes scenes of his characters “fancydancing” following major focal points of the film. In this way, “fancydancing” isn’t a physical act but a mental, emotional, and spiritual outlet for the film’s characters. Therefore, “fancydancing” transcends geographical limits and boundaries. It becomes a cultural practice through which “landless Native Americans maintain a sense of connection to their tribal homelands and urban spaces through participation in cultural circuits and maintenance of social networks” (Ramirez as quoted in Dowell 2013, 35). In the same way, the production of indigenous media provides a physical space or “hub” for social expression and interaction. This “hub,” however, functions more importantly as a social phenomenon that connects people regardless of physical space. In this way, participants involved with the film actively engage with both the production process and the multiplicity of the indigenous identity that is the film’s focus. In effect, in order to claim a place within indigenous media, one must claim an indigenous identity.

Sherman Alexie utilizes indigenous media as a medium to create a space for the self-definition and self-representation of a contemporary Native American identity. Reflective of visual sovereignty, *The Business of Fancydancing* is a retelling of indigenous stories from an indigenous perspective. In this sense, it not only confronts but also refutes the politics of visibility and ownership of representation. Furthermore, Alexie emphasizes film production as a “hub” for expression and dialogue. In engaging with the social process of film production, one also engages with the multiplicity of identity Alexie proposes. In *The Business of Fancydancing*, he creates multi-dimensional characters by subverting the stereotypes of alcoholism, reservation life, and masculinity. Alexie’s characters are complex and flawed, making them relatable. In this way, Alexie presents the struggle of reconciling multi-faceted identities as not only integral to the Native American condition but also as inherent to the human condition. Consequently, Alexie suggests indigenous film is less about ownership and more about the resulting experiences and social relationships that form. Therefore, it is the exigency to make these raw experiences and authentic social relationships visible that creates an indigenous aesthetic within every person, connecting us all as human.

Works Cited

- Alexie, Sherman, and Nancy J. Peterson. *Conversations with Sherman Alexie*. Jackson: University Press of Mississippi, 2009.
- Berglund, Jeff, and Jan Roush. *Sherman Alexie: A Collection of Critical Essays*. Salt Lake City: University of Utah Press, 2010.
- Dowell, Kristin L. *Sovereign Screens: Aboriginal Media on the Canadian West Coast*. Lincoln and London: University of Nebraska Press, 2013.
- Estrada, Gabriel S. 2010. "Two-Spirit Film Criticism; Fancydancing with Imitates Dog, Desjarlais and Alexie." *Post Script* 29, no. 3: 106-118. *Literary Reference Center Plus, EBSCOhost* (accessed November 24, 2014).
- Evans, Stephen F. 2001. "Open Containers": Sherman Alexie's Drunken Indians." *American Indian Quarterly* 25, no. 1: 46-72. *Bibliography of Native North Americans, EBSCOhost* (accessed November 14, 2014).
- Jones, Rachel Bailey. *Postcolonial Representations of Women Critical Issues for Education*. Dordrecht: Springer, 2011.
- Lewis, Leon. *Sherman Alexie*. Pasadena, California: Salem Press, 2012.
- Raheja, Michelle H. 2007. "Reading Nanook's Smile: Visual Sovereignty, Indigenous Revisions of Ethnography, and Atanarjuat (The Fast Runner)." *American Quarterly* 59, no. 4: 1159-1185. *Bibliography of Native North Americans, EBSCOhost* (accessed November 27, 2014).
- Raheja, Michelle H. *Reservation Reelism: Redfacing, Visual Sovereignty, and Representations of Native Americans in Film*. Lincoln: University of Nebraska Press, 2010.
- Schweninger, Lee. *Imagic Moments: Indigenous North American Film*. Athens: University of Georgia Press, 2013.
- The Business of Fancydancing*. Wellspring Media, 2003. DVD.

Weapons of Mass Destruction: OTC Derivatives and the 2008 Financial Crisis

Jesse Coker

In 2002, Warren Buffet included a warning in his annual letter to the shareholders of Berkshire Hathaway which now seems eerily prophetic: “We view [derivatives] as time bombs, [as] financial weapons of mass destruction, carrying dangers that, while now latent, are potentially lethal” (12, 14). These hidden dangers were painfully revealed in 2008 and 2009, when the ballooning housing, stock, and mortgage-backed security markets imploded simultaneously, bringing about the worst domestic recession since the Great Depression (“Financial Crisis Response”). Measured from 2006-2009, the “credit crisis” increased unemployment from 4.6% to over 10%, reduced US stock market capitalization by almost \$5 trillion, decreased real gross private investment by a staggering 31.42%, and resulted in the federal government doling out over \$1.1 trillion of aid to prevent the failure of well-established corporations including AIG, JPMorgan Chase, General Motors, and the GSEs Fannie Mae and Freddie Mac (Kolb 261-269). Unraveling the complex series of events that created the financial crisis remains challenging, since “no single cause [of the crisis] can be identified” (Kolb xi). However, one factor lies at the center of this web of causality: over-the-counter, mortgage-backed derivatives. The 2008 financial crisis clearly illustrates how the unregulated over-the-counter (OTC) derivatives market has the inherent tendency and capacity to create securities capable of toppling financial markets.

To begin, it is important to understand the basic types of derivatives and the two different markets in which they are traded. In general, derivatives “are financial instruments whose promised payoffs are derived from the value of something else, generally called the ‘underlying’” (Stulz 173). Furthermore, “The term derivative comes from how the price of these contracts is derived from the price of some underlying commodity, security or index or the magnitude of some event” (Dodd 1). Derivative contracts are financial instruments with no intrinsic value outside of the worth of an underlying asset; without the support of an underlying, the derivative itself becomes worthless. Additionally, derivatives are often contracts between two parties reflecting a difference of opinion about the future value of the underlying asset. Each member of the contract relies on a “counterparty”, who “is responsible for the other side of the trade” (Zucchi). The financial security of the counterparty is crucial to the validity of the derivative, as contracts are made with the understanding that each counterparty will fulfill his or her obligations. The risk associated with the financial security of the counterparty is called “counterparty risk” and is especially important in the private, over-the-

counter derivative market. Before jumping into the two types of derivative markets, however, it is important to understand the most common types of derivatives: options, swaps, and futures and forward contracts.

Options, the first category of derivatives, are defined as a “contract that offers the buyer the right, but not the obligation, to buy (call) or sell (put) a security or other financial asset at an agreed-upon price (the strike price) during a certain period of time or on a specific date (exercise date)” (“Option”). Options demonstrate the two-sided nature of derivative contracts, as the writer of an option believes that the underlying asset will move in the opposite direction of what the option buyer expects. For example, if an investor purchases a call option, which is the right but not the obligation to buy an asset at the strike price, she believes the asset will be worth more than the strike price at the end of the option, allowing the option to be “exercised” for a profit. On the flip-side, the writer of a call option believes the asset will decrease in value, making the option to buy worthless at maturity and allowing the writer to collect fees from the buyer for the privilege of owning the option. Futures and forward contracts rely on this same difference of belief and are designed like options, except this time the contract must be exercised upon maturity. A forward or future contract “obligates one party to buy the underlying at a fixed price at a certain time in the future, called ‘maturity,’ from a counterparty who is obligated to sell the underlying at that fixed price” (Stulz 174). Both forwards and futures are often used for commodities trading, where the party obligated to buy attempts to lock in a lower price for the commodity than the market price at maturity, while the party obligated to sell hedges risk by ensuring a fixed price even if the commodity value falls in the future. Each party believes the opposite of its counterparty, facilitating the creation of the derivative.

Finally, “A swap is a contract to exchange cash flows over the life of the contract” (Stulz 175), many times based on an interest rate or currency exchange rate. In the case of ‘vanilla’ interest rate swaps, one party exchanges a fixed-interest loan for the variable rate loan of a second party (Stulz 175). The cash flow of payments from one party, then, is directed to the loan held by the other party, giving rise to the term “swap”. Like futures and options, swaps rely on a difference of opinion between two parties about a rate or underlying asset, with each party seeking to exchange positions with its counterparty. Importantly, at the maturity of either a swap, futures contract, or option, one party to the trade “wins” and comes out with a profit, and the other party “loses” and comes out with a loss (or, at best, with less profit than if the contract had not been made). So, at the end of a derivative contract, money or assets are simply shifted from one party to the other. In this way, it is hard to argue that derivatives create economic value; rather, they facilitate the migration of assets from

one person to another. As in a poker game, where the money only changes hands, derivatives create wealth for one party by taking it from another.

After understanding the different types of derivatives available, it becomes necessary to define the difference between the over-the-counter derivative (OTC) market and the exchange traded (ET) derivative market. “Exchange” implies a public, “central market in which all participants can observe the bids, offers and execution prices of all other participants” (Dodd 3). Organizations like the Chicago Mercantile Exchange and Chicago Board of Trade handle a majority of domestic exchange-traded derivatives (Carruthers 387), and basic options on stocks and bonds are available to the average personal investor. Importantly, ET derivatives are “standardized, fungible, and of limited variety . . . [and] the host exchange provides clearing services and allows for price discovery and a high degree of both transparency and regulatory oversight” (Carruthers 386). ET markets benefit from a formalized exchange acting as a third-party “clearing house”, responsible for “settling trading accounts, clearing trades, collecting and maintaining margin monies, regulating delivery and reporting trading data” and “for the fulfillment of the contracts” (“Clearing House”). This places a responsible third party in-between derivative contracts, standardizing trading practices and significantly decreasing counterparty risk.

On the other hand, the over-the-counter market “involves private bilateral transactions that can be uniquely customized to the needs of a corporate client. There is little transparency, no price discovery (the terms of the transaction are not made public), no clearing, and no regulatory oversight” (Carruthers 386). Instead of being traded on a standardized exchange, these OTC derivatives represent a private agreement between two parties, exposing both participants to significant counterparty risk because of the lack of an official clearing house. Without this supervising, organizational clearing house, OTC contracts can fail if either party defaults on his or her obligation because the agreements are made privately. Additionally, OTC markets are “characterized by a very high level of innovation” because “no regulatory approval . . . is necessary in order to introduce into the market a new kind of swap” (Carruthers 394). This precipitates the creation of exotic, complex derivatives based on unstable and oftentimes ambiguous underlying assets, sometimes even on other derivatives. Counterparty risk, the lack of a clearinghouse or regulatory oversight, and constant innovation make the OTC market far riskier than the ET traded market. Unsurprisingly, it is in the OTC market that the 2008 crisis developed.

Specifically, the combination of two OTC derivatives precipitated the crisis: “single name credit default swap or ‘CDS’ contracts . . . [and] structured financial instruments such as mortgage securitizations and

collateralized debt obligations or ‘CDOs’” (Whalen). A collateralized debt obligation “is a new security based on a pool of assets” and a collateralized mortgage obligation, or CMO, “is a particular kind of CDO—one that is based on a pool of mortgages” (Kolb 23). Relying on explanations in the book “The Financial Crisis of Our Time” by Robert Kolb and the video “The Crisis of Credit: Visualized” by Jonathan Jarvis, the creation of a CMO can be imagined as the flow of a river. First, a local bank lends money to a home-buyer as a mortgage. The local bank then sells this mortgage to a large financial intermediary, beginning the flow of the mortgage downstream. The financial intermediary, like Goldman Sachs or JPMorgan Chase, collects hundreds or thousands of these mortgages into a security called a collateralized mortgage obligation, which is divided like a waterfall into different levels, called “tranches”. As mortgage payments flow down the derivative river from homeowners and into the CMO, the money first washes into the “senior tranches” of the CMO, which are considered the safest investment. Once the obligations of the senior tranches are filled, the leftover money trickles farther down the security waterfall, filling the middle “mezzanine” tranches and then the riskiest bottom level, called the “equity” tranche. Each tranche is rated by a rating agency and then sold to investors, with mutual funds and pension funds buying the safest, lower-yielding senior tranches and hedge funds and other speculators purchasing the higher yielding equity tranches. Every step of the process is profitable for every participant. The local bank sells the mortgage for a profit, the investment bank packages the CMOs for a substantial fee, and final investors benefit from the interest paid by homeowners on their mortgages that floats down the CMO river.

The other type of derivative that created the crisis, the credit default swap, or CDS, acts as an investment insurance policy that transfers the risk of default on a loan or a bond from the buyer of a CDS to the seller of a CDS (Zabel). In a CDS contract, “the buyer of protection agrees to pay premiums to a seller of protection over a set period of time”, while “the seller of protection agrees to pay the buyer an amount of loss created by a ‘credit event’ related to an underlying credit asset (loan or bond)—the most common events are bankruptcy, restructuring or default” (Zabel). To help illustrate, imagine Blake, the manager of a large hedge fund. Blake’s hedge fund recently purchased millions of dollars of bonds and Blake wants to protect himself in case the issuer of the bond defaults on the loan and is unable to repay Blake his principal investment. To hedge his risk, Blake enters into a CDS contract with JPMorgan Chase, who agrees to repay Blake in case of a “credit event” where the bond issuer is unable to make payments. In exchange, Blake pays JPMorgan a fee which becomes pure profit if the credit event never occurs. However, if the event does occur, Blake is protected and JPMorgan becomes responsible for compensating Blake his losses, *swapping* default risk from Blake to the bank.

Beginning in the early 2000's and leading up to the financial crisis, an important shift in this credit default swap market occurred: banks began writing CDSs on their CDOs (Zabel). As discussed, CDOs and CMOs (which, again, are CDOs backed by mortgages) are simply pools of assets that make regular payments to investors, a process very similar to the interest payments made on standard bonds and loans. Because of this, CDS contracts can be created between parties based on CMOs, with the buyer of protection insuring himself in case home buyers default on their mortgages and the payments stop trickling into the CMO tranches. This combination of debt obligations and CDSs became a powerful and profitable force for two reasons. First of all, financial intuitions used CDSs to ensure that their CDOs received higher ratings from credit rating agencies like Moody's and Standard and Poor's. Instead of creating a CDO stable enough to actually earn an AAA rating, the highest rating from Standard and Poor's and indicating a highly safe investment, "it often turns out to be much cheaper to effectively rent a higher rating from an AAA firm like the former AIG", which benefited the insurer because "collecting payments from the issuer for the default insurance is free money—as long as the issuer does not default" (Kolb 118). This process makes the CDO "safer" because a seller of protection, like AIG, agrees to cover payments in case the underlying asset of the CDO defaults, leading to a security that more investors purchase because of the perceived security of an AAA rating.

Moreover, CDSs allowed banks and financial intuitions to free up capital. When holding a risky bond or CDO, banks are "required to hold a certain percentage of capital to cover the risk . . . varying with the risk of the bank's investment portfolio" (Kolb 119). The opportunity cost of sidelining this capital in favor of reinvesting it encourages banks to seek an alternative: the CDS. Holding a CDS on these risky investments, which transfers the true risk of the investments to someone else, reduces "the demanded capital from 8 percent of the value of the risky bonds or CDOs to just 1.6 percent" (Kolb 119). Because of this, CDSs allow banks to hold less dead capital collateral against their CDO investments since the bank itself is no longer responsible for the risk of the CDO; the CDS seller now bears this risk. In the end, both CDO creators, who co-opted the creditworthiness of CDS sellers like AIG to garner a higher credit rating, and CDO buyers, who utilized CDSs to free up capital for reinvestment, found incentives to combine CDOs with CDSs, a noxious cocktail that left the financial markets on the precipice of disaster.

The simplicity of creating these derivatives and the massive profitability of both originating and investing in them led to massive, frightening growth in both the size and complexity of the OTC derivatives market. As Carruthers notes in *The Journal of Comparative Economics*, ". . .

in 1986 the total value of exchange-traded derivatives was more than the total value of OTC derivatives, [but] by 2008 the total value of OTC had become ten times greater, despite the fact that the exchange-traded market had grown 100-fold” (391). The OTC market grew to a notional value of over \$450 trillion by 2008, skyrocketing more than nine fold from just ten years earlier (Carruthers 391). Large financial institutions controlled much of the growth, as JPMorgan Chase increased OTC derivatives holdings by 400% to over \$80 billion from 2001-2008 and CitiBank and Bank of America grew OTC holdings from \$5 billion to \$32 billion and \$8 billion to \$35 billion, respectively, during the same time (Carruthers 391). At the same time, by 2007 and only 11 years after its creation in 1997, “the CDS market had a notional value of \$45 trillion, but the corporate bond, municipal bond, and structured investment vehicles market totaled less than \$25 trillion”, implying that “a minimum of \$20 trillion were speculative ‘bets’ on the possibility of a credit event of a specific credit asset not owned by either party to the CDS contract” (Zabel). The former AIG sold massive amounts of credit protection, in the form of CDSs, eventually holding “\$527 billion worth of risky debt” by 2007, with “much of this debt being in the form of CDOs backed by home mortgages” (Kolb 119).

Because of this massive growth in both the swap market and the entire OTC market, complex, unclear, and risky derivatives developed. The CDS market developed tangled interrelationships, with “Some CDS contracts . . . [passing] through 10-12 different parties” (Zabel), making it nearly impossible to decipher liability in the case of a credit event. Financial institutions also created synthetic CDOs, a process where firms repackage pieces of other CDOs and credit default swaps that reference tranches of other CDO’s into new CDO’s that hold little or no real assets themselves (McLean, Nocera 263-266). These newly created synthetic CDOs derived their value from other CDOs and CDSs instead of tangible assets; the process layered derivatives upon derivatives. Frighteningly, synthetic CDOs “existed solely to make complex bets on securities that existed somewhere else in the system (which, as often as not, were themselves bets on securities that existed somewhere else in the system)” (McLean, Nocera 267-268). In short, the OTC derivatives market became a cobweb of securities, “a tangled hairball of risk” (Janet Tavakoli, qtd. in Mclean, Nocera 313), with CDOs based on other CDOs made up of other CDOs, ad infinitum. Without regulatory oversight, nothing but a lack of creativity could prevent the conception of new and ever more complex derivatives. And, unfortunately, the financial industry is never at a loss for ingenuity.

With all of the discussion about synthetic CDOs and the complexity of the OTC market, it is easy to forget the main underlying of

these complex securities: mortgages. And, as it turns out, these underlying mortgages were far from safe. Driven by an artificially low interest rate environment and increasing demand from investors for more CDOs, local banks began giving mortgages to high-risk homebuyers with low credit scores, oftentimes without proof of income or a down-payment (Jarvis). These mortgages, called “subprime” mortgages, were immediately sold, for a profit, to a larger financial institution who quickly packaged the mortgages into CMOs, insured with CDSs, which were then sold to the final investors (or sometimes purchased by the financial institutions themselves). All along the way, the risk of these subprime mortgages was passed along down the CDO river, so banks continued writing subprime mortgages and financial institutions continued packaging them into CMOs; the process was simply too profitable to stop. Eventually, “subprime mortgage originations accounted for 25.7 and 31.0 percent of all new mortgages in 2005 and 2006, respectively” (Kolb 52), and “By 2007 subprime . . . mortgages accounted for 25 percent of all mortgage securitizations” (Kolb 46). This put the entire cobweb of CDOs and CDSs, based in one way or another on these subprime mortgages, at severe risk.

Inevitably, this risk ballooned into a catastrophe. “By the second quarter of 2008, almost 4.5 percent of all mortgages were in foreclosure”, after never exceeding .4% before 2000 (Kolb 61). Consequently, “The failure of mortgages to pay as promised made the mortgage-backed security constructed from these nonpaying mortgages less valuable” (Kolb 62), leaving financial institutions with “losses [that] devastated the reported earnings of firms . . . leaving them with a diminished capital position” (Kolb 62). One massive firm in particular, Lehman Brothers, filed for bankruptcy on September 14, 2008, which “set off a derivatives chain reaction affecting Lehman’s counterparties and directly caused the credit crisis” (Hera). This chain reaction reverberated across the financial industry, resulting in massive losses for the final investors in the CDOs and leaving many investors demanding payments from firms that sold insurance as CDSs. However, the firms selling the swaps, who were responsible for covering losses as per the contract, had nowhere near enough collateral to cover the escalating claims: “In simple terms, as the risk of higher subprime mortgage defaults increased in the CDOs, the credit default swap values decreased due to the risk of anticipated higher pay-outs by the CDS seller” (Zabel).

In conjunction with this issue, recall the synthetic CDOs and the multilayered derivatives concocted by derivative creators. As some CDOs and CDSs plummeted in value, the effect cascaded across all the other CDOs and CDSs based on the original securities, accelerating the effects across the entire OTC market. For firms trying to sell CDOs, “the market . . . was falling away beneath their feet” (Kolb 63), as investors

riddled with losses refused to invest anymore, bringing the market to a stand-still. In summary, all across the market, money stopped flowing into CDOs due to defaults, investors stopped buying the securities, firms holding the credit responsibility in the form of CDSs could not pay, and, initiated by the failure of Lehman Brothers, the complex fabric of layered derivatives amplified initial CDO losses. The OTC market, all the financial institutions involved in creating it, and all the hedge, mutual, and pension funds that invested in it collapsed. And thus the “Great Recession” was born.

While placing blame for the recession solely on the OTC market may oversimplify the issue, it becomes clear that unregulated and highly complex OTC derivatives lay at the center of the crisis. As Rona Hera notes in his article for the *Business Insider*, “the underlying systemic risk, and the primary reason for the ‘too big to fail’ doctrine whereby governments were compelled to save financial institutions at any cost, lies in over the counter (OTC) derivatives.” It is possible to condemn the OTC market in this way for three reasons. First of all, the creation of highly profitable CDOs incentivized banks to initiate subprime mortgages. Because the mortgages were immediately sold down the CDO river, the risk of the mortgages became irrelevant to the intermediary institutions; in this way, CDOs actually catalyzed their own collapse. Second, CDSs were utilized to lower the requirements for holding capital collateral and to unfairly earn a higher credit rating on CDOs. This served to hide the true risk of the created securities and allowed firms selling CDS protection to create swaps that they could never insure, creating a ticking time bomb of swaps in the case of defaults. Ironically, CDSs were used to mask the risk that circled around and destroyed the swaps themselves. Third, and most importantly, the lack of regulation in the OTC market permitted firms to layer derivatives into synthetic CDOs with no asset holdings themselves and to package parts of CDOs and CDSs into other CDOs. This eventually created a domino effect that grossly amplified the damage caused by subprime defaults. Ultimately, OTC derivatives created, propagated, and concealed the risks of the mortgage-backed security market and therefore must bear a majority of the responsibility for the collapse.

In the end, the structural features of the OTC market itself, including a lack of regulatory oversight, heightened counterparty risk due to the absence of a third party clearinghouse to stand in the middle of transactions, and the endless number of possible derivative creations paved the way for the dubious practices that initiated the 2008 crisis. In recognition of these problems, Congress passed the *Dodd-Frank Wall Street Reform and Consumer Protection Act* in 2010, which began an effort to “reduce systemic risk through mandating central clearing of previously unregulated derivative instruments, and by requiring more capital and

liquid collateral to back derivative trades” (“Dodd-Frank” 1). However, the Dodd-Frank Act allows firms to opt-out of many clearing activities and excludes “non-financial” firms and many types of derivatives from oversight (“Dodd-Frank” 4-5). Despite these excellent preliminary efforts, the notional value of the OTC market still stands at over \$600 trillion (Hera), exposing the market to the possibility of another bubble, especially given the creativity of derivative writers. When considered in its entirety, the OTC derivative market environment incites speculation, complexity, and opacity, putting the financial industry perpetually on the precipice of a disaster. Without further regulatory oversight and a complete movement towards public, cleared exchanges, the possibility remains for a repeat of the Great Recession. Until then, the OTC market, as Warren Buffet realized in 2002, will remain inherently capable of ballooning into an untamable, explosive financial weapon of mass destruction.

Works Cited

- Buffet, Warren. "Chairman's Letter." Letter to the Shareholders of Berkshire Hathaway. 21 Feb. 2003. Berkshire Hathaway, 21 Feb. 2003. Web. 2 May 2014.
- Carruthers, Bruce G. "Diverging Derivatives: Law, Governance and Modern Financial Markets." *Journal of Comparative Economics* 41.2 (May 2013): 386-400. *ScienceDirect*. Web. 2 May 2014.
- "Clearing House." *Investopedia*. Investopedia US, n.d. Web. 2 May 2014.
- "Dodd-Frank's Title VII — OTC Derivatives Reform." *Ernst & Young*. Ernst & Young Global Limited, 2013. Web. 2 May 2014.
- Dodd, Randall. "The Structure of OTC Derivative Markets." *The Financier* 9 (2002): 1-4. *FinancialPolicy.org*. Web. 2 May 2014.
- "The Financial Crisis Response: In Charts." *Treasury.gov*. The Department of the Treasury, Apr. 2012. Web. 2 May 2014.
- Hera, Ron. "Forget About Housing, The Real Cause Of The Crisis Was OTC Derivatives." *Business Insider: Finance*. Business Insider Inc., 11 May 2010. Web. 2 May 2014.
- Jarvis, Jonathan. "The Crisis of Credit: Visualized." Online video clip. *YouTube*. YouTube, 22 Jan. 2011. Web. 5 May 2014.
- Kolb, Robert W. *The Financial Crisis of Our Time*. New York: Oxford UP, 2011. Print.
- McLean, Bethany, and Joseph Nocera. *All the Devils Are Here: The Hidden History of the Financial Crisis*. New York: Portfolio/Penguin, 2010. Print.
- "Option." *Investopedia*. Investopedia US, n.d. Web. 2 May 2014.
- Stulz, René M. "Should We Fear Derivatives?" *The Journal of Economic Perspectives* 18.3 (Summer 2004): 173-92. *JSTOR*. Web. 2 May 2014.
- Zabel, Richard R. "Credit Default Swaps: From Protection to Speculation." *Robins, Kaplan, Miller & Ciresi*. Robins, Kaplan, Miller & Ciresi LLP, Sept. 2008. Web. 2 May 2014.
- Zucchi, Kristina. "Derivatives 101." *Investopedia*. Investopedia US, 29 Jan. 2009. Web. 2 May 2014.

A Study of Female Representation in American Popular Music Festival Culture and Audience Perspectives of Current Trends in the Music Industry

Hannah Van Amburgh

Introduction

When music festivals featuring both popular artists and more underground genres first appeared in the United States in the mid-twentieth century, they provided individuals with an opportunity to escape from reality and join a community of fellow music enthusiasts and admirers. These events, such as the Monterey International Pop Festival in 1967 and the original Woodstock Festival in 1969, influenced the entire North American music culture and moved the rock and alternative genres into mainstream attractions (A History of Music Festivals, 2013). American music festival culture has flourished since the millennium, with live concert ticket sales replacing much of the loss recorded music sales have experienced as digital music services gain popularity and dominance in the industry (Parker, 2013). Despite the overall enthusiasm for music festivals in the United States, there has been a rather noticeable concern among the most popular festivals that brings the relevant consciousness of the live event production industry into question: where are all the women?

This paper aims to explore how and why female performers are underrepresented in American popular music festival culture, as well as how festival attendees perceive the present gender imbalance in recent years. A literature review will survey sources that highlight this issue and will seek to provide evidence that a dissonance in gender representation actually exists, and is not simply a feminist call for expulsion of the patriarchy. The research and results from a survey distributed to attendees of recent American music festivals will then be evaluated to determine how a sampling of current audiences perceive gender trends in the music industry. This data will also be used to explore whether the issue is noticed by and considered important to the attendees' enjoyment of music festivals. Finally, a discussion of these trends and personal observations will be presented to examine possible ways in which the challenge of low female representation in popular music festival culture can be addressed.

Literature Review

This literature review will discuss major themes that accompany the unequal representation of women in American popular music festival culture and show how this severe underrepresentation has received attention on a global scale. The review will first focus on how the lack of female performers in popular music festivals has gained media attention in recent years, and how the public depiction of female musicians who have been asked to headline festivals focuses on an exaggerated "girl power"

message that can demean female representation in the music industry as a whole. Additionally, the creation of female-exclusive festivals will be discussed, though recent festivals of the sort do not target a typical popular music demographic and have not shown significant success in the United States when compared to larger music festivals. Lastly, this review will analyze the performance lineups from 2010 to 2014 of the four largest popular music festivals in the United States, and demonstrate how they support the conclusions drawn by the media research.

Global Prevalence of Gender Inequality in Music Festivals

While this paper focuses on female representation in specifically American music festival culture, the unequal ratio of male to female performers is a noticeable trend across the global music festival scene. According to an analysis of the 2014 lineups of the six major European music festivals presented in Alice Vincent's recent article for *The Telegraph*, all-female bands comprised only 3.5 percent of the total acts playing, while all-male bands made up 43 percent and male solo artists comprised 24.3 percent (2014). This article also mentions that when female solo artists are featured in festivals, "the same women musicians are appearing repeatedly over the course of the summer, suggesting there are more playing than there actually are" (Vincent, 2014). This theme of booking an uneven amount of male and female performers has existed since the original formation of popular music festivals. As Abby Johnston discusses in her article for Salon.com, "the snubbing of women in booking major festival lineups is persistent and unfortunate, but nothing new" (2013).

Women often dominate the top popular music charts, but this success is not reflected in the number of women represented at music festivals. For example, Billboard's Top 200 Artists of 2014 lists Taylor Swift and Beyoncé as the top two artists, with Katy Perry as number seven and Lorde as number eight. Despite this significant presence on the list, Lorde was the only female artist from this group to appear at any of the popular American music festivals in 2014. Additionally, her presence at three of the larger festivals was considered a second-tier headlining spot based on the lower location of her name in the official lineups, which are arranged hierarchically with headliners at the top followed by supporting acts. This illuminates the discord between popular music culture and the alternative or independent subcultures celebrated at several of the American music festivals. Many of the largest festivals, including Bonnaroo, Coachella, and Lollapalooza, were founded in the male-dominated alternative and indie scenes, and have only recently begun featuring more chart-topping acts (Wickman, 2013). As explained in Vincent's article for *The Telegraph*, "the history of pop music is very male,

and for women it's hard to chip into that nostalgia which fuels commercial music festivals, the decades of a male-dominated industry" (2014).

Marketing Strategy. According to a recent article written by Chris Lee and Todd Martens for the *Los Angeles Times* (2014), gender diversity is not completely ignored when booking lineups, but it certainly does not fall as a priority for festival organizers. This article features interviews with several festival and concert promoters in hopes of rationalizing why women are not headlining festivals despite their success on the popular music charts. In his interview, Ashley Capps, founder of AC Entertainment (the organization that co-produces Bonnaroo Music and Arts Festival), gave the following explanation:

If we feel we're getting too male-centric, we will try to address the situation, but it's usually last minute when we look at how this is balancing out. We go for the greatest artists available to play at any given festival. (Lee and Martens, 2014)

By seeking out the "greatest artists," festival producers hope to attract the largest audiences, therefore bringing in a more significant profit (Lee and Martens, 2014). While many festivals are promoted as a celebration of music and an opportunity for those with a musical passion to come together, these events also follow a specific business model and must make decisions based on the factors that will encourage individuals to purchase tickets. One festival promoter, who chose to stay anonymous for fear of offending potential attendees, provided the following possible marketing explanation for why so few female headliners are currently booked:

Where the girls go, the guys follow. It's terrible stereotyping, but the people leading the charge in going to see concerts are women. And women don't want to see other women. They tend to want to see men perform. The audience is fueled by females. (Lee and Martens, 2014)

If all American music festivals are targeting young, female audiences and following this rather heteronormative assumption that women would prefer to see male musicians on stage, the gender balance in music festival culture is unlikely to change in the near future. The Coachella Valley Music and Arts Festival is a common example of attracting a young, female audience with its California location and high opportunity to spot celebrities, and its history of female representation adequately matches this marketing ideal. Only one female solo musician and two female-fronted, mixed-gender groups have headlined since 1999 (Lee and Martens, 2014). Additionally, according to Forrest Wickman's article written for *Slate Magazine*, a total average of just over 15 percent of the musical acts booked by Coachella are fronted by female performers (2013). A more

detailed evaluation of recent lineups compiled by the four largest American music festivals, including Coachella, will be discussed later in this review.

Media treatment of female headliners. When women do have the opportunity to headline music festivals, the media often describes their performances in terms of amazement, saying they are “great girl power moments” and chances to “give women the boost they need, both inside the music business and elsewhere” (Phillips, 2011). While this language is encouraging from a radical feminist perspective, treating female headliners as overly special cases can be perceived as discounting the widely-believed need for gender equality. Vincent’s article for *The Telegraph* notes this difference in language by saying, “When it comes to mindfully representing women with the right message, music is out of date in comparison to art and literature” (2014). Aside from the actual language used to describe successful women in the music industry, female musicians are often featured for more traditionally feminine factors other than their raw talent, such as beauty and fashion. For example, the all-female experimental rock group Warpaint, who has played supportive spots at several festivals in the past few years, admitted in a recent interview that “the group appears in ‘more fashion spreads than most dude bands,’” which draws attention away from the group’s actual pursuits (Lee and Martens, 2014).

Creation of Female-Exclusive Festivals

The underrepresentation of women in the American music industry as a whole has led to the creation of female-exclusive music festivals, such as the Michigan Womyn’s Music Festival and Lilith Fair, though neither event has received significant mass appeal or success when compared to larger festivals.

Michigan Womyn’s Music Festival. The Michigan Womyn’s Music Festival, also known simply as Michfest, was founded in 1976 by nineteen-year-old Lisa Vogel. The week-long event, which takes place in the Michigan woodlands each August, features only female musicians and artists and promotes complete liberation from perceived societal patriarchy through various interactive workshops and community events. Though Michfest is intended to celebrate all women, it tends to attract more radical feminists and does not greatly appeal to younger mass audiences with its annual lineups and activities. Audience numbers typically range anywhere from 3,000 to 10,000 female attendees. The festival has faced significant conflict throughout 2014 for its exclusion policies on transgendered performers and attendees (Goldberg, 2014).

Lilith Fair. Lilith Fair was an all-female music festival that toured North America each summer from 1997 to 1999. The festival was co-founded by Canadian singer-songwriter Sarah McLachlan and her

manager at the time, Terry McBride. Each year, Lilith Fair featured a rotating roster of popular musicians such as Sheryl Crow, the Dixie Chicks, Lauryn Hill, and Bonnie Raitt. While the festival was founded to showcase female musicians, McLachlan made it very clear Lilith Fair was meant celebrate their music more than their gender by saying, “We’re just here to put on a great musical show and I think any social or political issues are secondary, although very important, because it is a music festival first and foremost” (Freydtkin, 1998). The festival received significant success for its time and raised millions of dollars for various women’s charities during its three-year duration. An attempt to revive the festival was made in 2010 with a rather impressive lineup featuring a larger variety of successful female musicians from different genres, but sluggish ticket sales caused several of the tour dates to either be canceled or moved to smaller venues. Producers blamed the recession as well as poor media advertising for failure of the revival and no attempts have been made since to restore a similar kind of female-exclusive musical event (Lederman, 2011).

Figure 1. Example of Conventional Performance Lineup Layout

The graphic displays the performance lineup for Lollapalooza 2014, held from August 1-3 at Grant Park, Chicago. The lineup is organized into three main categories: Headliners, Sub-Headliners, and Supporting Acts. The text is presented in a dense, stacked format with arrows pointing to each category label on the right side of the graphic.

Headliners: EMINEM • OUTKAST • KINGS OF LEON

Sub-Headliners: ARCTIC MONKEYS • SKRILLEX • CALVIN HARRIS
LORDE • THE AVETT BROTHERS • FOSTER THE PEOPLE
ZEDD • SEBASTIAN INGIROSSO • KREWELLA • NAS

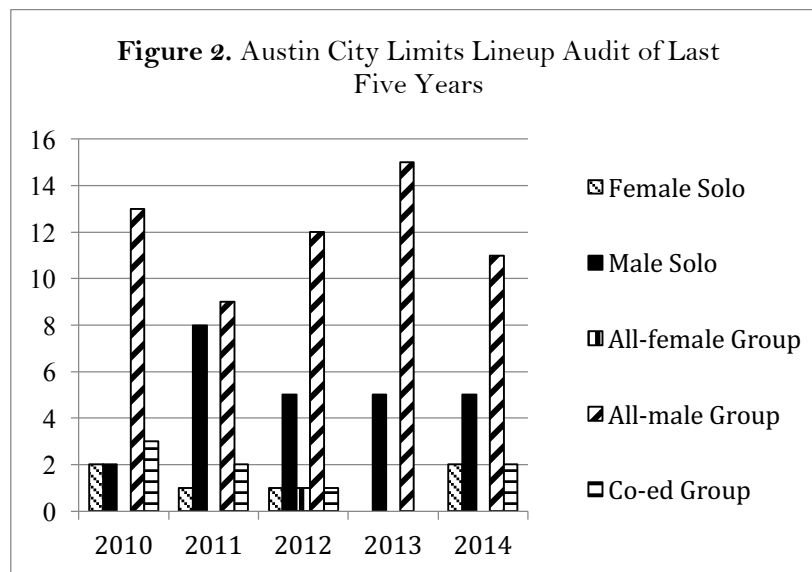
Supporting Acts: ABOVE & BEYOND • CHILDISH GAMBINO • BROKEN BELLS • SPOON
THE HEAD AND THE HEART • CAGE THE ELEPHANT • YOUNG THE GIANT
CHASE & STATUS • INTERPOL • LYKKE LI • CHANCE THE RAPPER
PHANTOGRAM • CUT / COPY • FLOSTRADAMUS • FITZ & THE TANTRUMS
GROUPOVE • CHVRCHES • THE GLITCH MOB • PORTUGAL THE MAN
GRAMATIK • CHROMED • DARKSIDE • THE 1975 • DIMITRI VEGAS & LIKE MIKE
REBELUTION • GLEN HANSARD • JENNY LEWIS • MANCHESTER ORCHESTRA
GESAFFELSTEIN • JOHN BUTLER TRIO • FLUME • MARTIN GARRIX • AFI
J. RODDY WALSTON & THE BUSINESS • THE KOOKS • TROMBONE SHORTY & ORLEANS AVENUE
RUN THE JEWELS • THE AIRBORNE TOXIC EVENT • RUDIMENTAL • PHOSPHORESCENT
DUKE DUMONT • LONDON GRAMMAR • THE TEMPER TRAP • IGGY AZALEA
JOACHIM GARRAUD • BOMBAY BICYCLE CLUB • WHITE DENIM • TYPHOON • Z-TRIP
WARPAINT • KATE NASH • KODALINE • SANDER KLEINENBERG • VANCE JOY • LUCIUS
BLOOD ORANGE • RICH HOMIE QUAN • PERRY/ETTY VS JOACHIM GARRAUD • DELTA RAE • RAC
JAGWAR MA • PARQUET COURTS • GTA • JHENÉ AÏKO • TEMPLES • SMALLPOOLS • JUNGLE • KONGOS
NONONO • WILDCATI WILDCATI • PAPA • GEMINI CLUB • THE DISTRICTS • VIC MENSA • CRIZZLY
BOMBA ESTEREO • FRANCISCA VALENZUELA • BLEACHERS • INTO IT. OVER IT. • HEROBUST • COURTNEY BARNETT
SAN FERMIN • ROYAL BLOOD • RATKING • BEAR HANDS • ROADKILL GHOST CHOIR • MEG MYERS • KALISEA
BRILLZ • BRONZE RADIO RETURN • THE SO GLOS • CASH CASH • JACOB PLANT • LINDSAY LOVEND • JOYWAVE
BEBE REKHA • DESERT NOKES • BETTY WHO • JON BATISTE AND STAY HUMAN • BENJAMIN BOOKER • FLY GOLDEN EAGLE
DUGAS • CRASS MAMMOTH • THE LAST INTERNATIONALE • WALLPAPER • JOHNNYSWIM • CARDINOX • CHARLIE HIRSCH
BAGHEERA • SPACE CAPOENE • OF VERONA • ANNA LUNDE • HIGHLY SUSPECT • PLASTIC VISIONS • OYINDA • ROCKY BUSINESS

TICKETS AT LOLLAPALOOZA.COM

Evaluation of Recent Lineups at Four American Popular Music Festivals

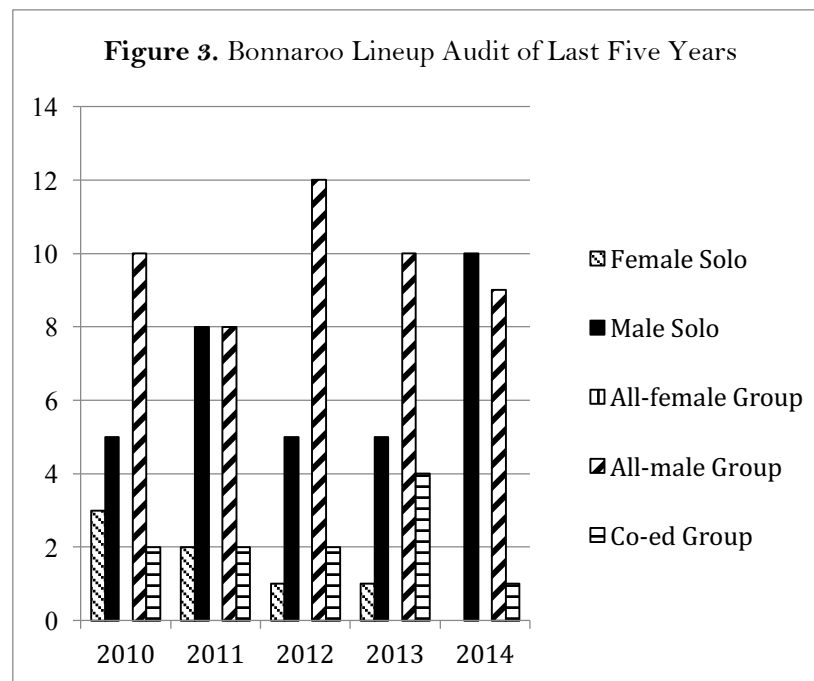
The following sections will provide foundational information concerning the four largest popular music festivals in the United States: Austin City Limits, Bonnaroo, Coachella, and Lollapalooza. Each festival's official performance lineups from the last five years will be evaluated in terms of comparing the number of female and male performers listed in the first 20 spots. Official lineup publications are arranged to feature headlining acts at the top of the list, followed by sub-headliners and supporting acts, as demonstrated in Figure 1. By examining the first 20 acts listed, these charts will observe which solo artists and groups festival producers consider most attractive to festival audiences as well as which performances are most likely to encourage more profitable ticket sales.

Austin City Limits Music Festival. The Austin City Limits Music Festival is a six-day music festival that takes place over two weekends each October at Zilker Park in Austin, Texas (Austin City Limits Music Festival, 2014). The festival was originally founded by C3 Presents in 2002 as a one-weekend festival, but high attendance and lack of space in the area led to the creation of a second weekend. Austin City Limits significantly influences the Austin economy, and the cooperation between C3 Presents and the Austin Parks Foundation has led to millions of dollars' worth of donations for improvements to the city parks (Coppola, 2012).



As Figure 2 shows, the number of female headliners in the past five years, either solo or as a part of a group, has been noticeably low. The presence of pop sister duo Tegan and Sara in 2012 marks the only presence of a headlining all-female group in recent performance lineups. Most notably, the 2013 headliners comprised only male performers, even excluding any bands with both male and female members. All-male groups have consistently dominated the lineups, with male solo artists occupying second place (Austin City Limits Music Festival, 2014).

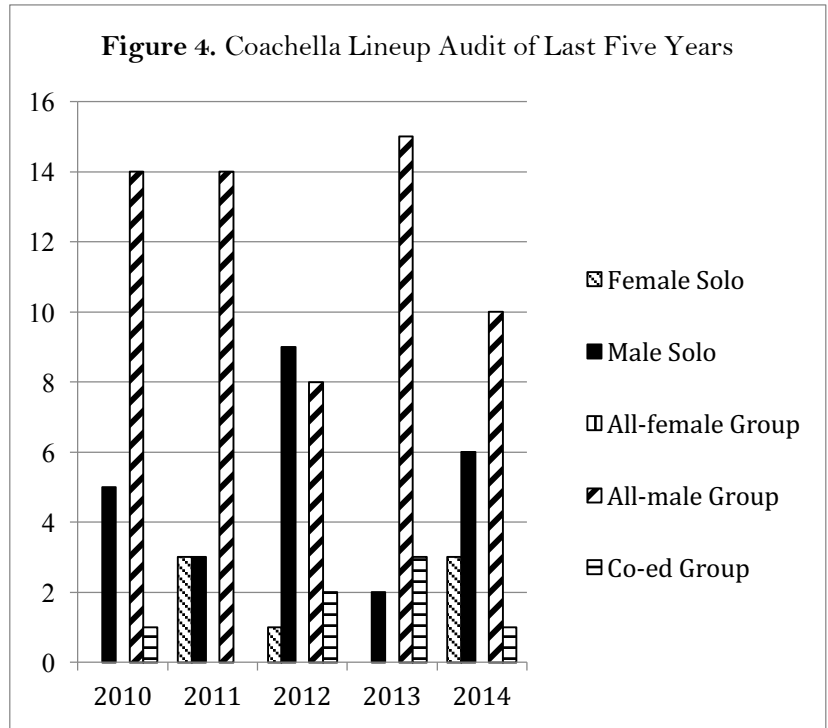
Bonnaroo Music and Arts Festival. The Bonnaroo Music and Arts Festival is a four-day music festival that takes place annually in June at Great Stage Park in Manchester, Tennessee. The festival was founded in 2002 and is produced by Superfly Presents and AC Entertainment (Bonnaroo Music and Arts Festival, 2014). According to Leigh Buchanan's *Inc. Magazine* interview with the four Superfly Presents founders, all of whom are male, Bonnaroo attracts over 80,000 fans each year with a target demographic of individuals between the ages of 18 to 34. The festival has sold out tickets nearly every year since 2002 and has always been profitable for both the company and the local economy (Buchanan, 2011).



As shown in Figure 3, an all-female group has not been featured as a Bonnaroo headliner in the past five years, and the number of female

solo headliners has actually decreased consistently each year. Charity Rose Thielen, violinist and vocalist for the indie folk band The Head and the Heart, was the only female musician included in the top 20 performers on the 2014 Bonnaroo list of headliners. Either male solo artists or all-male groups have had the most presence in recent years with a fairly low amount of co-ed groups performing as well (Bonnaroo Music and Arts Festival, 2014).

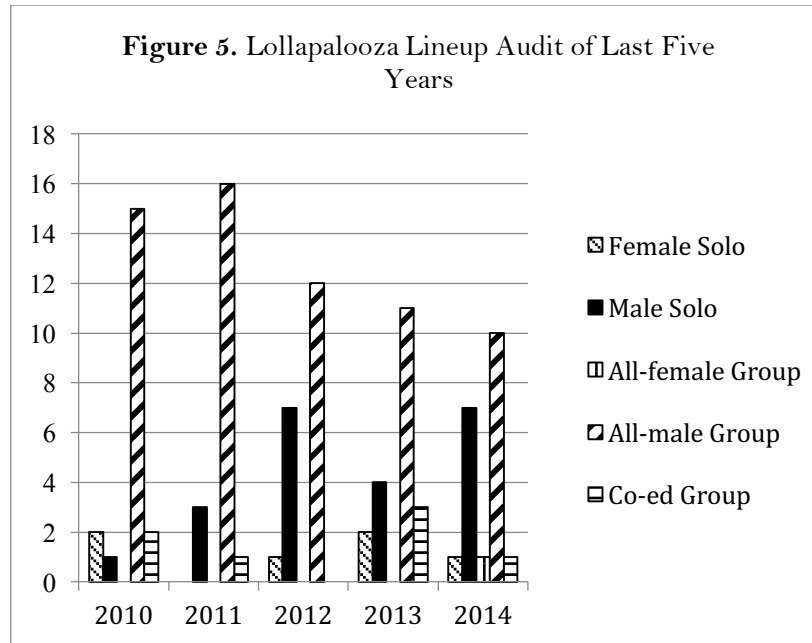
Coachella Valley Music and Arts Festival. The Coachella Valley Music and Arts Festival is a six-day music festival that takes place over two weekends each April at the Empire Polo Club in Indio, California. The festival began in 1999 and is produced by Goldenvoice, a subsidiary of AEG Live (Coachella Valley Music and Arts Festival, 2014). Coachella is considered the largest music and arts festival in America in terms of both audience size and profits, bringing in a total of 579,000 attendees over the six days and more than \$78.3 million in 2014 (Waddell, 2014).



As Figure 4 demonstrates, Coachella has not featured any all-female groups as headliners in the past five years. Additionally, the festival failed to include any female solo headliners in either 2010 or 2013, and the

number of groups with both male and female performers has stayed consistently low each year. It should be noted, however, that there were an equal number of female and male solo artists at the 2011 festival (Coachella Valley Music and Arts Festival, 2014).

Lollapalooza. Lollapalooza is a three-day music festival that takes place annually in August at Grant Park in Chicago, Illinois. The festival was originally founded in 1991 and ran annually through 1997 as a touring music festival around the United States and Canada. In 2005, event production firm C3 Presents, the same company that produces Austin City Limits, took over the festival and located it permanently in downtown Chicago (Lollapalooza, 2014). Lollapalooza brings in over 100,000 people each day and earned around an estimate of \$15.3 million in 2013 (Mann, 2014).



As Figure 5 shows, only six female soloists have been featured as headliners at Lollapalooza in the past five years, and the only all-female group to receive a higher spot recently was electronic dance music sister duo Krewella at the 2014 festival. Groups with only male members have consistently dominated the Lollapalooza performance lineups, though it should be noted that female solo artists outnumbered male solo artists in headlining spots at the 2010 festival (Lollapalooza, 2014).

Review of Festival Attendee Survey

Methodology

This study aimed to gather information regarding the behaviors and attitudes of individuals who have attended at least one large-scale popular music festival in the United States. Based on the review of media attention to the female representation in popular music festival culture as well as personal observations and perceptions of the research, a survey comprising fifteen questions was distributed online to address the following research questions:

Research Question 1. What specific attributes determine whether individuals choose to attend particular American popular music festivals?

Research Question 2. Do festival attendees notice and/or show concern for the unequal representation of female performers in American popular music festival culture?

Sampling and Distribution

In order to examine the behaviors and attitudes of festival attendees, an online survey link was shared via social media and email during the months of October and November in 2014. The survey link was primarily shared on personal social media pages and the official Facebook pages for several large-scale popular festivals, though the link was also distributed through email as several participants passed along the survey to fellow festival attendees. This sampling frame and method of distribution was chosen as the most efficient method of circulating the survey because of the convenience of the online platform and easy accessibility to reach larger numbers of people in a wider area range. The main concern for this sampling frame and method of distribution was its ability to reach a wide demographic, as several immediate contacts on the researcher's channels are college-aged. Additionally, social media posts tend to get lost in an overwhelming news feed, requiring the use of eye-catching posts for the survey to be noticed.

Descriptives

Of the 58 survey participants, 70.7 percent identified as female ($n = 41$), 27.6 percent identified as male ($n = 16$), and one respondent identified as transgender (1.7%). Most participants fell within the age range of 21 to 35 (77.6%, $n = 45$). Over half of the respondents are either currently completing or have completed a bachelor's degree (56.9%, $n = 33$) in a variety of majors, while ten participants chose to pursue an even higher education (17.2%) and 15 participants are working on either a high school diploma or an associate's degree (25.9%). Just over half of the participants have been to a popular American music festival somewhere in

the range of two to five times (51.7%, n = 30), and 32.8 percent of respondents have only been to a festival once (n = 19). Many of the respondents also identify themselves as feminists (60.3%, n = 35), using the definition of someone who actively pursues the rights and equality of women.

Results

The following section will discuss the results determined from the survey and relate them to the broader perception of female representation in popular music festival culture as established in the Literature Review.

Research Question 1. The first research question asked what specific attributes determine whether individuals choose to attend particular American popular music festivals. Survey participants were asked several questions concerning the importance of specific factors as well as musical preferences to create an idea of the process attendees go through before making festival plans.

Important factors. Participants were asked to consider particular factors listed in a Likert scale format and give a level of importance to each factor ranging from not important to extremely important. Overall, the majority of participants ranked the lineup of performers as extremely important when deciding whether to attend a particular festival (81%, n = 47). Factors that most respondents also considered as either fairly important or extremely important include festival ticket prices (82.8%, n = 48), the presence of a community atmosphere at the festival (70.7%, n = 41), location of the festival (67.2%, n = 39), and the availability of friends to attend the festival with them (63.8%, n = 37). Participants gave overwhelmingly middle-ground responses when ranking the importance of available transportation to the festival, the reputation of the festival, and the presence of a wide variety of genres. Finally, nearly all participants gave no preference or little to no importance to the equal representation of male and female performers at the festival (91.4%, n = 53).

Musical preferences. When asked what general genres of music individuals prefer to listen to at music festivals, survey participants named alternative (72.4%, n = 42), indie (70.7%, n = 41), and electronic (53.4%, n = 31) as the most enjoyable. On the opposite end of the spectrum, blues (13.8%, n = 8), country (19%, n = 11), and jazz (19%, n = 11) were the least chosen options of the 14 possible genre selections. Respondents were also asked if they have a preference for particular genders of solo performers or group acts, to which 69 percent of participants said they have no preference (n = 40).

Research Question 2. The second research question concerned whether festival attendees notice and/or show concern for the unequal representation of female performers in American popular music festival

culture. Most participants said they had never consciously noticed a significant difference between the amount of female and male headliners at the festivals they attended in previous years (65.5%, $n = 38$). The 20 participants who had noticed a significant inequality in the gender of headliners (34.5%) were also asked to name the festivals where they had noticed the difference, and the four largest festivals previously discussed in the Literature Review (Austin City Limits, Bonnaroo, Coachella, and Lollapalooza) were mentioned multiple times. About 30 percent of participants ($n = 17$) believe music festival coordinators should put greater consideration into balancing the number of male and female performers each year, while 31 percent of participants ($n = 18$) did not have an opinion or preference on the matter. Interestingly, 11 of the 16 total male survey participants said music festival coordinators should not put greater consideration into equalizing the number of male and female performers.

Female-exclusive music festivals. The survey asked participants about their awareness of smaller, female-exclusive music festivals, such as the Michigan Womyn's Music Festival, in the United States. Most respondents were not aware that any such festivals exist (82.8%, $n = 42$), which is not surprising, considering that the primary demographic of survey respondents does not match that of the target audience found at such festivals.

Participants had very interesting responses regarding their opinions on whether a larger-scale popular music festival featuring only female performers would be successful in the United States. Over half of the participants believed a festival featuring current, popular female musicians would be well received (56.9%, $n = 33$). One participant stated, "I think a strong feminist action like creating an all-female pop music festival would garner attention as long as it was supported by significant American females." Another respondent said such a festival could be a great idea, but "representation at festivals is directly linked to female representation in the music industry as a whole, so that's a whole different issue that needs fixing."

Nearly a quarter of the survey participants believed a female-exclusive popular music festival would not be successful or is not necessary in the United States (24.1%, $n = 14$). Multiple participants commented that music festivals "should be more about the music than gender," since most individuals who attend festivals "look for quality in a show over quantity of a gender." Other participants addressed the negative implication of feminism in an all-female music festival, calling the idea "fairly sexist" and "feminism that is moving in the exact opposite direction that society needs to go."

Several survey participants gave mixed responses to the idea of an exclusively female popular music festival. One participant said that while a

festival that showcases the talent of female performers is a great idea, “one also has to consider whether an all-female music festival on a large-scale would marginalize female musicians further, instead of showing that they have every right to be on the same bill as equally talented male performers.” Another respondent mentioned “it just depends on the climate of the music in the country at the time.” Overall, while the idea of a music festival featuring only female musicians sounds enticing, these participants believed it would not be the most effective way of equalizing the representation of male and female musicians in American festival culture.

Discussion

The media research in the literature review and festival attendee survey results provide several important insights to this study of female representation in the American popular music festival industry. The media has provided significant evidence that a gender imbalance exists in music festival culture, regardless if the lack of female headliners is intentional or coincidental. Despite this noticeable imbalance, a common theme throughout all of the findings suggests the quality of festival performance lineups is considered more important than gender equality among the performers. While this is not a particularly surprising assumption, it demonstrates the lack of the music industry’s reluctance to respond to relevant concerns in American society. Just over 60 percent of the survey respondents identified themselves as feminists, suggesting their awareness that the overarching gender inequality issue exists. Many would assume that women would show more enthusiasm for addressing gender representation problems, but when looking at the survey results, over 70 percent of the participants were women, and only a small number of those individuals showed serious concern for the representation of female musicians at music festivals based on their responses. The survey results demonstrate that festival attendees believe female representation in the music industry is definitely important, but not the biggest priority when compared to simply enjoying good music.

Explanations for Gender Inequality in Music Festival Culture

As discussed in this paper, there are several possible explanations for the lack of representation of female musicians in American popular music festival culture. One possibility could be that festival audiences are too devoted to music itself to care much about whether gender is equally represented in the lineup. Many people argue that a passion for music should not revolve around the gender of the performers, but instead around how the music actually affects individuals. This assumption leads festival coordinators to pay more attention to what artists and genres are considered more popular instead of whether the presence of male or female performers is equal. Keeping this kind of marketing mindset creates a

larger profit, which is ultimately required for a festival to stay afloat in the music industry.

Another basic explanation could be linked to whether certain musicians are even available to perform at the scheduled festival, especially since more successful female artists who dominate the popular music charts have been headlining their own tours instead of performing on the festival circuit. Nonetheless, if festival coordinators are booking lineups based solely on marketing toward young, female audiences who want to swoon over the heteronormative idea of “cute guys with guitars,” the influential female musicians who have made a name for themselves in the music industry will continue to be overlooked when compiling performance lineups.

The celebrated genres at the largest American music festivals can also be considered a possible explanation, as several festival producers choose to showcase more alternative and indie musicians who do not compete on the same popular music charts that are commonly dominated by women. This explanation then questions the apparent lack of talented female performers in these more “challenging” genres, which is untrue when looking at the women who are consistently booked at music festivals. Female solo artists, such as Janelle Monáe and Banks, as well as groups with female leads, such as Haim and CHVRCHES, have been touring many of the recent festival circuits and achieved significant success in their respective genres, yet none has earned a headlining spot in an American music festival.

Challenges with This Study

Though this study brought attention to an evident issue in the American popular music festival industry, there were certain challenges with completing the research. Because the popular musical festival industry has evolved fairly recently in the span of American history, little scholarly research has analyzed trends and challenges within the field as it is considered an area of current mass art culture. This created challenges for conducting historical research on the festival industry as well as finding unbiased information about the festivals in the media.

Additionally, in order to obtain more primary sources for the literature review, attempts were made to contact the major American music festivals discussed (Austin City Limits, Bonnaroo, Coachella, and Lollapalooza), several smaller festivals, and each of their event production companies. Most of the organizations chose not to respond to questions concerning their processes of compiling festival lineups, and those that did stated most of their booking information is unable to be released “for business reasons” (T. Fell, personal communication, September 30, 2014).

Finally, the participant sampling for the survey of festival attendees was fairly limited due to the available reach at the time of distribution and inability of a wider audience to locate the survey. Though the survey provided valuable input about why individuals choose to attend certain festivals and what dominates the conscious perception of female representation in the music festival industry from an audience viewpoint, results may have swayed differently with a larger sampling.

Conclusion

This study aimed to explore how female performers are represented in American popular music festival culture, as well as whether festival attendees or producers notice or show concern for the gender imbalance. The lack of representation of female musicians in headlining spots is extremely noticeable when examining recent festival performance lineups and researching media attention to the matter. Despite this rather apparent issue, gender inequality falls lower on the priority list to festivalgoers and event producers when compared to the quality of the music or potential profits, both monetary and emotional, that can be earned by booking certain performers. While many individuals recognize that the issue is unfortunate and should be addressed in some way, few make actual efforts or suggestions in order to encourage greater numbers of talented female headliners. Whether a performer is male or female probably should not make a difference, but awareness of gender inequality in the United States and worldwide makes the issue imperative. The presence of a female headliner should not be treated as a special case; it should receive the same amount of attention as any other headlining musician at a festival regardless of gender. While altering the state of the music industry as a whole would be time-consuming and challenging, simply offering talented female performers more headlining spots would still bring in a large profit and audience. Based on the survey results from this study, much of the audience would probably not even realize the exchange of some male performers for more female musicians, and those who are aware of the current gender imbalance would take notice. By demolishing gender inequality in American popular music festival culture, every attendee and event producer would be able to enjoy festivals for their main purpose: the love of music.

References

- Austin City Limits Musical Festival. (2014). Retrieved from <http://www.aclfestival.com/>
- Bonnaroo Music and Arts Festival. (2014). Retrieved from <http://www.bonnaroo.com/>
- Buchanan, L. (2011). How we did it: Superfly Presents. *Inc. Magazine*. Retrieved from <http://www.inc.com/magazine/201106/how-we-did-it-superfly-presents.html>
- Coachella Valley Music and Arts Festival. (2014). Retrieved from <http://www.coachella.com/>
- Coppola, S. (2012, August 16). Council approves two weekends of ACL Fest, starting in 2013. *Austin 360*. Retrieved from <http://www.austin360.com/news/entertainment/music/council-approves-two-weekends-of-acl-fest-starti-1/nRNXk/>
- Freydkin, D. (1998, July 28). Lilith Fair: Lovely, lively and long overdue. *CNN*. Retrieved from <http://www.cnn.com/SHOWBIZ/Music/9807/28/lilith.fair/>
- Goldberg, M. (2014, August 4). What is a woman? *The New Yorker*. Retrieved from <http://www.newyorker.com/magazine/2014/08/04/woman-2>
- A history of music festivals. (2013, April 13). *The Good Men Project*. Retrieved from <http://goodmenproject.com/arts/a-history-of-music-festivals/>
- Johnston, A. (2013, May 24). No women allowed: Summer music festivals are dudefests, again. *Salon*. Retrieved from http://www.salon.com/2013/05/24/no_women_allowed_summer_music_festivals_are_dudefests_again/
- Lederman, M. (2011, March 8). Sarah McLachlan says Lilith Fair is over. *The Globe and Mail*. Retrieved from <http://www.theglobeandmail.com/arts/music/sarah-mclachlan-says-li-fair-is-over/article569791/>
- Lee, C., & Martens, T. (2014, April 14). Women play second fiddle at summer music festivals like Coachella. *LA Times*. Retrieved from <http://www.latimes.com/entertainment/music/posts/la-et-ms-coachella-women-20140418-story.html#page=1>
- Lollapalooza. (2014). Retrieved from <http://www.lollapalooza.com/>

- Mann, J. (2014, January 18). The 3 keys to profitable music festivals. *The Motley Fool*. Retrieved from <http://www.fool.com/investing/general/2014/01/18/the-3-keys-to-profitable-music-festivals.aspx>
- Parker, C. (2013, April 17). The economics of music festivals: Who's getting rich and who's going broke? *LA Weekly*. Retrieved from http://www.laweekly.com/westcoastsound/2013/04/17/the-economics-of-music-festivals-whos-getting-rich-whos-going-broke?show_FullText=true
- Phillips, S. (2011, June 28). Beyoncé headlining at Glastonbury was a great girl power moment. *The Guardian*. Retrieved from <http://www.theguardian.com/lifeandstyle/the-womens-blog-with-jane-martinson/2011/jun/28/beyonce-headlining-glastonbury-girl-power>
- Top Billboard 200 artists: Year end 2014. (2014). *Billboard*. Retrieved from <http://www.billboard.com/charts/year-end/2014/top-billboard-200-artists>
- Vincent, A. (2014, August 8). Where are all the women headlining music festivals? *The Telegraph*. Retrieved from <http://www.telegraph.co.uk/culture/music/music-festivals/11016441/Where-are-all-the-women-headlining-music-festivals.html>
- Waddell, R. (2014, July 7). Coachella breaks Boxscore record (again). *Billboard*. Retrieved from <http://www.billboard.com/biz/articles/news/touring/6150327/coachella-breaks-boxscore-record-again>
- Wickman, F. (2013, April 24). The real reason summer festivals have so few women. *Slate*. Retrieved from [http://www.slate.com/blogs/browbeat/2013/04/24/coachella_s_gender_pr
oblem_why_this_year_s_festivals_have_so_few_women_performers.html](http://www.slate.com/blogs/browbeat/2013/04/24/coachella_s_gender_problem_why_this_year_s_festivals_have_so_few_women_performers.html)

China's South-to-North Water Transfer Project

Erika Marrs

Abstract

China's ongoing South-to-North Water Transfer Project (SNWTP) is the largest water pipeline project that has ever been undertaken anywhere in the world. At its completion sometime around 2050, it will connect the southern Yangtze River and northern Yellow River with 2,700 miles of tunnels and canals via three distinct routes through western, central and eastern China. This project is ecologically irresponsible and economically inefficient, but government officials staunchly defend it by highlighting its connection with historical Chinese water-use practices and its promise of sustaining economic growth. While water scarcity is a serious and growing problem in China, this project will have far-reaching, devastating, and unforeseeable consequences and will therefore exacerbate existing problems while introducing new ones. The Chinese government should instead pursue self-sufficient, environmentally friendly alternatives in lieu of this grandiose and wasteful water transfer scheme. Such alternatives can be realized, but only if Beijing can learn to adapt to the country's environmental realities and successfully promote water conservation practices.

Overview of the Project

China has been so focused on economic growth and agricultural self-sufficiency in recent decades that it has consistently failed to acknowledge the environmental impacts of its destructive and unsustainable practices, such as building dams and canals and over-utilizing groundwater. Past industrial and agricultural abuse of water resources in the North China Plain have created a situation in which the North is so desperate for water that a multibillion-dollar water transfer project appears to be a viable solution. Indeed, scientists estimate that the aquifers beneath the North China Plain will dry up within the next 30 years. Since 60% of the water used in this region by its 200 million inhabitants is groundwater, this prediction is an immediate concern.¹ Beyond the extensive impact of water scarcity on individuals, the lack of water also limits economic productivity since Chinese industries, such as coal mining, tend to be highly water-intensive.

The direct and indirect impacts of the South-to-North Water Transfer Project are disastrous enough to condemn the entire endeavor. The project exacerbates water pollution in multiple locations, especially

¹ Susanne Wong, "China Bets on Massive Water Transfers to Solve Crisis," *International Rivers*, December 15, 2007, <http://www.internationalrivers.org/resources/china-bets-on-massive-water-transfers-to-solve-crisis-1899> (accessed October 30, 2014).

the Yangtze River. Since, the Yangtze receives 40% of China's wastewater, diversion of some of its waters to the North will result in increased concentrations of pollutants downstream, hurting the region's agriculture, industries and ecosystems.² The canals also have the potential to transmit waterborne diseases north despite water treatment plants.³ Additionally, approximately 345,000 people have been resettled, and many of these former farmers and peasants were very inadequately compensated.⁴ The overwhelming financial and environmental costs of the project mean that the majority of its benefits support residents and industrialists in Beijing (who directly receive the majority of the diverted water), while everyone else affected registers some form of net loss.

In this paper I will argue that instead of massive water diversion projects, China must focus on conservation and improving water management practices. Measures should be taken to encourage increased water efficiency in agriculture, through measures such as increased water tariffs. Increased rainwater harvesting is another novel solution, especially for urban areas. The key advantage of these alternatives, and others, is that they neither jeopardize the environment nor displace large swaths of the population. People can and should adapt to their environments, rather than foolhardily impose and rely upon unsustainable practices.

China's Water Problem

Water is a necessity of life, essential to social, economic, political and environmental wellbeing and growth. One of the biggest issues China is trying to grapple with in the twenty-first century is water scarcity. China's population of about 1.3 billion people consumes more than 600 billion cubic meters of water every year; which is equal to about three-quarters of the nation's exploitable water resources.⁵ The country faces a wide-reaching water crisis since its freshwater resources equal around 2,000 cubic meters per capita, which is only about one third of the global average.⁶ Impacts of climate change, such as declining rainfall and prolonged drought, combined with urbanization, rapid population growth

² Lily Kuo, "China Has Launched the Largest Water-Pipeline Project in History," *The Atlantic*, March 7, 2014, <http://www.theatlantic.com/international/archive/2014/03/china-has-launched-the-largest-water-pipeline-project-in-history/284300/> (accessed October 30, 2014).

³ Ibid.

⁴ Lily Kuo, "China's Desperate Need for Water is Forcing the Relocation of Hundreds of Thousands of People," *Quartz*, March 7, 2014, <http://qz.com/165223/chinas-desperate-need-for-water-is-forcing-the-relocation-of-hundreds-of-thousands-of-people/> (accessed November 2, 2014).

⁵ Yang Jian, "China's River Pollution 'A Threat to People's Lives'," *Shanghai Daily*, February 17, 2012, <http://english.peopledaily.com.cn/90882/7732438.html> (accessed November 2, 2014).

⁶ Kuo, "China Has Launched the Largest Water-Pipeline Project in History."

and industrial expansion, have led to the current precarious situation. Groundwater supplies are rapidly drying up, along with lakes and rivers across China. The North China Plain (NCP), where a quarter of China's population resides, is especially dry, and water tables in the region are falling by several meters each year.⁷ This gradual, yet highly significant decrease threatens agriculture and food security. Even more disturbing, the aquifers beneath the NCP are projected to dry up completely within the next three decades if the current rate of water usage persists.⁸ Some analysts predict the aquifers will dry up within a mere 15 years.⁹

Exacerbating the situation on the NCP, contamination of surface water by industrial activity and agricultural runoff has increased dependence upon groundwater in recent decades. Looking at the country as a whole, exactly half of China's 22 provinces are considered "water-stressed," meaning that their water resources equate to less than 1,000 cubic meters of water per person per year. The capital city of Beijing's water resources contribute only about 120 cubic meters per person per year, which is a small fraction of the 500 cubic meters the United Nations considers to constitute a situation of "absolute water scarcity".¹⁰ The city has been supplementing its insufficient supply of water by transferring water from the neighboring province of Hebei and by undertaking some relatively insignificant efforts to lower water usage in the city.¹¹ The World Bank has estimated the current annual cost of China's water problems, especially in regard to water scarcity and water pollution, as 2.3 percent of GDP, but adds that in actuality the cost is probably much higher.¹² Meanwhile, about 45% of China's GDP is generated in water-scarce provinces, predominantly located in the north.¹³ Water scarcity poses a direct and unavoidable threat to economic growth largely due to the overlap of regions suffering water shortages and regions with a high density of industrial activity. This threat is not brand-new, however, except in scale; China has a history of dealing with water scarcity issues.

History of Water Use in China

China has a historical precedent of addressing water shortages with physical water transfers, dating back to the Han Dynasty, which began in 206 B.C. Most other ancient civilizations have similar histories,

⁷ Wong, "China Bets on Massive Water Transfers to Solve Crisis."

⁸ Ibid.

⁹ Wang Kunzuo, "Drying Up the Han," *China Dialogue*, January 2, 2011, <https://www.chinadialogue.net/article/4085-Drying-up-the-Han> (accessed October 31, 2014).

¹⁰ Kuo, "China Has Launched the Largest Water-Pipeline Project in History."

¹¹ Ibid.

¹² Jian Xie, *Addressing China's Water Scarcity: Recommendations for Selected Water Resource Management Issues* (Washington, D.C.: The World Bank, 2009), xxi.

¹³ Kuo, "China Has Launched the Largest Water-Pipeline Project in History."

such as the 500-year reign of the Roman Empire and its famous aqueducts. The Chinese would move water from lower to higher elevations using chain pumps in order to irrigate their fields and provide water to cities.¹⁴ Mao Zedong, the founding father of the People's Republic of China, continued his nation's traditional methods of water use by encouraging the digging of tube wells in the 1950s. This allowed grain farmers in northern China to tap into aquifers and boost production, although this practice has since proven to be unsustainable.¹⁵ Recognizing his young state's dire water predicament, in 1952 Mao posed the question "The South has plenty of water and the North lacks it, so if possible why not borrow some?"¹⁶ His choice of words, however, paints an inaccurate picture. "Borrowing" implicitly means the item taken will be returned in the future. Yet the proposed transfer of water is a one-way trip that would benefit the dry, industrial North at the expense of the wetter and more rural South. Exactly 50 years after this proposal was made by Chairman Mao, work on the South-to-North Water Transfer Project officially began.

Current Predominant Water Use

In order to understand the general trends of water usage in China and their broader impacts, it is pertinent to recognize the main uses of water throughout the country. One factor that has played an especially key role in increasing water scarcity is the rapid urbanization of the past six decades. Half of the Chinese population now lives in urban areas, compared to less than 15% in 1953.¹⁷ Since urban dwellers use more water on average than rural people, water scarcity can be expected to become an ever-greater issue.¹⁸ However, most of China's water resources go toward agriculture. Agriculture utilizes 60% of the country's water, and only half of this water is used effectively. This rate of efficiency is 20% less than that of other advanced, industrialized countries.¹⁹

Other water-intensive industries in China include textile, paper and steel production, which combined account for 60% of the total

¹⁴ Carla Freeman, "Quenching the Dragon's Thirst: The South-North Water Transfer Project – Old Plumbing for New China?," *Woodrow Wilson International Center for Scholars*, <http://www.wilsoncenter.org/publication/quenching-the-dragons-thirst-the-south-north-water-transfer-project8212old-plumbing-for> (accessed October 24, 2014)

¹⁵ Julian Doczi, Roger Calow and Vanessa d'Alacon, "Growing More with Less: China's Progress in Agricultural Water Management and Reallocation," *Overseas Development Institute*, Case Study Report (September 2014): 22.

¹⁶ Kunzuo, "Drying Up the Han."

¹⁷ "Basic Statistics on National Population Census in 1953, 1964, 1982, 1990, 2000 and 2010," *Government Statistics*, <http://www.stats.gov.cn/tjsj/Ndsj/2011/html/D0305e.htm> (accessed November 2, 2014).

¹⁸ Ben Taylor, "Water: More for Some...or Some for More? Monitoring Equity in Water and Sanitation," *Tanzania Water and Sanitation Network*, WaterAid Tanzania (September 2008): 7.

¹⁹ Yang Jiang, "China's Water Scarcity," *Journal of Environmental Management* 90, (2009): 3191.

industrial water consumption.²⁰ Chinese industries like these use four to ten times more water on average for production compared to other industrialized countries' industries.²¹ The coal industry, in particular, accounts for one-sixth of China's overall water usage; the industry includes mining, preparation, power generation, coke production and coal-to-chemical factories.²² Coal is indispensable to the country's growth because it currently supplies three-quarters of China's energy. It is predicted that between now and 2040, China's total energy demand will double and become twice that of the United States.²³ Assuming China remains reliant on coal for the foreseeable future, water scarcity presents a major dilemma. This is especially true because the majority of coal resources is located in the North and remains underutilized in large part because of the shortage of water necessary to exploit them.²⁴ In summary, water scarcity is harming China's economic productivity in many ways and on a large scale.

The Problem of Water Pollution

Water pollution in China is a pervasive and expanding problem with no easily enforced solutions. Industrialization, urbanization and agricultural modernization are the most blameworthy actors on the stage. Largely thanks to industrial and agricultural runoff, as well as urban sewage, about 20% of rivers in China are now so polluted that they are unsafe to touch, much less drink.²⁵ About 300 million people living in China, or around 25% of the country's population, drink contaminated water every day.²⁶ Hu Siyi, the Vice Minister of China's Ministry of Water has stated, "The deterioration of water quality has threatened the safety and health of people, while the water quality problem has limited economic and social development."²⁷ The current level of contamination of available water resources poses a serious issue right alongside the problem of water scarcity.

The South-to-North Water Transfer Project

The South-to-North Water Transfer Project (SNWTP) is the Chinese central government's partial remedy to the country's water

²⁰ "China's Urban Water Security Situation and Countermeasures," *H2O-China*, February 19, 2014, http://news.h2o-china.com/html/2014/02/125350_1.shtml (accessed October 28, 2014).

²¹ Zmarak Shalizi, "Water and Urbanization," *China Urbanizes: Consequences, Strategies, and Policies*, World Bank (2008): 166.

²² Coco Liu, "Coal: As China's Demand for Coal Soars, So Does its Water Scarcity," *E&E Publishing, LLC*, July 1, 2013, <http://www.eenews.net/stories/1059983712> (accessed November 15, 2014).

²³ Kuo, "China Has Launched the Largest Water-Pipeline Project in History."

²⁴ Freeman, "Quenching the Dragon's Thirst."

²⁵ Yang Jian, "China's River Pollution 'A Threat to People's Lives'."

²⁶ Kuo, "China Has Launched the Largest Water-Pipeline Project in History."

²⁷ Yang Jian, "China's River Pollution 'A Threat to People's Lives'."

scarcity woes. Upon completion, it will connect the southern Yangtze River to the northern Yellow River with 2,700 miles of tunnels and canals via three distinct routes through western, central and eastern China. This distance is comparable to crossing the U.S. from the Pacific coast to the Atlantic. China is constructing some of the longest canals in the world, as well as pipelines that crisscross beneath riverbeds, a gigantic aqueduct and powerful pumping stations.²⁸ The SNWTP is the world's largest transfer project and its scale is unprecedented.

Main Goals of the Project

This project realizes Mao Zedong's vision in 1952 of a large-scale water diversion project from the wet South to the dry North. It was officially launched in December of 2002, and upon its expected completion around 2050, it will transfer a total of 44.8 billion cubic meters of water from the Yangtze to the Yellow River annually.²⁹ To compare, this is more water than there is in the River Thames. The project's head engineer, Shen Fengsheng, has acknowledged that the project does not solve China's water problem. He stated, "For now, the transfer project is just compensating an amount. It can't completely fix the problem".³⁰ Still, despite not being the ideal fix-all solution, the project will provide economic benefits by relieving water shortages in the north. The project is projected to increase China's GDP by 0.12% to 0.3% annually, and create 600,000 jobs, according to a state research center.³¹ The government generally does not focus on the project's adverse impacts.

Justification for the Project

The North China Plain is rapidly drying up. Almost two-thirds of the water used in this region by its 200 million inhabitants is groundwater. At current usage rates, within 30 years this resource will no longer exist.³² This is an astoundingly threatening prediction. Lack of water also strictly limits economic productivity since Chinese industries tend to be very water-intensive. Less than 500 cubic meters of renewable water per person per year are available in the NCP. While some Middle Eastern countries and small island states have even lower levels of per capita renewable water, no location on Earth can compare in terms of immense population size relying on the NCP's limited resources.³³ Suffice it to say, the NCP is

²⁸ Kuo, "China Has Launched the Largest Water-Pipeline Project in History."

²⁹ "South-North Water Transfer Project," *International Rivers*, <http://www.internationalrivers.org/campaigns/south-north-water-transfer-project> (accessed October 20, 2014).

³⁰ Kuo, "China Has Launched the Largest Water-Pipeline Project in History."

³¹ Ibid.

³² Wong, "China Bets on Massive Water Transfers to Solve Crisis."

³³ Jeremy Berkoff, "China: The South-North Water Transfer Project – Is it Justified?," *Water Policy* 5 (2003): 2.

facing an unprecedented, serious renewable water shortage. Additionally, the Yellow River, northern China's most important river and a major source of water, has been shrinking for the past 30 years. More recently, the river has been drying up before it even reaches the sea almost every year.³⁴ Similarly, lakes have been drying up in the Hebei province neighboring Beijing, leaving some farmers with no alternative but to resort to watering their crops with sewage water.³⁵

Conversely, China's government depicts the South as a land of plenty, with more water than it could possibly need. Indeed, southern China has four-fifths of the country's water resources, and most of that water is located in and around the Yangtze River Basin. Government officials persistently claim that the Yangtze River has more than enough water, with 96% of its water currently flowing unutilized into the Pacific Ocean.³⁶ Transferring some of this water north, they argue, could go a long way toward alleviating the North's water scarcity issue. The Yangtze River will only lose about 5% of the water which normally ends up flowing into the ocean, according to Shen Fengsheng, the project's head engineer, who adds that "the negative impacts [of the project] are so small they almost don't exist".³⁷ However, this loss of water flow is no small matter, as will be discussed later on.

Why has China decided to invest in such a huge project to combat this issue of water scarcity in the North, rather than implement smaller policy measures that could make a more positive difference in the long-term? One answer could be the Communist Party's penchant for massive projects, implementing them as a display of the party's power. "It's an approach that comes from both a Maoist impulse to subjugate nature in the pursuit of economic development, as well as what you'd expect from a government made up of engineers," says Peter Martin, an analyst of Chinese politics at APCO Worldwide.³⁸ However, this project can also be interpreted as a sign of weakness because it demonstrates the failure of the central government to effectively coordinate national efforts to promote water conservation. For instance, government pollution regulations are often willfully overlooked by companies, which do not fear fines since they are insignificant and infrequently enforced. Also, local officials often refuse to raise water prices despite government pressure for fear of local

³⁴ Kuo, "China Has Launched the Largest Water-Pipeline Project in History."

³⁵ Ibid.

³⁶ Gong Jing and Cui Zheng, "China – Water Diversion Blues – South to North Water Diversion Project," *Save the Water*, January 4, 2012, <http://savethewater.org/water-crisis-china-water-diversion-blues-south-to-north-water-diversion-project/> (accessed October 28, 2014).

³⁷ Kuo, "China Has Launched the Largest Water-Pipeline Project in History."

³⁸ Ibid.

backlash.³⁹ For the central government, it is easier to pay to build massive canals and move water physically than to convince local authorities and businesses to comply with its demands.

The Three Routes

The project consists of three canal routes travelling separately through eastern, central and western China. The Eastern Route Project is predominantly an upgrade to the preexisting Grand Canal. The amount of water diverted through this canal is planned to increase incrementally as the project progresses. This route provides water directly to northeastern provinces and is about 176 miles long. There are 23 pumping stations running along this route to counteract topography and raise the water as it travels north.⁴⁰ This route's construction was completed in 2013. The Central Route is built on the North China Plain and is constructed so that water can flow all the way from Danjiangkou Reservoir in the South to Beijing by gravity. Therefore, this route does not require pumping stations. Construction began in 2004, and completion was delayed from 2010 to around 2014 to allow for more environmental protections to be built.⁴¹ The canal system was completed on December 25, 2013, and has since begun to operate.⁴² Last but not least, the Western Route, called the Big Western Line, is still in the planning stage. Theoretically, it aims to divert water from the Yangtze River's headwaters to the Yellow River's headwaters. Such a feat requires the construction of huge dams and long tunnels in order to navigate the water through the Qinghai-Tibetan Plateau and the Western Yunnan Plateaus. The feasibility of this route is still under consideration. Besides the route's expected financial cost, the route presents many unforeseeable and incalculable risks. For instance, environmentalists are concerned about the route's potential to increase the risk of flooding in the region and downstream.⁴³

Overall Costs and Pitfalls of the Project

The SNWTP was originally estimated to cost \$62 billion, which is more than twice the cost of the Three Gorges Dam. Already, more than

³⁹ Ibid.

⁴⁰ "South-to-North Water Diversion Project, China," *Water Technology*, http://www.water-technology.net/projects/south_north/ (accessed October 31, 2014).

⁴¹ Ibid.

⁴² Dr. Britt Crow-Miller, "Diverted Opportunity: Inequality and What the South-North Water Transfer Project Really Means for China," *Global Water Forum*, March 4, 2014, <http://www.globalwaterforum.org/2014/03/04/diverted-opportunity-inequality-and-what-the-south-north-water-transfer-project-really-means-for-china/> (accessed October 28, 2014).

⁴³ Craig Simons, "In China, a Water Plan Smacks of Mao," *Cox News Service*, September 10, 2006, http://web.archive.org/web/20070911233235/http://www.coxwashington.com/hp/content/reporters/stories/2006/09/10/BC_CHINA_WATER10_COX.html (accessed October 30, 2014).

\$79 billion has been spent on constructing the eastern and central routes alone, making this one of the most expensive engineering projects in the world. And it is far from certain that the benefits will ultimately outweigh the costs. The project has appropriately been called a “high-cost gamble”.⁴⁴ In fact, as a result of its unanticipated, skyrocketing costs, there is a significant risk that the project could become too burdensome to continue.⁴⁵ There is also the potential for a government-wide financial catastrophe if the project fails to pay back its own costs.

The project’s huge cost will make the water it redirects to the North potentially prohibitively expensive for its consumer base. Residents, industries and some cities may be unwilling to pay the high price for the water it offers. Many of the project’s unexpected costs come from wastewater management systems and extra engineering projects in southern provinces. Local officials in southern provinces are worried about suffering water shortages in their towns because of the SNWTP, and are building supplementary dams and water-transfer systems to protect their water stability. This has consequently generated a sort of circular flow of water from one river to another that is inefficient, harmful, and, increasingly costly.

Current Adverse Impacts of the Project

Many negative impacts of the project are already being perceived by locals, especially in the southern provinces along the Yangtze River. When aggregated, these underreported and sometimes unintended consequences of the project point to a deep, multifaceted disparity between the northern and southern regions of China, which is being reinforced by the state’s implementation of the SNWTP.

The project exacerbates water pollution in the Yangtze River. The Yangtze receives 40% of China’s wastewater, making it very polluted. As some of the river’s waters are diverted north, the river’s pollution will become less diluted.⁴⁶ The higher concentration of pollution will hurt the region’s agricultural production, industries and ecosystems. Due to the positioning of water treatment facilities along the canals carrying water northward, this pollution issue is not likely to affect northern communities as much as those living alongside the Yangtze River in the South.⁴⁷

The project also carries the risk of spreading waterborne diseases. Such diseases could be transmitted north despite water treatment plants via polluted and infectious Yangtze River water. These diseases include

⁴⁴ James E. Nickum, “The Status of the South to North Water Transfer Plans in China,” *United Nations Development Programme, Human Development Reports (2006)*: 1.

⁴⁵ Kuo, “China Has Launched the Largest Water-Pipeline Project in History.”

⁴⁶ *Ibid.*

⁴⁷ Crow-Miller, “Diverted Opportunity.”

schistosomiasis, commonly known as bilharzia, which can cause damage to internal organs and impair children's brain development.⁴⁸ The increased risk of the spread of disease should not be overlooked.

The resettlement required by the project inspires a great deal of criticism. Almost 500,000 people will have been relocated by the time the project is completed.⁴⁹ Approximately 345,000 people have already been resettled, making this the largest resettlement for an infrastructure project since 1.4 million people were resettled for the construction of the Three Gorges Dam in 1994.⁵⁰ Many of those resettled for the SNWTP were farmers and peasants living in the Hubei and Henan provinces near the construction of the central route. These people were moved away from the canal and the Danjiangkou Reservoir, since the dam is being elevated in order to raise the water level to permit the canals to flow via gravity. Of the 345,000 people relocated, 230,000 have been moved out of the area completely.⁵¹ Some of these former residents were forced to sign relocation agreements because they would not leave voluntarily.⁵² These former farmers were inadequately compensated with poor-quality housing and an insufficient monetary stipend.^{53,54} Left both landless and jobless, these people found themselves no longer able to make a living. This issue of resettlement has the potential to create a large number of impoverished migrant people who once had stable, stationary lives.

The project has a variety of direct ecological impacts that yield long-term damage to two of China's most important rivers and the communities that depend on them. The SNWTP is likely to permanently damage the Han River, upon which 30 million people rely, and the Yangtze River, which runs through 11 provinces and supports around 400 million people.⁵⁵ Both of these rivers are located in the South. The project causes habitat destruction of both wildlife and people, increases wetland erosion and the frequency of severe floods, and fails to account for the potentially devastating impact of earthquakes on the canals.^{56,57} Basically, it is extremely difficult if not impossible to calculate the long-term impact of the project upon the environment. An example of the project's unintended

⁴⁸ Kuo, "China Has Launched the Largest Water-Pipeline Project in History."

⁴⁹ Ibid.

⁵⁰ Kuo, "China's Desperate Need for Water."

⁵¹ Kunzuo, "Drying Up the Han."

⁵² Jing and Zheng, "China – Water Diversion Blues."

⁵³ Kuo, "China's Desperate Need for Water."

⁵⁴ Louisa Lim, "A Village Sacrificed for China's Greater Good," *NPR*, September 25, 2014, <http://www.npr.org/templates/story/> (accessed October 16, 2014).

⁵⁵ Kuo, "China Has Launched the Largest Water-Pipeline Project in History."

⁵⁶ Tadanobu Nakayama and David Shankman, "Impact of the Three-Gorges Dam and Water Transfer Project on Changjiang Floods", *Global and Planetary Change* 100 (January 2013): 40-45.

⁵⁷ Freeman, "Quenching the Dragon's Thirst."

ecological consequences was brought to light in the summer of 2013. Fish farmers on the Dongping Lake on the eastern route of the SNWTP reported that, as a direct consequence of the canal system, polluted Yangtze River water was entering their lake and killing the fish upon which their livelihoods depend.⁵⁸

Another problem is that, with a smaller volume, the Yangtze River will flow more slowly and thus become slower at depositing sediments along the riverbed. This process is crucial for the formation of wetlands, which in turn help to mitigate pollution and improve the health of the river's ecosystem.⁵⁹ Also, a lower water volume may make Yangtze more susceptible to inland encroachment by saline seawater, which would have a negative impact on the coastal environment, as well as the factories located in that area, which require large amounts of freshwater to operate.⁶⁰

There are already almost 1,000 dams on the Han River and its tributaries as well as hundreds of dams and other hydro-projects on the Yangtze, making it the world's second-most engineered water basin.⁶¹ Given China's goal of tripling hydropower generation, Ma Jun, the director of the Institute of Public and Environmental Affairs, predicts that many Chinese rivers will no longer be flowing in a decade.⁶² Despite all the impressive and very costly projects, the issue of water scarcity may not be resolved, but in fact exacerbated.

Unequal Distribution of Costs and Benefits

The overwhelming financial and environmental costs of the project indicate that the vast majority of the project's benefits will go toward supporting residents and industrialists in Beijing. Everyone else affected by the project will register some form of a net loss. The North China Plain is home to more than 25% of China's population and accounts for more than a quarter of its GDP.⁶³ Doubtless the central government is heavily invested in maintaining the growing economic productivity of this region.

Meanwhile, the many consequences of the project are predominantly the burden of the South. For instance, the Yangtze River could suffer from water shortages, especially during the dry season. This would be detrimental to river transportation since even now local

⁵⁸ Xin Lin, "Chinese Water Diversion Project Kills Fish on Test Run," *Radio Free Asia*, July 8, 2013, <http://www.rfa.org/english/news/china/project-07082013131802.html> (accessed November 2, 2014).

⁵⁹ Freeman, "Quenching the Dragon's Thirst."

⁶⁰ Kuo, "China Has Launched the Largest Water-Pipeline Project in History."

⁶¹ "South-North Water Transfer Project," *International Rivers*.

⁶² Kuo, "China Has Launched the Largest Water-Pipeline Project in History."

⁶³ Berkoff, "China: The South-North Water Transfer Project – Is it Justified?," 1.

governments must dredge at least once a year to make sure ships can travel unimpeded.⁶⁴ Also, several southern provinces have been required to conserve water so that more will be available to transport north. For example, the government has directed some people to switch crops from rice to corn in order to conserve more water, an idea that has substantial problems of its own.⁶⁵ Some localities have been suffering their own water shortages in recent years, which have been primarily caused by the diversion project.⁶⁶ Local authorities have urged the central government to compensate communities whose water has been diverted north. This is because, in addition to the increased strain on water resources, the project has led to the shutdown of factories along the canals and consequently increased unemployment rates and reduced local tax revenues in the region. However, the government has not been very responsive.⁶⁷

Heightening this injustice, the Han and Yangtze Rivers will end up with less water than the diversion plan allows because of the project's use of outdated information. For instance, the amount of water planned to be diverted via the central route is based on calculations of the Han River's water flow between the 1950s and the early 1990s. In more recent years the Han River has suffered from more frequent droughts and does not remain at consistent levels. However, the amount the project plans to divert from the river has not been adjusted to account for this.⁶⁸ The Yangtze River's water levels have also been falling due to a 15% decrease of glacier water flowing into the river over the past four decades.⁶⁹ Also striking, total freshwater reserves in the Yangtze River Basin had fallen 17% in just four years between 2005 and 2009.⁷⁰ Therefore, transferring 5% of the rivers' annual runoff, as the SNWTP plans to do, is not nearly as insignificant as the government claims it to be.

⁶⁴ "The Geopolitics of the Yangtze River: Developing the Interior," *Stratfor*, April 1, 2013, http://www.stratfor.com/analysis/geopolitics-yangtze-river-developing-interior?utm_source=freelist-w&utm_medium=email&utm_campaign=20130702&utm_term=WelcomeFL&utm_content=copy10&elq=ca18c199001d45e7834b79157dc9ac4a#axzz3IQ4io6J9 (accessed November 2, 2014).

⁶⁵ Freeman, "Quenching the Dragon's Thirst."

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ Kuo, "China Has Launched the Largest Water-Pipeline Project in History."

⁶⁹ Jane Qiu, "Thawing Permafrost Reduces River Runoff," *Nature*, January 6, 2012, <http://www.nature.com/news/thawing-permafrost-reduces-river-runoff-1.9749> (accessed October 30, 2014).

⁷⁰ Keith Schneider, "Choke Point China: Confronting Water Scarcity and Energy Demand in the World's Largest Country," *Circle of Blue*, February 15, 2011, <http://www.circleofblue.org/waternews/2011/world/choke-point-chinaconfronting-water-scarcity-and-energy-demand-in-the-worlds-largest-country/> (accessed October 31, 2014).

Alternatives

As Beijing's population grows over the coming decades, its water needs will expand faster than the SNWTP can provide, even with the canals flowing at full capacity. In fact, the project is insufficient for providing water to the northern region as a whole.⁷¹ Research predicts that the total demand for water in northern China will reach 203 billion cubic meters by 2050, and that the SNWTP will only be able to supply slightly more than a quarter of that demand.⁷² Since the project is both insufficient and is accompanied by a vast number of unpleasant consequences and costs, cheaper and more sustainable alternatives must be considered and implemented. The extraordinary amount of wealth and resources being used to construct the SNWTP could be allocated elsewhere to make a much more substantial difference. The government already plans to invest over \$600 billion in water conservation projects over the next 10 years.⁷³ It could do so much more by redirecting its resources from the SNWTP to promote and implement varied conservation practices on both statewide and localized scales.

There are a variety of ways in which the central government can improve the state's water management practices. Every alternative is more cost-effective and efficient than the SNWTP. These include increasing water tariffs, issuing provincial water quotas, harvesting rainwater, promoting urban water conservation in households, investing in infrastructure to increase urban water recycling, resorting to saltwater desalination for some coastal cities, and leading other significant social campaigns to cut overall water usage.

Water-use conservation in both agriculture and residences can be encouraged by increasing water tariffs. The tariff programs currently in place are insufficient because they fail to account for total water consumption and the costs of related facilities. Farmers currently pay for water based on the area of the land they irrigate rather than the amount of water they use.⁷⁴ The application of non-crippling tariffs based on quantities of water used could decrease overall water consumption, especially since irrigation is the country's largest single use of water.⁷⁵ A similar increase of water tariffs in cities would also be beneficial, since current water prices in most cities do not reflect the costs of water distribution, maintenance of sewers and water treatment processes, despite

⁷¹ Kuo, "China Has Launched the Largest Water-Pipeline Project in History."

⁷² Berkoff, "China: The South-North Water Transfer Project – Is it Justified?," 3.

⁷³ Yang Jian, "China's River Pollution 'A Threat to People's Lives'."

⁷⁴ Nathaniel Matthews, "China's Water Crisis Needs Better Farming, Not the South-North Water Transfer," *The Third Pole*, June 13, 2013, <http://www.thethirdpole.net/chinas-water-crisis-needs-better-farming-not-the-south-north-water-transfer/> (accessed October 30, 2014).

⁷⁵ Berkoff, "China: The South-North Water Transfer Project – Is it Justified?," 3.

a gradual increase in water prices over recent decades.⁷⁶ Reform of water prices, although unpopular, is a great tool to encourage water conservation. Its main caveat is that it would affect the poor more than the rich. To address this disparity and avoid mass protests, the central government has promised to give subsidies to the groups most affected by price increases and has required local governments to ensure that low-income families maintain a basic standard of living.⁷⁷ However, rising water prices are still very unpopular because they are accompanied by higher food and energy prices, making basic necessities less affordable. Still, raising prices and carefully adjusting markets are generally effective methods to promote a widespread practice of sustained water conservation.

Rainwater harvesting would especially help urban areas, since it is relatively easy and cheap to set up rainwater collection systems. These systems reduce pressure on the urban drainage system by alleviating the degree of urban waterlogging.⁷⁸ This alternative has multiple benefits because it helps abate urban flooding, groundwater depletion and rainwater runoff pollution, thereby improving the local environment. Beijing, for example, has an annual rainfall of about 600mm. If 20% of that was collected across an area of the city equivalent to 1,800 square kilometers, then about 220 million cubic meters of water could be harvested. That equates to 14% of Beijing's annual water usage.⁷⁹

Saltwater desalination could help address severe water shortages in coastal areas, although wastewater recycling is generally a preferable alternative thanks to its lower cost and lack of geographical restrictions. Where desalination is applicable, it can feasibly replace 5% of the urban water supply.⁸⁰ China is already planning the construction of large-scale seawater desalination facilities, since this method has recently become economically viable due to the rising price of water and the falling price of desalination techniques thanks to technological advances. This alternative is expected to become a major source of water for cities including Tianjin and Beijing.⁸¹

The central government can also propagate smaller, yet nonetheless significant social campaigns urging reductions in meat consumption and food wastefulness. Meat requires a large amount of water to produce because feed, livestock, meat processing and retail each require substantial water inputs. Meat consumption has quadrupled in China in

⁷⁶ Freeman, "Quenching the Dragon's Thirst."

⁷⁷ Ibid.

⁷⁸ "China's Urban Water Security Situation and Countermeasures."

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Freeman, "Quenching the Dragon's Thirst."

the last three decades and is continuing to rise.⁸² The country could conserve a considerable amount of water by decreasing its demand for meat. Food wastefulness is also a notable concern, since large amounts of food are thrown away each year. It requires great quantities of water to grow and process food, including the manufacture of chemicals and the production of energy that go into agriculture.⁸³ Every piece of food that is thrown in the garbage represents a portion of the country's water resources. Therefore, if people stopped wasting so much food, they would conserve more water. These social measures, along with the other alternatives briefly described above, could make a big enough difference to counterbalance water scarcity in the North China Plain and elsewhere if they are implemented on a large-scale and enforced dependably.

Conclusion

The government's attempt to save the Yellow River at the Yangtze River's expense is blatantly unjust, supporting the wellbeing of northern urbanites over the livelihoods of southern urban and rural people. The project defends urban and economic development on the North China Plain rather than accepting the fact that growth in the region should naturally decrease in response to water stress, forcing investment and growth in other regions.⁸⁴ This project exemplifies the political nature of water management, as it makes the futile effort to ensure the longevity of politically significant places, like the capital, over those deemed more expendable.

Building a massive water-transfer project is more feasible socially and politically for the central government, unlike conservation projects, which local officials tend to ignore or counter. However, however, building ultimately falls far short of resolving the core problem; indeed, this so-called "solution" provokes myriad more problems than it solves. China needs to combine a variety of flexibly applied strategies, utilizing science, technology, economics, and public policy, in order to solve its problem of urban water security while restoring health to its aquatic ecosystems.⁸⁵

⁸² Matthews, "China's Water Crisis Needs Better Farming."

⁸³ Ibid.

⁸⁴ Crow-Miller, "Diverted Opportunity."

⁸⁵ "China's Urban Water Security Situation and Countermeasures."

Bibliography

- Basic Statistics on National Population Census in 1953, 1964, 1982, 1990, 2000 and 2010*. Government Statistics. <<http://www.stats.gov.cn/>>.
- Berkoff, Jeremy. 'China: The South-North Water Transfer Project – is it Justified?' *Water Policy* 5 (2003): 1-28.
- Chen, Zhisong, Huimin Wang, and Xiangtong Qi. 'Pricing and Water Resource Allocation Scheme for the South-to-North Water Diversion Project in China'. *Water Resources Management* 27.5 (March 2013): 1457-1472.
- Crow-Miller, Britt, Dr. *Diverted Opportunity: Inequality and What the South-North Water Transfer Project Really Means for China*. Global Water Forum. 24 September 2014. <<http://www.globalwaterforum.org/2014/03/04>>.
- Doczi, Julian, Roger Calow and Vanessa d'Alancon. 'Growing More with Less: China's Progress in Agricultural Water Management and Reallocation'. *Overseas Development Institute*. Case Study Report (September 2014): 9-43.
- Freeman, Carla. *Quenching the Dragon's Thirst: The South-North Water Transfer Project – Old Plumbing for New China?* Wilson Center. 14 October 2014. <<http://www.wilsoncenter.org/publication/>>.
- Jian, Yang. *China's River Pollution 'A Threat to People's Lives'*. Shanghai Daily. 17 February 2012. <<http://english.peopledaily.com.cn/>>.
- Jing, Gong and Cui Zheng. *China – Water Diversion Blues – South to North Water Diversion Project*. Save the Water. 4 January 2012. <<http://savethewater.org/>>.
- Kunzuo, Wang. *Drying Up the Han*. China Dialogue. 2 January 2011. <<https://www.chinadialogue.net/article/>>.
- Kuo, Lily. *China Has Launched the Largest Water-Pipeline Project in History: But is the South-to-North Water Diversion Project Creating More Problems than it Solves?* The Atlantic. 25 September 2014. <<http://www.theatlantic.com/international/archive/2014>>.
- Kuo, Lily. *China's Desperate Need for Water is Forcing the Relocation of Hundreds of Thousands of People*. Quartz. 7 March 2014. <<http://qz.com/165223/>>.
- Lim, Louisa. *A Village Sacrificed for China's Greater Good*. NPR. 25 September 2014. <<http://www.npr.org/templates/story/>>.
- Lin, Xin. *Chinese Water Diversion Project Kills Fish on Test Run*. Radio Free Asia. 8 July 2013. <<http://www.rfa.org/english/news/china/>>.

- Liu, Coco. *Coal: As China's Demand for Coal Soars, So Does its Water Scarcity*. E&E Publishing, LLC. 1 July 2013. <<http://www.eenews.net/stories/1059983712>>.
- Matthews, Nathaniel. *China's Water Crisis Needs Better Farming, Not the South-North Water Transfer*. China Dialogue. 25 September 2014. <<http://www.chinadialogue.net/blog>>.
- Nakayama, Tadanobu and David Shankman. 'Impact of the Three-Gorges Dam and Water Transfer Project on Changjiang Floods'. *Global and Planetary Change* 100 (January 2013): 38-50.
- Nickum, James E. 'The Status of the South to North Water Transfer Plans in China'. United Nations Development Programme. *Human Development Reports* (2006): 1-11.
- Qiu, Jane. *Thawing Permafrost Reduces River Runoff*. Nature. 6 January 2012, <<http://www.nature.com/news/thawing-permafrost-reduces-river-runoff-1.9749>>.
- Schneider, Keith. *Choke Point China: Confronting Water Scarcity and Energy Demand in the World's Largest Country*. Circle of Blue. 15 February 2011. <<http://www.circleofblue.org/waternews/2011/world/>>.
- Shalizi, Zmarak. 'Water and Urbanization'. *China Urbanizes: Consequences, Strategies, and Policies*. World Bank (2008): 157-180.
- Simons, Craig. *In China, a Water Plan Smacks of Mao*. Cox News Service. 10 September 2006. <<http://web.archive.org/web/20070911233235/>>.
- South-to-North Water Diversion Project, China*. Water Technology. <http://www.water-technology.net/projects/south_north/>.
- Taylor, Ben. 'Water: More for Some...or Some for More? Monitoring Equity in Water and Sanitation'. *Tanzania Water and Sanitation Network*, WaterAid Tanzania (September 2008): i-20.
- The Geopolitics of the Yangtze River: Developing the Interior*. Stratfor. 1 April 2013. <<http://www.stratfor.com/analysis/>>.
- Wong, Susanne. *China Bets on Massive Water Transfers to Solve Crisis*. International Rivers. 14 October 2014. <<http://www.internationalrivers.org/resources/>>.
- Xie, Jian. 'Addressing China's Water Scarcity: Recommendations for Selected Water Resource Management Issues'. *The World Bank* (Washington, D.C., 2009): i-160.

Modes of Violence against Puerto Rico's Urban Poor: Housing Policy in Puerto Rico from the 1950s to Today

Monique Rodriguez

Introduction

Public housing projects reserved for low-income families in Puerto Rico are known as *caseríos*. A *caserío* consists of several tenement structures subdivided into one-family apartments built on a large and compact settlement (Duany 1997:201). These projects are ubiquitous around the island. I argue that *caseríos* are unable to serve the needs of their residents and are even sites of various modes of violence against the urban poor. Residents of public housing are subjected to both significant explicit and structural violence, but much more pervasive is the latter. Forms of explicit violence residents face include police brutality and media sanctioning of violence against youth. Forms of structural violence include limited socioeconomic mobility, segregation and isolation within and between neighborhoods, governmental neglect of facilities, and forced reconfigurations of kinship networks and family organization.

Background

The successes and failures of modernization projects in Puerto Rico during the latter half of the twentieth century are no more apparent than in the current housing conditions of the poor. Puerto Rico is an underdeveloped commonwealth that has long been described as a welfare state and modern-day colony of the United States. In the mid-twentieth century, the majority of Puerto Ricans lived in poverty. A monumental 42.7 percent of all families reported an income under \$1,000 a year in the 1960s, and 80 percent earned less than \$3,000 (Lewis 1966:xi). Unemployment was high, and a fifth of the population received food allotments (Lewis 1996:xi). As people moved from rural spaces to urban ones in hopes of finding employment, the issue of housing shortages rapidly came to the forefront. Shantytowns soon rose up. Pre-1960s shantytowns in Puerto Rico resembled others in Latin America, such as *villas miserias* in Argentina and *favelas* in Brazil. The urban poor in large cities like San Juan built their neighborhoods from scrap metal and wooden planks and often lived without electricity or water (Safa 1974:8). These shantytowns sprawled along the city outskirts and were unexceptional from others in Latin America except in the government's "solution" to them. The public perceived shantytowns as a social problem, and the state responded by creating a sweeping urban renewal program aimed at improving the living conditions of the urban poor (Duany 1997:203). Though shantytowns were indicative of emerging structural problems with rapid industrialization, the government instead conceptualized these problems as stemming from the failures of the urban poor to bring

themselves out of poverty. The state's urban renewal program was meant to rid cities of unsightly and crime-ridden shantytowns as well as provide standardized, low-rent housing to impoverished families.

Starting in the late 1950s and taking off in the 1960s, the Puerto Rican government demolished shantytowns across the island and relocated the urban poor to housing projects called *caseríos* built by the Puerto Rican Housing Authority and the United States Federal Housing Authority (Back 1962:9; Fusté 2006:55). The government expelled people from the homes they owned and placed families into apartments for which they owed a monthly rent. The state had ulterior motives for clearing shantytowns, despite claiming that it was to benefit the poor and Puerto Rican society at large. According to Blanton Winship, appointed governor of Puerto Rico by Franklin D. Roosevelt from 1933 to 1939, eradicating shantytowns was necessary to convert Puerto Rico into a paradisiacal tourist destination (Fusté 2006:56). The government hoped to profit at the urban poor's expense. Relocation often freed up valuable land in major cities. Housing officials in the United States coordinated with private developers; officials would demolish shantytowns on prime lands that developers would then buy from the government at a low price (Fusté 2006:56). Relocating the poor to *caseríos* was beneficial for the government and profiteers in more than a few ways. However, the government never consulted and rarely considered the marginalized group most affected by this urban renewal program. Despite protests from the exact people that public housing was meant to help, the state paternalistically realized their program.

The imagining and implementation of a public housing program needs to be understood as part of larger economic and social tendencies affecting all sectors of Puerto Rican society in the latter half of the twentieth century. The island was subject to a United States federal government-directed set of projects collectively called Operation Bootstrap, which began in the early 1940s and sought to industrialize Puerto Rico (Safa 1974:1). Puerto Rico's status as an unincorporated territory of the United States has historically meant that it has been the site of experimentation with modernization and industrialization attempts. The *caseríos* were one such experiment. Modernization, as Puerto Rico's housing policy illustrates, had uneven effects on society. Close to four million people live in Puerto Rico today—84 percent of who reside in metropolitan areas (Denton and Villarrubia 2007:56-57). The urban poor make up a sizable proportion of the population and have largely condensed into public housing projects, making *caseríos* optimal places to study the effects of modernization on impoverished families.

The initial and later failures of public housing bolster the argument that the government was more intent on image building than

truly addressing the needs of the urban poor at the conception of the urban renewal program. Still, Puerto Rican and American agencies and academics were eager to publish works explicating Operation Bootstrap's success. They presented Puerto Rico "as the model for the developing world, an example of development with democracy" (Rios 1990:332). The media lauded the island as a paragon of successful United States-directed capitalist development in Latin America. The socialist revolution in Cuba in 1959 made it imperative to prove this type of development was possible. However, the idea of Puerto Rico as a paragon becomes suspect in the face of evidence that while the income of all classes has increased, the gap between the rich and poor has only grown wider after these industrialization projects (Safa 1974:103). Tensions and divisions between socioeconomic classes were only exacerbated with the state's urban renewal program. Public housing projects are sites of both structural and explicit violence against the urban poor.

Explicit violence of police

The omnipresence and brutality of militarized police in *caseríos* is one type of explicit violence to which public housing residents are subjected. The history of public housing in Puerto Rico begins with state violence. Squatters who attempted to protect shantytowns from destruction in the 1960s had an antagonistic relationship with the government (Duany 1997:204). The urban poor did not willingly relocate to public housing projects because many had built and owned their homes, though they often did not own the land their homes were built on. Some actively protested and resisted relocation. Squatters formed organizations and gained the support of some government corporations, political, religious, and civic groups, but "the state apparatus... reacted with the use of violence, evicting squatters by force" (Duany 1997:204). Since the beginning of this strained relationship, the police have enforced the government's will on the urban poor. Public housing residents today are subjected to police surveillance and brutality. Certainly, criminal activity is not absent from the *caseríos*. Youth vandalism, theft, and drug addiction is a common complaint among residents (Duany 1997:204). But internal violence served and continues to serve as an excuse for heavy-handed police operations in public housing.

The 1990s saw the distinct militarization and expansion of the police force in Puerto Rico. From 1993 to 2001, the government of Pedro Rosselló promoted a policy called "*Mano dura contra el crimen*" ("Strong arm against crime") that led to a series of police operations in public housing projects (Toro Adorno 66:2002; my trans.). The public decried *caseríos* as breeding grounds for criminals. It logically followed that police targeted these neighborhoods. Both the State Police and National Guard raid *caseríos* routinely in search of drug dealers; the police and National

Guard took over twenty housing projects just between June and September 1993 (Duany 1997:206; Fusté 2006:78). Entire neighborhoods are monitored, rendered suspect, and invaded. Public housing projects are criminalized and targets of outstandingly harsh police operations. The National Guard uses the FM-100-20 manual for 'low-intensity conflicts,' developed by the Kennedy administration "as a response to guerrilla insurgency in the Third World," for invading *caseríos* (Fusté 2006:105). Residents are, in a literal sense, treated the same way insurrectionists are treated during wartime. Even the language of "invading" public housing projects suggests this. The government assumes the urban poor of these neighborhoods are guilty of some inimical crime without trial.

As a result of the state's heavy-handed approach toward crime, living in Puerto Rico's public housing projects is perilous. The island has over seven hundred police officials per 100,000 citizens and over 21,000 officers in total, giving it the third largest concentration of police per capita in the world (Fusté 2006:2). This makes it a hyper-policed state. The streets are rife with officers prepared to use force, especially against residents in low-income areas. Furthermore, the number of private security guards is almost triple that of state and local police (Fusté 2006:102). State and local police harass public housing residents, while middle and upper class neighborhoods have security guards to keep out criminals who presumably come from the *caseríos*. The poor are therefore bound to the heavily policed areas. The state's attempts to control spaces occupied by the urban poor became further evident in the 1990s, when the government erected walls around public housing projects and set up permanent police checkpoints along them to monitor the movements of residents (Fusté 2006:78). The police target public housing residents—by extension, the urban poor—in particular. The walls and surveillance points made public housing projects into veritable prisons. The police also acquired new cars, weapons, and gear under Rosselló's term as well, and the number of officers patrolling the streets doubled (Fusté 2006:78). The state created an inexorable police force free to impose its will on public housing residents. Residents now are often targets of discrimination and harassment by the police; days and nights are marked by bursts of violence (Toro Adorno 2002:61; my trans.). A militarized and massive police force keeps the urban poor in submission to the state. Many of the people in Puerto Rico view police action in *caseríos* as just. Therefore, explicit violence of the police against residents is severe and unquestioned.

Explicit violence of the media

Another type of explicit violence is that of media incitation to violence against *caserío* residents. The public supports raids on public housing projects because the media portrays *caserío* residents as criminals. The media often laments youth delinquency among the urban poor. The

newspaper *El Mundo* published articles blaming the government for failing to remove those residents whose “corruption threaten[ed] the civic progress and wellbeing of all others,” while journalists claimed that most young men in public housing projects perpetrated crimes and behaved violently to hide their insecurities about their manhood (Fusté 2006:91-93). The media had and continues to have a hand in pathologizing and criminalizing public housing residents. Journalists warn that even a few corrupted individuals in the *caseríos* could corrupt entire projects. Publishing articles on crime is also lucrative; the newspaper *El Vocero* became famous by regularly publishing pictures of the dead bodies of young men from public housing projects (Fusté 2006:102). The public saw *caseríos* as places of crime, fear, and death. Images of dead “criminals” also desensitized the middle and upper class to extreme violence against public housing residents, particularly youth. The media's lambasting of the urban poor is part of the unofficial education of Puerto Rico's population. Explicit violence of varying forms is unfortunately routine within public housing.

Structural violence of limited socioeconomic mobility

More pervasive—though perhaps less sensational—is structural violence in *caseríos*. One type of structural violence faced by the urban poor is the way in which public housing policies limit of the socioeconomic mobility of *caserío* residents. The initial disruption of the informal economies that existed in shantytowns and the later obstacle of income ceilings for public housing residents have kept the urban poor locked in their socioeconomic class. Despite the government and media lauding the public housing projects as a sign of progress, many of the people living in shantytowns in the fifties and sixties opposed relocating to the housing projects. The promise of new buildings, playgrounds, and health clubs failed to generate enthusiasm (Williamson 1964:495). The urban poor initially met the low-rent *caseríos* met with suspicion. Relocation proved an onerous process as a result. Some people left to the *caseríos* only to return to the slums; others refused to move at all until their homes in the shantytown were destroyed (Wood 2006:230-231). The new residents quickly became disillusioned in the public housing projects, and many of the earliest problems the urban poor had with the *caseríos* continue today.

A common complaint of men and women residing in the *caseríos* presently is that they are not allowed to make over a certain amount of yearly income and still qualify for residency in public housing; this discourages residents hoping to increase their earning capacity (Safa 1974:85-86). Eviction threatens those seeking high-paying employment. It takes time to reap the benefits of a higher paycheck, and eviction comes too quickly for a resident to save enough to afford moving into another apartment or home. Income limits meant to ensure housing is only

provided to the impoverished also keep low-income families in poverty. United States federal legislation dictates that a family's monthly rent is proportional to the income earned by all household members, so *caserío* residents will not always report how many in their household are actually employed to keep their monthly rent from rising (Duany 1997:205). If residents are able to find a job that pays well, their rent is raised to negate the effects of a higher income. Circumventing income ceilings is one of the few ways one can build funds as a public housing resident. This also drives residents to adopt informal economy practices that may be dangerous, such as prostitution and drug trafficking.

Indeed, another obstacle to socioeconomic mobility is the trouble in finding safe, informal ways of producing income in public housing communities. The concentration of low-income families into neighborhoods means that picking up casual work from wealthier neighbors, as was once possible in shantytowns, is tough (Back 1962:10). The networks of relationships that made work easier to find in the shantytowns no longer exist. Coping strategies that existed in shantytowns, such as mutual assistance and interaction between relatives and friends, are laborious to reconstruct due to United States federal housing policies (Duany 1997:203). Relocation broke up networks that ameliorated the economic struggles of the urban poor. With low official income ceilings, limited alternative sources of earning income, and the threat of eviction should one find a higher-earning job, public housing residents are forced to stay at poverty level. Puerto Ricans give home ownership enormous symbolic value (Safa 1974:86). Considering this, it is disheartening that the state limits the urban poor to apartments they can never own. Socioeconomic mobility for *caserío* residents is brutally difficult. The possibility of mobility and even survival is uncertain in public housing projects.

Structural violence of segregation and isolation

The second type of structural violence *caserío* residents face is segregation and isolation both within public housing projects and between neighborhoods of different socioeconomic strata. Housing policies resulting in segregation and isolation have made *caseríos* appear as criminal, undesirable places to outsiders and exist as hostile, unfriendly environments for residents. Public housing residents old enough to remember the shantytowns reminisce of the sense of solidarity that existed in those neighborhoods; there was an atmosphere in which neighbors helped each other in emergencies (Back 1962:10). People were united in their plight. Public housing has largely embittered relations between the urban poor and other groups. Now, residents lament that most people in public housing are nasty; they gossip and fight among each other as they try to live better (Wood 2006:230). They feel at odds with one

another.

Even familial ties are weakened in *caseríos*. One woman illustrated how the layout of public housing projects and internal gates impede community-making practices as follows: “Before, I would go to my sister's house in a moment, directly. Now I have to go around” (Dinzey-Flores 2013:97). Forming and even maintaining relationships is challenging. Another man claimed that there was no brotherhood in the public housing projects—a person could die and no one would take notice (Safa 1974:82). Eking out a living in the *caseríos* is a lonesome endeavor. The tenuousness of survival has created a sense of competition among residents. Another reason this terse environment exists is the sheer scale and crowding of public housing projects. Two examples of sprawling *caseríos* are Luis Lloréns Torres in Santurce, which boasts 2,000 housing units, and Nemesio Canales in Rfo Pedras, with 1,150 housing units (Duany 1997:201). Families are crammed together. In a sea of people, residents feel isolated.

Public housing residents are not only isolated from one another, but from people of other socioeconomic classes as well. With the construction of housing projects, cities were restructured according to social class divisions. The state built public housing projects for the poor, planned separate neighborhoods for the lower- and middle-class, and reserved other spaces for the elite (Duany 1997:203). Oftentimes, landscape reflects inequality. The government's implementation of public housing was a way of imposing a certain idea of order onto the urban poor. Furthermore, gates constructed since the mid-1980s to control public spaces, reduce crime, and socially rebuild public housing have changed and formalized relationships “within and across communities of divergent socioeconomic profiles” (Dinzey-Flores 2013:96). *Caseríos* visually stand out from the rest of the urban landscape due to these gates. Gates are isolating on various levels. Internal gates surround clusters of buildings and control traffic (Dinzey-Flores 2013:97). Residents must navigate gates that often frustrate what had once been easy trips to the homes of friends and family. This contributes to the aforementioned isolation felt by many in public housing.

However, these gates do more than interfere with contact inside *caseríos*; they have also barred contact with outsiders (Dinzey-Flores 2013:97). Gates physically separate communities. Though most neighborhoods are gated in some way, gates perform different functions depending on the socioeconomic strata occupied by the residents being surrounded. Gates around private housing are elaborate and landscaped to denote the prestige of middle and upper class neighborhoods; they advertise class position (Dinzey-Flores 2013:99). These neighborhoods are marked as clean and safe in comparison to dirty, perilous public housing

projects. As mentioned earlier, private security guards protect these areas. Gates here are meant to keep criminals—often perceived as male youths from public housing—out. The gates around *caseríos* are instead warning signs that suggest danger (Dinzey-Flores 2013:99). They keep the delinquents so feared by the public contained and allow for police to more effectively monitor the urban poor at enter and exit points. One resident stated the following about gates: “[Gates are meant to] lock us up as if we were animals. Aside from putting the big one outside, they divide us inside, too, little animals divided by sections” (Dinzey-Flores 2013:97). Residents feel dehumanized within these gates. They are treated like dangerous beasts that require a cage to contain. The purpose that gates serve is ironic, considering the original goals of public housing. One goal was to place public and private homes near one another to encourage social integration, but gates have concretized urban inequality (Dinzey-Flores 2013:103). Neighborhoods of varying class are now discernibly and actually separated from one another. State-imposed segregation and isolation are forms of structural violence against *caserío* residents.

Structural violence of governmental neglect

Structural violence against public housing residents also comes from governmental neglect to provide and maintain facilities in public housing projects. In the mid-1960s, soon after public housing projects were first built, residents demanded that housing authorities modernize already deteriorating *caserío* buildings and common areas (Fusté 2006:83). Homes in shantytowns were prone to improvement since it was a simple task to add on to existing structures over time. People in public housing projects, in contrast, cannot make repairs to homes and neighborhoods they do not own. One op-ed piece in *El Mundo* in the 1960s glibly noted that when President Kennedy made a visit to Puerto Rico, the Puerto Rican Housing Authority only painted the sides of the Luis Lloréns Torres *caserío* that the president would be able to see from his limousine as he drove by (Fusté 2006:83). The government rarely maintains public housing projects. When the state does take action, it is typically more for appearances than out of concern for the urban poor. Residents today lack vital services such as transportation, parks, clinics, and day care centers because the state is widely incapable of providing these services to any sector of society (Duany 1997:206). Public housing neighborhoods are particularly vulnerable to this lack of services. While middle-income communities may take private initiative and install streetlights and maintain parks, lower-income communities have a harder time with such endeavors since they often cannot come up with the necessary resources (Duany 1997:206). The state fails to make services accessible to the urban poor. *Caseríos* are both basically inadequate and continually neglected living spaces. Thanks to this, public housing projects have become synonymous with “uncollected

trash, illegal drugs, crime, unemployment, school dropouts, delinquency, and welfare dependence” (Duany 1997:205). They are insufficient housing.

Still, the urban poor living there have no choice but to make do. In 1992, the deplorable conditions of the public housing projects led to the government transferring administration of housing projects over to private corporations (Duany 1997:205). The state proved too inept to maintain the projects it once celebrated on its own. The gross neglect of *caseríos* by the government helped even further perpetuate the stereotype of the residents as lazy and unable to keep their neighborhoods from becoming rundown. Unfortunately, the discourse of public housing projects as failed experiments legitimized cuts to government spending on public housing “by privatizing the *caseríos* and cutting back on social welfare” (Fusté 2006:74) Conditions in *caseríos* are cause for alarm. Instead of addressing these conditions, the government views the dilapidation of urban poor neighborhoods as immutable and refuses to even attempt to improve them. Low-income families face the structural violence of having to live in substandard, neglected public housing projects.

Structural violence of forced reconfigurations of kinship networks and family organization

Another form of structural violence public housing residents face is the violence against kinship networks and family organization. With relocation in the 1950s and 60s, former shanty town residents saw their extensive kinship networks and contiguous residential patterns disrupted; the restrictive demands of the project management upset those used to the freer shanty towns (Duany 1997:203; Williamson 1964:490). It became much harder to maintain preexisting kinship networks, and people were now subject to new regulations in the public housing projects. The urban poor balked at the forced changes to family organization. However, the destruction of the shantytowns made it so there was nowhere else to turn. The state also consciously attempted to affect family organization among *caserío* residents. In the 1950s, the Puerto Rican Housing Authority and the University of Puerto Rico's Domestic Science school implemented programs for teaching women in public housing how to be proper housewives capable of cooking and cleaning (Fusté 2006:64). The programs promoted the idea of the modern, patriarchal, nuclear family. Married women in public housing were taught to maintain the home and manage the family while still being subordinate to their husbands.

Though this reinforced the traditional view that men should be the heads of household, other housing policies undermined this. Men in public housing feel that their authority is eroded because they do not own their own homes, they depend on project management for maintenance, and they must report every change in their occupation or salary (Duany 1997:204; Safa 1974:81). Low-income families have less freedom and

control in public housing. Because the urban poor are directly dependent on the state, the government is the ultimate authority of the household. Project management maintains rigid standards and has made *caseríos* function bureaucratically (Williamson 1964:498). Rather than the bread-winning husband, the de facto head of household is project management. Management's control in the *caseríos* extends past maintenance of the buildings and supervision of residents' incomes. Social control also lies in the hands of management, to whom most disputes between neighbors are referred (Safa 1974:81). Residents even have their relationships mediated by management. In this way, the state exercises authority over many aspects of the lives of the urban poor.

Changes in employee demographics during the industrialization of Puerto Rico have also affected low-income family configurations. Industries in the new global economy depend on low-paid women workers for their survival, leading to women's share of total employment rising from 23.4 percent to 36.5 percent between 1950 and 1980 (Rios 1990:323, 328). Many women have entered the workforce, but their often-low salaries necessitate their reliance on government assistance. Some women separate from their husbands because it is the only way for them to lower their incomes and be eligible for public housing (Safa 1974:85). When considering marriage, family organization, and family size, the urban poor must consider how to qualify or remain qualifying for public housing. Public housing policies have reconfigured the kinship networks and family organization of the urban poor in a violent manner.

Conclusion

Limited socioeconomic mobility, segregation and isolation, and different forms of violence make *caseríos* an inadequate and even dangerous housing policy for the urban poor. *Caseríos*, once proposed by the government as solutions to the problems of low-income families, are now viewed as a major societal problem (Duany 1997:206). The public blames the failures of the *caseríos* on public housing residents rather than the government. They further fault the urban poor for failing to maintain their neighborhoods, for being petty and violent, and for depending on welfare. A marginalized group in dire need of sympathy is instead loathed. Though the state hoped to "rehabilitate" the poor through these projects, it only ended up criminalizing and oppressing them. Ironically, public housing projects are spaces of contradiction that were first "celebrated as the answer to landscapes of poverty and the promise of social equality...[then] publicly and politically rearticulated through the same stigmatized narratives of undesirable difference" (Fernández Arrigoitia 2010:313-314). The discourse surrounding public housing changed to suit the state's needs. The government first championed public housing projects as a solution and later demonized them and their residents.

Caseríos are wholly unacceptable homes for low-income families. Duany suggests that the Puerto Rican government reassess policies that encourage agglomeration into large metropolitan areas, provide support for self-help initiatives by poor households, and intervene in the laws and regulations governing the distribution of urban space in order to implement a housing policy that better serves the needs of the urban poor (1997:211-212). Finding alternative ways of providing shelter to the urban poor is paramount. The successes and failures of self-help housing policies similar to those in Cuba—though likely impossible to envision in states subject to United States hegemony—can be expanded upon and used to inform public housing policy in Puerto Rico (Mathéy 1997:184). Alternatives to the current housing policies are numerous. Creating a housing policy that works particularly in the context of Puerto Rico will be quite a task. Regardless, the troubling extent of both explicit and structural violence faced by residents of *caseríos* makes this task a critical responsibility of the government.

References Cited

Back, Kurt W.

- 1962 *Slums, Projects, and People: Social Psychological Problems of Relocation in Puerto Rico*. Durham: Duke University Press.

Denton, Nancy A. and Jacqueline Villarrubia

- 2007 Residential Segregation on the Island: The Role of Race and Class in Puerto Rican Neighborhoods. *Sociological Forums* 22(1):51-76.

Dinzey-Flores, Zaire

- 2013 Islands of Prestige, Gated Ghettos, and Nonurban Lifestyles in Puerto Rico. *Latin American Perspectives* 40(2):95-104.

Duany, Jorge

- 1997 From the *Bohío* to the *Caserío*: Urban Housing Conditions in Puerto Rico. In *Self-Help Housing, the Poor, and the State in the Caribbean*. Robert B. Potter and Dennis Conway, eds. Pp. 189-216. Knoxville: The University of Tennessee Press.

Fernández Arrigoitia, Melissa

- 2010 Constructing 'the Other', Practicing Resistance: Public Housing and Community Politics in Puerto Rico. Ph.D. Dissertation, Department of Sociology, London School of Economics.

Fusté, José I.

- 2006 Wall Shadows: the (B)ordering of Racialized/Gendered Subjects in Puerto Rico's Public Housing Projects. M.A. Thesis, Department of Ethnic Studies, University of California, San Diego.

Lewis, Oscar

- 1966 *La Vida: A Puerto Rican Family in the Culture of Poverty—San Juan and New York*. New York: Random House.

Mathéy, Kosta

- 1997 Self-Help Housing Strategies in Cuba: An Alternative to Conventional Wisdom? In *Self Help Housing, the Poor, and the State in the Caribbean*. Robert B. Potter and Dennis Conway, eds. Pp. 189-216. Knoxville: The University of Tennessee Press.

Rios, Palmira N.

- 1990 Export-Oriented Industrialization and the Demand for Female Labor: Puerto Rican Women in the Manufacturing Sector, 1952-1980. *Gender and Society* 4(3):321-337.

Safa, Helen Icken

- 1974 *The Urban Poor of Puerto Rico: A Study in Development and Inequality*. New York: Holt, Rinehart, and Winston Inc.

Toro Adorno, Yolanda

- 2002 Residenciales populares y cultura de paz: responsabilidad ciudadana y mediática [Public housing and culture of peace: civic responsibility and media]. *In* *Bajo asedio: comunicación y exclusión en los residenciales públicos de San Juan* [Under siege: communication and exclusion in public housing in San Juan]. Héctor Sepúlveda, ed. Pp. 37-60. San Juan: Editorial Tal Cual.

Williamson, Robert C

- 1964 Psychological Correlates of Housing in Central America. *Journal of Inter-American Studies* 6(4):489-499.

Wood, Denis

- 2006 Kids and Space in the Puerto Rican Highlands. *The Geographical Review* 96(2):229-258.

Too Big to Hail: Why We Need to Split Up the Ninth Circuit

John Sulkowski

Some may say that at the rate law schools are churning them out, there will be more lawyers than humans by 2050. While this little population “prediction” does provide a nice laugh, it also speaks to the increasingly litigious nature of American society in recent times. Americans, in general, respect the rule of law, but they are also becoming increasingly involved with it in a variety of fields and topics. Thus, it should be alarming to Americans that justice is not being properly dispensed everywhere in the country. The United States Ninth Circuit Court of Appeals appears as an anomaly in the judicial system. Spanning from Arizona to Alaska and from Montana to Guam, the Ninth Circuit jumps off the map when compared to other circuits. It encompasses the states of Arizona, California, Nevada, Oregon, Washington, Idaho, Montana, Alaska, Hawaii; the territory of Guam; and the commonwealth of the Northern Mariana Islands (Roll 2007, 109). It covers more states (nine) than any other circuit with one of them, California, being the most populous state in the nation and two, Arizona and Nevada, among the fastest growing states. Therefore, it is no surprise that the Ninth Circuit houses close to a fifth of the population with around 60 million people on about forty percent of the country’s land (Roll 2007, 110).

The massively disproportionate size of the Ninth Circuit clearly indicates that it is not simply one of twelve circuit courts operating in the American judicial system. In fact, due to its vast size, about thirty percent of all federal appeals are pending in the Ninth Circuit (Roll 2007, 109). Thus, the Ninth Circuit presents an excellent opportunity for reform based on some common sense, sound reasoning, and statistical data. While advocates for reform have been pushing for a division of the Ninth Circuit for decades, the debate still rages on without any clear conclusion in sight. However, the debate seems to inch closer to real reform in the form of a split of the circuit as time passes. The adoption of a bill splitting the Ninth Circuit by the House in 2004 represented the farthest the issue has progressed yet (Spreng and Tobias 2004, 1). Thus, it may be poised to become actual law in the coming years. While a political element is present in this debate, the Circuit has unique qualities unrelated to its decisions that make reform desirable. The problems and concerns with the circuit’s logistics, efficiency, atmosphere, predictability, consistency, and system integrity necessitate a division of the Ninth Circuit into multiple, smaller circuits.

The circuit court of appeals system that Americans know today was not formed until 1891 with the Evarts Act (Gribbin 1997, 368-9).

This act created nine circuit courts across the country. At the time, the ninth only contained California, Oregon, Washington, Montana, Idaho, and Nevada. Since it was still fairly early in America's westward expansion, the population of this large circuit was only three million. Since the Evarts Act, three states, a territory, and a commonwealth have been added along with massive population growth (Roll 2007, 111-3). Surprisingly though, the Ninth Circuit has never been divided. Ninth Circuit Judge Andrew Kleinfeld has gone so far as to call the current situation of the Ninth an "accident." His view is that the Ninth was originally created for California, but then the surrounding areas populated and no adjustment was made (Roll 2007, 113). Is a circuit designed for an early twentieth century West still appropriate nowadays? Notably, one should consider that Congress has historically been very slow and resistant to altering the structure of the federal judicial system in general (Gribbin 1997, 371). This does not mean Congress should not have acted by now, though. This resistance to change has had negative impacts on the Ninth Circuit by allowing it to grow and remain at an incredible size in area and population.

The geographic enormity of the Ninth Circuit presents logistical problems that adversely affect the administration of justice. The sheer size means travel is more complicated. Some judges have to travel great distances to get to various meetings and hearings (Spreng 1998, 903). Just looking at any map and seeing the tremendous distance covered by the Ninth Circuit should cause any average person to have concerns about its ability to properly decide cases. Additionally, the large variety of court locations and the high number of judges make it virtually impossible for all the judges to be in the same place simultaneously (Spreng 1998, 903). All of these long trips waste time that judges could be spending on cases or working together. While the amounts may be small, the hours would add up and prove helpful if a split occurred and made the circuit smaller.

Furthermore, the vast size of the Ninth Circuit leads to a sort of discrimination against smaller states in the circuit. The three judge circuit panels rarely or almost never travel to these states to hear cases. One of these panels comes to Alaska once a year and the average judge will only visit Alaska once every ten. The situation is even worse for Montana and Idaho. Montana very rarely hosts a panel and Idaho almost never does since it has no regularly scheduled panel visits. Idaho really just gets a visit for very special circumstances, such as the hundredth anniversary of its statehood (Spreng 1998, 934). Thus, these less populated states are put on the back burner and do not really receive appropriate attention. Judges do not really have to learn their laws and legal norms, and their issues are not given the same respect as say California gets. Therefore, the size of the Ninth Circuit leads to inadequate representation for many of the

smaller states in it. The logistical problems resulting from the geographical size of the Ninth Circuit parallel the efficiency issues resulting from the circuit's population.

Common sense says that the more people in a circuit, the more cases that will be filed. This is certainly accurate for the Ninth Circuit, which contains over 60 million people. This is about 27 million more than the next most populous circuit, and the average population of the other eleven circuits is around 22 million (Roll 2007, 127). This huge disconnect is mirrored in case filings. In 2006, the Ninth Circuit had 17,299 cases by September 30, which was about five times as many as the average for the other circuits. It also had 5,157 more case filings than the next closest circuit by that point in 2006 (Roll 2007, 124). The incredible caseload of the Ninth Circuit obviously creates efficiency problems. No circuit court could properly and quickly handle the massive number of cases it receives annually.

The cases naturally pile up, causing delays and other problems in the judicial process. Split opponents are quick to counter this by pointing to the Ninth's short time from submission to final disposition. It has even been the fastest circuit in this category in recent years. However, this statistic is misleading because it actually only looks at the beginning of deliberation to the presentation of the final decision (Spreng and Tobias 2004, 5). On the contrary, a quick time here may actually be disadvantageous if judges are not giving proper consideration and time to your case. A more accurate measure of court efficiency is the length of time between the filing of the case and the final decision. Here, the Ninth has been the slowest circuit even after having its vacancies filled (Spreng and Tobias 2004, 5-6). These delays create serious problems that can diminish chances for justice. Evidence can deteriorate or disappear, which will prevent proper decisions from being reached. Judges may not fully consider all of a case or may be less inclined to overturn district rulings in the interest of time. Chances to establish precedent may be missed because another panel or circuit decides a similar case first (Gribbin 1997, 373-4). All of these possible effects from the delays of overloaded dockets can hurt the pursuit of justice.

With the highest number of cases, it follows naturally that the Ninth Circuit also has the most judges. In fact, it is an outlier in terms of number of judges as it has many more than the next largest circuit. Another important variable to look at is the number of cases per active judge. In 2006, the Ninth Circuit ranked third in cases per active judge at 547 (Roll 2007, 126). This actually presents a troubling outlook on the ability of the Ninth Circuit to handle its caseload because this active judge category does not include senior and visiting judges. The Ninth Circuit makes substantial use of these types of judges, which will be discussed in

greater detail later (Spreng and Tobias 2004, 3). Additionally, the Ninth Circuit has enacted a number of reforms in recent years to address some of its efficiency problems.

In fact, the Ninth Circuit has been a leader in improving efficiency and has set an example for other courts to follow as their caseloads increase with time. “The Ninth has become a model of what can be done—through screening, delegation to staff, limited en banc proceedings, memorandum dispositions, and submission on the brief— to maximize the efficient use of judicial resources” (Spreng 1998, 894). Furthermore, the Ninth Circuit has tried dividing itself into smaller units without an actual circuit split to improve administrative capacity and has incorporated the use of “a computerized case-tracking system and electronic networks” to bring the judges closer together, improve communication in the circuit, and increase interaction (Gribbin 1997, 374). Thus, the Ninth Circuit has served as a sort of judicial laboratory in which experimentation and innovation thrive and foster the growth of new ideas and techniques to improve the judicial process not only for the Ninth but for all the circuits and courts in general. Proponents of the status quo for the Ninth Circuit cite this as a reason it should remain in its current large size. They believe it operates well still and provides a testing ground for new theories that is integral to the continuing advancement and development of the courts (Roll 2007, 141-3). However, split advocates view the Ninth Circuit “experiment” as largely a failure and believe a split is now necessary (Roll 2007, 123).

While some of the reforms made by the Ninth Circuit have worked out well, others have actually damaged the judicial process for the circuit and even spread to others to create systemic problems. Ninth Circuit was able to so quickly decide cases once the judges began deliberation was through the use of staff attorneys and unpublished opinions. While this will be examined later in this paper, it is important to note here. Judges assigned work normally under their domain to staff attorneys to speed up the review of cases. They also have increasingly utilized unpublished opinions, which are much quicker to adopt than a carefully-composed published one. But, these opinions are often inaccessible and do not contribute to the accumulation of precedent (Gribbin 1997, 375-6). The use of unpublished opinions is not entirely bad though. It can be quite useful and even desirable in cases of routine norm enforcement since this then allows more time for the more complex and difficult cases. The Ninth Circuit only publishes twenty-five percent of its decisions (Spreng and Tobias 2004, 2). It should be noted, however, that the Ninth Circuit is not the worst offender in shortcuts to justice. It ranks seventh and eighth out of twelve respectively in percentage of appeals that receive oral argument and published opinions (Spreng and Tobias 2004, 3).

Even with its extra help, reforms, and shortcuts, the Ninth Circuit still decides cases the slowest of any circuit. The typical solution to this has been to add more judges. However, the Ninth has likely already passed the point of diminishing returns on the economies of scale for number of judges (Spreng 1998, 905). The Ninth already uses a huge number of judges and adding more would likely only complicate matters further. Therefore, splitting the circuit is the logical answer. Two major benefits will come from this path. First, dividing the circuit will actually reduce the workload for judges. Critics point out that cases will not drop, but rather, they will be divided with the judges resulting in the same number of cases per judge as before (Spreng 1998, 894-5). While case filings may remain the same, the return to a full en banc system, which will be addressed later, along with less logistical costs mentioned earlier combine to create several more hours a week that judges can spend reviewing and hearing cases. The complexity of the mini en banc wastes numerous hours every week, so it would be beneficial to do away with this flawed structure (Spreng 1998, 896-903). Second, with smaller circuits, there will be fewer judges on each one. Studies show that smaller circuits are much more collegial because they can actually communicate face to face and see each other more frequently. This increased interaction creates a more productive work environment which leads to higher efficiencies in smaller circuit courts (Spreng 1998, 905). Indeed, the atmosphere of the Ninth Circuit is another major reason for reform.

The atmosphere of a court is certainly another key factor in whether the court operates effectively. Like most jobs, the work environment can play an important role in how much work gets done. It seems to be the case that smaller and closer knit circuit courts operate more efficiently than the larger, more spread out ones such as the Ninth. Based on his understanding of the inner workings of the court and his research, the leading empirical student of the Ninth Circuit, Professor Arthur Hellman has even raised concern in recent years about the collegiality of the Ninth Circuit (Spreng and Tobias 2004, 4). Despite the fact that it is difficult to quantify, collegiality has been and remains a prized judicial value. Ninth Circuit Judge Diarmuid O'Scannlain views collegiality as more than just "mutual respect among judges" (Gribbin 1997, 381). He believes collegiality is present when judges can sit down and freely exchange ideas and opinions, thereby facilitating a growth of thoughtfulness and appreciation for other judges' ideas and views and working to bring everyone closer together. He goes on to describe it as "a precious value which is forged from close, regular and frequent contact in joint decision-making, and it is the glue which binds the judges in a shared commitment to maintaining the institutional integrity of circuit law" (Gribbin 1997, 381). Moreover, there is a strong, long held belief in the positive impact of collegiality on courts.

Most judges seem to agree that collegial courts are superior to non-collegial ones and that collegial courts by nature are smaller in size. This is especially significant for the discussion of the Ninth Circuit. The strong, close personal relationships built on smaller courts contribute directly to collegiality. The importance of regular face-to-face interaction is very high in the development of mutual understanding and respect for one another's views and opinions. This allows for a more comfortable work environment and increased chance for compromise and agreement on decisions. This positive environment is believed to improve the quality of judicial decision-making, so collegiality is constructive for judges and courts and valuable to the public (Spreng 1998, 921). The ability to work together also allows for faster work. Collegiality, thus, can also increase efficiency on appellate courts (Gribbin 1997, 381). However, the Ninth Circuit's enormity impedes the development of collegiality, which prevents the circuit from obtaining these benefits and even causes it to suffer.

The Ninth Circuit clearly lacks collegiality. With anywhere from twenty-eight to possibly forty judges serving on it (depending on vacancies, senior judges, and visiting judges), the Ninth is clearly not small like other courts. Even with twenty-eight judges, this results in 3,276 possible three-member panels (Gribbin 1997, 381). Thus, in the Ninth Circuit, judges are constantly working with new people from all over the circuit and never get a chance to develop personal relationships. Just by random chance, a judge is likely to go years without working with particular colleagues of the circuit. The Ninth's increased use of senior and visiting judges further compounds this issue (Spreng 1998, 921-4). In fact, recent Ninth Circuit appointees have gone over four and a half years before sitting with all the other circuit judges to hear cases (Spreng and Tobias 2004, 2). It seems completely ridiculous not to work with a colleague for that length of time especially considering the relatively small size of circuits compared to many professions. A splitting of the Ninth Circuit could generate collegiality and increased productivity for the Ninth's judges. Combined, the Fifth and Eleventh Circuits have twenty-nine judges, which is about equal to that of the Ninth alone. Combined these two circuits, which used to be one circuit until 1980, outperform the Ninth by fifty percent in cases resolved (Gribbin 1997, 382). Put simply, there are just too many judges in the Ninth Circuit for the critical judicial value of collegiality to flourish, let alone exist. The comparison to the Fifth and Eleventh Circuits raises another issue of court atmosphere unique to the Ninth.

While three judge panels make most circuit court decisions, there is another mechanism employed that provides a backstop to the panels. Circuit courts may vote to hear cases en banc, which means the entire circuit court will sit together to hear, discuss, and decide a particular case.

This is an efficient and collegial way to make sure panels are behaving responsibly. While not many cases each year are heard en banc in each circuit, the tool is always useful as a protection against radical decisions by panels (Rymer 2006, 317-8). The Ninth Circuit has a special take on the en banc process. The Ninth Circuit is clearly too large to realistically hold en banc hearings, so it has adopted the use of the limited, or mini, en banc. The limited en banc was a reform adopted as an alternative to splitting the circuit after the 1973 Hruska Commission recommended splits to the Fifth and Ninth Circuits, the two largest circuits at the time. The Omnibus Judgeship Act of 1978 authorized, among other things, the use of the limited en banc for circuits with over fifteen judges. After trying a full en banc instead of the new reform, the Fifth Circuit came to realize the trouble its size caused and decided to split in 1980. However, the Ninth Circuit instead chose to adopt the mini en banc to stay alive and continues to use it today (Rymer 2006, 318).

The advantage limited en banc does have is that it allows a very large court to still hold hearings with a larger body than three to assess important issues (Rymer 2006, 319). However, there are also a great number of flaws in the limited en banc that make it a less than desirable option. "En banc" actually means, "full bench," so a limited en banc presents a contradiction in and of itself (Rymer 2006, 317). Moreover, the practice has employed the use of eleven and now fifteen judges to review cases. Since it operates according to majority rule, as few as six and eight judges can speak for the entire Ninth Circuit. While it is not always the case, this has resulted in a circuit majority being in the minority opinion because the selection of en banc judges is random (Rymer 2006, 319-20). Additionally, there is no guarantee that any judge from the original panel will be on the en banc, so the review may not even have the benefit of input about earlier interaction and reasoning of the case from the panel decision. Also, since no one knows who will participate in the en banc hearing, an incentive exists for judges to make more extreme decisions on panels because they may not be checked by the limited en banc depending on who is selected. Thus, accountability suffers as well as the collegiality that other circuits obtain by meeting full en banc (Rymer 2006, 320-23). Furthermore, judges not on the mini en banc usually cannot access the record, know what a decision will be before it is released, or participate at all in the process. Their exclusion can be damaging to the actual consideration of the case, other rulings they are about to make, and the legitimacy of the en banc ruling (Rymer 2006, 323). The concerns and problems of atmosphere in the Ninth Circuit are directly related to the issues of predictability and consistency that the court faces.

The extreme number of judges of the Ninth Circuit and its previously mentioned deficiencies in collegiality both contribute to

unpredictability and inconsistency in the court's rulings. This comes to light in a few different ways. First, as mentioned before, the high number of judges means individual judges may go long stretches, even years, without working with other particular judges. They lack a mutual understanding that may cause problems when they are placed together. Additionally, the lack of collegiality throughout the circuit means judges are not working and communicating closely with another to form uniform law for the circuit. Instead, everyone is more or less free to act on his or her own because the circuit is not working as a whole to form circuit law. Collegiality is necessary for the development of consistent circuit law (Gribbin 1997, 382). Furthermore, the number of judges produces over 3,000 possible panel combinations. With the wide variety of views on the circuit and complete lack of knowledge of who will be on the panel, it is impossible to predict or even gain a sense of how an appeal will go until one learns who is on the panel. This is especially concerning given the high cost of appeals (Gribbin 1997, 382).

Consistency issues also arise from the amazing number of cases decided each year by the Ninth Circuit. With so many cases, it is difficult for judges to keep track of them all and be aware of new rulings and precedents. This means that judges may not read or keep up with all the decisions of the circuit. While this is understandable given the situation, it should signal a definite need for a split. Multiple judges have told Congress that they simply cannot keep pace with the number of decisions produced. Some judges have admitted they have given up and are not even attempting to keep up anymore (Spreng and Tobias 2004, 4). This is particularly alarming for the court's capacity to produce consistent rulings. Also, by strictly using the limited en banc, the Ninth Circuit eliminates the opportunity to ever come together and decide cases as a circuit. The lack of a full en banc prevents the Ninth from speaking with one clear, consistent voice (Spreng and Tobias 2004, 2).

Finally, the use of "extra" judges may be of concern. These include circuit judges who have taken senior status, circuit judges visiting from other circuits, and district judges. In this case, they temporarily serve as Ninth Circuit judges and are used to assist with the heavy caseload. It is well-known that the Ninth Circuit is not being run completely by Ninth Circuit judges. In fact, the Ninth uses "extra" judges more than any other circuit (Wasby 1981, 369-70). What is unclear is the impact of these judges on consistency. While some studies have indicated that they create more inconsistencies in circuit law due to lack of knowledge of circuit norms and less perceived legitimacy to make law, the active judges of the Ninth Circuit say they do not cause more inconsistency than any average active judge does (Wasby 1981, 380-1). Thus, there is uncertainty that needs further study. The large number of

non-Ninth Circuit judges making law for the Ninth raises concern and judges may not be able to objectively tell whether the “extras” have impacts on consistency. On the other hand, lawyers and other critics may simply be exaggerating their perceived problems with how the law is being applied (Wasby 1981, 382-3). These judges may contribute to delays though as they are not as well rehearsed in Ninth Circuit procedure, often have restricted schedules, and may prioritize the work from their home area over that of the Ninth (Wasby 1981, 375-6). While predictability and consistency are important to appellate justice, upholding the integrity of the system is a particularly important reason for reforming the Ninth Circuit.

The recent shortcut reforms implemented by the Ninth Circuit and later other circuits as well damage the integrity of the judicial system. The parallel proliferations in the use of staff attorneys and law clerks and unpublished opinions represent a miscarriage of justice currently plaguing the judicial system. It appears that many circuit judges are not actually doing all the work they were appointed to do. To deal with caseload issues, they have used a screening process to delegate decision making to staffs. The result is that primarily the staff attorneys and law clerks handle the “less important” or pressing cases (Pether 2007, 6-7). They review the cases, do the research, and even write the opinions sometimes with little to no supervision. The cases are then briefly presented to judges who generally just look at the result and approve it (Pether 2007, 11-13). This is not an entirely negative development though. In cases involving simple norm enforcement, this delegation of work might actually be beneficial since it gives judges more time to focus on the tougher cases that require more thoughtful decisions. Thus, this critique should not be interpreted as all encompassing. However, the ideal image of this course of action is not always the one that plays out in the real world.

This practice places the pursuit of efficiency over that of justice. While judges could delegate some of the easier tasks and cases, the level of involvement and frequency of the utilization of this technique are unacceptable. The staff members are not qualified to be writing opinions and essentially deciding cases and they were not appointed to do so either. Most of the staffs are made up of recent graduates from elite law schools where they did receive excellent legal education. These young graduates have no judicial training though. They actually lack even attorney experience too. With proper training and supervision by circuit judges, they could probably become qualified to handle routine cases. Unfortunately, they often receive little to no training and have minimal supervision (Pether 2007, 9-10). The increased use of unpublished opinions coincides with the delegation practices and affirms their problems. Many of the decisions are unpublished because staff members

rather than judges poorly wrote them. They may contain errors in language, reasoning, interpretation of precedent, facts of the case, and even the final decision. Some circuit judges, other legal participants, various studies, and a study by the Federal Judicial Center affirm this troubling situation. Judges cannot spend time on training and supervision because they are already overloaded with their own cases (Pether 2007 9-10, 16-8). Furthermore, the lack of contribution to case law from unpublished opinions causes additional harm and affects certain groups more than others.

The unpublished opinions can also be designated, as not for precedent, so they do not contribute to case law or help attorneys and litigants gain an expectation of how their case will be handled. With fewer cases contributing, the case law tradition suffers (Pether 2007, 39-40). Additionally, this practice disproportionately affects the poor, indigent, and less resourced litigants. Their cases are more often the ones handled through the shortcut method and to receive unpublished opinions. They also lack the resources or attorney expertise to investigate further and gain access to these unpublished opinions that may affect their own cases (Pether 2007, 20-1). This is illustrated by the extremely low success rate of litigants who raise immigration, disability, and labor issues in unpublished opinions. These problems are especially significant in the Ninth Circuit, so they add to the reasons for splitting it to reduce caseload issues (Pether 2007, 44-5). However, they also pose a systemic problem that needs to be addressed, although it is beyond the scope of this paper to deal with that issue. A deficiency in system integrity should alarm and ultimately convince split opponents, but there is also disagreement about how the split should occur.

A wide variety of solutions have been proposed over the last several decades for how best to split up the Ninth Circuit. A few of the notable ones will be presented here. The 2004 bill that passed the House proposed a division into three circuits. This would involve the creation of the Twelfth and Thirteenth Circuits. One circuit would contain California, Hawaii, Guam, and the Northern Mariana Islands. Another would house Arizona, Nevada, Idaho, and Montana. The third would contain Washington, Oregon, and Alaska (Spreng and Tobias 2004, 2). This design would be a big mistake though. California would completely dominate the other tiny entities in its circuit. Also, Arizona differs greatly culturally and economically from Idaho and Montana, so conflict could become a significant problem. Arizona more closely ties to California in these areas and even follows its law in some areas. Thus, Arizona fits much better with California (Spreng 1998, 892). However other proposals seek to only divide the circuit into two rather than three smaller circuits.

Another proposal is the Icebox Circuit, which divides the Ninth

into two circuits. One would contain Washington, Oregon, Idaho, Montana, and Alaska while the other had California, Arizona, Nevada, Hawaii, Guam, and the Northern Mariana Islands (Spreng 1998, 891). This proposal has both good and bad elements. The northern and southern parts of this circuit are characterized by polarization and stark cultural differences that signal separation is needed (Spreng 1998, 935). This solution accomplishes that. The northern circuit with only about a fourth of the original circuit would be very manageable. However, there may still be size problems in the southern circuit that will likely only get worse as those states grow. This idea is actually designed for flexibility. It anticipates another division of the southern circuit later on, but leaves it open to future proposals. Then, the entire system would not have to be redone (Spreng 1998, 893).

The California Split represents the best proposal, though. California presents a major problem to splitting the Ninth because it is so enormous. About sixty percent of the Ninth's filings come from California (Gribbin 1997, 382-3). The California Split proposal creates two roughly equal circuits out of the Ninth. This would immediately solve the problems of the oversized Ninth because each circuit would only be half the size (Gribbin 1997, 390). While future growth is possible, the large reduction to a half of the current size should make it manageable. This proposal also makes a north-south division, so regional interests are kept together. Neither new circuit would have to deal with the size problems of the current Ninth. The division would involve one circuit consisting of Washington, Oregon, Idaho, Montana, Alaska, Hawaii, Guam, Northern Marian Islands, and the Northern and Eastern Districts of California. The other circuit would contain Arizona, Nevada, and the Southern and Central Districts of California (Gribbin 1997, 390). With the judges divided evenly, each circuit would have an appropriate number and could implement the full en banc. The courts would be much more collegial. While this plan has many positives, it is not completely free of concerns.

The original proposers of this plan also provided solutions to the obvious criticism of splitting a state between two circuits. This taboo may actually not be that problematic. An intercircuit en banc between the two could be used to address conflicts or inconsistent applications of federal law between the two when necessary. The four district courts do not seem to pose a problem to Californians, so why should two circuit courts be different? State law issues could be referred to the California Supreme Court. Critics point out the possibility of forum-shopping too. However, this can already be done in federal courts in some ways and use and tightening of venue restrictions and transfer provisions should prevent abuse (Gribbin 1997, 302-4). Thus, the California Split seems to fulfill the desired positive qualities without any major drawbacks. In a complicated

issue with many possible solutions, splitting the Ninth Circuit via the California Split effectively solves the circuit's problem in a way that produces the most benefits and fewest downsides.

One of the more highly debated issues over the last half-century has revolved around whether or not the Ninth U.S. Circuit Court of Appeals should be divided. Split opponents do raise some worthy points and concerns. For example, Congress has never divided a circuit without the approval of its judges. While advocacy for a split has grown in recent decades, most of the circuit's judges and lawyers still oppose a division. They especially do not want to see a division brought about by political motivations (Goodman 2008, 2681-2). The Ninth Circuit did hand down the second highest percentage of liberal decisions, at fifty-one percent, of the circuit courts from 1980-2012. In February 2005, Republican House Majority Leader Tom DeLay heavily criticized the "liberal, left-leaning, wacko Ninth Circuit over in San Francisco" at a Republican Party dinner (Carp et al. 2014, 314). Additionally, defenders of the Ninth point to the late 1990s commission's findings, which urged against a split and found no size or administrative reasoning for a split (Hug et al. 2000, 1665-7). Defenders contend that the Ninth is still operating well and serves as a source of innovation of efficiency techniques that other circuits can later implement (Hug et al. 2000, 1671-2). While some of these arguments have merit, the vast majority are false or misleading. The Ninth Circuit has considerable problems in logistics, efficiency, atmosphere, predictability, consistency, and system integrity. These problems endanger justice in the Ninth Circuit, so Congress must take action to split the circuit now.

Bibliography

- Carp, Robert A., Ronald Stidham, and Kenneth L. Manning. 2014. *Judicial Process in America*. 9th ed. Los Angeles: Congressional Quarterly Press.
- Goodman, Leo A. 2008. To Split or Not to Split the US Ninth Circuit Court of Appeals: A Simple Statistical Argument, Counterargument, and Critique. *Journal of Statistical Planning & Inference* 138 (September): 2681-2687.
<http://www.sciencedirect.com/science/article/pii/S0378375808000591>. (accessed September 27, 2014).
- Gribbin, Eric J. 1997. California Split: A Plan to Divide the Ninth Circuit. *Duke Law Journal* 47, no. 2 (November): 351-398.
<http://www.jstor.org/stable/1372902>. (accessed September 27, 2014).
- Hug, Procter, and Carl Tobias. 2000. A Preferable Approach for the Ninth Circuit. *California Law Review* 88: 1657-1672.
<http://www.heinonline.org/HOL/Page?page=1657&handle=hein.journals%2Fcalr88&collection=journals>. (accessed September 27, 2014).
- Pether, Penelope. 2007. Sorcerers, Not Apprentices: How Judicial Clerks and Staff Attorneys Impoverish U.S. Law. *Arizona State Law Journal* 39: 1-67.
<http://www.heinonline.org/HOL/Page?page=1&handle=hein.journals%2Farzjl39&collection=journals>. (accessed September 27, 2014).
- Roll, John M. 2007. The 115 Year-Old Ninth Circuit - Why a Split Is Necessary and Inevitable. *Wyoming Law Review* 7, no. 1: 109-148.
<http://www.heinonline.org/HOL/Page?page=109&handle=hein.journals%2Fwylr7&collection=journals>. (accessed September 27, 2014).
- Rymer, Pamela Ann. 2006. The 'Limited En Banc': Half Full or Half Empty? *Arizona Law Review* 48 (Summer): 317-323.
<http://www.heinonline.org/HOL/Page?page=317&handle=hein.journals%2Farz48&collection=journals>. (accessed September 27, 2014).
- Spreng, Jennifer E. 1998. The Icebox Cometh: A Former Clerk's View of the Proposed Ninth Circuit Split. *Washington Law Review* 73 (October): 875-956.
<http://www.heinonline.org/HOL/Page?page=875&handle=hein.journals%2Fwashlr73&collection=journals>. (accessed September 27, 2014).

- Spreng, Jennifer, and Carl Tobias. 2004. Should the Ninth Circuit Be Divided? *Legal Affairs*, November 8.
http://www.legalaffairs.org/webexclusivedc_printerfriendly.msp?id=18. (accessed September 27, 2014).
- Wasby, Stephen L. 1980-81. 'Extra' Judges in a Federal Appellate Court: The Ninth Circuit. *Law & Society Review* 15, no. 2: 369-384.
<http://www.heinonline.org/HOL/Page?page=369&handle=hein.journals%2Flwsocrw15&collection=journals>. (accessed September 27, 2014).

Cross-Cultural Musical Healing Practices: Egocentric and Sociocentric Approaches

Abigail Jebaraj

Introduction

The maintenance of health and healing when illness arises can be approached from different perspectives, apparent in diverse healing practices around the world. One system of healthcare delivery that has occupied a powerful position due to its origins in dominating countries is the western medical perspective. The development of the western viewpoint of disease resulted from an emphasis on observations and the sciences, such as chemistry and biology, which are constantly changing in the body during various stages of health and illness. This perspective has enabled the broadening of knowledge about physiological processes of the body and the development of incredible technological and pharmaceutical medical interventions. However, in viewing the human body as a center for cause and effect with biological processes and chemical interactions, traditional western medicine has set up the approach of separating the body from the mind and physical characteristics from the emotional and spiritual characteristics in the prevention and treatment of sickness.

While western medicine has historically held a dichotomous viewpoint in regards to the body and mind, recent work in the field of medical ethnomusicology, which was developed in the 1990s, has both reflected and encouraged a shift towards a multidisciplinary approach to the delivery of healthcare. As defined in *The Oxford Handbook of Medical Ethnomusicology*, medical ethnomusicology is “a new field of integrative research and applied practice that explores holistically the roles of music and sound phenomena and related praxes in any cultural and clinical context of health and healing” (Koen, Barz, and Brummel-Smith 4). This field enables different disciplines to interact and answer questions cross-culturally about the use of music in preventing and treating illnesses. Music is a vital part of human life; in some cultures, music is considered a means to achieve healing in the person who seeks health and clarity of mind in the healer to diagnose and treat. In this paper, the term patient refers to a person seeking health in all cultural contexts discussed. The healer is considered a medium who mediates between the physical and supernatural worlds in some cultures while the western physician focuses on the physiological aspects of the body.

Medical ethnomusicologists seek to describe healing practices in a manner that avoids exoticizing non-Western cultures as something radically different or strange. This is accomplished by evaluating four major characteristics of music and medicine: musical, sociocultural, performative, and biomedical contexts (Roseman “A Fourfold Framework” 26). This comprehensive view of music acknowledges the value of different

cultural practices in order to effectively study the power of music. The immersive description of cultural practices allows the readers to gain a deeper understanding of the logic behind them instead of interpreting behaviors as “foreign” or “other”. When barriers of exoticism are broken, cultural practices become more accessible. In the case of music and medicine, western medicine can gain innovative ideas of healthcare practice from cultures in which music may be an element of the healing process. Because music bridges the gap between the social and emotional aspects of a person and a community, the study of the social repercussions in societies that utilize music in the healing process can be beneficial. Western medicine cannot be thought of as “correct” simply because it is predominant. Other cultures have different methods to deliver healthcare that may be beneficial to integrate into medical practice. Through the multidisciplinary study of ethnomusicology, researchers may evaluate the power of music and how its benefits could be translated to a western medical context while maintaining cultural sensitivity.

The western doctor is considered to be the owner of medical knowledge, using observation and physiological measurements to diagnose a medical issue and treat it appropriately. A medical doctor possesses a unique relationship with his or her patients that allows contact and discussion not typically present with other members of society. Doctors are considered a strong pillar of reason, trusted to deliver facts while retaining compassion for the suffering human. There are many similarities in the role of healer-figures of non-western cultures that speak to the need for the social roles of patient and healer. However, the extent of the relationship can vary across cultures, which could be in part due to proximity in smaller communities. In addition, the ability of some healers to cause both harm and healing as is appropriate to the situation departs from the role of a physician in western medicine. The way treatment is delivered can also vary across cultures due to ideas about health, cause of illness, and religious influences. While the healer’s elevated social status is common in societies, his or her specific role and method of healing greatly differs.

In this paper, I compare and contrast how music has played a role in the healing of illness in several case studies of cultures that emphasize the patient as a component of the community (sociocentric) as opposed to the western perspective, which emphasizes the individual’s suffering (egocentric). The healing cultural practices discussed are from Africa, Malaysia, Columbia, and Madagascar. I also discuss the role of mediums in these cultures and compare the healers’ status and interaction with patients with the role of a western physician. Traditional western medicine and the healing practices of cultures that utilize mediumship are fundamentally different in the view of the body. Western medicine views

the physical problem and treats the physical problem with physical cures, such as medication or physical therapy. The healing practices as discussed in the case studies focus on not only the individual but also the community, in order to maintain a cooperative society that heals with the improvement of the individual. In addition, these healing practices address the patient holistically, treating mind, body, and spirit. Finally, I sum up my argument with a discussion of the possible applications that western medicine could implement to alter the social paradigm of healthcare delivery by discussing two case studies: one that implements music and medicine well and one that exploits the cultures from which the music originated.

Africa

One sociocentric culture that incorporates mediumship and music in its healing practices is *ngoma* from Africa. *Ngoma* is the drumming tradition of some Bantu-speaking sub-Saharan African countries, including Zaire, Tanzania, Swaziland, and South Africa. *Ngoma* ceremonies differ in purpose, from sacred to entertainment. According to anthropologist John M. Janzen, it may be referred to as a “cult of affliction”, because illnesses are believed to be caused by spirits and must be appealed to in order to heal (Janzen 4). Cults of affliction are social organizations whose members believe that illnesses are caused by a force, such as a spirit, and that a patient, medium, and community must appease the spirit through rituals in order to understand the illness and heal the patient. A medium must interact with these spirits through possession in order for the patient to be healed of their disease. There are many different types of *ngoma*, but all types are associated with bringing the afflicted back into health and community. The social component is essential in healing to provide a “consensus of knowledge” when paired with divination, which utilizes music (Janzen 152). The *ngoma* culture emphasizes the importance of a community’s responsibility to preserve the health of its members and the overall cohesion of its members.

Typically, mediums are inaugurated into the *ngoma* after they are chosen by a spirit that causes illness. The selection may be due to parentage, but it is also possible that selection is not hereditary. Another medium is able to interpret the possession and thus help the afflicted person accept their new role in order to be relieved of the manifestations of the possession. The person selected by the spirit then undergoes training in divining techniques, such as throwing the bone. This method of determining the cause of illness involves throwing a bag of small objects, usually bones, onto the ground and asking the people with the patient questions about the patient’s illness. The pattern the objects form works in tandem with the patient’s background in order for the medium to diagnose the patient. If the attempt is unsuccessful, the bag of bones may be thrown again and the process repeated. Trance and the reading of different texts,

such as the Quran or Bible, are also utilized in the divination process. Mediumship is a traditionally male role, but females are also permitted to become mediums. For example, a female medium interacted with the spirit of her deceased daughter in order to heal, and she incorporated her Catholic faith into her divination process, invoking the name of Jesus (Janzen 18). Becoming a medium involves extensive training, and different levels of experience are indicated by beads worn; both the amount and color of the beads signify training level. Not everyone who enters into training becomes a medium. The actual initiation ceremony is ritualized; a novice performs different rituals and communes with spirits for several days and nights. Some parts of the ceremony are more sacred than others. After the ceremony, the novice becomes a healer. In small communities, mediums and patients may know each other well, but mediums in larger, transient cities may treat unknown people or foreigners.

Treatment is generally comprised of the use of divination, medication, and group renewal, which is much like group therapy unifying the community in order to heal the patient. However, specific treatment depends of the type of affliction and spirit involved. Spirits may be associated with nature or with people who have existed in the past, such as the victims of Swazi wars (Janzen 44). Illnesses from nature spirits are treated by seclusion, counseling, and rituals (Janzen 19). Spirits may also have genders, which play a significant role in the healing process. Spirits of different sexes are treated on different sides of the body. If male, the healer treats the right side of the body, and the left side of the body is treated for female spirits (Janzen 28). The healing process is tailored to the affliction of the patient.

Patients are traditionally members of the community that go to the medium to be relieved of an illness. However, as there is much modernization and movement of people, outsiders, even those who are not African, can consult mediums. Sex is a factor in treatment, as women are considered weaker and more susceptible to illnesses caused by nature spirits. Because mediums are paid, patients often assess the severity of their condition before consulting a medium. This brings an element of community, as the patient's family and friends can help them in making their decision to go to a medium and in recovering from the illness.

Ngoma literally means "drum", so instruments are vital in the process of interpreting the problem and then healing the affected person. Many different kinds of drums, shakers, and gongs are used to represent the specific spirits. The exact instrumentation of *ngoma* ceremonies varies by region and purpose of the ceremony. The music is a vital component of the divination and healing process, as mediums can use it in conjunction with hallucinogens to initiate a trance-like state so that the mediums may decipher the problem by consulting spirits. The patient is also enabled by

the music and medicine to speak freely and thus get diagnosed properly. Dancing and singing also often accompany the music to excite participants and improve divination and the treatment.

Malaysia

Just as African *ngoma* mediums turn to spirits for guidance in healing, the Temiar people of Malaysia, studied by anthropologist Marina Roseman, also use the world around them to interpret illness and methods to heal. One major difference between the two cultures is the belief in the cause of illness. While illnesses in African *ngoma* are believed to be directly caused by spirit interference, illnesses in the Temiar culture are believed to be the result of the departure or disturbance of a detachable portion of a person's soul, and it is the responsibility of the medium to create order and restore the person's soul, thus rendering them healthy once more. A person's soul can be lost randomly or because of an infraction against nature or another person, such as invading personal space. When a spirit is disturbed and lost, a medium utilizes songs gifted to him by a spirit guide in order to heal. In addition, the ill person must reconcile with the person, animal, or thing he or she has offended. Therefore, people are responsible for themselves, but more importantly, for each other in a sociocentric cultural setting.

Healers or mediums are chosen by a spirit guide who is able to gift them with a song through a dream that enables mediums to restore patients back to health. Most mediums are male, and most spirit guides are female. The spirit guide may select anyone to be a medium, and this selection is the only way for a person to become a medium. While the spirit can choose anyone, the ability to receive songs tends to run in families. The medium and spirit interact in a teacher-student relationship but also may be considered lovers. Spirit guides are usually the souls of natural elements, such as a mountain or river. Women may also be mediums, but the overwhelming majority are male. Women are active in other ways, such as being midwives. The medium's ability and special status allows him to be a leader in his community. This is implicated by the term of significance *tohaat*, which means life-giver (Roseman "Healing Sounds" 123). This term may apply to a medium, midwife, physician, or the main creator god. A medium is expected to be stoic and calm, so the medium's wife is often a foil to his personality by being louder and more passionate about issues in the community. The medium is not only a channel of the spirit world but he is also a leader in his community.

When a healer sings the song given by the spirit guide, he is able to link back to the knowledge of the spirit. This enables him to locate the patient's lost spirit and navigate it back in place. The song is only potent when the medium who received the song sings it or when he ceremonially gives it to another medium. If performed by another person, the song loses

its potency and becomes a song for enjoyment. The structure of the ceremony is a complex call-and-response format. The medium sings his song, and a female chorus that also plays bamboo-tube stampers sings the response portion in a way that layers the song and gives it more tonal depth. The rhythm of the song is vital, as it is believed that the pulsation causes a feeling of longing that encourages the spirit guide to join the ceremony. The spirit guide, medium, chorus, patient, and audience are able to unite through the music and help the medium diagnose the patient. In order to heal the patient, the medium enters an altered state of consciousness, such as dreaming or being in a trance. In addition, objects from nature believed to be associated with the spirit guide's characteristics are used to involve the senses and welcome the spirit guide. After determining the problem, the medium treats the affected soul portions by blowing, sucking away the illness, and pouring a spiritual liquid that helps the body heal and cool down. In a society where personal space is vital and rules must be kept to prevent illness, the medium holds a special position in being able to touch with the purpose of restoring the person to health.

Columbia

Like Temiar mediums, shamans in the Columbian highlands use an altered state of consciousness to diagnose and treat an illness, as discussed by anthropologist Michael Taussig. The shaman is the person gifted with the ability to interpret, heal, or harm using the power of the *yagé*. Instead of dreams or trance, as in the Temiar culture, the shamans utilize a potent hallucinogenic plant brew to achieve a different state of mind. *Yagé* is from a vine found locally that is considered to be the source of knowledge and means of communication between living, dead, and divine beings. Music is used in conjunction with consumption of *yagé* to determine the illness and also to remove it from the body. The ceremony is a collaborative process; although the healer determines the illness, the other participants are involved in the ceremony by also consuming the *yagé* and experiencing visions. Discourse is vital in the process, as is addressing tensions in the community. Envy is considered a powerful instigator of causing illness, and through discussion and vomiting, the patient may recover from the physical ailment caused by the social offense of envy. The practice of shamanism in the rural highlands of Columbia shows the importance of community and the unique role of the healer.

Shamans are believed to be keepers of knowledge provided by *yagé*, which causes an altered state of consciousness. The *yagé* is a method of communication between humans and God, saints, and deceased shamans of the past. It is "conceived as something akin to the origin of knowledge and their society" (Taussig 140). This hallucinogen provides the shaman and also those in attendance with powerful visions but also can cause intense pain and vomiting. The visions provide clarity to the situation and

allow the shaman to discern the cause of illness and also treatment. The vomiting caused by the *yagé* purges evil from the body, and thus can relieve suffering. Shamans are thought of as holding a special role, but in an instance described in the text, people were able to break the distance held usually in healer and patient interactions. The patients stayed with the shaman's family while the shaman was away, so they lived and worked side by side the shaman's family. The patients were able to discuss their illnesses amongst themselves and the possible causes. This helped the patients see the shaman in a different light and demystify the shaman's role (Taussig 344). Shamans are in a unique position as healers and possessors of knowledge, but the day-to-day interaction with patients enables community building.

The process of becoming a shaman is intense and painful. A person, generally a man, may become a shaman either on his own or through apprenticing under a practicing shaman, but he must consume the *yagé* to an extent where he feels as if he is dying. Not all aspirants are able to become shamans; the experience of consuming *yagé* is often too extreme. In order to heal, shamans undergo incredible suffering. By overcoming near death, shamans can bring others from suffering into health. Therefore, the shaman's practice is not only an endeavor to heal others but also a journey to heal themselves. As Taussig writes, "The resolutions of [folk healers' and shamans'] illness is to become a healer, and their pursuit of this calling is a more or less persistent battle with the forces of illness that lie within them as much as in their patients" (Taussig 447). A shaman is not only the healer, but he is also his own patient.

Illness may be caused by many different things, such as magic, spirits, or envy. Suffering could be the result of sorcery. An example of this is when envy results in illness. A person can become sick if another person is envious and utilizes sorcery to cause harm. This sorcery can be lodged in the torso and manifested as illness (Taussig 395). However, as described in the text, "envy is not so much the cause of sorcery and misfortune as it is the immanent discursive force for raking over the coals of events in search of the sense (and senselessness of their sociability)" (Taussig 194). Spirits from the dead or of nature, called *mal aires*, can also attack a person's body and cause illness.

The *yagé* is administered by the shaman to people in attendance for the healing ceremony. Through the process of the healing ceremony, the shaman uses movement and chant in order to compel the evil from the patient's body. This may be in performing actual actions associated with motion such as sucking, spitting, or stroking the illness away, and the shaman may even beat the patient with stinging nettles in order to release the evil (Taussig 395). The shaman's use of music brings order from chaos, but although the shaman is singing, it is a process in which the patient is

an active participant in giving the music meaning (Taussig 460). Songs can also be sung as a result of the *yagé* in order to invoke magic, such as charming an object to either bless or curse (Taussig 347). Music may also be used to call upon traditions and communicate with the dead, Catholic figures, or spirits (Taussig 149). Music is a gateway through which shamans can access abilities using the *yagé* to perform magic or healing.

Madagascar

While the shaman of Columbia utilizes a plant brew to achieve knowledge about a patient, the *tromba* mediums of Madagascar use spirit possession to attain knowledge and heal. Medical anthropologist Lesley A. Sharp has detailed the culture of *tromba* in her research. *Tromba* spirits of deceased royalty possess certain women and enable them to act as mediums to discern problems and the appropriate treatments. Women who become mediums for the *tromba* spirits experience an altered state of consciousness when they are possessed, so they don't remember what occurred during their possession. The spirits, though unpredictable, are able to provide knowledge by speaking through the medium. Music is utilized in ceremonies in order to draw the spirit to the gathering and also attract an audience. In contrast, there are evil spirits that cause illness in other people in the community and must be driven out. The *tromba* spirit through the medium is able to discern the spirit and how to be rid of it. The presence of others is essential to this practice, and the community rallies around the suffering person in order to bring him or her back to health.

Tromba spirits are predominantly male and select females to possess. Although other spirits can possess, the *tromba* spirits are powerful and authoritative. As in the *ngoma* culture, there is an emphasis on suffering and ways to recover from suffering. Each *tromba* spirit has a distinct personality that is evident when it possesses a medium, and when it possesses a medium, her personality is displaced temporarily until the spirit leaves (Sharp 20). In addition, there are varying levels of age and authority that spirits hold, and this is designated by classification of grandchild, child, or grandparent. Usually older women are able to be possessed by the older, more authoritative spirits. The medium has a delicate relationship with the spirits who possess her; the spirit is able to help people, but it must be appeased with money and goods. A medium may be the vessel for several spirits to inhabit, but only one spirit at a time uses the medium's body (Sharp 124). Although overall beneficial, the *tromba* spirits demand much.

The mediums of *tromba* culture are numerous and powerful. During Sharp's study, approximately 60% of the women from the Malagasy town, Ambanja, of population 26,000 were possessed (Sharp 2). Out of this percentage, approximately half are migrant women, who speak

Malagasy but are not of the ethnic group indigenous to the area. The role of medium allows these women to integrate into society and gain status. Women are more likely to be possessed because they are considered weaker and more susceptible to possession in addition to becoming somewhat of a spouse to the spirit, although the medium may have a human husband and family (Sharp 175). The process of becoming a medium starts with the spirit choosing a woman and causing her to be ill. After determining that her illness is caused by a spirit, she then must become a medium or can become ill or die (Sharp 12). Other mediums assist the woman in bringing out the spirit. The spirits are considered powerful in the community and thus make the mediums powerful members of society.

The music of *tromba* ceremonies, used to bring out the spirit, speaks to the importance of community. Many mediums attend the ceremony, which goes through a day, the night, and to the next day. The date and time are selected according to solar and lunar calendars to be auspicious. The music is played by hired musicians, and rattles are played by the audience (Sharp 123-124). The community attends the ceremony where the medium becomes possessed and the spirit is able to speak through her.

In addition to *tromba* spirits, there are many other spirits, some of which are capable of doing great harm. These spirits usually attack young girls between the ages of thirteen and seventeen (Sharp 141). The spirits are often sent to harm using powerful magic. The mediums are able to negotiate with the spirit until it leaves. The presence of people around the ill person is imperative in order to fight off a spirit; otherwise, the patient may become ill or die (Sharp 141). Those around the possessed also provide moral support and are able to transport her for exorcism and speak on her behalf when she is unable to speak. The participation of many different people causes the ceremony to be a cooperative work, making people responsible for the well-being of others.

Comparison and Contrast with Western Medicine

In the different healing practices discussed, there is an emphasis on the responsibility of a community in the patient's health. In the African *ngoma* practice, the audience of the divination ceremony helps the medium by providing information regarding the patient's illness or by participating in group therapy to resolve social issues, thus bringing healing to the patient. In addition, the patient's community can assist in determining whether or not an ill person should consult a medium. In Temiar healing practices in Malaysia, community reconciliation and reestablishing social balance is important in healing. The community often participates in the healing ceremony as the musicians or female chorus, and it also creates a feeling of longing in order to encourage the attendance of spirits. In

addition, invading the space of nature or another person can cause illness, so this encourages unity of the people and mutual respect and responsibility. In the indigenous healing practices of Columbia, the experience of taking *yagé* is a community affair with much discussion. In the Madagascar *tromba* practice, the community rallies around the patient in order to provide financial and emotional support. In fact, the presence of people around the patient is vital in order to fight a possession. In sociocentric cultures, the process of healing isn't only between the healer and patient. A sociocentric view of life in African, Malaysian, Columbian, and Malagasy healing practices emphasizes the importance of the community in the quality of a patient's health.

In western medicine, the perspective is egocentric, or centered on the self. In this thinking, the individual patient is the focus instead of the patient in the context of a community. Therefore, the patient is solely responsible for the implementation of medical advice and working with the doctor towards health. The members of the community concentrate on their own health. Even within a family, members usually become deeply involved only if the patient is a child or in the case of major health issues. Although the family provides emotional and financial support, it is not considered to be a major component in bringing the patient back to health. Western medicine also implements isolation in the case of infectious diseases or if the patient possesses a weak immune system. This is important in maintaining a sterile environment and preventing an illness from being spread or the patient from becoming more ill, but it is possible that such isolation could result in social isolation. The focus on the patient's return to health excludes the contribution of the community, thereby encouraging an egocentric rather than sociocentric worldview.

While social aspects play an important role in the healing process, the role of a healer is paramount in bringing a patient back to health. The medium in the indigenous cultures discussed hold much power, usually in being able to communicate with spirits and use their knowledge to affect the health of people. They also can be set apart from the community by being selected by a spirit to be a medium, such as in the Temiar culture when a spirit chooses the dreamer to be a medium. In fact, at times, as in *tromba* practices, a person must become a medium when chosen or risk death, or may, as in the Columbian shaman rituals, choose of their own accord to become a medium. Not everyone is capable of becoming a medium in cultures like *ngoma* that have schools to teach healing practices. In addition, mediums in some of the cultures heal because they have been healed, especially if their journey towards mediumship involved being ill. They are initiated as mediums to wield power over suffering by suffering, and thus they not only heal their patients but also heal themselves. Mediums usually also receive specialized training or healing practices as a

gift from the spirits. The mediums in the *ngoma* practices of Africa undergo training, and their mastery is indicated by the number and color of beads they wear. In addition, the more experienced, senior mediums in the Malagasy *tromba* practice are able to receive more powerful knowledge through the possession of older spirits. After becoming a medium, healing practices become a huge aspect in the person's life. For example, as discussed in Malay Temiar and Malagasy *tromba* cultures, mediums are considered to be the lovers of the spirits who give them knowledge. Mediums also may be able to hold the power to both heal and harm, as evidenced in the Columbian shaman and *tromba* medium practices. This ambiguous role does not detract from the power and special social standing of mediums in their communities as the owners of special knowledge with access to spirits. Mediums in indigenous cultures become powerful people in their communities.

The role of a western doctor is to help people by using medical knowledge. This medical knowledge is dispensed in a standardized fashion in the United States over the course of approximately seven to ten years of graduate and post-graduate medical training. Just as in the *tromba* culture of older mediums being more powerful, doctors who have more experience and training in their field are considered more knowledgeable. People who wish to be doctors may have family members who are physicians, but, unlike cultures where the ability to be a medium can be hereditary such as the Temiar culture, medical school students must complete training and remain dedicated to their work and future patients. As with the *ngoma* culture, not everyone has the financial, mental, or physical means to become a doctor, and not all medical school students are able to complete their training. Just as in cultures that utilize mediums, extensive medical knowledge often sets apart doctors in society as the possessors of special knowledge and may also elevate their socioeconomic standing. In addition, being a doctor can become as much a part of a person as being a medium may be. The love of knowledge and obsession over medical practice can be so great that doctors could be perceived as being married to their work, although doctors are not considered to be the lovers of their profession. The profession of a medical doctor is not easy, but the experience of working with patients to restore them to health can be very rewarding.

The phrase "do no harm" applies well to the overall mission of the doctor. Not only should doctors not harm a patient, but they also have an obligation to alleviate suffering, whether it be physical or emotional distress. This is in contrast to the indigenous cultures discussed that enable mediums to perform healing and harming acts; the medium is not obligated to only use his or her power to heal. The western doctor must work with the patient towards a solution to bring them back to health. As defined by the World Health Organization, "health is a state of complete

physical, mental, and social well-being and not merely the absence of disease or infirmity” (“WHO definition of Health”). A doctor is able to effectively bring a patient back to health when he is able to mesh the scientific with the social. An example of effective care would be a doctor correctly diagnosing the problem, explaining the problem to the patient with sensitivity and in terms the patient would understand, and then working with the patient to find the best option for treatment. Although doctors are committed to doing no harm, this principle can become unclear in some situations. For example, in end-of-life care, the balance between prolonging the patient’s life and maximizing the quality of life is hard to determine, as highlighted in the recent case of Brittany Maynard, a terminal brain cancer patient who chose assisted suicide instead of prolonging the suffering of herself and her family (Shute). Brittany Maynard made the decision that it was in the best interest of her health to die, and the physician who prescribed the lethal medication may or may not be considered to have done no harm. In addition, painful treatments like chemotherapy for cancer often cause intense pain, nausea, and fatigue, so this remedy could be considered an instance when the doctor harms the patient in order to heal the patient. Although ethical issues blur the lines of the role of the doctor, the western doctor is not permitted to perform malicious acts on people as some mediums have the authority to execute. The notion of healing through pain in the indigenous cultures discussed is not held in western medicine. Doctors are often perceived as being an outsider to the suffering of the patient, as they are able to objectively diagnose and treat a patient. In addition, as with mediums and their patients, patients must trust their physicians as the doctors are able to prescribe strong medications that the patient may not understand, touch the patient, and discuss potentially sensitive aspects of the patient’s life in order to provide effective care.

The understanding of the cause and treatment of illness differs between indigenous cultures and western medicine. Some cultures, such as *ngoma* and *tromba*, acknowledge spirits of nature or deceased people as causes of illness. In *ngoma*, the medium appeals to the spirits and may give medication or group therapy as part of the healing process. In *tromba*, the medium is possessed by the spirit, which gives guidance. The Temiar people’s perception of illness is different in that it is the imbalance or loss of a portion of a person’s soul that leads to illness. The medium locates the spirit and brings it back by using music to restore balance between the people, nature, and the patient. In the Columbian shamanism culture, *yage* provides the knowledge to heal. Music is a vital aspect in all of the healing practices as a means to connect the audience, mediums, patients, and spirits. Religion and spirituality are deeply ingrained into all of the cultures’ understanding of health and healing.

Illness in western medicine is defined in a variety of ways, but it occurs when the body becomes unbalanced, which includes disease caused by a microorganism, virus, injury, or a problem within the body, such as cancer, a genetic disorder, or autoimmune disease. A physical causative agent can, ideally, be found and eliminated. The process of a patient deciding to go to a doctor is very similar to the process as discussed in *ngoma* that a patient goes through before consulting a medium. Just as *ngoma* patients first analyze their condition and ask family and friends, the same is also true when patients in western medicine ask their peers if the illness is serious enough to go through the temporal and financial commitment that is a doctor's office visit. Once the patient decides to seek medical attention, the doctor relies on medical tests, observations, and the patient's subjective descriptions in order to make a diagnosis. Although a combination of observations and discussion is utilized in the indigenous cultures discussed, there is also the supernatural element of the spirits revealing the problem to the medium. Generally, spirituality is not an encouraged element of delivering medical practice, as religion is not universal and not considered to be a direct component in the cause or treatment of a disease. However, doctors, who may or may not be religious, are to be sensitive to the patient's beliefs. Separating different parts of the body and compartmentalizing the body from the person allows doctors to target a specific problem and could be a way to avoid emotional involvement with the condition of the patient. With the social expectation of a doctor to be the voice of reason and strength, it can be difficult for a physician to emote while maintaining a professional veneer and still be able to move to the next patient and work effectively.

A physician must never discount the patient's opinion. It is a patient's belief in the efficacy of the treatment that will help him or her implement it outside of a clinical setting and be a source of optimism about the future. A patient's emotional health is just as paramount as physical health, and the two are closely knit together. Just as the placebo effect can be powerful in the efficacy of a medication, a patient's outlook greatly determines the possibility of a treatment being effective. This is the dilemma of a doctor: wanting to be compassionate and support a patient emotionally but knowing the science behind a condition and the need to save time and money in a medical practice.

New Age

While medicine could learn much from non-Western cultures, I believe that is important to keep a scientific perspective at the forefront in order to analyze the physiological and psychological effects of a treatment while viewing the body in a new light. One field that must be carefully considered before being integrated with medical practice is alternative medicine, which includes New Age philosophies. Although this field is

often classified as “other,” just as many non-Western healthcare practices, it is important to assess alternative medicine from a multidisciplinary viewpoint by analyzing its scientific properties in addition to its social context. This is important because alternative medicine can be prone to misinterpreting cultural practices for economic and emotional gain and may report things as fact without being tested via the scientific method of hypothesizing and experimenting. A balanced study is essential in the consideration of alternative medicine options and the use of music in medical practice.

An example of misappropriation of a cultural element is the New Age use of the didgeridu as a means to connecting to a more “natural” state. It is an Australian Aboriginal instrument traditionally used for entertainment purposes. It is not used as a means of healing, but it does give a sense of well-being in different aspects of the lives of those who are ill and the surrounding community (Neuenfeldt 76). While it is not believed to have physical powers, it is used to strengthen social ties. However, the New Age movement adopted the didgeridu as a means to reconnect with the sacredness of the earth and a more basic nature. New Age philosophies named the instrument a sacred and healing instrument even though it was not a component in Aboriginal spirituality or healing. Thus, a fascination with the power of the didgeridu resulted in literature that not only romanticized and exoticized Aboriginal culture but also fabricated a culture that did not exist.

Not only did the New Age movement exploit the cultures from which the instruments originated, but it also rejected the science of whether or not the instrument was effective by citing technological advances as destructive because technology separates people from a “primitive” relationship with the natural world. However, this stance is contradictory. New Age philosophy puts nature and science in the roles of antagonists, yet as Karl Neuenfeldt argues, “there are varying degrees of acceptable technologization within New Age therapeutic practice such as the passing of a didgeridu and its sound waves over a patient's body” (Neuenfeldt 80). Therefore, the New Age movement rejects technological advances while supporting the supposed benefits of instruments, which could be considered a form of technology, that are not believed to have healing properties in the originating culture.

Music-play Project and Autism

Music therapy is an innovative method of blending medicine and music that honors cultural contexts. While traditional western medicine still promotes cause and effect and keeping the body and spirit as dichotomous components, fields like music therapy are gaining more respect and allowing a multidisciplinary approach to medicine, particularly for patients with mental or developmental disorders. This new approach

meshes both emotional and physical in a way that can be studied scientifically and provide comfort to the patients. One example of this is the Music-Play project at Florida State University, which researchers Michael Bakan and Benjamin Koen detailed in the article "Following Frank." The Music-Play project, now the Artism Musicultural Center of Florida, aims to foster response-ability and happiness in children with ASD (autism spectrum disorder) using improvisatory music-play that allows the children freedom to explore while keeping them safe. Response-ability is "the ability to respond positively to others and not just to fulfill assigned duties" (qtd. in Bakan et al. 163). People from different fields were able to collaborate in order to give the children a comprehensive experience. The professionals involved were medical doctors, a psychologist, an autism expert, speech-language students, and a music therapist in addition to the ethnomusicological researchers (Bakan et al. 172). This project was a multidisciplinary effort to encourage children with autism to express themselves, find joy in new experiences, and be culture creators.

Bakan and his co-authors point out that western society may label children with autism as "primitive," "abnormal," or "other," not unlike the ways that people from non-Western cultures have been classified. They argue that indigenous peoples are not lacking in development but rather were classified in that way due to "the limiting perspectives of the research and the limited perceptions of the researchers doing it" (Bakan et al. 172). The same applies to children with autism who are discounted as having no interest in social interaction. The project utilized small group sessions with three children, their parents, and the two researchers who met together for forty-five minutes over the course of six weeks.

Although there was a general, loose structure, the researchers and parents allowed the children to interact with the instruments and each other, and they only responded to the children instead of leading the flow of the session. The instruments were chosen according to their safety and accessibility. Balinese gamelan instruments (gongs, metallophones, and drums), the Sudanese angklung (bamboo idiophone), Ghanaian gyil (instrument similar to the xylophone), and various other instruments including slide-whistles and egg shakers were available for the children to explore (Bakan et al. 172-173). In addition, the researchers played the Chinese bamboo flute and didjeridu for the children. The didjeridu was a favorite instrument because its "low-pitched, resonant sounds were powerfully attractive" to most of the children (Bakan et al. 187). During the session, the children were given the freedom to interact with the instruments, other children, their parents, or the researchers. Because of this freedom, the children were able to respond as much as they felt comfortable to do, and the researchers were able to nurture their behavior.

Although mostly unstructured and improvised, the program was successful in encouraging children with autism to engage with the music and others present. Not only did the experience create positive responses in the sessions, but the children were able to continue the culture they built at home and school (Bakan et al. 181). Also, parents were able to gain a fresh perspective about their child and interact with them in a new context. The effects of the experience were carried over into life beyond the program.

The program was successful due to the emphasis on social interaction as determined by the children. The involvement of the parents ensured that the lessons learned and behavior established could carry on in everyday life in addition to providing comfort and familiarity to the children in a novel setting. The collaboration of the ethnomusicologists with medical professionals also allowed the program to be comprehensive and to evaluate the children holistically, including both physical and emotional aspects. One possible amendment or point of discussion that should have been addressed in the article was why the instruments utilized were chosen. The authors, being ethnomusicologists and world music instrument specialists, picked instruments they knew would be safe and accessible to the children, but it is also important to give a background on the originating culture of the instruments in order to avoid exoticism. For example, physically, the didgeridu's sound was favored by the children, perhaps due to its tonal quality, but the emotional response is what allowed the children to become calm. The reasoning for this is not described extensively in the article nor is its importance in the culture from which it originated. Although the instruments were novel and resonant, their cultural significance must be taken into account before use in a new context. Overall, the program helped the children develop a sense of creating their own culture and expressing themselves. The project was a unique way to integrate music and medicine.

Music therapy is a highly individualized process designed to suit the patient's preferences and psychosomatic condition. Music therapy seeks to provide quantitative results to satisfy the western perspective while bringing in the qualitative aspects common to indigenous healing practices. For example, a group drumming study published in 2001 showed that music therapy could lead to neuroendocrine and immunologic changes that were the symptoms of improved emotional health and alleviation of stress (Bittman et. al). Music therapy is tailored to the patient in order to "include cultural factors, with particular attention to the individual's musical experiences, ways of relating to music, and ways of relating through music to others" (West and Ironson 412). This individualized experience was demonstrated in the researcher's adaptation to a child's behavior in the Music-Play project. While music therapy can

bring much healing, it is important to know that it cannot guarantee the linear cause and effect process expected from traditional western medicine. The physical effects of music are difficult to quantify and may not be present in every patient that utilizes music therapy. Nevertheless, it is important to realize that music therapy could improve the quality of life for patients and be a legitimate avenue of healing. Music therapy is an excellent example of a multidisciplinary approach to medicine.

Conclusion

All efforts to incorporate non-Western cultures into a medical context must be done in a manner that appreciates science, spirituality, body, and mind. While different practices can be used in different contexts, it is important to acknowledge the cultures from which different social practices or instruments originate. In addition, the scientific process of hypothesizing, researching, testing, and evaluating must be maintained to determine whether or not a practice is indeed beneficial. There are many benefits to the methodology and ideology of western medicine just as there are benefits to the methodology and ideology of indigenous practices. The opposite is also true; both methods of delivering healthcare have various issues. It is important to work within the western healthcare system and incorporate positive change. If modern medicine recognizes the value of other disciplines while maintaining scientific principles, researchers can collaborate to create new, more successful ideas to maximize the health of the patient.

The important aspects of the indigenous healing practices discussed that western medicine can work to implement are the incorporation of a community to support the patient, multidisciplinary view of the delivery of healthcare, and analysis of each patient as unique. It is important for physicians to realize that “biological processes, like aesthetic experiences, are socially, culturally, historically, and individually mediated” (Roseman “Healing Sounds” 36). During physical healing, the physician should work with the patient to achieve emotional healing, as both aspects of health are closely associated. Even if physical isolation is paramount to a patient’s health, social isolation should be avoided. The community should rally around the patient and uphold their emotional, spiritual, and psychological health. The egocentric view of western medicine has merits such as in recognizing the value of the individual. However, as demonstrated by the indigenous cultures discussed, it is important that a patient has the support of a community in order to be restored to a state of health. This can be implemented by encouraging family and/or friends to be present during the process of restoring a patient to health or, as evidenced in the Music-Play project, be present to help regulate emotions and provide comfort. Even if people are not permitted to be near the patient, listening to music, which is an emotional

and physical experience, can be soothing to the patient. The indigenous cultures discussed also emphasized a view of the body as a complicated organism with many facets, which is important in the practice of a doctor. As a patient can bring emotional, mental, and physical problems with them into the examination room, a doctor must be able to analyze the patient in a manner that is respectful and can maximize the quality of life. A detailed analysis that encompasses different aspects of the patient is important in order for the doctor to notice nuances that may play a significant part in diagnosis and treatment. For example, in the indigenous cultures discussed, religion is an active component of the peoples' lives, and this is reflected in the spiritual nature of the healing practices. Religion can bring emotional healing to some patients or may bring distress to others; a doctor should not shy away from an issue that is important to the patient but instead realize the clinical repercussions of spiritual beliefs (Koenig 50). Finally, doctors should view the patient as unique. Many of the healing practices discussed involved a personalization of divination and treatment of the illness in order to bring healing, and doctors should work to make their care personalized to the patient.

Although the indigenous healing practices from the cultures in Africa, Madagascar, Columbia, and Malaysia are unique in the cultural context of perception of health and healing, there are some common aspects, such as a sociocentric view of healing, importance of the medium in society, and the view of a person in context of his or her community and personal experiences. Some of these aspects, such as the importance of the healer and patient, are also common to the western medical approach to healthcare. One significant split between the indigenous healing practices discussed and the western medical approach is the multidisciplinary, sociocentric view of healing in the indigenous cultures and the dichotomous, egocentric view of healing in western medicine. Although the method of healthcare is dependent on the cultural context and the worldview of the people, it is possible for elements of indigenous healing practices to be incorporated into western medicine through an ethnomusicological approach and music therapy. While this is possible, it is paramount to retain cultural sensitivity of both indigenous cultures and the western culture in which the practices are incorporated. People and cultural practices should not be exoticized, which only builds barriers between cultures instead of encouraging collaboration and sharing of ideas. By incorporating the social elements common to indigenous cultures, western medicine could improve to have a more comprehensive impact in the lives of patients.

Works Cited

- Bakan, Michael B.; Koen, Benjamin; Kobylarz, Fred; Morgan, Lindee; Goff, Rachel; Kahn, Sally; Bakan, Megan. "Following Frank: Response-Ability and the Co-Creation of Culture in a Medical Ethnomusicology Program for Children on the Autism Spectrum". *Ethnomusicology* 52.2 (2008): 163-202. Print.
- Bittman, Barry B.; Berk, Lee S.; Felten, David L.; and Westengard, James. "Composite effects of group drumming music therapy on modulation of neuroendocrine-immune parameters in normal subjects". *Alternative Therapies in Health and Medicine* 7.1 (2001): 38-48. Print.
- Janzen, John M. *Ngoma: Discourses of Healing in Central and Southern Africa*. Berkeley: University of California Press, 1992. Print.
- Koen, Benjamin D., Barz, Gregory, and Brummel-Smith, Kenneth. "Introduction: Confluence of Consciousness in Music, Medicine, and Culture." *The Oxford Handbook of Medical Ethnomusicology*. Ed. Benjamin D. Koen, Ed. Gregory Barz, Ed. Kenneth Brummel-Smith. New York: Oxford University Press. 2008. 3-17. Print.
- Koenig, Harold G. "Religion, Spirituality, and Healing: Research, Dialogue, and Directions." *The Oxford Handbook of Medical Ethnomusicology*. Ed. Benjamin D. Koen, Ed. Gregory Barz, Ed. Kenneth Brummel-Smith. New York: Oxford University Press. 2008. 46-71. Print.
- Neuenfeldt, Karl. "The Quest for a 'Magical Island': The Convergence of the Didjeridu, Aboriginal Culture, Healing and Cultural Politics in New Age Discourse." *Social Analysis: The International Journal of Social and Cultural Practice* 42.2 (1998): 73-102. Print.
- Roseman, Marina. *Healing Sounds from the Malaysian Rainforest: Temiar Music and Medicine*. Berkeley: University of California Press, 1991. Print.
- Roseman, Marina. "A Fourfold Framework for Cross-Cultural, Integrative Research on Music and Medicine." *The Oxford Handbook of Medical Ethnomusicology*. Ed. Benjamin D. Koen, Ed. Gregory Barz, Ed. Kenneth Brummel-Smith. New York: Oxford University Press. 2008. 18-45. Print.
- Sharp, Lesley A. *The Possessed and the Dispossessed: Spirits, Identity, and Power in a Madagascar Migrant Town*. Berkeley: University of California Press, 1993. Print.

- Shute, Nancy. "Contemplating Brittany Maynard's Final Choice." NPR. 3 November 2014. Web. 3 December 2014. <
<http://www.npr.org/blogs/health/2014/11/03/361121080/assisted-suicide>>
- Taussig, Michael T. *Shamanism, Colonialism, and the Wild Man: a Study in Terror and Healing*. Chicago: University of Chicago Press, 1987. Print.
- West, Therese and Ironson, Gail. "Effects of Music on Human Health and Wellness: Physiological Measurements and Research Design." *The Oxford Handbook of Medical Ethnomusicology*. Ed. Benjamin D. Koen, Ed. Gregory Barz, Ed. Kenneth Brummel-Smith. New York: Oxford University Press. 2008. 410-443. Print.
- "WHO definition of Health." World Health Organization, n.d. Web. 1 December 2014.
<<http://www.who.int/about/definition/en/print.html>>

The Economics of Affirmative Action Admissions Policies for Asian American Students

Angela Cai

Introduction

In the realm of higher education, Asian American students have thrived in terms of academic excellence. During the last fifty years, many Asian Americans have done so well academically that they are no longer underrepresented on college campuses in the United States. For instance, in 2000, Asian Americans made up 5.9% of college students, but only 4% of the United States population (Harvey & Anderson, 2004). Although this may seem like a success story for Asian Americans, who were often discriminated against in the past, their triumphs in the academic world have actually caused them to again become victim to discriminatory affirmative action policies.

Affirmative action is defined by the United States Commission of Civil Rights as “any measure, beyond simple termination of discriminatory practice, adopted to correct and compensate for past or present discrimination or to prevent discrimination from recurring in the future” (U.S. Commission of Civil Rights, 1977). Instead of being treated as a minority group that is given preferential treatment in college admissions, the opposite is occurring for Asian American students of East or South Asian descent. In college admissions, affirmative action policies often result in an Asian American student being passed over in favor of a non-Asian American minority student with lower grades, test scores, or achievements (Espenshade & Chung, 2005). This paper aims to illustrate that regarding college admissions, even though affirmative action policies were aimed at helping minorities, they have hurt Asian American students of East or South Asian descent more than they have benefited these students. The paper also includes a discussion on alternatives to affirmative action policies that are fair to all racial/ethnic groups, the future of college admissions policies, and whether America is ready to eliminate affirmative action policies.

Section I: A Brief History of Affirmative Action in the United States

Affirmative action has its roots in the Equal Protection Clause of the Fourteenth Amendment of the Constitution, which provides equal protection under the law to all individuals. But after its passage, discriminatory policies, such as Jim Crow laws and zoning laws, still prevented minorities from receiving equal opportunities in terms of salaries, education, and promotions. It wasn't until the Civil Rights Movement in the 1960s that affirmative action policies were implemented to remedy the effects of past discrimination toward minorities. Specifically, the Civil Rights Act of 1964 barred all federally assisted

programs from discriminating on the basis of race or ethnicity. Although this law originally only impacted employment opportunities, it eventually expanded to include admission into higher education institutions. Public colleges and universities were now obligated to desegregate schools and make up for the effects of previous discriminatory practices by giving preferential treatment to minorities who applied to their institutions (Dale, 2002).

During the first few years after the passage of the 1964 Civil Rights Act, minorities saw their enrollment in public institutions increase dramatically. But in spite of affirmative action's good intentions and its success in increasing minority groups' college enrollment rates, it quickly became evident that affirmative action policies also had many flaws. Reverse discrimination began to occur; white students felt that they were denied admission to colleges because the colleges were compelled to save seats for minorities. This debate culminated in the landmark 1978 Supreme Court case *Regents of the UC v. Bakke*. In this case, the Supreme Court addressed affirmative action policies in education for the first time and outlawed quotas in schools. This ruling meant that affirmative action policies could not explicitly provide benefits to minorities at the expense of the majority. However, the Supreme Court did not outlaw the use of race or ethnicity as a criterion for acceptance, for they believed that doing so did not violate the Equal Protection Clause.

There were no major successful legal challenges against affirmative action in higher education until *Hopwood v. Texas* (1996). In this case, the Fifth Circuit ruled that the University of Texas School of Law could not use race-based admissions policies, even for the sake of diversity or for remedying previous discriminatory actions. Many legal experts believed that this ruling would have led to the demise of affirmative action policies, but seven years later the Supreme Court reversed the *Hopwood* ruling. In *Grutter v. Bollinger* (2003), the Court declared that the University of Michigan's race-conscious admissions policies were constitutional since student body diversity is a "compelling interest" in higher education. Race was also only one of the many factors used in an admissions decision, along with socioeconomic status, area of residence, athletic or musical ability, alumni connections, and unusual life experiences. Thus, the court reasoned, since the school conducted thorough and individualized reviews of all applicants, a student would not be accepted or rejected solely on the basis of his or her race.

The latest major Supreme Court cases to examine the constitutionality of affirmative action were *Fisher v. University of Texas* (2013) and *Schuette v. Coalition to Defend Affirmative Action* (2014). The *Fisher* case made it more difficult for institutions to justify using race-based admissions policies to achieve diversity while the *Schuette* ruling

declared that affirmative action bans were legal. Even though affirmative action policies are still being used in institutions around the country, the outcomes of these cases signal a shift in the Supreme Court's stance on affirmative action policies.

Section II: College Enrollment – Racial/Ethnic Demographics

The implementation of affirmative action policies greatly affected the racial composition of college campuses. Data from the National Center for Education Statistics show that while Asian American enrollment in public institutions have increased, they have remained steady at around 6.5% since 2000 (Snyder & Dillow, 2012). On the other hand, the percentage of blacks enrolled in college increased by two percentage points from 2000 to 2012. Hispanic enrollment also increased from 4.0% in 1976 to 16.5% in 2012, and this number seems to still be growing. The percentage of white enrollment has been steadily decreasing since the inception of this study in 1976, falling from 83.5% of college enrollees to 60.0% in 2012.

While this data includes both two-year and four-year degree granting institutions, the National Center for Education Statistics also released studies that separate the two-year and four-year college enrollees. The earliest study, which was published in 2000, showed that among public undergraduate 4-year college enrollees, 69.1% were Caucasian, 12.6% were African American, 6.9% were Hispanic, and 6.1% were Asian American (Knapp, Kelly, Whitmore, Wu, & Gallego, 2002). The latest study was released in 2012. By then, the study shows that the demographics at public four-year postsecondary institutions had changed to 58.7% Caucasian, 11.4% African American, 13% Hispanic, and 6.2% Asian American (Ginder & Kelly-Reid, 2013).

The effects of affirmative action policies in higher education are best seen in the top schools in America: the Ivy Leagues. Even though Asian American students constitute a larger percentage of the enrollees at these elite institutions, they still experience the greatest negative effects of race-based admissions. Unz (2000) shows that from 1991-2011, Asian American enrollments have consistently made up about 16% of all students in all of the Ivy League schools. However, this stagnant enrollment rate correlates with neither the 94% increase in the Asian American population in America nor the 250-400% increase in Asian American applicants to the Ivy League schools (Unz, 2000). Some people may argue that increases in the number of Asian American applicants do not directly lead to increases in Asian American enrollment rates, for even a person with mediocre test scores, low grades, and no extracurricular activities can apply to an Ivy League college. However, the number of Asian American students at the top public magnet schools and prep schools in the United States has skyrocketed (Unz, 2000), implying that many of the Asian American

college applicants are highly qualified. It is clear that affirmative action policies have had a large impact on the number of Asian Americans admitted to Ivy League schools.

Unfortunately, none of the data accurately reflect the effects of affirmative action policies on changes in demographics in the public 4-year universities. For instance, some students may not choose to disclose their race or ethnicity out of fear that it may influence their chances of admission (Unz, 2000). There are also many other outside factors, such as non-Asian American students placing a greater emphasis on attending college and academically preparing themselves more effectively than in previous years, that may have affected the results for all of the above studies. As a result, it is rather difficult to find data that both notes the race/ethnicity of all applicants and controls for all variables except affirmative action policies when examining college enrollment demographics.

Section III: The Benefits of Affirmative Action for Asian American Students

Affirmative action policies may benefit students of all races and ethnicities, including Asian Americans. One of the most common arguments supporting affirmative action is the positive effect of diversity on college campuses, for diversity may lead to increases in income and human capital. Diversity may also induce personal growth and increased civic participation in a multicultural society by improving awareness and acceptance of other racial/ethnic groups' beliefs and cultures. According to Hinrichs (2011), diversity has a possible positive effect on a student's satisfaction with his or her school's racial climate. However, other studies have found mixed results regarding the effects of diversity on earnings and civic activity. Arcidiacono and Vigdor (2010) found a negative relationship between earnings and self-reported ratings of working effectively with college students of other races/ethnicities, while Daniel, Black, and Smith (2001) found a positive relationship between the percentage of blacks at a university and the future earnings of whites. Another study found that student-body diversity was indirectly related to a better understanding of individuals of other races/ethnicities (Pike, Kuh, & Gonyea, 2007).

The balkanization effect may explain why we do not have a better understanding of the effects of diversity on college campuses. The balkanization effect is defined as the self-segregation of college students by race or ethnicity (Duster, 1991), and it occurs in college campuses throughout the country. This self-segregation could be attributed to a multitude of factors, ranging from positive ones like cultural pride and group affinity to negative ones such as ethnocentrism and racial intolerance (Antonio, 2001). Hurtado and her colleagues broke down the origins of the balkanization effect into two main dimensions: behavioral

and psychological. While the behavioral dimension shows that college students believe they have many opportunities for interracial interactions as well as the freedom to make these connections, the psychological dimension holds them back (Hurtado, Milem, Clayton-Pederson, & Allen, 1998). That is, they still hold stereotypes as well as perceptions of racial conflict, which causes them to see their campus as segregated by race and ethnicity. Due to the lack of consensus on the effects of diversity on college campuses, more research should be conducted on this topic to determine whether diversity, and consequently balkanization, actually benefit or harm the student population. This is especially critical at a time when the benefits of affirmative action policies for Asian American students have been called into question.

Section IV: The Costs of Affirmative Action for Asian American Students

As seen in the data discussed above, the percentage of Asian American students at public, and especially private, universities has been fairly constant over the last ten to twenty years. Even though the Supreme Court ruled in *Regents of the UC v. Bakke* (1978) that quotas for minority groups were illegal, it is rather obvious that there is an unofficial quota in place for the number of Asian American college enrollees. Meanwhile, there has been an increasingly large number of Asian American college applicants whose family members are increasingly affluent, highly educated, and eager to see their children receive a high-quality education (Unz, 2000). Asian American parents place a large emphasis on hard work and instill in their children that internal and controllable factors lead to success in the academic world (Kim & Chun, 1994). As a result, many Asian American students internalize these messages and strive to both please their parents and succeed for their own benefit. The effects of traditional Asian cultural values on Asian American students are compounded by their own resolve to be the best of the best. Due to colleges not admitting more than a certain amount of Asian American students, Asian American students are forced to compete against each other for a very limited number of seats. Even when Asian American students are near the top of the academic performance curve, they still have to worry about being the best, for simply being above average is not enough to improve their chances of admission.

In order to obtain one of these prized seats, Asian American students must score better on the SAT test than other racial and ethnic groups, for they receive a 50-point reduction (on a 1600-point scale) to their score during the application review process (Espenshade, Chung, & Walling, 2004). On the other hand, African American applicants receive a 230-point boost and Hispanics receive a 185-point boost. This is neither fair to Asian American students nor does it encourage African American

and Hispanic students to set high academic standards for themselves in high school. While test scores are only one component of a student's application, these boosts and reductions can still affect a student's chances of admission. Highly qualified Asian American students who are not admitted to their top college choices due to affirmative action policies must settle for less prestigious and academically demanding schools. Unfortunately, studies have shown that if these students enroll in colleges that are not selective or challenging enough for their academic qualifications, then their chances of graduation decrease significantly (Bowen, Chingos, & McPherson, 2009).

There may also be other economic consequences for Asian American students who have been harmed by affirmative action policies in college admissions. For instance, the increased support, prestige, and preparation a student receives at a more selective college result in higher acceptance rates at professional and graduate schools (Carnavale & Rose, 2003). Furthermore, graduates of top-ranked colleges earn five to twenty percent more in wages than their peers who graduated from less selective colleges (Gaertner, 2011). Brewer, Eide, and Ehrenberg (1999) found evidence that attending an elite private college, such as an Ivy League school, is strongly correlated with a significant economic rate of return that is still increasing over time. Thus, affirmative action policies may cause highly qualified Asian American students who settle for a less prestigious school to miss out on future earnings and opportunities. This leads to untapped, and even wasted, abilities since these students will not be performing at their full potential in terms of productivity and contributing to the United States economy.

Furthermore, Asian American students who are not near the top of the academic performance curve are subject to additional stressors. Not only do they experience the pressure of doing well in school, but they also experience the stress of not fitting the model minority stereotype. The model minority stereotype praises Asian Americans for achieving academic success, high incomes, low crime rates, and stable families (Wong & Halgin, 2006). However, this model minority myth does not accurately reflect all Asian Americans. Instead, it is built on the achievements of the top members of this minority group, thus masking the diversity of the entire group in terms of socioeconomic status, academic achievement, and job occupations (Tang, 2007).

This masking effect may also lead to harmful psychological consequences. For instance, one study found that the model minority stereotype makes it more difficult for Asian American students to make friends with their peers (Rosenbloom & Way, 2004). Another study found that the stereotype might lead to cultural marginalization, where individuals feel that they do not have a social or emotional attachment to a

particular social group (Sue & Sue, 1990). Not only do these Asian Americans feel that they cannot connect with other Asian Americans, but they also have difficulty empathizing with people of other races. A college's affirmative action policies further exacerbate these issues caused by the model minority myth by admitting relatively few Asian American students – the ones who are part of the model minority – thus creating a vicious cycle.

Section V: Attitudes Toward Affirmative Action Policies in Higher Education

Studies conducted on attitudes toward affirmative action generally found that practices or policies are higher rated if they are perceived to be fairer to all parties involved. Unfortunately, there are very few studies that break down their results by race/ethnicity. Although it is rather outdated, one of the best descriptive studies on this topic is by Sax and Arredondo (1999), who examined the attitudes of different groups toward college admissions affirmative action policies as well as the factors that drive these attitudes. They found that white freshmen students were the most likely to believe that affirmative action should be abolished (25.6%), followed by Asian Americans (16.5%), Hispanics (9.2%), and African Americans (5.3%). Smith (1999) also found similar results in his study, with whites and Asian American students being more opposed to affirmative action policies than African Americans and Hispanics. He also examined affirmative action views and factors that may influence these views, such as parents' income and education, SAT scores, political views, gender, and choice of college. Overall, his results show that white, Asian American, and Hispanic students who have higher SAT scores or whose parents have high levels of education and income are more opposed to affirmative action policies in higher education. However, the opposite is true for African American students who have high SAT scores or who come from wealthy and highly educated families.

More generally, racial preferences in higher education admissions policies are very unpopular among voters, who consistently oppose it by a two-to-one margin (Rasmussen Reports, 2012). A 2013 Gallup poll also found that two-thirds of Americans believe college applicants should be admitted to a university solely on the basis of merit, even if it lowers the admissions rate for minority students. The poll notes that affirmative action policies in college admissions do not have much support because many Americans believe that the consequences of this policy outweigh the benefits. That is, they feel that the admission of low and average-performing minority students for the sake of diversity does not justify the rejection of high-performing students.

These negative attitudes toward affirmative action policies are not likely to improve over time. The increase in minority populations in

America may lead to policies that put an end to racial preferences. For example, the shift in California's demographics, where the white population dropped below fifty percent in 2000, may explain why it was the first state to eliminate affirmative action in 1996 (Rodriguez, 2010). The increase in interracial marriages and biracial children could also pose challenges for race-based affirmative action policies (Morello, 2012). Not only would it lead to questions about racial/ethnic identities, but also it would also lead to an increased number of students who can be categorized as part of a minority racial/ethnic group. The justification for affirmative action policies may also become less persuasive to new generations of Americans. According to a *Washington Post* poll from 2009, only twenty-six percent of Americans believe that racism is a "big problem" in the United States (Fletcher & Cohen, 2009). This number has dropped significantly from fifty-four percent in 1996.

Section VI: Affirmative Action Alternatives

These attitudes imply that many Americans are not opposed to changing affirmative action policies. Indeed, there have been many changes in college admissions policies around the country. In the last twenty years, ten states have successfully implemented race-neutral admissions policies at their public universities. However, many of these states are still concerned about the loss in diversity as well as the racial and economic injustices that may occur as a result of a purely meritocratic admissions policy, for it may lead to colleges becoming institutions for privileged students who have always received a high quality education. As a result, many of these states have invented new admissions systems that place a greater emphasis on socioeconomic status instead of race and ethnicity. These new admissions policies mean that students will no longer be discriminated against as a result of their race.

Two of the best-known race-neutral admissions systems are the ones that have been implemented at Texas and California public universities. In 1997, the Texas legislature passed the Top Ten Percent Plan, which guarantees Texas high school seniors who graduated in the top ten percent of their class automatic admission into a public Texas university of their choice. This percentage plan opens up doors for students from high schools who usually do not have many students who go on to college. The plan also includes a list of eighteen factors for state universities to consider if an applicant is not in the top ten percent of his or her class. While these factors still include racial markers, they place a larger emphasis on socioeconomic markers, such as family income, first generation college student status, parents' education levels, and the academic and financial records of the student's school district (Long & Tienda, 2008). The universities also encourage students to submit letters

discussing any other special circumstances the students or their families are currently facing.

In 1996, California voters approved Proposition 209, which banned state institutions from considering race, ethnicity, or gender in contracting, public employment, and education. In its place, the University of California enacted a system that guarantees students in the top nine percent of their graduating class a seat at a UC campus, but not necessarily at the campus of their choice (Kahlenberg & Potter, 2012). It is up to each individual campus to use additional admissions criteria to select students to attend, which ensures that the students who are guaranteed admissions will be more uniformly dispersed throughout the state. This means that all University of California applicants, both in and not in the top nine percent of their graduating class, are subject to a “comprehensive review” policy that evaluates students’ academic achievements with regards to the opportunities available to them (Kahlenberg & Potter, 2012). Other factors that are considered include unusual circumstances, relevant life experiences, and the location of the student’s school and place of residence.

Although public Texas universities still take race into account, the greater emphasis placed on both the Top Ten Percent plan (eighty-one percent of 2014’s freshmen class were admitted through this program) and socioeconomic factors have altered the demographic makeup of the UT campuses. From 2010 to 2014, the percentage of Hispanic students has hovered around 22%, the percentage of black students has stayed steady at 5%, and the percentage of white students has fallen from 48% to 45% (“Fall Enrollment,” 2014). Most notably, the number of Asian American students has increased from 17% to 23% of the freshman class.

Similarly, in California, the number of Hispanic students has risen from 15.4% of the freshman class in 1996 to 23% in 2010, which is a 145% increase (Lehrer & Hicks, 2010). The percentage of black students has also increased, rising from 4% in 1996 to 4.2% in 2010. The number of Asian students increased from 29.8% to 37.7%, and the number of white students declined from 44% to 34%. Similar numbers were also reported at other universities that used race-neutral admissions plans. Furthermore, the demographics at seven of these ten universities show that the percentage of blacks and Hispanics either met or exceeded the levels achieved when the universities were still using affirmative action admissions policies. The changes in demographics at these public universities demonstrate that changing affirmative action policies is both feasible and successful, for the new policies ensure that the enrolled students are both diverse and highly likely to succeed in college.

After these new admissions policies were implemented, the University of Texas and University of California schools also created new

outreach, support, and recruitment programs to target students from underrepresented high schools. The University of Texas-Austin runs programs at these high schools to increase college accessibility to students and to provide challenging academic experiences for them (Kahlenberg & Potter, 2012). Other programs also provide test preparation, application guidance, and financial aid advice to participating high schools. California has also implemented similar programs. One of their most successful new programs, the School/University Partnership Program, increased partnerships between UC and K-12 schools by providing additional services such as mentoring and educational resources (Kahlenberg & Potter, 2012).

All of these new programs not only increase awareness among high school students about the opportunities and accessibility of attending college, but they also address an important problem that affirmative action admissions policies ignore. Unlike in affirmative action, where under-qualified and less-prepared students were often admitted in place of highly qualified students, these programs ensure that the students who enroll in college are more academically prepared and have earned the seat that they are offered. These K-12 partnerships focus on developing talent at the primary and secondary education levels, which is preferable to simply giving preference to certain groups in college admissions.

However, even after the new admissions systems and outreach programs were implemented, some people still argue that without affirmative action, it becomes more difficult for minorities and the poor to attend the top-ranked schools. For example, the Coalition to Defend Affirmative Action believes that Proposition 209 has caused the “flagship” University of California campuses, specifically UC Berkeley and UCLA, to become segregated, elitist institutions that relegate poor and minority students to the other, less-selective UC campuses (Lehrer & Hicks, 2010). While it is true that UC Berkeley and UCLA did not admit as many black students after Proposition 209 was passed (Lehrer & Hicks, 2012), this is not the result of elitist or segregationist ideologies. In fact, at these two institutions, over 30% of all undergraduates come from families whose parents’ incomes are less than \$45,000 a year, thus making them eligible for Pell Grants. Furthermore, the University of California enrolled the highest percentage of Pell Grant recipients as compared to any other private or public four-year institution in the nation. The University of California also reports that 39.4% of the fall 2012 freshman class will come from low-income families, and 38% of the class has parents who have never received bachelor’s degrees (Lehrer & Hicks, 2012). Yet, this class still has an average GPA of 3.84. Further weakening the Coalition to Defend Affirmative Action’s argument, the U.S. News and World Report ranks

UCLA and UC Berkeley as the top two economically diverse universities in the United States (Lehrer & Hicks, 2012).

Although many public universities are beginning to see the benefits of race-neutral admissions policies, the top private institutions are still reluctant to change their practices, especially since they are not under the control of the state government. They believe that achieving racial and ethnic diversity without using race/ethnicity as an admissions criterion is more difficult and less efficient than simply looking at an applicant's skin color (Kahlenberg & Potter, 2012). Furthermore, the top universities are unwilling to pursue race-neutral alternatives, for they fear that these alternatives may jeopardize the racial/ethnic makeup of their student body and thus their traditions, rankings, and prestige.

In order to determine how class-based admissions preferences would change the student body makeup of the nation's top universities, Carnevale and Rose (2003) conducted a study that included students who attended the top 146 schools in the nation. These schools represent the most selective ten percent of four-year colleges in America. Their findings showed that class-based preferences would lead to undergraduate classes that were ten percent black and Hispanic, which is only two percentage points lower than the number of black and Hispanic students who currently attend the top universities. Asian American applicants would also no longer be discriminated against due to their racial background, thus resulting in an increased number of Asian American students who would be able to attend a college that matches their academic skills.

Furthermore, Carnevale and Rose (2003) found that this type of admissions policy would lead to increased levels of socioeconomic diversity without a decrease in graduation rates. Another study also found similar results. Bowen, Chingos, and McPherson (2009) found that if race-neutral admissions policies were used, the percentage of students from low-income families who attend a selective college could increase by over fifty percent (from eleven percent to seventeen percent) without a sacrifice in their school's academic standards. These studies demonstrate that the nation's top universities should not be averse to changing their current affirmative action admissions policies, for there seem to be many benefits and very few consequences that result from these changes.

Most importantly, there is the question of whether America is actually ready to end college admissions affirmative action policies. While there are many people who feel believe that affirmative action is no longer necessary, there are still aspects of American life, such as discrimination and unequal treatment toward some minority groups (specifically blacks and Hispanics), that prevent more people from calling for a switch from affirmative action to race-neutral admissions policies. Moreover, colleges are comparable to businesses, where the students are the consumers, the

alumni are the investors, and the president is the CEO. There are a lot of costs and risks that come with completely overhauling admissions policies and admitting a different, albeit more capable and diverse, group of students. Universities are therefore averse to making any changes that may upset their donors or affect their rankings and prestige. This is especially true at private elite institutions where donations are a large part of maintaining the university, the campus culture and traditions are extremely important, and the university is not under state control. While race-neutral admissions policies are becoming increasingly popular and successful at public universities, the top-ranked universities are still not convinced that making this change will not significantly affect their financial operations and campus culture.

Concluding Comments

There are a few limitations for the data used in this paper. For instance, data involving Asian Americans include both Asian Americans of East and South Asian descent. Since Asian Americans are still considered to be a minority group that is given preferential treatment under today's affirmative action policies, the data used may not accurately reflect the attitudes and experiences of Asian Americans of East and South Asian descent. The data used in this paper also include states that have already abolished affirmative action policies. For example, the data from the National Center for Education Statistics include large-population states such as California, Florida, and Texas, which have all banned affirmative action. This inclusion masks the true effect of affirmative action policies on public institutions by a few percentage points, for the number of Asian American, black, and Hispanic students would increase while the number of white students would decrease. Also, the increase in minority enrollments at the UT and UC schools are influenced by the changing racial/ethnic make-up of these two states. Lastly, there is no data available on the admission rates of each racial/ethnic group. There are only enrollment rates, which give information about the percentage of students from each racial/ethnic group who actually attend the university and may differ from the admission percentages. Therefore, admission rates would be a more accurate reflection of the effects of affirmative action policies, for they truly show the percentage of students from each racial/ethnic background that were accepted to or denied by a university.

The principles that form the foundation of race-neutral admissions policies have been proven correct. That is, disadvantaged and minority students have shown that, if given the opportunity, they can succeed and continue to be admitted to good universities in a new system that focuses more on socioeconomic factors instead of racial/ethnic markers. Furthermore, Asian American students will gain from this new policy, for their accomplishments can be viewed without regard to their

race or ethnicity. This makes Asian American students less subject to the cultural, economic, and psychological costs they face under current affirmative action admissions policies. In the future, it would be ideal if all college applicants were judged by their socioeconomic background, academic and extracurricular achievements, and potential, and not by their race or ethnicity.

References

- Arcidiacono, P., & Vigdor, J. L. (2010). Does the river spill over? Estimating the economic returns to attending a racially diverse college. *Economic Inquiry*, 48(3), 537-557.
- Beevers, C. G., & Miller, I. W. (2004). Perfectionism, cognitive bias, and hopelessness as prospective predictors of suicidal ideation. *Suicide and Life-Threatening Behavior*, 34, 126-137.
- Bowen, W. G., Chingos, M. M., & McPherson, M. S. (2009). *Crossing the finish line: Completing college at America's public universities*. Princeton University Press.
- Brewer, D. J., Eide, E. R., & Ehrenberg, R. G. (1999). Does it pay to attend an elite private college? Cross-cohort evidence on the effects of college type on earnings. *Journal of Human Resources*, 104-123.
- Carnevale, A. P., & Rose, S. J. (2003). *Socioeconomic status, race/ethnicity, and selective college admissions*. New York: Century Foundation.
- Chang, E. C. (1996). Cultural differences in optimism, pessimism, and coping: Predictors of subsequent adjustment in Asian American and Caucasian American college students. *Journal of Counseling Psychology*, 43, 113-123.
- Dale, C. V. (2002). *Affirmative action revisited*. Nova Publishers.
- Daniel, K., Black, D. A., & Smith, J. (2001). Racial differences in the effects of college quality and student body diversity on wages.
- Duster, T. (1991). The diversity project: Final report. Berkeley: Institute for the Study of Social Change, University of California, Berkeley.
- Espenshade, T. J., & Chung, C. Y. (2005). The opportunity cost of admission preferences at elite universities. *Social Science Quarterly*, 86(2), 293-305.
- Espenshade, T. J., Chung, C. Y., & Walling, J. L. (2004). Admission preferences for minority students, athletes, and legacies at elite universities. *Social Science Quarterly*, 85(5), 1422-1446.
- "Fall Enrollment by Ethnicity/Race and Gender," (2014). Office of Institutional Reporting, Research, and Information Systems, University of Texas at Austin.
- Fletcher, M.A. & Cohen, J. (2009). Far fewer consider racism a big problem. *Washington Post*.
- Gaertner, M. N. (2011). *Assessing a new approach to class-based affirmative action*. Doctoral dissertation, University of Colorado at Boulder.
- Gallup (2013). Minority Rights and Relations.

- Ginder, S. A., & Kelly-Reid, J. E. (2013). Enrollment in Postsecondary Institutions, Fall 2012; Financial Statistics, Fiscal Year 2012; Graduation Rates, Selected Cohorts, 2004-09; and Employees in Postsecondary Institutions, Fall 2012. First Look (Provisional Data). NCES 2013-183. *National Center for Education Statistics*.
- Grutter v. Bollinger (02-241) 539 U.S. 306 (2003).
- Harvey, W., & Anderson, E. (2004). Minorities in higher education. *Twenty-first Annual Status Report, 2004*.
- Hinrichs, P. (2011). The effects of attending a diverse college. *Economics of Education Review, 30*(2), 332-341.
- Hurtado, S., Milem, J. F., Clayton-Pedersen, A. R., & Allen, W. R. (1998). Enhancing campus climates for racial/ethnic diversity: Educational policy and practice. *Review of Higher Education, 21*(3), 279-302.
- Kahlenberg, R. D., & Potter, H. (2012). *A better affirmative action: State universities that created alternatives to racial preferences*. Century Foundation.
- Kim, H. S., Sherman, D. K., Ko, D., & Taylor, S. E. (2006). Pursuit of comfort and pursuit of harmony: Culture, relationships, and social support seeking. *Personality and Social Psychology Bulletin, 32*, 1595-1607.
- Kim, U., & Chun, M. (1994). Educational "success" of Asian Americans: An indigenous perspective. *Journal of Applied Developmental Psychology, 15*, 329-339.
- Knapp, L. G., Kelly, J. E., Whitmore, R. W., Wu, S., & Gallego, L. M. (2002). Enrollment in Postsecondary Institutions, Fall 2000 and Financial Statistics, Fiscal Year 2000 (NCES 2002-212). *Washington DC: National Center for Education Statistics*.
- Lehrer, D.A. & Hicks, J.R. (2010). UC proves Prop. 209's point. *Los Angeles Times*. 12 July 2010.
- Liu, L. L., Wang, S. W., Fung, J., Gudino, O. G., Tao, A., & Lau, A.S. (2012). Psychology of Asian American children: Contributions of cultural heritage and the minority experience. *Handbook of race and development in mental health*, 147-167.
- Long, M. C., & Tienda, M. (2008). Winners and losers: Changes in Texas university admissions post-Hopwood. *Educational Evaluation and Policy Analysis, 30*(3), 255-280.
- Morello, C. (2012). Number of biracial babies has risen, Census data show. *The Washington Post*.

- Pike, G. R., Kuh, G. D., & Gonyea, R. M. (2007). Evaluating the rationale for affirmative action in college admissions: Direct and indirect relationships between campus diversity and gains in understanding diverse groups. *Journal of College Student Development, 48*(2), 166-182.
- Rasmussen Reports (2012). Affirmative action.
- Rodriguez, G. (2010). The white anxiety crisis: America is getting a new minority. *Time, 22*, 44-45.
- Rosenbloom, S. R., & Way, N. (2004). Experiences of discrimination among African American, Asian American, and Latino adolescents in an urban high school. *Youth and Society, 35*, 420-451.
- Sax, L. J., & Arredondo, M. (1999). Student attitudes toward affirmative action in college admissions. *Research in Higher Education, 40*(4), 439-459.
- Smith, W. A. (1998). Gender and racial/ethnic differences in the affirmative action attitudes of US college students. *Journal of Negro Education, 127*-141.
- Snyder, T. D., & Dillow, S. A. (2013). Digest of Education Statistics, 2012. NCES 2014-015. *National Center for Education Statistics*
- Sue, D. W. & Sue, D. (1990). Counseling the culturally different: Theory and practice. New York: John Wiley.
- Tang, M., (2007). Psychological effects on being perceived as a "Model Minority" for Asian Americans. *New Waves: Educational Research and Development, 11*(3), 11-16.
- Unz, R. (2012). The Myth of American Meritocracy. *The American Conservative, 14*-51.
- U.S. Commission on Civil Rights (1977). Statement on Affirmative Action. Clearinghouse Publication.
- Wong, F., & Halgin, R. (2006). The "model minority": Bane or blessing for Asian Americans? *Journal of Multicultural Counseling and Development, 34*, 38-49.
- Yoon, J., & Lau, A. S. (2008). Maladaptive perfectionism and depressive symptoms among Asian American college students: Contributions of interdependence and parental relations. *Cultural Diversity and Ethnic Minority Psychology, 14*, 92-101.