

Spring 2009

Namaste 2009

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NAMASTE

a student human rights journal
2009

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EDITOR'S NOTE

Namaste (nah-mah-STAY) is a Hindi word meaning: the Spirit in me meets the same Spirit in you. It is a South Asian greeting, originating in India that is used for hello and goodbye. The greeting is commonly accompanied by a slight bow made with the hands pressed together, palms touching, in front of the chest. This is a well-recognized symbolic gesture in which one hand represents the higher, spiritual nature, while the other represents the worldly self. By combining the two, the person making the gesture is attempting to rise above their differences with others, and connect themselves to the person she or he bows to. The bow is symbolic of love and respect.

This journal is meant to promote the study of human rights at the University of Connecticut and is to serve as a venue for recognizing and displaying great academic achievements of undergraduate students in this field of study.

Recognizing the work being done within the human rights community at the University of Connecticut will foster an environment that promotes mutual respect. More than that, it is hoped that this ideal will be embraced by University community members and translated in various ways and works to the larger global community.

नमस्ते

FOREWORD

As a professor who teaches courses in human rights, I have the privilege of working with students who are committed to human rights. These students exhibit conviction, passion, and idealism in the best sense of the term – they are inspired by ideals of justice and compassion. For many of these students, human rights are not just an academic subject to be studied for the sake of pursuing a career; rather, the study of human rights gives an intellectual foundation to their profound commitment to the cause of justice and ending human oppression.

The essays in this volume reflect the passionate commitment of UConn students to human rights. Each of the essays in this volume contributes a unique perspective on the given topics, whether its child soldiers in Uganda, justice and economic rights in South Africa, or the ideologies of the Nazis and Khmer Rouge, to name a few. The essays represent the diverse concerns of students, both in terms of human rights issues and perspectives, and in terms of geographical location and historical time period.

More broadly, this journal, *Namaste*, also reflects the commitment of students to discuss and question human rights. As a journal produced entirely by students, *Namaste* is the perfect vehicle for displaying the intellectual talents of our highly diverse human rights students.

Anyone interested in engaging in discussions about human rights with passion and rigor will do well to read the essays in this volume.

Professor Serena Parekh, Ph.D.

Department of Philosophy and Human Rights Institute

INTRODUCTION

The Human Rights Institute at UConn is one of the rare, unique institutions in the country dedicated to providing undergraduate and graduate research, education, and commitment in the field of human rights. As a result, *Namaste* has become an emerging and vital voice for undergraduates to publish and contribute in their areas of expertise.

This year's publication arrives at a time of global turmoil, with the world economy slowing at the same time that numerous human rights abuses persist worldwide. History reveals that tough economic times are times of great political opportunity, and that those who seize it have often used these moments to commit unspeakable human rights atrocities, or turn a blind eye to injustice abroad in order to focus on the agenda at home.

This journal is dedicated to those who remember that there is rarely a convenient time to confront human rights abuses, and that the time to speak is now. We must remember the immortal and oft-quoted words of Dr. Martin Luther King Jr. who reminded us that "[t]he time is always right to do right."¹ There will never be an ideal political situation in which the enforcement of human rights seems simply convenient for governments, and so it is only through the vigilant and dedicated actions of the people that justice is restored.

Former Senator William Proxmire, in his resilient fight for ratification of the Convention on the Prevention and Punishment of the Crime of Genocide, stated in 1967 that inaction is caused by "the most lethal pair of foes for human rights everywhere in the world—ignorance and indifference."² It is this fight against ignorance and indifference that this year's publication triumphs by bringing exposure and awareness to global atrocities, sharing assessments and possible solutions, and expressing our feelings.

Kristina M. Kaminski
Chris Martin
Ryan Roman
Co-Editors, April 2009

¹ King, Martin Luther. 1971. Remaining awake through a great revolution.

² Power, Samantha (2002). "A Problem from Hell": America and the Age of Genocide. New York: Perennial.

**Comparing and Contrasting Genocidal Ideologies:
Nazi Germany and Democratic Kampuchea**

Michael Grillo

In 1933 and again in 1975, the international community bore witness to the rise of two of the most brutally oppressive regimes that the world has ever known. Along with the rise of Nazism in Germany, and the Khmer Rouge in Cambodia came unprecedented violence, mass murder, and human rights abuses that have since become known as genocide. For many scholars, the ideologies behind these historic atrocities have been a subject of significant interest and have been compared and contrasted in order to decipher some meaning behind the violence. This essay will do much of the same, concentrating specifically on distinctions between the political ideologies that existed behind the respective genocides, as well as the differences in how the Nazis and the Khmer Rouge officials defined their target enemies. In addition, we will discuss important ideological similarities between the two cases of violence, particularly the rationale behind the treatment of the targeted groups, which worked to dehumanize the enemy, and made carrying out the acts of barbarism all the more easy.

Despite the striking similarities that exist between the Jewish Holocaust and the Cambodian genocide, it cannot be denied that two distinct political ideologies served as the backdrop for each. We'll begin our analysis with the communist ideology of Democratic Kampuchea as advocated by Pol Pot and the Khmer Rouge that helped determine how the violence would be carried out. Communism, and more broadly, Marxism, advocates complete egalitarianism and the collectivization of all economic and material resources. It was for this reason that after the seizure of Phnom Penh by the Khmer Rouge in 1975, a huge majority of the Cambodian population was forced into collectivized labor camps. These labor camps bore a striking resemblance to Stalin's collectivization efforts during his "Five Year Plan" and were the precursors to genocide in Cambodia. The propaganda messages of "Respect the Collective" and "Absolutely Everything Belongs to Angkar" that are cited in *Pol Pot's Little Red Book: The Sayings of Angkar* blatantly reflect the communist ideology of the Khmer Rouge, particularly the concept of collectivization.¹ Hitler's Germany on the other hand, was vehemently anti-Marxist, and while Axis-controlled Europe was littered with Jewish labor camps, their work was used to rebuild a battered German economy rather than collectivize it. In addition, while Communist Cambodia confiscated the material belongings of her genocidal victims and made them property of the state, Hitler and his Nazi government redistributed repossessed Jewish wealth back to the German people, going so far as to melt down gold teeth pulled from the mouths of murdered Jews to create gold bars which stocked German and Swiss banks.² Thus, for those who have come to associate Marxism with historical examples of governmental violence (Soviet Gulags, Maoist China, and Cambodia under the Khmer Rouge)

we need look no further than Nazi Germany to see that a completely different political ideology was at play behind the Holocaust.

A second set of ideological differences can be seen in the distinct ways that the Nazis and the Khmer Rouge came to define their victims. While Adolf Hitler advocated for the complete extermination of an entire racial group in the form of Europe's Jewish population, Pol Pot's Cambodia targeted a less well-defined group of victims. For Pol Pot and the Khmer Rouge, violence would be waged on a political level; all those who opposed the revolution had to be "smashed". Historian Ben Kiernan comments in his introduction to Khmer Rouge governmental documents that as soon as the revolutionary group seized power in Phnom Pen, "political murder would be an accepted means of dealing with perceived opponents of the party, including its members."³ With this statement, Kiernan makes it clear that although the definition of "enemies" was quite broad, the Khmer Rouge had no objections to placing members of their own political party within that category. The question then becomes, who exactly did qualify as a political enemy of the Democratic Kampuchean government? An analysis of documents from the time period suggests that opposing Angkar was all one had to do to become a target of the regime. Initially, urban dwellers and intellectuals were targeted simply because of the nature of the Khmer Rouge communist ideology, which advocated a revolution of the peasants rather than the industrial working class. One could be executed simply for wearing glasses, which were perceived by the party to be a sign of advanced intellectual prowess and urban sophistication. The arbitrary nature of the violence soon became even more out of control. In his study of the Cambodian Genocide entitled *Pol Pot's Little Red Book: The Sayings of Angkar*, scholar Henri Locard contends that "the Cambodians did not trust anyone, they saw enemies everywhere..."⁴ Locard's statement genuinely reflects the paranoid sentiment of Pol Pot and other high-ranking party members towards the threat of counter-revolution. The full extent of this paranoia however, manifests itself in this particular Angkar mantra, which states, "Better to arrest ten people by mistake than to free a singly guilty party."⁵ Here we can see the complete madness behind how the Khmer Rouge ideologically defined its enemies, and it is this fact that makes the atrocities of the Cambodian genocide all the more terrifying.

While Pol Pot and the Khmer Rouge conducted a political genocide, Hitler's Germany identified race as the deciding factor for who would feel the wrath of the Nazi regime. In a piece of Nazi propaganda entitled *Solving the Jewish Question*, Dr. Achim Gercke, a Nazi specialist on race, writes, "For the first time, they [the German people] will be reached by racial thinking regarding the Jewish ques-

tion.”⁶ This statement makes it quite clear that Nazi ideology regarding the discrimination and ultimate destruction of their victims would be grounded in racial terms. By setting racial parameters around who would be targeted, Hitler drew stringent lines between the Aryans and everybody else, mainly the Jews (we must not forget that the Nazis also targeted Poles, Slavs, Gypsies, and other groups, albeit at a much smaller level). Similarly to Democratic Kampuchea, the Nazi’s target group would be deemed enemies of the German state, but for economic, rather than counter-revolutionary reasons. In an excerpt from the Third Reich Handbook, which was distributed to all German citizens as a way to understand the workings of the National Socialist Government, Nazi officials cite that the Jews owned 60% of the property in Berlin, despite being a minority group. In addition, each Jew was worth 4.5 times as much as the average German. For the Nazis, these two figures proved “the extent to which the Jewish parasites [had] exploited the German people.”⁷ Thus it is clear that Hitler and the Nazi regime used racial ideology to define their victims, and then cited this racial group as a drain on the German economy. Conversely, Pol Pot and the Khmer Rouge defined their violence in political terms, claiming that their enemies were a threat to the revolutionary integrity of Democratic Kampuchea.

While the ideological differences between Nazi Germany and Pol Pot’s Cambodia are important, perhaps more important are the similarities that exist between these two bloody historical periods. Let us first look at how the target groups were treated by their respective governments to see if perhaps there is prototypical genocidal relationship between victimizers and their victims. Both the Nazis and the Khmer Rouge sought to dehumanize their enemies and both used mass relocation followed by labor internment as the first step towards this goal. The Nazi Wannsee Conference of 1942 made the decision to organize the mass relocation of Europe’s Jewish population to labor/death camps. The Conference estimated that a total of 11 million Jews would be relocated, placed in labor camps, and eventually exterminated in what was known as “The Final Solution.”⁸ Democratic Kampuchea closely modeled Hitler’s 1942 efforts when hundreds of thousands of people were evacuated from Phnom Pen, Cambodia’s capital city, because it was believed to be a breeding ground for capitalism. These individuals were then placed into labor camps to promote the ideas of egalitarianism and collective society. One Cambodian refugee named Thoun Chang writes, “By April 1975, Khmer Rouge came to live in the villages...everybody was now obliged to work in the fields or dig reservoirs.”⁹ By removing people from the comfort of their own homes and then replacing their occupational livelihood with forced manual labor, both the Nazis and the Khmer Rouge eroded their vic-

tims' personal identity and began the dehumanization process.

For both governments, the dehumanization process was also marked by cultural destruction. The Nazis and later the Khmer Rouge were notorious for destroying intellectual material. As one former S. S. officer notes, "We threw out of the building the great Tolmudic library and carted it to the market. There we set fire to the books. The fire lasted for twenty hours. The Jews of Lublin were assembled around and cried bitterly..."¹⁰ By desecrating intellectual material, the Nazis were one step closer to eliminating Jewish cultural ties, an aim also pursued by the Khmer Rouge only three decades later. One Cambodian refugee exclaimed that Cambodians "could not learn what they chose. Only KR tracts were permitted. Libraries were ravaged and speaking foreign languages signaled contamination..."¹¹ This destruction of literature combined with the banning of foreign languages (local populations in German occupied territories were forbidden from using their native language in schools or in printed material) bares striking resemblance to Nazi Germany, and was an intricate part of the dehumanization ideology that was implemented by both regimes.

Finally, we can look at the ways in which the Nazis and the Khmer Rouge processed their prisoners prior to execution to see that similar ideologies were used to complete the dehumanization process. Perhaps the most recognizable symbol of Nazi discrimination and hatred was the Star of David that Jews were forced to wear as a form of identification. This star demarcated the Jews as enemies, and served the same purpose as cattle branding, which ensured that an animal would not escape its master's grip. By imposing these "brands", Jews were no longer human, but more like livestock being herded to the slaughter. The Khmer Rouge employed the same tactic and as one historian notes, "Villagers were marked...by being forced to wear a blue scarf, reminiscent of Hitler's yellow star for Jews, and were later eliminated in mass..."¹² If we couple this concept of branding the enemy, with the obsessive documentation and statistic keeping that was characteristic of both governments, we can easily see that a loss of humanity had taken place by the time prisoners were executed. They were ripped from their homes, cutting off familial ties. Their jobs were supplemented with mindless manual labor. Their books and languages were eradicated and banned, eliminating their culture. Finally, after being branded like cattle and having their existence reduced to nothing more than an entry in some execution log, the dehumanization process was complete. Killing them, as one Khmer Rouge soldier stated, was like killing an animal.

It is clear that while the Jewish Holocaust and the Cambodian Genocide differ in some fundamental ways, they also bare striking similarities in regards to the ideology of victim dehumanization. Rec-

ognizing these similarities and differences are a matter of extreme importance to the international community. Presidents throughout our nations history have vowed that “Never again” will we stand idly by and allow governments to wage violence, particularly genocide, against their people. Hopefully by coming to a deeper understanding of the ideological similarities and differences between violent governments we can take action against theses atrocities and ensure that the phrase “Never again” becomes a reality.

- 1 Henri Locard, *Pol Pot's Little Red Book: The Sayings of Angkar* (Thailand: Silkworm Books, 2004), 161.
- 2 Alex Hinton, "Why Did the Nazis Kill?," *Anthropology Today* Vol. 14, no. 5 (2000): 11.
- 3 David P. Chandler and Ben Kiernan, *Pol Pot Plans the Future: Confidential Leadership Documents from Democratic Kampuchea, 1976-1977* (Yale: Yale UP, 1988), 4.
- 4 Henri Locard, *Pol Pot's Little Red Book: The Sayings of Angkar* (Thailand: Silkworm Books, 2004), 168.
- 5 *Ibid*, 157.
- 6 Dr. Achim Gercke, "Die Lösung der Judenfrage," *Nationalsozialistische Monatshefte*, Heft 38 (May 1933), 195.
- 7 Max Eichler, *Du bist sofort im Bilde* (Erfurt: J. G. Cramer's Verlag, 1939), 140.
- 8 United States Holocaust Memorial Museum, *Deportation to the Killing Centers*, <http://www.ushmm.org/wlc/article.php?lang=en&ModuleId=10005405>.
- 9 Ben Kiernan, "Introduction: Conflict in Cambodia, 1945-2002", *Critical Asian Studies*, Volume 34, no. 4 (2002), 361.
- 10 Raphael Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation-Analysis of Government-Proposals for Redress*, (Washington, D. C.: Carnegie Endowment for International Peace, 1944), 85.
- 11 Samantha Power, "A Problem From Hell" *America and the Age of Genocide*, (New York: Harper Perennial, 2003), 117.
- 12 Ben Kiernan, "Introduction: Conflict in Cambodia, 1945-2002", *Critical Asian Studies*, Volume 34, no. 4 (2002), 350.

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- United States Holocaust Memorial Museum, Deportation to the Killing Centers, <http://www.ushmm.org/wlc/article.php?lang=en&ModuleId=10005405>.

World Gone

Jennifer Danowitz

Corrupt world:
do you cringe when you
know your image? Do you
despair when you hear
your tired song? You are
ruined—beaten, bruised,
your legs fail and
your gaze meets my knees.

Stand up!

Your soul is clear.
Forsaken by your creatures,
the Garden is gone.
He softly whispers
silence—explaining?
A breeze along the shore,
the sand swirls up into
your sky, runs through
green arms, auburn against
your once perfect blue.

Photo Credit: Malerie Schwartz

Editor's Note: In Japanese legend, the crane, a symbol of honor, loyalty, and peace, lived 1,000 years. Because of this belief, it is said that folding 1,000 cranes will make the folder's wishes come true.



**Child Soldiers:
A Disturbing Reality Questions Cultural Relativism**

Tyler Greaves

“Have you ever met an eight year old soldier? I don’t mean a kid in your neighborhood with a popgun and a peanut butter grin. I mean a child in khaki fatigues with an AK-47 automatic weapon and a weary look of an old man in his childish eyes” (2, Uganda: Land of the Child Soldier). The twenty-one year conflict has viciously dismantled the ethnic Acholi people in Northern Uganda, and has had horrific consequences on the children of the region. The Lord’s Resistance Army (LRA), a rebel group in the North, is responsible for much of the violence against the Acholi people. Due to the lack of popular support among the people, the LRA is compelled to abduct children and force them to bear arms in their rebel army against the Acholi people. The Ugandan Government and President Museveni offer very little protection from the rebels, so the Acholi of the North have formed local defense units, which utilize child soldiers in an attempt to prevent attacks by the LRA. The use of child soldiers has become an accepted practice within the culture of Uganda and in many cases, child soldiers are forced to view violence, participate in violent acts and are denied universal rights recognized in international law and codified in the Uganda Constitution. International Organizations, human rights activists and the media have all criticized Uganda for devastating a generation of children, as they continue to fight a war that is not theirs. This conflict and more importantly the use of child soldiers, is an incendiary issue that demonstrates the weakness of cultural relativist thought.

Cultural relativism is the belief that because cultures differ from one another and disagree on issues of morality that an applicable set of universal morals is not possible. Human rights are universal by nature, applying to all humans at all times. Therefore, cultural relativism goes against the idea of universal human rights. Cultural relativism believes in looking at actions in terms of the specific culture, meaning whatever a culture says is right, is right for that culture. There are also criticisms of cultural relativism. A culture, as Ann-Belinda Preis points out, is dynamic by nature and is constantly changing. Culture is not something that is written down; it is practiced by its people. Cultural relativism falls short of recognizing the dynamic aspect of culture. This makes it difficult to evaluate what is right for a specific culture, especially because it is not always practiced in the same way by each individual. Another problem is that cultural relativism does not allow the criticism of grave matters within a culture, like torture, gender inequality and child soldiers. This allows actions to be considered acceptable at the cultural level even if the same actions are considered human rights abuses internationally. (Professor Shareen Hertel, POLS 258 Comparative Perspectives on Human Rights)

According to World Vision, approximately 25,000 children have been abducted by the LRA. The President of Uganda and lead-

er of the National Resistance Movement (NRM), President Yoweri Museveni, has been unsuccessful in stopping the LRA. As a result of the conflict, the government has forced 1.7 million Northern Ugandans to leave their homes and live in displacement camps in completely unlivable conditions. The people of Northern Uganda are forced to live in these camps that have been plagued by disease, rape and malnutrition.

The conflict itself is very complicated, and in order to examine it in more depth it can be looked at as having four subplots. The first subplot embodies the conflict between the LRA and the Government. The second subplot embodies the conflict between the LRA and the Northern Acholi people. The third subplot embodies the North-South divide. The fourth subplot involves the connection between the Sudanese Government and the LRA (Internal Displacement Monitoring Centre, www.internal-displacement.org).

Each of the four subplots is intertwined which makes the conflict hard to understand, however most of the world views the conflict as only between the LRA and the Northern people. In order to fully understand each subplot, it is necessary to look at the historical roots which provided the foundation for the violence that occurs today. The violence is deeply rooted in ethnicity and colonialism which is why the situation is so difficult to resolve. The Ugandan Government, their people, and the international community are at a critical juncture in determining what the future will look like in the wake of years of conflict involving massive and widespread human rights abuses. Abuses have occurred on the side of the LRA, however government forces are guilty of countless human rights abuses as well. Children under the age of eighteen continue to be forced to pick up arms and fight, leading to child soldiers becoming a cultural norm in Uganda. There must be recognition of the severity of consequences that cultural norms can have for a person, and especially for a child. One cultural norm of Uganda, ethnic tension between the people of the North and people of the South, is tied to the period of British colonialism and their system of colonial rule.

During colonial rule over Uganda, the British employed their 'divide and rule' tactic to maintain power in Uganda with devastating effects. The divide between the North and South did exist prior to colonial rule because of the immense diversity within Uganda. For example, there are over 40 languages spoken within Uganda. However, the 'divide and rule' strategy simply accentuated pre-existing ethnic divisions. The British used northerners mainly as army recruits and as workers on southern plantations. The North was ignored in terms of economic development. Southerners were making a lot more money employing Northerners after the British introduced the idea of the

cash crop, which exploited northerners for cheap labor. The South became more developed and better educated, while the North remained poor and heavily involved in the military. The system of colonial rule under Britain magnified ethnic divisions within Uganda, but it also established a culture which lacked political involvement. Colonialism, as Abdullahi Ahmed An-Na'im believes, is not the source of human rights abuses that exist today in Uganda and other post-colonial African nations. Colonialism has denied people the opportunity of political experimentation that is necessary in order to realize a culture consistent with universal human rights norms. As An-Na'im points out, it has taken America over 200 years and a divisive Civil Rights Movement and there is still much work to be done. The colonial system in Uganda imposed a culture ill-conducive to civic participation and set the stage for the tumultuous times following independence (An-Na'im, Ford Foundation).

Uganda gained independence in October 1962, and in 1967 drafted their first constitution. From the beginning of independence, power became increasingly secured by Northerners under the leader Milton Obote. Obote built up Northern power in the government so extensively that he was overthrown by a military coup led by his Army Chief Idi Amin in 1971. Under the rule of Amin, Uganda experienced human rights abuses and ethnic persecution. It is estimated that Amin is responsible for the deaths of hundreds of thousands of Ugandan lives (BBC News, Idi Amin: Your thoughts). In 1980, Tanzanian forces invaded Uganda and overthrew Amin, allowing Obote to come back into power. There was a lot of controversy over Obote's return to power. People accused him of being a fraud and were suspicious of rigged elections. When he returned to power, he again began building up northern power within the government. However, Obote struggled to maintain control because rebel groups began forming and gaining power. One in particular called the National Resistance Army (NRA) was led by Yoweri Museveni. In response to the rebel activity, Obote lashed out violently against rebels and citizens alike. Obote's military committed violent abuses against civilians, but more importantly the military was mainly made up of northern Acholi people. As a result, many Ugandans view the Acholi as responsible for the violence under Obote, which enforced the ethnic mistrust among an already divided nation. In the time period from independence to the early 1980s, political and social norms began to take shape. Obote established a government along ethnic lines which brought into question the validity of government, but more importantly violence became the norm for dealing with governmental issues. These trends continued as Museveni and the National Resistance Movement (NRM) gained power and support (Internal Displacement Monitoring Centre, <http://www.internal->

displacement.org).

Ugandan politics continued its path of instability in 1985 when the Acholi supported leader named Tito Okello overthrew Obote for good. Meanwhile, the increasing power of Museveni and his rebels in the South was undeniable. In 1986, Okello and Museveni signed the Nairobi Peace Accord, however fighting broke out immediately after which never allowed the Peace Accord to be implemented. Museveni then pushed Okello and his Acholi fighters north, until he had firm control of the government. As power was consolidated under Museveni, rebel groups continued to form and challenge the new government. Museveni and the NRM drew support mainly from southern Uganda, which marked the first time since independence that Ugandan Government was run entirely by southerners. This left the North extremely uneasy, and it is clear now that there is no unity among Ugandan people. What began as ethnic mistrust has grown into a cultural tradition where it is normal for an ethnic group to use violence against another in an attempt to gain power. Armed rebellion has become the only way to express disapproval of government, and it has been woven into the fabric of Ugandan culture. In the late 1980s, violence had become a part of society, and the stage was set for the rise of the Lord's Resistance Army.

The LRA was founded in 1988 by a Catholic preacher named Joseph Kony. Kony is from the northern city of Gulu, making him an ethnic Acholi. He claims the goals of the LRA are to overthrow Museveni and set up a theocracy based on the Ten Commandments. Kony, however, received very little support from the North. So he and his rebels began attacking local civilians, burning schools, and carrying out massive indiscriminate killings. The LRA has been responsible for the death of countless numbers of civilians. An example of a particular bloody week in Uganda occurred in July 1996, when forty soldiers, thirty-two rebels and two hundred twenty five civilians were killed (The Scars of Death, Human Rights Watch). It has not been this bloody the entire time since the LRA began, but Kony and his rebels have maintained at least a low level of guerrilla warfare during the more than twenty years that they have been organized. Strangely enough, the people who suffer most from the LRA activity are the northerners, which Kony himself is one of. As a result of the lack of support for the LRA, Kony began abducting children at night as a means of supplying his rebel army with soldiers. Abductions became so widespread that they caused devastating effects on the children living in the North, who were instilled with so much fear that many chose to 'night commute.'

Night commuting refers to the children in the North traveling by foot to nearby cities where they can sleep the night in 'relative'

safety -- 'Relative' safety meaning safer than if they were sleeping in their homes. However, kids as young as three years old would be traveling miles on foot just to sleep without the fear of being attacked and abducted (BBC News, Night Commuters). It is estimated that as much as ninety-percent of the soldiers in the LRA are children, many of whom are even younger than fifteen years old. Abducted boys are forced to be ruthless killers while abducted girls are forced to be sex slaves. These practices snub Kony's claim of ruling according to the Ten Commandments, not to mention international human rights standards. It is hard to understand why the LRA attacks the Acholi people when he is an ethnic Acholi himself. However, it is important to realize who LRA activity has a negative effect on. The LRA affects all Northerners, who must constantly live with the fear of being a victim of an indiscriminate attack. However, the LRA has the worst effect on the children living in the North, who live with so much fear that they choose to flee their homes and families at night in search of safety. The children who are abducted are not only denied an education, family, health, and food; they are also denied a childhood. This conflict, which began when the LRA was formed and President Museveni came to power, runs much deeper than simply the LRA attacking the people of the North. The LRA is the face of the violence in Uganda, but looking more closely there are four subplots which help to explain why the conflict has taken so many lives.

The subplots of the conflict in Uganda show the complexity of the nature of the conflict, but more importantly they make it clear why so little has been done to stop the violence. Many aspects of the violence and the abuses are simply not cut and dry, especially when examining the first subplot which embodies the conflict between the government and the LRA. Kony has made it clear from the beginning that the mission of the LRA is to overthrow Museveni's government. The LRA has not made any visible gains towards reaching this goal. The government has attempted to track down the LRA, however all attempts have failed. In 2002, the Ugandan army pursued the LRA north into Sudan, but was unsuccessful as the LRA has bases in the south of Sudan. As a result of government attacks on the LRA, as in 2002, the LRA responded by increasing attacks against civilians. So there is a delicate balance here, because the LRA has shown when the government reacts against LRA activity, that its the Northerners that suffer the consequence.

The violence between the LRA and northern Ugandans is difficult to understand, mainly because it looks as if Acholi are killing Acholi. This second subplot of the conflict is hard to grasp even for southern Ugandans. The LRA carries out indiscriminate killings and abducts children as sex slaves and soldiers. These do not line up with

the political goals that Kony has set forth, however. The purpose of carrying out abductions is to provide the muscle behind the man. The LRA abducts children at very young ages, and right away they are exposed to killing. They are forced to look at killing, participate in killing, or choose to say no and be killed. The LRA clearly violates children's rights. Child abuse therefore is not just the unfortunate consequence of the conflict, it is literally the driving force behind it. Eight out of ten soldiers in the LRA are under 18 years old. Children are being forced to fight the war of Joseph Kony and his men. LRA activity has dismantled society in the North, and left Northerners living in constant fear while people in the South live as bystanders.

The North-South divide is more apparent now than ever, as economically the South is prospering and the North is in economic ruins. The divide runs much deeper than economy, however, as each group has struggled and fought for political power since independence. Just as Obote attempted to consolidate Northern power in the government, President Museveni has done the same for the South. As a result of the ethnic unrest in Uganda, there is always distrust when one side has political power. The rift between the people has caused a rift between the government and the people. President Museveni draws most of his support from the South, and Northerners have made it clear during elections that they distrust him. The North has voted overwhelmingly against President Museveni in recent elections. This leads one to question how deep the ethnic divide actually runs. Being from the South and having little support from the North raises questions about the bias of Museveni's political agenda. President Museveni has made it a priority to aid the SPLA, which is a Sudanese rebel group attempting to overthrow the current Sudanese government. Museveni's support of the SPLA has fueled the violence against the Acholi and enabled LRA activity to continue for so long.

The Ugandan government has actively supported the SPLA, and in response the Sudanese government has actively supported the LRA. The LRA receives military aid from Sudan, and also has been allowed to create bases for their troops in the South of Sudan. This support has allowed the LRA to be much more effective because they have a friend to lean on. The spiteful conflict between the Sudanese government and the Ugandan government has merely fueled the violence and also made it much harder to completely wipe out the LRA. The four subplots of the conflict explain why the violence has gone on for so long. The byproduct of the conflict is the widespread use of child soldiers by the LRA. However, many children are forced to bear arms as part of local government forces as well, creating a conflict which is fought almost entirely by children (Uganda Conflict Action Network, *The Conflict*).

Child soldiers have become increasingly exploited by the LRA and government forces during the twenty years of conflict, however, this practice has become so widespread that it is a part of Ugandan society. At least 20,000 children have been kidnapped by the LRA, but most likely more. According to BeyondJuba.org, about 8 out of 10 LRA soldiers are under the age of eighteen. At one point in 2004, more than 1,100 child soldiers were mobilized as part of government forces. The extent of child involvement in the conflict is massive. It is appalling that Museveni allows children to bear arms in government forces and fight against the children forced into the LRA. However, Museveni has given an explanation for the use of child soldiers in government forces. He has said that the Geneva Convention prohibiting children under the age of 15 from bearing arms does not make sense for Uganda. He believes the convention is a product of the West, which has little understanding of Ugandan culture. Museveni argues from a cultural relativist standpoint, implying that child soldiers are an integral part of Ugandan culture and for this reason it is acceptable (Office of the Special Representative of the Secretary-General for Children and Armed Conflict, www.un.org).

Museveni addressed the issue of child soldiers with a cultural relativist approach, in an attempt to validate the use of child soldiers in Uganda. Ignoring the lasting effects that being a child soldier has on an individual child, Museveni considers child soldiers to be acceptable in Uganda because their increasing involvement through the course of the conflict has gained acceptance locally. However, it must be questioned whether just because child soldiers have become a norm in a culture in conflict that for this reason it is acceptable. By looking at pieces of international law ratified by Uganda in conjunction with the rights codified in the Uganda Constitution, the conflict and the use of child soldiers demonstrates the problems of cultural relativism.

Uganda has ratified several pieces of international law that fall in line with universal human rights standards. This suggests an inconsistency in Museveni's cultural relativist argument for child soldiers. The most significant Covenants that Uganda has ratified are the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention on the Rights of the Child (CRC). Uganda also ratified the Optional Protocol on the Involvement of Children in Armed Conflict (CRCOPAC). The CRC lays a groundwork of basic rights that children must be guaranteed, including the right to life and the right to be raised by a family. The CRCOPAC sets standards and a minimum age for enlisting children to fight. It establishes that "enlisting children under the age of 15 years or using them to participate actively in hostilities in both

international and non-international armed conflicts” can be tried as a war crime in the International Criminal Court (ICC). The CRC and the CRCOPAC have both been ratified by Uganda. When a country ratifies a piece of international law, they are agreeing in theory to the universality of the rights included. The country is also expected to work gradually towards creating an environment where the rights can be realized. The CRC was ratified in 1990. Eighteen years later, and after ratifying the CRCOPAC as well, Uganda has made little or no progress in creating a society in the North where children can realize their rights. The international laws say the Acholi children should not have to fear for their lives, or fear being denied life with a family and forced to fight and kill at such a young age. In ratifying these conventions, Uganda has made the statement that there is a belief that the universal human rights embedded in these laws apply to all cultures and all people. Many of the human rights in the conventions ratified by Uganda have been codified in the Uganda Constitution as well.

The Uganda Constitution was drafted in 1995, and the entire fourth chapter is devoted to establishing a national standard of human rights. There are a lot of rights in the Constitution that are also enshrined in international law. The Constitution declares that all people have the right to life, to personal liberty, to an education, to a culture of their own, to vote, to safe working conditions, and to a fair trial. These are just some of the rights that are guaranteed to all Ugandans, and these examples show the extent of rights which are included. The Constitution establishes rights of children as well. The rights included are the right of all children to a basic education and to not be denied medical treatment. The constitution, unfortunately, does not include anything about a minimum age of children to bear arms. Many of the human rights standards the constitution establishes are commonly practiced in southern Uganda. However, it is apparent that these standards are not internalized locally in the North, mainly a result of the conditions imposed by the LRA and President Museveni. There is a breakdown between rights codified in the Constitution and the conditions that the Acholi face in the North. Bonny Ibhawoh argues that a congruency among state laws and cultural norms is critical in order to gain acceptance of human rights standards at a local level. State laws and cultural norms are obviously two very different worlds in Northern Uganda. The ongoing conflict in the North coupled with some international attention has caused President Museveni to construct internally displaced persons camps, or IDP camps.

1.7 million Northern Ugandans are currently confined to IDP camps under orders given by the government. This unimaginable number means that more than 80 percent of the region has been forced from their homes to live in these camps. The IDP camps should be a

way for President Museveni to protect the Acholi people in the short term, by providing necessary provisions and security. However, the camps are equally or even more dangerous for the Acholi which reveal the true intentions of President Museveni. The camps are extremely over crowded and unsafe. Museveni has secured IDP camps with very little government forces, making it extremely easy for the LRA to attack the camps. The displaced persons have to wait in long lines for hours at a time just for water, and food is not easy to come by. Alcoholism and rape are widespread problems of the neglected IDP camps. The camps have made the situation worse for many Acholi people. Human rights abuses against the Acholi have continued, and there have been many cases of rape and torture inflicted by government security forces. As a result of the lack of security at IDP camps, the Acholi are extremely vulnerable to attacks by the LRA. The horrific conditions within IDP camps and the lack of security show that President Museveni has made no real attempt to end the violence against the ethnic Acholi people. With no end in sight to the conflict in Uganda, in December 2003 the International Criminal Court (ICC) began investigating crimes committed in Uganda (Uganda: Displaced People in the North Struggle for Basic Needs, AllAfrica.com).

Following a request by President Museveni, the ICC began investigating crimes committed by the LRA in Uganda. In 2005, five arrest warrants were issued against Joseph Kony, leader of the LRA, and four of his top commanders. With the hopes of bringing international attention to the conflict and helping to end the violence, the ICC was met with unexpected resistance. As J. Alex Little comments, the Acholi responded to ICC investigations by speaking out and criticizing them, which is hard to believe because the purpose of the investigations was to help the Acholi. There are two reasons for the negative response by the Acholi. The first reason is a result of the Juba Peace Talks between the LRA and the Ugandan government, which began in 2006. The Acholi have high hopes for the Juba Talks, and were worried that the ICC would prevent progress from being made. The second reason is a fear of an LRA backlash against the Acholi people. Immediately after the arrest warrants were made public, the LRA reacted by attacking and killing 200 Acholi. In fear of their lives and further violence, the Acholi spoke out against the ICC investigation. Unfortunately, the ICC has had no affect in ending the violence in northern Uganda. Children continue to be forced to bear arms and fight and the majority of northern Ugandans are still confined to living in dilapidated IDP camps.

"Everything Acholi is Dying," says Father Carlos Rodriguez, a missionary priest in the region. (The Secret Genocide, I) Over the span of twenty plus years, the LRA has systematically destroyed the

ethnic Acholi. As Olara Otunnu believes, who served as the Special Representative for Children and Armed Conflict for the UN from 1997 to 2005, it is not merely the LRA that is responsible for destroying the Acholi people. President Museveni has been using the LRA as a cover to the rest of the world in order to eliminate the ethnic Acholi in the North. Otunnu says “under cover of the war against these outlaws, an entire society, the Acholi people, has been moved to concentration camps and is being systematically destroyed—physically, culturally, and economically” (The Secret Genocide, 1). HIV is being used as a tool by the government to destroy the Acholi. Government soldiers who test positive for the virus are purposefully sent to the North, where the virus is believed to have infected as much as 50 percent of the population. The ICC and the public eye have been steered away from Government crimes and abuses. The actions and inactions of President Museveni have clearly contributed to the violence in the North, but more importantly exemplifies how deep ethnic divisions run in Uganda. In a war that is waged by both the LRA and President Museveni against the Acholi, it is undeniable that a generation of children has become a means to an end (Otunnu, The Secret Genocide).

The children of Northern Uganda are becoming a lost generation in a secret genocide. The conflict began more than twenty years ago and during the course human rights abuses have become part of the culture. Child soldiers have increasingly been abducted and forced to bear arms by the LRA, and as a result they are now the backbone of the rebel army. Despite the international law ratified by Uganda acknowledging the rights of the child and against children in armed conflict, child soldiers are used in government forces and local defense units as well. The use of child soldiers has become so rampant that it is culturally accepted on some levels. Cultural relativism argues for the use of child soldiers in Uganda because it has become a cultural norm. However, the use of child soldiers clearly violates international law and human rights standards. Attempting to validate the use of child soldiers on the grounds of it being part of the culture simply does not make sense. This argument ignores the devastating effects that the use of child soldiers has on the children, who are being denied a life, a family, an education, and a childhood. Cultural relativism argues that what a culture says is right, is right for that culture. However, there is no logic to this argument because it fails to allow a culture to examine itself and other cultures, leaving no room for moral progress. As Museveni has argued, child soldiers have become part of the culture of Uganda. He argues that this is something the West simply does not understand. However, his argument is called into question when you realize pieces of international law supporting the rights of the child have been ratified by Ugandan while President Museveni has been in

power. Rights of the child are also codified in the Uganda Constitution, which clearly goes against his argument. If there was any truth behind the cultural relativist argument for the use of child soldiers in Uganda, then it is contradicted in the ratifying of the Convention on the Rights of the Child and the Optional Protocol. However, any argument for the use of child soldiers in Uganda is negated looking into the eyes of that eight year old boy who is holding an AK-47 and has killed dozens of his own people with a “look of an old man in his childish eyes” (Uganda: Land of the Child Soldier).

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Erga Omnes

Kaitlyn Widlak

The idea of human rights, though institutionalized in industrialized countries like the United States, is a young concept. Human rights comprise individual, natural freedoms that are still being shaped and defined both nationally and internationally. Throughout the world's history of tyrannical chaos, restorative justice has been carried out in diverse ways. The concept of restorative justice is complex because of the intrinsic challenge of moving towards national unity while recalling an atrocious past in order to achieve a sense of reconciliation. Countries in Latin America and Africa have especially dealt with these problems and have thus impacted the notion of human rights and human rights institutions. Restorative justice has served the human rights idea through individual cases that consult justice in varying ways, by inciting debate on the best method of dealing with past atrocity, and in constructing the history of human rights as new strategies are applied to the protection of natural liberties. As the world turns towards the direction of increasing globalization an "erga omnes"¹ is evolving to awaken our global connection to ensure that all people share equal human freedoms.

Restorative justice is a country's means of dealing with human rights violations in order to reconcile with the past to construct the future. The Nuremburg Trials were a precursor to the Truth Commissions and criminal courts that are now put into place after a period of grotesque violence. The Holocaust is a dark time in human rights history and the trials against it were successful in discrediting the Nazi regime but ineffective in ending human rights crimes permanently. The twentieth century carried immense suffering and the transitional periods were oftentimes unsettling, especially to the victims of the violent, unnecessary offenses. There were no trials for Stalin's purges, amnesty was given to all political murders under 'Papa Doc' and 'Baby Doc' in Haiti, Cambodian human rights violators under Saloth Sar, or Pol Pot, were pardoned, and numerous other crimes have gone ignored. These violations are unforgivable and without the establishment of justice no country will ever be able to fully heal these abrasions of the past. The perpetual scraping that these violations cause on the human heart and mind of the victim will forever damage the country and its morals.

The Truth and Reconciliation Commission (TRC) established in South Africa after the Apartheid serves as the model of restorative justice. Granting amnesty to human rights criminals after they provided testimonies while the victims told unbearable stories out loud is one of the most famous acts of restorative justice. The TRC was determined and dedicated in recording the truth through listening to the survivors' experiences. The South African public, along with the rest of the world, now have primary sources of testimonials as a result of the action of the TRC, which is significant because it is through this

awareness that the world is less likely to experience such a cruel reality again.

The restorative justice experience in South Africa differed from Latin American truth commissions, causing a discrepancy to form in human rights ideology since there is not an international standard for dealing with transitional actions. A Truth and Reconciliation Commission was introduced in 2001 to investigate two Peruvian guerilla groups, the Ronda Campesinas and the Peruvian armed forces. Nine volumes containing over 8,000 pages and 17,000 testimonies were produced, establishing that 69,280 people were killed.² These victims were left uncompensated, however, and this left people disillusioned and cynical about the Truth Commission. Transitional justice in El Salvador, Chile, and Argentina did not achieve overall success either, as the transitional governments did not concretely acknowledge the victims. In a country where inexplicable atrocity has occurred, like Argentina's Dirty War when thousands of innocent people "disappeared," reconciliation is imperative and can only be accomplished by some form of justice. Despite the individuality and specific nature of a country's restorative justice program, they all contribute to the general idea of human rights by attempting to re-establish integrity. South Africa, Peru, Chile, El Salvador, and Argentina attempted to restore righteousness through their own experiments and until an absolute system of justice is established new approaches will continue to arise.

Every country that experienced human rights violations has created its own specific concept of restorative justice, as scholars, lawyers, politicians and human rights activists continue to debate upon the most enhanced means of attaining justice for all. The three most basic uncertainties revolve around the question of retribution or reconciliation, whether to act vengeful or forgiving, and if prosecution or pardon is more constructive to a country in the aftermath of moral and physical destruction.³ Looking at specific cases raises difficulty to the already complicated dilemma of restorative justice because every transitional government possesses varying ideologies. Leaders who oppose restorative justice make the valid claim that it could weaken the new regime, reawaken traumatic feelings, and would be too costly; while proponents also make legitimate arguments, including the dangers of ignoring the government's responsibility to endorse justice and failing to identify the guilty. A survivor of torture during the Apartheid, Xolile Dyabooi, recollects upon South Africa's transitional period as a time of rash, sudden change. He states, "I didn't become part of the transition process. Due to that fact, I neglected it."⁴ This statement supports the concept that restorative justice is crucial for a victim to come to terms with the country he or she was violated by. This is important to the internal psych and the sociopolitical context since restorative justice

assists inner healing while the country reforms itself on the foundation of truth.

There are varying perceptions that define restorative justice. Methods of dealing with restorative justice continue to be vague and discussions, arguments, and debate have ensued in the human rights community in order to determine the most productive way for a country to move towards unity. Through individual national experiences, it is clear that restorative justice has maintained a continual presence in human rights ideology. New theories and ideas of restorative justice are contributing to and advancing the concept of human rights. It is thus through awareness that future human rights violations may be prevented and the concept of restorative justice formed into a solid definition and practice. Restorative justice is becoming a concept of human rights history and is still in a formulating stage. International human rights have been developing for less than a century and, restorative justice is an extensive question that the world has become involved in answering.

Human rights have extended far beyond their origins in Enlightenment philosophy and developed into a campaign of dignity, active intervention, and forward movement. But is restorative justice the best means of settling human rights violations or is time the only true method of healing? From the Nuremberg Trials, to the TRC in South Africa, victims have not been neglected and their history remains to teach the world about an atrocious past that should also not go abandoned. We reconcile with the past through a worldly effort--an "erga omnes"--which is our obligation to study human history in order to aspire towards a less violent world. To this end, justice systems are converging with human rights so that when cruel incidents like genocide, war crimes, and crimes of aggression occur, they can be settled immediately and effectively. While the limited success of restorative justice mirrors the complex, involved, and challenging nature of human rights, it remains a transformative and constructive concept, inciting a newfound confidence within the human rights field that will carry reconciliation and lessons of compassion into the future.

1 Editor's note: "Erga omnes" is a commonly used legal term roughly meaning "rights toward all."

2 Lisa J. Laplante and Kimberly Susan Theidon, "Truth with Consequences: Justice and Reparations in Post-Truth Commission Peru," *Human Rights Quarterly* 29 (February 2007): 232-233. Project Muse, http://muse.jhu.edu/journals/human_rights_quarterly/v029/29.1laplante.html.

3 Roman David and Susanne Choi Yuk-ping, "Victims on Transitional Justice: Lessons from the Reparation of Human Rights Abuses in the Czech Republic," *Human Rights Quarterly* 27 (May 2005), 405. Project Muse, http://muse.jhu.edu/journals/human_rights_quarterly/v027/27.2david.html.

4 Xolile Dyabooi, in *After the TRC*, ed. Wilmost James and Linda van de Vijver (Athens, Ohio: Ohio University Press, 2001), 5.

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Family Equality For the 21st Century: Marriage and Beyond

Alison Berk

As social activists, we ought to be careful to treat the fight for same-sex marriage for what it is – a means to achieve full and sustainable equality – instead of an end in and of itself.¹ On the one hand, marriage has, in all of its various forms, come to symbolize a certain kind of relationship legitimacy and through that, civil right. For example, advocates for interracial marriage in the fifties and sixties were making a statement that people of all races were fully capable of entering into an equitable relationship with each other because they themselves were equal. The social implication of the decision in *LOVING V. VIRGINIA* in 1967 was that relationships between white people and people of color were not a threat to society or racial integrity because the individuals in them were equal, and should therefore be dignified with the same rights as other relationships. Similarly, today when activists fight for same-sex marriages, they are essentially fighting for the recognition of the fact that two people, no matter their gender or sex, can enter into equitable relationships that are as beneficial to society as all others. Moreover, by using the same terminology, “marriage” in this case, the relationships are equalized not only in a social context, but in language as well.

Our society has made it true that the word “marriage” carries with it a certain sense of legitimacy and respectability simply through the importance we arbitrarily place on it socially, legally and otherwise. However, marriage is too narrow and comes with entirely too much cultural baggage for it to be the most useful or efficient type of union. An example of how marriage falls short as an institution is the provision and distribution of healthcare through the union. First, it makes no sense to attach healthcare to marriage status since the two have nothing to do with each other. Outside of the artificial bond that public policy has created, marriage and healthcare have no bearing on each other. Second, a policy like this places terrible burden on one who might find themselves able to offer healthcare via marriage. Imagine being made to choose between offering life-saving healthcare to a partner or to a best friend. It should never be the case that the only way to obtain healthcare is through marriage. Unfortunately, our public policies towards marriage as a legal institution have made it so that this choice faces hundreds of individuals. The synthetic bonds between marital status and the ability to claim rights are not only absurd, but quite cruel as well.

Clearly, marriage as an institution fails for legal reasons. However, it also lacks socially in its ability to encompass the infinite varieties of relationships. For example, multiple issues arise when trying to reconcile the traditional idea of marriage with issues facing the transgendered and transsexual community. For example, transgendered author and activist Jennifer Finney Boylan describes how her transition

has caused quite a few legal disparities with her marriage to her wife. In some states, they are currently legally man and wife, in others they are wife and wife, and in still others, their marriage is no longer recognized at all or only on a limited basis².

As a legal or social institution for officially recognizing relationships, marriage is too outdated, even within the context of two adults. What about families that do not fit the traditional mold of two adults plus children (our population's definition of what even constitutes a family in the first place)? We need to find an infrastructure that will be able to change along with the growing number of relationship variations and does not carry the already muddled legal, religious, and social implications of marriage.

Lisa Duggan, professor of social and cultural analysis at the University of Pennsylvania explains: "U.S. Census findings tell us that a majority of people, whatever their sexual and gender identities, do not live in traditional nuclear families." Instead, they are "Senior citizens living together, serving as each other's caregivers, partners, and/or constructed families, Adult children living with and caring for their parents, grandparents and other family members raising their children's (and/or a relative's) children, committed, loving households in which there is more than one conjugal partner, blended families, single parent households, extended families (especially in particular immigrant populations) living under one roof, whose members care for one another, queer couples who decide to jointly create and raise a child with another queer person or couple, in two households, close friends and siblings who live together in long-term, committed, non-conjugal, relationships, serving as each other's primary support and caregivers, care-giving and partnership relationships that have been developed to provide support systems to those living with HIV/AIDS,"³

Expecting "traditional" families, that is to say families with one female mother, one male father and 2-3 children, is at best a misnomer, in the sense that all are unique, and at worst counter-productive to understanding what fundamental properties actually constitute a family if there are any at all. Furthermore, if "traditional" families are the minority, then offering rights on the basis of one's participation in one is to offer rights to a very small population of citizens.

Clearly, it would be impossible to seek to write public policy that explicitly defines these and all of the other types of families that exist today. Therefore, instead of focusing on trying to find wording and language that will encompass different kinds of relationships, perhaps we ought to consider the act of defining what a "family" is as a matter of private and personal autonomy and seek to guarantee the rights of "families" as they are defined by the individual.

Lastly, it is important to recognize that the fight for any kind

of civil right is an unwinnable one without allies. The issue of marriage equality is one that affects most of the U.S. population even though most citizens are not likely seeking same-sex marriage recognition. However, they may find themselves in one of Duggan's "non-traditional" families. By focusing on recognizing diverse familial units instead of just ones with two married adults, we could draw support from siblings and extended families living together long-term, single parent households, care-giving partnerships or other types of families. They would not only be allies, but something much more effective – individuals angry on their own behalf instead of on behalf of others.

At this point, it is important to address the argument that allowing individuals to decide what family is will serve to undermine and delegitimize what family or marriage actually means. To this I have two responses. The first is that we already allow individuals to decide what that means, it just so happens that we only allow, or at least listen to, the majority or ruling class. It is simply by sheer tradition, and not an undeviating or very old one, that marriage has been defined as a monogamous, heterosexual relationship. Secondly, leaving the definitions of family and marriage up to the individual (all individuals) would actually serve to further legitimize it in the eyes of the population. Recognizing a relationship as having been, in all aspects, voluntarily entered into would create a greater sense of ownership and commitment to that relationship. It is not simply the socially prescribed course of life and instead has everything to do with the choices of the parties involved.

Marriage in general should not be the pinnacle of what social activists strive for. While it may be true that marriage has become a symbol of full equality and citizenship, it is important to refrain from becoming fixated on attaining the right to marry while forgetting that what we are really fighting for is equality. As a culture, we revere marriage and, as a result, it has become the great equalizer for the queer community. As activists, we must recognize that fighting for same sex marriage is a form of fighting for equality and we should therefore continue to do it. But we must not forget that it is a flawed institution and we should not confuse the right to marry with the right to equality as human beings.

1 George Chauncey, a Professor of history at Yale and a queer rights activist describes “the freedom to marry, including the right to choose one’s partner in marriage, [has become] regarded as a fundamental civil right and a powerful symbol of full equality and citizenship” (165).

2 Boylan, Jennifer Finney. *She’s Not There*.

3 Duggan, Lisa. “Beyond Gay Marriage.”

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Comparing Processualism and Post-Processualism in Native Title Archaeology

Kathleen Stewart

The Australian Aboriginal community had a conflicted and stormy relationship with Western archaeologists in the eighteenth- and nineteenth-century colonial era and in the postcolonial era of the first half of the twentieth century. However, since the indigenous rights movement of the 1960s and 1970s, Aborigines have increasingly turned to archaeologists and anthropologists for aid in establishing proof and importance of cultural heritage against obstacles such as the recent popularity of cultural tourism and in the wake of the watershed case for indigenous land rights, *Mabo v. Queensland*. The Aboriginal relationship with the land is decidedly non-Western in concept and has been historically misunderstood and unvalued by Anglo-Australia. Post-processual archaeologists such as Christopher Tilley have recently begun to explore how the land relates to Aboriginal history and identity on both the communal and the individual level.

Today many Aboriginal communities are working with anthropologists and archaeologists to reclaim the heritage white Australia tried to wipe out and re-establish the dignity of the Aboriginal identity. In court cases of native title, archaeological evidence is often integral for establishing proof of continuous land use both pre- and post-contact with Europeans. In the first part of this paper, I will lay down the foundations for modern native title claims by outlining the history of the policy of *terra nullius* and by describing the unique nature of the Aboriginal relationship with the land as examined by the post-processual archaeological approach emphasizing the meaning of the land for Aborigines. In the second part, I will examine case studies, one set described by Luke Godwin who advocates a post-processual approach to native title archaeology, and another done by Peter Veth, who follows a more neutral, processual approach in gathering evidence for native title claims.

The British colonized Australia in 1788. In the years that followed it was settled under a condition of *terra nullius*, literally "empty land," meaning that the continent was uninhabited at the time of Captain Cooke's arrival. While not ever an official policy, the precedent of *terra nullius* set the stage for ignoring and abusing the Aboriginal community that were to span the next two centuries. Colonialists were allowed to claim land freely and without consideration of Aboriginal concepts of land, territoriality, or resource management. *Mabo v. Queensland's* 1992 decision was in many respects the single-most important event in the Aboriginal struggle for native title.

Mabo v. Queensland had been tried once before, in 1982, when Eddie Mabo and four other Murray Islanders argued their ownership of land on the island was based on the grounds that "the islands had been continuously inhabited and exclusively possessed by their people who lived in permanent, settled communities with their own legal social political organization. Further, they claimed that their

rights had not been validly extinguished and that their rights continued to be recognized by the Australian legal system" (Hill 1995, 307). Importantly, Murray Islanders and Torres Strait Islanders traditionally lived a far more sedentary lifestyle than mainland Aborigines and, unlike mainland indigenous peoples developed horticulture, making their case for land ownership stronger under a 17th century definition by John Locke of sovereignty, which linked it to the cultivation of land; a definition which had bolstered the *terra nullius* precedent since the time of colonization (Buchan and Heath 2006, 8). What truly defined the Mabo decision as a watershed, then, that in "[upholding] communal native title of the Murray Islanders" was agreed by all Justices trying the case to be "determined in the light of the common law applicable in 1788 and therefore as part of the law applying to Aborigines on the mainland as well as Torres Strait Islanders" (Hill 1995, 307). The Mabo decision policy of *terra nullius* was officially acknowledged as inaccurate and overturned it for all legalistic purposes.

The issue of native title was and is an indigenous right of particular importance for Australian Aborigines by virtue of their uniquely intimate relationship with their land. Tilley asserts that, "it is impossible to consider the Australian Aborigines adequately without considering landscape, so strong is their relationship with it" (Tilley 1994, 37-8). Aboriginal mythology, or the Dreamtime, is largely the reason behind the strength of the relationship between Aboriginal peoples and the land.

Tilley explores the experiences of places and landscape with a post-structural tilt, one approach within the eclectic post-processual school, which focuses on connecting archaeology and society, especially indigenous communities, and so is very conducive to Aboriginal native title claims. In his *A Phenomenology of Landscape*, Tilley makes a case study from ethnographic literature on "Landscapes of the Dreamtime," saying "the Aboriginal landscape is one replete with a highly elaborate totemic geography linking together place and people...[it] provides an ancestral map for human activity [and] is sedimented in history and sentiment" (Tilley 1994, 38). From the Aboriginal perspective, land use and land ownership are not mutually entailing, a concept that is supported by the polyvocal and polysemic post-processual approach to archaeology.

In his case study, Tilley discusses in detail the Uluru or Ayers Rock: "Perhaps the most striking example of topography embodying living mythology is Ayers Rock in the middle of Australia...Ten different totemic mythical beings created the topography of the rock" (Tilley 1994, 43). The Uluru is so imbued with Dreamings, or Aboriginal mythological stories, that virtually every part of its face of religious significance to the local Aboriginal people. Tilley describes the Uluru

as “a focus for linking present populations to the past ancestral forces, involving rock engraving, painting and initiation rites” (Tilley 1994, 47). The sacrosanct nature of the rock has been compromised by the disparity between what land means to Aborigines and what it means to Westerners, who lack the intense religious and historical connections that for the Aborigines give the land its meaning.

This conflict between Aboriginal concepts of the religious and historical importance of the land rights and the Western tradition of actively exploiting the land as a secular entity illustrates the distinction made earlier by Aborigines between land use and land ownership. The Aborigines do not so much wish to “own” the land on which they are claiming native title in the Western sense, their goal is rather to remain in contact with the land and continue to use the land according to ancient traditions. Tilley observes “alienation of any part of the country from its rightful owners and their heirs is a violation of the entire [Aboriginal] moral order, a desecration,” but note here that “alienation” does not imply lack of land ownership, only lack of contact with the land (Tilley 1994, 48). Ronald Paul Hill elaborates on this distinction: “Given this perspective [of land as a religious phenomenon], Aborigines view rights to land as originating with design of the world rather than with alienable legal title” (Hill 1995, 309). The central issue in native title, then, is reconciling Aboriginal and European concepts of land ownership.

The post-processual approach is much more conducive to resolving this central issue of concepts of land ownership than processualism because it accepts the possibility of multiple meanings of material culture and acknowledges the politics of the past’s challenge to constantly challenge both general and individual assumptions in interpreting the past. Post-processualists are encouraged to re-evaluate their assumptions, most likely Western in origin, about land use and ownership, which stress active exploitation of the land’s resources and permanent settlement on the land as sole owners of a given territory. Aboriginal concepts of land, territoriality, and resource management are widely disparate from these Western views; for them, “territories are made up of significant sites, rather than being conceived in a more abstract spatialized manner as relatively well-defined areas of land with boundaries containing sites” (Tilley 1994, 39). This disparity necessitates someone with the mindset like that of a post-processual archaeologist to act as mediator between the two when they meet head-on in native title claims.

Aboriginal culture and identity, which may be as much as 150,000 years old, has been largely belittled and marginalized by anthropology and archaeology both (Hill 1995, 308). Hodder shows how the development of indigenous archaeology grew out of “West-

ern archaeologists working in non-industrialized societies, particularly in the post-colonial era, [becoming] increasingly confronted both with the idea that the pasts they were reconstructing were 'Western' and with an articulate rejection of those pasts as being politically and ideologically motivated" (Hodder and Hudson 2003, 157). Through indirect Anglo-Australian actions, such as development of mining projects on traditional lands; and direct actions, such as the reservation system still partially in place and the assimilation and removal policies which into the 1970s and 1980s fractured hundreds of Aboriginal communities and separated thousands of Aboriginal families by transplanting more European-looking children to live in missions or with white families, the Aboriginal community has been cut off from its lifesource, the land of its ancestors and Dreamings (Hill 304, 1995).

Through his interviews with Aborigines comparing life on the Cape Leveque reservation and in the town of Hall Creek, both in Kimberly in northwest Australia, Ronald Paul Hill concludes that "displacement and subsequent lack of access to traditional lands may be responsible, in part, for higher rates of alcoholism, unemployment, and dysfunctional families in towns [more removed from traditional lands than remote Aboriginal communities]" (Hill 1995, 317). The degree of injustice committed in the transplantation of the Australian Aborigines is particularly acute, even when compared to other instances of colonization and subsequent systematic cultural eradication, by virtue of the extent to which Aboriginal identity is entwined with the land. Despite the persistence of "considerable mistrust, misunderstanding, and resentment" (Hodder and Hudson 2003, 158) of Western peoples and practices, including archaeologists and archaeology, the establishment of legislative processes for reclaiming ancestral land via bills such as the Native Title Act have created a venue for Aboriginal and Western collaboration in recovering a more accurate truth of the Aborigine's non-Western past.

The 1993 Native Title Act, passed post-Mabo as a formal venue for establishing native title, requires that archaeological evidence establish multiple proofs of continuity, including but not limited to: "patterns of residence; subsistence behaviours on both lands and waters; aggregation based on ceremonial activities; the procurement and use of stone, ochres and minerals; visitation and residence at particular places on the landscape; and the production and curation of art" (Veth and O'Connor 2005, 4). Collection of such data clearly implicates political agendas that work either for or against the Aboriginal claimants of native title. This is why the post-processual approach is well-suited for native title archaeology- it acknowledges the socio-political disposition of the individual archaeologist and encourages the archaeologist to incorporate local communities in the excavation and interpretation

of material culture.

However, the processual emphasis on ethno-archaeology and understanding of pre-historic material use through study of material use by present peoples is also integral to native title archaeology as claimants seek physical proof of continuity of land use, naturally implying a parallel between ancient and modern material use. Where post-processualists incorporate Aboriginal voices into archaeology, processualists incorporate Aboriginal traditions as scientific subjects of study. The following two sets of case studies showcase each approach and how they are respectively used by archaeologists, here Luke Godwin and Peter Veth, to the advantage of Aboriginal native title claimants.

Today, archaeologists working in Australia increasingly acknowledge in the post-processual vein that “the organization of research itself is a social, political and cultural act that frames the archaeological inquiry as such” (Godwin and Weiner 2006). Godwin asserts that archaeologists as investigators of cultural heritage play a key role as mediators between Aborigines who seek native title to re-establish their relationship with the land through either living on the land or using it as a site for ceremonies, ritual hunting, etc. and legislators or other government agents, for the sake of their own interests, seek to somehow infringe upon the various set of rights accompanying native title (Godwin 2005, 75). This concept of archaeologists as cultural heritage managers is very much within the post-processual tradition of the archaeologist as an interpretator of evidence rather than a final authority on what happened in the past.

In relation to native title archaeology, Godwin advocates Aboriginal groups “[taking] an active role in managing their cultural heritage in the context of development actions, assuming the role of principal consultants with archaeologists slotting into the role of professional heritage advisors” (Godwin 77). In claiming native title over lands slated for development projects, the Gangalidda people of Central Queensland pointed to continuous use of trees on the land to extract honey. The trees from which this honey, called gambirlarri by the Gangalidda, is extracted bare scars made with both stone and steel axes, “[providing] a material demonstration of the continuity of the use of this resource from the pre-European past to the present day” (Godwin 2005, 78). Note here that the focus is not on material use per se as it would be in a processual ethno-archaeological approach, as there is a shift to more advanced steel equipment in modernity; rather “of more concern is that it was a traditional practice, and that the cultural context within which that practice took place has been maintained” (Godwin 2005, 78).

Godwin also examines a case dealing with stone artifacts. The Ghungalu and Kangoulu people of Central Queensland both have

claims in the Blackwater region, where they worked with archaeologists to make sure nothing of important cultural significance was disturbed by a development project for new coalmines. The area was home to “the single greatest concentration of cultural material, and the greatest diversity of cultural remains, observed anywhere in the entire Bowen Basin” (Godwin 2005, 79), and in the end it was tribal elders, not Godwin and his colleagues, who decided that the area was culturally significant.

The elders’ input was incorporated into the survey of the area and subsequent decisions about developing the mines. Their initial conclusion that the area needed protection was reaffirmed by the elders in a distinctly non-Western manner: “...bees buzzed around people for the duration of the visit [to the survey area]. This was interpreted in the following fashion: the native bee is the yuri (‘meat’ or totem) of a senior Ghungalu person who is one of the acknowledged apical ancestors for their claim, and now, as he is long deceased, one of the ‘old people’...he was there, watching over the area and watching over the behaviour of his descendants” (Godwin 2005, 79). Totemism, or the use of plants and animals from nature to express kinship systems and other human relations, is a subject of anthropology but it is embraced by structuralism within post-processualism as part of Hodder’s treatment of material culture as language.

According to this ideology, material culture, like language, has a deeper underlying structure; a kind of “language” made up of linked signs or “signifiers” below its superficial meaning. Because Godwin was of the post-processual school of thought, he put serious weight in what the elders thought was the best course of action and acted as a mediator between the Aborigines and the developers to ensure that the responsibilities the Ghungalu and Kangoulu peoples felt they had to the land were honored and could continue to be carried out.

The other set of case studies I will now discuss were carried out by Peter Veth in direct relation to certain native title claims. While each of the following studies was indisputably politically charged, Veth in his report does not address the underlying history of injustice that native title claims are attempting to rectify, noting that “the archaeologist as an expert witness...must not act as an advocate for a party and that the paramount duty is to the court and not to the person retaining the expert” (Veth and O’Connor 2005, 3). The methods Veth used and the manner in which he reported his findings are more scientific than socially focused in the processual tradition.

In Veth’s report there is evidence of him collaborating with or engaging the Aboriginal communities filing the claim in his surveys, but his account of their interactions is more clinical and dry than Godwin’s. While it is fair to promote impartiality in court proceedings,

this policy of isolation from the Aboriginal community claiming native title is in line with one of the major criticisms of processualism: it concerns systems and subsystems that produced material culture and not people in different groups of society. This problem makes the processual approach poorly suited for native title archaeology, which is itself initiated by people intimately invested in a survey's findings. As such they deserve to be acknowledged and consulted by the overseeing archaeologist.

Veth's overarching argument in his paper is that greater attention be paid to glass artifacts in native title archaeology, demonstrating how their presence "attests to the presence of an Aboriginal population at/after contact" by virtue of their "[unquestionably undergoing] secondary modification" (Veth and O'Connor 2005, 5). His focus is on this second half of continuity in land use, that is, use following European arrival. Given the vast disruption and displacement European settlement caused for Australian Aborigines, this is understandably a difficult task, and one necessarily entangled in past and present politics and social relations in Australia.

Veth lists a number of the different ways archaeological data can be used to prove native title in this post-contact respect: "Aboriginal presence in the form of European materials such as glass, metals, and ceramics; the depiction of European items such as horses and guns in rock-art;...shelters/caves with evidence for occupation which contain modified European materials; [and] ceremonial activity, witnessed by the maintenance of regeneration ceremonies at places comprising stone arrangements/modified landscapes" (Veth and O'Connor 4). Veth points out that glass artifacts are of particular benefit in native title claims (when they are present) because the color of the glass and the method of its production can be used to date surface scatters. He does not, however, discuss the benefits this has for the Aboriginal peoples claiming native title, choosing instead to remain staunchly within the realm of the scientific specifics of the scatters.

The other predominant evidence for continuity Veth discusses is contact art. In 2003's Ngarluma-Yindjibarndi title claim, one of the strongest pieces of evidence found for post-contact land use was contact art "found on structures which are known to date to the pastoral era, such as engravings of Europeans with details of their clothes engraved onto dry stone walling used to enclose sheep" (Veth and O'Connor 5). Similarly, in the De Rose Hill claim from the same year, contact art that "overlies demonstrably earlier art, such as a mounted rider painted near engravings with desert varnish" was found (Veth and O'Connor 5). In 1998, the work done for the Miriwung-Gajerrong claim found it to be the "clearest example of ongoing maintenance of totemic sites...totemic sites [there] are retouched

(repainted) with ochres procured from quarries.” (Veth and O’Connor 7). The Aborigines filing this claim seek to “exert rights to repaint such sites at multiple levels and these connections can be elaborated on as claimants clearly over-paint earlier phases of art production” (Veth and O’Connor 7). The approaches Veth used in investigating these examples of contact art included documentation of superimposition, patina, rates of weathering, and direct dating of organic traces.

Both Peter Veth and Luke Godwin are native title archaeologists who work with Aboriginal communities seeking compensation for Anglo-Australia’s past injustices and assurance that the Aborigines will be allowed to use and interact with the land that is so integral to their vitality and identity. However, Godwin’s post-processual approach to native title archaeology is much better suited to the social and political complexity of native title claims than Veth’s neutral and clinical methods. While it is ideal for an archaeologist working as a kind of translator between white and black Australia to remain unbiased, it is ultimately unrealistic and Godwin is more successful in recovering native title claims for Aboriginal communities because he acknowledges this.

Native title archaeologists, whether they like it or not, are a key bridge connecting European and Aboriginal Australia, and are much more successful to this end if they employ the post-processual approach or other approaches which acknowledge the politics of the past (such as Marxist and feminist archaeology) which all seek to incorporate Aboriginal groups into each step of the process of archaeological survey. To the extent that archaeology is a tool for righting the historical wrongs suffered by the Australian Aborigines, post-processualism, not processualism, is the more effective mode of interpretation.

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A Brief Introduction to the Concept of Identity

Edward Burger

Note on the piece:

The piece found below is not in itself a self-sufficient work; it is an excerpt from a research study completed in 2008 at my former college, the Copenhagen Business School in Copenhagen, Denmark. The study was an undergraduate-level assignment undertaken by Svante Graulund, Cecilie Winterø, Victoria Johansen, John Johannsen, and myself.

This study compares the markedly different education approaches present in Denmark and the UK in 2008. The goal was to determine which of the two countries' education systems more soundly formed the identities of ethnic minority youths in the schools. The Danish system uses a distinctly assimilation-based approach whereas in the UK they favor an accommodative approach. Our findings supported our hypothesis that, of the two, the British system of accommodating ethnic minorities would help form healthier identities.

Due to the evident role identity-forming would play in the report we felt it necessary to include a brief study on the matter in the introductory chapters. The piece before you represents a part of my involvement in the paper but I must mention that the five of us altogether contributed in equal amounts to the entire, finished 70 page report. Credit is due to them for the bulk of the paper which is not present here.

In its original context this work had no formal heading other than 'Chapter 4.1' though here it is given an appropriate title.

I. Introduction

The difficulty of integrating into a new society is always immense and is always a challenge. In fact, for some people the challenge is almost insurmountable. In the simplest interpretation of the concept, an individual is well integrated into society when they have found a niche or a place of belonging. It is essentially when they have formed an identity for themselves that can function orderly with the other identities in their greater culture.

II. Rationale and Explanation

This concept of integration is why the issue of 'Identity' is so critical [to the report], especially in regards to the school system, for it is in school where some of a child's most significant emotional development occurs and as well, it is a medium through which integration happens. An assessment of school systems and their integration

policies is only credible so long as it is accompanied by a clearly defined explanation of the concept of Identity, for integration and identity are highly related. It is necessary to provide this discussion for it enables the reader to fully grasp the conclusions and assessments we will draw in this study as he/she reads the main body of the comparative analysis [not here present]. Through an interpretive approach we apply sociologist Zygmunt Bauman's theories to our research and empirical data.

III. Role of 'Belonging'

'Belonging' is a major factor in the discussion of Identity. However, 'belonging' and 'identity' though very elusive, play a very significant and ambivalent role in the emotional lives of all humans.¹ This role cannot be understated. With 'belonging' comes identity so implicitly it is not even a matter of discussion. Without 'belonging' an individual may likely experience an issue with their identity, which can display itself in various ways, yet all irksome.² It is in the current society (classified as 'modern' or even 'post-modern') of the Western Civilization that this is highly prevalent. In a diversifying world, so many different groups of people interact and congregate that it is nearly impossible for a foreigner without a community or group to 'belong' to, to not also have an identity issue. The desire for identity is natural and human in that it brings with it feelings of security and belonging³ - these feelings are critical to the process of integration for they are what enable a new-comer to feel accepted rather than excluded.⁴

IV. Definition of Identity

Before going further though, it must be noted that 'identity' is in itself a very slippery and difficult topic, something noted even by Bauman.⁵ With that said, he has a subtle yet descriptive definition of 'identity' which is constructed with support from German sociologist Siegfried Kracauer's ideas. The concept is that in life there are two clear forms of communities. To understand one, the other must also be understood. The first of which is steadily becoming an historical entity; a community based on 'belonging', unquestioned commitment and fate. The second, being a society built upon numerous ideas and beliefs all of which run together.⁶ In the first community, members live together and are born and die together without ever moving from each other. There is inherent 'belonging' and thus, 'identity' is implicit. The Identity of a member can not be argued for this tricky introspective riddle exists: how do you answer the question 'who are you?' if there is no conceivable notion of being somebody 'else'? Such a society is a Bedouin tribe roaming a Saharan plain or a French farming village in the 1600s. Then there is the second form of community, which has formed out of the first as technology improved and communication moved

quicker. Fast travel is possible and riding on it ideas and cultures are spread. Individuals have more money and more time to contemplate themselves. In this context, an individual has literally thousands of sub-cultures they may join and communities they may 'belong' to (sports teams, book clubs, religious institutions, etc). It is a highly multicultural environment and in it diversity flourishes yet 'identity' and 'belonging' struggle.

V. Finding Identity

All the options do not make it easier for an individual without self-classification; all the options simply blow-up the instability and un-dependability of these groups and leave the individual searching helplessly for their niche. Identities must be formed and held onto for one's self and figured out independently.⁷ We assume that after analysis of our research, we will see that though Denmark and the UK may be steadily diversifying and modernizing, there are still highly prevalent feelings of 'otherness' pushed onto the ethnic minority population, no matter how hard they try to find a place for themselves. The difficulty is that though it is possible for a foreigner to assimilate into a homogeneous society, true integration can still be a struggle. The immigrants may try their hardest to integrate but the majority population must meet them half way by accepting their cultures and ways.

VI. Connection between 'Identity' and the Ethnic Minority Population

In our diversifying world, there are so many communities which one can join and participate in that the options are actually overwhelming, particularly for new immigrants. Further increasing the difficulty is the fact that so few communities and groups remain which one can truly settle into and remain with for life. Such an era no longer exists (at least in Western Society) where such societies remain and this is a fact of life which can only be dealt with. This is partly due to globalization but with globalization also comes huge flows of migrants and despite these previously stated developments in society; room must be made for the ethnic minorities so that they may find a place of belonging in the new countries which they have moved to.⁸

The ethnic minorities have a much larger struggle than is immediately observed. Not only are they working hard towards finding a new home and lifestyle in a new place, they are also struggling to find out where they 'belong' in society. The security supplied by knowing one's 'identity' is critical to feeling comfortable. This desire for security and comfort is inherent in the nature of 'identity'.⁹ Without this, it is no surprise that tension and societal problems occur. These individuals must be accommodated for in order to ensure their positive perception of acceptance in the new societies they enter. We believe

that school system integration policies can contribute significantly in this regard.

VII. Interpretation in terms of the 'Broader Perspective'

How can this knowledge of 'identity', 'belonging' and integration be applied to the individual? How can it be applied to the overall structure in societal organizations? Through analysis of the British and Danish school systems, significant assets and weaknesses will be discovered and noted. Through critique of standing policies along with incorporation of the ideas of Bauman, we seek to understand whether or not there are identity issues in ethnic minorities, and if so, how significant they are. This knowledge of identity shall be applied to the critique of integration policies in school system.

VIII. Conclusion and Application of Theory

As stated before, the simplest interpretation of the concept of 'identity' is that it is the perception of 'belonging'. What is meant by this is that with 'belonging' comes security and comfort. When all members of society feel this comfort and security, there is more peace and less tension. With the sensations of being 'out of place' comes frustration.¹⁰ Frustration can build up of course and over time become a more serious issue in a nation.

The importance of the 'identity' factor cannot be understated in today's society because of this. It is the proper handling of it which will contribute significantly to the sufficient accommodation of ethnic minorities so that they may feel (as the native population does) the comfort of having an 'identity' accompanied by 'belonging'. More specifically, the degree to which feeling 'belonging' and having 'identity' are related to calm in society is so high and critical, that the two concepts must be incorporated into integration policies.

- 1 Bauman, 2004, P 11.
- 2 Bauman, 2004, P 13.
- 3 Bauman, 2004, P 24.
- 4 Bauman, 2004, P 29.
- 5 Bauman, 2004, P 5.
- 6 Bauman, 2004, P 11.
- 7 Bauman, 2004, P 29.
- 8 Bauman, 2004, P 29.
- 9 Bauman, 2004, P 29.
- 10 Bauman, 2004, P 13.

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Photo Credit: Malerie Schwartz



Yet Removed Not, the Stumbling Stone

Joelle Budzinsky

You cannot separate the just from the unjust and the good from the wicked; For they stand together before the face of the sun even as the black thread and the white are woven together. And when the black thread breaks, the weaver shall look into the whole cloth, and he shall examine the loom also.

Kahlil Gibran, 'The Prophet'

Following a four month stay in South Africa I find my understanding of justice, in the context of human rights, conflicted. More specifically, while working within the child rights sector throughout the Cape Flats region, I was constantly at odds with what I understood to be true: South Africa, as a result of the Truth and Reconciliation Commission (TRC) had been reconciled, or better yet 'restored.' But what I observed as restoration was precisely the issue. That South Africa, along with Brazil, is characterized by the highest Gini coefficient in the world would suggest the failure of restorative justice to redress the ever important economic imperative.¹ Whilst restoration has allowed for a sense of peace and security in the intervening 14 years of democracy, recent eruptions of anti-foreigner violence leaving more than 50 dead, 650 seriously injured and an estimated 80,000 displaced has, and should lead us to consider the economy.² The cleavages are beginning to show, not in the least part due to a lack of socio-economic transformation under the new dispensation. Though not shortsighted enough to consider the alternative, and lest the whole world turn blind, human rights and economic stability remain inexorably linked. So while recognizing the great achievements of the TRC as a moral mechanism through which many were served, the limitations thereof will be given equal if not pressing measure.

The South African Truth and Reconciliation Commission was neither original—there were fifteen other truth commissions before it—nor self-evident, in respect to race and reconciliation, and justice post-apartheid.³ In the modern sense these commissions reflected an approach to justice which would seek to emphasize restoration over retribution. Departing from both the Nuremberg and Tokyo trials, wherein indictment, prosecution and above all, individual culpability were enshrined in international law, the TRC sought truth as the alternative to vengeance.⁴ As provided in the Promotion of National Unity and Reconciliation Act (34 of 1995) the Commission, following the example of Chile, thus offered amnesty for full disclosure of political crimes committed between 1960 and 1994.⁵ In this case prosecution was seen as adverse to the transition towards democracy, and it was hoped that the incentive of amnesty could provide an ethos necessary to the new constitutional order. More directly, reconciliation would remain elusive in the event that former adversaries were unable to live and work together.⁶ For the cynical reader, however, it might also

appear that to cross the Rubicon conditional amnesty was inevitable, and a point to which South Africa's military leadership 'held their politicians to ransom.'⁷ CODESA I and II, having both resulted in a deadlock, provides strong evidence towards this end.

Though in no way an unqualified success, the deal which gave rise to South Africa's Truth Commission condensed violence, reduced the possibility for a military coup, and laid the basis, at a political level, for three peaceful presidential elections.⁸ Following 1994 the 'New South Africa' was also readily included into the Organization of African Unity (today the AU), and re-admitted into the Commonwealth.⁹ Thus regardless of its origins, the TRC allowed South Africans to confront the legacy of apartheid on its own terms, while at the same time strengthening its position amongst the non-aligned states. It further honored a nation rich with legal and linguistic traditions of its own, the clearest example of which being Ubuntu or African Humanism.¹⁰ But the question remains, did the TRC do enough to 'restore' the nation and its restoration, within the South African context, itself appropriate? I might argue that instead of restoration, for when in South Africa's recent history was there a system of racial equality, an emphasis would have been better placed on transformation.

There have been arguments made against the government's bid for reconciliation and the need to distinguish, when discussing the TRC, between political and individual reconciliation. Even greater than this issue, however, lies the very nature of restorative justice as a means of reunification. As Johnny de Lange, former chair of South Africa's parliamentary committee on Justice suggested, reconciliation is only one element (a first step if you will), within the broader bid for justice under the new democratic system. Of equal importance are reconstruction and development, particularly in terms of sustainability.¹¹ Otherwise stated, if only given the opportunity to face the past without the means to start afresh, peace and security cannot be upheld. In the case of South Africa, transformation in respect to the political, social, ideological and moral aspects of apartheid will crumble should it not also underline the economy.

The apartheid state created a structural system for the systematic exploitation of a majority black population. Such created, as current President Thabo Mbeki controversially declared 'two nations,' characterized by unequal standards of living or a 'dual' economy.¹² So while the TRC might have lead to a transformation in South Africa's political culture, it failed to provide for change in the material circumstances of the greater black community. There were efforts made in this regard, including legislation passed in 1994 which enabled the reclamation of property lost in the 1913 Land Act. However, such was conditional, and very few who had been the beneficiaries of apartheid

were inclined to comply.* Reparations too were almost nonexistent, and South Africa continues to be plagued by high unemployment rates and a poorly trained workforce (particularly problematic in its preparations for 2010). Unemployment was further cited as precipitating the recent outbreaks of anti-immigrant violence, and is indicative of a growing resentment towards the government for failing to deliver basic services.¹³ Some go so far as to characterize Mbeki as being 'uncaring' and 'utterly incompetent,' a far cry from the sentiment echoed in his famous 1998 speech to parliament on reconciliation and nation-building.¹⁴

As a result of these conditions, the great achievements of the TRC will disintegrate if restoration is not coupled with redistribution. Such is critical, as any conception of justice makes obligatory the adoption of policies diminishing inequity based on race, place of origin, religion, gender and so on.¹⁵ This is echoed by both the Universal Declaration of Human Rights (1948) and the African Charter on Human and People's Rights (1986). But perhaps more important in the context of redistribution, however, is the South African Bill of Rights (1996). With its explicit definition of socio-economic rights, the document is considered one of the most progressive in the world. Emphasizing transformation, such seeks to provide for and address a racial leveling of the economy, inequities in the land sector, and an ability to access the formal economy.¹⁶ Thus the tools are in place, though again it will take a recommitment in both public and private sectors for justice to be truly served. This includes affirmative action laws, such as those outlined in the Black Economic Charter to enact economic redress.¹⁷

It has been written that the HIV/AIDS epidemic stands to be the Achilles heel of Mbeki's great African Renaissance.¹⁸ However, given the current status of the economy one might question why the majority would seek to value life, when the quality of living remains so low. It is clear that the spectacle of black South Africans killing other Africans, as was evidenced in the events of last month**, stands to threaten whatever credibility Mbeki's rhetoric once had.*** As such, the legacy of the TRC must be honored and its victims not forgotten. Though many point to the distinction between basic rights and access rights, only through a conscious material effort to do more than merely 'observe' on the part of apartheid's beneficiaries will justice be served. Democracy requires vigilance, and inequity must be addressed lest South Africa (and those who would seek to follow its example) should stumble.

*Other initiatives, namely the Reconstruction and Development Program (RDP) aimed at redistributing state resources, also had limited results. By 1997 the RDP was replaced by the more conservative Growth, Employment and Redistribution strategy (GEAR), as economic growth remained minimal (as of today economic growth has hit a six-year low).

**Editor's note: This paper was written in August, 2008.

***The recent election of convicted rapist Jacob Zuma (current President of the ANC) further illustrates the need for economic redress, and a push for government to regain the confidence of its people. Zuma will do little to reassure foreign investment as Mbeki has attempted.

1 Sooka, Yasmin. "Race and Reconciliation, 'e pluribus unim'?" pp. 88.

2 Talbot, Ann. "South Africa: Anti-immigrant violence subsides but leaves humanitarian crisis." 7 June 2008.

3 Sooka, Yasmin. "Race and Reconciliation, 'e pluribus unim'?" pp. 83.

4 Falk, Richard A. "Human Rights Horizons, The Pursuit of Justice in a Globalizing World." pp. 25.

5 Worden, Nigel. "The Making of Modern South Africa." pp. 166.

6 Sooka, Yasmin. "Race and Reconciliation, 'e pluribus unim'?" pp. 84.

7 Ibid. pp. 81.

8 Worden, Nigel. "The Making of Modern South Africa." pp. 166.

9 Ibid. pp. 164.

10 Smith, Rhonda K.M. "International Human Rights." pp. 133.

11 Sooka, Yasmin. "Race and Reconciliation, 'e pluribus unim'?" pp. 80.

12 Ibid. pp. 81.

13 Talbot, Ann. "South Africa: Anti-immigrant violence subsides but leaves humanitarian crisis." 7 June 2008.

14 Ibid.

15 Falk, Richard A. "Human Rights Horizons, The Pursuit of Justice in a Globalizing World." pp. 28.

16 Sooka, Yasmin. "Race and Reconciliation, 'e pluribus unim'?" pp. 90.

17 Ibid. pp. 88.

18 Ndinga-Muvumba, Angela. "HIV/AIDS and the African Renaissance: South Africa's Achilles Heel?" pp. 177.

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Woman Homeless in Santorini

Photo Credit: Samuel Greenberg

Photographer's Note: Despite the clear human rights related issue this picture illustrates, other features serve to accentuate the point.

The darkness of the homeless woman's clothing and location compared to the light colors that the tourists are wearing and of the walls that they stand next to, points to the economic disparity between the two people. This is also shown by the different positions they are in, one standing the other sitting and slumped over while begging for money.

The color of the houses in the background is also important. All the homes are completely white and thus they contrast with the darkness of the homeless female figure, creating a distancing effect that meets the reality behind the photograph.



COLOPHON

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