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EDITOR

Writing Across the Curriculum

Editor's Note

*A*s we look ahead to Graduate Liberal Studies' next major milestone, its Fortieth Anniversary in 2014, we celebrate a recurring milestone, the biennial publication of *Writing Across the Curriculum*. Vol. VI includes a selection of outstanding course papers recommended by our faculty, the work of fifteen MALS and DLS students and recent alumni.

Writing is an integral part of Graduate Liberal Studies from short essays, to longer research papers, annotated bibliographies, in-class essay exams, to the successful completion of a final master's or doctoral thesis. Attentive to the human values at stake during research and writing, the students create papers which do not remain static upon completion. They often lead to further discussion, spark new ideas, or provoke action among the writers and their audience.

The authors are invited to reshape their course papers into articles worthy for this journal and perhaps other possible publications. You will note the interdisciplinary content of this collection: rich studies of literary and philosophical pieces; focused writing on domestic concerns; global issues concerning peace and war; topics of religious understanding; and current discussions on the developments, services, and challenges in information technology.

I am grateful to recognize the outstanding teaching and guidance of the faculty, librarians, and writing services staff and tutors dedicated to supporting our students with their rigorous writing assignments. Congratulations to the featured authors as well. Enjoy your copy of *Writing Across the Curriculum*, Vol. VI, and please share it and its ideas with others.

Anne Ridder, Assistant Dean
Associate Director, Graduate Liberal Studies

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**Notes from the Underground
Pardoner**

by John M. Adle

Written for
Course: *Chaucer's Canterbury Tales and the
Late Medieval Renaissance*
Professor: Ann R. Meyer, Ph.D.
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The Pardoner in *The Canterbury Tales* has been variously called a hypocrite, a liar, a thieving scoundrel, a fraud and imposter, a parasite, and a sterile neuter, among other disgraceful epithets. These names are deserved, but perhaps they are a bit too cursory and patent. The Pardoner deliberately fulfills, through his words and deeds, his unwavering thematic preaching: *Radix malorum est cupiditas* ("Avarice is the root of evil"—from 1 Timothy 6:10). This is but to say, the Pardoner is avarice itself. It is claimed that "the Pardoner is literal, and he is literal because he is avaricious."¹ Apparently, the inability to see or read things symbolically or allegorically is a loathsome flaw of his, and it suggests his unregenerate state. Unabashed avarice is indicative of crass, corporeal materialism that is antithetical, supposedly, to any spiritual inkling. An example of this is cited in the following lines where the Pardoner compares himself to a dove in its purely physical movement, overlooking entirely the symbolism of the bird for the Holy Ghost to a Christian congregation:

I preche, so as ye han herd bifore,
And telle an hundred false japes more.
Than payne I me to strecche forth the nekke,
And est and west upon the peple I bekke,
As doth a dowve sitting on a berne.
Myn hondes and my tonge goon so yerne
That it is joye to see my businesse. (65-71)

The literalism on the part of the Pardoner allegedly demonstrates, moreover, his one dimensional quality. In short, he is unanimously a villain, pure and simple. But is this really so clear-cut, and must we take the Pardoner's words in his confessional Prologue at face value, without any sense of irony? After all, it has been said that the Pardoner is "the most self-conscious of the Canterbury pilgrims."² Must we accept the Pardoner's shocking self-disclosures in the Prologue wholly on the grounds of some naivety in his nature or of his accustomed avariciousness? Behind his apparent self-centeredness is there not some strange, contradictory drive towards self-condemnation—or reparation, even?

In the exploration of these questions, evidence will be sought for a more

complex, multifaceted Pardoner who is not unanimously and one-sidedly evil. This quick study is drawn mostly from the Pardoner's Prologue, and for reasons of luminosity and clarifying of perspective, compare and contrast and look to another fictional figure for helpful insights. A Dostoevskyan figure is brought to mind.

The literary critic, Harold Bloom, has remarked that "the strangely authentic power of the Pardoner's Sermon, which transcends his overt tricksterism, testifies to the weird prolepsis of Dostoevsky in *The Canterbury Tales*."³ Dostoevsky, of course, has rendered some of the most complicated, cerebral antiheroes ever to intrude on the world stage of literature. Following the critic's hint in summoning any Dostoevskyan character vis-à-vis the Pardoner, the prime candidate that appears is the first person narrator of *Notes from the Underground*. The beginning few lines of this confessional tirade are, "I am a sick man. . . . I am a spiteful man. An unattractive man. I think that my liver hurts." There stirs something bitter, repelling, exhibitionist, and even comical about this narrator. The narrator acknowledges himself at one point that he "will produce an extremely unpleasant impression." Thomas Mann spoke about the Underground Man's destructive "radical frankness." We take note of this aspect in the Pardoner, too, in such lines as "For, though myself be a ful vicious man / A moral tale yet I yow telle can" (131-132). It is commonplace that humans try to keep their sordid vices concealed from prying society, but why does the Pardoner air them in so boastful a manner? The confessions of both characters are unvarnished and self-damaging. They both reveal, openly and zestfully, it would seem, selves that are debauched and unashamed. There is a pungent whiff of masochism. The Underground Man believes, interestingly, that autobiographical writings like Jean Jacques Rousseau's *Confessions* can be composed of lies that stem from vanity. Whether lies or no, we know that Rousseau admitted, for example, his addiction to masturbation and his abandonment of all his young children to an orphanage.

But wherever truth may reside, there is a strong sense of oscillation between self-laceration and egoism in the confessionals of both the Pardoner and the Underground Man. It must be said, in spite of it all, that the overt aims of the two characters diverge. As one who boasts about his clever and prosperous sales of God's forgiveness and of divine, multi-purposed relics and remedies that offer the likes ranging from a yieldful boon to a farmer's flock and crops to a cure for marital suspicion and jealousy, the Pardoner's

aim appears merely to show how expediently vile (or vilely expedient) he is:

I preche of no thing but for coveityse.
Therfor my theme is yet, and ever was
Radix malorum est cupiditas.
Thus can I preche agayn that same vyce
Which that I use, and that is avaryce. (96-100)

On the other hand, repulsiveness, however tinged with the “smarts” it may be, is an indirect verdict upon the Russian. His aim is more of a corrosive rebuke against the rationally based, utilitarianism of human self-interest, puffed with the contemporary confidence in empirical positivism and statistical data, that would not only define but calculate human actions to their minutest inevitability, in the process dismissing such notions like free will as obsolete. This is done all in the name of correspondence to the predictive natural laws of rational self-interest—which is to say, the normal interests of rational self-advantage.

Human beings, thus enlightened of and led by this natural, beneficial way, will surely, inevitably, reform and better themselves without any outside compulsions. Against this enlightened, rationalistic view, the Dostoevskyan character will go vulgar, abase himself, prefer even his toothache over repose, or deliberately go insane to spite them all, the social normalizers, and to “confirm to himself. . . that men are still men, and not piano keys, which may be played by the hands of the natural laws themselves.”⁴ There is, of course, a gulf of centuries between the Pardoner and the Underground Man. One speaks to a Medieval world; the other, the Modern. It is suspect that they are both protesting against the machination of established norms and expectations. They are rebelling against a depersonalizing tendency in their respective worlds, whether this be modernity’s socialistic or capitalistic exhortations of collective or economic self-interests, or the Medieval Church’s espousal of self-denial and its condemnation of non-conformist expressions of the self. Did not the Church suppress anything that smacked of trail blazing assertion and gnostic self-discovery in favor of contrition, humility, and penance? And are these not the stuffs that must inform the Pilgrim’s path in order for salvation—the ultimate purport of human striving—to be realized?

The Pardoner and the Underground Man are acutely individualistic, and

they are censured and ostracized for bearing too much of their soul. It is fair to say that much of this bearing seems to be masochistically or neurotically driven, but it cannot be easily dismissed that it largely stems from what the Dostoevskyan character states as “excessive consciousness,” which is something the Pardoner shares, too. Assertive self-consciousness, sometimes interpreted as a self-dramatizing propensity, may or may not imply great egoism; Medieval exemplum, nonetheless, warns against its dangers. After all, did not our Redeemer teach that the meek shall inherit the Kingdom, even if He was finally executed as a rebel against Rome? Whether the self-consciousness is excessive or assertive, left unguarded it always inches toward subversion.

On this world stage and not of the Kingdom to come, subversion can take on the form of parody, which I suppose is a kind of satire in its ridiculing as well as its remedial reach. An indubitably satirical element is present in *The Canterbury Tales*. The literary columnist, Ian Jack, once said that “Satire is born of the instinct to protest; it is a protest become art.” There is something innately parodying and mocking about the Pardoner, just as there is with the Underground Man. The uncertain sexuality of the former and the overgrown, too big to be of any use cerebation of the other make both figures tragic-comical outcasts and misfits. But by way of parody they do lift the looking glass to their respective milieu, as it were, and call a spade a spade. One disclosure is found to be hypocritically avaricious and hedonistic and the other, the one of the modernist venture, is netherly, alienating, and spiritually deadening. The Pardoner, by being himself, parodies the crass materialism and landed-gentry avarice of the Church which reduces living mysticism to the cult of relics, redemptive indulgences, and hide bound, superstitious formulae that betray the narrow, often selfish desires of many an attendant. He is also disclosing the self-deception or hypocrisy of the “gentiles” of his pilgrim audience who may talk up the salutariness of apostolic indigence but are far from allowing it upon themselves.⁵

But the Pardoner continues to profit enormously from the credulous, literal mindedness of the common folk: “By this gaude [trick] have I wonne, yeer by yeer / An hundred mark sith I was Pardoner” (61-2). When all is said, he has become, like his modern Russian counterpart, a victim and victimizer simultaneously. The latent sense of self-hatred and self-flagellation that streaks through the diatribe of the Underground Man is also strongly felt in the Pardoner’s Prologue.

It has been suggested earlier that the Pardoner is only capable of grasping things literally in his mind, and this in turn connotes a superfluous or unimaginative makeup of his character. But what significance is the tale the Pardoner tells if it is not to be understood allegorically—or metaphorically? Surely, it is not pure naturalism that is being rendered. It calls for an allegorical interpretation, it seems to me, in a manner not too unlike the parables that Jesus told. The Old Man in “The Pardoner’s Tale” may intimate—among various personifications suggested—the old, primal, unregenerate Adam who is sinful and fallen and awaits baptismal rebirth that only Christianity can effect, according to Apostle Paul, in order to bring forth a New Man of Spirit.⁶ This New Man bears life-giving spiritual fruits because he has died to his Old Self, the unwary, material, old red earth adamah, and is reborn to Christ Jesus. The Old Man in “The Pardoner’s Tale,” seemingly unregenerate, knocks with his staff desperately the quietus gates of mother earth to ease the burden of his decrepit living. But we do not know if this act is an indication of his rejection of any redemptive counsel, or if he just despises what his life has become. But alas, the Pardoner who knows his Gospels, knows also that one cannot serve both God and Money.⁷

In illustrating how avarice is indeed the root of evil, our tale arrives at its closing scenes with the young rioter visiting the apothecary to secure the fatal poison. The apothecary’s description of his deadly concoction is inlaid with Christian significance:

The pothecarie answerde, “and thou shalt have
A thing that, also God my soule save,
In al this world ther nis no creature,
That ete or dronke hath of this confiture
Noght but the mountance of corn of whete,
That he ne shal his lyf anon forlete; (II. 397-402)

It is proposed that these lines refer to the Gospels.⁸ Namely, the lines invoke John 12: 24: “Verily, verily, I say unto you, unless a kernel of wheat falls to the ground and dies, it abides alone; but if it dies, it bears much fruit. He who loves his life will lose it, and he who hates his life in this world will keep it for eternal life.”

Coincidentally, the first complete line of this Johanine passage

formed the epigraph of Dostoevsky's last and greatest work, *The Brothers Karamazov*, and it signifies Christ's example of expiation of sin through suffering and death. The passage signifies as well the promise of resurrection through its imagery of the rich flowering into deathless eternity of the human seed, upon descent into generation, on the soil of mortal life. This allegorical vision is actually echoed in the novel by Father Zossima's discourse on how God has taken seeds from other worlds and sown them on earth for His Garden to grow; this growth, however, is only made possible and truly alive and purposeful through our feeling of continual contact with whence we came. It might be noted aside that Chaucer's *Prologue* has the pilgrims embarking in the month of April. Descriptions of the rejuvenation of flora after the deathly desiccation of March starts off the *Prologue*. April's renewal stirs many people, according to Chaucer, to go on a pilgrimage. If the pilgrimage in *The Canterbury Tales* is also understood as a metaphor for human life as a journey, like in "The Knight's Tale" (1989-1991), for instance, the provenance of this pilgrimage lies in the seeking of rebirth or restoration after spiritual death as much as of the expressed tomb of the "holy blisful martyr," Thomas Becket.

The works of Chaucer and Dostoevsky both chime what is probably the central concern of Christianity: Man's Fall (from Grace) and his Redemption. Germanely for us, the last work of the latter author also contains a very famous chapter titled "The Grand Inquisitor" that is often viewed as a story within the story. To rudely summarize, the Grand Inquisitor of the Spanish Inquisition tells the returned Christ that He has set the bar too high and rigorously for ordinary people by giving them freedom (to choose). What the weak constitution of the ordinary rabble,—not dissimilar perhaps to the "lewed people" who "down y-set" before the Pardoner's preaching—really desires are miracle, mystery, and authority, which are in turn the three temptations offered to Jesus by the wise and terrible spirit in the wilderness, and which Jesus refused. In the preface commentary to the chapter that could scarcely be improved the writer, D.H. Lawrence, remarks that "Jesus refused the three offers out of pride and fear: he wanted to be greater than these, and 'above' them. But we now realize, no man, not even Jesus, is really 'above' miracle, mystery, and authority. The one thing that Jesus is truly above, is the confusion between money and life. Money is not life, says Jesus, therefore you can ignore it and leave it to the devil."⁹

But since the masses of people cannot properly distinguish money from life, are they going to be given over to the devil? Since Christianity teaches us to love our fellow human being some of the elects, the supermen with knowledge, must take over the function, even if this instills bad conscience, and provide the mystery, the miracle, and the authority for the weak and ignorant. This should be done even if it entails bowing down deeply and kissing the relics. "And is that serving the devil? It is certainly not serving the spirit of annihilation and not-being. It is serving the great wholeness of mankind, and in this respect, it is Christianity."¹⁰ The Pardoner is thus serving Christianity, relieving the weak of their anxieties and sorrows by promises of a secure afterlife that he probably doesn't believe in himself. By function he is imitating the Grand Inquisitor, compared to whom he is a more comical and disreputable version yet more open and vital. At the same time, one cannot really imagine the Pardoner burning heretics and sending away unceremoniously under threat of mortal injury the returned Jesus Christ Himself as an unwelcome spoiler of the illusory refuge set up on Earth. This refuge is embodied by the Church's offerings of mystery, miracle, and authority to comfort the fragile, superstitious masses. Finally, just as the stern Inquisitor felt an odd, momentary flush of inner warmth after Jesus kissed him gently "adieu," one cannot but surely think that the irascible, self-advertising and self-lacerating Pardoner felt a sliver of wistfulness in entertaining the possibility that there may be another parallel, a symbolically transmuted, spiritual parallel, perhaps, to the selling and buying and the general redeeming act to which he has such cupidity.

But, though myself be gilty in that sinne,
Yet can I maken other folk to twinne
From avaryce, and sore to repente. (101-3)

It is hoped that in this quick, comparative sketch we have glimpsed a portrait of the Pardoner that is markedly more complex, intriguing, and colorful than the simplistic, one-sided caricature of an evil unregenerate that readers were often just satisfied to use to view him.

END NOTES

¹ Warren Ginsberg, “Preaching and Avarice in *The Pardoner’s Tale*,” in *Geoffrey Chaucer’s The Pardoner’s Tale*, ed. Harold Bloom (New York: Chelsea House Publishers, 1988), 72.

² H. Marshall Leicester, Jr., “Synne Horrible’: The Pardoner’s Exegesis of His Tale, and Chaucer’s,” in Bloom, 82.

³ Harold Bloom, Introduction to *Geoffrey Chaucer’s The Pardoner’s Tale*, ed. Harold Bloom (New York: Chelsea House Publishers, 1988), 8.

⁴ Fyodor Dostoevsky, *Notes from Underground*, trans. Mirra Ginsburg (New York: Bantam Books, Inc., 1983), 34.

⁵ Derek Traversi, *The Canterbury Tales: A Reader* (New Jersey: Associated University Presses, Inc., 1983), 175.

⁶ Ibid., 189-9.

⁷ Luke 16:13.

⁸ Leicester “Synne Horrible,” 93.

⁹ D.H. Lawrence, “Preface to Dostoevsky’s *The Grand Inquisitor*,” in *Dostoevsky: A Collection of Critical Essays*, ed. René Wellek (Englewood Cliffs, NJ: Prentice Hall, Inc., 1962), 93.

¹⁰ Ibid.

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Modern Day Courtship: The Online Romance Trend

by Luz D. Cabrera-Frias

Written for

Course: *Communication and Persuasion - Ethical Issues
in the Professions*

Professor: Gladys B. White, Ph.D.

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Within a historical context, technological innovation has frequently served as the impetus that can alter a society's lifestyle. The advent of the Internet, like the telephone and television, appears to have provided this impetus to the extent that Western society has become altered by its presence.

—Eric R. Merkle, *Family Relations* 49

The trend of individuals looking online for romantic relationships is well on its way to reaching its tipping point. This moment as described by Malcolm Gladwell in his book, *The Tipping Point*, is the point at which small developments can have big effects, with change happening at one dramatic moment.¹ *The Tipping Point* presents a different perspective for understanding why change often occurs so quickly and unexpectedly. Changes are examined as social epidemics that can behave in unusual ways with large scale effects. These patterns of dramatic transformation are observed from historical, sociological, and psychological points of reference. When a small number of people start behaving differently, that behavior can ripple outward until a critical mass or tipping point is reached, leading to a major change in society. According to JupiterResearch, "People spend more on online personals than on any other form of online content."² It is estimated that 40% of the 100 million singles in the U.S. have dated online.³ Online dating is continually gaining in popularity due to the rise of the Internet, as well as due to changes within contemporary lifestyles. The difficulty of finding the right partner is encouraging singles to turn away from traditional means of meeting potential mates, and instead opt for the convenience of online modes of dating.

Some of the catalysts leading individuals to experiment with online venues include busy work schedules, having a majority of friends who are partnered, having children and not being able to go out as much, and moving to a new city. With less time in everyone's schedules, online services are becoming, if not effective, increasingly sophisticated in their methods of matching individuals, using algorithms and metrics such as education, professional background, personal interests, religious outlooks, hobbies, values, and life goals, to more accurately match subscribers to their ideal partners. These websites use a range of personality tests and psychological assessments to build lists of traits that individuals want in their partners. Some websites, such as Chemistry.com, are

even using basic information about the brain and body chemistry, associated with aspects of a person's temperament and personality to identify matches. Science-based dating services such as ScientificMatch.com and GenePartner.com promise lasting relationships based on the basis of genetic information, creating matches based on differences in immune systems.⁴

There are several factors that could be attributed to this ever growing trend. Longer work hours, increased mobility, and the dissolution of traditional modes of socialization are leading individuals to look to chat rooms, social networking sites, and professional online dating services in order to find partners. Conventional venues for casually meeting people such as bars and clubs are being abandoned for the less spontaneous, cheaper alternative of online services that allow individuals to sort through several options, weeding out incompatible options through a review of personal information. Online utilities give the ability to search for romantic interests at one's leisure and make initial rejections less personal and debilitating. The volume of options to choose from also theoretically increases the chances of finding a compatible partner as the need for spacial proximity can diminish when individuals are connected across wide geographic distances through their computers. As online dating services become more knowledgeable and skilled in the art of match-making, they are also pairing individuals more effectively as well as finding more efficient methods of filtering out fake and deceitful profiles. This builds even greater confidence in their services.

The rapid penetration of the Internet and computer mediated communication into our daily lifestyles has also raised questions about the psychological impact of technology and how it may result in the increased lack of personal sociability, shyness, and communication anxiety in our society. Some scholars have described the Internet as an empowering medium that encourages shy individuals to meet others and build enduring relationships. These individuals tend to perform better via electronic means of communication because of the increased control in how a message can be framed before it sent.⁵

Despite the various factors previously described that can be correlated to this rising craze, there may be slighter, more significant factors that allowed for the eruption in the popularity of online dating. In *The Tipping Point*, Gladwell explains that the success of any social epidemic is heavily dependent on the involvement of a number of key people with a particular set of social gifts, which he calls the "Law of the Few."⁶ This phenomenon can be easily

seen in the development of successful online relationships. When it comes to effective methods of meeting people, individuals tend to look to their own personal network of contacts for examples and advice on the best way to meet potential romantic partners. As an increasing number of couples meet each other online and subsequently get married, their personal testimonies boast the benefits of meeting people online. An increasing number of people know of someone directly or know of someone who has had a successful relationship with someone they met online. In a 2011 survey by advertising giant Euro RSCG Worldwide, half of the respondents indicated that they knew someone who had met a partner online.⁷ If a friend meets her husband online, she transforms into both a “maven” and “saleswoman” to others around her—a virtual expert on the method’s intricacies and its possibility of success. In the past decade, a number of movies with online love stories as the premise, such as “You’ve Got Mail” and “Must Love Dogs,” have helped to erase the negative stereotypes originally tied to meeting people online. These movies have in essence, served as “connectors,” reaching a large percentage of the population, and convincing them that they too can try it. These movies additionally allow for the packaging of online romances as fairy tale love stories, appealing to both the emotional and psychological sentiments of individuals. The effect of word-of-mouth, therefore, reaches escalating proportions.

Gladwell also describes the “stickiness” factor, a quality that allows a message to be memorable to those who view it.⁸ As mentioned above, movies are now including online relationships in a positive light in their plots, attaching positive connotations to using online services to find true love. Online dating agencies such as Match.com and Eharmony.com are also increasingly gearing their advertising toward commercials that are specifically designed to cement the connection between the ideas of marriage and love and the outcomes of online encounters. These commercials express common pitfalls that individuals experience while using more established forms of dating alongside depictions of alleged testimonials from lasting couples who met on their sites. They appeal to viewers who may be dissatisfied with their current situations, tugging on their rawest of feelings.

The influence of the current environment in the increasing use of the Internet to meet people is also important and cannot be overlooked. With the development of more sophisticated, inexpensive home computers, along with more

access to public resources, a greater number of users are able to take advantage of technology and the Internet. Society continues to accelerate its pace. As people strive to balance multiple roles and responsibilities, they are finding themselves thrust into a position in which they must find non-conventional means of social interaction. In an age where the Internet has countless uses—shopping, taking classes, banking, etc.—using it to find a significant other does not seem all that implausible. The increasing rate of divorce in the U.S. also adds to an escalating number of individuals looking for a second or third chance at companionship. The advent of the recent recession has also made the average individual more conscious of expenses. Traditional venues for meeting individuals—bars, nightclubs, restaurants, health clubs—are considered luxuries, too expensive to attend with any regularity. Online dating websites are in many cases free or relatively affordable. All of these external environmental conditions help to shape the trend of online romantic relationships and illustrate Gladwell's "power of context," which he describes as the contextual changes that individuals are exquisitely sensitive to, and that are capable of starting an epidemic.⁹

In order to more specifically illustrate the rapid rise of the online dating trend, one can look at its use by the Baby Boomer generation. This demographic can be characterized currently with large numbers of single adults and increasing rates of divorce. This may be attributed to having the economic livelihood and the economic feasibility that makes divorce less difficult. Fifty to sixty year-olds are Match.com's fastest growing demographic and other dating websites are also stating a dramatic increase in their older clientele.¹⁰ Several dating sites, such as SingleSeniorsMeet.com and BabyBoomerPeopleMeet.com, are also being created in order to address this growing market. Baby boomers are described as a workaholic generation, competitive in the work place and work-centric. This generation is being influenced by both its peers and the media to look into more convenient alternatives to finding companions. They are no longer the nightclub and bar set, and therefore find the convenience of searching online to be appealing. This has led to sites reporting dramatic double digit growth in the fifty and over market.¹¹ As this subset of the population came to a turning point in their own lives, this allowed for their approach to finding companionship to reach its own critical mass.

Noting the environmental factors that have contributed to individuals using online dating services, a question that should be asked is whether the causal deterministic features of the increasing use of technology, cyberspace,

and social networking forces users to use the Internet as their main form of communication and relationship building. Is the Internet pushing our society into an online dependent dichotomy? With technology allowing for the reduction of traditional face-to-face interactions, does this then allow for the increase in flourishing online relationships? From a relativist point of view, one could argue that how a person finds a partner depends on the specific circumstances and events of his or her life. That person's individual experiences lead to the nature of how they will meet the person of choice. An individual's free will cannot be removed from the equation. With the various options currently available, one has personal control and the prerogative over how to go about choosing a partner.

The trend of online romantic relationships is being strengthened from the exchange experienced through friends, movies, and commercials. Our current social environment, the state of marriage, and our evolving methods of interacting with society are also altering how we meet that special someone. In the past, romantic relationships started online had a negative social stigma attached to them when they were viewed as a highly unconventional method of meeting a partner. However, the combination of these little changes—increasing and successful use by individuals, popularity in media, and technological driving forces—compounded with each other, are allowing for this trend to reach its tipping point. The use of online services enters the mainstream as an acceptable and potentially leading option for finding a partner.

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**How Do We Prevent
Apple v. Google?
Balanced Policy Initiatives Could
Create Critical Long-Term Stability
for Interactive Designers by Means of
Patent Reform**

by Elaine T. Chou

Written for
Course: *Cyberethics*
Professor: Gladys B. White, Ph.D.
Spring 2012

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Elaine Chou is an MALS candidate concentrating in ethics and the professions at Georgetown University. She holds a BA in History from the College of William and Mary, as well as an MA with honors from University of Richmond. Ten years ago, Ms. Chou founded a boutique technology firm built upon the premise that web processes enhance the quality of life through information, education, and learning. She served on higher-education and statewide IT advisory boards to develop collaborative, strategic initiatives. The Association for Computing Machinery awarded Ms. Chou's human-factors interface design "with honors." As an Adobe Certified Instructor (ACE) and Adobe Certified Expert (ACE), she travelled nationally to consult corporations on emerging technologies. Her future JD/doctoral pursuits include exploring ways that internet policy and law promote design thinking and the art of innovation. For fun, Ms. Chou flies glider planes.



Interactive design technology aims to facilitate a meaningful, functional interplay between people and their digital environment, where the software or technological system significantly enhances a seamless user-experience. The design of interactive technology products focuses primarily on the consumers' behavioral response to graphical user interfaces and online services. Popular and successful technology products often reflect intelligent humanistic design principles. Most recently, innovation in the field of interactive design technology has been effectively halted due to litigious struggles between technology companies that claim rights to interface-related "business-model processes." To ward off future patent infringement suits, technology firms embroil themselves in power struggles that distract them from creatively producing and that effectively stagnate innovative design. These information technology struggles mark industry instability and wildly fluctuating market shares. To subsist in this litigious environment, every major internet technology firm owns a multitude of patents, and looks to stockpile more, most of "dubious merit."¹ Under the current patent system, lawsuit allegations reduce interactive designers to little more than thieves. Government intervention and regulation could help create critical long-term stability within the interactive design realm by means of patent reform.²

On the whole, interactive designers approach user-interface mechanisms with a cultural attitude of open-availability, applying notions of technological fair-use to practices that they deem common sensical.³ For example, a recent discussion surrounding the interactive design "pull-to-refresh" feature found in many popular iOS apps, including Twitter, Facebook, Tweetbot, and Sparrow, illustrates the conventional industry attitude towards patents.⁴ Many interactive designers anticipate that Apple apps will incorporate the "pull-to-refresh" feature simply because the function dramatically improves the user experience. For the interactive designer, the value of human-centric user experiences reigns supreme. However, the Twitter-owned patent application "User Interface Mechanics" covers the "pull-to-refresh" feature, which technically excludes other companies from implementing any interactive design features described as "anything that issues a command on pulling down a menu" unless tech companies pay licensing fees to the patent originator.⁵ Despite patents, interactive designers contend that the best interface features feel obvious and natural, "so much like the way things are supposed to work," and question the validity of obvious inventions distinguished from the non-obvious.⁶ Assuming that Twitter remains on the "good side" and chooses not to defend their exclusive rights to the "pull-to-refresh" feature, of-

ten technologists naively expect that these interactive design elements exist as “common ground” ideas, for the purpose of sharing.⁷ Herein lies one systematic misperception fueled by a creative culture’s need to rapidly innovate: interactive designers, technology companies, and users frequently presume that seemingly universal, functional design mechanisms are freely available to enhance the users’ experience.

The IT cultural context reflects modern complexities that leave many divided about the implementation of intellectual property rights. In the broader context, the consumer benefits and the information tech industry gains momentum in the standard practice of incorporating these easy-to-use, popular interface features, to be shared without a cost.⁸ Moreover, innovative technological advances continually reaffirm feature-based reproduction, a practice further justified by the free market and purposeful notions towards human progress and well-being.⁹ Yet, intellectual property advocates and those protecting their stake argue differently. This “open-source” attitude towards information technological inventions contributes to a general disregard for intellectual property, under an already malfunctioning patent system and litigious society. Overly-broad and misinformed patent-legislation, such as the American Invents Act, compounds the patent problem with policies that inadequately address challenges to the innovative process, including small business and venture capitalist funding.¹⁰

Further exacerbating the issue, the dysfunctional patent system functions on obscure patent mechanisms. Highly vulnerable to patent infringement lawsuits, technology players absorb exorbitant litigation or settlements expenses as part of the risk of doing business. Founder of Spark.com, Drew Curtis highlights his professional experience as an accused tech player in a false infringement case. When infringement allegations occur, the burden of proof rests on the accused to fight absurdly broad patent claims.¹¹ Taking this into account, the lawyer troll defense costs \$2 million on average, over an eighteen month period. Curtis equates this precarious litigious atmosphere with similarities to “dealing with terrorists.”¹² Patent and Trademark Office issued technology patents results in almost three-quarters reckoned to be invalid or already-infringed.¹³ It comes as no surprise then, that information technology players consider ongoing IT murky infringement claims and costly patent litigation as part of the cost of doing business. Lawsuits mar the technological landscape -- a cultural landscape highly dependent on rapid innovation.

High-profile, interactive design function lawsuits such as Yahoo v. Face-

book exemplify the challenging cerebral concepts to protecting intellectual property.¹⁴ For example, Yahoo claimed that Facebook's entire "social network model" infringed on Yahoo's patented social networking idea, that users interact with profiles to connect with persons and businesses.¹⁵ Technology companies enmesh themselves in overly-broad patent lawsuits over email and instant messaging "business-method processes" -- patents that cover creative, atemporal ideas. Technical coding jargon aside, judges "explode" over the excessive legal armadas defending their tech firms' intellectual turf, a turf that often extends beyond space and time.¹⁶ Frustration mounts because "the effective protection for intellectual property depends on the sum of the protections from both law and technology."¹⁷ And as such, only at the highest levels, that of effective policymaking, may societal maturation trickle-down. Likewise, philosophical gray zones exist in the interpretation of intellectual property rights. Berkeley law professor and director, Robin Feldman argues that IT patents' rights should be viewed as the "right to dispute," rather than a question of ownership or exclusion.¹⁸ Vague legal allegations disputing ownership over the basis of technology architecture, illustrates a questionable interpretive claim to the idea of what an invention constitutes. Overly-generalized allegations also disrupt notions about free culture, besides significantly hindering the flow of financial resources in an already tight economy. Today's tech industry converts to patent feudalism. The disabled patent system creates provisional standards to IT intellectual property and cripples long-term progress. All in all, these problems warn of a critical, system-induced breakdown that only the government can actively mend.

Plagued by interactive design lawsuits, IT companies take defensive measures against a malfunctioning patent system. Patent lawsuits ostensibly serve to defend and meet company needs in a high-stake, fast-paced technological environment. Patent trolls attempt to use design patents to earn revenue and increase a technology company's IPO in an unstable economy.¹⁹ Because the method by which users interact with the Android technology is similar to that of how users interact with the Apple technology. Steve Jobs called the Android phone a "stolen product" and vowed to go to "thermonuclear war" over it, according to Jobs' biographer Walter Isaacson.²⁰ Patent infringement allegation cases from *Apple v. Samsung* to *Yahoo v. Facebook* settle for several billion dollars, often before monopoly countersuit claims ensue. In the absence of effective legal regulation, technical self-regulation increases.²¹ And consumers absorb the costs of these disputes.²² The unintended consequences of the failure to regulate prop-

erly, burdens innovation and threatens the very heart of America's free culture.²³

When the regulatory and legislative system fails to meet the needs of Silicon Valley, information technology companies adopt a formidable wild-west, rogue mentality in order to protect themselves in a youthful, burgeoning industry. These warring and faction-prone tech players find that they must act like inner-city gang mobs, wielding their metaphoric patent-like "guns" to protect their gang territory and "allies" and to scare-off potential tech enemies.²⁴ Defensiveness inhibits creativity and hinders companies from reaching their full potential. A profound travesty, patent wars threaten "the wealth and welfare of the whole world," cautions Mark Lemley, Stanford law professor. The antiquated patent system may seem a recondite subject, but the stakes of poor legislation could not be higher.²⁵ In the face of overly-broad and vague patent protection, the tech industry's bottom-line shifts away from enabling technology players to design and build quality products. The industry focuses on a new means of economic development that focuses solely on an idea's origination -- an inherently flawed concept in itself.²⁶ The proliferation of lawsuits, mergers and acquisitions, demands tech firms to strategically use their interactive design patents against competing firms amidst a land of legal allegations. Without regulatory support, tech firms play-fight, waving interactive design patents as threats to ward off potential offenders, and react to quick-fixes for short-term economic viability.

A new wave of comprehensive, top-down regulation sensitive to innovative interactive design would, in turn, govern internet technologies with regularity and fairness.²⁷ The complexities of the information age demand policymakers to strike a balanced approach to intellectual property legislation that provides protection and innovation.²⁸ A new patent system could reimburse inventors for use of their patented technology, early and often. Lemley suggests process-oriented solutions like implementing peer-review, post-grant opposition, and gold-plating as mechanisms for determining the scope and validity of rights.²⁹ Devoting additional resources to processing patent applications more quickly, placing strict caps on the ability of patentees to delay prosecution using continuation applications, and an independent invention defense or some form of prior-user-right would be helpful. The nature and scope of patent applications should be appropriately determined early on. Governed by an effective patent system, interactive designers could conduct a reasonable search for patents, allowing them to engage in good-faith negotiations over license patents that cover their invention.³⁰ Armed with knowledge and asserting their rights to access

property information, interactive designers could use a system to search for patents as part of the innovative process due diligence, rather than burying their proverbial heads in the sand, or falsely claiming to develop inventions entirely on their own.³¹ Then, information technology companies intent on protecting their interactive designs could rely on patents to preserve exclusivity without litigation.³² Smart legislation balances law and technology to create a reliable system incentivized to commercialize ideas and cultivate sustainable growth.

Understanding innovation in the IT cultural context, as well as America's legal protections, helps create balanced and responsive policymaking that reflects America's societal and economic aims.³³ For instance, the process of invention appears to be largely a social phenomenon.³⁴ Self-regulating technology players embrace cross-licensing to coordinate product improvements, given the high market interdependencies between invention.³⁵ It follows that working collaboratively benefits society. Rarely does digital transformation occur independently or in highly-controlled contexts. Instead, imagine a high tech industry re-envisioned, where patents confer information to technologists.³⁶ A community-driven culture based on cooperative competition, rather than maintaining a few resource-intensive monopolies, better spurs innovation.³⁷ Strong evidence suggests that thoughtful policy establishes flexible, yet reliable, regulatory systems -- fertile ground where innovations may be protected and flourish.

As it currently stands, the interactive design patent wars stymie economic development and contribute to the nation's "Great Stagnation." According to Tyler Cowen, "America's last best hope for breaking free from this economic downturn is the discovery of new 'disruptive' technologies that would transform the possibilities of economic production." Economists, technologists, social mediators alike agree that the U.S. economic recovery "depends largely on many thousands of small innovations increasing efficiency incrementally along many thousands of margins," where "innovation and invention is the key to continuing gains in prosperity."³⁸ Tangible prosperity, however, only seems perceivable in an soundly established, civil society. Effective rules respect universal rights, assuring interactive designers that the innovations they produce are done so without stealing concepts in the name of progress. By way of competent policies that uphold intellectual property rights, the interactive design industry, consisting of the Apples and Googles of the world, may transform innovative ideas into functional products, confidently enriching the human experience, instead of engaging in sibling rivalry.

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**Religion in the General Economy:
Metaphor, Narrative, and (In-)
Commensurability in Derrida's,
*The Gift of Death***

by Kevin W. Clark

Written for:
Course: *Doctoral Directed Reading*
Professor: Francis J. Ambrosio, Ph.D.
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Coming face to face with death in a movement that guarantees the gift of death, religion for Derrida is structurally equivalent to a denial of death. This claim may seem far from obvious, but this is to be expected: “dissimulation is never better dissimulated than by means of this particular kind of dissimulation that consists in making a show of exposing it, unveiling it, laying it bare.”¹ Religion is the attempt to inscribe death, abstract negativity, within “the economy of a sacrifice that keeps what it gives up.”² Thus, whether it takes the form of a history of responsibility, philosophy from Plato to Hegel, or a non-dogmatic doublet of dogma, religion always operates within restricted economy.³ Christianity, “a religion par excellence,” like the platonic mystery it represses, seeks furtively to acquire death’s gift by writing death in the form of sacrifice. But it is precisely as economy of sacrifice that Christianity is inscribed within restricted economy, however one writes it. Like Kierkegaard who famously prefaced his *Fear and Trembling* with a quartet of readings of the Abrahamic narrative, Derrida reads this Christian economy variously as a history of responsibility (Patočka), “a thinking that ‘repeats’ the possibility of religion without religion” (Heidegger *et al*), a fideistic suspension, or rather incorporation, of the ethical (Kierkegaard), and a stroke of genius, the most cleverly dissimulated dissimulation (Nietzsche).⁴ In each reading, the gift of death shows itself to be no gift at all, but rather a return on investment. Derrida argues no more in *The Gift of Death*, no less. He does not, however, always show his hand.

Near the conclusion of *The Gift of Death*, Derrida raises once more the question around which his reading of religion is continually moving. “Another economy?” he asks in response to Jesus’ teaching on praying, fasting, and giving alms *in secret*.⁵ Asked so tersely, so directly, the question moves his argument to an abrupt and unforeseen conclusion. To this point, Derrida’s reading of Kierkegaard seems indeed to indicate another economy at work. Now, however, Derrida asks whether the Christian gospel is not in fact a repressed iteration of restricted economy, a denial of death masked *ingeniously* by its inscription within an economy of sacrifice.⁶ Although he does not commit himself unambiguously with his own voice, his concluding invocation of Nietzsche suggests strongly that Derrida believes the Christian gospel to be just that. Needless to say, this is a devastating conclusion⁷ —but does it follow necessarily from Derrida’s reading of religion? Or are there perhaps other structures operative in his thought that privilege this reading? To answer this question it will be necessary not merely to consider the standards to which Derrida submits religion in *The Gift of Death*,

but more importantly to consider the language he employs in his reading.

Key to this inquiry is the term economy itself, especially Derrida's distinction between restricted and general economy.⁸ For by foregrounding this concept, or rather metaphor, it will become clear that Derrida's deconstruction of the opposition of history and responsibility (Patočka) and of religion and ethics (Kierkegaard and Lévinas) are actually surface waves generated by a much deeper current of economic thought. In fact, Derrida's notion of *general economy* is disclosed below as a structural element operative throughout *The Gift of Death* and in a number of his other earlier works as well. However, it is not simply the metaphor of general economy Derrida employs that accounts for his reading of religion in *The Gift of Death*. This essay argues that he writes this metaphor according to the logic of a particular narrative, one that privileges the very impersonalist system essential to his critique of Christianity.⁹ This combination of economic metaphor, narrative, and the impersonalist system it guarantees, forms the contours of a religion of general economy, the unspoken standard to which Derrida submits his readings of Patočka, Kierkegaard, *et al.* throughout *The Gift of Death*. The claim to have identified the contents of Derrida's undisclosed hand in no way invalidates Derrida's reading of religion, however; it simply questions whether his is the only way of reading it. As such, it raises as well the question of commensurability.

The payoff, therefore, for following Derrida's metaphor of general economy proves generous. It provides a compelling reading of Derrida's *The Gift of Death* as well as some criteria by which to evaluate his critique of religion.¹⁰ In the process, it discloses something of a postmodern criteriology of religion as well. The essay concludes with a discussion of this emerging picture of the possibilities of religion in the general economy.

Bataille in the Text of Derrida

The claim to have identified general economy as perhaps the primary structural element at work in *The Gift of Death* meets immediately with two challenges that must be addressed before proceeding with a reading of that text. The first is that Derrida does not in fact explicitly employ the term "general" in connection with his economic language in *The Gift of Death* as he does, for example, in the early essays "From Restricted to General Economy: A Hegelianism Without Reserve,"¹¹ and "Difference,"¹² where he thematizes general economy and relates it explicitly to restricted economy. Second, even were he to speak explicitly in

terms of general economy, he might simply be speaking differently now than in these earlier essays. Derrida is noted for the fluidity of his terminology, and the strict definition and application of terms often runs counter to his purposes.¹³ To answer these challenges it is necessary to read Derrida's economic language in *The Gift of Death* alongside these earlier essays, and both in the light of relevant passages from the writings of Georges Bataille that had such formative influence upon Derrida's economic thought.¹⁴ This seemingly circuitous course will prove quite fruitful, showing not merely that Derrida is in fact remarkably consistent in his use of economic language,¹⁵ but again that general economy is a deep current moving throughout, and thoroughly moving, Derrida's philosophy.¹⁶

Reading Bataille and Re-Writing Hegel within General Economy

The economic language Derrida employs throughout *The Gift of Death* is reminiscent of the language he develops in his reading of George Bataille's "Hegel, Death, and Sacrifice," in the 1972 essay "From Restricted to General Economy: A Hegelianism without Reserve." In this early essay, Derrida is concerned to explore the possibility of a kind of philosophical writing that escapes *Hegelianism*, his shorthand for the metaphysical tradition stemming from Plato. Perhaps the contemporary distaste for metaphysics tempts one to think that the path leading beyond metaphysics is broad and easy. Derrida assures us that is not: "we can pronounce not a single destructive proposition which has not already had to slip into the form, the logic, and implicit postulations of precisely what it seeks to contest."¹⁷ Even the architects, as it were, of the critique of metaphysics—Nietzsche, Freud, and Heidegger—failed, according to Derrida, to appreciate fully the significance of employing the "inherited concepts of metaphysics" in their respective destructions of metaphysics, because they failed to discern the *structurality* of these concepts. "Since these concepts are not elements or atoms," he explains, "and since they are taken from a syntax and a system, every particular borrowing brings along with it the whole of metaphysics."¹⁸ A key task for Derrida, then, is to unmask the complicity with metaphysics of any discourse that seeks to oppose metaphysics, precisely because metaphysics is inscribed within discourse itself.

How does one escape metaphysical discourse in one's opposition to metaphysics if the discourse one must employ itself privileges metaphysics? This is a difficult and deeply perplexing problem, but Derrida sees no alternative to

facing it. Indeed, the attempt to bypass the metaphysical discourse of philosophy often guarantees unwitting complicity in the metaphysical discourse of philosophy. “[A] shrug of the shoulders is preferred to discipline,” Derrida writes, but “[m]isconstrued, treated lightly, Hegelianism [read: metaphysics/philosophy] only extends its historical domination.”¹⁹ If the approach is neither fight nor flight, then, how ought one interact with philosophy? Derrida’s answer identifies his entire project: “What I want to emphasize is simply that the passage beyond philosophy does not consist in turning the page of philosophy (which usually amounts to philosophizing badly) but in continuing to read philosophers in *a certain way*.”²⁰ In the course of his essay, one finds that Derrida’s “certain way” of reading is in fact *a certain method of writing* inspired by his reading of Bataille. He describes this method of writing with brief clarity: “it is a question of explicitly and systematically posing the problem of the status of a discourse which borrows from a heritage the resources necessary for the deconstruction of that heritage itself. A problem of *economy and strategy*.”²¹ Derrida extrapolates the category of economy from Bataille’s theory of political economy. And although “Hegel, Death and Sacrifice”²² is the particular text that Derrida is reading in his essay,²³ *The Accursed Share* is where Bataille develops most fully the notion of general economy that he appropriates.²⁴

Bataille’s aim in *The Accursed Share* is actually to enunciate a theory of political economy, but before dealing particularly with the movement of goods and services in the exchange of production and consumption, however, he seeks to establish economy as a primary concept, or rather as a structure prior to any concept. Economics, for Bataille, is most fundamentally concerned with the dynamics of movement or circulation. It is primary for Bataille because the very structure of nature consists in the movement of energy. Thus any discipline concerned with movement or change must begin from a consideration of economy. It is important to note that this is not simply the case with the natural or social sciences; even disciplines that purport to view human action under the lens of rational freedom must take notice of these dynamics. Bataille writes: “neither psychology, nor, in general philosophy, can be considered free of this primary question of economy.”²⁵ Political economy, therefore, is for Bataille but one manifestation of a larger cosmic dynamic.

Having established the priority of the question of economy, Bataille distinguishes between what he terms *restricted economies* and *general economy*. The distinction is between an economy predicated upon scarcity, production, and

savings on the one hand, and one predicated upon excess, consumption and expenditure on the other. The former, restricted economy, considers movement of energy in terms of a closed circuit. This economy is finite, and its dynamics such that whatever is lost in part of the system is reserved elsewhere. According to Bataille, the natural and human sciences, as well as philosophy and psychology, assume by default that they are dealing in restricted economies. If they have any notion of the “general” at all, it is conceived as the aggregate of these restricted economies.²⁶ On this view, they imagine they are dealing with systems that are themselves *defined*, the sum total of which is still something definite as well. Bataille’s notion of general economy differs radically from this notion. For general economy is not the aggregate of restricted economies, but is something so entirely different from restricted economy that it cannot even be thought of as its opposite. Rather, since it considers the movement of energy within an indefinite structure, the dynamics of which are such that there is no means of holding in reserve against absolute loss, general economy stretches the very concept of economy to its limits.

To illustrate, Bataille describes the dynamics of nature, particularly biological life:

The living organism, in a situation determined by the play of energy on the surface of the globe, ordinarily receives more energy than is necessary for maintaining life; the excess energy (wealth) can be used for growth of a system (e.g., an organism); if the system can no longer grow, or if the excess cannot be completely absorbed in its growth, it must necessarily be lost without profit; it must be spent, willingly or not, gloriously or catastrophically.²⁷

For Bataille, biological life exists within a structure marked by extravagant excess, profligate loss, and pointless activity. This structure is perhaps best exemplified by the source of terrestrial life, the sun. “Solar energy,” writes Bataille, “is the source of life’s exuberant development. The origin and essence of our wealth are given in the radiation of the sun, which dispenses energy—wealth—without any return. The sun gives without ever receiving. Men were conscious of this long before astrophysics measured that ceaseless prodigality.”²⁸ There is no reciprocal circulation of energy in the solar system, but rather ceaseless expenditure on the part of the sun and pointless consumption on the part of biological life. Note

as well Bataille's notion of the randomness, the ateleology, of the play of energy that assigns living beings on earth. Nature is clearly not a restricted economy; its dynamics simply exceed circumscription. The question for Bataille, having made this observation, is the status of human action within nature.

Rather than viewing human beings as somehow exempt from this general cosmic phenomenon of excess and entropy, Bataille "reduces" humans beings to their "material necessity," inscribing them within nature's ateleological frame. "Man's activity," he writes, "in fact, pursues the useless and infinite fulfillment of the universe."²⁹ Not simply human biology or chemistry, then, but human reason, will and affections (the subjects par excellence of philosophy and psychology) fit within this cosmic frame. As such, all restricted economies, natural and human, are actually inscribed within a general economy. Humans may impose limits upon particular aspects of human experience and imagine that these are restricted systems, just as individual biological organisms may receive energy and put it to use in terms of their own growth. Yet, just as the very excess of energy eventually overwhelms the system of the organism, for Bataille, the dynamics of restricted economies constructed by human reason are caught up in the movement of a general economy whose excesses simply cannot be accounted for. The philosophical consequences for any putatively restricted economy are devastating, as Derrida demonstrates relentlessly.

The meaning of Derrida's language about "a certain method of writing" and "economy and strategy" is doubtlessly becoming clear. He appropriates Bataille's concept of economy in his reading of the history of philosophy as a restricted economy. Philosophy has always sought to make a profit off of its investment in discourse: what it gives up in meaning it recovers in truth, what it loses in writing it recovers in speech limiting meaning by truth, and so on. Nothing is ultimately unaccounted for. As Derrida writes, "the history of philosophy is a 'restricted economy' that takes no part in expenditure without reserve, death, opening itself to nonmeaning, etc."³⁰ At this point, the reason for the failure of the frontal opposition of philosophy should begin to become clear. If one were to turn things around, so to speak, and attempt to privilege nontruth or death, or to limit truth by meaning, this would be merely to subscribe implicitly to the very system that generated the oppositions in the first place. It would be a different kind of restricted economy, but it would remain restricted economy nonetheless because it trades in the system of binary oppositions that are its hallmark. Like the attempt to refute the law of contradiction by arguing the contrary; success

would be failure. Derrida argues that since one cannot simply oppose one restricted economy to the other—the failure he attributes to Freud, Nietzsche, and Heidegger—one must somehow find a way to affirm both the positive and the negative economic currents. There are, however, two very different ways of doing this, and understanding the distinction between the two is essential to understanding the distinction between restricted and general economy.

For Derrida, Hegel's chief insight lies in his recognition of the opposition, not merely of correlatives within a system of logic, a positive and a negative one, but the opposition of two systems of logic. These systems are what we have been discussing as restricted and general economy. At the center of the one system is the dialectical opposition between meaning, truth, life on the one hand, and nonmeaning, nontruth, and death on the other. This is a restricted economy of life and death, of affirmation and negation, where each side is defined in opposition to the other.³¹ He sees as well the logic of another economy, one that transcends this dialectic. Hegel's philosophy is the attempt to incorporate this latter economy by putting it into the service of meaning. Hegelianism is thus, for Bataille, the attempt to inscribe general economy within restricted economy. Hegel's putative affirmation of this other economy, of difference, argues Derrida, is actually "difference in service of presence, at work for (the) history (of meaning)."³² It is an ingenious denial of general economy in the form of acknowledging it. Hegelianism secretly operates in the restricted economy of deferred investment, a maneuver Derrida terms a dialectic *with reserves*.

Derrida, however, proposes a different way of affirmation, one that consists of a strategy of relating the two economies by simply transposing the Hegelian dialectic (and thus philosophical discourse in general) from restricted to general economy—not by opposing it to restricted economy, but simply by writing it within the margins of that economy. For by refusing to privilege restricted over general economy—the very structure of Hegel's dialectic, and, for Derrida, of all philosophical discourse—and by instead placing restricted within general economy, Hegel's dialectic multiplies itself infinitely in a chain of differential oppositions. This is Derrida's concept of the infinite expanse of the play of structure, a play that leaves the reader with no reason for choosing Hegel's dialectic of deferred investment over Derrida's own writing that he terms Hegelianism without reserves. In fact, it leaves one with no reason for seeking a reason to choose. Derrida writes of the prospects of his project: "Through such a relating of a restricted and a general economy the very project of philosophy,

under the privileged heading of Hegelianism, is displaced and reinscribed.”³³ By affirming both, Derrida actually affirms general economy to the destruction of restricted economy.

Following Bataille, Derrida refers to this strategy as sovereign or general writing, and the reader doubtless recognizes it as Derrida’s signature method of deconstruction. It is not philosophical discourse, but is rather employed as a tactic for “shak[ing] the security of discursive knowledge.”³⁴ For it is not employed to impart or disclose meaning; rather, it makes meaning slide. Bataille’s concept of the general economy, therefore, provides Derrida with a radically different structure within which to operate, and with it the suggestion of Derrida’s particular way of writing: a way of saying “yes, and” without ever arriving at “no, but”—structurally, and not merely accidentally. When Derrida employs the terms sovereign and general, he is borrowing directly from Bataille’s essay. This is also the case when Derrida writes of laughter, the impossible, unknowing, and “find[ing] a speech which maintains silence.”³⁵ This is not to say that Derrida simply assumes these terms, he in fact puts them to a singularly creative use. They have a life outside of Derrida’s text from which they derive a particular significance, however, even one which Derrida self-consciously employs. We turn to a brief elucidation of these terms as they arise in Bataille’s work.

Writing the Impossible: Laughter and Tears for NOTHING

The third volume of *The Accursed Share* is devoted to Bataille’s discussion of sovereignty, the mode of being of one who like Derrida (and Nietzsche before him) affirms the general economy of nature. “What distinguishes sovereignty,” writes Bataille, “is the consumption of wealth, as against labor and servitude.”³⁶ Wealth, as we noted above is another term for surplus, excess goods whose expenditure is beyond either utility or utilization. Indeed, “life beyond utility is the domain of sovereignty.”³⁷ However, this life of ateleological expenditure implies a certain temporal mode. To be free of utility, it must neither reflect nor anticipate; it can have neither a history nor a future in view. For to act with either past or future in view is in some sense to place action in service of either past or future. The temporal mode of the sovereign life, therefore, is the moment.

Bataille draws an interesting inference from this temporal mode of sovereignty, noting that the unanticipated, momentary appearance of the sovereign life is structurally equivalent to what has often been expressed as the miraculous.

This appearance of the unanticipated, notes Bataille, is that to which “all of humanity aspires;” it is “the object of human desire.”³⁸ Upon further reflection, however, the miraculous takes on the very strange quality of being somehow both positive and negative, or perhaps beyond that opposition all together. Bataille explains: “[It] is manifested among us in form of beauty, of wealth—in the form, moreover, of violence, of funeral and sacred sadness; in the form of glory.”³⁹ In each of these areas, it is the unanticipated nature of the appearance of the miraculous that grasps us.

A further implication of sovereignty’s momentary temporality is that sovereignty does not and indeed cannot consist in knowing. Indeed, Bataille writes:

Knowledge is never given to us except by unfolding in time. It is not given in a sudden illumination of the mind but in a discourse, which is necessarily deployed in duration. Knowledge, and the most profound knowledge, never appears to us in full except, finally, as the result of a calculated effort, an operation useful to some end.⁴⁰

Discourse is inherently servile because it unfolds in time. One thought, one word, always follows another; it is always the result of some cause and is in the service of some end. Knowing, therefore, is always work, always servile. It cannot be sovereign unless it were to occur in some absolute, ahistorical sense. But this means that for knowing to be sovereign, it would have to be known in a nonhuman way. This is not to say, however, that we are unconscious of the momentary arrival of the miraculous, just that this consciousness is itself as momentary as the arrival of the miraculous. When it comes to knowledge of the miraculous, one cannot eat his cake and have it. Or, to use Bataille’s brilliantly concrete example of the worker drinking a glass of wine, the experience of drinking the wine (frivolous as regards thirst) is by nature momentary, ephemeral. To have its experience is to be conscious of losing it. Bataille describes this momentary consciousness as *unknowing*, a radically different way of human reasoning (if it can be called that) than what is at work in the discursive reasoning of philosophy.

If a temporal analysis of sovereignty discloses it as momentary and identifies it with the miraculous and unknowing, an existential analysis, as we hinted above, identifies it with the momentary arrival of the impossible. Bataille elicits this observation by a fascinating and highly original inquiry into the nature of tears, particularly the experience of “happy tears.” He is puzzled by the lack of

philosophical questioning into the phenomenon of tears given their unusual character. They occur in moments of grief and sadness as well as in those of joy and celebration. Bataille reflects upon his own experience of shedding tears over hearing the story of a relative's unbelievable escape of a naval disaster during the second world war. This young man was unexpectedly transferred from the ship to which he had been assigned the very morning before that ship would ultimately be destroyed and all the crew perish. Bataille wonders over his tears in hearing this story. He concludes that they are the physical manifestation of the appearance of the impossible: "a miracle," he writes, "only a miracle, caused those happy tears to arise."⁴¹

Although he notes birth and death as being the most intense moments of the miraculous—perhaps because they are respectively the impossible entrance and exit of life—Bataille says that it is death in particular that places one in the presence of the impossible. Reflecting on an epigram of Goethe's where the latter describes death as "an impossibility that suddenly changes into a reality," Bataille writes of death: "Impossible, yet there it is—what better way to cry out the feeling that death inspires in men."⁴² As the appearance of the impossible, the miraculous is equivalent in its positive and negative forms—unanticipated good news and death. Both are the "moment when anticipation dissolves into NOTHING."⁴³ As the physical manifestation of the miraculous, then, tears bear this same curious ambivalence, this same transcendence of the opposition between positive and negative.

Like tears, laughter, too, partakes of the sovereign life. Although Bataille does not analyze laughter in the same depth as he does the phenomenon of tears, it too arises as the manifestation of the unanticipated arrival of the impossible. Interestingly, laughter also transcends the opposition of positive and negative: it is not uncommon for laughter and tears to accompany the arrival of the impossible, whether it be life or death. Bataille draws a few conclusions from this experience. First, only laughter and tears are sovereign, for they consist in unknowing— "[in] them the train of thought is broken off."⁴⁴ Thus, when Derrida writes in "From Restricted to General Economy" that "laughter alone exceeds dialectics and the dialectician," Bataille's meaning of the term is precisely what the former has in mind.⁴⁵ Further, the object of laughter and tears is unanticipated, uncalculated. Following from this is the implication that neither laughter or tears are, nor can be, the *result* of reason. Bataille draws the stark conclusion that anticipation only ceases to be anticipation when it is *against all*

reason, when, strictly speaking, “the reasonable *anticipation* of the result, dissolves, in a staggering, unanticipated way, into NOTHING.”⁴⁶

Concluding this brief reading of Bataille, several observations present themselves that have a direct significance for a reading of Derrida. First, for Bataille, general economy is a matter of excess and asymmetrical expenditure, while restricted economy is the attempt to limit this operation. There is, however, really no question of *either* restricted *or* general economy. All restricted economies, conceived as “particular operations with limited ends” are inscribed within general economy. Moreover, all human action and discourse is ultimately exceeded by general economy as well—even philosophy. Sovereignty consists in affirming this necessary movement of general economy. Its temporal mode of being is momentary, and thus its appearance is incalculable and unanticipated. The sovereign moment, is the arrival of the miraculous, the actualization of the impossible. Thus, sovereignty cannot be incorporated within a philosophical system, nor circumscribed by a way of knowing. Unknowing, sovereignty’s mode of “reasoning,” is rather the momentary consciousness of laughter and tears. Finally, the moment of sovereign life *comes as a gift*—“we cannot get it from our own efforts.”⁴⁷ This gratuitous miracle attends the arrival of the impossible, the unanticipated realization of NOTHING. To anticipate Derrida’s language, sovereignty is the gift of death.

Economy from Patočka to Kierkegaard

The point of departure for Derrida’s consideration of religion and ethics in *The Gift of Death* is a reading of Jan Patočka’s “Heretical Essays” in the *Philosophy of History*. Patočka writes the history of Europe as the history of Christian responsibility, a history that Europe has of late kept secret. This history, according to Patočka, is the result of two key movements. The first is the incorporation of the Greek orgiastic mysteries into Platonic philosophy. The second is the conversion of platonic philosophy to Christianity by repression of the orgiastic. Taken together, Patočka sees this history as the passage from secrecy to sacred mystery, from the demonic mystery to religious responsibility. For Derrida, however, “the mystery that is incorporated then repressed is never destroyed...history never effaces what it buries; it always keeps within itself the secret of whatever it encrypts, the secret of its secret.”⁴⁸ The aim of his reading is to deconstruct Patočka’s notion of religious responsibility, showing first that the opposition between secrecy and responsibility cannot

be maintained consistently as history, and then that Christianity's putative conversion of the Platonic (and the Platonic incorporation of the orgiastic for that matter) is not in fact the conversion it purports to be.

To speak of a *history* of responsibility is deeply paradoxical. Indeed, Derrida asks, "What would responsibility be if it were motivated, conditioned, made possible by a history?"⁴⁹ One must either deny the freedom necessary for responsibility, which would undercut Patočka's notion of European responsibility as the emergence from the orgiastic mystery. What else could it mean to leave behind the Dionysian night of the secret for the Apollonian day of responsibility if not emergence from demonic tutelage and the ascent to rational freedom? Or, if one insists upon freedom, then one must relegate responsibility's history to the category of the merely extrinsic, thereby questioning the significance of history as history. For what effect would a purely extrinsic history entail? Patočka, of course, desires to insist upon both responsibility and history, and for Derrida this means that "historicity must remain open as a problem, never to be resolved."⁵⁰ Resisting totalization, history remains a secret, and the primary opposition between the secret and the history of responsibility ruptures. In Derrida's reading, the history of European responsibility becomes the history of a secret, no less paradoxical than Patočka's history of responsibility, though a good deal more fruitful.

The result is that Patočka's argument is destabilized—the opposition of faith and secret, responsibility and mystery, cannot be maintained. As such, Patočka's Christianity, putatively a religion of responsibility, is unmasked in the final analysis as an economy of incorporation and repression. Derrida explains: "the logic of this conservative rupture resembles the economy of sacrifice that keeps what it gives up. Sometimes it reminds one of the economy of sublation or *aufhebung*, and at other times, less contradictory than it seems, of a logic of repression that still retains what is denied, surpassed, buried."⁵¹ Note the language of economy, reserves, and *aufhebung*; in Bataille's terms, Derrida's claim is that Patočka's Christianity is a restricted economy, a Hegelianism in disguise.

But is there perhaps another way of writing the Christian faith? A Christianity that "has no need of *the event of revelation or the revelation of an event*"?⁵² That is to ask, might Christianity replace the sacrificial element with "the gift as the gift of death, the fathomless gift of a *type of death*: infinite love (the Good or goodness that infinitely forgets itself)"?⁵³ This amounts to

a question of the possibility of religion as responsibility without dogma. It is necessary to address this question briefly because Derrida's text develops in this direction. Its significance as a question, however, will not be apparent until it elicits from Derrida a reading of Kierkegaard.

Briefly considering the prospects of what he terms "religion without religion,"⁵⁴ Derrida notes that the logic of Patočka's argument for responsibility operates "without reference to religion as institutional dogma" and as such allows for "the possibility and essence of the religious that doesn't amount to an article of faith."⁵⁵ For Derrida, the responsibility that Patočka understands to be the essence of the religious does not appear to be bound up with the event of revelation, but rather only with its *possibility*. This critique is implicit in his deconstruction of history and responsibility above. It is also the logic of logic: the possibility of being thought is its only necessary condition. Derrida sees a number of "discourses that seek in our day to be religious" in this manner among whom he places Levinas, Marion, Ricoeur, and Patočka, as well as "a certain Kant, a certain Hegel, Kierkegaard of course [and] Heidegger also."⁵⁶ According to Derrida, however, they are all united in a "tradition that consists in proposing a nondogmatic doublet of dogma, a philosophical and metaphysical doublet, in any case a *thinking* that 'repeats' the *possibility* of religion without religion."⁵⁷ They are all united, that is, in the attempt to avoid the philosophical problem of history (namely, its opposition to responsibility) by exchanging history into the currency of philosophy in the form possibility. This indeed is the logic of philosophy.

Does Derrida endorse this nondogmatic doublet of dogma, religion without religion?⁵⁸ He leaves this an open question, promising (but never making good on his promise) to address it later on in the text. However, the italicized words quoted in the passage above—thinking and possibility—suggest an answer. The reader will recall how in "From Restricted to General Economy," Derrida describes his notion of "sovereign writing" as writing the *impossible*, making meaning slide, writing *unknowledge*. This, of course, flows from Bataille's notion of sovereignty as the momentary release from the servitude of *thought*, a conscious unknowing that is effected by the actualization of the *impossible*. Derrida's religion remains to be seen, if it is to be seen at all, but if *The Gift of Death* is at all consistent with these earlier texts, his religion will have to be the religion of the *impossible* and thus of the *unthinkable*. It may indeed turn out to be a religion without religion, but

surely not because it substitutes possibility for event. A religion of possibility is a religion of thinking, and thus a servile and not a sovereign one. It is thus very doubtful that Derrida commends anything like it. Rather, if Derrida could endorse anything like religion without religion, it is religion without religion in the sense that it is a “religion” that denies the opposition that gives rise to the religious/ethical dichotomy the very term religious implies. Patočka attempts to reduce religion to ethics by substituting responsibility for mystery; Hegel, Kant, *et al.* attempt to reduce religion to philosophy by substituting possibility for event. Neither the former nor the latter, however, transcend an economy that keeps what it gives up. Derrida’s religion without religion, therefore, will have been a religion of general economy.

Thus the only place remaining for Derrida to turn in his questioning of religion is to a religion of the impossible, the unthinkable, one of absolute risk and responsibility that takes the strange form of ethical *irresponsibility*—a religion, that is, of the sovereign moment. That is to say, Derrida must question Kierkegaard, and this is precisely what he does. Is Kierkegaard’s religion an economy of sacrifice that does not keep what it gives up, that does not retain what is denied? This is to question the (*im-*)possibility of religion arising from the gift of death, one that takes absolute risk in the non-visible face of impossibility. If any such thing exists, it would seem to constitute religion in another (general) economy. Kierkegaard’s reading of the Abrahamic narrative makes precisely this claim, and it is to a consideration of Kierkegaard’s *Fear and Trembling* that Derrida devotes his attention for the remainder of *The Gift of Death*.

Kierkegaard’s *Fear and Trembling*: Sacrifice and Gift

“As a Christian thinker,” Derrida observes, “Kierkegaard ends by reinscribing the secret of Abraham within a space that seems, in its literality at least, to be evangelical.”⁵⁹ The final essay of *The Gift of Death* is devoted to discerning how Kierkegaard’s Christian writing of the Abraham narrative affects the economy of sacrifice that in the past three essays he has shown to be restricted. Now Derrida asks whether the inscription of Abraham’s sacrifice within the Christian gospel represents “another economy,” namely a general one, or whether it is simply another ingenious iteration of Hegelianism. The directness with which he asks this question is an indication of just how earnest he is in his asking—and

perhaps how ambiguous is the evidence.

Early on in the essay Derrida appears indeed to see another economy at work in Kierkegaard's reading. This fact is evident in Derrida's enumeration of the consequences of the disparity between God and Abraham, especially regarding the status of knowledge. For Kierkegaard, the God who compels Abraham's sacrifice is the same Father who "sees in secret" that Jesus mentions. God sees Abraham but God remains hidden, and this guarantees that "there is no knowledge of God."⁶⁰ Whatever the relationship between God and Abraham, then, it is one that is marked by both dissymmetry and non-exchange. This unknown God requires total sacrifice, and Abraham must act without knowledge, without guarantee. A strange economy indeed, and one that stretches the limits of the economics of Abraham's sacrifice. For "at their limits," Derrida writes, "calculation, logic, and even economy in the strict sense point precisely to what is at stake, suspended, or *epochalized* in such an *economy of sacrifice*."⁶¹ Furthermore, Derrida notes as well the integration of absolute loss. Abraham's intended sacrifice of Isaac is an expenditure without reserve, without the thought of reserve:

He risks winning; more precisely, having renounced winning, expecting neither response nor recompense, expecting nothing that can be given back to him, nothing that will come back to him (when we once defined dissemination as "that which doesn't come back to the father," we might as well have been describing the instant of Abrahamic renunciation).⁶²

Abraham renounces winning and thus any thought of return on his expenditure. This too is the language of general economy. In fact, Derrida goes on to Abraham's action as one that "sacrific[es] sacrifice understood as finite commerce,"⁶³ because it dismisses reciprocity and finite exchange. The economy Abraham participates in is, in short, an "infinite and dissymmetrical economy," one "that integrates the renunciation of a calculable remuneration, renunciation of merchandise or bargaining, of economy in the sense of a retribution that can be measured or made symmetrical."⁶⁴

It will be necessary to draw detailed conclusions from Derrida's description of the economy of Abraham's sacrifice. At this point, however, it is important to note simply Derrida's recognition of the dissymmetry, non-circularity of ex-

change, the suspension of calculation and logic, and the integration of absolute loss. There is no question, then, of what moves Derrida to raise the question of another economy: in every detail, it seems, Kierkegaard's reading of Abraham is written in general economy. If Kierkegaard's Christian reading of Abraham is in fact a reiteration of Hegel's *aufhebung*, it is insidious indeed. Yet, this is precisely what Derrida argues from the mouth of Nietzsche at the work's conclusion—it is Christianity's stroke of genius.⁶⁵

How does Derrida arrive at this conclusion? How is it that religion—even Kierkegaard's Christianity—cannot be anything but a restricted economy. The answer lies in the fact that Christianity is an inherently personalist system. If the economy of the gospel has God as other—indeed, the Other, the Father who sees in secret—then, structurally, at least for Derrida, it cannot be a general economy. For God guarantees that there is always ultimately a return on expenditure. This ultimate guarantee of return is precisely the grounds on which Derrida decided Abraham's was a restricted economy: “he sees God give back to him, in the instant of absolute renunciation, the very thing that he had already, in the same instant, decided to sacrifice.”⁶⁶ In the final analysis, there is actually no possibility of absolute loss here. The same economy is at work in the sayings of Jesus. “There is no man that hath left house, or parents, or brethren, or wife, or children, for the kingdom of God's sake,” Jesus assures his disciples, “who shall not receive manifold more in this present time, and in the world to come life everlasting.”⁶⁷ This promise offers no small return on investment. Even Jesus's apparent affirmation of death in his well-known call to take up one's cross, appears to be a dissimulating denial of death: “He that findeth his life shall lose it: and he that loseth his life for my sake shall find it.”⁶⁸ Derrida's final words in *The Gift of Death* appear to be the final word on the prospects of religion in general economy.

Likewise, Bataille's notion of general economy is predicated upon a necessary and impersonal movement of energy. Thus, sovereignty does not consist in the exercise of rational freedom, but in the affirmation of necessity. Bataille writes: “Man . . . being at the summit, his sovereignty in this living world identifies him with this movement.”⁶⁹ Like Nietzsche, Bataille desired only to affirm, to say yes, to this cosmic movement of energy, not because any such affirmation is meaningful, much less because he could freely do otherwise. Within an impersonalist system, terms like meaning or freedom are but attempts to inscribe

the movement of energy within a restricted economy. A central thesis of this essay is that Derrida shares this same notion of general economy as well. For like Bataille, Derrida conceives of general economy in terms of an *impersonalist* system.⁷⁰ Kierkegaard, however, imagines God to be part of his economy, and is thus committed to a personalist system. Structurally, then, according to the logic of Derrida's notion of general economy, Kierkegaard's economy must be restricted, however much it may mask itself in the garb of general economy.

General Economy, Narrative and Incommensurability

And yet one must ask whether Derrida's is the only way to read the general economy. Might Derrida, by insisting upon reading Kierkegaard according to the standards of an impersonal system, have simply failed to perceive the sleight of hand involved in such a procedure? If so, Derrida's critique of Kierkegaard may tell us little more than the impossibility of reading a personalist system according to the standards of an impersonalist system, and it may still leave unresolved the question of whether Kierkegaard's Christianity is a restricted economy. In order to answer the question, however, one must approach it somewhat laterally, questioning the Christian gospel in terms of the dynamics of general economy as Derrida writes it. If it withstands this questioning, it will suggest that Derrida's critique fails to recognize the incommensurability of personalist and impersonalist systems.

Does it make any difference in the interpretation of the narrative of Abraham and Isaac that the hinge is not that Abraham sacrifices a ram instead of his son, much less that Abraham substitutes Isaac for his own death, but that there is an uncalculated (because impossible) reversal at the very moment of sacrifice? If sacrifice is as a rule *aufhebung*, the attempt to get the payoff in self-knowledge that death affords—death's gift, that is—by a nearness of approach to death in the form of sacrificial substitute, then what one do with a narrative like Abraham's where even in Derrida's analysis there is no *hope* of return? Not only does Abraham act in silence, in the secret of what Bataille calls unknowing, his is an expenditure without reserve. To reply that Abraham acted in faith, or better in hope that God would restore his loss, does not seem to change the structure of the act. Strictly speaking, the return is impossible because it is neither symmetrical with nor deducible from the expenditure. It is important here to recall Bataille's claim that anticipation is no longer anticipation when it is against all reason.

The same dynamic is at work in the sayings of Jesus that Derrida features in his essay. With the first group, those concerning Jesus's teaching about praying, fasting, and giving in alms in secret in order to be rewarded by "the Father who seeth in secret," the conditions of receiving one's return are precisely those Bataille enumerated for the sovereign operation in *The Accursed Share*, namely, unknowing (unseen acts before a hidden God) and non-calculation (utter dissymmetry of exchange). With the other sayings, those describing plucked eyes, severed hands, and lost life, the conditions seems to be similarly unthinkable and incalculable, if not more radically so. Again, to say that one follows Jesus's teachings in hope that God will restore his or her loss, does not change the structure of the act. Any such hope is simply an impossibility, and as such is both an unthinkable and incalculable return.

Moreover, it is precisely the calculation, the holding in reserve, that marks the restricted economy. Interestingly, both in Kierkegaard's *Fear and Trembling* and in Jesus's "Sermon on the Mount," it is precisely calculation and spending with reserves that one must set aside. Abraham does indeed receive Isaac in return (in the somewhat paradoxical form of not having to sacrifice him),⁷¹ but this is the one expectation Abraham *could not* have entertained if he were indeed to receive his son in return. According to Kierkegaard the structure of the action demanded that he not calculate, but rather that he spend without reserves. Likewise, while it is true that Jesus promises a return on one's expenditure—a reward from a Father who sees in secret, a life for one who loses it—this return is incalculably asymmetrical. It is not deducible from the expenditure. In both cases, the return is hoped for, but it cannot in any sense be expected, much less calculated. The dynamics of both, therefore, bear a remarkable resemblance to Bataille's sovereign operation. Perhaps all along, then, it has not been a question of whether Christianity is secretly writing a restricted economy—a platonism of the people—but whether as a personalist system it is to be faulted for being irreconcilable to Derrida's impersonalist worldview.

But this is to pass over an intermediate question; that is, the question of the kind of narrative within which the metaphor of general economy is being read.⁷² Speaking very broadly, ought religion to be a tragedy or a comedy?⁷³ How ought one to decide that question? Even though Derrida privileges the tragic in his reading, it is undeniable that something of general economy is at work in the plot of each of these narrative forms. This is clearly the case in tragedy, where expenditure without reserve and the risk of absolute loss are the

rule, along with the utter impotence of human calculation, however the tragic hero attempts to circumscribe his fate within the restricted economy of his own rational freedom. The tragedy is perfect, in fact, when the hero, in what Bataille would call a sovereign operation, simply says “yes” to necessity. This operation is evident in the tears of the audience, which bear witness to their fear and pity over the impossible fate of the hero—impossible, to echo Bataille, because unthinkable. In comedy, however, there is expenditure without reserve and the risk of absolute loss as well. Yet, the frustration of human calculation here takes the form of the unexpected discovery of what is hopelessly lost, the miraculous return of what is heedlessly expended, and the incalculable arrival of unforeseen (because unforeseeable) fortune. Like tragedy, comedy is perfected at the moment the impossible becomes actual, the moment of eucatastrophe.⁷⁴ The audience laughs as the comic hero’s fortunes are impossibly changed. Like tragedy, comedy requires the incalculable, the impossible, the arrival of which according to our reading of Bataille are most evident in laughter and tears.

When we ask above whether Derrida’s reading of general economy might not be read differently, we are not asking merely about the personalism or impersonalism, but about whether Derrida is correct in his assumption that one must read general economy as tragedy. If he is correct, then he rightly faults the Christianity of Kierkegaard’s *Fear and Trembling* and Jesus’s “Sermon on the Mount” for violating the tragic form. They are as incurably comic as they are intrinsically personalist. Everything risked is ultimately secured; everything lost is restored. Might not general economy be read as comedy, however? The brief discussion above certainly suggests that it may. When Jesus claims that the narrative is after all a comedy, is he suggesting anything structurally different with respect to economy than Nietzsche does in suggesting that the narrative is tragic? In each case, one is asked to set aside the human propensity to calculate, and instead to spend without reserve, risking absolute loss. Each denies the sufficiency of human reason to secure against the impossibilities inherent in the narrative form. Each, that is to say, would identify Hegelianism as trading in the most insidiously counterfeit currency; for according to each the structure of the narrative is violated by the Hegelian *aufhebung*. Purporting to be a general economy of tragedy, it takes the form of the hero saying “yes” to fate in order somehow to master it, to be free from it, to make sense of it. Purporting to be comedy, it dissimulates by calculating its expenditures in secret anticipation of a return that exceeds calculable expectations. There is no pity, no fear, no tears,

however, for the hero who faces death only in a ruse. Neither is there laughter for the comic hero whose change of fortune is accounted for on the basis of his own shrewd designs. It is clear, therefore, that the impossible, the incalculable, the sovereign operation of the general economy, is inherent in both comedy and tragedy.

From this perspective, one is finally in a position to evaluate Derrida's reading of religion in *The Gift of Death*, and the conclusion is somewhat ambivalent. On the one hand, given the impersonal worldview of the tragic narrative he privileges, Derrida's (and thus Nietzsche's) conclusion is inescapable. Whatever Abraham's motives for sacrifice or Jesus's expectations concerning prayer, fasting and alms, the very fact of return violates the tragic form. Return can simply not be incorporated into the tragic narrative. On the other hand, it seems that it is precisely by privileging the impersonal that Derrida begs the question. There do not appear to be any standards for deciding between the personal and impersonal worldviews he opposes. (Surely personalism is only liable to the critique of impersonalism if the latter is demonstrably true.) At least he does not offer any. Neither is there any reason to think human experience is played out within the plot of a tragedy rather than a comedy. How, after all, would one know? Clearly, it would be absurd to fault comedy for being an insidious perversion of tragedy, or, similarly, to fault personalism for having violated the standards of impersonalism. Thus one must read Derrida's *The Gift of Death* as a brilliantly argued critique of the possibility of religion in general economy—according to a tragic and impersonalist worldview. As a criteriology, therefore, of what an impersonalist and tragic religion of general economy must look like, it is eminently coherent and persuasive. It only remains one possible reading of religion, however; the criteria of the impersonalist and tragic are clearly incommensurable with those of the personal and comic.

Incommensurability, however, does not mean incomparability. So, even though Derrida's reading fails in so far as it seeks to critique incommensurable narratives or worldviews, it is potentially very fruitful in as much as it discloses general economy (unwittingly, perhaps) as a structure that transcends the personal-impersonal/comic-tragic opposition. For as one has seen, it is precisely the human attempt rationally to circumscribe and master reality—what Derrida identifies as Hegelianism—that the religion of general economy denies, whether comic or tragic, personal or impersonal. This brings one finally to make good on the promise of offering a glimpse of an emerging postmodern religion. In the

terms used thus far, it will be a religion of the impossible, the incalculable, the miraculous, a religion of spending without reserves in a sovereign operation. In more traditional religious language, however, one might be simply saying that a religion of general economy will be a religion where the philosophical project of rational mastery is displaced by the recognition of mystery and human freedom.

ENDNOTES

¹ Jacques Derrida, *The Gift of Death and Literature in Secret*, 2nd edition, trans. David Wills, (Chicago: University of Chicago Press, 2008), 39.

² Derrida, *The Gift of Death*, 10.

³ The concept of restricted economy is discussed in much fuller detail below. At this point it is sufficient to define it as a system of circulation whose dynamics are finite and rationally circumscribable. This is in contrast to *general* economy, whose dynamics exceed rational limits.

⁴ Derrida, *The Gift of Death*, 50.

⁵ Ibid., 108. Derrida moves from a reading of Kierkegaard's Fear and Trembling to a consideration of the so-called Sermon on the Mount in Matthew's Gospel because of Kierkegaard's use of the phrase "he sees in secret" in the latter's discussion of Abraham, see 81.

⁶ Nietzsche is characteristically unambiguous in this regard. His estimation of Christianity in the *Genealogy of Morality*, which Derrida here invokes, is precisely that it is the most ingeniously masked version of Hegelianism, and thus for Derrida a restricted economy (*The Gift of Death*, 115-116).

⁷ The stakes in answering this question could not be greater for the contemporary believer. If Christianity is indeed a repressed restricted economy, then the Christian gospel deconstructs like Hegelianism, one of a number of its non-dogmatic doublets. If not, then at least a very particular (heretical) interpretation of the gospel may indeed elude Derrida's critique.

⁸ Derrida appropriates his notion of restricted and general economy from his reading of Georges Bataille, especially, as we will see below, from the latter's *The Accursed Share*, trans. Robert Hurley (New York: Zone Books, 1988).

⁹ Here I am following Dr. Francis J. Ambrosio's Fall 2011 lectures at Georgetown University where he performed a genealogy of western civilization in terms of the hero and the saint, the symbols respectively of an

impersonalist and personalist system.

¹⁰ More provocatively, perhaps, it questions readings of Derrida's religion like John D. Caputo's *Prayers and Tears of Jacques Derrida*, which conceive of the religion of *The Gift of Death* in terms of what Derrida calls "religion without religion" (John D. Caputo, *The Prayers and Tears of Jacques Derrida: Religion Without Religion* (Bloomington: Indiana University Press, 1997). Caputo, as we will see, rightly recognizes the truly religious character of Derrida's writing in *The Gift of Death*, at times even shrewdly reading Derrida against Derrida. It is the identification of Derrida's religion with the "religion without religion," or the "non-dogmatic doublet of dogma," Derrida writes of that is in our view mistaken. For Derrida, religion without religion, however appealing, is a restricted economy insofar as it remains a "thinking" a "repeating" and a "possibility" (See Derrida, *The Gift of Death*, 50-52).

¹¹ Jacques Derrida, "From Restricted to General Economy: A Hegelianism without Reserve," in *Margins of Philosophy*, trans. Alan Bass (Chicago: University of Chicago Press, 1982).

¹² Jacques Derrida, "Differance," in *A Derrida Reader*, ed. Peggy Kamuf (NY: Columbia University Press, 1991), 65.

¹³ Marion Grau, for example, takes this posture in his article, "Erasing 'Economy': Derrida and the Construction of Divine Economies," in *Crosscurrents*, (Fall 2002): 360-70. He is mistaken, however, in his notion that Derrida's program of writing *differance* by relating general economy to restricted economy indicates that general and restricted economy are opposites, correlative pairs (361-2). Not only does this fail, in our view, to take account of Derrida's notion of "sovereign writing" as he develops it in his 1972 article "From Restricted to General Economy," it fails to take account of Bataille's explicit denial of the notion that general economy is the negative or the opposite of restricted economy (see especially Bataille's *The Accursed Share*, vol.1). Not only is Derrida too careful a reader to miss this in his reading of Bataille; the genius of Derrida's project is to expose and deconstruct binary oppositions.

¹⁴ We will focus particularly upon volumes I and III of Georges Bataille's *The Accursed Share: An Essay on General Economy*, trans. Robert

Hurley (New York: Zone Books, 1988).

¹⁵ Raphael Foshay, "'Tarrying with the Negative': Bataille and Derrida's Reading of Negation in Hegel's Phenomenology," in *Heythrop Journal* XLIII (2002):295–310. Foshay notes the "conspicuous continuity of Derrida's work with this post-idealist critique" (295).

¹⁶ Key in this regard is Arkady Plotnitsky's *Reconfigurations: Critical Theory and General Economy* (Gainesville, FL: University of Florida Press, 1993), in which he argues the centrality of general economy in Derrida's thought.

¹⁷ Jacques Derrida, "Structure, Sign and Play," in *Margins of Philosophy*, trans. Alan Bass (Chicago: University of Chicago Press, 1982) 280-1.

¹⁸ *Ibid.*, 281.

¹⁹ Derrida, "From Restricted to General Economy," 251.

²⁰ Derrida, "Structure, Sign, and Play," 288.

²¹ *Ibid.*

²² Georges Bataille and Jonathan Strauss, "Hegel, Death and Sacrifice," in *Yale French Studies* no. 78, "On Bataille" (1990): 9-28.

²³ Derrida, "From Restricted to General Economy."

²⁴ Georges Bataille, *The Accursed Share*, trans. Robert Hurley (New York: Zone Books, 1988).

²⁵ Bataille, *The Accursed Share*, 10.

²⁶ "Erasing Economies," 362. Grau unwittingly provides a great illustration of just how easily Bataille's notion of the general economy is misconstrued when he notes that Bataille's distinction between restricted and general economy is between economy considered from the perspective of commercial value and economy considered from the larger political perspective. He simply fails to perceive the generality of general economy.

²⁷ Bataille, *The Accursed Share*, 21.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Derrida, "Differance," 72.

³¹ In part IV.A of his *Phenomenology of Spirit*, Hegel refers to the positive and negative of this dialectic in terms of Lordship (Herrschaft) and Bondage (Knechtschaft). For a full treatment of Derrida's and Bataille's interpretation of this dialectic see: Raphael Foshay, "'Tarrying with the Negative': Bataille and Derrida's Reading of Negation in Hegel's *Phenomenology*," in *Heythrop Journal* XLIII (2002):295–310.

³² Derrida, "From Restricted to General Economy," 263.

³³ Derrida, "Differance," 72.

³⁴ Derrida, "From Restricted to General Economy," 272.

³⁵ Ibid., 262.

³⁶ Bataille, *The Accursed Share*, 198.

³⁷ Ibid.

³⁸ Ibid., 199–200.

³⁹ Ibid.

⁴⁰ Ibid. (Italics original.)

⁴¹ Ibid., 206.

⁴² Ibid.

⁴³ Ibid., 207 (capitalization original).

⁴⁴ Ibid.

⁴⁵ Derrida, "From Restricted to General Economy," 256.

⁴⁶ Bataille, *The Accursed Share*, 211.

⁴⁷ Ibid., 206.

⁴⁸ Derrida, *The Gift of Death*, 23.

⁴⁹ Ibid., 7.

⁵⁰ Ibid. History, it seems, can only be resolved as a philosophical problem by the end of history.

⁵¹ Ibid., 10.

⁵² Ibid., 50 (Italics original).

⁵³ Ibid., 49 (Italics mine).

⁵⁴ Ibid., 50.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ This appears to be the opinion of John D. Caputo in his *Prayers and Tears of Jacques Derrida*.

⁵⁹ Ibid., 81.

⁶⁰ Ibid., 92.

⁶¹ Ibid., 92 (Italics original).

⁶² Ibid., 96.

⁶³ Ibid., 101.

⁶⁴ Ibid., 106.

⁶⁵ Ibid., 109.

⁶⁶ Derrida, *The Gift of Death*, 96.

⁶⁷ *Luke* 18, 29-30 (KJV).

⁶⁶ *Matthew* 10, 39.

⁶⁷ Bataille, *The Accursed Share*, 23.

⁷⁰ Again, I am indebted to Dr. Frank Ambrosio's fall 2011 lectures at Georgetown University, where he performed a genealogy of western civilization in terms of the hero and the saint, the symbol respectively of an impersonalist and personalist system.

⁷¹ This, at least, is the interpretation offered by the author of Hebrews (11:19).

⁷² By framing the question explicitly in terms of metaphor and narrative I am following Paul Ricoeur. See especially: *The Rule of Metaphor*, trans. Robert Czerny (Toronto: University of Toronto Press, 1981), and *Time and Narrative*, trans. Kathleen McLaughlin and David Pellauer (Chicago: University of Chicago Press, 1983).

⁷³ I am painting here with broad strokes. By tragedy, I have in mind something akin to Aristotle's Sophocles as the former discusses it at length in *Poetics*. By comedy, I mean something more like the so-called new comedy or Roman comedy—in fact, a plot like that of Dante's Comedy is perhaps the best example.

⁷⁴ I borrow this term from J. R.R. Tolkien's famous essay "On Fairy Stories," in which he coins the term in order to describe the comedic correlative of the tragedy's catastrophe. In the terms we have discussed in this essay, eucatastrophe is structurally equivalent to the miraculous.

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Felix Frankfurter
A Study in Contrasts

by Mary C. Dixon

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The history of the Supreme Court is partly a story of personal relationships and individual leadership styles. For example, Justice Felix Frankfurter and Justice Hugo Black had a somewhat adversarial relationship when they served together on the Supreme Court.

Black was the product of a legal and political career. While his family was not wealthy, they were better off than many in their home state. His mother was educated and saw that her children were educated in the schools and colleges of Alabama. Trained as a lawyer, Black had years of experience as a public prosecutor and U.S. Senator persuading juries, voters, and Senate colleagues to see things his way. In the nine-vote universe of the Supreme Court, this became a formidable advantage.

On the surface, Felix Frankfurter seemed destined for greatness when he was named to the Court, in part because his journey there was such an unlikely success story in so many ways. Short in stature, very outgoing and gregarious by nature, Frankfurter's wife, Marion Denman Frankfurter used to say that he had "two thousand best friends."¹

Like many immigrants, Frankfurter developed intense love for and loyalty to his adopted country and its institutions. He was the descendant of generations of rabbis and clearly was intellectually gifted. He grew up on Manhattan's Lower East Side where he excelled in school, graduating from City College of New York in 1902.²

From there his path led to Harvard Law School. Frankfurter found himself in a different societal universe at Harvard and developed a set of intellectual ideas and a conception of American society from which he never strayed.³

Frankfurter embraced the philosophy of his Harvard Law professor, James Bradley Thayer, who said in an 1893 article, "...judges have to defer to legislatures, which directly reflect the popular will." Judgment of the "foolishness" of legislative policies should be left to the people, and the role of judges should be restricted to determining in constitutional cases "whether the legislature has transgressed a clear prohibition."⁴

Frankfurter's first job out of Harvard in 1905 was with a prominent Wall Street law firm, Hornblower, Byrne, Miller and Potter, the first Jewish lawyer ever to be hired by the firm. His brilliant academic record simply overcame his background.⁵

Unsatisfied with private practice, when Henry Stimson asked him to work in the U.S. Attorney's office, Frankfurter took the pay cut and dived into cases that ranged from smuggling to antitrust violations, to habeas corpus proceedings on

behalf of immigrants.⁶

Stimson was the first of Frankfurter's "hero-mentors."⁷ Throughout his early career Frankfurter would find himself selected for jobs, or befriended, or both, by prominent figures such as Stimson. One was Louis Brandeis. Another was Oliver Wendell Holmes. A third would be Franklin Roosevelt. It was probably Frankfurter's natural ebullience that led him to be effusive in his flattery of these men; however, by today's standards, that effusiveness seems cloying, if not insincere.

One example is a comment by Frankfurter about Stimson: "I don't see how a young fellow coming to the bar could possibly have had a more desirable, more deepening, and altogether more generous influence during his formative years than to be junior to Henry Stimson."⁸ Frankfurter's flattery, however, was evidently acceptable to, and even welcomed by the recipients.

In 1911, Stimson had been named Secretary of War. He asked Frankfurter, not yet 30 years old, to join him as counsel in the Bureau of Insular Affairs.⁹ It was also during this time that he met and was befriended by Justice Oliver Wendell Holmes, his next hero-mentor.¹⁰

Frankfurter's time in Washington as a young man was heady stuff even for someone as accomplished as he was. He shared a house owned by the Commissioner of Indian Affairs. Among the residents was Lord Eustace Percy of the British Embassy and several others. Their residence became a salon of sorts, known as the "House of Truth." Frequent visitors included founders of *The New Republic*, author Herbert Croly, and newspaper commentator-author, Walter Lippmann. Louis Brandeis and Holmes also were frequent visitors.¹¹

Also in Washington he met his future wife, Marion Denman, who was not Jewish. Their courtship would last over a number of years and their marriage would be somewhat of a disappointment to his strong-willed mother. It would also not be a particularly happy relationship for the couple themselves.

In 1914 Frankfurter returned to Harvard, this time as a law school faculty member.¹² At Harvard, he also became involved in progressive issues outside the classroom. When Louis Brandeis was appointed to the Supreme Court, Frankfurter took over the defense of a case dealing with the minimum wage and 10-hour work-day law. He finished the briefs and argued the case before the Court.

A correspondent for *The Nation* reported his impression of Frankfurter's oral argument before the high court in that case, *Muller v. Oregon*, 208 U.S. 412 (1908): 'That august tri-

bunal listen(ed) intently to the plea of a small, dark, smooth-faced lawyer, mostly head, eyes and glasses, who looked as if he had stepped out of the sophomore classroom of a neighboring college. He lectured the Court quietly, but with a due sense of its indebtedness to him for setting it right where it has been wrong. . . . He was becomingly tolerant when the gray haired learners asked questions which seemed to him unnecessary, and gentle when he had to correct a mistaken assumption.¹³

This is a revealing look at how Felix Frankfurter's manner and approach often gave the appearance of arrogance and super self-confidence. His success at navigating the ladder of achievement in his adopted country did not, however, lead him to consider that others might not be as impressed by his achievements in quite the same way.

When he eventually came to the Court, Frankfurter would occupy what was known as the "scholar's seat" previously occupied by Oliver Wendell Holmes and Benjamin Cardozo, but he would bring his own unusual experience from his work in the Executive Branch, in academia, and with progressive causes.

The Court Years

Felix Frankfurter came to the Supreme Court in 1939 with sterling academic credentials as a member of the Harvard Law School faculty. "Except for Brandeis and Charles Evans Hughes, no twentieth-century justice of the Supreme Court was so deeply immersed in the legal, intellectual, and political battles of the era from Theodore Roosevelt to Franklin Delano Roosevelt."¹⁴

He had solid progressive political credentials from his years working with Stimson and on behalf of Brandeis. President Wilson named him to the President's Mediation Commission. He gained a reputation as a radical for his investigations into labor issues, looking into the treatment of miners in Arizona and into the case of labor activist Tom Mooney's murder/bombing conviction.¹⁵

His lengthy article, on behalf of Sacco and Vanzetti in *The Atlantic Monthly* in 1927, further burnished his progressive activist credentials. The article read like a lecture that might be expected from a law professor and concluded that a new trial was called for in the case.¹⁶

"There is little doubt that (Hugo Black) and Felix Frankfurter possessed the

finest minds on a Court blessed with a large number of splendid intellectuals.”¹⁷

Thus, there were certain expectations of what Frankfurter’s tenure on the Supreme Court would produce. However, these expectations were perhaps based on the idea that Frankfurter’s work record somehow provided a road map for what his approach to his work would be on the Court.

It was clear that he was enormously gifted and accomplished intellectually. It was clear that he came from humble beginnings and had risen to the top of the food chain in his adopted country. It was clear that he had many friends and well-wishers who themselves were also high achievers and prominent citizens. It was clear that Frankfurter had won unique opportunities for advancement over the years through his mentors and because of his talent and hard work. It was not clear, however, that history connected with his judicial philosophy.

In “The Weil Lectures on American Citizenship” at the University of North Carolina two years before he joined the Court, Frankfurter said that the Supreme Court had directed the “stream of history” that became Constitutional law in the United States. He said the “cross-currents of ideas” underlying decisions by Chief Justices John Marshall, Roger Taney and Morrison Waite in applying the commerce clause were “part of that stream of history which flows into the waters of contemporary adjudications.”¹⁸

He went on to say that Marshall’s approach in *Gibbons v. Ogden*, 22 U.S. 1 (1824), “became central to our Constitutional scheme: the doctrine that the commerce clause by its own force and without national legislation, puts it into the power of the Court to place limits upon state authority. . . Marshall’s use of the commerce clause greatly furthered the idea that though we are a federation of states, we are also a nation. . . state authority must be subject to such limitations as the Court finds it necessary to apply for the protection of the national community.”¹⁹

He praised Marshall as “shrewd enough not to arouse, needlessly, the combination of forces against the imperceptible but steady enlargement of federal authority by making obvious the creative role of the Supreme Court in conveying to ordinary men the meaning of the Delphic language of the Constitution.”

Frankfurter indicated his agreement with Marshall on deference to local authority in *Wilson v. The Black-Bird Creek Marsh Company*, 27 U.S. (2 Pet.) 245 (1829), stating that, “Marshall decided in favor of local control because in this instance the challenged legislation provided for local concerns: “the improvement of property values.”“It is not a regulation of commerce but of police

power. Because the police power is a response to the dynamic aspects of society . . . it is one of the most fertile doctrinal sources for striking an accommodation between local interests and the demands of the commerce clause.”²⁰

But, Frankfurter believed that Marshall was fortunate that he could look to “the end” of legislation to determine validity, because over time, he felt that the growth of economic interdependence had meant a shift in how one might consider such legislation. “(Marshall). . . was never called upon to canvass the elements of the problem that must be considered when a state law, in fact, unduly burdens commerce.”²¹

This seems not to consider the practical effect of the *Gibbons v. Ogden* decision which certainly dealt directly with a situation where state laws were unduly burdening commerce, and John Marshall pointed out that problem in his decision. It does make clear that Frankfurter preferred to stay on the conservative side of the commerce clause as much as possible.

With regard to Chief Justice Morrison Waite, who was considered by many to have been mediocre, Frankfurter stated about his writing that “the style is the man in judicial writing” . . . and, “Indeed, it may be urged that style is substance.” “Waite’s opinions are described as “clumsy in construction and opaque in phrasing; he hugs the shore of fact.”²² But Frankfurter liked the display of judicial restraint represented by Waite: his deference to the legislature’s view of constitutionality; a refusal to deprive the legislature of the choice of policy; and, recognition that an appreciation of the facts of the economic aspects of modern legislation is indispensable to judicial judgment.²³

As for Roger Taney, he felt that Taney had been so discredited by the *Dred Scott* decision that his other work was not known or appreciated. Frankfurter viewed the political tradition represented by Taney and his colleagues as being direct antecedents of the traditions associated with the “elder LaFollette, the Progressivism of Theodore Roosevelt and the New Freedom of Woodrow Wilson.”²⁴

Since Taney, aside from his work in the *Dred Scott* case, was very reluctant to see expansive opportunities for federal power over state power in the commerce clause, it seems odd that Frankfurter mentally associated him with people like LaFollette, Roosevelt and Wilson.

So it was that Felix Frankfurter was appointed to the Supreme Court by Franklin Roosevelt. By all accounts Frankfurter’s entire life had been spent in the role of protégé of powerful men, or teacher of future powerful men. He had

not spent much time or effort on peer group activities or relationships. He had a very high opinion of his own intellect and was truly vain about his Harvard education. He, no less than those who knew him, expected he would assume a position of leadership on the Court. Apparently, however, no one at the Court “got that memo,” nor did they feel in need of instruction.

Gobitis and Barnette — The Turning Points

The case of *Minersville School District v. Gobitis*, 310 U.S. 586 (1940) was a turning point for Justice Frankfurter. It marked the “beginning and end of Frankfurter’s “acknowledged” or expected, leadership on the Court.”²⁵

The facts of the case were that Lillian Gobitis (aged 12) and her brother William (aged 10), were expelled from the public schools of Minersville, Pennsylvania, because they refused to participate in the daily school salute to the U.S. flag including the recital of the Pledge of Allegiance. The children did not participate because they and their parents were members of the Jehovah’s Witnesses and believed that such pledges constituted idolatry.²⁶

Lower courts had sided with the family against the school district. The Supreme Court voted 8 to 1 to reverse the lower courts and uphold the school district requirements. Frankfurter authored the Court’s opinion. The Chief Justice was said to have assigned the task to him because Justice Frankfurter was very emotional about the role that public schools played in the U.S. to instill love and respect for country in students.²⁷

This had been part of his own experience as a child, and as one who had moved to ultimate “insider” status, Frankfurter now saw no conflict and no irony for it to be completely reasonable to expect other “outsiders” to follow in his own path. Clearly, that path had been very rewarding for him, and in spite of what might have been expected, he seemed unable to fathom a different point of view on the subject.²⁸

He had no problem with the rule in the *Gobitis* case, brushing aside the views of those who were “alien” and not willing to do as the immigrant Frankfurter had done, and cast aside beliefs not in line with civic observances.²⁹

In his *Gobitis* opinion, Frankfurter stated that the case required the Court to decide whether a requirement of participation in the flag salute ceremony by a person (child) with sincere religious objections, infringed without due process upon the liberty guaranteed by the 14th amendment.³⁰

He pointed out that the Founders prohibited the establishment of a state re-

ligion and provided for free exercise of faith by all. In the task of reconciling “two rights in order to prevent either from destroying the other” he also cautioned that protection of religious toleration was supported by some limits on freedoms of conscience.³¹

He drew a line between religious observance and civic observance. He asked whether the Gobitis children should be excused from “conduct required of all the other children in the promotion of national cohesion.”³²

He stated that an interest in national cohesion was a priority in the hierarchy of legal values because national unity was the basis of national security. He pointed out that the ultimate foundation of a free society was “the binding tie of cohesive sentiment.”

In the late 19th and early 20th centuries the newly developing social sciences appeared to offer approaches to some social issues that might improve society in a number of ways. There were also movements for better worker protections an end to child labor and so forth. Most educated Americans, which Felix Frankfurter certainly was, embraced these new ideas.

Frankfurter had been even more intensely exposed to such thinking through his social contacts with people like Lippmann and Croly and others in his Washington “salon” existence. Eugenics was one such philosophy that held interest for a number of Americans, but there was a dark side to eugenics as was later observed in Nazi Germany.

Still, at that time, Frankfurter, and many others believed that “experts” were always to be relied on to know what would be best for all. “His conviction (was) that the proper study of enough facts would produce inevitable conclusions about societal goals. . .” that “good motives and diligent care would inevitably produce happy human relationships.” This, however, was no truer for his marriage than were his hopes for society at large.³³

In the Gobitis case, Frankfurter showed his inclination to defer to “experts,” in this case the legislatures and the school boards, to know what would be best to make sure that students learned proper attitudes about their native or adopted land. It does not seem to have occurred to him that the very virtues of this particular nation were completely at odds with being forced to comply. If the “end is legitimate” then the requirement was reasonable.

He also stated that the courtroom was “not the arena for debating issues of educational policy” and that to expect the Court to take on that debate would “in effect make us the school board for the country.” That authority had not

been given to them and they should not assume it.³⁴

In conclusion he stated that “to the legislature no less than to courts is committed the guardianship of deeply-cherished liberties,” and that the proper place to contest issues raised in *Gobitis* would be in the legislatures, not the courts.

The lone dissenter was Justice Stone. Part of his dissent stated: “History teaches us that there have been but few infringements of personal liberty by the state which have not been justified, as they are here, in the name of righteousness and the public good, and few which have not been directed, as they are now, at politically helpless minorities.”

Gobitis was decided in 1940. By 1943 the world had changed. Everyone had been exposed to newsreels of Hitler and the flag laden rallies and stiff-armed salutes of Nazism. When *West Virginia State Board of Education v. Barnette*, 319, U.S. 624 (1943) came along, the Court not only came to a different conclusion, but the 6 - 3 decision incorporated a point by point rebuttal of the *Gobitis* decision.³⁵ That alone must have stung Frankfurter’s ego.

Once again, Jehovah’s Witnesses were in court, this time protesting requirements by the state board that public school students be required to participate in activities specifically elaborated in the *Gobitis* decision.

A few highlights of the decision were: “the freedom asserted by these appellees does not bring them into collision with rights asserted by any other individual; the flag salute is a form of utterance; government of limited power need not be anemic government; the Fourteenth Amendment, as now applied to the States, protects the citizen against the State itself and all of its creatures – Boards of Education not excepted; we set up a government by consent of the governed, and the Bill of Rights denies those in power any legal opportunity to coerce that consent; if there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us.”³⁶

Justices Black and Douglas, who had supported the Gobitis decision, changed their votes and said: "Reluctance to make the Federal *Constitution* a rigid bar against state regulation of conduct thought inimical to the public welfare was the controlling influence which moved us to consent to the Gobitis decision. Long reflection convinced us that although the principle is sound, its application in the particular case was wrong."³⁷

Frankfurter filed a very long and somewhat furious dissent: "One who belongs to the most vilified and persecuted minority in history is not likely to be insensible to the freedoms guaranteed by our *Constitution*. . . The tendency of focusing attention on constitutionality is to make constitutionality synonymous with wisdom, to regard a law as all right if it is constitutional. . . particularly in legislation affecting freedom of thought and freedom of speech, much which should offend a free-spirited society is constitutional."³⁸ Apparently, the irony of his words was lost on him in the anger of the moment.

More than once, it was said of Felix Frankfurter, that his opinions were always exactly fifty minutes long, which was also the length of a class period at Harvard Law School. They were deeply thought through and well-written, with many pages of footnotes and case citations, along with various allusions to situations and instances that he thought added something to the point at hand. It was as if he could not resist highlighting how erudite he was to underscore his own belief that everyone on the Court should agree with him. But they didn't.

This style, this approach harked back to his youthful lecturing and condescension before the Supreme Court described so vividly and devastatingly in *The Nation* magazine. "... becomingly tolerant when the gray-haired listeners asked questions which seemed to him unnecessary, and gentle when he had to correct a mistaken assumption."³⁹

Frankfurter took the repudiation of Gobitis in the Barnette decision as a personal betrayal by Black, Douglas and Murphy. From that time forward, he had a contentious relationship with his brethren.⁴⁰

Excerpts of Highs and Lows of Frankfurter's Court Career over the Years

(Frankfurter) "never accepted the view of Black and Douglas that when the First Amendment says, "Congress shall make no law" abridging the freedom of speech, it means no law, period, because to Frankfurter the amendment was never conceived as creating an absolute barrier to legislation, but only to formally recognize the historically derived and limited expectations of

free expression.”⁴¹

“Felix Frankfurter, brilliant, supremely intellectual, proud, and, professorial, sharp tongued as well as sharp-minded, had clearly expected to become the leader of the post-1938 Court, certainly among the FDR appointees. But as the years progressed, he found himself losing steadily to Black’s emerging leadership, especially in the judicial posture on civil rights and liberties, with particular relevance of the application of the Bill of Rights to the states, a goal for which Black fought with zeal for more than two decades until, besting Frankfurter’s contrary position, he prevailed. Felix was not amused.”⁴²

In *Cooper v. Aaron*, he insisted on filing his own separate concurrence after everyone on the Court had agreed to sign onto the Court opinion. In his concurrence, Frankfurter presumed to lecture Southern lawyers and officials, especially those who may have been his students at Harvard, on how they should proceed with integration.⁴³

He was “completely tone deaf to the effect his arrogant assumption of superiority would have on his colleagues,” aside from any possible effect (negligible) on Southerners, be they his former students or not.⁴⁴

“In a book about Holmes, Frankfurter even questioned the lowly status of property rights.” He said, “Certainly in some of its aspects property is a function of personality and conversely the free range of the human spirit becomes shriveled and constrained under economic dependence. . . (a) sharp division between property rights and human rights largely falsifies reality.”⁴⁵

“He (Frankfurter) nonetheless was far more likely to find expression and equality and the procedural rights of suspects protected by either the specific language of the Constitution or the more general implications of due process and equal protection.”⁴⁶

In *Baker v. Carr*, 360 U.S. 186 (1962), a case concerning court intervention in legislative reapportionment issues, he said, “. . . there is not under our *Constitution* a judicial remedy for every political mischief, for every undesirable exercise of legislative power.” “In a democratic society like ours, relief must come through an aroused popular conscience that sears the conscience of the people’s representatives.”⁴⁷

Over the years, Frankfurter “took annoyance of his colleagues personally and attacked them in personal terms.” “In a note to Justice Murphy he listed, as among Murphy’s ‘clients,’ reds, whores, crooks, Indians and all other colored people, longshoremen, mortgagers, and other debtors, pacifists, traitors, Japs,

women, children and most men. . . .” “He called Hugo Black, violent, vehement, indifferent to the use he was making of cases, utterly disregarding of what they stood for, and quite reckless.” “Black,” he told Judge Learned Hand, “is a self-righteous, self-deluded part fanatic, part demagogue, who really disbelieves in law, thinks it essentially manipulation of language. Once close to Douglas, they grew apart as Frankfurter failed to bring others under his control intellectually . . . Neither Black nor Douglas, in his view, was a man of principle.”⁴⁸

Conclusion

When Frankfurter was appointed to the Supreme Court there had been an expectation that his long time commitment to civil liberties would morph into a judicial philosophy. This did not occur. He turned toward judicial self-restraint, in line with Thayer, but he did support various values he saw as essential. This often made him seem contradictory or hypocritical.⁴⁹

“Publication of his Court diaries and letters has revealed a man of enormous insecurities, one frequently consumed and crippled by rage, vanity and self-pity.” “There is now almost a universal consensus that Frankfurter, the justice, was a failure, a judge who (Joseph Lash said) became uncoupled from the locomotive of history during World War II, and who thereafter left little in the way of an enduring jurisprudential legacy.”⁵⁰

On the other hand his law clerks used to call him “The Little Judge,” and his work and home were filled with friends throughout his life. “Admirers...praised Frankfurter’s stubborn independence, his consistency and his willingness to stand against the fashions of the legal academy.” “No judge, not even Brandeis,” wrote one admirer, “has faced the essential (judicial) task with greater valor or . . . greater rectitude.”⁵¹

In ratings of “Great Justices” by law school deans, and professors, Frankfurter comes in at number nine, John Marshall at number one, and Hugo Black at number six. Judges rank Frankfurter at number seven with Black still at number six and Marshall at number one. Attorneys put Frankfurter at number five, with Black at number eight and Marshall at number one. Law students, however, as might be expected, rank Marshall at number one, with Black at number ten, and Frankfurter does not appear at all.⁵²

“Felix Frankfurter stirred strong emotions, seldom neutral ones.” “Critics accused him of betraying an earlier progressive faith and capitulating to the forces of reaction.”⁵³ Yet, his writings and opinions consistently support his philosophy

of judicial restraint, including the 1937, pre-Court appointment Weil Lectures. There is some indication of sympathy with the underdog, but not a great deal.

It may be that the perception of Felix Frankfurter, the gregarious, friendly person, and his association with some very progressive events created an inaccurate mystique about his judicial approach. This could certainly have led to people being surprised and disappointed at his work on the Supreme Court.

It certainly seems that having arrived in a real peer group at the Supreme Court, he simply had no idea how to function as a peer. His whole life had been spent mostly in positions of great superiority, preceded by early experiences where he was singled out by powerful “hero-mentors” because of his intellectual achievements and work ethic.

Frankfurter appears to have had almost no experience “playing well with others” as equals and didn’t seem able to admit to the possible validity of the opinions of others who had not shared the same experiences that he had had. He did not seem to deal well with those he couldn’t “teach” or from whom he felt he had nothing to learn. He was clearly outraged that the other Justices did not find themselves in need of his guidance or instruction.

Frankfurter also suffered from having been the ultimate outsider, an immigrant Jew, who, even though he made it to the top of insider status, was clearly still not secure in his own skin. Hugo Black, on the other hand, always knew who he was and had learned the skills of persuasion very well in his political career. It clearly infuriated Frankfurter that Black, who didn’t go to Harvard and didn’t seem to care about that, was so much more effective on the Court.

It is probable that expectations were unrealistically high for Felix Frankfurter, whereas for Hugo Black they may have been unrealistically low, based on stereotypes and assumptions rather than fact.

Felix Frankfurter was a study in contrasts. All of those who thought they “knew” him probably weren’t paying close attention and missed some important nuances. They projected on to him their own preferences and some stereotypical assumptions about who he was. Had he been less well known before he joined the Court, there might have been less disappointment over time.

ENDNOTES

¹ Michael E. Parrish, "Felix Frankfurter, the Progressive Tradition, and the Warren Court," in *The Warren Court in Historical and Political Perspective*, ed. by Mark Tushnet (Charlottesville and London: 1993), 53.

² H. N. Hirsch, *The Enigma of Felix Frankfurter* (New York: Basic Books, Inc., 1981), 18.

³ Melvin I. Urofsky, *Felix Frankfurter Judicial Restraint and Individual Liberties* (Boston: Twayne Publishers, 1991), 2.

⁴ Urofsky, *Felix Frankfurter Judicial Restraint*, 31.

⁵ Ibid., 2.

⁶ Ibid., 3.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid., 4.

¹⁰ Ibid., 5.

¹¹ Ibid.

¹² Ibid., 7-8.

¹³ Ibid., 9.

¹⁴ Parrish, "Felix Frankfurter, the Progressive Tradition," 57.

¹⁵ Ibid., 55-57.

¹⁶ Felix Frankfurter, "The Case of Sacco and Vanzetti," *The Atlantic Monthly online*, (March 1927): 47.

¹⁷ Henry J. Abraham, "Hugo L. Black: Constitutional Literalist and Absolutist," in *The Warren Court in Historical and Political Perspective*, ed. by Mark Tushnet (Charlottesville and London, 1993), 139.

¹⁸ Frankfurter, *The Commerce Clause* (Chapel Hill: University of North Carolina Press, 1937) 18-19.

¹⁹ Ibid.

²⁰ Ibid., 27-29.

²¹ Ibid., 31.

²² Ibid., 79-80.

²³ Ibid., 81-82.

²⁴ Ibid., 70.

²⁵ Robert A. Burt, *Two Jewish Justices* (Berkeley, Los Angeles, London: 1988), 48.

²⁶ Ibid., 41-43.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

³⁰ www.Findlaw.com, *Minersville School Dist., v Gobitis Decision*, (online), 2.

³¹ Ibid., 2.

³² Ibid.

³³ Hirsch, *The Enigma of Felix Frankfurter*, 51.

³⁴ www.Findlaw.com, *Minersville School Dist., v Gobitis Decision*, (online), 3.

³⁵ www.Findlaw.com, *West Virginia State Board of Education v. Barnette Decision* (online) 1-16.

³⁶ Ibid., 2-5.

³⁷ Ibid., 5.

³⁸ Ibid., 6-14.

³⁹ Melvin I. Urofsky, *Felix Frankfurter Judicial Restraint and Individual Liberties* (Boston: Twayne Publishers, 1991), 9.

⁴⁰ Burt, *Two Jewish Justices*, 48.

⁴¹ Dennis J. Coyle, "Felix Frankfurter: Constitutional Progressive," in

Leaders of the Pack, ed. by William D. Pederson and Norman W. Provizer (New York, Washington, DC, Baltimore, Bern, Frankfurt am Main Berlin, Brussels, Vienna, Oxford: 2003), 146.

⁴² Ibid., 139.

⁴³ Ibid., 49-52.

⁴⁴ Ibid.

⁴⁵ Coyle, "Felix Frankfurter: Constitutional Progressive," in *Leaders of the Pack*, ed. by William D. Pederson and Norman W. Provizer (New York, Washington, DC, Baltimore, Bern, Frankfurt am Main Berlin, Brussels, Vienna, Oxford: 2003), 150.

⁴⁶ Ibid.

⁴⁷ Ibid., 148.

⁴⁸ Urofsky, *Felix Frankfurter Judicial Restraint*, 48.

⁴⁹ Hirsch, *The Enigma of Felix Frankfurter*, 5.

⁵⁰ Michael E. Parrish, "Felix Frankfurter, the Progressive Tradition, and the Warren Court," in *The Warren Court in Historical and Political Perspective*, ed. by Mark Tushnet (Charlottesville and London: 1993), 51 - 54.

⁵¹ Ibid., 53.

⁵² Coyle, "Felix Frankfurter: Constitutional Progressive," 10-13.

⁵³ Parrish, "Felix Frankfurter, the Progressive Tradition, 53.

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The Revolution Within

by Jill M. Dougherty

Written for
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Émigré dreams

Russia is rooted in revolution. Throughout Russia's history change often has come in convulsions, none more famous – or infamous – than the Bolshevik Revolution of 1917.

Two creative works about the émigré experience - *Pnin*, a novel written in 1953 by Vladimir Nabokov, and “Beg,” (in English “Flight”) a 1970 film directed by Alexander Alov and Vladimir Naumov, based on a play written by Mikhail Bulgakov in 1926 but not presented on stage until 1957 - examine that Revolution through the eyes of characters who lived through the period and its aftermath, as well as through the authors' own experience of those cataclysmic events.

Both “Beg” and *Pnin* are works of fiction, although “Beg” contains some real historical characters and was based on the memoirs of one of them.¹ Both depict the Revolution in personal, intimate ways – an *idea* of Russia more than an historical recounting of events. But these inner worlds - “dream” worlds – convey truths about that Revolution, revealing an underlying fact: revolution is a deep strain of the Russian cultural system.

Diglossia

That strain can be traced back centuries to the belief system of Orthodoxy, especially its use of *diglossia*, the utilization of two languages: Old Church Slavonic, used by the Russian Orthodox Church, and vernacular Russian. Ideas were discussed in the “sacred” language of the church and that language did not change; in fact, its changelessness was its greatest value. Change became difficult to express in positive ways. Revolution, not evolution, was the result.

Each of the authors examined uses a modern form of *diglossia*. Nabokov uses two languages: Russian and English. Bulgakov uses two versions of contemporary Russian: the language of the intelligentsia and the language of the Revolutionaries. In the soundtrack to “Beg” the directors also use another form of language: liturgical chanting and church music.

“Real” Russians

Both authors were “disaffected” Russians: Nabokov the émigré, Bulgakov, the internal exile, but neither ever “left” Russia completely. Whether they physically abandoned Russia (Nabokov) or stayed behind (Bulgakov) Russia – and the Revolution – are there in their works, a constant presence,

characters in their own right.

In Nabokov's work the past, in pre-Revolutionary Russia, and two "presents" – Soviet Russia and modern-day America - co-exist uneasily within the central character, Professor Pnin. After the Revolution ("thirty five years of hopeless injustice following a century of struggling justice and glimmering hope," as he describes it²) he cannot return to Russia. For Pnin, it is impossible to remain "Russian" in the land of the Soviets, and so, just as Nabokov himself did, Timofey Pnin takes Russia with him. His pre-Revolutionary culture, however, does not translate easily to the fast and gleaming 1950's America.

In the film "Beg" the Revolution drives the main characters from home but the dream of Russia still achingly pulls them back. They can be "Russian" only *in* Russia. Everything else is illusion. Although there is evidence that Bulgakov changed the ending to his play several times, the Soviet-era film is clear: whether they supported the Revolution or opposed it, true Russians belongs in Russia.

Nabokov the author, Pnin the character

Vladimir Vladimirovich Nabokov left Russia when he was eighteen years old and never returned. The Russian Revolution set him on an émigré journey that closely tracks that of his main character, Professor Pnin.

Nabokov was born in St. Petersburg in 1899 into a wealthy, aristocratic family. His father was a leader of the Kadets, a political group opposed to the Bolsheviks, and in November, 1917, after Czar Nicholas II abdicated, the family moved from the capital to Yalta and a friend's estate. From the Crimea they fled to Constantinople and then to England, where Nabokov began to write poetry and translated into Russian Lewis Carroll's *Alice in Wonderland*.

The family moved on to Berlin where, in 1925, he married Vera Slonin, to whom he dedicates *Pnin*. Next stop - Paris, then the United States. In New York he worked as a lepidopterist for the Museum of Natural History, classifying butterflies, his life-long passion.

Like Professor Timofey Pnin, Nabokov taught in several universities: Harvard, Wellesley College, Cornell. In 1961, after the massively successful publication of *Lolita*, his émigré life came full circle when he, Vera and his son Dmitri moved back to Europe. Nabokov and his wife settled in the Montreux Palace Hotel in Montreaux, Switzerland where he died in 1977.

Like his creator, Professor Pnin was born in St. Petersburg. "Pnin came from a respectable, fairly well-to-do St. Petersburg family," according to the narrator who adds the hilarious, yet tenderly mordant detail: "His father, Dr. Pavel Pnin, an eye specialist of considerable repute, had once had the honor of treating Leo Tolstoy for a case of conjunctivitis."³

Pnin, too, sails with the Russian émigré tide to the Crimea, thence to Constantinople and on to Paris where he marries Dr. Liza Bogolepov in 1925 and, finally, to the United States. He is hired as an instructor at Waindell College, which he hilariously – but, perhaps, accurately – pronounces, with his Russian accent, as "Vandal." Even in America Pnin's émigré life continues, as he changes apartments every semester. When he finally finds a place he likes – the Clement's daughter's bedroom – he is set adrift again, forced to move out when she returns home.

This peripatetic existence, however, pales in the face of confrontation with a new language. For Nabokov, a brilliant writer in English and in Russian who, as a child, was raised in a tri-lingual household, (Russian, French and English) this was never a problem. For Pnin, it is an existential challenge. As Nabokov puts it: "If his Russian was music, his English was murder."⁴

For Russians the language itself is the vessel in which the culture resides and Nabokov describes Pnin's linguistic dilemma in loving detail: Pnin has "enormous difficulty with depalatalization, never managing to remove the extra Russian moisture from t's and d's before the vowels he so quaintly softened."⁵

Pnin somehow manages to survive in a world in which English and Russian co-exist, while maintaining a belief in the superiority of his native tongue, convinced that the Russian translation of Shakespeare is far superior to the original English. Pnin lives at the intersection of clashing cultures and languages but his dreams flow from his past life in Russia. Memories of "Baltic aunts" and his dead sweetheart float back as Pnin feels a ripple of what he thinks might be a heart attack: "...Murdered, forgotten, un-revenged, incorrupt, immortal, many old friends were scattered throughout the dim hall. . . ."⁶

As Pnin's "narrator" expresses it, Pnin "beam(s) at the past while mas-saging the lenses of the present."⁷ Professor Pnin's past is a "brilliant cosmos that seemed all the fresher for having been abolished by one blow of history."⁸

"One blow of history," of course, is the Revolution, and Pnin still feels the pain of that cataclysmic event:

And in the course of one of those dreams that still haunt Russian fugitives, even when a third of a century has elapsed since their escape from the Bolsheviks, Pnin saw himself fantastically cloaked, fleeing through great pools of ink under a cloud-barred moon from a chimerical palace, and then pacing a desolate strand with his dead friend Ilya Isidorovich Palyanski as they waited for some mysterious deliverance to arrive in a throbbing boat from beyond the hopeless sea.⁹

Nabokov also pokes fun at the émigré Russian world and those who are still mired in a past Russia that no longer exists: the Chicago émigré publication with phonograph records for sale: “Broken Life, a Waltz,” the endless debates, like one with Al Cook (Alexander Kukolnikov):

And only when some very old and beloved Russian friend was his midnight guest would Alexandr Petrovich suddenly start to discuss God, Lermontov, Liberty and divulge a hereditary streak of rash idealism that would have greatly confused a Marxist eavesdropper.¹⁰

Or the moment when he meets Liza, soon to be his wife:

Pnin saw her for the first time at one of those literary soirees where young émigré poets, who had left Russia in their pale, unpampered pubescence, chanted nostalgic elegies dedicated to a country that could be little more to them than a sad stylized toy, a bauble found in the attic, a crystal globe which you shake to make a soft luminous snowstorm inside over a minuscule fir tree and a log cabin of papier-mâché.”¹¹

Professor Komarov of Waindell College’s Fine Arts department and his wife Serafima throw “Russki” parties for his students, proclaiming “gospodī, skol’ko mi im dayom!” (“My God, how much we’re giving them!”) The Komarov’s ideal Russia, Nabokov says, “consisted of the Red Army, an anointed monarch, collective farms, anthropology, the Russian Church and the Hydro-Electric Dam.”¹²

But Pnin can grow misty-eyed about Russia, even watching a Soviet documentary film “complete with an Ossetian herdsman reporting by portable radio to the local Republics Ministry of Agriculture on the birth of a lamb:”

"I must not, I must not, oh it is idiotical," he thinks as visions of Russian birches in a wildwood, mushrooms, daisies, "romantic, free, beloved radiance of a great field unmowed by time" swirl before his eyes.¹³

Nabokov disdainfully tosses aside the Bolsheviks' depiction of émigrés:

...for whom the notion of Russian emigration was made to mean by astute Communist propaganda a vague and perfectly fictitious mass of so-called Trotskiites (whatever these are,) ruined reactionaries, reformed or disguised Cheka men, titled ladies, professional priests, restaurants keepers, and White Russian military groups, all of them of no cultural importance whatever.¹⁴

Nabokov skewers Pnin's (and his) adopted homeland as well: America the superficial, devoid of culture. The woman who introduces his lecture mispronounces his name as "Pun-neen," noting that his father was "Dostoyevsky's family doctor." The typical American college student, our narrator says, "does not know geography, is immune to noise, and thinks education is but a means to get eventually a remunerative job."¹⁵

The faculty of Waindell College come in for even more mockery: Professor Blorengé is Chairman of Waindell's French Literature and Language department in spite of the fact that he dislikes literature and speaks no French. Professors are funded for ludicrous research like "a study of the eating habits of Cuban fishermen and palm climbers."¹⁶

Nabokov, in this intricate, complex and cunning novel told through a narrator resembling himself, uses Joan Clements, wife of Professor Clements, fuelled by several alcoholic drinks, to take a jab at his own literary approach: "But don't you think – haw- that what he is trying to do - haw- practically in all his novels – haw – is – haw – to express the fantastic recurrence of certain situations?"¹⁷

Nabokov's humor gives a poignant depth to the novel and to the life of Timofey Pnin. Amidst the laughable moments Pnin, ultimately a tragic figure, lives with pain: the pain of losing his homeland, the "pang of tenderness... akin to the vibrating outline of verse you know you know but cannot recall"¹⁸ when he thinks of the woman with whom he fell in love in Petrograd, Mira Belochkin, and from whom he was separated by the Civil War of 1918-22.

Mira dies in a concentration camp in Buchenwald, killed by an injection

of phenol into the heart, and the loss is almost too much for Pnin to bear: “he had taught himself never to remember her: because, if one were quite sincere with oneself, no conscience, and hence no consciousness, could be expected to subsist in a world where such things as Mira’s death were possible.”¹⁹

Pnin, one could argue, has the right to be resentful, the right to be cruel. Even in America, at Waindell College, he is mocked unmercifully by Professor Cockerell. But Pnin is not bitter or cruel. He is, as Nabokov describes him, “benevolent.” In spite of all that he has lost because of the Revolution and his life as an émigré, Timofey Pnin bravely takes on the New World in which he must live. Other émigrés may embalm the old Russia “in an atmosphere of Mother Volga songs, red caviar, and tea,”²⁰ but Pnin re-invents himself, if occasionally laughably:

Nowadays, at fifty-two, he was crazy about sun-bathing, wore sport shirts and slacks, and when crossing his legs would carefully, deliberately, brazenly display a tremendous stretch of bare shin.²¹

In spite of it all, Pnin remains his kindly, humane self, even at the most inopportune moments. Just as he is “on the verge of a simple solution of the universe” he is interrupted by an “urgent request:” a squirrel under a tree had seen Pnin on the path. Pnin holds the water fountain faucet and gives the squirrel a drink.²²

In creating Timofey Pnin Nabokov carried out his own “revolution” in literature. In a letter Nabokov wrote to the publisher Viking, critic Gennady Barabtarlo says the author explained that his purpose was “to create a character, comic, physically unattractive--grotesque, if you like--but then have him emerge, in juxtaposition to so-called ‘normal’ individuals, as by far the more human, the more important, and, on a moral plane, the more attractive one... a character entirely new to literature.”²³

One of the first facts about Pnin discovered right at the beginning of the novel is that “he is on the wrong train,” a phrase Nabokov repeats several times: “Professor Pnin was on the wrong train...All of which does not alter the fact that Pnin was on the wrong train. . . . And he still did not know that he was on the wrong train.”

“Unfortunately for Pnin, his timetable was five years old and in part obsolete,” the narrator tells us.²⁴ In spite of this Pnin, a man “beloved not for

any essential ability but for those unforgettable digressions of his,” finds his way to Cremona, where he is scheduled to deliver a lecture to the Women’s Club. He nearly loses the speech he must give but, at the last minute, manages to find it.

Nabokov turns the story on its head at the very end as the narrator retells Cockerell’s version of what happened to Pnin: “And now, . . .” he said, “I am going to tell you the story. . . of Pnin rising to address the Cremona Women’s Club and discovering he had brought the wrong lecture.”²⁵

“The book’s linear design...bites its own tail (or the shadow of a tail),” writes Gennady Barabtarlo. “The length of the novel’s body describes a full thematic circle, and the book ends in a different version of the very episode that opens it: Pnin’s guest lecture at a Women’s Club.”²⁶

“Far from being an idle and clever game,” Barabtalalo says, this circular design “points to philosophical possibilities beyond the realm of fiction.” Nabokov, he says, “refracts” events “*to recreate* a world in retrospect.”

That “world in retrospect” straddles the past and the present, much as Pnin’s own version of faith encompasses the old, pre-Revolutionary life he lived and his new life forever beyond Russia: “He did not believe in an autocratic God. He did believe, dimly, in a democracy of ghosts. The souls of the dead, perhaps, formed committees, and these, in continuous session, attended to the destinies of the quick.”²⁷

At the very end of the novel the narrator secures a professorship at Waindell College and offers Pnin an assistant’s position, but Pnin turns it down, saying he is leaving teaching. The narrator spends a boozy evening with Professor Cockerell, who impersonates Pnin, a performance our narrator calls “magnificent” but “too long.”

It is an uncomfortable scene, laced with cruel mockery of Pnin, and it ends with the narrator experiencing the “mental counterpart of a bad taste in the mouth.”²⁸

The next morning the narrator sees his “old friend” Pnin driving his “humble sedan,” wearing the quintessential Russian “shapka,” (“with ear flaps”) headed, it seems, out of town.

“Then the little sedan boldly swung past the front truck and, free at last, spurted up the shining road, which one could make out narrowing to a thread of gold in the soft mist, where hill after hill made beauty of distance, and where there was simply no saying what miracle might happen.”²⁹

Pnin has escaped, setting out on another revolutionary twist in his life like the many that preceded it, full of questions, pain and promise.

Bulgakov and his Eight Dreams

If *Pnin* ends on an optimistic, if poignant note, “*Beg*” does too but, in contrast to Nabokov’s mind-bending ending, this one is simpler and more linear.

When Bulgakov wrote “*Beg*” he used the subtitle “*Vosem’ snov*” (“Eight Dreams”) and, although not to degree that *Pnin* does, it employs dream sequences to tell the story of the White Russians who fled abroad to escape the onslaught of the Red Army. Indeed, the title, usually translated into English as “Flight,” also can be translated as “On the Run,” and that is the fate of most of the film’s characters.

In its 1970 film version, “*Beg*” broke new ground, informing Russians of this often-suppressed chapter in their history.

After fleeing Russia and encountering a painful and hopeless life abroad, the two lovers, Serafima Vladimirovna Korzukhina and Sergei Pavlovich Golubkov, return to Russia at the end of the film, riding off on horseback in an exquisite final wide shot, suffused with glimmering snow and muted sunshine. Ignoring the bitter truth that, in reality, they would likely have been shot as traitors, the Soviet era film drives home the message: true Russians belong in Russia. Their hearts will guide them home. Life outside of Russia is meaningless. Reality exists only in Russia.

Mikhail Afanasievich Bulgakov was born in Kiev in 1891, the son of a Russian Orthodox priest. He studied medicine and was injured at the front during World War I where he served with the Red Cross. His brothers enlisted in the White Army and he served with the White Army as a physician. After the Civil War much of his family emigrated to Paris but Bulgakov never left Russia, believing that a true Russian writer should never abandon his homeland. Until his death in 1940, however, his creative life was filled with battles with Soviet censors. “*Beg*” was banned by Glavrepertkon, the Soviet commission that approved theatrical artists’ repertoires.

In Lesley Milne’s biography of Bulgakov he writes: “Between 29 April, 1933, when he concluded a new contract for “Flight,” obliging him to make certain specified revisions, and 9 September, 1934, Bulgakov wrote no fewer than three different variants of the play’s last scene.”³⁰

The film, made thirty-six years later, begins with the tolling of church bells and an ominous winter scene: three church cupolas, one stripped to its metallic skeleton. Monks in black robes with flaming brands signal White Army forces. Red Army soldiers on horseback gallop through the snow outside the monastery walls.

A group of civilians, White Russians, flee in panic, trying to avoid the shooting. As bombs explode around her a young woman, beautifully dressed in a fur-collared winter coat, shell-shocked, wanders aimlessly, pausing to set right a chair that has fallen off a carriage. Golubkov approaches her, oblivious to the danger, and Korzukhina asks who he is. "I wanted to help you," he answers, and she reaches for a handful of snow and eats it, murmuring "Snow!" The scene is repeated at the end of the film, as the lovers ride together on horseback, returning to Russia – and a magical world of snow.

The other main character is General Roman Khlyudov, head of staff to the commander of White forces in southern Russia, General Pyotr Nikolayevich Wrangel. Khyudov is a brutal hangman who rules through terror.

Although the Red Army often is accused of cruelty, the White Army was a close second. "White forces reversed social revolution almost everywhere they went and waged class war as savage as that of their foes," write historians Catherine Evtuhov and Richard Stites.³¹

"Known for his summary executions of Red officers, Wrangel was dubbed the Black Baron," they note. "Cruel, but no crueller than most, Wrangel had 370 enemy officers and noncommissioned officers shot after they surrendered in battle near Stavropol in 1918."³²

The film is told with sweeping wide shots of Red Army cavalry streaking across the horizon, an artistic nod to Russian Suprematist painter Kasimir Malevich's 1928 masterpiece, "The Red Cavalry."

Pushed farther and farther to the southern edge of Russia by the advancing Red Army the fleeing Whites must face reality, expressed in this tense conversation between Wrangel and Khlyudov:

Who do you want to serve?
Russia.
Russia is against us.
What is left?
The void.

In one chilling scene Khlyudov orders the Bolshevik soldier Krapilin hanged. Krapilin comes back to haunt Khlyudov in a sepia-toned dream sequence in which Krapilin turns judge and jury.

The film version of “Beg,” written with the literary consultation of Bulgakov’s third wife, E.S. Bulgakova, follows the main characters from Russia to Constantinople and from there to Paris. The filmic images of those cities are depressing: Paris is grey; Constantinople filled with dust and heat.

In those distant lands the lives of the émigrés are turned upside-down. Major General Charnota, once dapper in his white uniform, walks the streets of Paris in his underwear. “You can buy anything,” he laments, “but you can’t buy a homeland.”

Serafima, once wealthy and impeccably dressed, now desperately poor and hungry, goes to “hunt men” as an unwilling prostitute.

The film, made by the Soviet film company Mosfilm, skates dangerously close to stereotypical images of Russians who fled their motherland, with scenes depicting raucous cockroach races on which the émigrés bet their last kopek. (Shades of Pnin’s “ruined reactionaries!”)

The standpoint of Bulgakov’s play, nonetheless, writes Milne, “is the traditional value system of the liberal intelligentsia” presented “in a ‘revolutionary’ form.”

“In terms of content,” he says, “the White Guard are in many ways portrayed according to Bolshevik stereotype: there is dissipation, gambling, prostitution, caricatured capitalism, bribery, torture and terror. The problem is that, as one critic accused (and it was an accusation), through all this Bulgakov presents ‘not the bankruptcy but the human tragedy of the Whites.’”³³

Korzukhina and Golubkov return to Russia, in a kind of “*pokoyanie*” (“repentance”) for their time abroad, welcomed back to the bosom of Mother Russia. General Khlyudov stays behind in Constantinople, perched on a cliff, surrounded by mangy dogs, staring out at the ship on which Korzukhina and Golubkov are sailing back to Russia, tortured by the knowledge that he can never return, but must live out his life in exile in a strange land.

If there is one key difference between *Pnin* and “Beg” it lies in the ability of Professor Pnin to keep Russia alive within himself, even living abroad in a country that confuses and confounds him. In that he echoes his creator who used his linguistic brilliance to write masterpieces in both English and Russian, even if the Russian-language versions were never published in Russia

until the era of *perestroika*.

The characters in the film version of “Beg” are more one-dimensional; they must return to Russia in order to find themselves. Their time abroad is a dream – or a nightmare. But the film, released eight years after Bulgakov’s work was finally allowed to be published, does treat the émigrés with some compassion. In that approach, as Evtuhov and Stites note, it links pre-Revolutionary and post-Revolutionary Russia, enriching both:

For contemporary Russia, the emigration represents at once a link with history and tradition, and a window on a world outside Russia’s geographical borders. Sure, the “other Russia” – a land located in the imagination rather than anchored in space - will become one of the many elements in the journeys of discovery undertaken by Russians in the new century.³⁴

Bulgakov’s play ends with a verse by the 19th century Russian poet, Vasily Zhukovsky, “A Bard in the Camp of Russian warriors,” (“Pevetz vo stane russkikh voinov”) and, perhaps, it can stand as an epitaph both for the émigrés who returned and for those who, their life torn in half by the Revolution, never went back but carried Russia, its language and culture, with them:

“Pokoysya, kto svoi konchil beg”
 (“Rest! He who has run his race”)

ENDNOTES

¹ The memoirs of General Ya. A. Slashchev, member of the White Army, who fled but then returned to the Soviet Union. Lesley, Milne and Mikhail Afanasevich Bulgakov (*A Critical Biography*. Cambridge: Cambridge University Press, 2009) <http://tinyurl.com/45yorsy> (accessed May, 2011).

² Vladimir Nabokov, *Pnin* (New York: 1st Vintage International edition, Random House Inc.) www.randomhouse.com, 1989, Kindle Version, originally published by Doubleday & Co., Inc. in 1957 section 1571-78 (accessed May, 2011).

³ Nabokov, *Pnin*, section 229-35.

⁴ Ibid., Section 812-19.

⁵ Ibid.

⁶ Ibid., Section 307-13.

⁷ Ibid., Section 92-100.

⁸ Ibid., Section 105-11.

⁹ Ibid., Section 1380-86.

¹⁰ Ibid., Section 1460-67.

¹¹ Ibid., Section 528-536.

¹² Ibid., Section 884-91.

¹³ Ibid., Section 1028-34.

¹⁴ Ibid., Section 2349-56.

¹⁵ Ibid., Section 1678-85.

¹⁶ Ibid., Section 1737-44.

¹⁷ Ibid., Section 2020-27.

¹⁸ Ibid., Section 1686- 93.

¹⁹ Ibid., Section 1700-1706.

²⁰ Ibid., Section 78-84.

²¹ Ibid., Section 56-64.

²² Ibid., Section 716-22.

²³ Gennady Barabtarlo, *A Resolved Discord* (Pennsylvania State University, 1993), originally published in *Aerial View: Essays on Nabokov's Art and Metaphysics* (New York: P. Lang, 1993) <http://www.libraries.psu.edu/nabokov/barab21.htm>, 52 (accessed May, 2011)

²⁴ Nabokov, *Pnin*, section 56-64.

²⁵ Ibid., Section 2434-44.

²⁶ Barabtarlo, *A Resolved Discord*, 1.

²⁷ Nabokov, *Pnin*, Section 1713-21.

²⁸ Ibid., Section 2414-21.

²⁹ Ibid., Section 2434-41.

³⁰ Milne and Bulgakov, *A Critical Biography*.

³¹ Catherine Evtuhov and Richard Stites, *A History of Russia since 1800, People Legends, Events, Forces* (Boston, New York: Houghton Mifflin Company, 2004), 303.

³² Evtuhov and Stites, *A History of Russia since 1800*, 307

³³ Milne and Bulgakov, *A Critical Biography*, 141

³⁴ Evtuhov and Stites, *A History of Russia since 1800*, 325

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**“The Torrent of the Human
Race”: The Concept of
Movement in the Works of
St. Augustine and its Impact on
the Medieval Imagination**

by Christopher A. Dunn

Written for
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Saint Augustine lived, taught and wrote at the end of the fourth and the beginning of the fifth centuries CE, a time of great change. The familiar structures of the Roman Empire were first wobbling, then collapsing around him as the Vandals besieged his own city of Hippo, in North Africa. It was evident that “Roma” was not “Eterna” but temporary and transitory. In such circumstances, it is not surprising that Augustine enunciated an epistemology, a theology and ultimately an eschatology in which movement and change played a central role. Augustine’s view of the paramount importance of movement in all these aspects would inform and imbue the culture of the Middle Ages for a thousand years after his death.

For Augustine, movement was essential in four respects. First, it described the nature of the relationship between an eternal God and a finite, temporal, material world. Second, movement constituted the basic imperative of the Christian message: man’s soul is compelled to move toward God or perish eternally. Third, movement provides the key to understanding God’s message to mankind as revealed in the Scriptures through “signs” that engage the human mind and encourage it toward a deeper understanding of the true, spiritual reality. Finally, movement is the fundamental condition of earthly history, a rushing “torrent” that will inevitably, and perhaps imminently, lead to the Last Judgment and the ultimate union of the elect with God. Each of these four aspects of movement can be found in Augustine’s work.

Augustine and the Platonists: The Dynamic Interaction of God and Man

Augustine’s view of the relationship between God and man is informed by, although not entirely based upon, the ontology of the Platonists, and particularly that described by Plotinus, a third-century Greek philosopher of great influence in the Roman world. Plotinus articulated a tripartite reality consisting of: (1) God, or the One, an “ineffable” and limitless unity that is beyond being and non-being; (2) the Intellectual Principle, which is an “emanation” from the One toward the material world; and (3) the World Soul, which descends to matter and informs it with the spiritual. This tripartite ontology corresponds nicely to Augustine’s view of the Trinity, consisting of (1) an eternal and ineffable God the Father; (2) a Christ that is the “Logos,” or word of God, which is “eternally begotten” of the Father and through which God communicates (“mediates”) with a temporal and finite material world; and (3) a Holy Spirit, which “proceeds”

from the Father,¹ “descends” to the material world, and imbues humanity with spiritual grace. The similarity between the Platonists’ view of a tripartite reality and the Nicene trinity is nothing particularly new in Augustine – it can be seen in the writings of the Church father, Origen (a contemporary of Plotinus), in orthodox Catholicism as articulated by the Council of Constantinople, and in the writing of St. Ambrose, Augustine’s “mentor.”

What is different in Augustine’s view of the Platonists is his emphasis on their concept of the *movement* of God toward the material, and of the human soul toward God. Plotinus wrote of the “emanation” of God in the Intellectual Principle, of the emanation of the Intellectual Principle in the World Soul, and from the World Soul into matter. Augustine sees these “emanations” as evidence that “providence *reaches down* even to these earthly things below.”² God in this sense is actively moving toward man in the material world, in the “person” of Jesus Christ, God made flesh. Augustine writes that “the [Intellectual] Principle...having assumed a human soul and flesh, cleanses the souls and flesh of believers.”³

At the same time, Augustine equally emphasizes the Platonists’ understanding of the struggle of the soul upward toward God. Plotinus wrote of “those who are advancing upward from sense perception ways of life” toward God.⁴ Augustine similarly wrote that “God put the soul into the world that it might recognize the evils of matter and return to the Father.”⁵ For Augustine, the Plotinian “exitus-reditus,” or out-and-back double movement – God toward man and man’s soul back toward God – becomes the central principle of the dynamic relationship between man and God.

Augustine, however, reads the Platonists in the light of his knowledge of the Old Testament, and in so doing transforms the relationship from one between God and individual man to one between God and the community of Christians. After God expelled Adam and Eve from Eden (once again an act of movement), they created the “two first parents of the human race, Cain and Abel.” In Cain and Abel the “human race” divided into “two communities of men,” one “consisting of those who live according to man,” and a separate one consisting of “those who live according to God.” Cain is the founder and personification of the city of man, while Abel is the founder and personification of the city of God.⁶

The concept of movement is central to Augustine’s division of mankind. Cain is a sedentary figure who remained in place and “built a city.” Abel, on the other hand, is a “sojourner” who must constantly be in movement in order to work toward God. Augustine notes that in Genesis and Exodus, God appears to man

when man is in movement. Abraham, Jacob and Joseph are all in constant movement, and God appears to them in visions or directly, while they are in the midst of their peregrinations. And of course, God appears most frequently to Moses when the Hebrews are in their long journey from Egypt to the promised land.

Augustine leaves no doubt that movement is essential to the very existence and purpose of the city of God. He contrasts the city of man, fixed within its walls, which “*rested satisfied with its temporal peace and happiness*”⁷ with the city of God, “which sojourns in this wicked world as in a deluge”⁸ and continues to sojourn “till the time of its reign arrives.”⁹ The city of man is fixed, in a sense “stuck” in its absorption in the material world; it cannot progress toward God. The city of God, in contrast, must “sojourn” continuously, because only by constant movement can it avoid becoming mired in the material world. And only by constant movement can the individual human soul work its way toward God.

The Soul's Imperative

In the same way that he sees the movement of the city of God throughout “this wicked world” as its defining principle, Augustine sees movement as essential to the fulfillment of the individual human soul. The fundamental teaching of Scripture, according to Augustine, is St. Paul's concept of *caritas*, historically translated as “charity.”¹⁰ Charity, however, is not simply the greatest of the three Christian virtues. In *On Christian Doctrine*, Augustine identifies charity as the *sole* teaching of Scripture.¹¹ But it is important to understand precisely how Augustine defines charity: it is “*the motion of the soul toward the enjoyment of God for His own sake, and the enjoyment of one's self and one's neighbor for the sake of God.*”¹²

The idea of the movement of the soul, in these terms, reflects Augustine's distinction between “use” and “enjoyment.” Use is transitory while enjoyment is static. Use is an appropriation on the way to enjoyment. The only thing that may properly be enjoyed in itself is God in the Trinity. All other enjoyments must be used in order to “pass on through” to the enjoyment of God.¹³

Augustine contrasts the soul's movement toward God with sin, which he defines as “cupidity.” Cupidity is the enjoyment of one's self,¹⁴ or anything material, of and for itself. Although Augustine speaks of the “movement” of the soul toward the self, it is apparent that what he is really speaking of is the imprisonment of the soul within any material being. Elsewhere he speaks of cupidity

as a “clinging in infirmity to temporal things.” By fixing upon the material, the soul is “held on the road,” prevented from “passing on” to the eternal.¹⁵ Cupidity, in this sense, is the absence of movement. Hence, one cannot rightfully “enjoy” oneself and one’s neighbor for their own sake for to do so would be to cease movement toward God; these enjoyments can only be valid if they are used “for the sake of God.”

Movement, then, is the fundamental imperative of the human soul. It must always be “on the road,” passing forward or “sojourning” toward Christ. Fixation on the material world in and for itself is the essence of sin, preventing the soul from undertaking and fulfilling its proper movement to God.

Movement in Allegory

As a bishop of the Church, Augustine focused much of his life’s work upon the interpretation of Scripture and the effective teaching of Scripture’s meaning to humanity. Accepting that Scripture is the word of God, he nevertheless struggled with discerning the “true” meaning of that word from its literal meaning. For Augustine, as for Origen,¹⁶ the answer was to interpret Scripture allegorically, when necessary, in order to move from the literal to the deeper meaning that lies beneath. Indeed, understanding scripture through allegory becomes for Augustine the essential means of moving the soul toward God.

Augustine’s concept of allegory is developed most fully in his theory of “signs,” set forth in *On Christian Doctrine*. “Signs” are what “living creatures show to one another for the purpose of conveying, in so far as they are able, the motion of their spirits or something which they have sensed or understood.”¹⁷ The concept of motion is fundamental to this understanding. Signs, by this definition, cannot be static, constrained within themselves. They exist to point to something else. The mind of the sign-giver is moving toward an understanding of something, and gives a sign to convey that movement to someone else. The transfer from the sign-giver to the observer is, in fact, the only purpose of the sign, “bringing forth and transferring to another mind the action of the mind in the person who makes the sign.” Significantly, for Augustine the sign does not transfer an understanding of the meaning itself; rather it transfers from the sign-giver to the recipient the movement in the mind of the sign-giver.

The “transfer” that Augustine sees occurring in the signs is not a minor or facile concept. It is fundamental to the Platonists’ view of spiritual movement.

In the Platonists' view (as expressed by Plotinus), the artist (sign-maker) "introduces" the "form or idea" into the material "by participation in his art." Hence the artist, by participating in the higher form, "diffuses" it into matter.¹⁸ There is a direct movement from the intellect of the sign's creator (through participation in his or her art) to the material object itself. This the first directional movement from the sign-maker to the sign.

The second movement – from the sign upward toward the One – occurs when the sign is perceived and "read." The recipient of the sign receives the movement by engaging his or her mind in an attempt to understand the sign. Thus the act of interpretation becomes, in effect, a second movement. The engagement of the mind in the act of interpretation permits and facilitates the soul's movement toward God, following directly Plotinus' concept that the soul must first "come in its ascent to intellect."¹⁹ The harder the effort of the mind, the greater the reward; "those things that are easily discovered seem frequently to become worthless...[while] what is sought with difficulty is discovered with more pleasure."²⁰ The observer must engage his or her mind in the movement of interpretation in order to move upward toward God.

The sign, therefore, is more than a mere aid in understanding Scripture, it is an essential element to prompt the soul's movement toward God. The sign is the medium in a double movement, first from the sign's creator to the sign itself, and then from the sign to the sign's interpreter. Augustine's view of the double movement that occurs upon interpretation of the sign mirrors the Platonists' double movement from the One down to matter and from matter upward toward God.

Underlying the importance of movement in signs is Augustine's deep acceptance of another Platonic concept: that of a dual reality, the first a material reality perceived by human senses, the second a deeper, spiritual reality of God, a pure light which the human senses cannot "sustain."²¹ For Augustine, scripture is written in analogies and parables because it is impossible for human beings to grasp the truth directly. They must be led through analogy on a journey from the world of the senses to the world of the spirit. On this account, according Augustine, "Christian liberty freed those it found under useful signs... interpreting the signs to which they were subject, and elevating them to the things which the signs represented."²²

Augustine's emphasis on the importance of allegory in fostering the movement of the soul would have a profound impact on the art and artisanship of the Middle Ages. While Augustine was not the sole advocate of allegory in the late

Classical period, his advocacy of allegory would, in a sense, provide a Christian imprimatur to the extensive use of allegory in Medieval sculpture, stained glass windows, tapestries, and works of literature. By allowing that allegory, in the form of “signs,” prompted the movement of the soul toward God, Augustine gave a powerful fillip to artisans and writers of the Middle Ages to communicate their messages in symbolic, allegorical language.

Movement in History

The ability to perceive and understand allegory is closely connected with Augustine’s view of history, which he divides into two – the history of the events of man and the history of God’s relationship with humanity, sometimes called “sacred history.” This division of history closely corresponds to Augustine’s division of reality into the city of God and the city of man. The history of the events of man does not hold great interest for Augustine. Man’s material achievements, while often admirable, are themselves doomed to lead nowhere owing to the inherent corruption of humanity. What does interest Augustine, however, is the “sacred history” of God’s relationship with man. The sacred history of man moves in a powerful “torrent” toward a single end.

Augustine envisages sacred history as moving in a line from creation *ex nihilo*, to the eventual coming of the New Jerusalem. The movement of history is, for Augustine, the linear movement of man’s relationship with God. It begins with the expulsion from Eden; continues through the covenant with Abraham and his descendents and the exodus of the Hebrews; is profoundly altered by the incarnation and resurrection of Christ and the establishment of Christ’s church (the city of God); and proceeds inevitably to the final judgment.

Augustine is aware that each of these phases involves a physical (or at least mystical) movement. Adam and Eve are expelled physically from Eden.²³ Their productive offspring, Abel, is a “sojourner.”²⁴ Abraham comes to the sacrifice of Isaac only after moving first from Babylonia (“the Chaldees”) to Canaan, and then from his home in Canaan to the place of sacrifice.²⁵ The Hebrews receive the Old Law in the course of their wanderings in the desert. Christ comes into the world as an emanation and “flows down as a river of peace.”²⁶ And on the last day the “bones shall rise up” and the Heavenly City will descend upon the earth.

Because history moves in a continuous line, it is possible for people in the present to look backward into history, as set forth in Scripture, to see a foretelling

of the future. Understanding Scripture, therefore, requires both an historical and an allegorical perception. As Augustine wrote, “no one ought to suppose either that these things were written for no purpose, or that we should study only historical truth, apart from any allegorical meanings; or, on the contrary, that they are only allegories, and that there were no such facts at all.” He noted that “whatever evidence we have of past times in that which is called history helps us a great deal in the understanding of the sacred books....”²⁷ However, the *Bible* must be understood as relating historical events in such a way that they might serve as a “sign,” a guide to the future: “we must believe that there was a wise purpose in their [the events of Scripture] being committed to memory and to writing and that they did happen, and have a significance, and that this significance has a prophetic reference to the church....”²⁸ In other words, the existence of historical “fact” in and of itself is wholly unimportant – literally, “insignificant.” What is important is how the events of the past point like signs toward future events.

Augustine’s view of sacred history as a unidirectional, continuous movement is fundamental to the ability of signs to communicate across time. If, as in the Buddhist view, time is merely a series of individual moments (the continuing “now”), then the past, present and the future are not inherently linked and communication across time would be impossible. Similarly, if history is circular, as in certain Hindu beliefs, then communication across time is meaningless, because what is happening now is merely a repetition of what has already occurred and what will occur again. Signs can have no purpose in a circular history. Therefore, history must be both continuous and directional for signs to communicate spiritual meanings across time — prophecy is only meaningful if history is moving this way.

To be sure, the examination of Scripture to find “foreshadowing” of the future was not new to Augustine. The gospels themselves speak of Christ as the “fulfillment” of the Old Testament prophecies. Paul and John of Patmos looked to events in both the Old and New Testament as prophesying the future coming of Christ to judge the living and the dead. And earlier church writers such as Origen and Eusebius developed extensive hermeneutical systems for recognizing and interpreting the “foreshadowing” of the future in ancient Scripture.

But Augustine provided what is undoubtedly the broadest and most wide-ranging examples of looking backward into Scripture to foretell what is to come. Thus, for Augustine, the story of Eve being created from Adam’s rib while he slept

“foreshadowed” the coming of Christ and his Church.²⁹ The tale of Noah and the flood foretold God’s division of mankind into the elect and the damned, to be determined on the last day. And the first resurrection of Christ foreshadowed the “second resurrection,” that of the bodies of men and women alike.

The need to look backward (retrograde movement) into Scripture to foretell the future movement of time would become a pervasive aspect of the culture of the Middle Ages. Medieval scholarship would describe such foreshadowing as “archetypes,” in which the initial occurrence, or “type,” refers to something that will occur later as an “antitype.” The concept would be widely reflected in the architecture of the time. Abbot Suger, who created the first Gothic cathedral at St. Denis outside Paris in the twelfth century, premised his revolutionary artistic vision on the veneration of the past. As he put it, “the recollection of the past is the promise of the future.”³⁰ His cathedral is filled with figures and ornamentation where Old Testament archetypes both refer to and are reflected in the New Testament and later antitypes. The practice would become commonplace from the Middle Ages to the Renaissance. The visual archetypes in art and architecture became the typological “signs” that would allow biblical history to instruct and move the faithful toward God. But the typological view of history did not begin with Abbot Suger. It owes its inspiration to Augustine.

The Interaction of Four Aspects of Movement

Although the four aspects of movement in Augustine’s writing can be separately addressed, it is important to understand that they do not exist separately from one another. Each aspect both informs and animates the other aspects. Augustine’s view of the dynamic relationship between God and man, while owing much to Plotinus, informs his understanding of the city of God as a “sojourner” in the historical movement of the “wicked world.” His view of the soul’s imperative to “move” toward God similarly informs his contrast between the city of man, which is fixed in its material world, and the city of God, which is in constant movement toward God.

In like manner, Augustine’s doctrine of “signs” – transferring the “action of the mind” or the sign-giver to the action of the mind of the viewer would not be possible without the Platonists’ understanding of the downward movement of spiritual energy from the One to the material (through the mind of the artist), and from the material to the spiritual (through the mind of the interpreter).

And signs would completely lack meaning if history were not, as Augustine maintained, unidirectional and continuous. The words and stories of the Old Testament, while contained in history, are “signs” that are intended to prefigure what is to come. By interpreting these signs, the “modern” (or at least the contemporary) reader not only sees what happens later in time; he or she also is aided in the spiritual journey toward God. Thus is the transfer of the action if the mind can and does act across history, as the beholder looks backward into the past and forward to the eventual coming of the New Jerusalem.

Conclusion

Augustine’s views on the necessity of movement for salvation would become pervasive in Medieval cultural expression. His view of the importance of movement in man’s relationship with God animates much of the imagery in Medieval manuscripts, artifacts and church sculpture. His view of “signs” as a movement from the sign-giver to the interpreter would be reflected in the use of symbolism in cathedral buildings and literature. And his view of history as typological (with past events seen as signs that communicate forward into the future) would come to dominate church art. While the Middle Ages are commonly seen as the age of Aristotle and Aquinas, it is Augustine’s vision, and particularly his views on movement, that truly give the Middle Ages their energy and power.

ENDNOTES

¹ The Holy Spirit was not, in Augustine's time, seen as proceeding from the Son as well as from the Father. The words "and from the son" ("filioque") would not be added to the Nicene Creed until the 11th century, prompting the final schism between the Roman Catholic and Eastern Orthodox churches.

² Augustine, *De Civitate Dei* (*City of God*), 10.14.

³ *Ibid.*, 10.24.

⁴ Plotinus, "On Beauty," *Enneads*, 1.6.1.

⁵ Augustine, *De civitate Dei*, 10.30.

⁶ *Ibid.*, 15.1.

⁷ *Ibid.*, 15.17.

⁸ *Ibid.*, 15.26.

⁹ *Ibid.*, 15.1.

¹⁰ 1 Corinthians 13.13. Modern English versions of the Bible translate "*caritas*" as "love".

¹¹ Augustine, *De Doctrina Christiana* (*On Christian Doctrine*) book 2, 10.15: "Scripture teaches nothing but charity."

¹² *Ibid.*, book 2, 10.16.

¹³ *Ibid.*, book 1, 33.37.

¹⁴ *Ibid.*, book 2, 10.16.

¹⁵ *Ibid.*, book 1, 34. 38.

¹⁶ There is much in Augustine that can be seen as an outgrowth of, if not a direct commentary on the writings of Origen. Like Augustine, Origen was strongly influenced by Platonist philosophy, particularly the doctrine of Christ as the Logos. Origen also fundamentally saw reality as divided

into two realms, material and spiritual. And most significantly, Origen was the great advocate of allegorical interpretation of the Bible. In his work *On First Principles*, Origen rejected many literal interpretations of the Bible as simply impossible or contrary of the basic meaning of the Christian message. Augustine, however, was more willing to accept many literal and historical interpretations of the Bible than Origen.

¹⁷ Augustine, *De Doctrina Christiana*, book 2, 3, (34-35).

¹⁸ Plotinus, "On the Intellectual Beauty," *Enneads* 8.1.

¹⁹ Plotinus, "On Beauty," *Enneads* 1.6.

²⁰ Augustine, *De Doctrina Christiana*, book 2, 5.7.8.

²¹ Ibid., book 2, 7.11: "When so far as he is able, he has seen this Trinity glowing in the distance, and has discovered that because of his weakness he cannot sustain the sight of that light, he purges his mind which is rising up and protesting in the appetite for inferior things...."

²² Ibid., book 3, 8.12.

²³ Medieval (and Renaissance) paintings would focus on Adam and Eve in the physical act of walking out of the garden of Eden upon their expulsion.

²⁴ *De civitate Dei*, Book 15.1.

²⁵ Augustine sees the "migration" of Abraham as central to his relationship with God. See Augustine, *De civitate Dei*, Book 16, 13.

²⁶ Ibid., Book 20.21.

²⁷ Augustine, *De Doctrina Christiana*, Book two, 28.42.

²⁸ Augustine *De civitate Dei*, Book 15.27.

²⁹ Ibid.

³⁰ Abbot Suger, "Liber de Rebus in Administratione sua Gestis (On What Was Done During His Administration), » XXIX, in *Abbot Suger on the Abbey Church of St.-Denis and its Art Treasures*, Ewin Panofsky, ed., 2d ed. by Gerda Panofsky-Soergel (Princeton : Princeton University Press, 1979).

**Reconciling the Self Amidst
the Russian Revolution and
Soviet Regime: *Doctor Zhivágo*
and *Moscow Does Not
Believe in Tears***

by Renée D. Fox

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"You meant everything in my destiny. Then came war, devastation. . . . Your voice has stirred me up once again."¹ Is it possible for one to maintain their notion of "self" in the midst of great cultural or societal upheaval? Is one's "self" always a reflection of a person's time or can one genuinely say a true and authentic "self," independent of historical circumstance, "has stirred me up once again." Russia's turbulent history, as expressed through its poetry, literature and film provides us with an inspired canvas on which we can contemplate this query. In his essay, "On Pasternak Soberly," Czesław Miłosz states that Boris Pasternak's, *Doctor Zhivago* is, "a book of hide-and-seek with fate...."² As a reader, one cannot help but ponder the destinies of Yuri Zhivago, Lara Antípov and the other characters of the novel. Their place in history finds them at a significant cultural and political crossroad not only for themselves but for an entire nation. In a time rife with change, Pasternak, through Yuri Zhivago, suggests that there is a predestined order around which the world revolves. This is an order with which an individual must reconcile or perish. The world of Yuri Zhivago was the world of Revolution, and his fictional experiences mirror Pasternak's understanding of what that world entailed. The protagonist of the novel experienced a very transitional and liminal existence.³ His country was in revolution and civil war and his resulting life experiences did not contribute to a stable reality. However, Zhivago survived his reality through poetry. His poetry provided both meaning and context for the cataclysmic changes going on around him, and ultimately, within him. Through this literary device Pasternak was successfully able to sketch out to his readers the life one could expect during this time in Russian history.

Similarly to Pasternak's novel, Vladimir Men'shov's film, *Moscow Does Not Believe in Tears*, portrays a protagonist whose life is extremely transitional. The film depicts Soviet society in the late 1950's and 1970's; the result of the Russian Revolution. The people of this film no longer need to survive the winter and starvation of Pasternak's characters, but they do need to successfully navigate what it means to be a Soviet citizen during the mid-to-late twentieth century. The film's protagonist, Katerina (Katya) is a factory worker who, like Zhivago, survives her situation on her own terms. How do Doctor Zhivago and Katya navigate their situations? How does the Revolution and post-Stalin Party policies affect their existences? Zhivago and Katya are in many ways symbols of the Russia they inhabit and are connected by the liminal qualities that not only define them but also define Russia. *Doctor Zhivago* and *Moscow Does Not Believe in Tears* are excellent sources to explore the realities of Russia at their respec-

tive times. Pasternak and Men'shov did a service to the cultural scholar by not portraying their protagonists as larger-than-life characters but as average people in extraordinary circumstances. This allows readers of the novel and viewers of the film to truly appreciate the realities of this country.

In one of the final chapters of *Doctor Zhivago*, a friend of Lara's remarks on the era in which they live, "...our revolutionary time is an unprecedented, unforgettable time, with achievements that will abide for a long time, forever."⁴ This remark could not have better captured the feeling that pervades the entire novel. Boris Pasternak wrote about the world around him; a world, for him, that included two revolutions and a civil war as well as the resulting political unrest. The poet survived the collapse of the Tsar, the rise of the Bolsheviks and the terror of Stalin. These experiences molded him not only as a person but as a writer and produced an artist who "was deeply connected with his age, his literary talent firmly rooted in and shaped by his cultural and political environment and his work carr[ied] the deep imprint of his age."⁵ An understanding of Pasternak's reality illuminates the reasoning and significance of *Doctor Zhivago* as a novel and as a primary source of cultural history. However, as Czesław Miłosz indicates, it is important to note that this novel is not written for the sole purpose of political commentary:

Doctor Zhivago is not a novel of social criticism, it does not advocate a return to Lenin or to the young Marx. It is profoundly a-revisionist. Its message summarizes the experience of Pasternak the poet; whoever engages in a polemic with the thought embodied in the state will destroy himself for he will become a hollow man.⁶

Even if the political and social restraints of the Soviet Union did not apply to the author, this is ultimately a story about humankind and its struggle for survival and love in the mist of great turmoil.

A significant aspect of Yuri Zhivago's character and experience is his transitional existence. In many ways, Pasternak's main character reflects the liminal qualities of Russia during the revolutionary time period. Readers of the novel explore, through the eyes of Doctor Zhivago, the immediate effects of the Russian Revolution and resulting Civil War. The experiences of Zhivago during the war allow him to question the "success" of the Revolution. The beginning of the novel describes Zhivago's great

hope for what the revolutionary movement may offer:

Just think what a time it is now! And you and I are living in these days! Only once in eternity do such unprecedented things happen. Think: the roof over the whole of Russia has been torn off. . . . Freedom! Real, not just in words and demands, but fallen from the sky, beyond all expectation.⁷

Zhivágo's initial understanding of the Revolution is one that values transition and liminality. He embraces the changes around him and believes that they will offer renewal for both Russia and her people, "Everyone revived, was reborn, in everyone there are transformations and upheavals."⁸ However, Zhivágo's hope for Russia's rebirth is soon deserted with the horrific experiences he encounters that allow him to understand that the promises of the new regime will not be upheld, and the future that he hoped for will not be realized. He learns that remaining in a state of transition does not support the freedom he desires.

The doctor is witness to starvation, violence and despair. Zhivágo's family faced freezing temperatures, hunger, political repression and ultimately exile from their homeland. Through his conscription into the partisans he witnessed the murder and execution of men, women and youths. He also dealt with those overcome by insanity due to their inability to cope with the terrors swirling around them like the narrative's ever present snow. In order to survive, Yuri Zhivágo had to betray an aspect of his moral philosophy and risk causing the death of another, "But once, against his will the doctor had to violate this rule. The skirmish that had started caught him in the field and forced him to share the fate of the combatants and shoot back."⁹ However, perhaps the most difficult suffering for Zhivágo was his capture by the partisans. For a man who put ultimate value in freedom, as shown in his initial hopes for the Revolution, the absence of this value was terribly disorienting. However, Pasternak subtly expresses that Zhivágo's tangible confinement can and does equal a more abstract repression; a repression that could arguably be associated with Pasternak's own reality:

It seemed that this dependence, this captivity, did not exist, that the doctor was free and simply did not know how to take advantage of it. The doctor's dependence, his captivity, in no way differed from

the other forms of constraint in life, equally invisible and intangible, which also seem like something nonexistent, a chimera and a fiction. Despite the absence of fetters, chains, and guards, the doctor was forced to submit to his unfreedom, which looked imaginary.¹⁰

His initial optimism for the Revolution was born with the understanding of one emotionally removed and physically distant from the most heinous atrocities of the war. Zhivágo was now able to see the actions of both the White and Red Armies and how the conflict destroyed the way of life he and so many of his fellow citizens had always known without any hope of the promised improvements.

Characteristically, Zhivágo's disenchantment with the Revolution began even before his time with the partisans. While he was hiding in the Urals at Varykino with his love, Lara, he discusses with her the current political landscape that they now inhabit. At this point, Yuri no longer values the liminal nature of his country and its politics. He has come to realize that only through stability can true freedom emerge:

There's been time enough for them to arrive at something. But it turns out that for the inspirers of the revolution the turmoil of changes and rearrangements is their only native element, that they won't settle for less than something on a global scale. The building of worlds, transitional periods—for them this is an end in itself.¹¹

In her book, *Understanding Boris Pasternak*, Larissa Rudova states, "The omnipresent oppression under the new regime is a major blow to Zhivágo's liberal attitudes and leads him to reject the dictatorship of the Bolsheviks as a form of transition to a happier socialist society."¹² However, Pasternak's protagonist, much like Pasternak himself, does not respond to the betrayal of the Bolsheviks with anti-revolutionary actions. He responds in a way that is original and his own, a way that allows him to stabilize himself in an unstable time.

Rudova agrees with Czesław Miłosz's assertion that this book is not "social criticism," stating that the novel is a story, "in which the self occupies center stage and is elevated above history."¹³ She maintains that Yuri Zhivágo's way of coping is not attained through anti-revolutionary activities but by escaping the reality of Russia's condition through other means, "The threat to his humanistic ideal of freedom is real, and he sees only two outlets for himself: art and love."¹⁴

The love shared between Yuri and Lara is without bounds and is present throughout the entire novel even when they are apart. The time spent with Lara results in a comfort and stability that Zhivágo craves when they are separated. Speaking to each other before leaving for Varykino once more, Zhivágo decides the best course of action is to leave all that is dear to them, to hide in a deserted town, to survive together. He can survive this latest upheaval alongside Lara. What assists him in coping with the effects of war is his love for Lara, "It's not for nothing that you stand at the end of my life, my secret, my forbidden angel, under a sky of wars and rebellions, just as you once rose up under the peaceful sky of childhood at its beginning."¹⁵ Pasternak's use of the phrase "rose up" brings into focus the many times in the novel that he uses language to refer to a character's need to act so that stability and revelation can be attained. Renewal, rebirth and transformation are terms used by Pasternak to describe the feelings that grip the characters of his novel. Through Lara's ability to "rise up," and through her ability to love she is able to give Zhivágo peace. What about of art? Rudova maintains that art is the second outlet that the physician uses to find his center in a discombobulated world. The art that she refers to is Zhivágo's poetry; a poetry that allows for Zhivágo's renewal and will later grant him immortality.¹⁶

A significant event occurs when Zhivágo is struck with typhus. During his hallucinations he sees himself writing. His writing is transformational and revelatory, "He is writing heatedly and with extraordinary success something he had always wanted to write and should long ago have written, but never could and now it is coming out."¹⁷ Through the hallucinations the power of writing and poetry is made clear to the suffering Zhivágo. Within the torment of the disease, language describing a renewal, rebirth and a call to action are repeated within his mind, "And two rhymed lines keep pursuing him: 'Glad to take up' and 'Have to wake up.'"¹⁸ The promise of language and poetry gives Zhivágo the strength he needs to overcome his delirium. The poetry offers the poet power to arise and find the rebirth and the renewal he craves, "Hell, and decay, and decomposition, and death are glad to take up, and yet, together with them, spring, and Mary Magdalene, and life are also glad to take up. And—have to wake up. He has to wake up and rise. He has to resurrect."¹⁹

The last part of the novel consists solely of Doctor Zhivágo's poems. The poetry is connected to the prose in a way that makes it an equally important part of the novel. In his essay, "The Poems of Doctor Zhivágo," Dimitri Obolensky argues a purpose and theme behind the prose narrative of the novel and the last chapter of verse. He states that there are, "three basic themes of this sequence

of poems—nature, love and the author's views on the meaning and purpose of life—occupy and equally central position in the book as a whole. . . .”²⁰ For the purposes of this essay it is important to look at two of these themes: love and the meaning of life. In his discussion of Zhivágo's seventeenth poem “Meeting,” Obolensky returns to the conversation of love between Yuri and Lara while hiding in Varykino. He states that this poem in particular captures the feeling of pity that, “is always present in Zhivágo's love for Lara.”²¹ The poem describes a person (Lara) who is cold, wet and suffering with “anguish in your eyes.”²² This pity is an integral part of the love being expressed by the poet, “As with iron dipped/ In Liquid antimony,/You have been engraved/Into my very heart.”²³ Obolensky refers back to the narrative and instances of pitiful love Zhivágo feels for Lara, “She arouses pity in him the first two occasions on which he sees her—when she appears to him helplessly dominated by her evil genius Komarovsky, and again when she unsuccessfully tries to shoot the latter.”²⁴ Zhivágo's poetry highlights an interesting aspect of his relationship with Lara. The entwinement of pity and love defines their bond and is immortalized in his poetry.

Zhivágo's bout with typhus and the resulting connection between writing and resurrection is also a huge part of the physician's, and arguably Pasternak's, view on life. Much scholarship exists linking Christianity to the philosophy behind Pasternak's novel. The Resurrection, an integral part of Christian doctrine, was also a significant part of Zhivágo's world view. Obolensky points to Zhivágo's episode of delirium when discussing the writer's religious poetry and acknowledges, “the key to the mystery of death's defeat by the Risen Christ is. . . expressed in the poems, “In Holy Week” and “Mary Magdalene. . . .””²⁵ What is the “key to the mystery of death's defeat?” Obolensky argues, to Zhivágo, the key is the Resurrection.²⁶ One could take this idea a step further and following the themes discussed in this essay, suggest that with the completion of the Resurrection came the completion of a transformative or liminal existence for Christ. Christian doctrine asserts he died and was resurrected to join his father in heaven. The instability was finished and his suffering was over because he “rose up.” It is not surprising that a religious doctrine that ended the transitional existence of Christ would appeal to a man and poet who saw his world destroyed by individuals who only valued “transitional periods,” and saw these periods as “an end in itself.” In the novel's conclusion, Doctor Zhivágo saw liminal existence as detrimental and acknowledged that the philosophy embraced by the new regime was destructive to Russia and her people. His life was full of

transitions and he strove through his love of Lara and his writing of poetry to find some type of stability. Ultimately, the religious idea of Resurrection, what he had hoped in vain would be found for his nation, was found at least for himself. Through his poetry, he discovered the “key to the mystery of death’s defeat” and was rewarded with immortality.

Many years after Pasternak’s novel was written, Vladimir Men’shov’s 1980 film, *Moscow Does Not Believe in Tears*, offered its viewers a glimpse into the modern Russian dream, a success story.²⁷ The director, commenting on his film, “held that the social and psychological realities presented in his film together ‘capture the Russian national spirit.’”²⁸ However, other analyses of the film offer a more somber view of the film’s meaning. In her article, “The Cultural Logic of Late Socialism,” Lilya Kagnovsky states as follows:

... the film acknowledges the necessity of desire itself, its continuous movement toward an object always out of reach. In the cultural logic of late socialism, we might think of this as a futile attempt to undo the economic fetters of stagnation, to continue to search for an object that promises a future that may in fact be different from the eternity of the Soviet present.²⁹

The main character, Katya, rises to the highest levels of business management but does so with much suffering and strife even though, “Soviet subjects are not supposed to lack....”³⁰ Similarly to Zhivágo, Katya follows her own path to improve her existence for herself and her daughter. Like Pasternak’s novel, the film highlights the protagonist’s reality within the current situation in the Soviet Union. Katya’s struggles are arguably less traumatic than the situations in *Doctor Zhivágo*, but the point is that her struggles are indicative of the cultural and political landscape of the Soviet Union. Katya exists in a world that was defined by significant historical events: revolution, civil war, Stalin and World War II. Navigating the reality of mid-twentieth century Moscow means that she will need to overcome obstacles that pervade the Soviet system. Katya must find a way to pass the manager’s test on her own merit; she must pick up the pieces of an unreliable lover and raise a baby on her own, all while supporting and providing for herself and her child. In Katya’s struggles a continuing theme is revealed that links both the novel, *Doctor Zhivágo*, and the film; the protagonists exist in a state of transition or liminality. Similarly to Zhivágo, Katya is success-

ful in overcoming the restrictions imposed upon her by the Soviet culture. She also succeeds by building stability based on her inner strengths. Like Pasternak's Zhivágo, Men'shov's Katya does not overtly rebel against society. While Zhivágo survived revolution and civil war through art and love; Katya uses her integrity and intelligence to make her way in the late Soviet era.

There is a significant difference in how Zhivágo and Katya find stability within a time of transition. Zhivágo's outlets of love and writing are outside the state and Katya works within the system to achieve her stability. The one instance in the film where Katya criticizes the current system is at a time in her life that is defined by great difficulty and liminality. She is pregnant, and her true situation has been revealed to the father of her child. She is no longer able to live under the fantasy of being the daughter of a professor but must now confront the reality that will soon become apparent; she will be a single mother, a factory worker and will raise an infant in a boarding house. During a television interview she is asked about her skills with the machinery. Katya comments about the lack of appropriate compensation for technicians, a fact that served as the impetus for her learning how to fix the machines on her own, "I don't mean for myself, skilled workers should be paid more."³¹ When asked about her dreams she responds with a moment of disquieting truth and confirms her desire to accomplish her goals, "I do intend to study further, I flunked the entrance exams this year, so I'll try again next year."³² The poignancy of this moment isn't realized until the film is watched in its entirety, but a viewer later realizes this is the moment where Katya makes the decision to survive. Elements beyond her control such as the Soviet system, the inadvertent revelation of her circumstances to her lover and his resulting decision to leave, are all events that contribute to an unstable and transitional existence for Katya. However, like Zhivágo, she will ultimately overcome her liminal state and enjoy stability (in as much her reality can offer).

It is important to note that a common criticism of this film is that it is a mere fairy tale designed to enchant and comfort the Soviet audience; much like the role of romantic comedies in American culture. The director, Vladimir Men'shov did not agree with this characterization; however, he stopped short of declaring that a more complex meaning or social commentary was a goal of the film.³³ In his article, "Moscow Does Not Believe in Tears: From Oscar to Consolation Prize," David MacFayden states that such a characterization would be integral for further analysis that could reveal a more substantive social undertone to the film:

...he was not happy that several Soviet journalists had employed parallels between *Moscow Does Not Believe in Tears* and a fairy tale. They had referred to his movie as 'variations on the theme of Cinderella.' Despite Men'shov's unwillingness to bridge the gap between politics and Prince Charming, however, these fairy-tale parallels would subsequently prove vital in marrying ideology and something 'else,' something appealing, socially complex....³⁴

Ultimately, MacFayden's argument about the possibility of a deeper meaning to the film is, by his own admission, inconclusive. However, his most significant point is the explanation of his original goal; one could argue that this goal is in complete agreement with one of the film's themes. In his analysis, MacFayden attempted to, "draw a distinction between the ideological aspects of the film (if, indeed, there are any) and something else: a promise beyond (i.e. more than) politics."³⁵ This "promise beyond" is a pervasive theme throughout the film. Katya is not interested in the liminal nature of the Soviet political and cultural landscape. She is only interested in surviving the circumstances that she has been given and looking towards the "promise beyond." This "promise beyond" has nothing to do with being a Soviet citizen and everything to do with being human. With this focus on self-fulfillment one can again link the film with *Doctor Zhivago*. As previously mentioned, Rudova characterized the novel as being a story, "in which the self occupies center stage and is elevated above history."³⁶ Much the same can be said about Katya's journey; she and her daughter are more important than any historical events that surround them.

Doctor Zhivago and *Moscow Does Not Believe in Tears* are two rich sources for exploring the cultural and social landscape of post-Revolution Russia. The protagonists, Yuri Zhivago and Katerina both exist in the ever-transitional nation, self-defined, at least until 1991, as the original home of the Revolutionary experience. Both struggle to overcome the liminality of their reality, the essence of revolution. Both characters are able to find outlets that stabilize their existence and allow them to be true to themselves as humans rather than puppets in a society defined by constant change. While the ending of *Moscow Does Not Believe in Tears* is a relatively happy conclusion, Pasternak's novel can arguably be seen as a tragedy. The physician is separated from his true love and family and dies relatively young in abject poverty. However, not only is the prose throughout the novel infused with hope but the poetry that he leaves behind

gives him an immortality that the Soviet Union itself would never achieve; the USSR would break up within a decade of the release of Men'shov's film. What remains is the art produced explaining to the generations to come what it meant to be a Russian citizen during the Revolution, Civil War and Soviet Regime, what it meant to be a Yuri or a Katya.

ENDNOTES

¹ Boris Pasternak, *Doctor Zhivágo*, trans. Richard Pevar and Larissa Volokhonsky (New York: Pantheon Books, 2010), 487.

² Czesław Miłosz, “Pasternak Soberly,” *Books Abroad* 44, no. 2 (Spring 1970): 206, under “Pasternak and Milosz,” <http://0-www.jstor.org.library.lausys.georgetown.edu/stable/40124306> [accessed May 7, 2011].

³ Victor Turner, “Liminality and Communitas,” in *The Ritual Process: Structure and Anti-structure* (Chicago: Aldine Publishing Company, 1969), 95.

⁴ Pasternak, *Doctor Zhivágo*, 369.

⁵ Larissa Rudova, *Understanding Boris Pasternak*, (Columbia: University of South Carolina Press, 1997), 3.

⁶ Miłosz, “Pasternak Soberly,” 208.

⁷ Pasternak, *Doctor Zhivágo*, 128.

⁸ *Ibid.*, 129.

⁹ *Ibid.*, 298.

¹⁰ *Ibid.*, 295.

¹¹ *Ibid.*, 267.

¹² Rudova, *Understanding Boris Pasternak*, 164.

¹³ *Ibid.*, 165.

¹⁴ *Ibid.*

¹⁵ Pasternak, *Doctor Zhivágo*, 381.

¹⁶ Dimitri Obolensky, “The Poems of Doctor Zhivágo,” in *Pasternak: A Collection of Essays*, ed. Victor Erlich (Englewood Cliffs: Prentice-Hall, Inc., 1978), 164.

¹⁷ Pasternak, *Doctor Zhivágo*, 183.

¹⁸ *Ibid.*, 184.

¹⁹ Ibid.

²⁰ Obolensky, "The Poems of Doctor Zhivágo," 151-152.

²¹ Ibid., 157.

²² Pasternak, *Doctor Zhivágo*, 483.

²³ Ibid.

²⁴ Obolensky, "The Poems of Doctor Zhivágo," 157.

²⁵ Ibid., 161.

²⁶ Ibid., 164.

²⁷ Elizabeth Zelensky, email message to author, April 5, 2011.

²⁸ David MacFayden, "Moscow Does Not Believe in Tears: From Oscar to Consolation Prize," *Studies in Russian and Soviet Cinema* 1, no. 1 (2007): 47, under "Moscow Does Not Believe in Tears Analysis," http://0-www.atypon-link.com.library.lausys.georgetown.edu/INT/doi/pdf/10.1386/srsc.1.1.45_1 (accessed May 8, 2011).

²⁹ Lilya Kagnovsky, "The Cultural Logic of Late Socialism," *Studies in Russian and Soviet Cinema* 3, no. 2 (2009): 185, under "Moscow Does Not Believe in Tears Analysis," http://0-www.atypon-link.com.library.lausys.georgetown.edu/INT/doi/pdf/10.1386/srsc.3.2.185_1 (accessed May 8, 2011).

³⁰ Ibid., 197.

³¹ Vladimir Men'shov, *Moscow Does Not Believe in Tears*, DVD, (International Film Exchange, Ltd., 1982).

³² Ibid.

³³ David MacFayden, "Moscow Does Not Believe in Tears: From Oscar to Consolation Prize," 47-48.

³⁴ Ibid.

³⁵ Ibid., 61.

³⁶ Rudova, *Understanding Boris Pasternak*, 165.

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**Health Care Reform and
the Founding Fathers:
An Analysis of the Current
Application of the Federalist and
Anti-Federalist Debates**

by Sean M. Gallagher

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Course: *Federalists: Creating a New Nation*
Professor: Charles E. Yonkers, J.D.
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March 23rd, 2011, marked the one year anniversary of the passage of the renowned health care reform bill, otherwise known as the Patient Protection and Affordable Health Care Act (PPAC), Public Law 111-148. By any and all accounts, it was a grueling, tumultuous fight to see this legislation passed. At the heart of the debate was the individual mandate, a provision within the legislation that required virtually everyone to purchase health insurance through penalty of tax. Those in opposition claim this was a square violation of the United States *Constitution*, specifically the liberty clause in 14th amendment. Those in favor state the law is well within the bounds of the *Constitution*, particularly the interstate commerce clause listed in Article I section 8. Since its passage, 12 federal district courts have dismissed challenges to the law, 2 have held it to be constitutional, and 2 have ruled it unconstitutional.

However, while the courts' interpretation of the *Constitution* will determine whether or not the law will be upheld, the dispute about health care reform evoked what many felt was the founding vision of our country. The debate elicited cultural and philosophical differences about the size, scope, and role of government that harked back to the debates the founding fathers enacted during the summer of 1787. Should the federal government have the ability to regulate commerce to the extent of the health care reform bill? Could the founders have conceivably allowed this type of legislation to pass?

These questions are explored by placing them within the context of the arguments between the Federalists and the Anti-Federalists contained in the Federalist Papers, similar Anti-Federalist publications, and speeches given at the state ratification conventions. This analysis shows what might have been the objections of the Anti-Federalists, their fear of the overreach of government, violation of states' rights, and the disrespect for cultural differences among the citizenry. Next, the study counters with the differing vision put forth by the Federalists, their belief in the efficacy of elections and the concept of a nation acting as one pursuing a common interest. Ultimately, while some conclude the health care reform legislation fits within the vision outlined by the Federalists, the objections of the Anti-Federalists did not die with the ratification of the *Constitution*. Their political beliefs were strong enough to nearly halt the ratification all together, and persist today as a vibrant and influential movement among a broad spectrum of Americans.

Introduction to the *Federalist Papers*

The *Federalist Papers* have been lauded as a one of the most timeless works on the mechanics of government. As historian Bernard Bailyn states, “Generations of people - scholars and politicians alike - have believed the *Federalist Papers* to be the finest explanation of the principles that underlie the American government and the most accurate analysis of the intentions of those who designed it.”¹ Yet, as true as acclamations like this may be, they don’t always tell the whole story. By no means a product of mere circumstance, the *Federalist Papers* were born in a contentious period in U.S. history, and it is important to understand this context before exploring how the arguments of the Federalists and Anti-Federalists relate to present day legislation.

On July 4, 1776 most Americans are familiar with the story of the Declaration of Independence and the few brave men who risked their lives and reputation to break ties with Great Britain and start the American Revolution. However, the path from that moment to now, particularly in terms of how the government operates, is far from linear. After declaring independence, the founding fathers drafted the *Articles of Confederation* in 1777 in an effort to construct a new mode of governing during the war. By March of 1781, Maryland ratified the *Articles of Confederation*, formally establishing a confederacy as the first government. When the United States and Britain signed the Treaty of Paris in September of 1783 ending the Revolutionary War, the *Articles of Confederation* were left standing as the operational construct of government. Over time, as the brand new nation attempted to establish itself as a credible and independent power, the *Articles* began to show signs of weakness. Vesting all the power in the individual states, the central government under the *Articles of Confederation* had no real authority to collect taxes, regulate trade, or raise an army. States were printing their own separate currencies, placing tariffs on each other’s goods, and battling over territory. Eventually, problems mounted to the point where action was merited, and in May of 1787 delegates from all the states except Rhode Island met in Philadelphia for the purpose of revising the *Articles of Confederation*.

However, contrary to their original mandate, the delegates ended up scrapping the *Articles of Confederation* and drafting an entirely new document which we now recognize as the United States *Constitution*. This sparked immediate controversy, dividing the nation into two primary groups, the Federalists and Anti-Federalists. The Federalists supported the *Constitution*

and its new balance of power, while the Anti-Federalists opposed it primarily in fear of stripping the states of their rights. The Anti Federalists desired not to scrap the *Articles*, but rather to simply revise and update them to make them more effective.

In September of 1787, the delegates sent the new *Constitution* to the state legislatures with instructions about ratification, triggering a fierce debate about the newly proposed government. It was a period of vulnerability where the drafters of this new document were keenly aware its success in the state ratifications was far from certain. In order to fully explain and defend its principles, John Jay, James Madison and Alexander Hamilton decided to draft the *Federalist Papers*. In October of 1788, the first chapter of the *Federalist Papers* was published in New York City anonymously under the name Publius in *The Independent Journal* as a tool to influence the vote in favor of ratification.

Thus, the *Federalist Papers* and their Anti-Federalist counterparts were drafted amidst contentious and uncertain times in our nation's history. They were constructed with a clear and direct bias, arguing for and against a specific type of government. They highlight differing views about the role of government based on both experience and academic study, and claim to predict how this new country would either thrive or fail under the new *Constitution*.

It is within this context that arguments are extrapolated and relate to legislation that the founders, both Federalist and Anti-Federalist alike, could hardly have imagined. In some instances there will be a close link, while in others it will be a stretch to surmise how arguments made in the late 1780's would have a current application. It is important to acknowledge that all arguments made are hypothetical, and conclude upfront that it is nearly impossible to suppose how the founders would have interpreted the health care reform law. However, that must not limit this study.

The Power of Tax

When drafting the health care reform legislation, Democratic lawmakers knew it would be an expensive task. Approximately 40 million people in the United States were uninsured, and their goal was to somehow provide these individuals a basic form of insurance. The catch was that many of the uninsured had been rejected by insurance companies solely because of cost, whether due to a preexisting condition like cancer or they were at an age in

their life where the risk of covering them was high. Thus, drafters of health care reform knew that in order to provide coverage to the section of the population that did not have any, they would need to raise revenue.

To spread the pain of raising this revenue, lawmakers decided that the major players in the health care system, arguably those who had the most to gain from reform, had to chip in. During the reform process, pharmaceutical companies agreed to provide their drugs for less money, hospitals conceded to take less assistance from the government, and health insurance providers and medical device manufacturers were levied a fee.² All of these provisions were coordinated under the agreement that every American had to purchase insurance, particularly the healthy. To make up for the fact that those who were sick and uninsured were going to place an immediate burden on the system, revenue was required from healthy individuals to spread the cost. The underlying premise was that the health care system is deeply interconnected, with the providers, insurers, clinicians and patients all depending on one another. While the healthy didn't need care at the present moment, they would at some point in their life, so the rationale was to mandate that everyone be in the system in order for it to function properly.

As a result, the individual mandate was implemented because it served a vital role in order for the health care system to operate more effectively. For lack of a better phrase, it was enacted for the common good. Elected representatives convened in order to decide how best to achieve the goals of health care reform, namely reducing costs and increasing coverage, and chose the individual mandate as part of these objectives. The question then, is how can the debate of our founders shed light on the viability of these actions?

Not surprisingly, the power of taxation was one of the most cantankerous subjects of the Federalist and Anti-Federalist debate, and no state ratification highlights this better than North Carolina. Fiercely loyal to their state and fearful of a central government usurping their power, Anti-Federalists clamored about the injustice of this new construct of government. Specifically, many statements were made about how representatives to a new federal government would not be one of them, and thus would not have their immediate interests in mind. Samuel Spencer, an Anti-Federalist lawyer, stated "The most certain criterion of happiness that any people can have, is to be taxed by their own immediate representatives, by those representatives that know their circumstances, not by those who cannot know their situation."³

Moreover, a particular problem for the Federalists was that their construct of government under the Constitution was hypothetical to this point. When Federalists at the North Carolina convention like Whitmill Hill tried to convince those in attendance that the representatives who would be sent to the Capitol would hold their interests at heart, Anti-Federalists could not be swayed. They believed the new federal representatives under the Constitution would abandon their local roots and overtax the citizenry. Joseph McDowell expressed this sentiment well in stating, "At such a distance from their homes, and for so long a time, they will have no feeling for, nor any knowledge of, the situation of the people. If elected from the seaports, they will not know the Western part of the country, and vice versa."⁴ With such a strong loyalty to North Carolina, and an equal fear that representatives sent outside their state would forget for their cause, Federalists at the North Carolina state convention could not convince the majority in attendance to shed the belief that "The tax gatherers will be sent and our property will be wrested from our hands."⁵ Ultimately, with the final vote, North Carolina became the lone state to reject ratifying the *Constitution*.

In Virginia, while the *Constitution* was successfully ratified, many of the same arguments were voiced regarding taxation. The same fear was present about representatives being sent to the Capitol who would abandon their local population. George Mason stated, "The mode of levying taxes is of the utmost consequence; and yet here it is to be determined by those who have neither knowledge of our situation, nor a common interest with us, nor a fellow-feeling for us."⁶ Patrick Henry, one of the most fierce and stentorian Anti-Federalists, adamantly opposed the new system of taxation proposed under the *Constitution*. Unafraid of hyperbole, Henry stated, "In what situation are we to be? The clause before you gives a power of direct taxation, unbounded and unlimited. . . . What resistance could be made? The attempt would be madness. You will find all the strength of this country in the hands of your enemies."⁷ From these and similar statements, it was easy to see that one of the primary concerns during the debate about the *Constitution* was that it would abuse the power to tax.

However, with a steady and calm resolve, the Federalists contended that taxation was necessary in order to preserve the union, already existed under the *Articles of Confederation*, and would not be abused by the new *Constitution*. George Nicholas, in his opening address at the Virginia ratifying

convention, illustrated that the proposed government under the *Constitution* couldn't be oppressive because of how it was obliged to respond directly to the needs of the people. According to Nicholas, biannual elections would force members of the House of Representatives to consult "scrupulously the interests of their constituents."⁸ At the North Carolina convention, Governor Samuel Johnston echoed the same sentiment, stating that the representatives will be beholden to the people, and will be "men in whom they can put confidence, and will give them, from time to time, instructions to enlighten their minds."⁹

James Madison, the primary architect of the *Constitution*, argued the necessity of taxation for the operation of government, and stated it would be limited under the proposed Constitution by virtue of its construct. It would be confined in its scope to carry out only those things with which it was charged to do. Writing as Publius in the *Federalist Papers*, Madison stated "A government ought to contain itself in every power requisite to the full accomplishments to the objects committed to its care, and to the complete execution of its trusts for which it is responsible, free from every other control but a regard to the public good and to the sense of the people."¹⁰ It was Madison's belief that the government could only use its power to execute what power it was given, and would be held to that charge by the people.

In addition, Madison stressed the intimate connection that the representatives would have to their constituents under the new *Constitution*. Akin to George Nicholas and Governor Johnston, Madison believed the frequency of elections wed the interests of the representatives to those that vote for them. In response to Patrick Henry's comments at the Virginia Convention, he stated "It can be of little advantage to those in power to raise money in a manner oppressive to the people. To consult the conveniences of the people will cost them nothing, and in many respects will be advantageous to them. Direct taxes will only be recurred for great purposes."¹¹ Thus, in Madison's view, it would be impractical for a representative to unjustly tax his or her constituents.

Moreover, to the arguments levied against the *Constitution* regarding its hypothetical nature and fear it was too new to vest the future of the nation, Madison struck back with an inspirational charge. "Is it not the glory of the people of America, that, whilst they have paid a decent regard to the opinions of former times and other nations, they have not suffered a blind

reverence for antiquity, for custom, or for names, to overrule the suggestions of their own good sense, the knowledge of their own situation, and the lessons of their own experience?"¹² Madison countered the fears of those resistant to change by calling to mind the courage of the Revolution, and that its precedent should inspire those deliberating the *Constitution* to follow in their footsteps. "If they erred most in the structure of the Union, this was the work most difficult to be executed; this is the world which has been newly modeled by the act of our convention, and it is that act on which you are now to deliberate and to decide."¹³

Ultimately, it was clear the Federalists and Anti-Federalists had different visions over the viability of federal taxation. Applying these notions to the health care reform law, it could be asserted that the Anti-Federalists would have seen the legislation as a clear breach of the charge of government. Uniformly enforcing a mandate through penalty of tax would have fit squarely into their argument that a central government was overreaching. In their view, no group of federal representatives could have drafted legislation, even for the betterment of all, if it violated individual or state sensibilities.

However, winning over the dissent, the Federalists successfully convinced the majority of states that representatives would not overreach and would be held accountable by frequent elections. The goal of these representatives, the Federalists argued, would have been to carry out the interests of the individuals they represent and bind them together in common cause. Within this logic, the individual mandate could be construed as one of the "great purposes" that Madison indicated representatives would enact on behalf of those who elected them. It could be interpreted as the execution of the trust placed in the representatives by the people to manifest the "objects committed to its care," and in the case of health care reform, to secure accessible and affordable health care.

Cultural Differences

One of the most infamous lines in the health care debate came from House Speaker Nancy Pelosi while addressing an audience at the 2010 Legislative Conference for the National Association of Counties. "We have to pass the bill so that you can find out what is in it, away from the fog of controversy."¹⁴ Intentional or not, the remark elicited a debate about the notion

that lawmakers were presumptuous enough to know what was best for their constituents, even if their constituents disagreed. It angered individuals who felt a sudden disconnect from their representatives, who thought lawmakers were ignoring their concerns and didn't respect their opinions. How could Congress presume to legislate a national health care policy and implement a uniform set of practices for every hospital, doctor and patient?

This concern, that a federal government could feasibly legislate on a national level, permeated the ratification debates. In the same vein that Anti-Federalists claimed the new *Constitution* constructed a central government that would be unable to tax effectively, they also claimed it could not adequately respect the diversity of the nation. It was too divided culturally, with competing interests that would not function under a single entity. George Mason stated, "Is it to be supposed that one national government will suit so extensive a country, embracing so many climates, and containing inhabitants so very different in manners, habits, and customs? It is ascertained, by history, that there never was a government over a very extensive country without destroying the liberties of the people."¹⁵ Simply put, the argument was that under one central government, individual rights would be curtailed.

Federal Farmer, the pen name taken under one of the renowned Anti-Federalist publications, used this line of reasoning to convince wavering citizens that a central government could not possibly respect cultural differences. "Different laws, customs, and opinions exist in the different states, which by a uniform system of laws would be unreasonably invaded."¹⁶ It was an inordinate idea to think that one ruling body could capably govern the opposing interests of the thirteen states, let alone any future states. "If a people be so situated, or have such different opinions that they cannot agree in ascertaining and fixing them, it is a very strong argument against their attempting to form one entire society, to live under one set of laws only."¹⁷

The Anti-Federalists believed laws, and those drafting them, must conform to the cultural standards of society, not the other way around. As a result, the formation of one central government was impracticable. Brutus, a pen name taken for a similar Anti-Federalist publication, stated "Laws and customs of the several states are, in many respects, very diverse. Their manners and habits differ as much as their climates and productions. If we apply this remark to the condition of the United States, we shall be convinced that it forbids that we should be one government."¹⁸ In sum, for the Anti

Federalists, opposition to the *Constitution* was an opposition to the idea that the United States existed as a whole, greater than the sum of its parts. It was too divided to coalesce under one ruling body.

The Federalists, however, had an entirely different vision. They believed that despite inherent differences, the nation could act as one, and *had* to in order to survive. To inspire their audience, they would evoke patriotic reverie and paint a utopian picture of citizens acting in unison under the new *Constitution*. As John Jay wrote in the opening chapters of the Federalist Papers, "Providence has been pleased to give this one connected country to one united people, a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government, very similar in their manners and customs."¹⁹ The major rationale for first proposing the *Constitution* was that America was failing by acting as separate entities and needed to act as one nation in order to survive. Factions, the Federalists claimed, were tearing the nation apart, and it was only natural that "a band of brethren, united to each other by the strongest of ties, should never be split into a number of unsocial, jealous, and alien sovereignties."²⁰

Driving this message at the Virginia ratifying convention was Governor Randolph, who was influential not only because he was governor of one of the most powerful states, but because he had originally refused to sign the *Constitution*. "When I withheld my subscription, I had not even a glimpse of the genius of America, relative to the principles of the new *Constitution*."²¹ In a change of heart, Governor Randolph became convinced that the union would break apart if the *Constitution* wasn't ratified. He demonstrated that he had no more faith in the effectiveness of the *Articles of Confederation*, and exulted in an almost desperate plea that the nation needed to act as one. "I believe, that as sure as there is a God in Heaven, our safety, our political happiness and existence, depend on the Union of the States; and that without the Union, the people of this and the other States, will undergo unspeakable calamities, which discord, faction, turbulence, war, bloodshed, have produced in other countries."²²

The concept of a single union, spanning diverse interests but coalescing around a common purpose, was at the heart of the Federalist cause. No Federalist believed this more or articulated it better than James Madison. Factions greatly disturbed Madison, who believed man had a natural inclination to

split into warring groups. "So strong is this propensity of mankind to fall into mutual animosities, that where no substantial occasion presents itself, the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions and excite their most violent conflicts."²³ This tendency, Madison believed, had manifested itself in how the states were operating. They were competing with each other, warring over property and trade. Thus, the remedy was to bring them together in common purpose. "Under such a regulation, it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves."²⁴

To the contention that lawmakers could not capably represent the interests of their constituents or respect their cultural diversity, Madison reiterated that elections would be their safeguard. "As each representative will be chosen by a greater number of citizens," he stated, "it will be more difficult for unworthy candidates to practise with success the vicious arts by which elections are too often carried; and the suffrages of the people being more free, will be more likely to centre in men who possess the most attractive merit and the most diffusive and established characters." Elections would be the people's recurring guarantee they could choose their fate by selecting individuals who would fight for their cause.

Likewise, Alexander Hamilton echoed the importance of elections and also reminded those critics who were afraid of representation under the *Constitution* that the *Articles of Confederation* already set a successful precedent. Although the Constitution vested greater powers in Congress, the *Articles of Confederation* previously entrusted elected representatives to act on behalf of the states. These representatives, Hamilton stated, "being convened from different parts of the country, they brought with them and communicated with each other a variety of useful information."²⁵ Far from overstepping their bounds, these representatives "were individually interested in the public liberty and prosperity, and therefore that it was not less their inclination than their duty to recommend only such measures as, after the most mature, deliberation, they really thought prudent and advisable." For the Federalists, the character of the individuals who would be elected, and the people who would elect them, were the safeguards against the Anti-Federalist fear that the new Congress would become tyrannical.

Nevertheless, similar to the divide over taxation, the Federalists and

Anti-Federalists fundamentally disagreed whether a central government could preserve local customs and culture. Anti-Federalists charged that the Constitution would inevitably take these rights away, and it was only in the state government, governed by local officials for local causes, that their traditions could be upheld. The Federalists, however, saw the *Constitution* as unique construct that would respect local customs and culture by electing capable representatives from various localities to fight for their respective constituencies. In addition, by pooling these representatives together, the Federalists believed that in the process of fighting for their own causes, the elected representatives could unite around a national cause and halt the dangerous infighting that existed under the *Articles of Confederation*.

Applying these beliefs to health care reform, it is easy to see that the Anti-Federalists could have lambasted the legislation as forcing a 'one size fits all' prescription onto sections of the country that rejected it. In this respect, the Anti-Federalist fear that individual liberties would be stripped under a central government seems to have contained a prescient quality. They foresaw the potential for a federal government, acting even under the best of intentions, infringing state and individual rights.

However, while the Anti-Federalist belief that national legislation like health care reform curtails individual liberty, the Federalists, particularly Madison, could have countered that it was accomplished through the consent of the governed. The bill would not have passed unless the elected officials from various parts of the country cast their vote in support of it. While certain segments of the country were strongly opposed, a greater population favored the bill, giving it the necessary backing to become law.

Secondly, from Madison's writings and statements it could have been inferred that he would support the health care law as just the type of legislation meant to ameliorate warring factions. States and localities with vastly different beliefs about health care and its practices were, and still are, causing damage to the national system. For instance, states like Virginia set a poverty standard much lower than their neighbors. As a result, fewer people qualify for Medicaid, which is a government sponsored insurance program for the poor and indigent. Because few select states like Virginia set their threshold so low, it causes more people to rush to surrounding states to receive care, burdening their neighbors with a greater population of needy people than they could handle. This is just one instance among many where health care

reform instituted policies, like setting a national poverty level, to ameliorate the damage that competing interests and factions were causing within the health care system.

Nevertheless, in the circumstance of infringing individual and state rights in service of the national good, the Anti-Federalist's argument still holds strong. Whatever the justification, regulating a person's actions through penalty of tax as the individual mandate does, is a direct example of reducing the rights of an individual in service of a national good. Were the Anti-Federalist present to debate the health care reform law, it is almost certain they would slate it as an abuse of power and attack on individual liberty.

National Security

A major impetus and justification for enacting health care reform was the preservation of national security, specifically our financial and economic security. Health care costs were skyrocketing, placing a financial strain both on the nation as a whole and its citizens. Debt from medical bills became the leading cause of individual bankruptcy in the nation,²⁶ while health care expenditures were consuming an ever increasing portion of the GDP.²⁷ By the year 2017, Medicare was predicted to become insolvent, meaning it would spend more money than it would take in forcing the government to incur debt to keep it running.²⁸ The growing costs of health care became such a large threat to the nation's viability that proponents of health care reform said it needed a national solution.

On the subject of security, the majority of the Anti-Federalist arguments were limited to the scope of securing individual liberty. As aforementioned, they believed the new government proposed under the *Constitution* was a threat to national security because it would become oppressive, tyrannical even. However, the Anti-Federalists were keenly aware of the argument that the country required national solutions; mainly that it needed a more effective national army to defend itself against foreign threats. For this issue the response was to amend the *Articles of Confederation* to better equip the country to raise an army and strengthen its defense. For other national problems, the crux of their response echoed previous sentiments that smaller government was the answer, not bigger government. Samuel Spencer once again summed this belief up in a statement at the North Carolina ratification debate, saying "The state governments are the basis of our happiness,

security, and prosperity. A large extent of country ought to be divided into such a number of states as that the people may conveniently carry on their own government. This will render the government perfectly agreeable to the genius and wishes of the people. . . . On the contrary, if all the United States were to be swallowed up by the great mass of powers given to Congress, the parts that are more distant in this great empire would be governed with less and less energy. It would not suit the genius of the people to assist in the government.” For many of the Anti-Federalists, vesting power in a central government to tackle national problems was backwards. They believed it would further complicate these problems, because the people would feel disconnected to such a distant, central body. The solution was to localize the government as much as possible so it could be more responsive to the people, even if the problems affecting them were on a national scale.

The Federalists, however, took a stance in direct opposition to this belief. While arguing that state and individual liberty would be preserved under the *Constitution*, Federalists felt the magnitude of the problems facing the country, and the incapacity of the *Articles of Confederation* to solve them, required national solutions. At the North Carolina convention, Mr. William Davie, a well respected revolutionary war hero and lawyer, stated that in order for the government to be effective, it must be strongly united. “The general objects of the union are 1st, to protect us against foreign invasion; 2nd, to defend us against internal commotions and insurrections; 3rd, to promote the commerce, agriculture, and manufactures, of America. These objects are requisite to make us a safe and happy people, and they cannot be attained without a firm and efficient system of union.”²⁹

National security was such an important topic to the Federalists that it consumed arguably the first 30 chapters of the *Federalist Papers*. In *Federalist No. 5*, John Jay explained that the frailty of the divisions at home would “invite dangers from abroad, and that nothing would tend more to secure us from them than union, strength, and good government within ourselves.”³⁰ In *Federalist No. 9* Hamilton stated that “A firm Union will be of the utmost moment to the peace and liberty of the States, as a barrier against domestic faction and insurrection.”³¹ They wanted to sound the alarm that the weaknesses of the *Articles of Confederation* were an imminent threat to the security of the country. And this threat wasn’t solely limited to those coming from overseas. Again, the Federalists saw factions as a cancer on the nation and

believed a stronger central government was needed in order to preserve the union from internal conflicts. As Jay states, the Constitution was a method to preserve peace and tranquility against danger abroad, but also dangers “of the like kind arising from domestic causes.”³²

Moreover, the Federalists were clairvoyant enough to know that domestic disputes were not limited to the kind they were presently familiar with. The weaknesses of the *Articles of Confederation* called for a stronger government to deal not only with current problems, but even bigger ones that would arise in the future. As Hamilton stated, the *Constitution* should have the “capacity to provide for future contingencies as they may happen; and as these are illimitable in their nature, so it is impossible safely to limit that capacity.”³³

Once again, the difference of the Federalists and Anti-Federalists on issues of national security manifested itself in the belief in smaller, localized governments versus a stronger, united government. Even for looming threats from abroad and clear internal disputes, the Anti-Federalists firmly believed that the only effective solutions would come from the various states deciding at the local level. The Federalists, however, saw more pressing needs that called for a stronger, unified government. Culling the various interests together would help dispel their vulnerability from outside the country as well as facilitate better solutions to the factions within it.

Parlaying these beliefs to health care reform, it seems likely the Anti-Federalists would have opposed the legislation in favor of more localized solutions. Moreover, Anti-Federalists may have even blamed the problems stemming from health care costs as a consequence of trying to provide large scale government solutions to problems in the first place. Medicare and Medicaid are some of the largest government run programs, and the Anti-Federalists could have decried such expansion as the reason for the rising cost of care and the burden that it places on the country. Rejecting the notion that the government could tax effectively or represent the cultural diversity of the states, it is not a far leap to assume they would have firmly rejected the idea of government adequately providing health insurance to a large population of its citizens.

Conversely, the Federalists believed the nation required the *Constitution*, and the stronger union it prescribed, in order to prosper. This was particularly true on the issue of national security, which included trade, commerce, and military security. Regarding health care reform, it can easily be theo-

rized that the Federalists would have included fiscal security among these, specifically the kind used as the justification to pass the Patient Protection and Affordable Health Care Act. The Federalists did anticipate the country facing future crises, thus advocating the necessary construct to respond effectively. It can be inferred from this advocacy that it would have included the passage of legislation aiming to control health care costs and secure the country's fiscal solvency.

Conclusion: The Debate Lives On

Ultimately, the debates between the Anti-Federalists and Federalists illustrate the deep political and philosophical differences among our founders. They boil down to a disagreement not only over the plausibility of a working federal government, but more fundamentally over whether one should exist in the first place. This dichotomy of thought, with the “united cause” of the Federalists on one side versus the “individual interests” of the Anti Federalists on the other, demonstrates how tough a battle it was for the *Constitution* to be ratified. However, with a steady and firm resolve, the Federalists prevailed and convinced wavering delegates to “Hearken not to the unnatural voice which tells you that the people of American, knit together as they are by so many cords of affection, can no longer live together as members of the same family; can no longer continue the mutual guardians of their mutual happiness; can no longer be fellow citizens of one great, respectable, and flourishing empire.”³⁴

Consequently, stemming from the success of the Federalist arguments which called for national unity in pursuit of collective interests, One may be confident that the health care reform law fits well within this prescription. As illustrated above, the legislation touches upon many of the issues the Federalists used as reasons to ratify the *Constitution*. These include the amelioration of factions, preservation of national security, and perhaps most important was the consent of the governed. Various representatives from across the country, executing the trust given to them by their constituents, united around a common cause and legislated an imperfect, but genuine effort to better the nation. Most likely the Federalists would be proud of how the foundation that they lay over 230 years ago is still able to effectively address such complex issues.

Yet, while it may be tempting to write off the Anti-Federalist argu-

ments and claim they died with their defeat, a cursory glance at the history of the political dialogue in this country will quickly dispel any such notion. The Anti-Federalist belief in states' rights, adherence to local values and customs, and suspicion of big government are very much alive, reaching even the Presidency. Ronald Reagan epitomized what can be said to be the Anti-Federalist belief in stating that "Government is not a solution to our problem, government is the problem."

Thus, the debate that transpired between the founding fathers over the *Constitution* continues to this day. Whether it is health care, the budget, national security or any other range of issues, both Federalist and Anti-Federalist beliefs still resonate with the public. So, when faced with the question of how the founders would view current policies or legislation, one must simply reply, which founder?

ENDNOTES

¹ Bernard Bailyn, *To Begin the World Anew: the Genius and Ambiguities of the American Founders* (New York: Vintage, 2004), 100.

² “Health Insurance Reform at a Glance, Pay for Health Insurance Reform,” Affordable Health Care for America. The Office of the Speaker, 23 Mar. 2010, Web. <http://docs.house.gov/energycommerce/PAYING_FOR_REFORM.pdf> (accessed 2011)

³ Jonathan Elliot, ed. “Debates in the Convention of the State of North Carolina, on the Adoption of the Federal Constitution,” Vol. 4. The Debates in the Several States Conventions on the Adoption of the Federal Constitution, as Recommended by the General Convention at Philadelphia, in 1787. 2d. ed. Web. <<http://www.constitution.org/elliott.htm>> (accessed 2011).

⁴ Elliot; “Debates in the Convention of the State of North Carolina,” 87.

⁵ Ibid.

⁶ Elliot; “Debates in the Convention of the State of North Carolina,” 31.

⁷ Ibid., 51.

⁸ Richard E. Labunski, *James Madison and the Struggle for the Bill of Rights*, Oxford [u.a.: Oxford Univ., 2008, 76.

⁹ Elliot; “Debates in the Convention of the State of North Carolina,” 89.

¹⁰ Alexander Hamilton, John Jay, James Madison, *The Federalist: A Commentary on the Constitution of the United States*, ed. Robert Scigliano (New York: Modern Library, 2001) 188.

¹¹ Elliot; “Debates in the Convention of the Commonwealth of Virginia,” 95.

¹² Hamilton, Jay, Madison, *The Federalist*, no. 14, 84.

¹³ Ibid., 85.

¹⁴ Marguerite Higgins, “We Have to Pass the Bill so You Can Find out What Is in It,” *The Foundry: Conservative Policy News Blog*. The Heritage Foundation, 10 Mar. 2010. Web. <<http://blog.heritage.org/2010/03/10/video-of-the-week-we-have-to-pass-the-bill-so-you-can-find-out-what-is-in-it/>> (accessed 2011).

¹⁵ Elliot; “Debates in the Convention of the Commonwealth of Virginia,” 29.

¹⁶ Ralph Ketcham, ed. *The Anti-Federalist Papers and the Constitutional Convention Debates* (New York: Signet Classic, 1986) 264.

¹⁷ *The Anti-Federalist Papers*, 266.

¹⁸ Ketcham, *Ibid.*, 277.

¹⁹ Hamilton, Jay, Madison, *The Federalist*, no. 2, 38.

²⁰ *Ibid.*

²¹ Labunski, *James Madison and the Struggle*, 78.

²² *Ibid.*, 87.

²³ Hamilton, Jay, Madison, *The Federalist*, no. 10, 56.

²⁴ *Ibid.*, 59.

²⁵ *Ibid.*, no. 2, 11

²⁶ Catherine Arnst, “Study Links Medical Costs and Personal Bankruptcy,” *Bloomberg Businessweek*, 4 June 2009, <http://www.businessweek.com/bwdaily/dnflash/content/jun2009/db2009064_666715.htm> (accessed 2011).

²⁷ Reed Abelson, “The Cost of Doing Nothing on Health Care,” *The New York Times*, 27 Feb. 2010. <http://www.nytimes.com/2010/02/28/weekinreview/28abelson.html?_r=1> (accessed 2011).

²⁸ T. W. Farnam, “Social Security, Medicare Face Insolvency Sooner,” *The Wall Street Journal*, 13 May 2009. Web. <<http://online.wsj.com/article/SB124212734686110365.html>> (accessed 2011).

²⁹ Elliot, “Debates in the Convention of the State of North Carolina,” 17.

³⁰ Hamilton, Jay, Madison, *The Federalist*, no. 5, 23.

³¹ *Ibid.*, no. 9, 47.

³² *Ibid.*, no. 3, 13.

³³ *Ibid.*, no. 24, 202.

³⁴ *Ibid.*, no 14, 84.

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**Nature and the Infinite Cosmos:
American Transcendentalism
in Annie Dillard's *The Maytrees***

by Rebecca H. Hogue

Written for
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Professor: William J. O'Brien, Ph.D.
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In her 1982 book of literary criticism entitled *Living by Fiction*, Annie Dillard contends that “we are missing a whole class of investigators: those who interpret the raw universe in terms of meaning” and goes on to explain that the raw universe is “all that we experience, all things cultural and natural, all of the universe that is known, given, made, and changing: the world, and they that dwell therein. Experience is something human, even our experience of dumb nature. It is sane to seek to understand it in all its breadth.”¹ *The Maytrees* is that investigation. Marilynne Robinson claims this novel reveals a profound relationship—the human relationship with the universe.² Taking notes from *Pilgrim at Tinker Creek*, Annie Dillard imbues *The Maytrees* with American transcendental philosophy, and the novel culminates in a revelation on the human condition. Dillard reveals the possibilities in the human condition through the adoption of self-reliance and an ascetic life, demonstrating an intimate relationship with nature and the cosmos.

After years of writing non-fiction, Annie Dillard spent ten years writing *The Maytrees*, whittling it down from 1200 pages to two hundred.³ The novel is an experience in the power of language, and exemplifies what she advocated in *Living by Fiction*: “using language like a beam of Venusian light to see the back of its own head—to talk about its own art—makes a very wide tautological loop. It goes all around the world of language’s referents before coming back to its own surface.”⁴ For Dillard, fiction tells the story of every person, and explores the breadth of the human experience. In the afterward of the most recent (2007) edition of her Pulitzer Prize winning book, *Pilgrim at Tinker Creek*, in an essay entitled “More Years Afterward,” Annie Dillard explains her growth and transition as a writer: “[*Pilgrim at Tinker Creek*] is a young writer’s book in its excited eloquence and its metaphysical boldness. Using the first person, I tried to be—in Emerson’s ever-ludicrous phrase—a transparent eyeball. *The Maytrees* shows how a writer’s craft matures into sparseness. [...] Everyone and everything represents itself alone. No need for microcosms or macrocosms. The *Maytrees*’ human tale needs only the telling.”⁵

Just as Dillard herself became the transparent eye ball in the non-fiction first-person narrative of *Pilgrim*, Dillard introduces Ralph Waldo Emerson’s transcendentalist philosophy in the character of Lou Maytree, who adopts not only the ideology, but puts it to experiential practice in the tradition of Henry David Thoreau. Dillard’s human condition, as explored specifically by Lou, is one that transcends boundaries of the physical world. In a review of *Living by*

Fiction, one critic notes that “Modernist fiction, Dillard suggests, has trained us as readers to look at [...] the art in the language, while the language itself inescapably points us toward the world.”⁶ In the same vein, Dillard contends, “The Maytrees are a woman and a man both simplified and enlarged.”⁷ Therefore, Lou can be the transparent eyeball in every woman, making this a narrative of the outward-most stretches of our human experience.

In the seminal work of the transcendental movement, *Nature*, Emerson states, “all mean egotism vanishes. I become a transparent eye-ball; I am nothing; I see all; the currents of the Universal Being circulate through me; I am part or particle of God.”⁸ Later, Emerson’s protégé Thoreau echoes a sentiment in tandem with Emerson, stating, “Once I was part and parcel of Nature, now I am an observan [sic] of her.”⁹ Dillard has a long-storied past with Emerson and Thoreau, writing her master’s thesis at Hollins College on Thoreau and *Walden*.¹⁰ In *The Maytrees*, she introduces Lou as her transcendental figure at the onset of the novel, noting her skin as “transparent”¹¹ which foreshadows her rebirth into the transparent eyeball as she commits her to an ascetic life after her husband, Toby, leaves. The metaphor of the transparent eyeball serves as a synecdochal reference for the American transcendental movement throughout the novel. As one critic notes, “Dillard’s syntax and rhetoric overtly and covertly connect American Renaissance transcendentalism to a postmodern thematics.”¹² *The Maytrees* is a contemporary exploration in transcendental ideology, where Dillard superimposes the values of Emerson, Thoreau, and their ideological predecessors onto Lou.

Emerson’s *Nature* begins with a quotation from the Neoplatonist Plotinus: “Nature is but an image or imitation of wisdom, the last thing of the soul; nature being a thing which doth only do, but not know,” and Emerson goes on to explain that the “universe is composed of Nature and the Soul,” in that the universe consists of what he later calls the “me” and the “not me.”¹³ Inspired by the Neoplatonists and others, Emerson and Thoreau understand the human existence on a scale far beyond the physical world. Just as with the transparent eyeball, the transcendentalists propose that Nature, which includes the cosmos, is the avenue through which one can access God.

The framework for the novel is dictated by two natural images—the maytree and the Pleiades. The maytree, or hawthorn, is a symbol of carnal love and fertility. The eponymous characters initially metaphorically serve as a warning about distance from God, and at the beginning of the novel live a godless life; one

historian notes: “thorns, including hawthorn, speak to us of the separation of humankind from God, and more specifically of the separation that occurs when humankind chooses carnal love to the exclusion of spiritual love.”¹⁴ Concurrently, the motif of the Pleiades serves as a reminder of the cosmos and humankind’s ultimate purpose on earth, as well as God’s influence on human lives, as the myths of the Pleiades are stories of grief and shame, love and loss.¹⁵ By the end of the novel, the Pleiades help to reveal Dillard’s message about the cosmos.

With the cosmos overhead and Nature surrounding the Maytrees, Dillard throws an existential wrench in the spokes of the lives of the previously intertwined family: “During all their other years’ short silences—but not this one—while they slept, while stars held fast their sports beyond the window and seas concussed the beach, they woke together as if a temblor. [...] There had not been much of that this past year.”¹⁶ Toby, the whimsical poet, leaves Lou unexpectedly and moves to Maine. With only her son to take care of and her identity shifted, Lou must find a way to go on. Confused about love and the reasons behind his actions, Toby throws himself into his poetry and studies “not love, but consciousness.”¹⁷ In their nearly twenty years apart, Lou puts into practice her own quest for consciousness in an effort to find purpose.

Lou begins her transformation in her new solitary life by adopting an Emersonian self-reliance. Emerson calls self-reliance the aversion from the joint-stock company of society’s conformity, noting, “Nothing is at last sacred but the integrity of your own mind. Absolve you to yourself, and you shall have the suffrage of the world.”¹⁸ Lou embraces her cuckquean status, creating a new existence, and defying societal expectations of bitterness and sadness. Her solitude becomes an opportunity: “Lou hoped scandalously to live her own life. A subnormal calling, since civilization means cities and cities mean social norms. She wanted only to hear herself think.”¹⁹ Especially in a small community like Provincetown, Lou’s self-reliance becomes more pronounced, but nonetheless is admired. As she ages, her commitment to herself remains: “Most years she shook her wide, white head and refused aid—She’s impossible, they said, fond and scared.”²⁰

In her self-reliance, Lou moves toward a more aesthetic life. She admires Diogenes, the cynic who repelled society’s needs. She shares Thoreau’s rejection of superfluity and displays of material wealth, choosing a deliberate life. Trappings of society no longer concern her: “Lou had long since cut out fashion and all radio but the Red Sox. In the past few years she had let go her ties to people she

did not like, to ironing, to dining out in town, and to buying things not necessary and that themselves needed care. She ignored whatever did not interest her.”²¹ Thoreau addresses this issue in *Walden*, in his chapter on Economy: “Most men [...] are so occupied with the factitious cares and superfluously coarse labors of life that its finer fruits cannot be plucked by them. [...] He has no time to be anything but a machine. How can he remember well his ignorance -- which his growth requires -- who has so often to use his knowledge?”²² Lou experiences precisely the time that Thoreau fears that humans will lose due to material preoccupations. When she commits herself to an intentional and purposeful life outside of the obligations of others, Lou possesses even more freedom and time to think: “With those blows she opened her days like a piñata. A hundred freedoms fell on her. She hitched free years to her lifespan like a kite tail. Everyone envied her the time she had, not realizing that they had the same.”²³

Lou begins her rebirth with her own personal pilgrimage, ironically to the Pilgrim Monument at outskirts of Provincetown, where she employs her self-reliance in the interest of self-improvement. With all of the time she has gained through her ascetic life style, she finds herself with a commitment to letting go of Toby, and contemplates letting everything go: “She could climb the monument every day and work on herself as a task. She had nothing else to do. [...] Within a month she figured that if she ceded that the world did not center on her, there was no injustice or betrayal. If she believed she was free and out of the tar pit, would she not thereby free herself from the tar pit?”²⁴ The commitment to self and the act of immersing herself in Nature provides her more freedom, and reveals a life with many more prospects. Thoreau, too, possessed this sentiment of self-determined self-improvement, remarking, “I delight to come to my bearings,—not walk in procession with pomp and parade, in a conspicuous place, but to walk even with the Builder of the universe, if I may,—not to live in this restless, nervous, bustling, trivial Nineteenth Century, but stand or sit thoughtfully while it goes by.”²⁵ Lou’s pilgrimage is about action—not for the sake of others noticing, but for the purpose of illumination.

It is at the top of the monument that Lou that conquers the impulse to center on herself. Lou’s literal and metaphorical ascension of the monument demonstrates her ability to attain a new perspective on earth and in the universe. Here Lou’s philosophy mirrors that of Emerson, as expressed in *Circles*, of which he was inspired by the Neo-Platonists. Lou looks to the sky, where she is immersed by climbing the monument, and recognizes that both her quest for knowledge

and the cosmos were limitless. Emerson argues that this lack of limits is what connects us with God: "The eye is the first circle; the horizon which it forms is the second; and throughout nature this primary picture is repeated without end. It is the highest emblem in the cipher of the world. St. Augustine described the nature of God as a circle whose centre was everywhere and its circumference nowhere."²⁶ Lou remarks, "When anything unwise arose in her henceforth, she attended to it by climbing the monument, at whose top she opened her palm. So she pulled her own stakes in the matter, stakes she herself pitched. [...] She could guy out Orion and spread him like a spinnaker, a chute to fly beyond her own self-love. If earth's sky got confining, there were plenty more."²⁷ In this metaphysical space, Lou controls the cosmos, in that she would choose to follow the Pleiades; she is in control of her own desires, unlike Orion, as he must follow the Pleiades for eternity.²⁸

This passage is also connected to the *Christian Bible*, as in the book of Amos, chapter eight, verse five, it states, "He who made the Pleiades and Orion, who turns midnight into dawn and darkens day into night, who calls for the waters of the sea and pours them out over the face of the land— the Lord is his name."²⁹ By taking herself to the highest point of the town, where her sight could not limit her perception of the cosmos, in the words of Emerson, "all mean egotism vanishes" and Lou became "part and particle with God." Lou has learned it is easier to be self-absorbed when one cannot see the heavens, and that what one sees determines his or her place in the universe.

Even though Lou reunites with Toby Maytree by the novel's end, she remains close to her spiritual connections, as the carnal aspects of their relationship are gone. At his end, he too, becomes closer to God, and more at peace, because the material and physical aspects of his life are removed. The Maytrees, then, learn to reject the maytrees,³⁰ just as one critic contends, "for transcendentalists, the self is this transparent, hollow shell," much like the transparent eyeball.³¹

In the final passages of the novel, Dillard closes with a reminder of the transcendence of life and its cyclical nature. The transcendentalists focused not on the end and beginning of life, but the idea of living to the fullest while alive. As Toby experiences his final moments, Lou contemplates what will happen to all of the information that he has learned over the course of his life, meanwhile watching seagulls outside; she then considers her own memory: "the little she had retained; all she had yet to think through in her time left. Replaceable gulls. For all she knew she had seen the same gulls over and over. [...] Would he remember, at

least at first, to watch for its own blue seas' palming the earth?"³² Dillard leaves her question unanswered, but leaves the reader with a lasting impression of lives well spent—that even in the death of a loved one, Lou could find renewal and learn from the universe with its infinite possibilities. The end of *The Maytrees* reaffirms Dillard's goals in *Life by Fiction*, as "there seems to be only one business at hand—that of finding workable compromises between the sublimity of our ideas and the absurdity of the fact of us. [...] Does fiction illuminate the great world, or only the mind of its human creator?"³³ This leaves her readers with yet another question on the human condition, but that is precisely her point.

ENDNOTES

¹ Annie Dillard, *Living by Fiction* (New York: HarperCollins, 1988), 145.

² Marilynne Robinson, "The Nature of Love," *Washington Post*, 24 June 2007.

³ Scott Simon, "Annie Dillard's Tale of Bohemian Love by the Sea," Weekend Edition, National Public Radio, 28 July 2007.

⁴ Dillard, *Living by Fiction*, 50. Dillard explained that "[Language] is like a beam of light on Venus. There, on Venus, heavy atmospheric gravity bends light around the entire circumference of the planet, enabling a man, in theory, to see the back of his own head. Now, the object of every artist's vision is, in one sense, the back of his own head. But the writer, unlike the painter, the sculptor, or composer, cannot form his idea of order directly in his materials; for as soon as he writes the least noun, the whole world starts pouring back onto his page."

⁵ Dillard, *Pilgrim at Tinker Creek* (New York: HarperCollins, 2007), 283.

⁶ David Lavery, "Unlicensed Metaphysics: Annie Dillard Revisited," *Religion & Literature* 17, no. 2 (1985), 67. Lavery explains that Dillard "compares what modernist fiction has accomplished to training a puppy to fetch: it is very difficult to train it not to look at the hand with which ones points and to look instead at that which one points."

⁷ Dillard, *Pilgrim at Tinker Creek*, 283.

⁸ Emerson, *Selections from Ralph Waldo Emerson* (Boston: Houghton Mifflin, 1957), 24.

⁹ Henry David Thoreau, *The Journal of Henry David Thoreau* (New York: Dover, 1962), 369.

¹⁰ Nancy C. Parrish, *Lee Smith, Annie Dillard, and the Hollins Group: a Genesis of Writers* (Baton Rouge: LSU Press, 1999), 161.

¹¹ Dillard, *The Maytrees* (New York: HarperCollins, 2007), 8.

¹² Richard Hardack, "A Woman Need Not Be Sincere": Annie Dillard's Fictional Autobiographies and the Gender Politics of American Transcendentalism," *Arizona Quarterly* 64, no. 3 (2003): 78.

¹³ Emerson, *Selections from Ralph Waldo Emerson* (Boston: Houghton Mifflin, 1957), 21-22.

¹⁴ Susan S. Eberly, "A Thorn among the Lilies: The Hawthorn in Medieval Love Allegory," *Folklore* 100, no. 1 (1989), 47.

¹⁵ Encyclopædia Britannica Online, s. v. "Pleiades," <http://www.britannica.com/EBchecked/topic/464554/Pleiades>, accessed December 1, 2011. "Pleiades, in Greek mythology, the seven daughters of the Titan Atlas and the Oceanid Pleione: Maia, Electra, Taygete, Celaeno, Alcyone, Sterope, and Merope. They all had children by gods (except Merope, who married Sisyphus). The Pleiades eventually formed a constellation. One myth recounts that they all killed themselves out of grief over the death of their sisters, the Hyades. Another explains that after seven years of being pursued by Orion, a Boeotian giant, they were turned into stars by Zeus. Orion became a constellation, too, and continued to pursue the sisters across the sky. The faintest star of the Pleiades was thought to be either Merope, who was ashamed of loving a mortal, or Electra, grieving for Troy, the city of Dardanus, her son with Zeus."

¹⁶ Dillard, *The Maytrees*, 65.

¹⁷ *Ibid.*, 117.

¹⁸ Emerson, *Selections from Ralph Waldo Emerson* (Boston: Houghton Mifflin, 1957), 149.

¹⁹ Dillard, *The Maytrees*, 131.

²⁰ *Ibid.*, 80.

²¹ *Ibid.*, 131.

²² Thoreau, *Walden*, 8.

²³ Dillard, *The Maytrees*, 131.

²⁴ Ibid., 92.

²⁵ Thoreau, *Walden*, 371.

²⁶ Emerson, *Selections from Ralph Waldo Emerson* (Boston: Houghton Mifflin, 1957), 168.

²⁷ Dillard, *The Maytrees*, 92.

²⁸ Encyclopædia Britannica Online, s. v. "Orion," <http://www.britannica.com/EBchecked/topic/432656/Orion>, accessed December 16, 2011. "After his death he was placed among the stars, and he can be identified (somewhat fancifully) by his club, lion's skin, girdle (or belt), and sword. In the sky he chases the Pleiades and is himself pursued by Scorpio, the scorpion."

²⁹ *The Bible*, Amos 5:8 (New International Version)

³⁰ Eberly, "A Thorn Among the Lilies: The Hawthorn in Medieval Love Allegory," *Folklore* 100, no. 1, (1989), 47.

³¹ Hardack, "'A Woman Need Not Be Sincere': Annie Dillard's Fictional Autobiographies and the Gender Politics of American Transcendentalism," *Arizona Quarterly* 64, no. 3 (2008), 80.

³² Dillard, *The Maytrees*, 119.

³³ Lavery, "Unlicensed Metaphysics," 65.

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***Jus ad Bellum* and the Israel-
Hezbollah War of 2006**

by Kelly Kidwell Hughes

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On July 12, 2006, Hezbollah fighters injured five Israeli citizens with rockets launched into northern Israel. The rockets proved to be a diversion for Hezbollah's main military action: an attack on Israeli soldiers patrolling the border between Israel and Lebanon. Both attacks were a departure from Hezbollah's previous strategy of attacking Israelis primarily in the disputed Shebaa Farms territory. Three Israeli Defense Force (IDF) soldiers were killed and two were taken hostage. Later that day, four IDF soldiers sent to rescue the captive soldiers were killed when their tank hit a mine six kilometers inside Lebanese territory.

Israel responded quickly and forcefully. Later that day Prime Minister Olmert issued a statement describing the events as acts of war committed not just by Hezbollah, but also by Lebanon. Israel responded with air raids and eventually a ground attack. Hezbollah engaged Israeli forces and fired rockets into Israeli cities. The conflict ended August 14th with a ceasefire negotiated by the United Nations. The Lebanese Army, buttressed by forces from the United Nations, was sent to southern Lebanon and Israeli forces withdrew. The short war killed 1,109 people in Lebanon, wounded 4,399 and displaced 30% of the Lebanese population. Hezbollah rockets fired during the conflict killed 39 Israelis and injured 4,262.¹

Hezbollah's actions and the Israeli response brought condemnation from the international community. Many criticized Hezbollah for provoking a conflict, but they also argued that the magnitude of Israel's response was unjust. While there is no definitive, formulaic way to analyze this claim, just war theory provides the best framework with which to evaluate the justice of Israel's response. Just war theory, *jus ad bellum*, provides a comprehensive moral framework for evaluating a state's decision to go to war, its conduct during the war, and its conduct after the war ends. It also provides a middle ground between realism, which has a more permissive attitude towards war, and pacifism, which condemns every instance of war.

Evaluating all of Israel's conduct before, during, and after the war in Lebanon in 2006 is beyond the scope of this article. Instead, the article focuses on whether Israel acted in accordance with just war theory when it responded to Hezbollah's attack. The focus on Israel is not meant to imply that Hezbollah's actions deserve no scrutiny, nor that Hezbollah bears no responsibility for the war. The choice to focus on Israel is a result of the academic questions Israel's actions raise. By responding with great force and holding both Hezbollah and Lebanon accountable, Israel raised questions about how to deal with terrorist

havens, the limits and responsibilities of sovereignty, and the usefulness of international law and ethical evaluations of war.

Despite claims that just war theory is antiquated, evaluating Israel's decision to go to war in light of just war theory's *jus ad bellum* criteria can provide insight into the previously mentioned issues. The attacks of September 11, 2001 led many to conclude that these *jus ad bellum* concepts were antiquated and no longer applicable to modern conflicts. Author, Eric Patterson, argued that just war theory was meant for an era of when wars were fought between nations with large armies on a battlefield far from any city. Just war theory was developed initially by Medieval scholars and, according to Patterson, is no longer appropriate for modern wars. He believes nations "should dispense with the niceties of just war theory and base their decision to go to war on the concept of responsibility."² This ethic of responsibility requires both an offensive and defensive response to terrorism, according to Patterson.

While this sort of concept of responsibility might justify certain law-enforcement or intelligence operations, war is violence on such a large scale that a more comprehensive set of ethical standards is required. Concepts such as making war a last resort, just cause, and proportionality can provide clearer guidelines than the notion of responsibility. Responsibility could, for instance, be viewed in the purely realist framework leading to the conclusion that a state has a responsibility to its people and must defend them at any cost. Of course Patterson might reply that responsibility to the international community prevents such action, but nowhere does he provide a way to weigh the necessity of defending a state against the rights of people in other states. Just war theory provides more specific guidelines to help weigh these obligations.

Moreover, Patterson's critique of just war theory fails to consider recent literature on the subject. While 9/11 had yet to take place when Michael Walzer wrote on just war theory, he did consider terrorism and guerilla warfare.³ His book was greatly influenced by the Vietnam War, which can hardly be described as similar to a Medieval conflict where two large armies fought away from civilians. Brian Orend, who also writes on just war theory, applies it to the post 9/11 conflicts in Afghanistan and Iraq, and concludes that they both satisfied some, if not all, of the *jus ad bellum* conditions.⁴ The analyses of Orend and Walzer, as well as those other scholars, indicate that just war theory still has relevance in the Modern world.

Just war theory gives criteria that states must meet in order to have just

cause to go to war. These *jus ad bellum* criteria are just cause, right intention, declaration of war by proper authority, a reasonable probability of success, using war as a last resort, and that war be a proportional response. Noting the definitions of each criterion, one may determine whether Israel met each criterion during the 2006 conflict.

Just Cause and the Israeli Attack on Lebanon

The first of the *jus ad bellum* categories is **just cause**, which has traditionally included aggression against a member of the international community. Scholars have also debated whether or not humanitarian crises are just cause for war, but Israel cited aggression, not humanitarian concerns as its motive for attacking Lebanon. The definition of aggression seems relatively straight-forward. According to Michael Walzer, “every violation of territorial integrity or political sovereignty”⁵ is an act of aggression.

However, there has been much debate among international legal scholars as to who a state is entitled to attack after falling victim to aggression. Mark Rignstad makes the important point that an act of aggression gives a state cause for war against the aggressor, not against any of the aggressor’s allies or other states. “The conventional right to defend oneself in response to aggression ought to be discriminating in the sense that it is a right to defend oneself against the aggressor(s). To wage war against any others is to become an aggressor oneself.”⁶ This is clear enough in state-to-state warfare, but it makes dealing with aggression by a non-state actor more complicated. Orend endorses attacking a state sponsor of terrorism only if the state has given “substantial support” to the group responsible for the attack.⁷

Determining what qualifies as substantial support is not always straightforward. While giving money or weapons to a terrorist organization and directing it to attack a rival power is clearly state-sponsorship of terrorism, not every case is so cut and dry. Most just war theorists see harboring terrorists or granting them safe havens as providing “substantial support.” But many weak and failing states are unable to prevent terrorist groups from training within their borders. Orend and other just war theorists generally make a distinction between states that actively support terrorist groups and those that are too weak to control them, but it is not always clear at what point a state should be held responsible for the behavior of armed groups within its borders.

Seamus Miller argues that it is important to distinguish between respon-

sibility based on identity and responsibility based on behavior. Responsibility based on identity makes every member of a group responsible for the actions of other members of the group entirely based on a shared racial, ethnic, religious, or other identity. According to Miller assigning blame based on identity denies people individuality and agency. “The morality of collective identity elevates the category of membership of racial, ethnic, and national groups above the category of human moral personhood; a person is first and foremost (say) a white or Black or Jew, and only secondly a human being who is responsible for their actions.”⁸

Instead Miller argues parties can share responsibility when “(a) they relied on one another to bring about the state of affairs aimed at by both (the collective end), and; (b) each performed their contributory action on condition, and only on condition, that the other(s) performed theirs.”⁹ This definition means a state must do more than fail to prevent terrorism, but must act in concert with terrorist groups. This releases states from the impossible obligation of being able to control the behavior of all of their citizens and preventing any and all terrorists groups from using their territory.

Having now outlined what constitutes aggression, and who is responsible for it, it is possible to evaluate whether or not Israel had just cause for attacking Hezbollah and for attacking Lebanon. Based on the conventional definition of aggression, Hezbollah clearly committed an act of aggression that violated Israeli political sovereignty by firing rockets and crossing the border to attack the Israeli soldiers on patrol. Moreover, evidence suggests this was not an accidental skirmish, but a calculated act to provoke Israel. The leader of Hezbollah, Hasan Nasrallah, spoke to news organizations in November 2005 and promised to kidnap Israeli soldiers, saying it was Hezbollah’s right to do so.¹⁰

While Israel clearly had just cause to attack Hezbollah, Israel’s case against Lebanon is less clear-cut. Statements from the Israeli government held Syria and Iran largely responsible for providing material support to Hezbollah, and yet it was Lebanon that Israel attacked. The Ministry of Foreign Affairs claimed Israel attacked Hezbollah’s “military assets within Lebanon” and not “the government of Lebanon.”¹¹ However, additional government statements indicate that Israel viewed all of Lebanon as responsible for the kidnapping. In a statement issued July 12, 2006, and widely seen to be a declaration of war, Prime Minister Olmert said:

This morning’s events were not a terrorist attack, but the action of

a sovereign state that attacked Israel for no reason and without provocation. The Lebanese government, of which Hizbollah is a member, is trying to undermine regional stability. Lebanon is responsible and Lebanon will bear the consequences of its actions.¹²

The Israeli government clearly held Lebanon responsible for the kidnapping and the scale of the war indicated that Lebanon as a whole was targeted. While Hezbollah military assets are located primarily in southern Lebanon, attacks extended well north of Beirut to Tripoli and Halba. According to Paul Salem of the Carnegie Middle East Center in Beirut, more than 130,000 housing units throughout the country were damaged, as were hundreds of factories and dozens of bridges, schools, and even hospitals. Part of Israel's strategy was in fact to undermine Hezbollah's support in Lebanon by demonstrating that Hezbollah's attacks on Israel had costly consequences for the Lebanese people. Gilbert Achcar and Michel Warschawski assert that a major component of Israel's plan for war included "massively and gravely disrupting the lives of the Lebanese people themselves and holding them hostage through air, sea, and land blockades."¹³ Gary Gambill concurs that "the Israelis do not appear to have had any strategy for undermining support for Hezbollah within the Shi'ite community other than elevating the collective suffering."¹⁴

Regardless of whether or not waging war on Lebanon was an effective self-defense strategy, the war failed to meet the just cause standard. While Israel may have had just cause to target Hezbollah infrastructure in southern Lebanon, the Lebanese government must have played a greater role in the attack to justify the war Israel waged. The Lebanese government would have had to act in concert with Hezbollah to help bring about the rocket attacks and kidnapping of Israeli soldiers. While Hezbollah is a political party in the Lebanese parliament, it was in opposition to the group in power, the March 14th coalition. The relationship between Hezbollah and the March 14th coalition was fractured at best and Hezbollah politicians often boycotted the parliament.¹⁵ Moreover, according to Dov Waxman the "pro-Western anti-Syrian Lebanese government already increased pressure on Hezbollah to abandon its autonomous military standing in the country and transform itself into a peaceful political party."¹⁶

Moreover, the Hezbollah fighters who carried out the attack were in no way associated with the Lebanese state. Hezbollah fighters are not integrated into the Lebanese army and, according to Andreas Zimmerman, the Lebanese govern-

ment had “neither empowered Hezbollah to exercise governmental authority, nor undertake military responsibility on its behalf.”¹⁷ The Lebanese Prime Minister at that time, Fuad Siniora, denied any prior knowledge of, or role in planning, the attacks. He said the Lebanese government was “not aware of and does not take responsibility for, nor endorses what happened on the international border.”¹⁸ The Israeli government offered no evidence that the Lebanese government supported the kidnapping. The Lebanese government also called on Hezbollah to release the captured Israeli soldiers and start cease-fire negotiations.¹⁹

Israel did not target Lebanon because it had aided Hezbollah in the attack, instead Israel targeted Lebanon on the basis that Hezbollah was an organization based in Lebanon, falling short of Seamus Miller’s requirements for holding Lebanon responsible for the war. Although international legal scholars are expanding the *jus ad bellum* criteria to allow for attacks on states that harbor terrorist groups, the general consensus seems to be that war is acceptable only when the state is unwilling, not just unable, to prevent terrorist groups from threatening other states from its territory.²⁰

Evaluating Israel’s War Aims

The next *jus ad bellum* criterion is that of **right intention**. The nation that declares war must actually be fighting a war for a just cause, not using that cause as a cover to gain territory or pursue other interests. This raises several questions: how can the international community determine if a state is acting with right intention? Must the just cause be the only reason for the war, or can states be fighting for a just cause and for additional benefits?

While judging intent may not be as easy as evaluating some of the other just war criteria, Orend argues that a person’s actions may be judged to gauge their intent just as the American legal system does. The law makes a distinction between murder and manslaughter based on intent, and juries regularly evaluate a defendant’s actions to determine his or her intent.²¹

However, Orend concedes that it is not easy to determine whether just cause or other interests had the greatest impact on a nation’s decision to go to war. He refers back to Walzer’s position that just cause must “only be real and present” among a state’s motives to go to war.²² Other scholars have found more concrete ways to evaluate just war theory that seem more in line with the spirit of the theory. Michael J. Butler argues that to meet the standard of right intention war must not be undertaken for “(a) territorial acquisition; (b) intimidation or

coercion; or (c) cruelty, hate or vengeance.”²³ Not only is this definition more specific, it is also more in keeping with the spirit of just war theory, which has roots in religious scholarship, and according to Butler, ought always to presume against war.

Israel was certainly not interested in acquiring territory when it attacked Lebanon and Hezbollah, as evidenced by the army’s withdrawal after the war. However, there was a clear intention to intimidate and coerce the Lebanese population into withdrawing support for Hezbollah. According to the Senior Advisor and Official Spokesperson for the United Nations Interim Force in Lebanon, “the idea behind causing such horrific damage to civilian infrastructure was to convince the population to turn against Hezbollah.”²⁴

Gary Gambill wrote about another example of Israel’s attempt to intimidate Lebanese citizens: “When the Israelis hacked into the satellite signal of Hezbollah’s al-Manar Television two days later and interrupted its evening news with their own message to the Lebanese people, no effort was made to cast blame for the deaths on Hezbollah. Instead viewers were treated to crude images of guerrilla corpses.”²⁵ By initiating massive bombing campaigns and bombarding the Lebanese with images of dead bodies, Israel was acting to intimidate them and compel them to withdraw support for Hezbollah based on fear of the Israeli military.

Michael Butler’s definition of right intention also prohibits acting out of cruelty, hate, or vengeance. While it can be difficult to determine whether someone feels hate or a desire for vengeance, the statements issued by some Israeli officials clearly indicate this intent, rather than only a desire to deter future attacks. The Israeli Army Chief of Staff, General Dan Halutz, said the military was going to target Lebanon’s infrastructure and “turn back the clock in Lebanon by 20 years,”²⁶ a reference to when Lebanon was destroyed by the civil war of the 1980s. According to the *Jerusalem Post*, Halutz also ordered ten multi-story buildings in Beirut hit for every rocket launched at Haifa, although the Israeli government denies the report.²⁷

According to Gary Gambill, the “tidal wave of public outrage” following the attacks in Israel left politicians with little choice but to react with hatred and vengeance.²⁸ Halutz was certainly not the only Israeli leader calling for revenge and punishment. Haim Ramon, Israel’s Minister of Justice, said: “We must reduce to dust the villages of the south...I don’t understand why there is still electricity there.” Eli Yishai, Israel’s deputy prime minister, suggested turning Lebanon into

a “sandbox,” and the Israeli newspaper *Yedioth Ahronoth* wrote, “A village from which rockets are fired at Israel will simply be destroyed by fire. This decision should have been made and executed after the first Katyusha, but better late than never.”²⁹ The intent of many Israeli leaders indicated a desire to coerce, punish, and intimidate the Lebanese population, and enact vengeance for their support of Hezbollah. While these are understandable and very human emotions, they do not indicate right intention.

Israel’s Declaration of War

The next *jus ad bellum* criterion, that **war must declared by a proper authority**, is not as straightforward as it initially appears. Traditionally any sovereign nation was a proper authority and could declare war, but A.J. Coates explains why this should not be the case. “Such an approach serves to justify all de facto government and leads to political quietism. . . . An unwavering presumption in favour of the powers that be can transform the principle into an ideological support for the very worse forms of tyranny.”³⁰

Orend helps prevent this from happening by arguing that a state must be “minimally just” in order to legally respond to aggression with war. According to Orend, minimally just states are recognized by their own people, do not violate the right of other countries, and make every reasonable effort to provide human rights for their own citizens.³¹ Orend is fairly lenient in his evaluations of whether or not states meet these criteria. For instance, he counts Kuwait in 1990 as a minimally just state, despite the fact that its parliament often acted as a rubber stamp for the monarchy, and women were not allowed to vote. However, no state has a perfect human rights record, and in order to be practically applied in today’s state-centered international community, just war theory must err on the side of recognizing states as minimally just and able to declare war.

The proper authority criterion also requires a public declaration of war. Here Orend cites the Hague Convention III that requires “. . . previous and explicit warning, in the form of either a reasoned declaration of war or an ultimatum with conditional declaration of war.”³² War is such a grave threat that it is only reasonable for the government of the opposing country, and citizens on both sides of the conflict, to be informed that they are facing war.

Like Orend, some may err here on the side of granting states legitimacy and determining that they are minimally just. While Israel’s human rights record is far from perfect, no state’s is, hence the requirement for minimal and not per-

fect justice. Israel is certainly, at least, as just to its own citizens as Kuwait was in 1990s, when the United Nations declared it a member of the international community that deserved to defend itself against aggression from another state. The question of whether or not Israel does not violate the rights of neighboring states, particularly Palestine, is the subject of such an extensive debate that it cannot be settled definitively in this article. So, for the purposes of evaluating Israel's adherence to *jus ad bellum* criteria in 2006, one must assume Israel is a minimally just state that has the authority to declare war.

Israel did publicly declare its intent to attack Hezbollah and Lebanon just hours after the kidnapping. Prime Minister Ehud Olmert held a press conference where he stated clearly that the kidnapping was an "act of war" and said "the cabinet will convene this evening in order to approve additional IDF responses in Lebanon."³³ Israel also filed an official complaint with the United Nations and the Israeli ambassador to the United Nations, Danny Gillerman held a press conference to discuss Israel's response.³⁴ Therefore, Israel clearly met the requirement to publicly declare war.

Israel's Failure to Explore Other Options

The next criterion of *jus ad bellum* is that war be a **last resort**. Just war theory does not enthusiastically clamor for war and wants to limit its use. A. J. Coates explains that just war theory is ultimately a doctrine to promote peace and "what the criterion of last resort entails above all is a genuine and serious commitment to the process of peacemaking."³⁵ Therefore, states should exhaust other options, such as negotiations, sanctions, and appeals to the international community, before going to war. Coates also argues that it is particularly important to allow time for these options to work.

However, this does not mean that literally every option must be exhaustively pursued in order for the condition of last resort to be satisfied. Truly aggressive leaders will often fail to be deterred by international condemnation or sanctions. For Hitler there was no amount of pressure the international community could apply to make him refrain from aggression. Coates argues that "in a given situation, the process of peacemaking is not well served by acts of accommodation. The obligation to pursue peace refers not simply to the choice of ends, but to the discerning use of means."³⁶ This interpretation of the last resort criterion acknowledges that sometimes war may be the only way to bring about a lasting peace.

After the war, the Israeli government established a commission to examine the government's conduct during the war and the commission issued the Winogard Report. The report accused Prime Minister Olmert of "making up his mind hastily, despite the fact that no detailed military plan was submitted to him and without asking for one."³⁷ Indeed, the Israeli Air Force began bombing southern Lebanon less than twenty-four hours after Hezbollah kidnapped the Israeli soldiers.

According to the Winogard Report, the government did not just act hastily, it also "did not consider the whole range of options, including that of continuing the policy of containment, or combining political diplomatic moves with military strikes below the 'escalation level,' or military preparations without immediate military action – so as to maintain for Israel the full range of responses to the abduction."³⁸ One obvious response the Israeli government did not consider was negotiating with Hezbollah for the release of the soldiers. In 2004, former Israeli Prime Minister Ariel Sharon successfully negotiated with Hezbollah to secure the remains of three soldiers and the release of a former army colonel.³⁹

In fact, this was the response Hezbollah was hoping for when it kidnapped the Israeli soldiers. It had been talking about kidnapping Israeli soldiers to use as a negotiating tool to secure the release of Lebanese prisoners for quite some time. In an interview after the attacks, Hezbollah's leader Hasan Nasrallah admitted that he had not expected Israel to respond with war saying, "If I had known on July 11... that the operation would have lead to war, would I do it? I say no, absolutely not."⁴⁰ While one could argue that this is simply a politician making a self-serving statement, Israel's previous willingness to negotiate for the release of kidnapped soldiers and citizens would suggest that Nasrallah had reason to expect a response short of war. In fact, Israel did have a range of responses open to it, none of which it attempted, causing it to fall short of the conditions required to satisfy the last resort criterion of *jus ad bellum*.

A War Doomed to Fail

Jus ad bellum also requires that the side declaring war have a reasonable chance of succeeding in its aims. On the surface this seems straightforward enough, one should not engage in violent conflict with no hope of success because the costs are so high. Yet, this certainly favors the strong and could lead to a justification of aggression by states as long as they are too strong to be opposed. For example, it would be absurd to argue that the Jewish uprising in

the Warsaw Ghetto in 1943 was unjust, yet it would fail to meet the probability of success criterion.

To allow for this kind of resistance, Walzer uses an argument put forth by Gerald Vann that argues for seeking peace unless doing so would leave the victim to “surrender once and for all to the rule of violence.”⁴¹ The presumption here is still against futile violence and wars that cannot be won, but it allows for resistance to overwhelming aggression in instances when appeasement is simply too morally compromising.

Israel was not facing the kind of resistance conditions outlined by Walzer. It had overwhelmingly superior military power and thus should be expected to adhere to the probability of success criterion. The stated goals of the war, and the just causes, were to secure the return of the Israeli soldiers and deter future attacks from Hezbollah. While Israel stated that its initial air raids and bombing of Lebanon’s airport in Beirut was to prevent Hezbollah fighters from escaping with the Israeli soldiers, Raphael Cohen-Almagor and Sharon Haleva-Amir point out that “this was too late. The information about the kidnapping had arrived a considerable time after the fact, when the abductors were well inside Lebanon. The destructive airstrike could not halt the abductors. It only fueled escalation.”⁴² Moreover, Hezbollah stated immediately after the kidnappings that it would return the prisoners only in exchange for the return of Lebanese prisoners in Israel, indicating that only negotiations had a chance of succeeding and a war was certainly not the only option on the table.⁴³

After going through dozens of Israeli documents and speaking with officials, the Winograd Commission issued a report indicating that the war had little chance of securing the release of the soldiers or safeguarding Israelis from Hezbollah. The report said:

A meticulous examination would have revealed the following: the ability to achieve military gains having significant political international weight was limited; an Israeli military strike would inevitably lead to rockets fired on the north of Israel; an effective military response to such rocket attacks was an extensive and prolonged ground operation to capture the areas from which the rockets were fired, which would have entailed a high “cost.”⁴⁴

The Winograd Report indicated that the Israeli response actually escalated

the conflict, rather than allowing for the release of the soldiers. Once Israel began the war, the only way to achieve its aims was to engage in a longer and more costly war. Since the Israeli government and the civilian population were unwilling to engage in a “high cost” operation, Israel’s war was never going to be effective in securing the release of soldiers.

The war also had little chance of weakening Hezbollah or preventing future strikes. Hezbollah received most of its support from Syria and Iran, rather than from the Lebanese government. Israel failed to take action against either of those countries. Michael Young, the opinion editor of Beirut’s *Daily Star* newspaper, explained how this failure limited Israel’s probability of successfully weakening Hezbollah:

Once the Israelis end their offensive, Hezbollah will regroup and continue to hold Lebanon hostage through its militia, arguably the most effective force in the country. Hamas leaders in Damascus will continue derailing any negotiations between Israelis and Palestinians. And Syria will continue to eat away at Lebanese independence, reversing the gains of last year when hundreds of thousands of Lebanese marched against Syrian hegemony.⁴⁵

Without taking into consideration the regional roots of the conflict, Israel could not hope to deter Hezbollah for long, limiting the war’s probability of success.

A Disproportionate Response

The final *jus ad bellum* criterion is that of **proportionality**. Coates succinctly summarized the basic idea behind proportionality when he wrote that “proportionality requires potential combatants to consider whether or not war is a fitting or proportionate response to the injury that has been threatened or received.”⁴⁶ However, Orend points out that this criterion is problematic because it is so vague. After all, when one is the victim of any form of aggression, it is difficult to make a dispassionate assessment of what the consequences ought to be for the aggressor. When one has suffered, often no response seems too forceful for those responsible for the suffering.

Mark Rigstad offers more specificity to help determine when war is a proportionate response to aggression. According to Rigstad, a war must be

“proportionate (a) in the sense that the benefits to be achieved by war must outweigh the harms that it inflicts, (b) in the sense that the use of arms should not be “excessive,” or (c) in the sense that a “minimum of force” should be employed.”⁴⁷ This lends some clarity to Walzer and Orend’s vaguer “you’ll know it when you see it” approach to proportionality.

Evaluating the second two components of Mark Rigstad’s proportionality requirement would require looking at *jus in bello* conditions to fully explore; however, they can be applied in a broader sense for the purposes of this article. The idea that the “use of arms should not be excessive” and the “smallest possible amount of force should be used,” acknowledges what Walzer calls the totality of war.⁴⁸ War is not the limited violence of one border clash or an isolated airstrike. It is violence on such a large scale, that it should not be undertaken lightly. Adhering the proportionality criterion requires that countries employ strikes on specific targets or isolated raids whenever doing so would achieve the necessary outcomes. Strikes against specific targets in southern Lebanon might have met this piece of the proportionality requirement, but Israel’s war on Lebanon went far beyond that.

Moving back to the first component of the proportionality criterion involves examining only whether the benefits of going to war outweigh the costs. This ties the proportionality criterion to the probability of success criterion. The benefits of war might theoretically outweigh the costs, but that is irrelevant if the benefits have no chance of actually occurring. Anne Schwenkenbecher wrote that evaluating the proportionality requirement involves weighing potential positive results of a war against potential negative results, meaning that “a violent campaign which is not likely to succeed, i.e. which is not likely to bring about the desired positive outcome, cannot meet this requirement.”⁴⁹

In this case, the cost of the war included the deaths of people in Lebanon and Israel, as well as the damage to the economies and environments of the two countries. More than 1,000 people died and about 8,000 were injured. The damage to Lebanon’s economy was estimated at \$7 billion.⁵⁰ According to the Winogard Report, the Israeli government should have been able to foresee that there would be a large loss of life and property. The report indicates that officials knew any Israeli airstrike would likely be followed by rockets launched on Israeli cities, causing the conflict to escalate.

However, there were also great potential benefits for Israel, even beyond securing the release of its captured soldiers. Since Israel withdrew from Lebanon

in 2000, Hezbollah had attacked repeatedly by firing rockets or engaging with IDF soldiers, primarily in the disputed Shebaa Farms area. It was also well-known that Hezbollah was amassing a supply of rockets that could be launched deep into Israel and hit major cities, such as Haifa and Tel Aviv.⁵¹ Securing the border with Lebanon, weakening Hezbollah, and deterring future attacks would be of great benefit for Israel.

Yet these benefits do not outweigh the high costs of the war. The benefits would certainly have justified more precise strikes against Hezbollah or diplomatic action, but not an attack that targeted all of Lebanon, especially given the low probability for success. The underlying causes of the hostility, such as Israeli occupation of Shebaa Farms and the greater Israeli-Palestinian conflict would certainly not have been solved by this war. Moreover, the support Hezbollah received from Syria and Iran would allow Hezbollah to rebuild. At best, the war would have temporarily weakened one of Israel's enemies, which is simply not enough to justify the dramatic loss of life and damage to the two countries, making the war a disproportionate response to Hezbollah's aggression.

The Conflict Continues

Although Israel was a legitimate state that publicly declared war, and had just cause for attacking Hezbollah, it failed to meet the other *jus ad bellum* requirements of right intention, probability for success, last resort and proportionality. Israel's intentions seemed to go far beyond deterring Hezbollah or securing the release of the soldiers, and seemed to include punishing all of Lebanon to deter the population from supporting Hezbollah. Moreover, this was not the only, or most proportionate, response available.

The fact that the operation was unsuccessful is evidenced by the recent rhetoric of Israeli officials. The regional conflict, which the war failed to address, has only grown more severe. Reports about Iran's nuclear arsenal and Syria's chemical weapons have prompted Israeli leaders to consider strikes against those countries. Hassan Nasrallah has made it clear that Hezbollah would retaliate if Israel attacked either country. The group has also updated its missile arsenal since the war in 2006.⁵² Israel responded to Hezbollah's statements by promising a "disproportionate" attack on Lebanon. An IDF Brigadier-General said Israel's response would be "sharper, harder, and in some ways very violent" than the 2006 war.⁵³ Since the conflict reemerged and escalated so quickly, it seems safe to say that the 2006 war failed to provide Israel with greater security. A great many

lives were lost, yet Hezbollah remains capable of attacking Israel and the regional conflict is unsolved. It seems, then, that the Israeli government might have been better served by adhering to the principles of *jus ad bellum* and refraining from a war with Lebanon. This course of action would have prevented many people from dying for such a negligible security benefit.

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**Legacies of Islam:
The Foundational Principles
of the Four Schools of Islamic
Jurisprudence**

by Jennifer L. Phillips

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Introduction

The Will of Allāh and the human pursuit towards understanding His Will, both from the perspective of lexicon and intention, is central to the pulse of the three monotheistic faiths of our age and time: Islam, Christianity and Judaism. The Western term for the pursuit of our existence or being, ontology, was coined in the early part of the 18th century by philosopher Christian Wolff.¹ Endeavors within Islam to understand the Will of Allāh in relation to the existence of mankind and the course of those debates is central to the foundational principles of Islamic society and *uṣūl al-fiqh* (Islamic jurisprudence) today.² The parallel development of peripatetic philosophy in the West and within Islam gave way to the same periods of contention between the secular, in Islam through the refutation of *kalām*, and disputes concerning the true nature of *hikmat*. The effects of struggles to remove the influence of *kalām*³ and *hikmat* informed by *kalām* from religious pursuits within Islam are evident in the principles for *uṣūl al-fiqh* used today in the four schools of Sunni Islam. Consensus on the definition of *kalām*, however, is difficult to ascertain within the context of the philosophical and theological discussion in the period leading from the death of the Prophet Muhammad through the time of Ibn Rushd's⁴ writings in the 6th century A.H. (12th century C.E.). Misinterpretation, misunderstanding and outright refusal to accept some of the premises of the peripatetic philosophers were critical to the manner in which *kalām* would form within Islamic society. Central to the current position of the four schools of Sunni Islam today is an understanding of the manner in which the founders of these schools defined and treated *kalām* within the context of resolving key ontological considerations related to the *Tawhid* (Divine Unity) of Allāh: the Attributes of Allāh, the Will of Allāh and implications for His Will on His creation, humanity in particular. Diverging understandings of these ontological considerations subsequently have influenced the *uṣūl al-fiqh* of the primary Islamic schools.

Foundational Discussion: The Rise of *Kalām* and Peripatetic Philosophy

In order to delve into these ontological considerations and their implications, the importance of *hikmat* and *kalām* to the peripatetic philosophers should first be resolved. This is necessary in order to better frame the nature of the development of Islamic philosophy in reference to Islamic law and *uṣūl*

al-fiqh as the four schools began to evolve, culminating with the utilization of *hikmat* and *kalām* as would generally have been described by contemporaries to al-Ghāzālī as undermining the rational arguments of Abu ‘Alī al-Husain ibn ‘Abd Allāh, known as Ibn Sinā, within Islam. Ibn Sinā defined *hikmat* (knowledge) as such: the “perfecting of the human soul through the *conceptualization* of things and the judgment of theoretical and practical truths to the measure of *human capability*.”⁵ Likewise, the father of the esoteric school of Illumination, Suhrawārdī,⁶ conceived of *hikmat* as “the act of the soul’s becoming imprinted by the spirituality of truths and the intelligibles.”⁷ Both of these definitions as a starting point highlight the divergent views of reason’s place in man’s ability to discern for himself the Truths of nature. It was just these beliefs in self-reliance on personal knowledge and individual perception that Orthodox Islam began to view as dangerous to the integrity of the Qur’ān and the Sunnah.

Peripatetic philosophy, founded within Islam in approximately 873 C.E. by Abū Yāqūb al-Kindī, was refined though the work of perhaps one of the greatest minds in history, Ibn Sinā.⁸ Ibn Sinā’s treatise regarding Allāh focused on the truth of His being a Necessary Being in which “all perfection is present.”⁹ In Islamic philosophy, where each *mawjud* (concrete object) is analyzed in terms of its *mayhiyyah* (quiddity or essence) and *wujūd* (being or existence),¹⁰ Ibn Sinā sought to prove that for Allāh, “quiddity is not other than his Identity (*wujūd*).”¹¹ He attempted this proof through a methodical refutation of any kind of necessary cause for Allāh, seeking to negate belief that either his *wujūd* or *mahiyyāh* are contingent upon anything external to Him, including the assertion that “He does not possess anything potentially.”¹² The refutation of the four types of causes as defined by Ibn Sinā (active, final, material and formal), the denial of all corporeal attributes ascribed to Allāh,¹³ including time and space, and the proposal that it would be “impossible for Him to change” were all proposed by Ibn Sinā as proofs to establish Allāh’s Oneness - “He is indivisible in every aspect, both verbally and actually.”¹⁴ As such, the ‘First Cause’ {Allāh} was conceived as the transcendent cause of the very existence of the world.”¹⁵

The implications for human free will become obvious when discussing the Unity of Allāh in relation to the Will and the indivisibility of Allāh. This issue of free will and *qadar* (destiny) is one of the earliest theological schisms among Islamic scholars.¹⁶ It was in this period, leading up to the 10th cen-

tury C.E., that *kalām* saw its greatest influence in shaping the concepts of Allāh, eventually leading to Ibn Sinā's conceptualizing Allāh as the source of all Divine Knowledge. For Ibn Sinā, Allāh's contemplation of Himself is the final source of the First Intellect.¹⁷ This act is his first creation.

Prior to the rise of Muʿāzilit *kalām* under its founder Wasil bin Ata (d. 748/9 C.E.), discussions regarding the Unity of Allāh focused on both *qadar* (predestination), human free will and concepts of Allāh's Being. Central to this debate came the following question: What is a part of me that is also a part of Allāh, and to what extent does Allāh's form resemble that of his greatest creation? These questions metastasized into two critical discussions surrounding the development of Qur'anic interpretation regarding the nature of Allāh and the implications of the divine Attributes of Speech and Will for mankind. At the time of the rise of Muʿāzilism, there were three primary differences of opinion with respect to Allāh's potential for anthropomorphism: anti-anthropomorphism, the "Innovators"¹⁸ who utilized the phrase "body unlike bodies"¹⁹ and, finally, those who used analogy to imply the Qur'an did "not prohibit likeness in all respects."²⁰

The Innovators attempted to harmonize anthropomorphism with anti-anthropomorphism through their interpretation of the Qur'anic verses "nought is there like Him" (Qur'an 42:9) and "There is none like unto Him" (Qur'an 112:4) through *tanzih*, or the elevation of Allāh above his creation.²¹ *Tanzih* served as the foundation for Muʿāzilit doctrines regarding the Being of Allāh and explanations for his Attributes in a manner that attempted to separate Him from his creation. The *Mutakallimun* (philosophers of *kalām*)²² took up these writings on deanthropomorphism through the phrase "body unlike bodies."²³

Following the Battle of Camel (656 C.E.) and continuing through the time of the Mihnah (inquisition) of Caliphs Wathik and Mutawakkil (circa 847 C.E.), the introduction of *qiyas* (or analogy) into Qur'anic interpretation came to a head as *kalām* morphed into a method of analogy that depended upon mere likeness in subjects rather than "pure relation or ratio" as according to the Aristotelian school.²⁴ The Muʿāzilites adopted new methods of syllogism and a method of analogy that was dependent upon philosophical data derived from the works of Aristotle and other Greek philosophers and co-opted the name of *kalām* for their own purposes.²⁵ This transitory period inevitably resulted in the adoption of Muʿāzilism by certain caliphs and

subsequent reactionary theological dissertations by Orthodox Muslims. In particular, the issue of the Muʿazilite denial of the eternity of the Qurʾan²⁶ and their philosophical and theological denial of Attributes resulted in religious Orthodox outrage and reprisal, followed by the subsequent persecution of Orthodox believers by Muʿazilite Caliphs for their ‘heresy.’²⁷

As a result of the Mihnah and the introduction of Greek philosophical syllogism, rhetoric and analogy, the time period following the Mihnah saw the utilization of “persuasive speech”²⁸ by Orthodox Muslims, the Muʿazilites and later the Ashʿarites in their dialogue regarding the ontological considerations of this discussion. In this, the 9th century C.E. through 11th century C.E., the five primary schools of Sunni Islam took root,²⁹ becoming known as the “guardians of positive law (sharʿia).”³⁰ However, the influence of *kalām* and *falsafah* continues to be felt to this day within the four schools of Islam in their approaches to *uṣūl al-fiqh* and can be seen in the primary treatises of the founders of these four schools in their attempts to either refute or support theological statements rendered by the peripatetic philosophers of their age. In particular, the traditionalism of the Hanbalite school and the affirmation of the concept of “a body unlike bodies” informs the *uṣūl al-fiqh* of this school. The same can be said for the Muʿtazilite origins of the Hanafi school and Ashʿarite origins of the Shafiʿite school. Though *Kalām* was specifically censured by the Pious Ancestors of these schools and Imams such as Ibn Hanbal and Malik³¹ as something to be “indulged in by the rationalist,”³² the influence of *kalām* is ever present, particularly in the utilization of analogy as one of the components of *uṣūl al-fiqh*.³³

Additional focus will be on the ontological considerations central to understanding the implications of *Tawhid* as conceived by the founders of these four schools and as they impact the *uṣūl al-fiqh*. Understanding the trinity of *al-Sharīʿah* (the law), *al-Tarīqah* (the path) and *al-Haqīqah* (the Truth) as seen by these four Islamic schools and the methodology through which their founders utilized *kalām* as a system of analogy and *falsafah* as a technical intermediary will enable a greater understanding of the current implications for human free will in light of *Tawhid*.

The Attributes of Allāh

The question of the nature of the Being of Allāh was a key point of

departure for the Orthodox Muslims, Mut'azilites and Ash'arites in their discourses regarding the Attributes of Allāh. The question of understanding the differentiation, if one was identified, between His *mayhiyyah* and His *wujūd* as described by Ibn Sinā in relation to the concept of Tawhid created a disconnect in conceptualizing the true nature of Allāh from an Islamic perspective.

For Ibn Sinā, the term "One means that He is indivisible in every aspect, both verbally and actually"³⁴ in that both the meaning and actuality of Allāh's Attributes essentially are one and the same form - "knowledge, knowing, known, in relation to his Essence, one."³⁵ Ibn Sinā reaffirmed the multiplicity of the Attributes but classified His Attributes as "negative, positive, and a compound of the two: since His Attributes are of this order, it follows that their multiplicity does not destroy His Unity or contradict the necessary nature of His Being."³⁶ He also denies that Allāh possesses matter - "he is also to be denied all corporeal attributes such as time, space, direction and being in one place to the exclusion of all other; in short, whatever is possible in relation to corporeal things is impossible in relation to Him."³⁷ Thus Ibn Sinā denied corporeal Attributes and anthropomorphic features to Allāh under the premise that such features would necessitate that Allāh was other than a Necessary Being as a result of being composed of matter. Any created being that possess matter must by definition, according to Ibn Sinā, be caused by something other than itself.³⁸ His theology, grounded in classical Greek philosophy, relied upon ontological arguments for the assertion of Allāh's Attributes and explanation of his Being. This discussion however, goes beyond the discourse on anthropomorphism discussed previously as the critical component of understanding Allāh's Being. The doctrine of cause and effect and the Necessary Being as proposed by Ibn Sinā applied pressure to traditionalist, literalist interpretations of the Qur'an and, as Imam Abu Hanifa³⁹ and others feared, had the potential to negate the teachings of the Qur'an through unnecessary discourse unrelated to the Truth of Allāh revealed through his Divine Will and Word. In essence, such discourse was potentially confusing to the believer untrained in sacred studies.

Imam Abu Hanifa and others responded negatively to Ibn Sinā's description of Allāh's Attributes as the same as his Essence.⁴⁰ For Abu Hanifa, Allāh's "Attributes are neither [His] Essence nor not His Essence... he was and is ever possessed of His names and [His] Attributes;"⁴¹ however, Abu Hanifa reaffirms that neither does he believe that Allāh possesses corporeal

or bodily traits. Abu Hanifa and other scholars saw danger in what they viewed as “essentialist” frameworks for Allāh. However, they were unwilling to accept that His Attributes were “totally other than His essence [as this] is also problematic since this means they exist separately or are *aʿrad* (accidents) and thus possible in their nature.”⁴² The idea that the Divine Attributes of Allāh had the potential to exist in nature is an unfathomable concept within the Islamic eschatological framework, where Allāh is inaccessible to man except through his own will.

Unlike Christian frameworks, largely embodied in the teachings of 2 Peter⁴³ in which man is able to partake of the Divine nature through grace and to become through Grace what Allāh is in nature,⁴⁴ Muslims believe that the Divine *Ovōla* of Allāh is totally inaccessible. Al-Ghāzālī expands upon this problem insisting that the two paths to knowing God are either 1) inadequate in that “our... understanding of Allāh [is more different] than sugar’s sweetness is from the pleasure of intercourse” or 2) closed... there is no path that will result in man becoming “a Lord.”⁴⁵ To infer that any aspect or Attribute of Allāh is accessible to man is unacceptable.

In order to discern between His Attributes without indulging in heretical philosophy, Abu Hanifa sought to draw a distinction between Allāh’s essential Attributes, “life, power, knowledge, speech, hearing, seeing and willing,”⁴⁶ and his active Attributes, “creating, sustaining, bringing into being, originating, making and others.”⁴⁷ His knowledge is “eternal and free from change.”⁴⁸ In particular, the active Attributes of Allāh, according to Abu Hanifa are dependent upon the Attribute *Takwin* (creation).⁴⁹ The existence of created effects does not negate the preeternality of *Takwin*, for *Takwin* is associated with those “effects.” In this same way, contradictory to Ibn Sinā, the Divine Attribute of Knowledge is preeternal though some things that are known are created. The important distinction in this theological thread between the Attributes and Essence as well as the relationship between the perceived “cause” and “effect” of these Attributes is best articulated by al-Ghāzālī in his refutation of non-religious sources of reasoning: “it is not necessary that the existence or the nonexistence of one follows necessarily out of the existence or the nonexistence of the other... their connection is due to the prior *taqdir* (decree) of Allāh who creates them side by side, not to its being necessary by itself, incapable of separation.”⁵⁰ This argument sought to turn the consequential nature of peripatetic proofs for the existence of Allāh on

their head by refuting the necessity of both Essence and Attributes, and by extension all of Allāh's creation, to be part of a continuing chain of cause and effect. The "meaning of the names [Attributes] are affirmed eternally [and if] His Attributes... are asserted of Allāh as something added to the essence, then something other than the essence has been asserted."⁵¹ To question the meaning, engaging in the pursuit of understanding these names or asserting that Allāh does not embody each of His 99 names, is heresy - it is "not within human power" to know Allāh's Attributes.⁵² Our job is to believe, not to question.

Likewise as Ibn al-Malik asserts in his compendium, *al-Muwatta*, to question the meaning of these Attributes is also beyond the scope of man. Particularly with respect to the Attribute of Establishment, Malik is quoted as saying, "Establishment is known, the kayf (how) is unknown."⁵³ The Qur'anic verse "And no one knows its [the ambiguous verses] meaning except Allāh" (3:7) is a verse that is often referred to by followers of the schools, in particular in reference to Malik and Abu Hanifa's opinion that *tafwid* (relegation) was preferable to *ta'wil* (interpretation) in matters of revelation. This refusal to engage in extrapolation or analogy in the method of Greek philosophy further in matters of the Attributes of Allāh harkens back to the earlier discussion again regarding matters of anthropomorphism in early Islam. To be sure, the writings of the four namesakes of the Sunni schools of jurisprudence are reflective of this given the time of their writings prior to the 10th century C.E.

Attacks on rational proofs for the existence of Allāh and his Attributes, though perhaps lost on Western scholars, is essential to understanding the modern implications for insistence on current standards for *uṣūl al-fiqh* within the schools of Islam. If, as al-Ghazālī contends, reason cannot provide a simple proof for the existence and the necessity for Allāh to be the source of all his creation, how can reason possibly provide us with the truth for the correct path towards salvation? The *al-Tariq* (path) is "revealed to humanity through *al-islam* (submission), *al-iman* (faith) and *al-ihsan* (virtue),"⁵⁴ not through philosophical proofs. As such, the edicts of the Qur'an and the sunnah must be adhered to as closely as possible in a pursuit of emulating the path of the Prophet, believed to be the most righteous path. Straying from the path comes at one's own peril: "Allāh's hand is over the group, and whoever dissents from them departs to hell."⁵⁵

The Will of Allāh

The resistance to analogy beyond a strict methodology ascribed to by the *uṣūl al-fiqh* of the four schools of Sunni Islam is reflected in the Sunni understanding of the Will of Allāh, particularly as it relates to the will of his creation. The issue of predestination and the extent to which man is able to actualize his own destiny was one of the first challenges debated in Islam. Examining the texts of the masters of the four schools, however, we can identify two common themes throughout their writings: 1) Allāh's knowledge is preeternal, as such he knows what will happen from the moment of creation until the Day of Judgment; and 2) Allāh's Will is unchanging. This leaves us with the task of addressing whether man has an active role in shaping his own destiny.

Hanafi doctrine teaches that there are two components to the Will of Allāh. A command of Allāh seeks "the legally responsible⁵⁶ one to act but [leaves] him the choice" where a *mashi'a* (desire) or *irada* (will) of Allāh "comes into being immediately."⁵⁷ These two definitions are meant to provide an alternative solution to the possible argument that Allāh's Will precludes true human gnostic will.⁵⁸ From this perspective, the command of Allāh lights the *al-Tariq* (path) which man must self-select to follow through his own free will. However, this description of the two types of "wills" of Allāh may also be viewed as an apologetic attempt to reconcile the absolute Will of Allāh in his role as creator while attempting to maintain the autonomy of mankind as something other than predestined at the moment of creation.

Interestingly Abu Hanifa is quoted as stating "that destiny, good and evil, is from Allāh Most High."⁵⁹ This assertion is an affirmation of Hanbali teachings of a conversation relayed by Imam al-Kabir (d. 217 A.H.) concerning a dispute between Abū Bakr and Umar regarding whether evil originated from Allāh or from individual man. The two Companions of the Prophet took this dispute to the angel Israfil⁶⁰ who judged "between them that all destiny, good or bad, is from Allāh."⁶¹ The mixed message of differentiating between the commands and desire with respect to Allāh's Will seems to be an attempt to assert that man is empowered to choose to follow the *al-Shari'ah* (law), the *al-Tariqah* (path) and the *al-Haqiqah* (truth) in his daily life and has not already been condemned to his eternal fate from the moment that Allāh created the first atom. To be sure, such a fate would be overwhelming in light of Islamic eschatology regarding the eternal nature of the Word of

Allāh as preeternal with no beginning nor end combined with a belief in the unchanging nature of Allāh's Knowledge and Will.⁶² Where would that leave the faithful but in doubt?

In addition, this eschatology is a direct affront on peripatetic philosophy's assertion of the importance of character and habit, both clear Aristotelian influences, in determining the nature of man. To "acquire the habit of Man"⁶³ loses its significance when dealing with a natural order for mankind that denies individual autonomy over the fate of one's eternal soul. Bodily resurrection in the grave, the questioning by Munkar and Nakir and judgment on the scales⁶⁴ all would appear unnecessary in light of the omnipotence of Allāh and his creation without these apologetic interpretations of the Will of Allāh in relation to the sunnah and shari'a law. Ahmad Ibn Naqib al-Misri's *Reliance of the Traveller* offers some interesting and also startling solutions to the problem of reconciling man's ability to choose his own path in light of Allāh's Will through the reliance of mankind on a Messenger on Earth to provide the proper guide: "no one is rewarded... or punished... until he knows by means of Allāh's messengers."⁶⁵

Al-Misri's *Reliance* maintains that it is through the Prophet Muhammad's teachings and acts that mankind is given a specific guide for following the true path towards paradise in the afterlife. This path as it were, practiced through submission in Islam, is the manner in which Allāh reveals the proper life that man should lead in his daily actions. Knowledge of the correct path is only obtained through the guidance of a Messenger and provides man with three categories of Knowledge: *fard al-'alyn* (personally obligatory knowledge), *fard al-kifaya* (communal obligatory knowledge) and recommended knowledge.⁶⁶ These three categories of Knowledge can be likened to the commands of Allāh as identified previously in Hanafi teachings and represent the "choices" that man possesses with his gnostic will. Failure to choose the correct option among these "choices" will be weighed during the Day of Judgment and will determine the ultimate disposition of man in eternity. As it were, "Allāh's hand is over the group, and whoever dissents from them departs to hell."⁶⁷ For these schools, there is in fact a true path and Allāh, though He has given you a choice, will condemn you for straying. Al-Misri reconciles the Will of Allāh with the will of man through his definition of the correspondent knowledge of Allāh: the "servant chooses to do acts on the basis of a desire within himself, not because he knows Allāh's knowledge, and his is held

responsible for this choice even though it corresponds with Allāh's eternally preexistent knowledge."⁶⁸

Uṣūl al-fiqh: The Path in the Interval

Before turning to al-Shafi'i and Ibn Hanbal's discourses in these matters, consider again the importance of the Messenger in providing the commanded Will of Allāh in relation to the judgment of man for his individual actions. Al-Misri states in his *Reliance* that "those who lived in one of the intervals after the death of the prophet and before a new one has been sent were not responsible for anything and deserve neither reward nor punishment."⁶⁹ This belief is troubling from an eschatological perspective in that it is difficult to resolve the Will of Allāh and the actions of mankind in instances where there is no clear path such as today. *Uṣūl al-fiqh* attempts to reconcile the legal actions of man with the teachings of the Prophet would appear to be futile in light of a teaching that holds that mankind will not be judged without a proper guide to demonstrate for man the proper path in life. To be undeserving of either reward or punishment is a damning position to be in when the Day of Judgment comes to be without recourse for ascension into paradise.

Enter Shafi'i and Hanbali assertions that the shari'a remain faithful to the acts and teachings of the Prophet Muhammad as "religious obligations"⁷⁰ and restriction of qiyas (analogy), "prohibiting the exercise of personal opinion unless it were based on precedent."⁷¹ The ultimate source of precedent of course is in the acts and teachings of the Prophet Muhammad, found in the Sunnah. Of utmost importance in understanding this approach is accepting that these schools are attempting to be both realistic in light of their theology and unchanging, just as the Word of Allāh in the uncreated Qur'an transcends time and is "compatible and in harmony with every age and era."⁷² Key to adhering to the uncreated truth of the Qur'an and seeking to remain in the era of the last living Messenger, Muslims are charged with "holding fast to what the Companions of the Messenger of Allāh were upon [and] the abandonment of innovations, [as] every innovation is misguidance."⁷³ In many ways, this approach is reflective of a paranoia, though perhaps too strong of a word, in straying from the true path as identified by the Prophet Muhammad. Legal rulings in this manner become more than matters of contract but matters that potentially affect the individual as he crosses over into the afterlife for all of eternity.

The occasionalism of al-Ghāzālī is again useful to deciphering these discussions as humanity is examined in light of a created world with a Creator in the name of Allāh, the “essence which unites all the attributes of divinity,” whose ultimate knowledge is defined by our “inability to know” and who “gave to each things its created existence.”⁷⁴ The *iqṭiran* (connection) between cause and effect as perceived within the limited scope of the senses is simply a perception based upon laws of nature that Allāh chooses to create. Knowledge of Allāh is inadequate. For al-Ghāzālī, “He is the one who burns, not the fire or the person who lighted the fire.”⁷⁵ In light of these teachings, man, himself, a created being even below that of the celestial hierarchy, appears quite dependent upon the teachings of those appointed by Allāh to identify the path of salvation. Without a modern day Messenger, the only recourse for mankind is to hold as true as possible to the teachings of the last living Messenger, the Prophet Muhammad. As Ibn Hanbal teaches, “we submit to it [teachings], even if we do not know its explanation. We do not talk about it. We do not argue about it.”⁷⁶

Concluding Remarks: Implications of Islamic Eschatology on *Uṣūl al-fiqh*

Unfortunately, simply mimicking the actions of a Messenger who lived 1,300 years ago is difficult with advances in society, the manner in which people exchange goods and services and technological adaptations that we have attained. Muslims searching to follow the true path today must rely on *qiyas* (analogy), the correct definition of *ijma'* (consensus) and other methods to ensure that they both understand and adhere to the teachings of the Prophet in light of the Will of Allāh.

Widely accepted as the founder of *uṣūl al-fiqh*, Imam Al-Shafi'i was the first to articulate his conception of the proper path into a compendium that was both concise and useful to his followers in that of the *Risala*. For Shafi'i, the *sunnah* was the sole source of law, traceable back to the Qur'an. In as much, he claimed that “neither does the Qur'an abrogate the *sunnah*, nor the *sunnah* the Qur'an.”⁷⁷ The Hanafi jurists, in addition, accept *istihsan* (preference) and *'urf* (custom) in their *uṣūl al-fiqh*, harkening to their acceptance of *itijihad* to determine the correctness of a legal opinion when presented with multiple *hadith* in which meaning could be taken in various ways. The Malikis and Hanbalites, being the more conservative of the four schools, only

accept *ijma'* (consensus) as that Medinan consensus possible only during the time of the Prophet and his Companions.⁷⁸

These four schools' varying interpretations come as a result of the discussions highlighted regarding the Attributes and Will of Allāh and the implications that these have for His creation and the *qadir* of man. While secular Western societies, shaped by the influence of the Enlightenment, often look upon the *fiqh* of Islamic shari'a as "backward" or unprogressive, the methodology of these jurists are reflective of a deeply engrained sense of the theology from which these schools derive their *uṣūl al-fiqh*. From the perspective of a jurist of one of the four schools of Sunni Islam, laws that do not take into account the Word of Allāh and the teachings of the Prophet are perhaps a little short-sighted.

ENDNOTES

¹ Christian Wolff, *Preliminary Discourse on Philosophy in General* (1728), trans. Richard J. Blackwell (New York, NY: The Bobbs-Merrill Company, 1963), 45. Philosopher Christian Wolff (1679-1754 C.E.) described ontology as “first philosophy...the science of being in general, or insofar as it is being.”

² Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Cambridge, UK: Islamic Texts Society, 2003), 4. *Uṣūl al-fiqh* can be distinguished from *fiqh* as follows: *fiqh* is the particular rule or Islamic law itself where *uṣūl al-fiqh*, Islamic jurisprudence, is the evidence for the rule and the methodology used to obtain that rule. As M.H. Kamali explains, the “principle objective of *uṣūl al-fiqh* is to regulate *itijihad*.”

³ Harry Austryn Wolfson, *The Philosophy of Kalām* (Cambridge, MA: Harvard University Press, 1976), 21-22. *Kalām*. Literally translated as “speech” or “word” is described by Harry Wolfson as a system of thought in Islam prior to the rise of philosophy, which became a blending of the analogy of *fiqh* with the ratios of Aristotle wherein the meaning of words took on a separate meaning (e.g. hand represents “power or bounty” and face represents “existence”).

⁴ Abu al-Walid Muhammad ibn Ahmad ibn Rushd (1126-1198 C.E.), known in the West by the name Averroes, is noted for his attempts to return Islamic philosophy back to the teachings of Ibn Sinā and to refute the teachings of al-Ghāzālī. His most well known work on this subject is *Tahafut al-Tahafut* (*The Incoherence of the Incoherence*).

⁵ Seyyed Hossein Nasr, *Islamic Philosophy from Its Origin to the Present: Philosophy in the Land of Prophecy* (Albany, NY: SUNY, 2006), 36. Italics are not the original author’s but have been added for emphasis.

⁶ Shaykh al-ishrāq Suhrawārdi (b. 549 A.H./1153 C.E.) was greatly influenced by the writings of Ibn Sinā, founding his own school of Islamic philosophy referred to as the school of Illumination.

⁷ Shaykh al-ishrāq Suhrawārdi, *Oevres philosophiques et mystiques*, ed. S.H. Nasr (Tehran: Institut d’ Etudes et des Recherches Culturelles, 2001), 69.

⁸ Ibn Sinā is commonly known by the Latin translation of his name, Avicenna. Born in approximately 370 AH (980 C.E.) in the Bukhara region of Russia, Ibn Sinā is known not only for his vast contributions to Aristotelian philosophy but also for his much more prolific treatise on medicine, the *Qanun*, used throughout Europe during the Middle Ages by students of medicine. Abu 'Ali al-Husayn ibn Sinā, *Avicenna on Theology*, trans. A.J. Arberry (Dubai: Kazi Publications, 1951), 4-15.

⁹ Ibid., 29.

¹⁰ Seyyed Hossein Nasr, *Islamic Philosophy From It's Origin to the Present: Philosophy in the Land of Prophecy* (Albany, NY: SUNY, 2006), 67.

¹¹ Abu 'Ali al-Husayn ibn Sinā, *Avicenna on Theology*, trans. A.J. Arberry (1951: Kazi Publications, 1951), 27. Quiddity (Latin *quid*~) is a term used to describe the essential nature of something. For Ibn Sinā, the *mahiyyāh* (quiddity), was differentiated from the *wujūd* (being). His concept of quiddity, or *mahiyyāh*, is an adaptation of Plato's *Oὐσία* in that the *mahiyyāh* and the *wujūd* are distinct from one another.

¹² Ibid., 28-9. Ibn Sinā's philosophy necessarily prevents Allāh from possessing any form of potentiality for change. The very concept of changing necessitates that a cause would have to affect that change, negating the principle of Allāh as the First Cause or Necessary Being.

¹³ The denial of corporeality will be critical to later discussions of ascribing anthropomorphic features to Allāh in discussions of his Attributes in later sections of this paper.

¹⁴ Ibid., 30-31.

¹⁵ Richard M. Frank, *Philosophy, Theology and Mysticism in Medieval Islam: Texts and studies on the Development and History of Kalām*, Vol. 1, ed. Dimitri Gustas (Burlington, VT: Ashgate Publishing Company, 2005), 115.

¹⁶ The Islamic scholars Ma'bad al-Juhani (d. 699), Ghailan al-Dimashqi (d. 742) and Wasil bin Ata (d. 749) all wrote treatises on the subject of free will quite early in the life of Islamic theology. These discourses overlap with early Eastern Christian writing to which Islamic scholars of this timeframe had access to through intellectual exchange and translations.

However it should be noted that this access was not unlimited and it was more through gradual transmission and interpretation (sometimes mis-interpretation) that early Greek philosophy and Christian ideas were assimilated into Islamic theology and philosophy.

¹⁷ Seyyed Hossein Nasr, *Islamic Philosophy From It's Origin to the Present: Philosophy in the Land of Prophecy*, 141-2.

¹⁸ Though the term Innovators is often used in connection with heresy, the term as utilized by Ibn Haldūn (d. 1406) and reported by Wolfson is implied in the "sense that they introduced something new." Harry Austryn Wolfson, *The Philosophy of Kalām*, 12.

¹⁹ The concept of a "body unlike other bodies" was introduced in Christianity by Tertullian (Adv. Prax. 7; PL 2, 162c.).

²⁰ Harry Wolfson, *The Philosophy of Kalām*, 8-12. The utilization of this methodology for approaching the issue of anthropomorphism relied upon differentiating the words or lexicon utilized in the Qur'an and reliance on a form of analogy that involves drawing likenesses between dissimilar objects. This form of analogy will be discussed in later sections.

²¹ Ibid., 11.

²² The Mu'tazilites were the first speculative theologians, their name "an exact translation of the Greek Word," is a reflection of the influence Greek and Stoic ideals had upon them (Averroes 1954, ix).

²³ Ibid., 27.

²⁴ Ibid., 30.

²⁵ Ibid., 30-1.

²⁶ Imaam Ahmad Bin Hanbal, *Foundations of the Sunnah* (Birmingham, UK: Salafi Publications, 2003), 18. Imaam Ahmad Bin Hanbal's teachings on the Eternal Creator and the eternity of the Qur'an are echoed across the schools of Islam today. Though the Qur'an is in the written form of Arabic, the actual words themselves are the uncreated, eternal Speech of Allāh. The Word of Allāh in the Qur'an can be likened to Christian teachings of the Divine Unity between Jesus and God for the purposes of comparison - the

Word is synonymous with Him. In the absence of a belief in the Incarnation, the “Word of Allāh is not [something] distinct and separate from Him [i.e., an entity in itself] and that not a single thing from it is created.”

²⁷ Mihnah, synonymous with the term Inquisition, in this context specifically refers to the inquiry during the Abassid caliphate (833 C.E.) to impose the Muʿāzilité tradition of the created Qurʾān on the society of the time.

²⁸ Persuasive speech is best exemplified by the style and manner of speech utilized by al-Ghāzālī, who was quite well versed and knowledgeable in the manner of peripatetic philosophy, having studied it and been a follower in his early life.

²⁹ The five schools: Hanafite, Mālikite, Shafiʿite, Hanbalite, Zāhirite. The Zāhirite school is now extinct however the other remaining 4 schools flourish in their respective geographical areas of interest. The Hanafi school in Central Asia, Afghanistan and Pakistan. The Mālikite school in North and West Africa. The Shafiʿi school in Egypt, Yemen and Somalia, and the Hanbali, by far the most conservative and the genesis of Wahhabism, predominates in Saudi Arabia.

³⁰ George Makdisi, “Ashʿari and the Ashʿarites in Islamic Religious History I.” *Studia Islamica*, no. 16 (1962): 45.

³¹ Ibid., 50.

³² Ibid., 48.

³³ Analogy will be discussed more in depth in Section VI of this paper.

³⁴ Ibn Sinā, *Avicenna on Theology*, 32.

³⁵ Ibid., 33.

³⁶ Ibid., 32.

³⁷ Ibid., 31.

³⁸ Abu Hamid Muhammad ibn Muhammad al-Ghāzālī, *The Incoherence of the Philosophers*, trans. Michael E. Marmura (Provo, Utah:

Brigham Young University Press, 2000), 15-17. Imam al-Ghāzālī's response to Ibn Sīnā's doctrine came in the form of his treatise on occasionalism which was grounded in al-Ghāzālī's insistence that our perception of cause and effect is essentially flawed since a created being does not meet the criterion to be considered a sufficient cause in and of itself. Our perception of this supposed cause and effect is in reality simply an extension of our inability to comprehend the true nature of Allāh's attributes and works. Rather than perceived events being truly linked, they are in actuality the result of Allāh creating events one after the other – "eternal will does not resemble temporal (human) intentions... no willer came into existence anew, no will came into existence anew, and no relation that did not exist came to exist for the will anew"

³⁹ Imam Abu Hanifa (699-767C.E.) is the founder of the Hanafi school of *fiqh*.

⁴⁰ Nader el-Bizri, 'Avicenna and Essentialism,' *Review of Metaphysics* 54 (June 2001): 753. For further discussion on alternative interpretations of Ibn Sīnā's metaphysics, reference Nader Al-Bizri's documentation on "the exaggerated stress on the centrality of the essence/existence distinction in Avicenna's metaphysics" which he views Ibn Sīnā's discussions on the "ontology of being and his metaphysical and logical analysis of being in terms of modalities of necessity, contingency, and impossibility."

⁴¹ Abu 'l-Muntaha al-Maghnisawi, ed., *Imam Abu Hanifa's Al-fiqh al-Akbar Explained* (California: White Threat Press, 2007), 71-5.

⁴² Ibid., 71-3.

⁴³ "Whereby are given unto us exceeding great and precious promises: that by these ye might be partakers of the divine nature, having escaped the corruption that is in the world through lust." (2 Peter 1:4, King James Version [Cambridge ed.]) "But grow in grace, and in the knowledge of our Lord and Saviour Jesus Christ. To him be glory both now and forever. Amen." (2 Peter 3:18, King James Version).

⁴⁴ An important distinction to note is Christian theological distinctions between the "created" grace, addressed in Peter 2, and the "uncreated" grace of the βασιλεία τοῦ θεοῦ, which is inaccessible to man. For

more discussion on the “uncreated” grace of God, reference St. Gregory *Forty-one Homilies of St. Gregory* (Jerusalem 1857), “Homily 34,” 193.

⁴⁵ Abu Hamid Muhammad ibn Muhammad al-Ghāzālī, *The Ninety-Nine Beautiful Names of Allāh: al-Maqṣad al-asna fi sharh asma Allāh al-husna*, trans. David B. Burrell and Nazih Daher (Cambridge, UK: The Islamic Texts Society, 2007), 39-40.

⁴⁶ Abu ‘l-Muntaha al-Maghnisawi, *Imam Abu Hanifa’s Al-fiqh al-Akbar Explained*, 71.

⁴⁷ Ibid., 71.

⁴⁸ Ibid., 77. Allāh says, “Does He no know who created, and He is the Knower of the subtleties, and Aware?” (Qur’an 67:14) and “With Him are the keys of the unseen, the treasures that none knows but He. He knows whatever there is on the earth and in the sea. Not a leaf falls but with His knowledge; there is not a grain in the darkness (or depths) of the earth, nor anything fresh or dry (green or withered), but is (inscribed) in a record clear” (6:59) Ibid., 78.

⁴⁹ Ibid., 83. Ash‘arite theology holds that “*takwin* is originated, and thus not a preeternal attribute”.

⁵⁰ Abu Hamid Muhammad ibn Muhammad al-Ghāzālī, *The Incoherence of the Philosophers*, trans. Michael E. Marmora (Provo, Utah: Brigham Young University Press, 2000), 166.

⁵¹ Abu Hamid Muhammad ibn Muhammad al-Ghāzālī, *The Ninety-Nine Beautiful Names of Allāh: al-Maqṣad al-asna fi sharh asma Allāh al-husna*, 17-8.

⁵² Abu Hamid Muhammad ibn Muhammad al-Ghāzālī, *The Incoherence of the Philosophers*, 106.

⁵³ Abu ‘l-Muntaha al-Maghnisawi, *Imam Abu Hanifa’s Al-fiqh al-Akbar Explained*, 103.

⁵⁴ Seyyed Hossein Nasr, *Islamic Philosophy from It’s Origin to the Present: Philosophy in the Land of Prophecy*, 31.

⁵⁵ Ahmad ibn Naqib al-Misri, *The Reliance of the Traveller*, trans.

Muh Ha Mim Keller (Beltsville, MD: Amana Publications, 1994), 25. In addition, The issue of dissent and obligation will be further discussed in the section regarding the Will of Allāh in relation to his creation and predestination.

⁵⁶ Ahmad ibn Naqib al-Misri, *The Reliance of the Traveller*, 42. *The Reliance of the Traveler* defines a legally responsible individual as receiving “eligibility for obligation [as] the capacity of a human being to have rights and duties.”

⁵⁷ Abu ‘l-Muntaha al-Maghnisawi, *Imam Abu Hanifa’s Al-fiqh al-Akbar Explained*, 81.

⁵⁸ The human gnostic, or deliberative will, in contrast but never completely separate from the natural will (thelema) was introduced by Maximus the Confessor in his letter to John Cubicularius, found in Migne, PG. 91 (Paris, 1860). For further reading on gnostic will and stereological issues within the Christian faith regarding this subject, see: Ian A. McFarland, “‘Naturally and by Grace’: Maximus the Confessor on the Operation of Will,” *Scottish Journal of Theology* 58 (2005): 410-433; Joseph P. Farrell, *Free Choice in St. Maximus the Confessor* (South Canaan, PA: St Tikhon’s Seminary Press, 1989).

⁵⁹ Abu ‘l-Muntaha al-Maghnisawi, *Imam Abu Hanifa’s Al-fiqh al-Akbar Explained*, 69.

⁶⁰ Israfil (Judeo-Christian, Raphael). The belief in angels is one of the Articles of Faith within Islam. Al-Maghnisawi expands on Abu Hanifa’s description of angels as being of two types within the celestial hierarchy, note that the Islamic depiction of the celestial hierarchy is not as well developed as that of Christian theology, as “subtle bodies capable of taking on different forms...those who are absorbed in the ma’rifa (gnosis) of the True one...[and] those who manage the affairs from the heavens to the earth.” (Abu l-Muntaha Al-Maghnisawi 2007, 67). The angels Jibra’iyl (Gabriel), Mikha’il (Michael), Israfil (Raphael), Azra’il, Munkar, Nakir, Ridwan and Malik are the ten angels that Muslims are obliged to know (Ahmad ibn Naqib al-Misri 1994, 810). For further discussion on Christian conceptions of the celestial hierarchy, see Dionysius, *Celestial Hierarchy in Patrologia Graeca*, ed. J.P. Migne, Paris, 1857-1866, v. 3.

⁶¹ Abu 'l-Muntaha al-Maghnisawi, *Imam Abu Hanifa's Al-fiqh al-Akbar Explained*, 69.

⁶² Imam Abu Hanifa described his Knowledge as such, "His writings entail descriptions, not commands" (Al-Maghnisawi 2007, 108). Al-Misri describes it thus, "He knows without an atom's weight in the earth or the heavens escaping His knowledge. He knows the creeping of a black ant across a great stone on a lightless night, and the motion in the air of a particle of dust on a windy day" (al-Misri 1994, 819).

⁶³ Ibn Sinā, *Avicenna on Theology*, 72.

⁶⁴ Abu 'l-Muntaha al-Maghnisawai, *Imam Abu Hanifa's Al-fiqh al-Akbar Explained*, 196.

⁶⁵ Ahmad ibn Naqib al-Misri, *The Reliance of the Traveller*, 3. This statement is based upon the verse in the Qur'an "we do not punish until we send a Messenger" (Qur'an 17:15).

⁶⁶ Ibid., 5-13.

⁶⁷ Ahmad ibn Naqib al-Misri, *The Reliance of the Traveller*, 25.

⁶⁸ Ibid., 814.

⁶⁹ Ibid., 3.

⁷⁰ Al-Imam Muhammad ibn Idris Al-Shafi'i, *Al-Risala: Fi Uṣūl al-fiqh*, trans. Majid Khadduri (Cambridge, UK: The Islamic Texts Society, 2008), 3.

⁷¹ Ibid., 31.

⁷² Imaam Ahmad bin Hanbal, *Foundations of the Sunnah*, 128.

⁷³ Ibid., 8-9.

⁷⁴ Abu Hamid Muhammad ibn Muhammad al-Ghāzālī, *The Ninety-Nine Beautiful Names of Allāh: al-Maqsad al-asna fi sharh asma Allāh al-husna*, 42-93.

⁷⁵ Ahmad ibn Naqib al-Misri, *The Reliance of the Traveller*, 814.

⁷⁶ Imaam Ahmad bin Hanbal, *Foundations of the Sunnah*, 50.

⁷⁷ al-Shafi'I, *Al-Risala: Fi Uṣūl al-fiqh*, 29.

⁷⁸ Kamali, *Principles of Islamic Jurisprudence*, 6.

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**The Promise of Educational
Exchange: The Impact of
U.S. Graduate Training on
Vietnamese Students, 1990-2012**

by Elizabeth M. R. Robbins

Written for
Course: *U.S.-Vietnam Relations: Five Themes*
Professor: Pamela Sodhy, Ph.D.
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Whether Vietnam can be on par with other powerful countries in the world or not depends significantly on the youth's ability to study well.

— Ho Chi Minh, *International Educator* 14¹

In 1996, the Vietnamese Fulbright fellowship program was the largest in operation in the United States.² Given that the United States had only established full diplomatic relations with Vietnam in 1995, this statistic is staggering. As of 2005, there were 3,000 young Vietnamese students studying in the United States, and the U.S. government was spending more money to support these programs than in any other nation.³ An analysis follows of the cumulative effects of educational exchanges by the U.S. Government and the Socialist Republic of Vietnam to train Vietnamese graduate students at American universities so that they assist in the development and modernization of Vietnam. These exchanges have been pivotal in enabling Vietnam to become a knowledge-based economy and in aiding the remarkable transformation in bi-lateral relations, from former enemies to present friends and partners. The scope spans a twenty-one year period since 1990, when the first exchanges began. The studies' introduction provides background information on U.S.-Vietnam relations and higher education in Vietnam and a definition of the term "knowledge-based economy." Next it focuses on the Fulbright Vietnamese Student Program, one of six U.S.-Vietnamese Fulbright fellowships, that supports graduate study in economics, international law and the social sciences, like public policy and international relations. An examination of the Vietnamese Education Foundation (VEF) Fellowship, which funds graduate study in engineering, technology, medicine and the sciences with war debt owed to the United States by Vietnam. The next study is of the institution-to-institution exchanges that span a wide range of disciplines. The analysis ends by arguing that these exchanges have propelled Vietnam towards modernization by generating a capable and competitive workforce for the globalized economy and have also positively impacted U.S.-Vietnam relations by providing avenues for scholarly and professional collaboration. Moreover, they have served as alternative diplomatic channels of mutual benefit to the United States and Vietnam.

The United States and Vietnam had a troubled and complicated relationship for most of the 20th century, not the least affected by the armed conflict between the two countries that extended through the 1960s and 1970s. The path toward normalized relations, which eventually led to educational exchanges, was fraught with negotiations and concessions on both sides. At the end of the

Vietnam War in 1975, the U.S. imposed sanctions and an embargo on Vietnam that lasted until the 1990s. Frederick Brown explains in his book, *Vietnam Joins the World*, “Throughout the decades of the 1970s and 1980s, the embargo—that is, the conditions under which it would be lifted—was used by both sides as a bargaining chip.”⁴ Among many issues, including the state of prisoners of war (POWs) and the missing-in-action (MIAs) from the Vietnam War, Vietnam and the United States eventually began cooperating and working towards normalization in the 1990s.⁵

On the Vietnamese side, economic reforms under *doi moi*, the term used in 1986 for policies aimed at strengthening the economy, increased the potential for Vietnam and the U.S. to restore relations. In his article, “The Politics of Educational Diplomacy in Vietnam: Educational Exchanges under Doi Moi,” Zachary Abuza notes: “The adoption of *doi moi* (renovation) represented a fundamental change in the outlook of the Vietnamese leaders, who no longer saw the world in terms of two mutually antagonistic camps.”⁶ These reforms in Vietnam’s economic system assisted in the eventual establishment of formal diplomatic relations between Vietnam and the U.S. under President Clinton in 1995.⁷ Brown points out that ultimately the agreement incorporated trade, economics, and human rights concerns, addressed the POW/MIA issues, and provided a roadmap that outlined reciprocal processes to be achieved by both nations.⁸ The restoration of bilateral relations, in addition to the economic and human rights reforms, created space for diplomatic relationships among various entities in the U.S. and Vietnam, including the educational sector.

There is an undeniable tie between the educational standards of a country and its economic growth. In developing nations, education can be viewed as a route out of poverty.⁹ In the article, “Positioning Higher Education for the Knowledge Based Economy,” Elizabeth St. George examines the role that education, and in particular higher education, plays in developing countries. As she explains, “The last decade of the 20th century saw greater emphasis than ever before placed on higher education. In both developed and developing nations, higher education was believed to be the key to the continuing growth of national economies.”¹⁰ Thus, if a nation is willing to invest in education and knowledge, it will increase the number of educated individuals and ideally create a workforce capable of positions in competitive industries. Creating an educated workforce will, in turn, create the capacity to change the economic structure of a nation from one that purely values manpower and output to one that places value on

knowledge and education.

This change results in a “knowledge-based economy,” which is defined by The Organization for Economic Co-operation and Development (OECD) as, “one where the production, diffusion and use of technology and information are key to economic activity and sustainable growth.”¹¹ In its aims at economic reform under *doi moi*, the Vietnamese government made investments in education paramount to its goals. Accordingly, in 1992, “the Council of Ministers instructed the Ministry of Education and Training in Vietnam to establish both a strong university system and a strong research system in Vietnam, able to contribute to the economic growth and social welfare of the country.”¹² This agenda was very challenging, given the history of education, especially higher education, in Vietnam.

Traditionally, Vietnam’s focus had been on primary and secondary education, and the country had a very high literacy rate as a result. As has been noted, “In 1990 Vietnam’s literacy rate was 88%, which according to the UNDP, [was] one of the highest in the world.”¹³ Despite this, there was very little foundation to build a strong and competitive higher education system due to the years of turmoil in the country. St. George says that, “Vietnam introduced postgraduate level study only in 1975. In the twenty years to 1995, Vietnam has produced a total of 2669 post graduates of all levels, or an average of 133 postgraduates a year.”¹⁴ Abuza explains, “Vietnam could not afford to develop higher education; only 5% of college applicants could be enrolled. As early as 1985, it was noted that the system was failing to produce the technocrats Vietnam needed, a gap that widened by the country’s leap into the world economy.”¹⁵ Without assistance, there was little hope that Vietnam would be able to make the transition into a knowledge-based economy that could compete on the international level.

International organizations provided some assistance to Vietnam’s challenge in developing higher education. While the World Bank’s initial stance on education development had focused only on the importance of primary and secondary education systems, in the 1990s its policy changed as higher education had become paramount in development:

Tertiary education institutions support knowledge-driven economic growth strategies and poverty reduction by (a) training a qualified and adaptable labour force...; (b) generating new knowledge; and (c) building the capacity to access existing stores of global knowledge

and to adapt that knowledge to local use.¹⁶

This adjustment resulted in an agreement between the World Bank and Vietnam for the former to provide a US \$83.3 million loan to help in financing and improving Vietnam's higher education system.¹⁷

However, Vietnam still put a great deal of focus on international exchanges, which were a tenured part of the Vietnam educational system long before *doi moi* and even the war with the U.S. As Abuza notes, "Until 1990 Vietnam relied solely on the Soviet Union and Eastern European states to provide most higher education resources... In this period, Vietnam sent 2,400 students and 22,000 others for vocational training to seven socialist countries annually."¹⁸ The influence of exchanges with the Soviet Union and other socialist countries also led to a structure within universities in Vietnam that was restrictive to growth and very different than what was found in the West. An article from 1997 in the *Chronicle of Higher Education* explains this structure: "Researchers at the institutes do little teaching, while members of university faculties often hold several teaching appointments simultaneously to sustain a modest standard of living. Thus, they have little time or opportunity to do research."¹⁹ The option of exchanges with Western education systems had a great deal of potential to help educational reform in Vietnam and propel it forward.

Another article from the *Chronicle of Higher Education*, published in 1989, illustrates the excitement among the Vietnamese academic community about the options of studying abroad in the West with the reforms under *doi moi*. The article states, "Vietnam is eager to renew academic ties with the West... educators here say they are now looking to develop Western contacts as part of a year-old campaign to jump-start their country's moribund economy."²⁰ Despite the heavy hand of the Soviet Union in Vietnam's rigid education system, the article explains that university officials are looking to exchanges with the West to help the economy grow, showing that they are in agreement with the ideas about ties between education and economic success. The government even increased the opportunities for young Vietnamese to learn English, which has benefits both for education prospects and business growth.²¹ By 1990, Vietnam was ready to utilize the tool of educational exchange with the West to assist in its economic growth and potentially improve relations with nations abroad. Since then, through the Fulbright Vietnamese Student Program, the VEF Fellowship Program, and graduate-level university exchanges, Vietnam has succeeded in

strengthening both its economy and its diplomatic ties with the United States.

The Fulbright Program was established in 1946 in order to “to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchange.”²² Over the years, thousands of international students have come to study at U.S. universities and research institutions, and the United States has sent thousands of American students abroad to other nations through its fellowship programs and grants. The Vietnamese Student Program, one of six formal exchanges that the United States and Vietnam support, allows Vietnamese students to attend graduate programs in the United States. The other programs permit American students to spend time in Vietnam on short-term fellowship grants, American and Vietnamese faculty and lecturers to exchange locations, a specialist program for faculty or professionals from Vietnam to spend a short time at U.S. institutions, and a Ph.D. program in a technological field for Vietnamese scholars through the International Fulbright Science and Technology Ph.D. Program.²³ The Vietnamese Student Program is important to study because of its relatively long and established history and because of the incredible impact of these students on Vietnam after they return home.

When Vietnam began pushing for educational exchanges with the West, the Fulbright Program was seen as most important, Abuza argues, “simply because it is a U.S. government-funded activity in a politically sensitive area.”²⁴ The Fulbright Program restricts students to certain topics, and these subject areas enticed the Vietnamese leadership because of their potential benefits to Vietnam. “The Fulbright legislation clearly reflects the U.S. government’s policy objectives, as fellowships are only offered in the disciplines of economics, international law, and human rights. It is broadly interpreted to also include business administration, management, and international relations.”²⁵ With the efforts of *doi moi* to reform the economy of Vietnam, the leadership saw these fields as vital because of the need in Vietnam for educated professionals with an understanding of capitalist economies and democratic political systems.²⁶

Vietnamese officials focused their initial efforts on exchanges that would benefit Vietnam’s economy and its academic infrastructure.²⁷ University officials in Vietnam also supported this stand as they were hopeful that the creation of a larger educated workforce would “[lay] the groundwork for the economy to ‘take off,’ as it [had] in other Southeast Asian nations.”²⁸ In addition, the Fulbright was seen by the Vietnamese as an invaluable opportunity to strengthen ties with

Washington, D.C. and improve foreign relations.²⁹ There were also significant motives for the United States to choose to run a Fulbright Program in Vietnam, most notably the opportunity to maintain contact with the Vietnamese people and form “a mechanism to get to know the Vietnamese educational community; it was hoped that exchanges would lead to reciprocity and opportunities for American scholars.”³⁰ In addition, the Fulbright Program provided the opportunity for the United States to influence and train future leaders in Vietnam, which was very appealing.³¹

The Fulbright Vietnamese Student Program began in 1992 with an inaugural class of eighteen students.³² Prior to its beginning, important restrictions were set to ensure the success of the program and its ultimate benefit to Vietnam. The most important stipulation was that all Vietnamese students were required to return to Vietnam after the completion of their program of study. Part of the reason that the Vietnamese Fulbright Program is exclusive to graduate students, and has been since its inception, is because it was widely assumed at the time that graduate students would have an obligation – either via a family or a job – to return to Vietnam after their program was completed.³³ This also required the government of Vietnam to ensure that its students could find gainful employment upon their return home. Administrators of the Fulbright Program on both the American and Vietnamese sides have ensured that students return by screening for this intent in the application process. In the Fulbright application, students are required to “show dedication to Vietnam and potential impact upon return.”³⁴

Since 1992, nearly 500 students have participated in the Vietnamese Student Program.³⁵ In 1995, with the restoration of full diplomatic relations by President Clinton, the Program saw a record number of twenty-eight students participating, a number that has only been replicated once, in 2009.³⁶ There are typically twenty-five Fulbright Fellowships awarded each year through the Vietnamese Student Program and the most popular destination for students is Harvard University, along with Tufts University, Columbia University and Syracuse University, in no particular order.³⁷ The main fields of study are Business Administration, International Affairs, especially the Masters of Arts in Law and Diplomacy at Tufts University, and Public Administration.³⁸

The impact that Vietnamese Fulbright students have had on their home country can be seen today, as many have taken on influential roles in both the public and private sectors of Vietnam. Some of these initial “student diplomats” have, in turn, become career diplomats who shape Vietnam’s relationship with

both the international community and the United States specifically. Most notable of the Fulbright grantees is the current Vietnamese Ambassador to the United States, Nguyen Quoc Cuong.³⁹ Mr. Cuong graduated from Tufts University with a M.A. in Law and Diplomacy in 1996 through the Vietnamese Student Program and has since gone on to an impressive career in the Vietnamese government and foreign ministry.⁴⁰ Prior to his appointment as Ambassador, Mr. Cuong served in a variety of roles in the Vietnamese government, including as Deputy Foreign Minister, where he handled Vietnam-European relations, and as Assistant Minister of Foreign Affairs.⁴¹ Other graduates of the Vietnamese Student Program now in public service are Nguyen Trung Than, the current Vietnamese Ambassador to Singapore, Nguyen Vu Tu, the Vietnamese Ambassador to the Philippines, and Pham Binh Minh, the Minister of Foreign Affairs in Vietnam, to name a few. Mr. Than has also served as the Assistant Minister of Foreign Affairs and was involved in developing the ASEAN Charter.⁴² Prior to his ambassadorship, Mr. Tu was a political counselor at the Vietnamese Embassy in the United States.⁴³ Mr. Minh has served in the United Nations and the Vietnamese Embassy in the U.S. in addition to his current position.⁴⁴ Outside of public service, many of the Vietnamese Fulbright students have used their business and law degrees to work in the private sector of Vietnam. This includes several faculty members of the Vietnam Consulting Group who received their MBA degrees through the Vietnamese Student Program.⁴⁵

It is evident that the influence these graduates have had both in Vietnam and abroad is proof of the great success of the Fulbright initiative with Vietnam. The U.S. has achieved its initial goal, as Abuza alludes to, of influencing the future, now current, leadership of Vietnam, and the students have been successful in attaining positions of power within the Vietnamese government and private sector, allowing for its continued growth and development. Having diplomats, policy makers and businessmen and women with Western education from top universities in the United States is an essential component of Vietnam's continuous move forward.

Since the Fulbright Vietnamese Student Program focuses exclusively on the social sciences, law and business, a need arose for more training programs in science, engineering and technology. These fields are the mainstays of a knowledge-based economy: "Science, technology and innovation, the cornerstones of the knowledge-based economy, are. . . on the agenda of both developed and developing countries, as fundamental to achieving sustainable development across the

globe.”⁴⁶ Given Vietnam’s still-developing higher education infrastructure, formal exchange programs that allowed for the study of the sciences, engineering and technology became pivotal for Vietnam’s development and economic growth. In 2003, the Vietnam Education Foundation Fellowship (VEF) met this goal.

The VEF was established in 2000 through the Vietnam Education Foundation Act in the U.S. Congress. The VEF is a scholarship-for-debt program under which Vietnam repays the estimated \$150 million debt owed to the United States by the former government of South Vietnam.⁴⁷ In his article, “Moving Vietnam Forward,” Mark Ashwill explains the arrangement of the VEF: “The Socialist Republic of Vietnam is repaying old debts incurred by the government it defeated in a war of national liberation (South Vietnam) to that now defunct government’s former master and patron, the United States.”⁴⁸ In an act of good faith, influential U.S. senators, such as John McCain, John Kerry and Bob Kerrey, along with other leaders in the U.S. government who were Vietnam veterans, created a system in which money from the debt-repayment is used to fund a fellowship program for Vietnamese students, scholars and American faculty visiting Vietnam.⁴⁹

The Vietnam Education Foundation was established...with the purpose of establishing educational exchange activities for Vietnamese nationals to pursue graduate studies and professional development at U.S. universities...thus, building the bilateral relationship between the United States and Vietnam while serving the interests of both countries.⁵⁰

The agreement states that of the \$7.5-9 million transferred annually between 1997 until 2019 from Vietnam to the United States, \$5 million will be used to fund the Vietnam Education Foundation.⁵¹

The VEF operates three distinct programs: the Fellowship Program which brings Vietnamese students to U.S. institutions to study and receive graduate degrees; the Visiting Scholar Program which funds Vietnamese faculty members who already have a Ph.D. to research in the United States; and the U.S. Faculty Scholar Program, which allows American professors to teach and research in Vietnam. The VEF Fellowship Program brings students to the United States to study for a degree prior to returning to Vietnam to work. Like the Fulbright Vietnamese Student Program, the VEF Fellowship Program restricts topics

that students can study. “The VEF educational exchange programs focus on the sciences (natural, physical, and environmental), engineering, mathematics, medicine (including public health and health sciences), and technology (including information technology).”⁵² The purpose of the VEF Fellowship Program is to produce leading scientists in Vietnam who will contribute to its growth and strengthen its higher education capacity in these fields, and both masters and doctoral students are allowed to participate.⁵³ All VEF recipients are expected to return to Vietnam after completion of their studies and, like the Fulbright Program, admissions committees screen for this in the application. For example, “They must demonstrate a strong commitment to the development of Vietnam through their academic and research pursuits.”⁵⁴

So far, the VEF Fellowship Program has been successful in achieving the goals laid out at its beginning. The July 2011 Vietnam Education Foundation Overview states that since 2003, when the first exchange took place, 382 Vietnamese have come to universities in the United States and attended 82 top-tier U.S. research universities.⁵⁵ Currently 197 students are studying at U.S. universities, including 44 new fellows who began their studies in the fall of 2011.⁵⁶ The largest cohort of VEF Fellows is enrolled in engineering programs, followed by computer sciences program, while other popular topics studied include the biological and life sciences and public health.⁵⁷ Of the 141 VEF fellows who have completed their degrees, 78 have returned to Vietnam and the remaining students are completing further academic training, either through post-doctoral programs or further degrees, or “are engaged in other activities.”⁵⁸ To encourage the timely return of all fellows, VEF has organized job fairs for opportunities at Vietnamese universities, research institutions and private corporations and within the government.⁵⁹

Despite the relative newness of the VEF Fellowship Program, it is evident that even the first 141 fellows have had a significant influence on furthering the capabilities of Vietnam in the engineering and science fields. For example, a report issued by VEF in 2010 indicates that 51% of returnees have obtained employment in the private sector, 38% are employed in academia, 7% work in development, and 4% are self-employed.⁶⁰ Moreover, the majority of the VEF alumni are employed in or around Ho Chi Minh City, in companies like Siemens Limited Vietnam, Intel Products Vietnam, Hong Kong Shanghai Banking Corporation (HSBC) Vietnam and Total Building Systems Limited Vietnam. They work as project managers, engineers and IT professionals, in jobs ultimately

benefiting the development of Vietnam's knowledge-based economy and private sector.⁶¹ Those employed in the academic sector in universities and research organizations work as lecturers and scientists at tertiary institutions such as Vietnam National University in Ho Chi Minh City and Hanoi, Ho Chi Minh City University of Science, Hanoi University of Civil Engineering and at the Institute of Hygiene and Public Health in Ho Chi Minh City.⁶² The role that VEF alumni and fellows have played in the development of higher education, in addition to the private sector, in Vietnam is thus impressive and noteworthy.

A primary goal of the VEF is to establish "Centers of Excellence" that would, "create career opportunities for the fellows upon their return home."⁶³ Since its inception, VEF has aided in the development of these institutions, which has not only led to further development in the sciences, but also to bi-lateral cooperation between the U.S. and Vietnam in science and research. In 2004, only one year after the first fellows came to the U.S., the VEF "signed a statement of cooperation with the Vietnamese Ministry of Science and Technology (MOST) and the U.S.-based SIG [Science Initiative Group] to formulate a plan for centers of excellence. . . . VEF and SIG would provide technical and strategic support to MOST as it investigates and builds an appropriate model to create such centers."⁶⁴ The VEF Overview from July of 2011 explains that since this agreement was signed, more parties have been involved, including the Millennium Science Initiative and the Institute of Advanced Study in Princeton, New Jersey.⁶⁵ Under these partnerships, Vietnam is successfully developing universities that are accredited on international standards, which gives it the ability to train its own scientists and researchers in the future. VEF assisted in the creation of the Vietnam International Education Development (VIED) division of the Ministry of Education and Training (MOET) in Vietnam and has also published research reports on the state of higher education in Vietnam.⁶⁶ Not only are these fellows contributing to their fields in the professional sphere, but they are also building the overall capacity for Vietnam to educate and strengthen its work force.

Fellows and alumni also organize international conferences to bring researchers together in Vietnam. In particular, the Annual Education Conference, which last met in April 2011, states its goal as "to strengthen higher education ties between the United States and Vietnam by bringing together American and Vietnamese educators, universities, colleges, companies and NGOs."⁶⁷ These conferences have been co-sponsored by U.S. institutions and government entities, including the U.S. Embassy in Hanoi, which indicates the state of cooperation

and camaraderie between the U.S. and Vietnam in this area. Overall, the VEF has improved the relationship between the U.S. and Vietnam by allowing for great collaboration in education and research and by positively contributing to the development of a knowledge-based economy in Vietnam, which will only continue to develop given the strides that the government has taken in increasing its power to educate within its borders.

These exchanges, however, are by no means the only outlets for Vietnamese students to study in the United States. In fact, exchanges run internally by universities have been in operation prior to the establishment of the Fulbright Vietnamese Student Program in 1992. Abuza points out that, "Officials from these direct programs encountered much less bureaucratic interference on the Vietnamese side, as they tended to work directly with recipient institutions and avoided counterpart agencies."⁶⁸ As early as 1990, Vietnam began sending students to the United States to study in English as a Second Language (ESL) programs, graduate programs and, after normalization of relations, undergraduate programs.⁶⁹ These programs avoid much of the red tape and bureaucracy in both the U.S. and Vietnam governments, and this has made them very popular among Vietnamese university students. A report from Education USA, the U.S. Department of State office that handles international education exchanges in the U.S., shows that at the graduate-level, in particular, thousands of Vietnamese students have attended U.S. universities in programs independent of those sponsored by the Fulbright Vietnamese Student Program or the VEF.⁷⁰

One of the first university exchanges was established in 1992 by the State University of New York (SUNY) at Buffalo, which contributed \$40,000 in scholarships for ESL students from Vietnam.⁷¹ Since then, universities around the U.S. have hosted Vietnamese graduate students and ultimately trained these individuals to further assist Vietnam. An Education USA report indicates that, for Vietnamese graduate students, the most popular destinations are the following: University of Houston – Clear Lake in Texas; Marshall University in West Virginia; University of Oklahoma – Norman; University of Illinois – Urbana-Champaign; and California State University – Fullerton.⁷² The report also states that 19% of all Vietnamese students studying in the U.S. are enrolled in graduate-level programs, and that the most popular subjects studied are business administration, computer science and accounting.⁷³

At the University of Illinois – Urbana-Champaign (UIUC), the greatest volume of Vietnamese students is found in its top-ranked engineering school.

In 2008, UIUC signed a formal agreement with Ho Chi Minh City University of Technology (HCMUT) to collaborate through student exchanges and to establish a joint-degree program supported by both schools.⁷⁴ Since this agreement began, UIUC has been training Vietnamese graduate students to enter the Vietnamese workforce as professional engineers and also to educate students in Vietnam at universities and research centers. This exchange has benefitted both UIUC and HCMUT through collaboration among their graduate students. While the Vietnamese students, who study at UIUC, are experiencing the U.S. education system, their classmates back home are also benefitting through online forums and classes involving both American and Vietnamese students.⁷⁵ Like the Fulbright Vietnamese Student Program and the VEF Fellowship Program, this type of exchange is creating an educated workforce in Vietnam and also promoting the relationship between the U.S. and Vietnam through educational channels.

Moreover, by operating these university exchanges, the U.S. is creating positive impacts within its own economy and educational systems. As an article in the *Chronicle of Higher Education* from 2011 notes, higher education has become a top export for the U.S., especially to Vietnam: “Higher education ranks among the country’s top 10 service exports, right between environmental services and safety and security.”⁷⁶ Since many university exchanges are not fully funded, unlike the Fulbright or the VEF, Vietnamese students are contributing to the U.S. economy, although marginally, by paying at least a portion of tuition dollars to universities.⁷⁷ Vietnamese students are gaining international exposure and a familiarity with a culture and system far different from their own. Overall, by increasing Vietnamese students’ exposure to American culture, in addition to education, these exchange programs are, in turn, benefiting the relationship between the younger post-war generations in both the U.S. and Vietnam.

The benefits of educational diplomacy can be seen by the impressive results graduate-level exchanges between the U.S. and Vietnam have yielded in just twenty-one years. The Fulbright Vietnamese Student Program has directly impacted the diplomatic relationships between Vietnam and the United States and other nations. By educating many current diplomats and leaders in the Vietnamese government, this program has resulted in creating alumni that are not only well educated, but also educated at universities that increased their exposure to Western political and economic ideas and thought. In 2011, Mr. Minh, the Vietnamese Foreign Minister and an alumnus of Tufts University, said in an interview with the *New York Times*: “One cannot imagine how fast

the relationship between the United States and Vietnam has developed. After 16 years of normalization, we've come to the stage where we've developed the relationship in nearly all aspects.⁷⁸ Minh went on to say that leaders in the Vietnamese government are apt to embrace the United States, and this has been demonstrated through bi-lateral trade agreements, which have benefited the Vietnamese economy, and through the recognition of Vietnam by international organizations. In 2006, Vietnam became a member of the World Trade Organization (WTO), a move that the U.S. supported.⁷⁹ Since then, the per-capita income in Vietnam has grown ten-fold from what it was 25 years ago, showing that the country has made huge leaps in joining the WTO.⁸⁰ In addition, the Fulbright Vietnamese Student Program has opened the door for further academic collaboration. For instance, Harvard University's Kennedy School of Government has established a small public policy and administration research center in Ho Chi Minh City, which will only increase access to education in these fields for Vietnamese students unable to study abroad.⁸¹

The VEF Fellowship has had incredible success in furthering the development of science and engineering programs, and thus a knowledge-based economy in Vietnam. The Fellows who have returned to Vietnam are assisting in the rapid growth of the private sector and the research capacity at Vietnamese universities. By adjusting the academic research profession from one based on the Soviet model to one that emphasizes the need for synthesis, research and teaching, and also by creating Centers of Excellence, these students are transforming the capabilities of Vietnamese universities to continue to educate its workforce locally, in addition to continuing international exchanges. Having Western-educated engineers and scientists working for international companies in Vietnam, such as Siemens and Intel, has mutually benefitted both Vietnam and the U.S. because these professionals serve as diplomats for Vietnam in their field and increase the potential for further collaboration between the two nations. In addition, formal agreements between the Vietnamese government and U.S.-based research organizations provide great potential for these relationships to continue indefinitely.

Finally, university exchanges allow a greater number of Vietnamese students to gain exposure to American education and culture. Programs like the one at UIUC move the collaboration between the U.S. and Vietnam outside government circles and into a purely academic space. These educational exchange programs have allowed Vietnamese students to access world-class education independently

and, in turn, fostered appreciation for American culture and opportunities. As the article from the *Chronicle of Higher Education* points out, “As they become part of the growing middle class, regardless of where they live in the world, they will have a better understanding and appreciation of American products and services.”⁸² Through allowing students to study through alternative channels, and ultimately creating agreements between American and Vietnamese universities, these exchanges are important and vital supplements to the formal programs sponsored by the U.S. and Vietnamese governments.

The changes that have occurred in Vietnam’s economy, education system, and diplomatic relationships in just twenty-one years are outstanding and can be directly linked to the positive impact that alternative diplomatic channels, like education exchange programs, have had on educating graduate students in Vietnam. In the last two decades, the relationship between the United States and Vietnam has undergone a dynamic transformation, one in which the two countries went from bitter enemies to both friends and colleagues in many respects. As Vietnam continues to actively participate in the international community, in both economics and diplomacy, the far-reaching effects of the educational exchange programs highlighted will only continue to become apparent – and hopefully lead to more exchanges and collaboration between Vietnamese and Americans. The *2011 VEF Overview* anticipates this: “Education is a means to greater ends: deeper knowledge and genuine understanding to expand on the past and to build for the future. International educational exchange builds bridges between countries and people, contributing to global peace, tolerance, and understanding.”⁸³

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**The Sustainability of the North
Atlantic Treaty Organization:
Case Study: Addressing
the Security-Development
Nexus in Libya**

by Anita Rebecca Sundarajan

Written for
Course: *Security and Development: Nettlesome Nexus*
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In an increasingly globalized world, threats originating from outside the North Atlantic/European area affect the security of the transatlantic alliance, forcing the North Atlantic Treaty Organization (NATO) to develop capabilities to combat a multiplicity of global threats. The security-development nexus and the changing nature of warfare, which compels the transatlantic alliance to transform itself or risk irrelevance are key to meeting these global threats. NATO's 2011 mission, Operation Unified Protector in Libya, is a testament to how far the alliance has transitioned to integrate humanitarian assistance and peacekeeping into its mission. The alliance fought on behalf of democratic principles and provided support and protection for Libyan nationals fighting for independence from an autocratic ruler. Although the Libyan intervention illustrated the will of European allies to take a leadership role, it also emphasized a capabilities gap between the United States and its NATO allies that must be addressed for the alliance to be sustainable. On the other hand, the mission in Libya divided labor effectively, allowing the U.S. to support the operation, while European partners took the lead. However, the operation highlighted a lack of unity among European allies, raising the challenge of NATO being diminished to various coalitions of the willing. Nevertheless, the alliance's resolve and success in Libya has shown the international community and the United States the continuing relevance of NATO and may serve as a model of collective action and peacekeeping in the future.

Background and Current Status

The Arab Spring, a movement that began in December 2010 across North African and Middle Eastern states to remove autocratic governments from power, was the ideal opportunity for the alliance to exert its new role in the international community. Being an alliance founded on democratic principles allowed NATO to respond to these events consistent with its core values. As the movement spread from Tunisia to Egypt to other states, Libyan rebels also took to the streets protesting against their despotic ruler, Colonel Muammar Qadhafi. In February 2011, Libyan nationals peacefully protested in the second largest city in Libya, Benghazi, demanding regime change.¹ Qadhafi, who had been in power for 42 years, chose not to relinquish his power and instead resorted to violence against his own people to repress the protests. He threatened to "cleanse Libya house by house"² and reiterated that "the moment of truth has come. There will be no mercy. Our troops will

be coming to Benghazi tonight.”³ The international community demanded that the United Nations intervene to prevent what would surely become a massacre of innocent civilians.

In response to the international outcry, the United Nations Security Council passed Resolutions 1970 and 1973, which demanded a ceasefire between rebels and Qadhafi’s loyalists.⁴ These resolutions also authorized the use of an arms embargo and all other measures necessary to protect Libyan civilians, who were being violently repressed. In response, NATO invoked the “doctrine of the Responsibility to Protect (R2P), which holds that the international community has a responsibility to prevent large-scale loss of life, or large-scale ‘ethnic cleansing,’ when the government of a country proves either unable or unwilling to do so.”⁵ On March 8, 2011, NATO increased its surveillance of Libyan airspace, and on March 10 transferred its ships to the Mediterranean to fortify these surveillance efforts.⁶ On March 19, the United States launched Operation Odyssey Dawn, an air strike campaign against Libya, which was led by U.S. Africa Command (AFRICOM).⁷ The U.S. transferred power to NATO to take the lead in Libya on March 24.⁸ NATO initiated Operation Unified Protector and authorized its air and sea assets to take military action to protect Libyan civilians. As such, NATO searched ships to cut off the transfer of arms and mercenaries to the Libyan government and enforced a no-fly zone over Libyan airspace, in an effort to guard civilians against air attacks launched by their own government.⁹

NATO’s goals in Libya were threefold: 1) to end attacks aimed at killing Libyan nationals, 2) to force Qadhafi to withdraw military equipment, mercenaries, and troops to designated military bases, and 3) to ensure the safe passage of humanitarian aid to civilians.¹⁰ To these ends, NATO had 20 ships off the coast of Tripoli, Libya’s capital, and employed over 250 aircraft at its peak.¹¹ Additionally, the alliance took a global leadership role in the humanitarian intervention and coordinated efforts among international and regional organizations including the European Union, African Union, League of Arab States, and the United Nations to plan long-term conflict prevention in Libya.¹² On August 22, NATO Secretary General Anders Fogh Rasmussen along with U.S. President Barack Obama recommitted NATO’s involvement in Libya and declared the liberation of Tripoli.¹³ Both Rasmussen and Obama called for Qadhafi to step down from power in order to end the suffering of the Libyan people.¹⁴ In their struggle for freedom, Libyan nationals formed

the Transitional National Council (TNC), recognized by NATO and the U.S. as the legitimate governing authority of Libya. TNC intended to hold democratic elections after the overthrow of Qadhafi's government.¹⁵ Rasmussen, the head of the foremost military alliance in the world, invoked the alliance's commonly held values as it related to Libya by saying, "Now is the time to create a new Libya – a state based on freedom, not fear; democracy, not dictatorship; the will of the many, not the whims of a few."¹⁶ In accordance with these statements, on September 19, the United Nations passed Resolution 2009, which extended NATO's mandate to protect Libyan civilians and established a UN Mission in Libya.¹⁷

Further, NATO Defense Ministers met on October 6 and resolved to offer long-term security assistance to TNC.¹⁸ They pledged that, if asked by TNC, they would provide security sector reform and training.¹⁹ However, NATO Defense Ministers also committed to leave Libya as soon as the government became stable and civilians were out of harm's way. The commitment came to fruition when Qadhafi died at the hands of Libyan rebels on October 20. Fulfilling NATO's commitment, on October 28, the North Atlantic Council reached a consensus to end NATO's operation in Libya, but to retain a deterrence force as it had done in Kosovo.²⁰ This deterrence force would be able to monitor events on the ground and be able to respond quickly if conflict re-erupted in the region. Rasmussen stated that Operation Unified Protector was "one of the most successful in NATO history [...]. Libyans have now liberated their country and they have transformed the region. This is their victory."²¹ By the end of October 2011, NATO ships had left the ports of Tripoli and had returned to their home ports, while alliance aircraft had stopped continual monitoring of Libyan airspace.²² The mission in Libya was deemed a success by the international community and has become an exemplar of NATO's new *modus operandi* to accomplish its mission effectively.

U.S. Role in Libya

Although the United States initially led the intervention in Libya, it transitioned leadership to NATO five days after the onset of the war. The U.S. became involved in Libya in order to prevent a potential genocide. According to President Obama, the U.S. intervened militarily because he "refused to wait for the images of slaughter and mass graves before taking action."²³ Failing to stop Qadhafi would not only have been detrimental to civilians

in Benghazi, but also would have quelled the resistance movements across the greater Middle East as part of the Arab Spring. These human values of democracy and self-determination compelled the U.S. and NATO to take action and protect civilians in Libya. However, President Obama was careful to note that the intervention did not entail a forced regime change of the Libyan government. He specifically stated that “we went down that road in Iraq [and...] regime change there took eight years, thousands of American and Iraqi lives, and nearly a trillion dollars. That is not something we can afford to repeat in Libya.”²⁴ The President differentiated between going to Libya with the aim of removing Qadhafi from power and American air power assisting Libyan rebels, whose aim was to depose their government.

The war in Libya serves as an example of American leadership of the transatlantic alliance in an environment of increased economic constraints. For example, President Obama explained that American leadership of NATO is not “going it alone and bearing all of the burden ourselves. Real leadership creates the conditions and coalitions for others to step up as well; to work with allies and partners so that they bear their share of the burden and pay their share of the costs.”²⁵ Obama stressed the importance of American unilateral actions when national security and U.S. core interests are at stake, but when humanitarian assistance, economic and regional interests are at stake, to take a multilateral approach and depend more on alliances. This burden-sharing was evident when European partners took the lead, but continued relying on American support.

After NATO assumed leadership of the air strikes, they still needed American resources and technology. For instance, the U.S. continued supporting NATO aircraft by providing refueling and air surveillance for war planes.²⁶ Additionally, the United States retained control of drones used in Libya after the alliance had taken control of enforcing the no-fly zone.²⁷ By sharing intelligence and geospatial imaging, the United States took a collaborative approach towards NATO, which fortified existing partnerships. American leadership and support to allies in Libya may be used as a model of the U.S. role in NATO’s peacekeeping operations because it provides a multilateral, collaborative, and shared framework by which to operate, increasing the legitimacy of both U.S. and NATO actions.

A New Division of Labor

Many Americans viewed NATO's role in Libya as a discouraging sign of alliance decay and unsustainability, because European partners could not have been successful without American resources and support. Two months after NATO assumed leadership of the operation, former U.S. Secretary of Defense Robert Gates stated, "The mightiest military alliance in history is only 11 weeks into an operation against a poorly armed regime in a sparsely populated country – yet many allies are beginning to run short of munitions."²⁸ Because the U.S. continued providing surveillance, intelligence, and reconnaissance support to European allies, some perceived the alliance's mission in Libya to be a failure because of continued dependence on American military equipment and infrastructure. Additionally, some believed that the alliance's mission could not be deemed a true military success because the humanitarian intervention did not involve the deployment of ground troops.²⁹ This pessimistic view of the Libyan intervention is unwarranted because it does not take into account the alliance's ultimate success in preventing genocide without relying solely on the United States for leadership.

For the first time in NATO history, European partners proved that if provided with the appropriate military equipment, resources, and intelligence support, they are willing to fight for their values abroad and share the burden of leadership with the United States.³⁰ This new division of labor will allow the alliance to take on increased responsibilities in the peacekeeping and humanitarian assistance arenas because the U.S. is no longer forced to assume the majority of the risks, costs, and burdens associated with foreign interventions. American presidents have complained for years that European partners need to begin taking greater risk and responsibility to preserve global security, without relying solely on the U.S. to be the world's policeman. Especially with America's economic decline and the drawn-out wars in Afghanistan and Iraq, the United States must depend on European partners to assume increased security obligations, while America takes a supportive role. Although the U.S. ensured the success of NATO allies by resupplying them with weapons and munitions and by providing cutting edge drone technology, European air forces assumed the majority of the responsibility of daily bomb runs.³¹

This division of labor proved to be the complete opposite of NATO's first wars in Bosnia and Kosovo, in which the U.S. was responsible for 90% of all

daily bomb runs.³² It is important to note that France—a NATO member state that is usually reluctant to engage militarily—was not only the first nation to demand a humanitarian intervention in Libya, but also along with the United Kingdom, Denmark and other Western European allies provided over two-thirds of the attack aircraft used in Operation Unified Protector.³³ Further, of the 18 ships safeguarding Libya's port, only one was American.³⁴ In addition to taking the military lead, French President Nicolas Sarkozy and British Prime Minister David Cameron took the political lead in winning support from other NATO member states as well as from other international and regional organizations. The U.S. must acknowledge the leadership and resources European allies contributed instead of focusing on their lack of resources.

It is important to note that this type of supporting American role cannot be expected of all future NATO missions. Rather, in wars of mutual defense, if a NATO member state is attacked, the United States should continue its leadership role and provide the necessary military equipment, troops, and resources to defend the alliance. However, in wars of choice, such as the war in Libya and other wars based on the need for humanitarian assistance, the U.S. can take a supportive role by providing resources, refueling, and munitions to European allies that have the will to lead those missions. By differentiating between wars of necessity that directly affect American national security and wars of choice that compel American values and ideals to act, the U.S. along with European partners may set a precedent for burden-sharing of security and peacekeeping missions. By dividing labor, as it did in the Libyan intervention, the alliance increases its organizational sustainability, while increasing the likelihood of successful peacekeeping missions.

The Libyan Model: Lessons Learned

Successes in Libya provide NATO with a framework for future humanitarian interventions. The most important lesson learned is that NATO decided to take a “boots off the ground” approach, relying solely on air strikes, drone technology, intelligence and reconnaissance to defeat the enemy, which decreased costs and casualties. Because peacekeeping and humanitarian interventions usually occur in nations with less technologically advanced equipment, NATO allies should leverage their advanced military technology to increase their precision in targeting the enemy. This approach saves vital infrastructure and local civilians from the line of fire, ameliorating the

process of winning hearts and minds. This “boots off the ground”³⁵ approach ensures that regime change is conducted by nationals that want a change in their government and not imposed by Western powers.

An added benefit to this approach is that NATO forces are removed from local nationals – giving them assistance remotely. This distance does not alienate the population as ground troops do because the people do not have a sense of being invaded by foreigners in their land.³⁶ Although they appreciate NATO’s efforts in helping them fight for their freedom, Libyans, Afghans, and other peoples in the Middle East are still “troubled both by U.S. combat methods (which they see as yielding too many civilian casualties) and by what they deem freewheeling personal conduct (including the presence of female soldiers). Above all, they consider foreign troops a violation of their sovereignty and a sign of their underlying weakness.”³⁷ Given these perceptions, Libyan rebels made it extremely clear that they appreciated NATO’s assistance as long as it did not involve alliance ground troops.³⁸ The “boots off the ground” approach fortified Libyan nationals’ efforts for regime change without encroaching on their state’s sovereignty.³⁹

Additionally, exiting a combat arena when employing the “boots off the ground” approach provides increased flexibility to respond to events on the ground and changes in the political scene. It is easier to redirect aircraft or ships than to move ground troops and equipment out of a war zone. Additionally, exiting the country is quicker when troops do not have to deal with unforeseen obstacles to moving equipment out of the country. Disengagement without ground troops also deflects any political questions on leaving the country due to domestic and foreign pressure and war fatigue. This new approach would avoid political challenges and perceptions regarding the alliance’s will to fight or appearance of weakness when disengaging from a nation. It is important to note, however, that this approach cannot be applied to all nations in need of humanitarian assistance. Libya is not a landlocked nation, like Afghanistan, and therefore had close air support and refueling available to allies by sea – removing the need to rely on ground equipment and troops.⁴⁰ Additionally, the U.S. has several bases close to Libya in Italy, Spain, and Turkey, which made moving aircraft and collecting intelligence much easier and faster, allowing for a seamless exit strategy.⁴¹

The second lesson learned from NATO’s operation in Libya is to avoid mission creep. Although some mission creep occurred in Libya, the alliance

learned from its mistakes in Afghanistan and Kosovo. By stating a narrow goal or purpose to the international community and then achieving that goal, NATO's mission in Libya was deemed a success and allowed for a clean exit strategy.⁴² In Libya, the mission was to protect the Libyan national rebels from the use of force by Qadhafi and his mercenaries.⁴³ Later, the alliance's mission expanded to include the removal of Qadhafi from power, as seen in a joint statement by Heads of State Obama, Sarkozy, and Cameron in April 2011, which explicated, "So long as Qadhafi is in power, NATO must maintain its operations so that civilians remain protected and the pressure on the regime builds."⁴⁴ Although NATO did not demand regime change, it was implied that NATO's mission would not be completed until Qadhafi no longer held power.

In May 2011, the alliance was forced to choose how far it would go in ensuring regime change, when Qadhafi offered a ceasefire with the rebels, but refused to give up his power.⁴⁵ NATO did not accept the ceasefire and continued bombing not only Libyan military bases and strongholds, but Qadhafi's private residences as well in the hopes of forcing regime change.⁴⁶ By October 2011, Qadhafi's regime had been destroyed and genocide had been averted. NATO's goal was accomplished, allowing air and sea forces to return to their home bases without opposing voices claiming that it was due to the alliance's weaknesses or lack of will. However, it is too early to assess if the added mission requirement of regime change is a success or not because the type of government that emerges to fill the void left by Qadhafi and his regime is yet to be seen.

Some argue that a negative lesson learned is that NATO should have accepted the ceasefire and not have forced regime change because the rebels, on whose behalf the alliance waged war, have exhibited acts of unjust violence. Both Human Rights Watch (HRW) and Amnesty International have highlighted the violent behavior of the rebels after the death of Qadhafi, which has ranged from torture and rape to theft.⁴⁷ HRW noted that rebels had "burned some homes, looted from hospitals, homes and shops, and beaten some individuals alleged to have supported government forces."⁴⁸ The report suggests that the rebels also had conducted targeted racism campaigns and assassinated those belonging to Qadhafi's regime.⁴⁹ Some journalists even alluded to the fact that rebel militias stole munitions from Qadhafi's warehouses and sent those arms to terrorists with possible ties to al-Qaeda on the borders of Libya.⁵⁰ If these allegations were true, NATO's mission creep in Libya to incorporate regime change would be deemed a failure instead of a success.

It is important to note that this mission creep of a humanitarian assistance mission becoming one of regime change is an anomaly and not the method NATO can use in the future. If the international community believed that NATO uses humanitarian intervention as an excuse to force regime change, similar NATO missions would fail. Winning hearts and minds of the local population would be next to impossible if the people believed that NATO came to their country under false pretenses.

Another lesson learned is that the United States has the capacity to “lead from behind” and should continue approaching military operations collaboratively. According to David Rothkopf, a former national security official under U.S. President William Clinton, “We need to give the Obama administration credit for finding a way, taking the long view, resisting the pressure to do too much too soon, resisting the old approaches which would have had the U.S. far more involved than it could have or should have.”⁵¹ This approach allows the United States to rebuild its public image within the international community and fortify NATO’s capabilities to conduct humanitarian assistance. In Libya, this collaborative approach allowed NATO to reach out to the Arab League and other international partners, which increased not only the legitimacy of the mission, but also the credibility of the alliance.⁵² Due to this increased legitimacy, individual states partnered with NATO to provide training and peacekeeping assistance. For example, Qatar and the United Arab Emirates provided weapons, financial assistance, and training to the Libyan rebels covertly.⁵³ This legitimacy was, in part, because the United States did not lead another campaign for regime change in the Middle East. Although the Libyan intervention may be used as a model, challenges exist in making this approach an official policy.

Challenges and Recommendations

While there are positive lessons learned in Libya, several critics point to the flaws revealed by Operation Unified Protector. A natural criticism that stems from the new division of labor discussed is that if the United States is not vital for operations, then NATO may eventually evolve to be a strictly European security capability. Especially, new NATO members in Central and Eastern Europe are concerned that a lack of U.S. leadership would entail relying on Western European states – many of which have close economic and energy-related ties to Russia. This prospect is disconcerting for Central and

Eastern European states because they still view Russia as the highest threat to their security and do not believe that Western European states would be as inclined as the U.S. to defend their interests against Russia. These fears of the alliance evolving into a European capability are unwarranted, however, because although European states have the will to lead NATO missions, they do not have the capacity to do so independently without the United States. Additionally, NATO provides a mechanism for the American nuclear umbrella to be extended to the European continent in order to deter against nuclear attacks.⁵⁴ Nuclear deterrence is a costly capability that only Britain and France have, which would cause division and possible competition in Europe if the U.S. were to retract that protection. Further, the trend suggests that the U.S. is forging closer ties with the transatlantic alliance instead of drifting apart from it.

The Obama administration has made it clear that the United States is a key player in NATO and intends to participate in collective defense of the transatlantic alliance for years to come. For example, President George W. Bush had planned to withdraw two of the four American combat brigades in Europe, but the Obama administration decided to only withdraw one – retaining three brigades if the need arose to defend Europe against an attack.⁵⁵ Additionally, the United States deployed several Aegis ships to European waters to protect against potential missile attacks from Iran in the future.⁵⁶ These actions reaffirm to European allies the American commitment of mutual defense and illustrate to the international community that the United States is far from finished with the transatlantic alliance, which “discourages possible challengers from testing the existing order in Europe.”⁵⁷ Simultaneously, these actions show that the U.S. is only willing to fight wars of necessity for Europe, implying that other NATO allies must now assume leadership of wars of choice with the U.S. providing support and resources.

Another challenge raised by the Libyan intervention is the lack of unity among European member states. Less than one third of European partners—only eight out of a total of 28 NATO allies—participated in Libyan air strikes.⁵⁸ For instance, “Italy pulled their aircraft carrier Garibaldi out of the Libyan theater to save \$114 million, allies ran out of munitions and were only able to fly about half of the planned sorties, and one of the traditional NATO pillars, Germany, opted out from the start.”⁵⁹ Europe’s largest state, Germany, did not become involved in Libya in any way and abstained from

voting for the UN Security Council Resolution authorizing air strikes.⁶⁰ In fact, Germany chose not to allow NATO to use commonly-owned Airborne Warning and Control System (AWACS) aircraft based in Berlin because several of the aircraft's crewmembers were German.⁶¹ The Libyan intervention was nominally a "joint operation," but several NATO partners refrained from participating. Some allies like Spain, Netherlands, and Turkey, specified that they would not participate in armed attacks, but would be involved with post-attack peacekeeping efforts and brokering a ceasefire. Likewise, Poland, usually an enthusiastic participant in NATO missions, not only refused to send troops or resources in support of the Libyan campaign, but also undermined NATO's efforts and public image.⁶³ Polish Prime Minister Donald Tusk stated, "One of the reasons for our restraint [is] if we want to defend people against dictators, reprisals, torture and prison, that principle must be universal and not invoked only when it is convenient, profitable or safe."⁶⁴ Tusk's comments implied that NATO only intervened in Libya because of oil, which damaged NATO's credibility and image in the international community.⁶⁵

Although this disunity may be alarming, it is important to assess the European response to Libya as compared to its response to Afghanistan or Kosovo in order to fully appreciate how far the alliance has come. For example, in Afghanistan, six NATO allies have had 90% of all casualties, while some allies chose to send only a symbolic presence and others chose not to participate at all.⁶⁶ In Kosovo too, Greece refrained its participation and even protested against peacekeepers passing through Greek territory.⁶⁷ Given these past experiences of disunity, the Libyan intervention must not be discredited as a joint operation just because some allies chose not to participate. On the contrary, NATO's mission in Libya must serve as an example of European action to defend common values and ideals that define the transatlantic alliance.

However, with NATO operations being diminished to various coalitions of the willing, some argue that increased allied lives are lost as a result of less troops and resources at NATO's disposal and the alliance's public image is damaged irreparably. Because nations bear the burden when their national troops are deployed, some countries choose not to participate in a mission to save money and soldiers, yet continue having the protection of Article 5 at their disposal. For example, in the lead up to the war in Afghanistan, some European states refrained from participating, while others did not, which caused a rift within Europe. This division damaged the unity and image

of NATO as a collective security organization based on mutual defense and shared values.⁶⁸ One way for allies to retain this option of not participating in an operation while preserving NATO's image is for member states to agree that even if they abstain from an operation, they will not discredit the alliance or its operations. This management of NATO's public image has proven to be increasingly important in Afghanistan and Libya because winning the support of the local population is an ongoing aspect of ensuring that conflict does not re-erupt. Especially as NATO transitions out of countries and leaves only a deterrent force behind, it is vital that the alliance appears to be unified in its will to respond quickly to signs of conflict. Additionally, when member states refrain from participating in a mission, NATO should publicize that state's support in other NATO missions to preserve allies' perceptions of each other and goodwill among member states.

Operation Unified Protector is an example of the extent to which the alliance has transformed to embrace its new peacekeeping and development missions. Unlike in Bosnia, Kosovo, and Afghanistan, NATO took immediate action in Libya to prevent a massacre of civilians in Benghazi. Instead of criticizing European partners' capability gaps, the United States must seize this opportunity to publicize the transatlantic alliance's successes and the new division of labor for NATO operations. This publicity campaign would benefit not only European partners that feel under-appreciated after carrying the weight of daily fighting in Libya, but also the American public. Americans must realize that the alliance is still important for their security and European partners are willing to fight for shared values. Tying American and European security is vital to ensure the sustainability of the transatlantic alliance.

An important byproduct of Operation Unified Protector is that it undermined the role of the European Union's security arm, Common Security and Defense Policy (CSDP). Being much closer to Europe in proximity, Libya posed a greater threat to the European Union than it did to the transatlantic alliance.⁶⁹ Further, France and the United Kingdom—key players in the EU—chose to leverage NATO's infrastructure instead of fortifying an independent European military capability. According to French newspaper, *Le Monde*, the EU failed because it could not reach a consensus on how to act or on “whether to recognise the Libyan opposition and most, of all, on the legitimacy of the use of force. The disunity is total and particularly striking when it is a question of deciding on war – that is to say when history becomes tragedy

and it is necessary to move from frothy rhetoric about the rights of man.”⁷⁰ CSDP not only failed to lead the mission, it also failed to lend its support to NATO’s mission of humanitarian assistance until April 1, 2011.⁷¹ The mission in Libya served to remind Europeans that NATO is still necessary to provide for their security because the CSDP lacks capabilities and coherence.⁷² The transatlantic alliance’s value added in the realm of humanitarian assistance and peacekeeping became irrefutable because there was no clear alternative organization that could complete the mission successfully.

On the other hand, to continue taking on increased responsibility in future missions as it did in Libya, European governments must begin investing more in their national defense programs. The United States has been accepting increased alliance costs because “fifteen years ago, the U.S. footed 50 percent of NATO costs; last year the figure was 75 percent, and European spending on defense is going down.”⁷³ NATO Secretary General Rasmussen warned that if Europe continues on its trend, that in five to ten years, European militaries would have shrunk to a size that would be meaningless in a war.⁷⁴ According to a European Parliament study on the effect of the financial crisis on European defense, Germany has decided to cut its defense spending by 2.5% over the next five years, France by 10% over three years, and the United Kingdom (UK) by 7.5% over five years.⁷⁵ Although the UK and France had aircraft and weapons to fight in Libya, they are not investing in research and development of weapons systems like the United States.⁷⁶ Consequently, in a decade or so, their weapons will have become almost obsolete. They will not have the military equipment and infrastructure to lead another mission like Libya, forcing them to rely solely on the U.S. to lead these wars of choice. However, given the decline in the American economy, there is a high likelihood that the U.S. would no longer be able to be independent financial backers of NATO operations of choice outside the realm of collective defense. Libya serves as an example of a new division of labor, but also serves as a warning that increased European investments are necessary to make burden-sharing sustainable.

NATO’s mission in Libya, Operation Unified Protector, clearly demonstrates the alliance’s transformation since Bosnia and Kosovo. NATO took a “boots off the ground” approach by launching an air and sea operation to protect and assist Libyan citizens fighting for shared democratic values. European allies took the lead, relying on the U.S. only for increased muni-

tions and technological support, which illustrated their willingness to fight if provided with the appropriate resources. Although European allies need to continue strengthening their military capabilities, the Libyan intervention may be used as a model of a new division of labor within the alliance that may be applied to other humanitarian interventions. Above all, this mission proved NATO's continued relevance because other international and regional organizations did not have the capabilities or cohesiveness to end a humanitarian crisis successfully.

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**American Literature and the
American Idea: Out of Eden
and into the Wild West**

by Kari Thyne

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American literature and films make good use of the mythical Garden of Eden and its first man, the Adamic hero. In engaging these myths, they react and respond in ways that highlight the characteristics of each. One of the predominant characteristics of the Edenic myth in American literature and film is that we can go into the wilderness and leave the past behind. Another is that we can get a fresh start in this idyllic, mythical land. And another is that Eden is always someplace else; it is either where we have been or will be, but it is not where we find ourselves presently. From the time of its colonial beginnings, the land that is now America has been an Edenic wilderness for immigrants. Those who sailed from Europe benefitted from the persistent work of the Atlantic's waves, which carried away the lesser aspects of many a reputation. They arrived in America ready to begin anew.

While literature and film tell the stories of immigrants who flocked to America in search of the Edenic wilderness and new beginnings, it is western literature and films that situate and characterize the Adamic hero in America's Edenic wilderness, the Wild West. There are three predominant characteristics of this American Adamic hero: first, he has no known history; second, he is alone and a loner; and third, he cannot remain in Eden. When America's bucolic towns become more regulated as cities or when society otherwise becomes too structured and inhibiting, then the Adamic hero leaves as quietly and quickly as he arrived. He pushes onward leaving his past behind once again and moves West with the hope of finding an undiscovered Eden to explore. Myths are not a perfect reality and, as such, it is not always the case that each person engages the myth with the same degree of success. But whatever the degree of success, these stories describe the shape of human lives.

Sherwood Anderson captures some of the power of the Edenic myth in his short story, "Departure." As George heads to the train on which he will leave his small hometown to make his way in the world, he is asked, time and again, "Hey, you, George. How does it feel to be going away?"¹ There is a sense in which it is an achievement to be leaving; neighbors curious about how he feels might be curious in the same way about future achievements such as graduating from college, getting married, or the birth of his first child. These questions are signposts that point to future achievements and tell him he has much to look forward to. He gets on the westbound train,² which emphasizes that Eden is "out there" – someplace other than his hometown and to the West. Just as America was west across the Atlantic for European immigrants, the unsettled land that typifies

America's Edenic wilderness is also west. As the train pulls out of the station, "the town of Winesburg had disappeared and his life there had become but a background upon which to paint the dreams of his manhood."³ George leaves his past behind in order to get a fresh start. Somewhere west of Winesburg, he will become a man and realize his future dreams.

The stunning beauty of Brokeback Mountain is an Edenic wilderness for Jack Twist and Ennis Del Mar. It is there that they find paying work, camaraderie, and powerful romantic love. They are young men without the benefit of a carefree childhood, a strong foundational education, and the material comforts a family of means could have provided. But what they do have is the capability to return to Brokeback Mountain in their minds whenever they need an escape from the reality of their lives. There is much to escape: Jack marries a woman whose father has money, so he spends most years as the beta male and is emasculated in his married life. Ennis marries his young girlfriend and they struggle to eke out a life in which every day is a repetitive struggle of work, chores, and parenting. Both men face crushing pressure to acquiesce to society's expectations of marriage and family.

By living according to society's structure and strictures, the Edenic perfection of Brokeback Mountain becomes a comforting memory. Over the years, they make repeated trips to hunt, fish, and rediscover the idyll of Brokeback Mountain, but the reality of the myth is that it is not possible for them to truly go back; they are foiled at every turn. Jack tries to go back for a second summer, but Aguirre refuses to rehire him. When Jack and Ennis can meet over the years, it is only for a week or two since they have commitments and obligations to their wives and children that they must honor. The Edenic promise of a day-to-day happiness does not come to pass, in part, because the truth of their relationship cannot be acknowledged in the society of their time, but only outside of it and in secret. When the truth of their sexual relationship becomes more broadly known within society, Ennis' wife divorces him and Jack is brutally murdered. *Brokeback Mountain*, the film, teaches the lesson that Eden is always someplace already visited or someplace to visit down the road. Eden and the happiness found there are either recognized in retrospect or pursued in dreams until these dreams are realized. As a final lesson, we learn that a consequence of forcing the Edenic myth to meet reality can be heartbreaking disaster.

Shane, in the eponymous book by Jack Schaefer, and Preacher, in the movie *Pale Rider*, typify the Adamic hero in America's Edenic myth. Like Adam, they

are also called by a single name only. Both Shane and Preacher show up on scene in an air of mystery. It is as if they were born in their adult forms just as God created Adam in his adult form. Their pasts are shadowy and, as such, only alluded to and ultimately little defined. We learn nothing of any of their connections to other human beings—and once they have gone, we suspect they will not speak to others about the parts of their stories we have come to know. We understand eventually, but only by inference and fairly substantial imaginative leaps, that they have pasts. What is clear is that they have moved west in their stories to leave these pasts behind. The analogy to Adam is strong in that Adam left Eden to leave behind his disobedience to God in the Garden of Eden. Thus we suspect that Shane and Preacher have experienced some of the darker parts of life and have come into our lives to leave behind these parts of their pasts.

As we watch them begin their lives anew, the Adamic hero comes into focus. Just as Adam's new life outside of Eden was marked by the physical labor of tilling the soil, Shane tackles the stubborn tree stump with Joe Starrett and Preacher tackles the stubborn boulder with Hull Barrett. The physical acts symbolize their willingness to stand together in solidarity to face the evil nemeses portrayed by Fletcher and LaHood respectively. Shane and the Starrett family develop a deep emotional connection while Preacher does the same with Hull, Sarah, and Megan. But as men of honor, and because they are true Adamic heroes, they leave the families intact and move on, westward one presumes. There is an attraction between Shane and Marian that cannot be acted upon if the Starrett family is to remain intact. Likewise, Preacher cannot choose Sarah or Megan if the mother-daughter relationship is to persevere and if Hull is to marry Sarah. On another level though, we understand that even if these attractions were not there, neither Shane nor Preacher would stay. As Adam had to leave Eden, so, too, must they leave, and it cannot be otherwise.

While there is harmony that surrounds the Adamic hero when a common enemy is still threatening, it is only a temporary harmony. After the enemy is vanquished, he cannot stay—staying is not part of the myth as we learn and must sometimes re-learn. At the end of the movie version of *Shane*, the young boy calls to him as he rides out of town and up the surrounding mountains. Likewise in *Pale Rider*, Megan calls to Preacher as he rides out of town and up the surrounding mountains. If the symbolism of riding up the mountains is intentional, then it is reasonable to think that these Adamic heroes have done well and are ascending a path that brings them closer to Heaven. They will go

where they are needed next—loners called by a single name, with no known personal history, who will not stay long.

American literature and film have responded to the Edenic myth by emphasizing key characteristics of the Edenic wilderness: one can go there and leave the past behind, one can get a fresh start, and Eden is either where one has been or will be, but it is not where one finds oneself. The myth of the Adamic hero is also important as we learn in the final pages of Shane's story. Young Bob says of Shane, "He was there. He was there in our place and in us. Whenever I needed him, he was there. I could close my eyes and he would be with me and I would see him plain and hear again that gentle voice."⁴ The Edenic myth depicts hope for a better tomorrow and the Adamic hero is a leader and protector who is there when we need him most. American literature and film responded to and remained true to the mythical Garden of Eden and Adamic hero—when we reached the west coast, we looked to the moon. When we reached the moon, we looked to the stars. Now that we can live in space among the stars, we continue to look heavenward toward Mars and beyond.

ENDNOTES

¹ Sherwood Anderson, *Winesburg, Ohio*, Dover ed. (New York: Dover Publications, 1995), 152.

² Ibid.

³ Ibid., 153.

⁴ Jack Schaefer, *Shane* (New York: Dell Laurel-Leaf, 2003), 150.

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