

Historical Perspectives: Santa Clara University Undergraduate Journal of History, Series II

Volume 20

Article 1

2015

Historical Perspectives Vol. 20 2015

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Recommended Citation

(2015) "Historical Perspectives Vol. 20 2015," *Historical Perspectives: Santa Clara University Undergraduate Journal of History, Series II*: Vol. 20 , Article 1.

Available at: <http://scholarcommons.scu.edu/historical-perspectives/vol20/iss1/1>

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Historical Perspectives

Journal of History

2015

Published by
Santa Clara University Lambda Upsilon Chapter
of Phi Alpha Theta

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Volume XX of *Historical Perspectives* is the twenty-fifth published by Santa Clara University's Lambda Upsilon chapter of Phi Alpha Theta. This edition continues the tradition of providing its readers with articles that reflect the caliber of student scholarship at Santa Clara.

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Introduction

Every year the Phi Alpha Theta chapter at Santa Clara University publishes a selection of outstanding research papers in the History Department's journal, *Historical Perspectives*. The papers are chosen from submissions from students who have completed research projects in advanced seminars and which represent the highest standard of achievement in the department. We were fortunate to have received a number of impressive papers and would like to thank all of the students who submitted their work for review and also to extend our appreciation to the faculty who assisted them with their projects. We are pleased to present this year's edition of *Historical Perspectives*.

The 2015 edition of the journal includes six studies that analyze significant social, economic and political issues in modern global affairs. The presentations begin with Sally Ulmer's research about 19th century British women travellers in colonial Africa and their views on race and gender. This is followed by Kyra McComas' analysis of the significance of Kim Philby in British espionage literature. In the third paper Héctor Navarro discusses the role of the American press in the portrayal of events in the Salvadoran civil war. The fourth study, by Nicholas Comaratta, offers a detailed examination of how Mark Sykes and the Sykes-Picot Agreement shaped the modern Middle East. This is followed by Carlos Andrés Castro's study of social and political assimilation in Canada with respect to sexual orientation legislation, a key issue in the contemporary world. The final paper, by Ramsey Fisher, illustrates how the United States' involvement in post-war Japan impacted current Japanese criminal procedure.

Acknowledgments

We congratulate the student authors of the papers in this collection. We would also like to acknowledge the support of **Father Paul Mariani, SJ**, **Professor David Skinner** and office manager **Mrs. Judy Gillette** who have played integral roles in the final product of the *Historical Perspectives* journal. On behalf of the History Department we would like to thank the faculty, staff and students who have contributed to the department this year. We are honored to be able to represent the department through our services on the editorial board and we hope you enjoy this year's edition of *Historical Perspectives*.

Ramsey Fisher
Sally Ulmer
Student Editors

The History Department expresses its gratitude to **John** and **Lulu McPhee**, whose generous gift provided the financial support for the publication of this journal.

British Women Travelers: Challenging and Reinforcing Victorian Notions of Race and Gender

Sally Ulmer

British women travelers crossed geographical and cultural boundaries on their treks through the African colonies in the late 19th and early 20th Centuries. Their journeys can be seen as both unusual and innovative for women of their time, as seen in the experiences of four women: Mary Kingsley, Mary Gaunt, Mary Hall, and Flora Shaw. Kingsley traveled to West Africa in 1893 and 1895, writing about her travels in the late 19th Century. Gaunt also traveled in West Africa and wrote her narrative in 1912. In 1907 Hall wrote about her trek from Cape to Cairo. And Shaw traveled to several British colonies before writing about Nigeria in 1905. As these four women wrote accounts of their travels, they contributed to the flow of information that entered the metropole about the British Empire in Africa. They often wrote similarly about race and empire, but their writings were also influenced by differences in class, relation to the British Empire, and, later, martial status. Kingsley, Gaunt, Hall, and Shaw came to occupy a unique and contradictory space in the colonies where they both enforced and subverted gender roles, while also promoting imperialism through their writing. This paper will offer an analysis of the intersections between race and gender in the writings of female travelers. By looking back at travelers that have been studied in earlier scholarship, I will use their writings to show how controversial they

actually were, which is not drawn out in existing scholarship. The experiences of British women travelers in Africa were shaped by the gendered spaces that they occupied in both home and colonial society, which influenced how they challenged and maintained gender norms and race hierarchies in their colonial experiences and in their writing.

Introduction

In the early 18th and 19th Centuries Africa was a place where British men could escape the confines of Victorian society, seeking opportunity for social mobility and sexual exploration. European women were kept out of the colonies because they were seen as financially burdensome and would restrict European men from embarking on sexual opportunity in the colonies.¹ In their absence, male colonizers often took native concubines and established a sexual relationship that would later be seen as threatening to racial boundaries. As fear of racial mixing escalated into class concerns about racial degeneracy, it became beneficial to the imperial agenda for white women to enter the colonies because female settlers would bring European social norms and domesticity to the outposts of the empire.² In order to make lasting roots in the colonies by establishing a home and starting a family the presence of British women was required, which also supported stability and racial hierarchies

¹ Ronald Hyam, "Empire and Sexual Opportunity," *The Journal of Imperial and Commonwealth History* (2009).

² Marie-Paula Ha, "French Women in Empire," in *France and 'Indochina': Cultural Representation*, eds. Kathryn Robson and Jennifer Ye (Boulder: Lexington Books, 2005).

in the empire. In the 19th and 20th Centuries, “the promotion of domesticity demanded fuller incorporation of colonial wives, and in general, a higher profile for white women in the colonies.”³ Yet, the empire was still gendered as a male sphere and women were not regarded as significant to empire building. The “work of empire was gendered work” where men discovered and explored, and women fulfilled their imperial duty through child rearing and domesticity.⁴

White women were crucial to defining white prestige in the African colonies, however; upholding racial dominance also meant following gender norms of respectable Victorian womanhood, which limited the mobility of female settlers. Their entrance into the empire complicated colonial power structures, adding a new gender dynamic to existing social systems. Most female settlers remained in the same domestic sphere that they occupied in the metropole, as “incorporated wives” and memsahib type women.⁵ Encased in the domestic sphere, their interactions with Africans were limited to servant classes and natives that they could exercise power over.⁶ Sexual anxieties about the colonized “other” were also heightened with the arrival

³ Barbara Bush, “Gender and Empire: The Twentieth Century,” in *Gender and Empire*, ed. Philippa Levine (New York: Oxford University Press, 2004), 80.

⁴ Catherine Hall, “Gender and Empire: The Twentieth Century,” in *Gender and Empire*, ed. Philippa Levine (New York: University Press, 2004), 47.

⁵ Cheryl McEwan, *Gender, Geography, and Empire: Victorian Women Travellers in West Africa* (Burlington: Ashgate Publishing Ltd, 2000), 2.

⁶ Nupur Chaudhuri, “Memsahibs and Their Servants in Nineteenth-Century India,” in *Women’s History Review* 3 (1994).

of British women.⁷ Black men were regarded as sexually threatening to vulnerable white women who may fall victim to the “black peril,” tainting their moral and racial respectability. As Timothy Keegan points out, white women’s assigned role in the construction of racial boundaries was the “guarantors of racial purity and standards,” and if this purity were to be penetrated by the ‘black peril’ then racial, and thus colonial, order would be disrupted. White women’s sexual morality not only fulfilled their gendered role, but was primary to their racial respectability.⁸ However, amidst this argument of ‘black peril’: sexually vulnerable white women were constructed to be dependent on male protection, while in reality women were used by white men as the grounds for expression of racial anxieties. Ann Laura Stoler notes that, “the term ‘Black Peril’ referred to sexual threats, but it also connoted the fear of insurgence, of some perceived non-acquiescence to colonial control more generally.”⁹ Colonizer males viewed the “black peril” as a threat to the system of racial dominance that upheld colonial order.

Victorian gender conventions shaped how women were able to participate in the colonies, and in 19th and 20th Centuries “white women became increasingly important as boundary markers, maintaining racial

⁷ Timothy Keegan, “Gender, Degeneration, and Sexual Danger: Imagining Race and Class in South Africa, ca. 1912,” in *Journal of Southern African Studies* 27 (2001).

⁸ Keegan.

⁹ Ann Laura Stoler, “Carnal Knowledge and Imperial Power: Gender, Race, and Morality in Colonial Asia,” in *Feminism and History*, ed. Joan W. Scott, 229.

authority.”¹⁰ British women settlers’ colonial presence made the invisible race line more distinct, while also blurring gender boundaries at the same time. However, not all white women participated in the colonies as settlers and wives. British women travelers occupied a unique space in the colonies that allowed them to disregard some traditional gender roles. This juxtaposes the space they occupied in their home society, where they were strictly bound to gendered roles. Dea Birkett notes that most women travelers were “torn between the two conflicting landscapes of self-fulfillment and duty” when they decided to leave for Africa.¹¹ This struggle between leaving home to gain new experiences and staying to fulfill one’s familial duty shows how much gender roles were at play in Victorian society. Where women travelers’ independence would have been restrained at home as they fulfilled gendered duties of domesticity, many of them had an adventurous spirit, and the fact that some of them were unmarried “spinsters,” a social plague at home, would serve them abroad by allowing them to travel and explore without familial constraints. But just because these “spinsters” were able to travel abroad on their own, subverting dominant gender roles in this way, didn’t mean that they were exempt from maintaining the Victorian respectability that upheld white prestige and racial superiority. In this way, British women travelers still had to subscribe to their womanly duty as they sought travel and adventure in Africa.

¹⁰ Hall, 70.

¹¹ Dea Birkett, *Spinsters Abroad: Victorian Lady Explorers* (New York: Basil Blackwell Ltd., 1989), 27.

Through independent travel and writing, some women travelers transgressed “spatial boundaries of gender, power, and patriarchy” in the colonies that would have been difficult to do in the metropole.¹² British women traveler writers made a new space for themselves in Africa, where they could disregard Victorian gender conventions and gain more social power as they entered the male dominated sphere of colonial travel and exploration. As white women travelers claimed a place in a white male space of exploration, they were claiming a freedom from the gender restrictions of their home societies as they assumed a temporary white male status in Africa.¹³ Although British women travel writers disregarded gender roles by being travelers and writers in the colonies, they still had to subscribe to some gender norms, like dress and in interactions with men. Even when they were “away,” ideas from “home” followed them into their travels and they had to work within Victorian conventions of femininity. Views on race and colonialism in Britain also influenced their writing as they used imperial language and imagery. “All women travelers were aware of this dichotomy of being a woman with temporary male status, and the resulting [race and gender] tensions were manifested in many ways.”¹⁴

White women’s authority when traveling was also “grounded in constructions of racial difference” rather

¹² Patricia M.E. Lorcin, *Historicizing Colonial Nostalgia: European Women’s Narratives of Algeria and Kenya 1900-Present* (New York: Palgrave Macmillian, 2012), 8.

¹³ Birkett, 140.

¹⁴ Birkett, 137.

than their merit as adventurous, boundary crossing women.¹⁵ As British women travelers accepted their “temporary male status” and racial superiority, they simultaneously “disregarded and reinforced Victorian gender norms” in order to display white respectability.¹⁶ White women travelers were given authority by natives because of their race and were also restricted by their gender as writings by British women travelers were regarded differently, associated with the “passive femininity of travel.”¹⁷ Margaret Strobel points out that “in comparison with accounts by Victorian men, women’s travel narratives incline less toward domination and more toward discovery.”¹⁸ They wrote about Africa with a sense of wonderment and curiosity as they encountered exotic customs and people. In British women travelers’ writing, also, “in equally contradictory fashion, they echoed the ethnocentrism of their society while questioning aspects of imperial policy and opening popular minds to the nonwestern world.”¹⁹ They were often pro-empire, but “mixed endorsements of empire and accounts of personal experience that undercut it.”²⁰ Race and gender

¹⁵ Alison Blunt, *Writing Women and Spaces: Colonial and Post Colonial Geographies* (New York: The Guilford Press, 1994), 68.

¹⁶ Margaret Strobel, *European Women and the Second British Empire* (Indianapolis: Indiana University Press, 1991), 39.

¹⁷ Alison Blunt, *Travel, Gender, and Imperialism: Mary Kingsley and West Africa* (New York: Guilford Press, 1994), 32.

¹⁸ Strobel, 36.

¹⁹ Strobel, 39.

²⁰ Susan L. Blake, “A Woman’s Trek: What Difference Does Gender Make?,” in *Western Women and Imperialism: Complicity and Resistance*, ed. by Nupur Chaudhuri and Margaret Strobel

hierarchies influenced what it meant to be a traveler in the colonies and as British women travelers intersected these two boundaries, contradictions arose as they simultaneously traversed and maintained race hierarchies and gender norms.

Race and gender also played an important role in British female travelers' relationships to the colonized "other." Distinguishing differences between "self" and "other" was crucial to the colonial social system as it was based on dominance and racial difference. For white male travelers this relationship was that of subject to object. For white women, there were similarities between themselves, "self," and native men and women, "other," because they were both white men's objects. To an extent, women travelers had to put themselves on the same level as the "other" because of gender dynamic within the colonies.²¹ Simultaneously, the identity of white women was defined by their difference from African women. And according to white colonizer males, "there [were] two types of figuration of women: the British memsahib (colonial housewife), in need of protection from potential sexual threat; and in direct contrast, the sexually available colonized women."²² And so "the 'other' is the antithesis of the self."²³ British women had white prestige so

(Indianapolis: Indiana University Press: 1992), 20

²¹ Blake, 22.

²² Sara Mills, *Discourse of Difference: An Analysis of Women's Travel Writing and Colonialism* (New York: Routledge, 1991), 59.

²³ Patricia M.E. Lorcin, "Women's Travel Writing," World History Sources, Accessed March 15, 2015, <http://chnm.gmu.edu/worldhistorysources/d/146/whm.html>.

they were superior to natives, but they remained inferior to white men because of their gender. Gender dynamics complicated the racial binary between colonizers and colonized. So British women travelers “exploited differences in race over differences in gender” as they traveled the continent and used their writing to redefine the “self” that was otherwise assigned to them.²⁴

The writings by female British travelers display how gender norms and racial perceptions shaped their travel experiences and interactions with African populations. As Strobel points out, their writing also served a purpose beyond just going against gender norms. They contributed to the flow of information going to Britain about the colonies:

Control of information is one feature of imperialism: the colonizer collects information about the colonized; rarely does the latter have the power and resources to control the flow of information or the context of its use. European women collected and disseminated information about the colonial world for readers back home. In some cases this reporting aimed to create a climate favorable to imperial expansion or to bring public attention to purported abuses on the part of the indigenous peoples or European colonial officials.²⁵

British women travelers’ writings informed how readers in the metropole imagined the colonies and the

²⁴ Birkett, 140.

²⁵ Strobel, 35.

natives that inhabited them. As Nupur Chaudhuri has shown in India, British memsahibs that wrote advice manuals, articles, and letters home about native servants contributed to the information in Britain about the colonies. They entertained notions of racial superiority and legitimized imperialism as they wrote about the physical, moral, and sexual inferiority of Indian servants, which was absorbed by British readers.²⁶ Like these British women in India, it was possible for women in the African colonies to enter the public sphere and influence colonial discourse through writing. As mentioned previously, in this paper I will analyze the writing contributions made by four British women travelers, Kingsley, Gaunt, Hall, and Shaw, and their perspectives on racial difference by exploring what it meant to be a traveler in Africa in the late 19th early 20th Centuries, and how Victorian gender conventions swayed the experiences of these female travelers.

Mary Kingsley

In Mary Kingsley's account of her travels she aims to bring information about native culture and customs to her readers. However as she writes about Africans, it is also clear that she believes in British imperial ideology. Kingsley grew up in Cambridge, United Kingdom where she belonged to a working class family. For most of her adult life, she performed her daughterly duty of staying at home taking care of her sick mother. Although isolated in the domestic sphere, Kingsley was unmarried and would remain a "spinster" for the rest of her life. After her mother and father passed away in 1893, Kingsley finally felt as though

²⁶ Chaudhuri.

she could give in to her sense of adventure and decided to go abroad to West Africa.²⁷ She sought advice from British doctor friends, others who had traveled to West Africa, and scoured missionary papers in order to have some idea of what she would be getting herself in to. Despite warnings Kingsley set off for West Africa for the first time in 1893. Kingsley describes herself as a “diligent pupil, who honestly tried to learn the lessons [that the Coast] taught me so kindly, though some of those lessons were hard to a person who had never previously been even in a tame bit of tropics, and whose life for many years had been an entirely domestic one in a University town.”²⁸ During her travels Kingsley came to love West Africa, feeling like it was her home and continuously called her back even when she left.

As she traveled the coast Kingsley went off the beaten path of a European traveler and interacted with many different groups of Africans. In her book *Travels in West Africa*, written in 1897, she chronicled her journey along the coast, recorded the customs of the natives she interacted with, and provided her reactions. In Kingsley’s descriptions of people and places she took on an ethnographic approach as she got to know Africa by getting to know the natives. As Kingsley experienced the colonies, she writes, “one by one I took my old ideas derived from books and thoughts based on imperfect knowledge and weighed them against the real life around me, and found them

²⁷ Birkett, 238.

²⁸ Mary Kingsley, *Travels in West Africa* (London: 1897), 26.

either worthless or wanting.”²⁹ Although she used imperial language in her writing to describe Africa and its people, she also shows an appreciation and wonderment for the continent that she explored.

Through her writings on West Africa Kingsley contributed to the information that made up popular ideas about the colonies in the metropole. Kingsley appreciated the natives and their culture in *Travels in West Africa*, yet also promoted imperialism in her language and ideologies, as was a dominant theme in colonial era writing. When speaking about African men and clothing she perpetuates dominant notions of savagery:

Now it is an ingrained characteristic of the uneducated negro, that he cannot keep on a neat and complete garment of any kind. It does not matter what that garment may be; so long as it is whole, off it comes. But as soon as that garment becomes a series of holes, held together by filaments of rag, he keeps it upon him in a manner that is marvelous, and you need have no further anxiety on its behalf.³⁰

However, Kingsley also made distinctions between different native cultures and did not simply classifying everything as African. This shows that she was interested in providing readers with information on African life. Kingsley individualized Africans and their culture: “African culture, I may remark, varies just the same as European in this, that there is as much

²⁹ Kingsley, 27.

³⁰ Kingsley, 57.

difference in the manners of life between, say, an Igalwa and a Bubi of Fernando Po, as there is between a Londoner and a Laplander.”³¹ She also commented on the character and morals of each peoples she interacted with. For example, Kingsley comments on the character of Bubi people and their moral code: “theft is extremely rare and offences against the moral code also, the Bubi having an extremely high standard in this matter, even the little children having each a separate sleeping hut. In old days adultery was punished by cutting off the offender’s hand.”³² Amidst pro imperial language in her writing, Kingsley notes her liking of African tribes, like the Fan who she says, “are brave and so you can respect them, which is an essential element in a friendly feeling. They are on the whole a fine race.”³³ Despite some of the interesting ideas she learned from West Africans and their different fetishes and odd behaviors, Kingsley recognizes that “these Africans have often a remarkable mental acuteness and a large share of common sense; that there is nothing really ‘child-like’ in their form of mind at all.”³⁴ As Kingsley commented on the character and customs of the natives she encountered, she employed imperial language to describe Africans both positively and negatively.

As an unmarried woman traveling alone, Kingsley went against traditional Victorian gender roles. Traveling gave her a space outside of the home, and a place in the colonies that would have been very differ-

³¹ Kingsley, 279.

³² Kingsley, 115.

³³ Kingsley, 495-60.

³⁴ Kingsley, 512-513.

ent from other British women settled there. Traveling also allowed her entrance into the male dominated career of travel writing, which would also influence her gendered place at home. Upon her return, Kingsley had a celebrity status of sorts and popularity on the lecture circuit because of her groundbreaking trek through parts of Africa that no European had gone before.³⁵ Interestingly, some natives also saw traveling alone as outside of the norm. Kingsley recounts one interaction where a native man questioned why she was traveling by herself:

‘Where be your husband, ma?’ was the next conversational bomb he hurled at me. ‘I no got one,’ I answer. ‘No got,’ says Samuel, paralyzed with astonishment; and as Mrs. S., who did not know English, gave one of her vigorous drives with her paddle at this moment, Samuel as near as possible got jerked head first into the Ogowé, and we took on board about two bucketfuls of water. He recovered himself, however and returned to his charge. ‘No got one, ma?’ ‘No,’ say I furiously. ‘Do you get much rubber round here?’ ‘I no be trade man,’ says Samuel, refusing to fall into my trap for changing conversation. ‘Why you no got one?’ The remainder of the conversation is unreportable, but he landed me at Andande all right, and got his dollar.³⁶

³⁵ Barbara Harlow and Mia Carter, eds., *Archives of Empire Volume II: The Scramble for Africa* (Durham: Duke University Press, 2003), 439.

³⁶ Kingsley, 273-274.

As a woman traveling alone Kingsley accomplished many feats on her travels, like how she was the “first European to cross from the Ogowe to the Rembwe rivers by the route she followed and the first to ascent Mount Cameroon by the south east face.”³⁷ Kingsley was not just an ordinary traveler, but also became a self-taught explorer and ethnographer.³⁸

However, Kingsley is noted as abiding by some gender ideals like how she always wore Victorian dress. In one instance on her journey, Kingsley “insisted that she walk in the pouring rain behind her male companion on the trek because the black boot laces with which she had laced her corset would be visible through her sopping wet blouse.”³⁹ Cheryl McEwan notes that, “Kingsley’s ‘liberation’ as an independent traveler in West African was constrained by the demands of social etiquette imposed at home.”⁴⁰ In the introduction to *Travels in West Africa*, conventions of her home society entered Kingsley’s comments about the “natural” role of women and their disposition to hate politics, which influenced her writing, as it does not express her political opinions directly. Even though Kingsley gave a pretty favorable account of African culture, “she had inherited the common Victorian assumption that white skin meant racial superiority.” This makes some

³⁷ Blunt, *Writing Women*, 59.

³⁸ Strobel, 43.

³⁹ Strobel, 37.

⁴⁰ McEwan, 30.

aspects of her writing ironic because she relied on constructions of racial difference while also defending African peoples and their culture.⁴¹

As Kingsley contributed information about African life in *Travels in West Africa*, she also wrote other texts to influence British policy in the colonies. In a chapter entitled “The Clash of Cultures” of her book, *West African Studies*, Kingsley critiques British colonial administration for not trying to understand African culture and instead just reaping financial benefits from the colonies. Kingsley writes, “I own that I hate the humbug in England’s policy towards weaker races for the sake of all the misery on white and black it brings” and then goes on to accuse the British of bullying the inferior Africans.⁴² Kingsley also “opposed some of the education done by missionaries, the creation of jobs for Africans by the colonial administration, coinage, and the building of railroads.”⁴³ As Kingsley critiqued the administration in the colonies, she also affirmed her support of imperial ideology and believed Africans to be naturally inferior to whites. Despite her views on policy, Kingsley’s account of her travels and exploration of West Africa provided an ethnographic account of West Africans and their culture, and through her individual experiences she

⁴¹ McEwan, 112.

⁴² Mary Kingsley, “The Clash of Cultures,” in *West African Studies (1899)*, in *Archives of Empire Volume II*, ed. Barbara Harlow and Mia Carter (Durham: Duke University Press, 2003), 441.

⁴³ Strobel, 38.

shaped domestic perspectives of readers in the metropole.

Mary Gaunt

Similar to Kingsley, Mary Gaunt felt like Africa was calling to her, and so she answered and began her adventure in the early 20th Century. Gaunt was born in Victoria, Australia in 1861. From a young age she had a strong sense of adventure and dreamt of visiting the places she had only heard of in stories. After her husband died, Gaunt moved to London in hope of earning an income as a writer. Once presented the opportunity, Gaunt left the metropole and headed to Africa.⁴⁴ Gaunt wrote that, “the regular, conventional life did not appeal to me; I could only write adventure stories, and the scene of adventure stories was best laid in savage lands. West Africa was not at all a bad place in which to set them. Its savagery called me.”⁴⁵ It was there that she would write her first travel book, *Alone in West Africa*, in 1912. This account was written as more of a story as Gaunt described her interactions with natives, feelings about Africa, and the sites. She was less an explorer than Kingsley, and more a tourist. Gaunt traveled very comfortably by steamer, had an African servant for the duration of her trip, and stayed in hotels, when available, or in the homes of colonial officials, which was as much an advantage of her race as her gender.

Gaunt recognized the peculiarity of her position as a woman traveling alone in Africa, and it becomes apparent in her writing that she knew that she was

⁴⁴ Birkett, 282.

⁴⁵ Mary Gaunt, *Alone in West Africa* (London: 1912), 32.

going against Victorian gender expectations. She comments on how she was perceived by the men that she encountered, most of them European, in West Africa. After staying with a governor and his wife for a number of days, Gaunt recalls that the Acting Governor, "had no sympathy with my mission, and I think, though he was too polite to say so, [he] was inclined to regard a travelling woman as a pernicious nuisance."⁴⁶ She also received discrimination for being a white woman traveling alone from the District Commissioner of M'Carthy Island after asking him if he thought of bringing his wife to Africa:

He looked at me a moment, seeking words to show his opinion of a woman who insisted upon going where he thought no white woman was needed...My wife," he said, with emphasis that marked his surprise; " my wife ? Why, my wife has such a delicate complexion that she has to wash her face always in distilled water."⁴⁷

Despite the judgment that she faced for being a woman traveling alone, Gaunt continued to feed her adventurous spirit by traveling through out West Africa.

Traveling, no matter the reason, provided British women freedom from some Victorian gender roles. Gaunt broke from Victorian notions of domesticity as she traveled throughout West Africa, explored villages, markets, and interacted with natives. In one instance, Gaunt writes about wanting to go ashore to explore a village in Ashanti, in spite of the captain's wishes:

⁴⁶ Gaunt, 340.

⁴⁷ Gaunt, 77-78.

'I must get away before dark.' He spoke as if that settled it, and he was right, but not the way he expected. I felt I simply could not go without seeing this place, and I decided. 'Then I'll go ashore.' 'You can't possibly,' [replied the captain]. 'Oh yes, I can. They won't eat me.' I don't know though that I was quite comfortable as I was dropped over the side in a mammy chair into a surf boat that was half-full of water.⁴⁸

Once ashore, she was invited by a white soldier to stay in the home of the Consulate in Ashanti, obviously the proper place for a white woman to lodge. This was an invitation extended by her racial equal, which speaks to the advantage of being white in the colonies, but Gaunt also seemed to be afforded this luxury because of gender. Her request of the ship captain can be seen as outside of what a "normal" woman would want to do, but it is interesting that when making the trek to the Consulate she complained about the road conditions, which would have been expected from a "nagging" woman. She writes, "such a walk as it was. Never have I met such a road. It was steep, and it was rough, and it was stony as a mountain torrent; now after the rain it was wet and slippery and the branches of the overhanging trees showered us with water as we passed."⁴⁹ Many European men that she encountered on her travels felt the need to fulfill their gentlemanly duty of accommodating her, while also reminding her that Africa was not place for a lady: "every man felt it

⁴⁸ Gaunt, 131-132.

⁴⁹ Gaunt, 134.

his duty to impress upon me the unhealthiness of the Coast, and every man did his duty manfully, forgetting that I have a very excellent pair of eyes and an inquiring mind.”⁵⁰ At the same time that Gaunt wanted the freedom to make her way around West Africa without male control, she was also grateful for the hospitality she received and took comfort in her encounters with other Europeans. This is important because the reader is able to grasp a sense of her independence, but also how social norms of her “home” are still at play when she was “away.”

Just as Gaunt entered the colonies with an idea about gender expectations, she also came with preconceived notions about race. In *Alone in West Africa* it is apparent that Gaunt was aware of her white prestige, which influenced how she wrote about racial difference. She pointed out the differences between whites and blacks, stating it as more of a fact than a social inequality. Gaunt gives a justification for racial difference and states that:

It is no good trying to hide the fact; between the white man and the black lies not only the culture and the knowledge of the west—that gulf might, and sometimes is bridged—but that other great bar, the barrier of sex. Tall, stalwart, handsome as is many a negro, no white woman may take a black man for her husband and be respected by her own people; no white man may take a black girl, though her dark eyes be soft and tender, though her skin be as satin and her

⁵⁰ Gaunt, 166.

figure like that of the Venus of Milo, and hope to introduce her among his friends as his wife.⁵¹

Gaunt sexualized African men, calling them “tall, stalwart, and handsome,” and African women with their “soft and tender” dark eyes, “satin skin,” and figure of a Venus. This hyper sexual representation of Africans furthered imperial anxieties about race and sexuality as African men were portrayed as sexually threatening and African women as sexually tempting. Her opinion on racial mixing and racial barriers of civilization and sex promote white dominance. Instances where Gaunt self proclaimed her racial dominance are found throughout the book, and as she spent more time in the colonies it seems as though she became more aware of the power in using her race. Exercising white prestige was advantageous to British women travelers, because their authority when traveling was often granted to them a result of their race.

As not to paint an image of Gaunt too negatively, it is important to recognize that these ideas about racial superiority were similar among most Europeans in the colonies and in the metropole.⁵² Gaunt was also aware that she had preconceived notions about race that were influenced by stories and writings of empire: “to me, before I went to Africa, a negro was a negro, and I imagined them all of one race. My mind was speedily disabused of that error. The negro has quite as many nationalities, is quite as distinct as the European.”⁵³ During her travels, Gaunt interacted with natives but

⁵¹ Gaunt, 47.

⁵² Strobel, 39.

⁵³ Gaunt, 53-54.

writes less about them and more about her reactions to them and the physical places she goes, leading her assertions about racial difference to come off as assumptions. For example, Gaunt writes: “ so the white man has always ruled the black; so, I think, he must always rule. It will be a bad day for the white when the black man rules. That there should be any mingling of the races is unthinkable; so I hope that the white man will always rule Africa with a strong hand.”⁵⁴ This is evidence of how her writing furthered notions of white dominance and promoted the British imperial agenda. In contrast, it appears as though Kingsley made a point to base her assertions about Africans and their character more on the basis of cultural understanding, though imperial language is still present, lending to the ethnographic nature of her work. However, in one example Gaunt appears to be surprised at her own race perceptions that have developed in the colonies, as she wants to use physical force on one of her African cart-boys. Within this example there are also numerous racial assumptions made:

What they wanted of course was a master who would beat them, and as they did not get it, they took advantage of me. It is surprising how one's opinions are molded by circumstances. Once I would have said that the man who hit an unoffending black man was a brute, and I suppose in my calmer moments I would say so still, but I distinctly remember seeing one of my cart-boys who had been on an errand to get himself a drink, or satisfy some of his manifold

⁵⁴ Gaunt, 48.

wants, strolling towards me in that leisurely fashion which invariably set me longing for the slave-driver's whip to hasten his steps. In his path was a white man who for some reason bore a grudge against the negro, and, without saying a word, caught him by the shoulder and kicked him on one side, twisted him round, and kicked him on the other side, and I, somewhat to my own horror, found myself applauding in my heart. Here was one of my cart-boys getting his deserts at last. The majority of white men were much of my way of thinking, but of course I came across the other sort.⁵⁵

Gaunt assumed that her cart-boys wanted a master who would beat them into working hard, and because she could not do this, they took advantage of her because she is a woman. As a female traveler, Gaunt benefitted from power attributed to her whiteness. But she still felt as though her authority was limited, especially when it needed to be exercised through physical force.⁵⁶ The outcome of this interaction and Gaunt's satisfaction with it shows just how deep her ideas about native racial inferiority ran. In her writing about the people and places she encountered, it is clear that Gaunt came to Africa with notions about racial difference. But her racial views developed and became solidified in the colonies as she wrote with a tone of white superiority.

In final comments on race Gaunt again asserted white dominance, but concludes that some Africans

⁵⁵ Gaunt, 366-67.

⁵⁶ Birkett, 135.

are not completely impermeable to the goals of the imperial civilizing mission. "Between black and white there is that great, unbridgeable gulf fixed, and no man may cross it. The black men who attain to the higher plane are as yet so few and scattered that each must lead a life of utter intolerable loneliness, men centuries before their time."⁵⁷ Gaunt fulfilled her goal of writing a travel book that was exciting to the reader with imagery of savage lands, danger, experiences of a woman traveling, and promoted the imperial agenda all at the same time. So as Gaunt blurred gender lines with her position as a female traveler in West Africa, she also helped to define race lines in her writing.

Mary Hall

Similar to Kingsley and Gaunt, Mary Hall came to Africa with ideas about race and gender that influenced her account of her travels. Hall was born in 1857 and was raised in a lower-class district of London. She never married and in her late forties began her travels in Africa. On her reasons for travel, Hall writes that she had "always been interested in seeing fresh countries and peoples, and [had] ever considered travelling the most delightful method of studying geography."⁵⁸ Motivated by this desire for new experiences, Hall traveled from Cape to Cairo and wrote *A Woman's Trek from the Cape to Cairo* in 1907. This book reads like a diary, somewhat similar to Gaunt's, as Hall recounts her experiences traveling and provides pictures of the natives and the places that she

⁵⁷ Gaunt, 756.

⁵⁸ Mary Hall, *A Woman's Trek From The Cape to Cairo* (London: 1907), 2.

visited. However, we learn little about the Cape or Cairo as Hall focused on the “less known part of central Africa.”⁵⁹ In the preface of the book Hall writes:

As I am the first woman of any nationality to have accomplished the entire journey from the Cape to Cairo, I think perhaps a simple account of how I managed to do it quite alone may be of some interest to many who, for various reasons, real or imaginary are unable to go so far afield. I hope that a book, written from a woman’s point of view, minus big game romances, and the usual exaggerations incidental to all things African, may be acceptable.⁶⁰

As Hall acknowledged her accomplishment, she simultaneously downplayed her experience by referring to her writing as a “simple account” and hoping that it is “acceptable.” The preface provides a glimpse into the gender dynamics that are at play throughout the novel. According to Blake, the argument of Hall’s narrative is that ordinary travelers, women in particular, can travel in Africa.⁶¹ Women travelers did not have to be considered explorers or ethnographers like Kingsley, or even be paid authors like Gaunt, they can just be ordinary travelers that participated in the colonial experience.

Although Hall was the first woman to make that journey, men and women had been traveling in Africa well before her and these travelers influenced her

⁵⁹ Hall, 2.

⁶⁰ Hall, v.

⁶¹ Blake, 27.

image of the British Empire and her writing. Birkett speculates that women who wrote after the turn of the century, like Hall and Gaunt, relied on the printed word to construct their own imagery of the colonies. The writings of those before them influenced their perceptions of Africa and the natives who belonged to it, and “while many did not begin their journey until the turn of the century, their cultural baggage looked back to an earlier age in which they had been reared.”⁶² As Hall was influenced by existing information on the colonies prior to her journey, she was also contributing new information about the less known parts of central Africa that informed readers in the metropole. The “cultural baggage” that Hall brings along with her is seen in her perceptions of racial difference and promotion of Victorian gender norms.

Traveling rather comfortably, Hall passed through European settlements and missions, stayed in hotels, and took trains and luxurious boats. She was accompanied by porters, native soldiers, and was often carried by her native “boys” in a machila (a carrying device). Although traveling comfortably would have been expected of a lady, she also went outside of the bounds of Victorian femininity on her journey. When traveling through central Africa Hall notes that she was in command of a caravan of forty, and remembers that “the porters by this time were really no trouble; like children they were quick to see that I meant what I said and I was very careful never to give an order unless I intended it should be obeyed, so that I had them quite under control.”⁶³ By taking command of

⁶² Birkett, 22.

⁶³ Hall, 238.

the natives in her caravan, Hall went against traditional gender roles where a woman would normally follow and not lead. However, she also acknowledges that she was somewhat limited by her gender. Hall alludes to it being improper for her to use extreme physical force on the natives, but also that “merely telling them to do a thing, when they know the order is not likely to be backed up by a good thrashing if not obeyed, has very little effect sometimes.” So in order to maintain her power, she goes on to write “however, I felt I must maintain my authority somehow, so I kicked over their fire, and they had to go supperless to bed. I taught them a lesson.”⁶⁴ As a woman traveling by herself, for the most part, Hall needed the men in her caravan to set up camp, carry the equipment, carry her so that she would not have to walk the whole way, and to trek alongside her, so it was imperative that she exerted power over them and that they followed her command. Hall was able to ignore some Victorian gender conventions and to gain authority as she traveled, which was in large part due to her race.

Whiteness granted Hall a certain amount of automatic superiority, however as seen in the examples above, when dealing with African men she had to make an extra effort to ensure that her racial superiority was respected. One key example in *A Woman's Trek* where Hall is vulnerable because of her gender but also powerful because of her race, appears when she described her caravan being pursued by an irate chief and his tribe. After African soldiers from her caravan took captive a man from another village to be their guide, Hall realized that they are being followed by

⁶⁴ Hall, 367.

“hordes of natives” that were running toward them “brandishing their spears above their heads.” When they approach her caravan, Hall engaged in a negotiation with the chief who she thereafter referred to as “the Sultan.” She described him as angry yet calm as he stated his case against her soldiers. Then, Hall writes:

I expressed my regret, and told him that it was not with my sanction that this had been done... I said that I should be very glad if he would allow some one to come with me as far as the next river, and he answered to the effect that nothing would give him greater pleasure... I felt that I had taken a new lease of life when we came to this amicable understanding. There was a visible stir among the men in the background, who began to feel that ‘the White Queen’ and their own Sultan were evidently coming to terms, and that bloodshed would be unnecessary. I think my own porters had remained so calm because they never doubted the omnipotence of the white skin to overcome every difficulty.⁶⁵

The Sultan then posed for a picture, they exchange gifts, and made a friendly parting. Referring to herself as the “White Queen” and recognizing the “omnipotence of the white skin” shows that Hall relied on her race to take control of the potentially dangerous situation. But she also used her gender and ladylike demeanor to sway the conversation in her favor, showing what “a little courtesy even among so-called

⁶⁵ Hall, 206-210.

savages” was worth.⁶⁶ Gender conventions, as well as race relations, played a role in how Hall negotiated with the Sultan. By handling the situation with the courtesy of a Victorian lady, Hall showed a level of submission to the Sultan’s power but was also assertive. Hall had to relate to the Sultan “subject to subject,” one colonized by race and the other by gender, and she responded graciously by recognizing the Sultans power but also exercised her own power as a European.⁶⁷

Hall occupied the unique position of an ordinary traveling British lady and a lone woman on a trek, which was influenced by both her gender and her whiteness. Even when traveling between European settlements with her native porters, Hall was influenced by her “cultural baggage” and always observed racial boundaries.

She furthered imperial notions of emasculated African men when writing about the three main “boys” in her travel staff, calling them “practically my parlor maid, housemaid, and lady’s-maid.”⁶⁸ In several instances she also refers to native men as childlike:

the more I saw of the natives, the more they impressed me with their childish temperament. Once or twice, after I had been angry with them, they seemed quite downcast, and then just as I was thinking, ‘Poor fellows! Perhaps I have been too hard on them,’ the air would suddenly be rent by peals of laughter, and all my regrets

⁶⁶ Hall, 210.

⁶⁷ Blake, 29.

⁶⁸ Hall, 90.

vanished when I saw how little my severity affected them.⁶⁹

It is clear that Hall believed she was justified in her treatment of the natives because of their poor character and lazy habits: “they are drunk and normally lazy, and in general just not that smart.”⁷⁰ Throughout her book Hall was not very sympathetic to the natives and clearly thinks that African colonization is justified.

A Woman’s Trek ends in Khartoum, the capital of the Sudan. Hall rationalized not ending her account in Cairo because, “as I have said before, it is only my experiences in the more unknown parts of Africa that I wish to give in full detail... and as Khartoum has now been brought by the railway within the reach of the ordinary tourists, there is no need to describe my experiences between it to Cairo.”⁷¹ By simultaneously traveling Africa like a European tourist and trekking through unknown parts of central Africa, Hall made her journey accessible to European readers and brought knowledge about the road less traveled by in Africa. However Hall was not just an ordinary tourist, as she navigated how to slip between the roles of traveler and lady.⁷²

Flora Shaw

Flora Shaw was also no ordinary tourist in the colonies. She used travel writing to gain a political identity and also to promote the British imperial

⁶⁹ Hall, 242-243.

⁷⁰ Hall, 234.

⁷¹ Hall, 418.

⁷² Blake, 31-32.

agenda. Shaw was born in 1852 to an upper-middle class family with a military and parliamentary legacy.⁷³ Like Kingsley, she took care of her mother until her death and then was required to run the household. However, Shaw would not always be bound to the domestic sphere or strictly conform to gender roles. With encouragement from a male mentor, she began writing for different London magazines and ended up writing for *The Times* of London. From 1890 to 1900 Shaw wrote for *The Times* on the politics on imperialism, and later became the paper's first Colonial Editor. She traveled around British colonies, like Egypt, Morocco, and South Africa to gain firsthand knowledge of the British Empire. In her writing it is clear that Shaw supported British expansion and imperial ideology.⁷⁴ After retiring from *The Times*, Shaw married Sir Fredrick Lugard, Governor of Northern Nigeria, in 1902 and they traveled to Nigeria.⁷⁵ Shaw's early travels to the colonies were influenced by her career, which points to her independence. Her later position as a wife brought her to Nigeria, making her experience quite different from those of Kingsley, Gaunt, and Hall. While in Nigeria, Birkett describes Shaw as feeling rather isolated in the colonies and being bored with her life there, she had "[given] up her stern professional old-fashioned black dresses for white

⁷³ Helen Callaway and Dorothy O. Helly, "Crusader for Empire: Flora Shaw/ Lady Lugard," in *Western Women and Imperialism: Complicity and Resistance*, ed. by Nupur Chaudhuri and Margaret Strobel (Indianapolis: Indiana University Press: 1992), 79 and 81.

⁷⁴ Callaway, 79.

⁷⁵ Strobel, 41.

gowns, and drifted unhappily around the verandah at Zangera with the outward appearance at least of a colonial woman.”⁷⁶ It is apparent that Shaw was not the typical colonial wife that was secluded in the domestic sphere, she was meant for travel and “crusaded for empire” through her writing and political involvement.⁷⁷ After four months in Nigeria, Shaw was ordered to return to London for health reasons. Upon her return, she wrote *A Tropical Dependency: an outline of the ancient history of the Western Sudan* in 1905. Unlike the three other travelers’ writings, this book is less an account about Shaw’s experiences in Nigeria. Instead, it provided an extensive history of the region and chapters on the contemporary political situation of Nigeria.

Shaw had a public and political identity, through her journalism career, and was in direct contact with people in colonial administration before she wrote a book inspired by her time in Nigeria. These class advantages put Shaw in a position of power, making her able to subvert gender roles and enter the male-dominated public sphere of imperial politics. However, her social class and her race also required Shaw to police herself in relation to how far she went outside of Victorian gender norms. Shaw did not try to change accepted gender roles but instead made a space for herself in the politics of empire through a career in journalism.⁷⁸ Shaw had to negotiate gender dynamics as she traveled to Africa and other British colonies, not just for the sake of travel, but instead for her work and

⁷⁶ Birkett, 76.

⁷⁷ Callaway.

⁷⁸ Callaway, 80.

her husband's career. She occupied a space outside of her gendered sphere even before she went to Nigeria and wrote *A Tropical Dependency*. The extensive history of Western Sudan in her book, although biased towards imperial expansion, shows that Shaw was expert enough to write a dense book on this topic. However, Shaw could not be considered as contributing to empire building because of her gender. Despite this gendered limitation, "she achieved the limits of the possible- as a fearless global traveler and a journalist who could sway public opinion and influence the reputation of empire builders."⁷⁹ At the same time that Shaw went against Victorian gender norms as she travelled the globe and swayed public opinion, she negotiated gender tensions between her work and her womanhood.⁸⁰

Although Shaw had a political voice, her political participation was restricted by her gender, and "in her direct political maneuvers, she acted through men." In her early publications in *The Times* Shaw even wrote anonymously. However, it is interesting to consider if Shaw herself felt this gender subordination as limiting. Helen Callaway and Dorothy Helly highlight that Shaw identified with "imperial ideology of masculinity" and "male 'heroes of empire'," which is seen in her promotion of colonial administration and Lugard's views on imperial policies in *A Tropical Dependency*.⁸¹ This respect for a male empire may be on account of Shaw's position as Lady Lugard and her upper-middle class background where gender norms would have been

⁷⁹ Callaway, 85.

⁸⁰ Callaway, 80.

⁸¹ Callaway, 80.

strictly observed, and also because of her strong support of imperialism, which her class would also have influenced.

Believing in the development and expansion of the British Empire, Shaw promoted imperial policies and British presence in Nigeria in *A Tropical Dependency*. The theme of racial superiority is also important to Shaw's history of Western Sudan as she writes that "there were evidently superior and inferior tribes" of Africans.⁸² Shaw's writing has a tone of white European dominance while she also created a hierarchy among Africans, making it seem like domination of one racial group over another is natural. Another key theme of Shaw's contemporary account of Nigeria is the cultivation of tropical lands, which brings up the questions of transport and labor.⁸³ In order to get the material benefits from colonial land the empire still needed native labor. Shaw writes, "we have abolished slavery, and, as a consequence, it has been assumed that the labor which once supplied the great industries of the world has ceased to have any value."⁸⁴ Shaw viewed Africans as laborers, important to serving European economic needs, and in exchange Europeans would bring civilization to this inferior race.⁸⁵ Although slave labor was abolished in British colonies in 1901, Shaw explains that natives in British protectorates could choose to stay with their masters and provide free labor, which she actually promoted in *A*

⁸² Flora Shaw, *A Tropical Dependency: an outline of the ancient history of the Western Sudan* (London: 1905), 39.

⁸³ Shaw, 7.

⁸⁴ Shaw, 9.

⁸⁵ Callaway, 94.

Tropical Dependency. Free labor was beneficial to the British Empire and to the laborer, because “he has, in slavery, the habit of work, the country can only be developed and made prosperous by labor, and it would be retrogression, not progress, if a race now fairly laborious were, by a too sudden alteration of the social system, to be rendered idle and vagrant.”⁸⁶ Through examples of slavery, labor, and harvesting of resources in colonial Nigeria, it is clear that Shaw believed in white racial dominance and promoted the imperial agenda through her writing, which influenced her ideas about Africans and racial difference.

Shaw dealt with questions of race rather than gender in her book, but the career that she made for herself by writing on the colonies often did put her at odds with gendered expectations of her home society. She brought information to Britain about the colonies and contributed to imperial discourse. In her travels in the colonies and her work in Britain, Shaw went against gender roles and participated in the public sphere. Strobel accounts for the impact that Shaw actually had on colonial policy as she states, “few late-nineteenth-century writers had more influence on colonial affairs than journalist Flora Shaw. Her writing fed the environment that fostered imperial expansion.”⁸⁷ In *A Tropical Dependency* it is clear that Shaw truly does believe in imperialism and the superiority of white civilization. Similar ideas about race and empire are seen in the other women travelers’ writings, however Shaw was more political about it and had the opportunity to make her opinions public.

⁸⁶ Shaw, 791-792.

⁸⁷ Strobel, 41.

Conclusion

As seen in the contents of Kingsley, Gaunt, Hall, and Shaw's travel narratives, how they perceived the colonies had as much to do with British colonial ideology as their personal experiences. They became part of the imperial project as they traveled and wrote about the African colonies. The fact that they contributed to colonial discourse at all highlights that women were not absent from empire, despite it being labeled a male space.⁸⁸ British women travelers went against Victorian gender conventions through their presence in the colonies, which shows that travel was a method of mobility where white women could cross race and gender boundaries in the colonies that could not be crossed at home.⁸⁹ As Kingsley, Gaunt, Hall, and Shaw simultaneously challenged and reinforced Victorian gender conventions, they came to occupy a unique yet contradictory space in the colonies. This influenced how they wrote about race, but also how Africans perceived them. At the same time that their gendered position was ignored because of their whiteness, gender was also important to racial boundaries and white respectability. Occupying this unique space allowed these four travelers to have an experience that was different from other British women in the colonies, as most of them were settlers and missionaries.

Kingsley, Gaunt, Hall, and Shaw's writing contributed to information about the colonies, perceptions about African culture, and discourse on racial difference that was absorbed in the metropole. Kingsley contributed knowledge about the diverse populations

⁸⁸ Strobel, 47.

⁸⁹ Blunt, *Travel, Gender, and Imperialism*, 16.

of Africa and an understanding of African culture. While Gaunt made racial assumptions about natives, and her racial views furthered existing notions about race. Hall also brought Victorian notions of race and gender with her to the colonies, which complicated her role as an ordinary traveler. And Shaw's writing contributed to discourse on racial dominance and promoted the colonial agenda. Readers in the metropole could find the race views and ethnocentric perspectives that these four female travelers adopted in their writing relatable, rather than their experiences in the African colonies.⁹⁰ Although these women had varying motivations and intentions for travel, their writing was shaped by their places as women in both home and colonial societies. This influenced how they wrote about racial hierarchy, acted on gender norms, and promoted imperialism in their writing. Although influenced by their home society, in traveling to the African colonies Kingsley, Gaunt, Hall, and Shaw were doing something that was original and also admirable as they contributed to imperial discourse in a unique way.

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⁹⁰ Mills, 118.

The Shadow of Kim Philby: Deceit, Betrayal, and British Espionage Literature

Kyra McComas

Introduction

Late on the stormy evening of 23 January 1963, pedigreed Cambridge graduate and top British Secret Intelligence Service (SIS) Officer Kim Philby boarded the Dolmatova freighter instead of attending a dinner party. The ship embarked across the tempestuous Mediterranean Sea towards Odessa and Philby's ideological home.¹

Philby's appearance in Moscow under political asylum rocked British society and plunged his fellow SIS officials and Cambridge colleagues into a world of doubt and anxiety. Philby had been one of them, a charming, skilled bureaucrat. He humiliated the British espionage system as the third man, the most prominent and dangerous, of the Cambridge Five Spy Ring. With the achievement of his top SIS position revealed as a result of masterful manipulation and back-stabbing, associate spies and citizens alike began to question who they could trust, if not each other, in a world threatened by the Soviet Union and Communism. British newspaper headlines read "Britain Betrayed" and the trust of the citizenry was shaken.²

¹ Neil Tweedie, "Kim Philby: father, husband, traitor, spy," *The Telegraph*, January 23, 2013, accessed January 13, 2015, <http://www.telegraph.co.uk/history/9818727/Kim-Philby-Father-husband-traitor-spy.html>.

² Bruce Page and David Leitch, *The Philby Conspiracy* (Garden City, N.Y.: Doubleday, 1968).

Not only did they feel threatened by Communism, but now they also feared their own government's ability to protect them. Such anxiety contributed to the transformation of the literary spy figure, especially in the writing of John le Carré.

Beyond undermining the reputation of the British SIS and the global image of the British Empire, Kim Philby had an enormous impact on British espionage literature. The new narrative of the spy deviated from the bold, charismatic superhero spy figure of Ian Fleming, James Bond, who used illusion as a tool. The spy became an inauspicious intellectual, constantly at odds with his human inclinations for betrayal at both a personal and communal level; illusion became his anxiety. This essay seeks to illustrate that Philby's impact was reflected primarily through the deceit of spy characters as well as specifically in the decay of John le Carré's spy figure, George Smiley, in his 1974 novel, *Tinker, Tailor, Soldier, Spy*. Not only did Philby influence the spy figure, but he also prompted novelists like le Carré to be more realistic and consider the ineptitude of espionage institutions, as their deception triggers a confrontation with ambiguous inner loyalty struggles that all humans face.

Three primary British novelists and their works will be analyzed, including Ian Fleming, Graham Greene, and John le Carré, with emphasis on le Carré and his 1974 novel, *Tinker, Tailor, Soldier, Spy*. Philby is not only directly embodied in le Carré's writing, namely as Bill Haydon, but also as a paradigm of the consequences of self-betrayal. Le Carré's cultural commentary calls us to remain loyal to ourselves above institutional ideology. To prevent the destruction of our individualism, we must maintain a skeptical perspec-

tive on an inherently duplicitous world in which espionage institutions justify any means to a noble end.

The Broader Impact of Kim Philby's Betrayal

The British government has worked diligently to maintain the secretive barricades that surround the intelligence service, and they were largely successful until after World War II. Pressure to release government secrets increased as transparency became a hallmark of liberal democracies. With the government unsure how to handle this pressure, the threads of the empire of secrecy began to wear thin.³

The British Empire was suffering from post-war economic declines and social cooperation struggles. This contributed to the increasing revolutionary impulses that largely affected the educated upper-class, due to their less stable wealth and declining social status in the face of liberalist notions. One such incidence of rebellion was evident when British spy Kim Philby defected to the Soviet Union.⁴

Kim Philby was born into the British ruling class as the son of a British Arabist and intelligence officer, who was well-versed in the language of betrayal and double-dealing. He followed in his father's elite schooling at Westminster, Trinity College, and Cambridge, but found it altogether uninspiring. By 1936, he was

³ Richard James Aldrich, "Policing The Past: Official History, Secrecy And British Intelligence Since 1945," *The English Historical Review* 119, no. 483 (September 2004): 922-53.

⁴ Margaret Scanlon, "Philby and His Fictions," *Dalhousie Review* 62, no. 4 (December 1982): 533-553.

a Soviet agent. Recruited by the British Secret Intelligence Service (SIS) in 1940, he became one of the famed Cambridge Five who were double agents for the Soviet Union.⁵ It is unknown how many British agents died as a result of his betrayal, as they followed the orders of their admired MI6 director of anti-Soviet operations, who plotted their doom behind the Iron Curtain. Philby was suspended from the SIS in 1953 following the disappearance (and successful escape to Russia) of his fellow Soviet agents, Guy Burgess and Donald Maclean, in 1951. A “secret trial” was held, but the SIS failed to indict Philby⁶ (which many argue was reflective of the faltering British system, as it could no longer distinguish betrayal). Interestingly, Philby was reinstated to a position in the United States working with the CIA. By 1956, he was stationed in Beirut, where he disappeared on 23 January 1963. After having been granted political asylum in Moscow, the British government revealed that Philby was known to have been a Soviet agent and the “third man” of the Cambridge Five since 1946,⁷ which once again, reinforced the image of the British system as a failing world power.⁸

Philby’s defection was a hard blow to the British

⁵ Scanlon, “Philby and His Fictions.”

⁶ Richard Norton-Taylor, “MI6 Defended Kim Philby Long after He Was Exposed as KGB Spy,” *The Guardian*, February 24, 2014, accessed January 13, 2015, <http://www.theguardian.com/uk-news/2014/feb/24/mi6-defended-kim-philby-spy>.

⁷ Kim Philby, *My Silent War* (New York: Grove Press, 1968).

⁸ Philip Boobbyer, “Review: Deceiving the Deceivers: Kim Philby, Donald Maclean, and Guy Burgess by S. J. Hamrick,” *The Slavonic and East European Review* 84, no. 1 (2006): 174-75, accessed January 14, 2015, <http://www.jstor.org/stable/4214247>.

Empire and the SIS. Since the SIS mistakenly linked social class to national loyalty,⁹ it blinded itself to the potential that Philby was subversive, prolonging its decay as a stagnant social entity and arguably impairing its ability to protect British citizens. Society came face to face with the opacity of these theoretically protective institutions; it is not surprising that they experienced a collapse of trust. Spies had long been leery of national foes, but this broader breakdown of institutional faith imposed on their personal circles. Le Carré illustrated this wariness in his character of Jerry Westerby, a British spy journalist who claims, “[It] comes from being on the outside: you don’t trust your best friends. Trust them - well, less than strangers.”¹⁰ Philby himself reflected upon this failing trust in his autobiography, stating, “I began to hear from the grapevine things which had never been told us officially.”¹¹ Rumors permeated every corner of British society. As an apparently efficient agent of the SIS, Philby’s exposure as a longstanding member of the Soviet KGB prompted attempts at psychological analyses,¹² which were monumentally influential on British espionage literature after 1963. Historian Richard James Aldrich argues that “molemania” was unleashed by Philby’s autobiography, published in 1968, prompting Whitehall to evaluate its public image.¹³ Realizing that their government was intention-

⁹ Scanlon, “Philby and His Fictions.”

¹⁰ John le Carré, *Tinker, Tailor, Soldier, Spy* (New York: Knopf, 1974), 250.

¹¹ Philby, *My Silent War*, 33.

¹² Scanlon, “Philby and His Fictions.”

¹³ Aldrich, “Policing the Past,” 923.

ally withholding local and international policy development and execution, in addition to the broader image of a fading empire, British citizens became increasingly wary of their organizational institutions. How were they supposed to trust the protective measures of an opaque system? Such anxiety was the impetus for a cultural shift among the British people, as they recognized the pervasive mistrust in their world.

In truth, espionage literature already reflected a new era of secret intelligence laced with poison and double agents. Enter James Bond. Ian Fleming's first sensational spy novel, *Casino Royale*, was published in 1953 and included a seductive double agent named Vesper Lynd.¹⁴ The plot reflects the dubious espionage environment fostered by the defections of Burgess and Maclean, but the tone remains generally optimistic.

Very differently, the Philby affair was pivotal to exposing the lies of the government and society at large. David McKnight is in agreement with historian S.J. Hamrick, who condemns the British government as well as the "Establishment" elites who concealed Philby's duplicity to protect their own class image.¹⁵ Such greed represented the fallibility of human nature, which Philby's defection linked to society, revealing the humanistic imperfection and tendency for deceit inherent to institutions. The resulting scenes of social deterioration prompted John le Carré to regard Philby's story as one of the maladies and demonstra-

¹⁴ Ian Fleming, *Casino Royale* (New York: Macmillan, 1953).

¹⁵ David McKnight, "Review: Lies Upon Lies: Deceiving the Deceivers: Kim Philby, Donald MacLean and Guy Burgess by S. J. Hamrick," *The Review of Politics* 67, no. 4 (2005): 807-808, accessed January 14, 2015, <http://www.jstor.org/stable/25046490>.

tive of the decay of the class system. He called Philby's life "a Marxian novel" and commentary on social welfare, such that the SIS was a paradigm of the "British condition... our social attitudes and vanities"¹⁶ in response to imperial decline. Le Carré's social analysis of Philby heavily influenced his writing, just as many other spy novelists of the time incorporated the increasingly conspiratorial nature of reality in their writing. Philby was the key to exposing institutional corruption, which inadvertently had novel ramifications for the psychology of human existence.

For le Carré and others of this generation, Kim Philby exemplified human complexities in a way that further obfuscated institutional trust. The man himself was an enigma, only partially known, even to his four wives, and still hidden behind a mask that he helped create, especially with his apolitical autobiography. Margaret Scanlon argues that novelists like John le Carré, Graham Greene, and Joseph Hone imparted moral, psychological, or publicly historical consequences to Philby as a spy figure, but they only served to blur the line between fiction and history, further complicating the mystery of Philby's identity.¹⁷ His obscure life was an impetus for the manifestation of human nature as a paradoxical struggle in espionage literature, epitomized in le Carré's writing.

John le Carré: The Spy Who Wanted to Write

John le Carré was born David John Moore Cornwell

¹⁶ John le Carré, introduction to *The Philby Conspiracy*, by Bruce Page and David Leitch (Garden City, N.Y.: Doubleday, 1968), 15.

¹⁷ Scanlon, "Philby and His Fictions."

in 1931 in Poole, England. In 1959, he joined the Foreign Office at the British embassy in Bonn, working as second secretary until 1964. His first novel, *Call for the Dead*, was published in 1960 under the name John le Carré, since the Foreign Service forbade publishing under a real name.¹⁸ But it was not until 1963 that his first successful novel, *The Spy Who Came in From the Cold*, was published, which brought him recognition at a national level.¹⁹ The book was named the Best Crime Book of 1963 by the Crime Writers' Association.²⁰ Le Carré continued to write spy novels until 1991, influenced initially by his exposure to double agents through his work in Bonn (as part of an MI6 undercover job in 1960), and then later by current events, such as Kim Philby's defection, *perestroika* and *glasnost*, and Cold War developments.²¹

The heavy influence that Philby had on le Carré and his writing is not only evident in the characters of his spy novels, but also in his biographical writing and commentary. In 1974, immediately following the publication of *Tinker, Tailor, Soldier, Spy*, le Carré told

¹⁸ LynnDianne Beene, *John le Carré* (New York: Twayne Publishers, 1992).

¹⁹ Myron Joel Aronoff, *The Spy Novels of John Le Carre': Balancing Ethics and Politics* (New York: St. Martin's Press, 1998).

²⁰ "Best Crime Books Awards," *The Times*, April 17, 1964, accessed 15 January 15, 2015, <http://find.galegroup.com.libproxy.scu.edu/ttda/infomark.do?&source=gale&prodId=TTDA&userGroupName=sant38536&tabID=T003&docPage=article&searchType=AdvancedSearchForm&docId=CS420177553&type=multipage&contentSet=LTO&version=1.0>.

²¹ Tom Maddox, "Spy Stories: The Life and Fiction of John le Carré," *Wilson Quarterly* 10, no. 4 (Fall 1986 1986): 158-170, accessed January 14, 2015, <http://www.jstor.org/stable/40257078>.

James Cameron, "I feel Philby was essentially dead wrong... [and I] attempted to prove that Philby was a born deceiver and that his Marxism was nothing but a rationale."²² Le Carré's disgust with Philby stemmed from Philby's betrayal to his own morals and humanity.

Hence, le Carré prioritized some loyalties, which in fact, went against the current of the espionage genre as defined by Ian Fleming. LynnDianne Beene notes that in le Carré's world of espionage, "betrayal of and by security institutions, bureaucracies, ideologies, or country is expected but seldom excusable; betrayal of individuals or of self is unforgivable,"²³ supporting the notion that le Carré saw Kim Philby as a despicable character. This sheds light on le Carré's potential motives and underlying political and ethical commentary.

While some prioritization of loyalties (antithetical to Ian Fleming's novels) exists, le Carré's aphorisms are less than revealing, and in fact, further complicate the situations they attempt to illuminate. Le Carré demonstrated much skepticism, and called his readers to do likewise. He illustrated a human conscience that questions the cost of democracy, being an institution designed to protect liberties through a covert espionage institution. This was further explored in the mind of his fictional spy figure, George Smiley, who is torn by personal sentiments and morals and political necessity, bringing to light the debate of a national *need* for spies. New considerations must be made if one is to assert the natural imperfection of humanity

²² Quoted in Aronoff, *The Spy Novels of John Le Carre'*, 46.

²³ Beene, *John le Carré*, 1.

and realize that “humanism, no matter how ponderously reexamined, cannot avoid inhumanity,”²⁴ echoing the sentiments of Joseph Conrad’s “heart of darkness” and Graham Greene’s “human condition.”²⁵ This can become a rather depressing reality, as Smiley reflects in le Carré’s 1977 novel, *The Honourable Schoolboy*, saying, “I have learned to interpret the whole of life in terms of conspiracy.”²⁶ As such, le Carré’s writing was arguably reflective of the *need* to reveal the secrecy of the government and the SIS in a realistic fashion, not blown up by fantasy as was the norm for the espionage genre prior to le Carré, namely in Ian Fleming’s novels. Beneath le Carré’s broader social commentary lies a specific criticism of the espionage system, stating that the dangers of spying are not just related to national image and global relations, but have significant impact on the inner workings of the spy’s (and any espionage employee’s) humanity and consciousness. The spy is especially susceptible to self-deception because he creates an illusory life to give his existence meaning, since otherwise he functions solely as an appendage of the political espionage machine.²⁷ But if recognition of personal values is ignored, as it was by Kim Philby, decency goes to the wind and deception takes root, negating the “ambiguous moralism”²⁸ of the conflict between personal and institutional loyalties that

²⁴ Beene, *John le Carré*, 15.

²⁵ Beene, *John le Carré*, 15.

²⁶ John le Carré, *The Honourable Schoolboy* (New York: Penguin Books, 1977).

²⁷ Aronoff, *The Spy Novels of John Le Carre’*.

²⁸ Aronoff, *The Spy Novels of John Le Carre’*, 10.

makes us human.

Thus, Philby's influence on le Carré was a microcosm of Philby's influence on society. Amidst mounting distrust, le Carré sought to instill a little more transparency in the world. His spy figure, George Smiley, epitomizes the human struggle and change in reaction to conspiracy, providing society with a relatable character who prioritizes decency.

The Emergence of a New Spy Figure

In order to understand the changes in the espionage fiction genre instigated by Kim Philby's defection, the context of the genre prior to 1963 must be explored. George Smiley, although a stark contrast with James Bond, was a different spy character without the influence of Philby. James Bond was the archetypal spy of the time, but did not last to see Philby's duplicity.

Before Kim Philby defected and unleashed a torrent of anxiety upon society, le Carré's spy figure was a moral, unsuspecting character with very little will to deviate from orders. He was the opposite of James Bond, whom le Carré denigrated as a ludicrous myth. Smiley first appears in *Call for the Dead* (1960) as a short, overweight, clumsy intellectual and seventeenth-century German poetry scholar.²⁹ A classless "toad... without schools, parents, regiment or trade, without wealth or poverty, traveled without labels in the guard's van of the social express, and soon became lost luggage."³⁰ As a socially nondescript

²⁹ Beene, *John le Carré*, 8.

³⁰ John le Carré, *Call for the Dead* (New York: Walker, 1962), 7.

character, Smiley can be anyone, thus providing a template into which readers can place themselves.

Throughout the novel, Smiley displays decency, integrity, sympathy, and compassion. Although he is remarkably ordinary, he embodies the simple notion of being a good human. Yet he is still torn by the inevitable inner loyalty struggles of humanity living in a social contract with higher institutions. This bodes ill for Smiley in *The Spy Who Came in From the Cold*, when his concern and care for agent Alec Leamas indirectly contribute to Leamas's death.³¹ Smiley is torn by the guilt that although his actions were noble, the ends were tragic. This evidences the nascent theme of means-to-an-end that permeates Le Carré's later writing; it is an issue that was brought to light by Philby's defection.

Such moralistic notions are largely lacking in espionage literature before 1963. Le Carré himself only hinted at morality and was much more vague in his earlier novels. Meanwhile, Ian Fleming characterized James Bond by escapism and moral cynicism.³²

A Culture of Betrayal: James Bond and Britishness

Double-dealing has long been characteristic of the espionage fiction genre. The differences arise in how the spy figure deals with it. While Smiley struggles to accept a victorious result achieved by foul methods, Ian Fleming's spy figure, James Bond, does not feel this human guilt. A sexual "hyena" and the "ultimate prostitute" who replaces "love with technique"³³ and

³¹ Aronoff, *The Spy Novels of John Le Carré*.

³² Aronoff, *The Spy Novels of John Le Carré*, 18.

³³ Quoted in Beene, *John le Carré*, 8.

relies on charms and seduction, Bond is a far cry from Smiley's cuckoldry, according to John le Carré. Moreover, le Carré maintained that through Bond, espionage was perpetuated as an extension of diplomacy, reinforcing the "gilded dream of James Bond"³⁴ and the myth of the espionage institution as a salubrious organization. Yet James Bond is a global phenomenon. Especially with the success of the films, the first of which, *Dr. No*, grossed nearly \$60 million in box office receipts in 1962,³⁵ Bond is an internationally recognizable character.

However, it is important to note that the film version of Bond deviates from the literary character, who is more moody, ironic, less loyal, and even humorous. He debatably represents what a British hero should be as a clean-cut heterosexual, with "masculine prowess and sardonic wit... [and] a very British kind of snobbery,"³⁶ according to Klaus Dodds. Yet such emphasis on physical savoir faire and masculinity as well as charm remains true to Fleming's literary Bond.

James Bond, code name 007, is an officer in the SIS (also called MI6) and a commander in the Royal Naval Reserve. He was allegedly modeled off the "Ace of Spies," Sidney Reilly, a Jewish Russian-born SIS agent whose life is largely unsubstantiated legend,³⁷ reinforcing the fictitious nature of the Bond spy figure. Furthermore, all of Bond's adventures are rather formu-

³⁴ Quoted in Beene, *John le Carré*, 48.

³⁵ Klaus Dodds, "Shaken and Stirred," *History Today* 62, no. 10 (October 2012): 50-56.

³⁶ Dodds, "Shaken and Stirred," 53.

³⁷ Dodds, "Shaken and Stirred."

laic. Upon receiving a new mission, Bond embarks on an adventure involving extravagant combat scenes and a troupe of allies, enemies, and lovers. After killing the bad guy and foiling a ludicrously conceived evil plan, Bond typically has a closing scene with his lover in a final display of dominance by sexual prowess.³⁸ Such a formula prevents Bond from really developing as a character, making Fleming's novels less of a character study than le Carré's.

The moral cynicism of Bond is illustrated by his acknowledgment that his profession involves killing people and then "[forgetting] about it... it was his duty to be as cool about death as a surgeon... regret was unprofessional."³⁹ Bond essentially buries his natural humanness in order to be an effective appendage of MI6. For example, on one mission, he catches himself reminiscing about "Cadbury milk-chocolate Flakes and the fizzy lemonade" of his youth, but quickly "slammed the mawkish memories back into their long-closed file. Today he was a grown-up, a man with years of dirty, dangerous memories - a spy."⁴⁰ Such devotion to duty and profession exemplifies his complete loyalty to Britain and her protection, as well as exempts Fleming from discussing relevant moral implications and tensions with which humans naturally struggle. As such, Bond, embodying the "handsome and strong"⁴¹ British gentleman, becomes an imaginary character whom society can idolize, but to whom it can never

³⁸ Dodds, "Shaken and Stirred."

³⁹ Ian Fleming, *Goldfinger* (Seattle: Thomas & Mercer, 1959), 3.

⁴⁰ Fleming, *Casino Royale*, 2.

⁴¹ Fleming, *Casino Royale*, 31.

relate.

Bond's unwavering loyalty and inhumanity are precisely what makes him unrealistic. Smiley would never betray love ("the sin of sins"⁴²), which Graham Greene identified as the human factor and used to define his spy as good.⁴³ Bond, on the other hand, has love affairs of "cold passion"⁴⁴ with a parade of different women with caricaturally invented names like Honeychile Rider, Pussy Galore, Kissy Suzuki, and Mary Goodnight, further implying their titillating roles.⁴⁵ Such fantasy and unscrupulousness lends itself to an entertaining, yet unrealistic vantage. And Scanlon notes that sexual deviance is "a dead giveaway for fictional spies."⁴⁶ George Smiley embodies the very real struggle that love evokes. In contrast, Bill ... usually ... Philby, who had four wives as well as a mistress, rumored to be the wife of his Cambridge Five colleague, Donald Maclean.⁴⁷ LynnDianne Beene agrees that le Carré "makes love and individuality - not spy fiction's super-

⁴² Le Carré, *Tinker, Tailor*, 157.

⁴³ Graham Greene, *The Human Factor* (New York: Simon and Schuster, 1978).

⁴⁴ Ian Fleming, *Moonraker* (Seattle: Thomas & Mercer, 1955), 9.

⁴⁵ James Chapman, "Bond and Britishness," in *Ian Fleming and James Bond: The Cultural Politics of 007*, ed. Edward P. Comentale, Stephen Watt, and Skip Willman, (Bloomington: Indiana University Press, 2005).

⁴⁶ Scanlon, "Philby and His Fictions," 540.

⁴⁷ Page and Leitch, *The Philby Conspiracy*.

ficial patriotism... determine a protagonist's fate,"⁴⁸ as is true in real life.

Ian Fleming's inclination towards fantasy writing is likely a result of his desk work as a Naval Intelligence Division officer in Whitehall during World War II. As an overseer of intelligence units, he never worked in the field.⁴⁹ Espionage fiction provided an outlet for his fantastical ideas about the glory of spying. This is highlighted by the fact that Bond will never die, and even if he does die, "he can die twice."⁵⁰ Thus, he is never really defeated. And as the British gentleman in perfect symbiosis with the espionage institution, he does not demonstrate natural human struggles that come with the process of growth, development, or maturation of the mind.

...society. The insularity and of British society that Bond embodies and the fact that he is a fantasy hero who could never exist, suggest that popular culture reflects what people want rather than the often painful reality of Bond is frequently recognized as a "sexist, misogynistic hero of British imperialism,"⁵² but his

⁴⁸ Beene, *John le Carré*, 137.

⁴⁹ Edward P. Comentale, Stephen Watt, and Skip Willman, ed., introduction to *Ian Fleming and James Bond: The Cultural Politics of 007* (Bloomington: Indiana University Press, 2005).

⁵⁰ Patrick O'Donnell, "James Bond, Cyborg-Aristocrat," in *Ian Fleming and James Bond: The Cultural Politics of 007*, ed. Edward P. Comentale, Stephen Watt, and Skip Willman, (Bloomington: Indiana University Press, 2005).

⁵¹ Chapman, "Bond and Britishness," in Comentale, Watt, and Willman.

⁵² Comentale, Watt, and Willman, ed., introduction to *Ian Fleming*, xvii.

adventures are thrilling and entertaining. They also echo nostalgia for the omnipotent British Empire that was declining in the mid-Twentieth Century, providing a certain comfort that was much more satisfying than le Carré's disheartening conclusions. At the same time, the viciousness of reality could not be totally ignored, especially after the multilevel deceit of Kim Philby. Graham Greene recognized this by asserting the unavoidable human inclination to love, and how love itself can be a source for self-deception.

Graham Greene and the Love of a Traitor

Bond became the popular image in spy fiction, bolstered by his popularity on the screen and endorsements by men in power, like United States President John F. Kennedy.⁵³ But Graham Greene's spy figure, Maurice Castle, is notably more human than Bond, and this is a result of Greene's fascination with Philby and his motives.

Graham Greene was a member of the SIS in 1941 and worked in Africa and England during World War II. The most obvious evidence for Philby's influence on Greene is the fact that Greene was under the direction of Kim Philby at MI6.⁵⁴ *The Human Factor*, published in 1978, specifically mentions Philby in light of the fact that his exposure "could be more damaging than the leak itself,"⁵⁵ suggesting a bigger issue with the institution's duplicity than Philby's. The spy figure and

⁵³ Dodds, "Shaken and Stirred."

⁵⁴ *Arena*, "The Graham Greene Trilogy," aired October 11, 2013, on BBC Four, accessed January 20, 2015, <http://www.bbc.co.uk/programmes/p01jm63d>.

⁵⁵ Greene, *The Human Factor*, 43.

protagonist, Maurice Castle, is clearly comparable to Philby, since Castle is a British double agent for the Soviet Union who believes it is “always safer to be inconspicuous,”⁵⁶ just as Philby demonstrated in his autobiography by claiming his “right to veil in decent discretion” recent events, providing only “a few hints at the truth.”⁵⁷ Similar to Smiley, Castle is aging, ordinary, nostalgic, and self-deprecating, “apologizing for [unexpressed] criticism[s]” and expressing the “defensive humor of a lonely man.”⁵⁸ Such loneliness is reminiscent of Philby’s isolation after his defection. And Castle’s conscience is riddled with dissatisfaction, as was Philby’s when he was not warmly welcomed into a lush Russian life, as he expected.⁵⁹ His internal instability is a function of his career in espionage such that “Castle felt anxiety like the prick of an insect,”⁶⁰ hinting at the notion that the espionage institution is at fault, not the spy.

Greene further explored the inner tensions of the human mind by a constant confrontation of opposites: habit and chaos, love and hate, joy and fear, loyalty and betrayal, camaraderie and solitude, and reality and myth. Yet Castle remains firm in his convictions to be a good human. The reader is thus stimulated to respond to the pathos of Castle’s inner traumas and moral battles, because “except on really important

⁵⁶ Greene, *The Human Factor*, 20.

⁵⁷ Philby, *My Silent War*, 178.

⁵⁸ Greene, *The Human Factor*, 17.

⁵⁹ Aldrich, “Policing the Past,” 941.

⁶⁰ Greene, *The Human Factor*, 27.

occasions, he always preferred the truth.”⁶¹ So while it may not be an accurate depiction of Philby, Greene’s novel emphasizes the degeneracy of the institution, revealed by the spy’s retaliatory actions. With an emphasis on goodness, Greene suggested that any means can justify the end if it is a noble cause. In Castle’s case, the cause is love for his black South African wife, Sarah.⁶² The human factor is love and its omnipresence creates tension in the emotionless espionage institution.

Accordingly, Greene’s evaluation of Kim Philby was not one of condescension merely because his focus was on Philby’s potential motives to remain true to a certain cause. Whether or not this cause was noble is a debate for another time. Much of Greene’s admiration for Philby stemmed from his talent as a “craftsman.”⁶³ Greene maintained that “the end, of course, in his eyes is held to justify the means, but this is a view taken, perhaps less openly, by most men involved in politics, if we are to judge them by their actions,”⁶⁴ essentially denouncing the institution for harboring depravity.

While Greene’s literature lacks the comprehensive didacticism of le Carré, Greene asserted that “the storyteller’s task... [is] to elicit sympathy and understanding for those outside state sympathy,”⁶⁵ which has perplexing implications for the true meaning of his

⁶¹ Greene, *The Human Factor*, 20.

⁶² Greene, *The Human Factor*, 28.

⁶³ Graham Greene, introduction to *My Silent War*, by Kim Philby (New York: Grove Press, 1968), 8.

⁶⁴ Greene, introduction in Philby, 7.

⁶⁵ Quoted in Scanlon, “Philby and His Fictions,” 542.

writing, since his spy figure was essentially modeled off Philby as a hero. Greene allowed the reader to sympathize with the isolating punishment of the traitor – not by apologizing for political betrayals,⁶⁶ but by simplifying the spy figure. By recognizing the naturalness of betrayal, as a mark of the human factor influenced by the external environment, Castle becomes a relatable figure. He avoids ignobility by maintaining his decency; for Castle, his personal loyalties justify his national disloyalty. But the institution has already negated any potentially satisfying outcome due to its exploitation of human nature to accomplish a goal. And in a realistic manner, Castle is forced into isolation, separated from his love in an ending marked by hopelessness and despair.

Although Green favored the paradox of human loyalties, Scanlon argues that he ignored the real consequences of a career in espionage.⁶⁷ Yet by dabbling in the moral stress that afflicts humanity, Greene provided a much more realistic perspective than Fleming, largely as a result of the very real circumstances of the questionable methods of the British Empire as a power for good. Philby, having exposed these doubts, was thus a model for Castle whose quest was essentially a search for identity. Thus, Greene did not pardon Philby's actions, but rather, revealed the capacity for betrayal in us all as a consequence of institutional sickness.

⁶⁶ Scanlon, "Philby and His Fictions."

⁶⁷ Scanlon, "Philby and His Fictions," 543.

Tinker, Tailor, Soldier, Spy: Bill Haydon as Kim Philby

Prior to Greene, le Carré capitalized on this capacity for deceit as a medium for the inner struggles of humanity, thereby expanding upon the realities at which Greene only hinted. Greene, like le Carré, was cynical about the methods of the West and his spy figure reflects the struggle to remain decent despite regular treachery by the “good guys,” but this is the limit of his political undertones. With Philby’s depravity as a guide, le Carré delved much deeper into the complexities of the human psyche as it exists in a cruel world of lies.

Evidence of a Philby character in le Carré’s writing is seen directly through the defector in *Tinker, Tailor, Soldier, Spy*, Bill Haydon. Both Scanlon and Aronoff reference John Halperin, who maintains there is an incredible resemblance between Kim Philby and Bill Haydon.⁶⁸ Halperin also notes historically similar plot points, such as Jim Prideaux’s Czech network betrayal paralleling Philby’s betrayal of Albanian and Ukrainian anti-Communist factions.⁶⁹ Although Haydon was a bisexual, unlike Philby, his sexual deviancy is indicative of treachery (realizing that the novel was written at a time of high homophobia, with emphasis on traditional patriarchal gender roles). The notion of multiple lovers was present in Fleming’s writing, but it was a show of masculinity, not betrayal, as in le Carré’s and Greene’s writings. These reflect Philby’s carnal unfaithfulness and betrayal of friendship, evidenced by his

⁶⁸ Aronoff, *The Spy Novels of John Le Carre*, 45.

⁶⁹ Scanlon, “Philby and His Fictions,” 540.

mistress, the wife of his cohort, Donald Maclean.⁷⁰

Like Philby, Haydon was never suspected of being a mole. He was admired as the “father to them all... [who] draws them like bees... [with] star quality... [such that] women literally bow down before him.”⁷¹ Described as an “artist”⁷² and “favourite boy”⁷³ who “had a dazzling war. He was ubiquitous and charming; he was unorthodox and occasionally outrageous. He was probably heroic. The comparison with Lawrence was inevitable.”⁷⁴ The reference here is to Lawrence of Arabia, a heroic World War I British military figure who struggled to balance loyalty to his native British Empire with loyalty to his newfound comrades of the Arabian desert tribes. This suggests foreshadowing that Haydon will deviate with regard to loyalties, but Smiley does not realize it yet; he only sees the British hero, Lancelot “rebuilding Camelot.”⁷⁵ Furthermore, this echoes of Kim Philby, whose father was often compared to Lawrence of Arabia from his work opposing British government policies.

Soon enough, Smiley begins to recognize the deceit in Haydon, thinking, “while his admirers might find in him completeness, Bill’s real trick was to use them, to live through them to complete himself... and finally submerging this dependence beneath an artist’s

⁷⁰ Page and Leitch, *The Philby Conspiracy*.

⁷¹ Le Carré, *Tinker, Tailor*, 24.

⁷² Le Carré, *Tinker, Tailor*, 288.

⁷³ Le Carré, *Tinker, Tailor*, 135.

⁷⁴ Le Carré, *Tinker, Tailor*, 150.

⁷⁵ Le Carré, *Tinker, Tailor*, 108.

arrogance.”⁷⁶ Le Carré argued just as much about Philby in his introduction to *The Philby Conspiracy*, saying, “Deceit [is] Philby’s life work” and beneath all his layers of lies is “the self-hate of a vain misfit for whom nothing will ever be worthy of his loyalty.”⁷⁷ And just as Philby enjoyed playing the game of betrayal, Smiley notes, “Bill had loved it... playing world against world.”⁷⁸ The result is a manipulative character who remains behind a mask, unknown for who he truly is.

Haydon is the embodiment of the human paradox. He is “disreputable and high-minded at the same time,”⁷⁹ enhancing his enigmatic nature. Smiley concedes, “Like the Cheshire cat, the face of Bill Haydon seemed to recede as soon as he advanced upon it, leaving only the smile behind.”⁸⁰ Thus, he maintains his mystique, just as Philby did, fading from sight only to leave the reader with more questions than answers.

The major difference is Haydon’s fate, which spells death at the hands of his former lover, Jim Prideaux. Here, le Carré delivered a more satisfactory termination of the mole, in contrast to Philby’s final dreary isolation in Moscow⁸¹ that is also the case for Greene’s spy figure, Maurice Castle. Le Carré leaves the reader to answer the moral questions that arise from the reality of the situation and instead “provides the rough

⁷⁶ Le Carré, *Tinker, Tailor*, 151.

⁷⁷ Le Carré, introduction in Page and Leitch, 7.

⁷⁸ Le Carré, *Tinker, Tailor*, 353.

⁷⁹ Le Carré, *Tinker, Tailor*, 150.

⁸⁰ Le Carré, *Tinker, Tailor*, 157.

⁸¹ Aldrich, “Policing the Past,” 941.

justice we want in our thrillers”⁸² through Haydon’s death.

The deception of Kim Philby is Bill Haydon. Philby’s reflection is apparent in le Carré’s writing, but there is also a potent cultural commentary that emphasizes remaining loyal to oneself. Otherwise, individualism is destroyed. This intent is further revealed by developments in George Smiley’s character, illustrating the innate loyalty tensions in all humans that Philby abandoned. At the end of the novel, Smiley asserts that Haydon betrayed as a lover, colleague, and friend, as well as a patriot. Smiley knew “he did not grasp the scope of that appalling duplicity; yet there was a part of him that rose already in Haydon’s defence. Was not Bill also betrayed?”⁸³ Ergo, Smiley’s character has undergone a dramatic change, as he questions human motives and his own loyalties. He is disgusted, but also feels “a surge of resentment against the institutions he was supposed to be protecting... The Minister’s lolling mendacity, Lacon’s tight-lipped moral complacency, the bludgeoning greed of Percy Alleline... why would anyone be loyal to them?”⁸⁴ For once, Smiley doubts the institutions he has believed to have been so altruistic, reflecting the larger anxieties of British citizens at the time of Philby’s defection. Both Haydon and Philby functioned as channels for British people’s larger concerns about their supposed protectors, and not surprisingly, society felt betrayed. Although he does not condone Haydon’s actions, Smiley achieves an understanding of Haydon’s predic-

⁸² Scanlon, “Philby and His Fictions,” 540.

⁸³ Le Carré, *Tinker, Tailor*, 332.

⁸⁴ Le Carré, *Tinker, Tailor*, 332.

ament because he had been played in the “world’s game,”⁸⁵ just as we all have; it is the reason for our struggle to remain loyal and is evidence of the unavoidable ambiguity of life as a social being.

George Smiley: A Changed Spy, Consumed by Unavoidable and Irresolvable Ambiguities

The changes in George Smiley not only reflect the sentiments and struggles of the British citizens in the mid-Twentieth Century, but also reveal the internal human paradox that we all battle: the crusade for loyalties and the battle of opposing instincts. Smiley is quite the antithesis of James Bond and embodies the humanistic struggle in response to Philby’s negligence. Smiley was always an unexceptional character, but he was never bold enough to assert institutional loyalties. Kim Philby was an impetus for change. Le Carré’s work is predicated heavily on the notions of betrayal, trust, and mystery that became evident by Kim Philby. Interestingly, the new spy figure that was born holds few answers and in fact prompts more questions, as Le Carré delved into the tangle of obscurities that plague human existence.

Smiley is a tactful, strategic, and talented interrogator,⁸⁶ but his good-naturedness is challenged in order to cope with the ambiguities exposed by Haydon, just as people were challenged by Philby. Smiley compromises his humanity in order to defeat Karla at the end of *The Quest for Karla* trilogy (which begins with *Tinker, Tailor, Soldier, Spy*). Beene agrees that “succumbing to the absolutism of the-ends-justify-

⁸⁵ Le Carré, *Tinker, Tailor*, 332.

⁸⁶ Le Carré, *Tinker, Tailor*, 308.

any-means, Smiley loses the moral superiority that set him apart from Karla.⁸⁷ Such is the cost of the game of espionage. But unlike Philby, Smiley does not become lost in it. Rather, he seeks to gauge, as we all should, whether democracies can justify authoritarian methods, but still remain societies worthy of defense.⁸⁸ Recognition of this incongruity is a result of Smiley encountering himself as the enemy, yet another irony. He encounters Karla as his doppelgänger, his darker half. At the finale of the trilogy, Smiley realizes he has defeated Karla “with the weapons I abhorred, and they are his.”⁸⁹ Such a confrontation with means-to-an-end is the climax of Smiley’s transformation, which originates in *Tinker, Tailor, Soldier, Spy*.

At the start of the novel, Smiley is insecure and weak, with “an inability to live a self-sufficient life independent of institutions.”⁹⁰ He later acknowledges how he had been “living with terror in his mouth.”⁹¹ But midway through the story, with the knowledge that Ann is unfaithful to him, although he is wholeheartedly loyal to her, he begins to deviate from his persistent morality and loyalty to love. He says, “I have a theory which I suspect is rather immoral... Each of us has only a quantum of compassion.”⁹² Such skepticism about the most essential part of humanity, the

⁸⁷ Beene, *John le Carré*, 12.

⁸⁸ Beene, *John le Carré*, 48.

⁸⁹ John le Carré, *Smiley’s People* (1979), quoted in LynnDianne Beene, *John le Carré* (New York: Twayne Publishers, 1992), 108.

⁹⁰ Le Carré, *Tinker, Tailor*, 24.

⁹¹ Le Carré, *Tinker, Tailor*, 275.

⁹² Le Carré, *Tinker, Tailor*, 196.

human factor, love, is the gateway to Smiley's metamorphosis into a Karla-like spy figure. He becomes "distrustful as ever of the standard shapes of human motive."⁹³ But Smiley's heart is still good. At the end, he "wonder[s] whether there [is] any love between human beings that [does] not rest upon some sort of self-delusion," and admits to the inevitability that "whatever intellectual or philosophical precepts he clung to broke down entirely now that he was faced with the human situation."⁹⁴ He still finds that he is concerned about his personal loyalties, and importantly, he feels responsible for those loyalties he believes he has betrayed. Although he may find himself employing the means of the enemy, his ends are very noble and are rooted in the fact that he maintains his loyalty to compassion.

Haydon, like Philby, has "no home, no woman, no faith."⁹⁵ In short, he has no love, making him a model for what not to do when facing battling loyalties. He calls Smiley's love, Ann, "The last illusion of the illusionless man."⁹⁶ By sleeping with Smiley's wife, Haydon manipulates Smiley's genuine loyalty to love. But because Smiley cannot equate love with illusion as Haydon and Karla can, he maintains his humanity. Even despite the fact that he betrays his humanity at the end of the trilogy, by exploiting Karla's love for his daughter and using the very fanaticism characteristic of Karla's lunacy and evil, he acknowledges this. Smiley's struggle to reconcile himself with his victory

⁹³ Le Carré, *Tinker, Tailor*, 353.

⁹⁴ Le Carré, *Tinker, Tailor*, 327.

⁹⁵ Le Carré, introduction in Page and Leitch, 7.

⁹⁶ Le Carré, *Tinker, Tailor*, 350.

by malevolent means is evidence of his faith in compassion. He does not deceive himself. Thus, Smiley is a model (not a solution) that prompts people to endure the duplicitous nature of existence. He is forced to deal with the guilt derived from his compassion. Although his intentions are just and rooted in genuine concern, the means require manipulations that deviate from his personal morals. The physical outcome is a victory overall, but the ethical outcome does not correspond ideally, suggesting unavoidable inconsistencies in life that often seem unfair. In the face of such disheartening and conflicting realities, Smiley is meant to be a source of comfort for people.

Le Carré's lack of admiration for Philby⁹⁷ stemmed from the fact that he did not meet the struggle as Smiley did. Instead, Philby wrapped himself in lies and admirers, becoming a multifaceted enigma just like Haydon. Le Carré attributed attempts to understand Philby as a man to "the peeling of an onion; even the most gifted interrogator may never reach the heart."⁹⁸ Indeed, Smiley could not fully unravel Haydon, suggesting that a certain amount of deceit is inevitable in humanity.

Smiley reveals our deepest convictions, making him a very different hero from James Bond. Thus, with Kim Philby's defection, a new narrative of the spy was born. He is a hero who may encounter shifts from morality to loyalty, while simultaneously being tormented by loyalty to self.

The Cost of a Career in Espionage

⁹⁷ Le Carré, introduction in Page and Leitch, 16.

⁹⁸ Le Carré, introduction in Page and Leitch, 13.

The espionage system demands that spies bury their humanity. It does not exist on the foundation of spies like Smiley; it chews them up and spits them out. What remains of the spy is the disheartening rubble of shattered morals and loyalties. Rather, the system requires dehumanized spies like James Bond who are wholeheartedly faithful to their national and professional duties. After all, the purpose of the institution is to protect the nation. But the cost to the individuals involved is an invidious world of self-doubt.

Essentially, the espionage institution employs a cruel gambit to dehumanize spies. This is manifested by the title of le Carré's novel, *Tinker, Tailor, Soldier, Spy*, which is a play on a British children's counting game. In the novel, the SIS uses the rhyme to code-name their spies: Bill Haydon is "Tailor" and George Smiley is "Beggarmen".⁹⁹ The system is capable of making something as innocent as child's play duplicitous. Le Carré proposed that these corrupt centers, reminiscent of real life espionage systems and national institutions, toy with the lives of individuals to advance their larger goals. Obsessed with "national self-advancement,"¹⁰⁰ they fail to recognize ideology. Haydon recognizes this, echoing Philby's disgust with the British SIS, saying, "Too much lost, wasted, too many scandals... The ordinary principles of tradecraft and security have gone to the wall in this service... We're losing our livelihood. Our self-respect."¹⁰¹ Smiley similarly questions institutional integrity when he asks the incarcerated Karla, "Your own side is going to

⁹⁹ Le Carré, *Tinker, Tailor*.

¹⁰⁰ Le Carré, introduction in Page and Leitch, 9.

¹⁰¹ Le Carré, *Tinker, Tailor*, 134.

shoot you. Don't you think it's time to recognise that there is as little worth on your side as there is on mine?"¹⁰² Le Carré's doubts are also evident in *The Philby Conspiracy*, having written, "I believe that SIS in its worst years, far from being a putrescent arm upon a healthy body, was infected by a general sickness which grew out of the sloth and disorientation of afterwar."¹⁰³ He further contended that "Philby, spiteful, vain and murderous as he was, was the spy and catalyst whom the Establishment deserved."¹⁰⁴ Philby was a source to reveal the degeneracy of the system and the game it played. The pain of the game is the savaged individuals that conclude *Tinker, Tailor, Soldier, Spy*.

Moreover, the espionage institution, and arguably the British government too, was in stasis in the mid-Twentieth Century. Philby himself recognized that the British government was "helpless"¹⁰⁵ in comparison to the Soviet Union's increasing power, which is why he maintained that "one does not look twice at an offer of enrolment [sic] in an elite force."¹⁰⁶ His degeneracy aside, this line of thinking clearly influenced le Carré's fiction, in which Smiley condemns the "British capacity to spike the advance of history"¹⁰⁷ and not contribute; "the Circus wasn't just silent, it was frozen."¹⁰⁸

¹⁰² Le Carré, *Tinker, Tailor*, 204.

¹⁰³ Le Carré, introduction in Page and Leitch, 15.

¹⁰⁴ Le Carré, introduction in Page and Leitch, 15.

¹⁰⁵ Philby, *My Silent War*, 15.

¹⁰⁶ Philby, *My Silent War*, 17

¹⁰⁷ Le Carré, *Tinker, Tailor*, 346.

¹⁰⁸ Le Carré, *Tinker, Tailor*, 76.

Such paralysis impaired the system to recognize treachery among its own, such as Philby's and Haydon's, when it had previously recognized that "a service that did not struggle did not survive."¹⁰⁹ Just as people must actively face the paradoxical loyalty struggle, so must institutions if they are to effectively protect the people in a fluctuating world of betrayal.

Such broader evidence for institutional deterioration also supports the realistic nature of le Carré's writing. He provided crucial social understanding for his readers in order to endure life in the British Empire. Consequently, espionage literature became a valuable asset to humanity and may in fact have been a *necessity*. Grayson Clary called this "spy-novel nationalism," whereby British espionage authors labored by "the twilight of imperial dignity."¹¹⁰ The rally to counter declining patriotism is perhaps a reason for Bond's continued popularity as a patriot who inspires hope. And the battle against the "professional vanity"¹¹¹ of institutions is where le Carré's novel provides a slightly more satisfactory conclusion than reality, as mentioned with Haydon's death. Such literature thus provides a mechanism for coping with the vicissitudes of the world (or not coping and becoming one with the inhumanity of the institution, which often occurs in real espionage as in the Philby case). Even when figures like Kim Philby threaten to destroy

¹⁰⁹ Le Carré, *Tinker, Tailor*, 134.

¹¹⁰ Grayson Clary, "Essays Kim Philby, Jack Reacher, and Spy-Novel Nationalism," *The Millions*, September 26, 2014, accessed January 16, 2015, <http://www.themillions.com/2014/09/kim-philby-jack-reacher-and-spy-novel-nationalism.html/comment-page-1>.

¹¹¹ Le Carré, *Tinker, Tailor*, 99.

all trust and hope, we must follow Smiley's example to remain steadfast in our convictions and skeptically face adversity, accepting the burdensome fact that many moral dilemmas are ambiguous and cannot be satisfactorily solved. But if these issues are disregarded and entombed in illusion, then self-loyalty breaks down and individual humanity is essentially negated. Perhaps the British people *needed* to hear this narrative in order to maintain some semblance of hope amidst omnipresent despair.

Traces of Philby in the Spy Figure and Beyond

While other factors, particularly Cold War events, contributed to the mounting anxiety that motivated espionage literature in the mid-Twentieth Century, Kim Philby most dramatically influenced the figure of the spy. Philby helped to paint an image of a faceless, unidentifiable enemy in each one of us, in addition to the unknown enemies of nations. Grayson Clary is not alone in his assertion that Greene and le Carré broke the mold of espionage literature in the mid-Twentieth Century by exposing the tension between the spy and the institution.¹¹² While Ian Fleming's spy was an imaginative amalgamation of hero and villain who pursued amoral adventures, London newspapers like *The Times* endorsed the "drab uncertainty" and betrayal that marked le Carré's realistic writing.¹¹³ His

¹¹² Clary, "Essays Kim Philby, Jack Reacher, and Spy-Novel Nationalism."

¹¹³ "Two Worlds of Espionage," *The Times*, February 1, 1966, accessed January 15, 2015, <http://find.galegroup.com.libproxy.scu.edu/ttda/infomark.do?&source=gale&prodId=TTDA&userGroupName=sant38536&tabID=T003&docPage=article&searchType=AdvancedSearchForm&docId=CS67594817&type=multipage&contentSet=LTO&versio>

work was viewed as the “grubby truth”¹¹⁴ and helped the public face the betraying realities of institutions as well as humanity.

All espionage literature reflected the new era of secret intelligence that was ripe with treachery, as demonstrated by Ian Fleming’s works. It was not until after Philby defected that le Carré’s archetypal spy partially morphed into the immoral enemy; *Tinker, Tailor, Soldier, Spy* and George Smiley embody the reaction to Philby. Not only is *Tinker, Tailor, Soldier, Spy* modeled off the story of Philby as a double agent, but it analyzes the psychosis of the traitor and reveals that everyone is capable of and subject to betrayal. Life’s great question then, is how do we balance diverging personal and moral loyalties with institutional and ideological loyalties? This is Smiley’s great struggle, and it is within each of us. Le Carré’s intents for writing his novel delved deeper than reflecting imperial corruption or elitist betrayal, they considered the human condition, as it was forsaken by Philby, and how the vicissitudes of an increasingly shadowy world mandate that we face the struggle between the sins and scruples that plague our souls. It is not so much that we must accept Conrad’s “heart of darkness” as Maurice Castle did, but we must be inquisitive of institutional ethics when the methods mimic those of the adversary. This was le Carré’s point. And because of the ubiquitous ambiguities, the result is

n=1.0.

¹¹⁴ "Screen Version of John Le Carré's Famous Spy Thriller," *The Times*, January 13, 1966, accessed January 15, 2015, <http://find.galegroup.com.libproxy.scu.edu/ttda/infomark.do?&source=gale&prodId=TTDA&userGroupName=sant38536&tabID=T003&docPage=article&searchType=AdvancedSearchForm&docId=CS235104813&type=multipage&contentSet=LTO&version=1.0>.

actually a “heart of confusion.” Le Carré’s only solution to this was *de facto* not a solution at all, but merely a coping mechanism via active skepticism. As a result of Philby’s exposure of the treacherous nature of espionage, as well as the corruption of the institutions that claim to protect, George Smiley becomes a dynamic character who is torn by the struggles that inevitably torment every human soul. The “Philby shift” is reflected as Smiley becomes more entangled in the debauchery of the system and begins to lose sight of his human loyalties, just as Philby lost sight. We all possess the inevitable human inclination to betray, and according to le Carré, our communication is “obstructed by qualifications and often with concern about how our messages are received - whether we will lose face,”¹¹⁵ becoming more confusing when funneled through bureaucracy. The stagnancy of bureaucratic institutions, like espionage systems, is unacceptable and demands reform involving “remedies outside the framework of conventional bourgeois thinking,”¹¹⁶ as Philby told *The Times*. But forsaking one’s humanity is not the answer, even though it may be easier than facing the contradictory realities, as le Carré revealed in *Tinker, Tailor, Soldier, Spy*. By calling for a “moral order beyond ideology,”¹¹⁷ le Carré instructed readers

¹¹⁵ Quoted in Aronoff, *The Spy Novels of John Le Carré*, 137.

¹¹⁶ Quoted in Daniel Priollet, "Philby Says 'I Would Do It Again'," *The Times*, November 15, 1967, accessed January 15, 2015, <http://find.galegroup.com/libproxy.scu.edu/ttda/infomark.do?&source=gale&prodId=TTDA&userGroupName=sant38536&tabID=T003&docPage=article&searchType=AdvancedSearchForm&docId=CS17788271&type=multipage&contentSet=LTO&version=1.0>.

¹¹⁷ Aronoff, *The Spy Novels of John Le Carré*, 2.

to be critically analytical and inquisitive, but be warned of the side effects of succumbing to the degeneracy of one institution and thereby abandoning personal loyalties. In le Carré's spy world, the real world, morality and human paradox cannot be ignored. Betrayal cannot be condoned as schoolboy adventures and fantasies and institutions cannot be acquitted of foul play. In the real world, there are real traitors, like Kim Philby, who threaten to undermine the society that struggles to be stable. Yet this struggle is crucial to the development of the society as well as individuals, like George Smiley, in order to understand opposing loyalties and accept the reality of their contention. Otherwise we turn to illusion and become appendages of the immoral, ideological machine, losing sight of our humanity and propagating a world of lies. Such is the inverted legacy of Kim Philby. It is not one of hope as much as it is one of caution and awareness, requiring the compassion and determination of George Smiley, and most of all, endurance. While humanity may prefer to be blissfully ignorant, history demands that we face the unscrupulous nature of humans and institutions. Only then can we begin to grasp the mystery of existence in an ironic world flooded with ambiguous moralities.

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A War Against the Facts and the Press

Héctor A. Navarro

Introduction

El Salvador's Civil War, which lasted from 1979 to 1992, grew from a history of military coups oppressing and terrorizing the country's peasant population. Left-wing guerrilla rebels, inspired by Marxist ideologies and Catholic Liberation Theology, formed the Farabundo Martí National Liberation Front (FMLN) and waged a bloody 12 year rebellion against the military juntas. El Salvador's close proximity to Cuba and Nicaragua made the war a political issue for the United States. Although the conflict was internal, President Ronald Reagan saw the civil war through a Cold War lens. Consequently, the first Reagan Administration funded El Salvador's Duarte Junta regime to quell the FMLN rebels, who the administration labeled as communist insurgents.

President Reagan employed hardline rhetoric to depict the United States as El Salvador's protector amidst the alleged threat of a communist movement. Furthermore, the State Department stressed the administration's role of protecting democracy and security in El Salvador. Secretary of State Alexander Haig stated that the U.S. government's role in aiding the Duarte military coup was, "first, to reaffirm and promote democracy; second, to create new economic opportunity; and third, most urgently, to oppose

interventionism.”¹ Assistant Secretary of State Thomas O. Enders described the U.S. aid as equipping its ally with proper defense; doing so supposedly furthered democratic ideals, but the junta’s military and paramilitary murders demonstrated neither defense nor democracy.² In fact, the Salvadoran Army used much of its U.S. training and funding to kill thousands of noncombatants. However, to maintain the Reagan Cold War doctrine, the State Department and the U.S. Embassy argued that no evidence could prove the junta’s massacres, and any sources that said otherwise were not to be trusted. This paper argues that the Reagan Administration worked this message through Congress and the American public by denying or hiding the facts and manipulating the press. It will examine the Salvadoran Army’s largest orchestrated killing of the civil war at El Mozote. It will then analyze the conflict between reports by the free press and human rights organizations versus the reports by the U.S. Embassy and State Department.

The El Mozote Massacre and its Press Coverage

On December 11, 1981, the Salvadoran Army’s U.S. trained Atlacatl Battalion ravaged the town of El Mozote, torturing and slaughtering between 700 and 900 peasants, including women and children. About 500 of the victims were residents of El Mozote proper, and the rest were civilians from nearby villages, such

¹ Enrique A. Baloyra, “Central America on the Reagan Watch: Rhetoric and Reality,” *Journal of Interamerican Studies and World Affairs*, 27, no. 1 (February 1985): 36.

² *Ibid*, 36-37.

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as La Joya and La Ranchería.³ Those who left their homes and fled to El Mozote tried to escape the Salvadoran Army's winter military sweep, misleadingly titled *Operación Rescate*, "Operation Rescue."

On January 27, 1982, Raymond Bonner and Alma Guillermoprieto published articles on El Mozote for the *New York Times* and *Washington Post*, respectively. They had traveled to Mozote via FMLN escorts on January 6 of 1981. The trip commenced after the FMLN guerrillas had regained control of El Mozote's surrounding Morazán province. Consequently, the two journalists witnessed and photographed the charred skulls, decaying bodies, and rotting animal flesh that smothered the ground at Mozote. In her article, Guillermoprieto wrote, "Here, the houses also were gutted and looted, but the overwhelming initial impression was of the sickly sweet smell of decomposing bodies. This was Mozote... inside, the stench was overpowering, and countless bits of bones –skulls, rib cages, femurs, and a spinal column –poked out of the rubble."⁴ Bonner also interviewed a survivor of the carnage, Rufina Amaya, who provided valuable insight into the Salvadoran Army's systematic torturing and killing of the villagers. Residents from outlying towns, who lost friends and relatives in the attack, put the number dead at 733.⁵ The massacre proved to be one of the army's most atrocious crimes committed during

³ Alma Guillermoprieto, "Salvadoran Peasants Describe Mass Killing; Woman Tells of Children's Death" *Washington Post*, January 27, 1982.

⁴ *Ibid.*

⁵ Raymond Bonner, *Weakness and Deceit*, (New York: Times Books, 1984), 343

the Salvadoran Civil War; but the Reagan Administration would deny the reliability of the *New York Times*, *Washington Post*, and other institutions that reported on such war crimes.

Raymond Bonner and Alma Guillermoprieto published evidence of the Mozote slaughter at a pivotal moment for the administration, as their articles appeared one day before President Reagan certified military aid before Congress. The certification was based on the 1981 Congressional amendment to the Foreign Assistance Act of 1961.⁶ The reason why Congress had amended the act was to curtail the Duarte Junta's noncombatant killings that occurred as early as 1980. The murder of 4 American nuns on December 6, for instance, had raised concerns about the U.S.'s "friendly," ally Salvadoran government.⁷ The aid amendment allowed military funding to El Salvador every six months only if the president certified that the government was improving on human rights.⁸ The Mozote incident indicated that human rights did not improve, but pressure from the Reagan Administration swayed the U.S. Embassy to deny that a massacre occurred.

Ambassador Hinton's Version

On December 15, 1981, Reverend William L.

⁶ Cynthia Arnson, *Crossroads: Congress, the President, and Central America, 1976-1993*, (University Park, Pennsylvania: The Pennsylvania State University Press, 1993), 12-13

⁷ Clifford Krauss, "How U.S. Actions Helped Hide El Salvador Human Rights Abuses," *The New York Times*, (March 21, 1993), 1.

⁸ Bonner, 343.

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Wipfler, Director of Human Rights of the National Council of Churches in New York, received word of the El Mozote incident from San Salvador's Archbishopric and human rights institutions. Wipfler messaged Deane Hinton, U.S. Ambassador to El Salvador, on December 15, 1981 asking for a confirmation of the massacre. Hinton then messaged a copy of his response to Wipfler's telegram and Wipfler's original text to the U.S. State Department. Wipfler's text stated that military and security forces had killed about 900 civilians in the Morazán province. Additionally, Wipfler desired Hinton to "confirm or otherwise" the claim.⁹ In response, Hinton claimed that he could not confirm the assertion and questioned the validity of Wipfler's sources, which are not identified in Wipfler's original message. Moreover, Hinton identified the embassy's only sources of the incident as testimonies from Radio Venceremos, the revolutionary, underground, and pro-guerrilla radio network that accompanied the FMLN rebels. The network was known for reporting government war crimes and criticizing the U.S. for its involvement in the war. Consequently, Hinton discredited Radio Venceremos to maintain the administration's portrayal of its ally, the Salvadoran government. Acknowledging the massacre would have challenged its image, potentially heightening public disapproval of U.S. military funding. After all, Reagan had removed

⁹ Deane Hinton, "TO SECSTATE WASHDC 7346: Alleged Morazan Massacre", U.S. Embassy in San Salvador, (January 8, 1982); obtained from the National Security Archive, <https://www2.gwu.edu/~nsarchiv/> <http://search.proquest.com.libproxy.scu.edu/docview/1679131991?accountid=13679>.

Robert White, Hinton's predecessor, from El Salvador because White actually reported on the military and paramilitary's human rights abuses; he did not fit the administration's framed foreign policy agenda.¹⁰

The January 27 *Times* and *Post* articles contradicted Hinton's message; with their vivid images and testimony reaching the eyes of the American public, the State Department would have to defend Reagan's aid certification to Congress on February 2, 1982. The House Subcommittee on Western Hemisphere Affairs, chaired by Democratic Representative Michael Barnes, asked for an explanation for certifying military aid to the junta in light of recent accounts of a massacre.¹¹ Assistant Secretary of State for Inter-American Affairs, Thomas Enders, would speak to the committee in defense of the certification.

An Unsuccessful Investigation

As of January 27, the State Department had no immediate data on Mozote to counter the *Times* and *Post* reports. Since Ambassador Hinton lacked any factual accounts of his own, the State Department sent two military officers, Todd Greentree and John McKay, to Morazán on January 30, 1982. There, they were assigned to question Colonel Domingo Monterrosa's Atlacatl Battalion, which was responsible for the alleged massacre.¹² Additionally, the Americans were to enter Mozote and investigate to provide the State Department with more facts. Expectedly, the Atlacatl

¹⁰ Mark Danner, *The Massacre at El Mozote: A Parable of the Cold War*, (New York: Vintage Books, 1994), 116.

¹¹ Arnson, 87.

¹² Danner, 111-112.

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Battalion's soldiers and commanding officers dodged the Americans' questions regarding the incident. The only substantial response was that rebels had established a defensive position to combat the government troops, which possibly caught nearby civilians in a crossfire. As a result, Greentree and McKay gathered no firsthand information that explained who conducted the military operation in Mozote or how many civilians died.

After the failed interviews, Greentree and McKay traveled with one of the battalion's squads into neighboring villages, including Jocoaitique and La Joya, to question the locals about El Mozote. In an interview with Mark Danner, author of *The Massacre of El Mozote* (1994), McKay explained, "You could observe and feel this tremendous fear. I was in Vietnam, and I recognized the ambience. The fear was overriding and we sensed it and could tell that that fear was not instilled by the guerrillas."¹³ The villagers dreaded the army and refused to speak about El Mozote, fearing for their lives. Danner also interviewed Greentree, who added, "Each person I talked to confirmed the impression that something bad had happened, but nobody was willing to go ahead and give the exact story."¹⁴ Lastly and most importantly, when the two officers and Salvadoran soldiers drove towards El Mozote proper, the soldiers refused to take the Americans into the town's limits. The reason was that FMLN rebels had retaken the village after the Atlacatl Battalion finished its gruesome military operation.¹⁵ Monterrosa's troops

¹³ *Ibid*, 107-109.

¹⁴ *Ibid*, 109.

¹⁵ *Ibid*, 109.

feared they would encounter enemy combatants. As a result, Greentree and McKay had to choose between entering Mozote without protection or heading back without an actual investigation; they chose not to enter and they returned to the U.S. Embassy.

McKay informed Mark Danner that he and Greentree “didn’t want to find that anything horrible had happened.”¹⁶ Moreover, McKay explained how avoiding a Mozote investigation proved detrimental to their reporting.¹⁷ Had the officers discovered evidence of a killing, they would have had to present contentious information before Deane Hinton and then the Department of State. In his interview with Mark Danner, Greentree explained that “what the Embassy had to say about that event had to be very carefully phrased and controlled, to get as close as possible to what happened and as far away as possible from propaganda on either side.”¹⁸ Indeed, the purpose of sending the officers to investigate was to provide the Embassy and the State Department with facts to back up Thomas O. Enders’s certification defense to Congress. However, information confirming a massacre would have exposed the disingenuousness of the administration’s human rights statement, thereby weakening Enders’s defense. Therefore, Hinton had to omit such evidence yet explain to some degree what happened at El Mozote. Ultimately, Hinton felt pressure to present a story compatible with the Administration’s portrayal of the Salvadoran military. Reagan sent a clear message not to smear the administration or the

¹⁶ *Ibid*, 107.

¹⁷ *Ibid*, 110.

¹⁸ *Ibid*, 117.

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Duarte Junta when he replaced Ambassador White with Hinton in early 1981. White had spoken against the military's dirty murders, most notably the deaths of the American churchwomen in 1980, so removing him set a precedent for Hinton to stay relatively quiet.¹⁹

One day after the "investigation," Ambassador Hinton revised Todd Greentree's report before cabling it to the State Department. The report stated that in light of the McKay-Greentree "investigation", the embassy could not confirm or disconfirm that the Atlacatl Battalion employed excessive violence against El Mozote's civilian population.²⁰ Additionally, the report asserted that civilian death figures did not approach numbers cited by independent sources, such as the National Council of Churches and the articles by Bonner and Guillermoprieto. Ultimately, the Embassy cited no conclusive evidence; and no "investigation" of Mozote took place. In this context, a lack of adequate evidence was sufficient to say that nothing happened. Additionally, omitting the fact that the officers never entered Mozote proved essential for discrediting other sources that cited high death tolls at El Mozote.

Manipulating the Facts and Defending Military Aid

The Greentree cable report formed the core of the

¹⁹ Arnson, 42-43

²⁰ Todd Greentree and Deane Hinton, "TO SECSTATE WASHDC NIACT IMMEDIATE 7665: CONFIDENTIAL", U.S. Embassy in San Salvador, (January 30, 1982); obtained from Danner, 195

State Department's framing of the Mozote massacre. On February 2 1982, the House Subcommittee on Western Hemisphere Affairs questioned Thomas Enders, Assistant Secretary of State, seeking an explanation for the administration's certification of military aid to El Salvador in light of the government's human rights abuses. The amendment to the Foreign Assistance Law permitted military funding only if El Salvador was "making a concerted and significant effort to comply with internationally recognized human rights."²¹ Thus, Thomas Enders commenced the hearing by acknowledging the generally poor human rights situation in El Salvador, but added that the law did not require that human rights problems be eliminated. He added that the law required "progress." By stressing the word of the law, Enders set safe parameters in which his argument against the massacre, which lacked hard evidence, could fare somewhat well. Next, Enders stated that accurate facts were "hard to establish," yet claimed,

Seventy percent of the political murders known to our embassy were committed by unknown assailants. And there is much special pleading going on also in this. For example, many of you have read about something called the Legal Aid Office of the Archbishopric –Socorro Judico is its Spanish name; it is often cited in the international media. It strangely lists no victims of guerrilla and terrorist violence. Apparently they do not commit violence.²²

²¹ Foreign Assistance Act of 1961; obtained from Arnson, 86.

²² Danner, 209.

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The fact that seventy percent of murders had unknown culprits could not be confirmed because accurate facts were “hard to establish”. The point of the arbitrary figure was to dissuade any suspicions that El Salvador’s military and paramilitary troops had committed a large number of atrocities in 1981. Downplaying the Duarte Government’s violence supported the State Department’s argument that the civil rights situation would be worse if the junta fell to leftist rebels. According to the Reagan Administration, the FMLN insurgents posed the true threat to security and were therefore more guilty of war crime. Enders also criticized the Human Rights Commission for having “no independent information-gathering capacity” just because its reports matched closely to the figures of Raymond Bonner, Alma Guillermoprieto, Radio Venceremos, and the National Council of Churches.²³ Since the embassy and the State Department labelled these sources “guerrilla friendly,” Enders argued that any casualty numbers resembling figures from such sources were unreliable.

Enders presented more fabrications to the committee, including a claim that the *New York Times* and *Washington Post*’s death counts, 733 and 926 respectively, were exaggerated because Mozote contained only 300 residents during the military operation. Therefore, although some misdemeanor occurred at Mozote, the event could not have resembled a significant killing. In a letter to Representative Richard L. Ottinger, the State Department went further by arguing that Bonner’s list of 733 casualties was compiled

²³ “Report of the Secretary of State’s Panel on El Salvador,” July 1993, p. 59-60; obtained from Danner, 222.

of names stolen from civil registries of Jocoaitique, a nearby town.²⁴ The letter asserted that when FMLN rebels captured Jocoaitique on February 12, they took the names from its civil registries and created a list of alleged victims of a massacre. In reality, Bonner received the list of the 733 victims from local villagers days before the Jocoaitique raid, ruling out State Department's claim completely.²⁵ Thus, the State Department outright lied to Ottinger, a faulty tactic, but a tactic nonetheless.

Enders continued proposing vague, and even contradictory information regarding levels of noncombatant violence in El Salvador. To prove general progress in human rights he proclaimed,

The figures show it. We have September, October, November, December figures for 1980 which show something on the order of 800, 779, 575, 665 political murders. That is for 1980. We have the same figures for this year [1981] which show September 171, October, 161, November, 302. It shows December, 200. Our returns are showing markedly different numbers on the same methodology.²⁶

In this statement, Enders failed to cite any sources the State Department used to confirm the decline in political murders from 1980 to 1981, and if this testimony included the more accurate number of dead

²⁴ *Ibid.*

²⁵ Bonner, 343.

²⁶ "Report of the Secretary of State's Panel on El Salvador," obtained from Danner, 212.

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at Mozote, the December figures would range closer to between 700 and 900. Furthermore, the State Department's proclaimed "methodology" was unclear. No wonder Enders's subsequent statement held that nobody had a "complete report," reflecting the Embassy and State Department's failure to find concrete, qualified evidence that could challenge the alarming press releases and reports by human rights organizations.

Representative Gerry E. Studds quoted from one of these reports written by Amnesty International. The report stated that Salvadoran security forces had been conducting human rights abuses on a "massive scale." Furthermore, the abuses constituted a "gross and consistent pattern of human rights abuses."²⁷ Studds then contrasted this warning with President Reagan's certification reassurance: "Statistics compiled in El Salvador indicate decreased abuses by security forces."²⁸ In response, Enders said that the presidential certification was not an "expression of satisfaction"²⁹; moreover, Enders admitted that there was a substantial amount of violence, yet insisted that El Salvador was improving its human rights record. Again, he was trying to defend the Administration's certification on the basis that civilian casualties persisted, but in smaller numbers, which apparently defined progress.³⁰ Enders still rested on the assumption that atrocity reports about El Mozote were unreli-

²⁷ *Ibid.*

²⁸ Danner, 214.

²⁹ "Report of the Secretary of State's Panel on El Salvador," 59-60.

³⁰ Arnson, 88.

able.

Finally, Representative Solarz demanded a list of the embassy's sources to support the supposed drop in civilian casualties from 1980 to 1981. Enders replied, "Each week the Embassy does collect evidence which comes from a number of sources. Radio Venceremos is one. Local press reports of deaths are another. Local radio reports, other reports that are available through the Government sources."³¹ The Embassy and State Department had previously declared Radio Venceremos untrustworthy because of its association with the communist labeled FMLN rebels, yet Enders referred to the radio station as an Embassy source. He resorted to it because he had no other facts, except for rightist Salvadoran government sources, which typically hid or under calculated peasant death tolls.³² When confronted, Enders dodged Solarz's questions, and Solarz reminded him that Amnesty International, the Archbishopric of San Salvador, the Central American University, and every other organization that reported on El Salvador's human rights situation held that the country's killings were above the level that existed in 1980; whereas the Embassy and State Department claimed it had declined.

Ender's last resort to prove a decline in murders was to frame a misleading interpretation of human rights sources. He maintained that even their facts confirmed a reduction in abuses. He said,

³¹ "Report of the Secretary of State's Panel on El Salvador," 59-60.

³² Bonner, 342.

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The totals are different, but the trends are the same. If you look at the trends in the legal aid office, and I pointed out to you earlier something about its own tilt, you will find the same downward trend. That is true of the statistics collected by the Central American University, but again it has a particular prejudice. They all show this downward trend during the year.³³

The “particular prejudice” was that the Central American University, like the *New York Times*, *Washington Post*, San Salvadoran Archbishopric, and Amnesty International, was not affiliated with the Reagan Administration or the Salvadoran government. Moreover, arguing that the Central American University was biased only emphasized that its figures (and those of the other mentioned human rights institutions) did *not* indicate a decrease in noncombatant deaths. When Congressman Solarz asked what percentage of killings were actually conducted by El Salvador’s armed forces, the Assistant Secretary of State replied, “We are not able to attribute very many of those deaths to one side or the other, and we are not sure even of those that are attributed whether they make sense or not.”³⁴ In other words, the State Department did not know how many murders were performed by government forces, and therefore could not have been able to confirm a reduction in human rights misconduct. Ironically, Enders assigned a bias to every source except for the State Department, which presented the vaguest and least

³³ “Report of the Secretary of State’s Panel on El Salvador,” obtained from Danner, 212-213.

³⁴ *Ibid.*

dependable information. In view of numerous, publically available human rights accounts, the Reagan Administration would need some help from the press to combat the reports that revealed the junta's brutal murders.

Right Wing Media Steps In

On February 10 of 1982, the administration friendly *Wall Street Journal* published an editorial titled "The Media's War," in which it attacked Raymond Bonner for being "overly credulous" in accepting the peasants' accounts of a slaughter in El Mozote.³⁵ The *Journal* also quoted Guillermprieto, who wrote that she and Bonner had been escorted by FMLN rebels with the purpose of showing their control of the region and showing evidence of a massacre. Therefore, according to the *Journal*, the point of showing remains to the journalists was to spread leftist, pro-guerrilla propaganda. This assertion implied that the *Times* and *Post's* journalists, the only Americans who actually reported on the scene in Mozote, could not be trusted. The editorial closely followed the administration's language on El Salvador's violence. For example, it criticized Bonner and Guillermprieto for a having a left leaning bias, the same bias, or "prejudice" that the State Department referred to when discrediting sources on El Mozote and other massacres. In fact, it specifically defended Assistant Secretary of State Enders, confirming that El Mozote's population was only 300 before the massacre.³⁶ Additionally, the

³⁵ George Melloan, "The Media's War", *Wall Street Journal*, (February 10, 1982).

³⁶ *Ibid.*

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Journal restated confidently that Mozote witnessed no systematic killing of its population, but instead a “military operation,” which matched the testimonies of the Atlacatl Battalion soldiers and the embassy.³⁷

The *Wall Street Journal*’s pro-administration support suggested that the Reagan Administration pressured its ally newspaper into denouncing Bonner and Guillermprieto; for example, the *Journal* attacked Bonner’s supposed bias by smearing the reputation of the *New York Times* as a whole:

Realistically, neither the press nor the State Department has the power to establish conclusively what happened at Mozote in December, and we’re sure the sophisticated editors of the *Times* recognize as much. Yet as an institution, their paper has closed ranks behind a reporter out on a limb, waging a little campaign to bolster his position by impugning his critics. A news analysis charged the government of sowing confusion by questioning press reports without presenting detailed evidence to support its position. The analysis posed the question of how American diplomats gather information abroad, but not the same question about American reporters.³⁸

Arguing that the State Department and the press were equally incapable of confirming what occurred suggested that they both cited equally inconclusive information. However, *The New York Times* and *Wash-*

³⁷ *Ibid.*

³⁸ *Ibid.*

ington Post correspondents wrote more plausible accounts using onsite evidence. In Mozote, Bonner and Guillermprieto saw the corpses firsthand and included photographs of them in their respective articles. Yet the *Journal* editorial contended that the reporters' method of gathering information abroad was fraudulent. Furthermore, claiming that Bonner went "out on a limb" suggested that he was practically alone in defending his evidence of the massacre. On the contrary, Radio Venceremos, Amnesty International, the Archbishopric of San Salvador, the National Council of Churches, and the other reporting organizations not affiliated with the Reagan Administration presented figures compatible, if not larger than those of Bonner.³⁹ Consequently, the State Department stood "out on a limb" trying to defend itself against the House Subcommittee on Western Hemisphere Affairs, which referred to these organizations' reports. The State Department and U.S. Embassy stood alone, which was all the more reason to entreat the *Wall Street Journal* to defend the administration's stance.

Time magazine joined the criticism on March 29, 1982, calling Bonner "the most controversial reporter on the scene" in its article titled "War as a Media Event."⁴⁰ On June 18, two representatives from the conservative media-watch organization called *Accuracy in Media (AIM)* met with the publisher of the *New York Times* to file a complaint on Bonner's reporting. Additionally, it dedicated almost an entire issue of its twice-a-month *AIM* Report to criticizing Bonner. The

³⁹ Danner, 125.

⁴⁰ William A. Henry III, "War as a Media Event," *Time*, 29 March 1982, 75.

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report noted that *AIM* representatives,

focused especially on the January 28 story alleging that government troops had massacred either 733 civilians or 926, depending on whose figures you accepted. We noted that these were uncorroborated claims made by the guerrillas. The State Department had pointed out that the population of the village where the massacre allegedly occurred was only 300, and many of them were still there, alive and well. This was covered in the *AIM* Report of February-II.⁴¹

Like the *Wall Street Journal*, *AIM* reiterated what the State Department told Congress and supported Enders's false assertions. For instance, Bonner did not receive the "uncorroborated claims" (the death figures) from guerrilla rebels, but instead from local villagers living in nearby towns like La Joya and La Ranchería. Additionally, the State Department's claim that Mozote had only 300 residents was misleading because Rufina Amaya, the lone survivor from Mozote proper, stated that about 500 people lived there.⁴² Moreover, the massacre included the deaths of peasants who fled to Mozote from nearby hamlets. Equally misleading, "alive and well" implied high morale and an absence of civilian casualties; but in the nearby hamlets, John McKay and Todd Greentree had tried questioning individuals, whose reluctance to disclose any knowledge about Mozote reflected a general fear of an

⁴¹ Reed Irvine, "The Ray Bonner Division," *Accuracy in Media*, July 1982, 1.

⁴² Guillermprieto, 2.

oppressive military. The *AIM* Report also used President Reagan's hardline, anticommunist language. The organization said that one of Bonner's goals was to "discredit the government and the military forces that were standing in the way of a communist takeover of El Salvador."⁴³ Similar rhetoric hinted that Reagan and his administration officials were working directly or indirectly with the supportive right wing press to counter reports of human rights abuses.

Ambassador Hinton also contributed to the Bonner attack when he met with Abraham M. Rosenthal, who was the executive editor of the *New York Times*, in April. Ambassador Hinton expressed his disapproval of Bonner's aggressive journalism.⁴⁴ Hinton also met with reporters and accused Bonner of being an "advocate journalist" for the rebel cause. Hinton's complaints gave the final blow to Bonner and *The New York Times's* reputation.⁴⁵

Bonner Put at Odds with *The New York Times*

Six months after the Wall Street Journal opened the criticism of Bonner, A. M. Rosenthal removed Bonner from El Salvador, instructing him to return to the Metro desk in New York. The *Times* seemed to have succumbed to government pressure, explaining Bonner's withdrawal. Rosenthal's public excuse for removing Bonner was that he apparently had never

⁴³ Irvine, 2.

⁴⁴ John F. Kirch, "Raymond Bonner and the Salvadoran Civil War: 1980 to 1983", *Association for Education in Journalism and Mass Communication in Toronto, Canada*, August 2004, 3-4

⁴⁵ Bernard Weinraub, "Envoy Says Salvadoran Plan Is Intact," *New York Times*, 12 June 1982, 3.

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completed full training in the *Times*' reporting methods.⁴⁶ More specifically, Rosenthal explained that Bonner "didn't know the techniques of weaving a story together."⁴⁷ However, Seymour Topping, who was the managing editor at the time, maintained that Bonner performed top tier investigative journalism in El Salvador.⁴⁸ Topping's issue with the correspondent was that he needed more experience and better technique in writing and qualifying his stories. Criticizing Bonner's technical qualifications echoed the State Department and *Wall Street Journal*'s attack; and considering that Bonner successfully provided writing on the physical evidence and civilian testimonies from Mozote, the *Times* most likely moved him for political reasons. Bonner entered Mozote using the wrong people (the FMLN) and reported the wrong side of the story. He reported well but also exposed dangerously controversial evidence on a massacre performed by U.S. funded and trained Salvadoran soldiers.

Raymond Bonner eventually left the New York Times in 1984. Despite his profound reporting on the El Mozote Massacre (in conjunction with Alma Guillermoprieto), *Times* correspondents reported less critically on U.S. involvement in the civil war after Rosenthal removed the reporter "out on a limb." The withdrawal sent a clear message as to how the Reagan Administration dealt with outspoken critics. When confronted with discordant information on El Salvador's murders, such as the El Mozote Massacre, the Reagan Administration argued against sources' reli-

⁴⁶Danner, 138.

⁴⁷*Ibid*, 138.

⁴⁸*Ibid*, 138.

ability, typically labelling them as leftist. Since the State Department lacked evidence to support its own claims, it resorted to dodging the facts and reinforcing the Reagan Cold War doctrine. Additionally, the administration called upon Reagan-friendly press to reinforce a pro-Salvadoran government image and smear more critical media. Together, the Reagan Administration and right wing newspapers pressured the New York Times into removing Raymond Bonner, a critical reporter on Salvadoran human rights.

The Reagan Administration's Continued Role in El Salvador

The Reagan Administration continued funding the Salvadoran government for the remainder of the civil war. Congress would not reject the succeeding aid certifications even though many members, like those in the Subcommittee on Western Hemisphere Affairs, opposed funding a regime that eventually murdered a total of about 75,000 innocent civilians by 1992.⁴⁹ The FMLN, which also killed noncombatants, was found guilty of 400 murders by the UN Truth Commission of 1993.⁵⁰ Even though Mexico and France had recognized the FMLN as a political entity capable of negotiating peace in 1981, the U.S. government chose to prolong the war with military aid.⁵¹ Ultimately, the fear of an FMLN victory restrained Congress from rejecting President Reagan's aid approvals. A "communist"

⁴⁹ Kevin Sullivan and Mary Jordan, "In Central America, Reagan Remains A Polarizing Figure" *Washington Post*, (June 10, 2004).

⁵⁰ *Ibid.*

⁵¹ Baloyra, 38-39

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victory could have undermined the Reagan Administration's policy of spreading democracy by funding the rightest Duarte Junta. Furthermore, an FMLN victory could have demonstrated that a Marxist-inspired movement was capable of defeating a U.S. backed military and establishing its own independent government. Moreover, in the event of a rebel victory, Congress members who opposed funding El Salvador's military coups would have taken a heavy blame. Consequently, the war continued, and the Reagan Administration continued discrediting evidence of its ally's human rights violations; and atrocities like the El Mozote Massacre would conveniently slip out of recent memory.

Conclusion

The Mozote incident demonstrated how the Reagan Administration discredited evidence that contradicted its framing of the war. When newspapers and human rights organizations criticized the military coup or the U.S. government, the U.S. Embassy and State Department downplayed human rights abuses and denied the credibility of the reports. When Congress used such reports against the Reaganites, the State Department altered the facts and even fabricated figures that were more compatible with its own portrayal of El Salvador's human rights record. In attempts to sway Congress, State Department officials argued that reporters who proposed discordant information were leftwing rebel sympathizers and therefore unreliable. Moreover, the administration influenced the right-leaning press to criticize newspapers, such as *The New York Times* and *Washington Post*, since they revealed evidence of government violence. Ultimately, the Reagan Adminis-

tration's shrewd and persistent actions against its critics reflected its preoccupation with suppressing the perceived communist threat in El Salvador. False reports and press manipulation were employed to preserve "democracy" or political hegemony in Central America even if the regimes supported by the United States oppressed their civilian populations.

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Mark Sykes, The British Arabists and the Enduring Consequences of the Sykes-Picot Agreement

Nicholas Comaratta

Introduction

The ongoing actions of the Islamic State (ISIS) in Syria and Iraq are motivated by both religious and political conditions which exist as a result of drastically irresponsible foreign diplomacy conducted by both Great Britain and France nearly a hundred years ago. In a viral video declaring the establishment of their Islamic Caliphate in the summer of 2014 entitled *End of Sykes Picot*, the Islamic militants of ISIS expressed their goal to reverse the territorial lines established by the Sykes Picot Agreement of 1916.¹ By the end of the summer, many geo-political analysts speculated that the group's recent advances in Northern Iraq and at the Turkish-Syrian border had in fact destabilized the existing borders which were drawn in the agreement.²

The Sykes-Picot Agreement was a deal negotiated between the British, French and Russian Empires in anticipation of the fall of the Ottoman Empire at the end of World War One. The agreement effectively split the Middle East (which had been under Ottoman Rule

¹ *The End of Sykes Picot*, (ISIS. 2014. Syria: Youtube, February 26th, 2015).

² Worth, Robert. "Redrawn Lines Seen as No Cure in Iraq Conflict," *The New York Times*. (New York, NY), June 26, 2014.

for nearly four hundred years) between the three nations; Britain would maintain control over modern day Iraq, and France the region of modern day Syria and Lebanon. While Russia was originally partitioned a small section of land north of Iraq, their zone was delegitimized by the collapse of their Imperial state and the rise of the Bolsheviks in 1917. Nevertheless, the boundaries drawn in the agreement would eventually be used in the post-war formation of the mandate system in the Middle East under the League of Nations.³

Mark Sykes represented the British Empire in the negotiations with French ambassador Georges-Picot. Sykes, an imperialist minded member of the Tory Party, had a wide range of personal experience in the region and expressed his views on the local religions and tribal-political dynamics through travel writings as well as his own personal letters. While Sykes was for the most part religiously tolerant, he still held many racial and cultural prejudices which played into his final decision making process. In addition to these biases, he was convinced the Arabs were incapable of self-rule and he therefore sought to continue the advancement of the British Empire by maintaining its influence in the Middle East. These imperialist ideals combined with Sykes' disposition to lie and withhold pertinent information made him absolutely unfit to draw a map deciding the fate of the Middle East in the twentieth century and beyond.

Sykes' negotiations virtually ignored the proposals

³Karabell, Zachary. *Encyclopedia of the Modern Middle East and North Africa*, (2 vols. New York: Macmillan Reference USA, 2004), 2128.

made by a group of scholar administrators from Mesopotamia known as the British Arabists. These men and women were members of the British foreign service or media who worked almost exclusively in the Middle East and developed strong self-determination ideologies through their direct experiences with the local culture and people. Most notable of these British Arabists were T.E. Lawrence and Gertrude Bell and along with other prominent figures they petitioned for the British Empire to move forward with a policy supporting independence in the Middle East in order to avoid future conflict in the region.

Ultimately the voices of Lawrence and Bell were silenced by the machinations and deliberations which dominate international politics and the borders drawn by Sykes-Picot were effectively recognized during the San Remo Conference of 1922 through the League of Nations mandate system.⁴ Had more influential members of the British government sympathized with their policies, the post-war borders drawn for the Middle East may have been more sensitive to the cultural and religious variations which complicated the politics of the region. By ignoring the sympathetic opinions of the British Arabists, the Sykes-Picot Agreement of 1916 was clouded by the imperialist leaning ideologies and prejudices held by Mark Sykes and thus altered the trajectory of Middle Eastern society and politics in the twentieth century in a way which still motivates militant groups such as ISIS.

This paper will examine the background of the agreement as well as the men and women involved in the establishment of Britain's policy in the Middle

⁴ Karabell, *Encyclopedia*, 2128.

East. Drawing mainly upon the discussion of the Sykes-Picot Agreement from *Lawrence in Arabia* by Scott Anderson as well as “British Scholar Administrators in Iraq” by F.S. Naiden, it will attempt to place the effects of the accord into a more modern context focused around the contemporary events carried out by the Islamic State in Syria and Iraq. By looking at the personal works of Sykes, Lawrence and Bell it will seek to better understand the backgrounds and experience which played a role in forming their ideas and aspirations for the future of the Middle East. Ultimately, this paper will seek to compare the proposed maps drawn by T.E. Lawrence and Gertrude Bell with Sykes’ map in order to understand the fundamental problem of Sykes and Picot.

Background: Leading up to the Treaty

By 1915 the Allied powers in World War One had witnessed vast amounts of unimaginable devastation across the European landscape. In a conflict motivated by imperial rivalries, Britain’s and France’s final objectives shifted towards consolidating concessions and post-war reparations after only one year of bloodshed.⁵ Both Britain’s and France’s post-war imperial ambitions included inhibiting their aggressors in order to prevent future conflict as well as securing new provinces "as though to compensate for the loss of an entire generation in Flanders."⁶

Seeking provinces, they naturally turned to where

⁵ Anderson, Scott. *Lawrence in Arabia*, (New York, USA: Random House, 2013), 151-152.

⁶ Alaric, Jacob. "The British Arabists," *History Today*. 23, no. 5 (1973) : 323.

any empire looks to expand: lands inhabited by people and societies they deemed inferior. No region was more ripe for a transition of power than the dwindling reign of the Ottoman Empire in the Middle East. More importantly, both of these empires had important ties to the area through their twisted and complicated pasts. The French had been heavily involved with the Catholic population in Syria for over four hundred years while Britain hoped to protect India and Egypt from its imperial rivals (including France and Russia) through a colony or protectorate in the Middle East.⁷ Thus the avaricious European giants looked promisingly toward the future collapse of the Ottoman Empire.

Defeating the Turks proved to be a more difficult task than expected. Even as they directed their eyes upon the spoils of victory, the British were producing dismal results in their campaign against the Ottomans on the beaches of Gallipoli. Soon enough they would need to reformulate their scheme to defeat the Ottomans and inevitably they turned their attention further East.⁸ Fearful of another disastrous campaign resulting in countless more casualties, British strategists sought a military solution utilizing the local Arabs living under the oppressive Ottoman rule. In their minds, if they could incite a rebellion amongst the Arabs they could "paralyze the Ottoman Empire from within."⁹

In early 1914 the British opened discussions with the ruler of Mecca, Emir Hussein, also known as the

⁷ Anderson, *Lawrence*, 151.

⁸ Anderson, *Lawrence*, 150.

⁹ Anderson, *Lawrence*, 142.

King of Hejaz. Because they were direct descendants of the Prophet Muhammad, Hussein and his sons could be used as a tool to unite both Sunnis and Shias in a revolt.¹⁰ Prior to Britain's war with Turkey, it was Hussein's son Abdullah who had reached out to the British consulate in Cairo regarding their reaction to a potential Arab revolt in Hejaz. As Britain eventually was drawn into the conflict with the Turks, discussions continued over the next two years as both sides specified their demands.¹¹ Over time these negotiations were largely carried out through what is now known as the McMahon-Hussein Correspondence. This series of letters between Hussein and the British High Commissioner in Egypt Henry McMahon centered mainly around Hussein's desire for an independent Arab state in the Middle East following his cooperation in defeating the Turks. While the British badly needed the local Arab support, they also would not abandon their imperial ambitions in the region and as a result these overtures were largely scoffed at and ignored.¹²

Negotiations took an abrupt turn however when Hussein gave the British an ultimatum in October of 1915. At this point Hussein had become increasingly incensed over Britain's unwillingness to agree to his terms and gave them thirty days to concede to Arab independence following the war. If the British declined, the King of Hejaz informed them that he would sign an agreement with the Turks who were willing to consent to his demands in return for his allegiance to Turkey

¹⁰Karabell, *Encyclopedia*, 2039.

¹¹ Anderson, *Lawrence*, 115-116.

¹² Naiden, F.S. "British Scholar - Administrators in Iraq," *The Journal of the Historical Society*. 7, no. 2 (2007) : 185.

and Germany in the final years of the war.¹³

Britain's foreign ambassadors in the Middle East were left with an important decision to make. They could grant Hussein his wishes, abandoning hopes of any post-war consolation provinces in the Middle East, while also potentially saving thousands of British lives. On the other hand, they could decline his offer and thus turn potential allies into yet another enemy in the Middle East. In the end, imperial ambitions combined with political motives forced McMahon to take a dangerous middle ground.

On October 24th McMahon sent a letter to Hussein consenting to his conditions in return for his aid in defeating the Turks. This consent, however, came with specific modifications, most importantly the demand by the British that specific regions of Mesopotamia (coincidentally abundant in oil) be placed under "special administrative arrangements."¹⁴ Moreover, McMahon also specified that such conditions could only be upheld with the approval of Britain's ally, France. Such an addition could only be attributed to McMahon and his advisors' full knowledge of French ambitions in Syria and the potential trouble which could be stirred there following an Allied victory.¹⁵ Thus the British had essentially made Hussein a promise which they would not and could not keep.

Conscious of these potential diplomatic entanglements the British quickly gauged France's aspirations for territorial gains in the Middle East. In November, French ambassadors in London discussed their

¹³ Anderson, *Lawrence*, 142.

¹⁴ Naiden, "British Scholar - Administrators," 186.

¹⁵ Anderson, *Lawrence*, 161-162

determination to take hold of the entire region, including Britain's favored regions of Baghdad and Basra. While the British were certainly lenient towards Syria, they were clearly not willing to relinquish their claim to the area of modern day Iraq. With this in mind, the two empires set out to negotiate an agreement to split the Middle East between them following the collapse of the Ottoman Empire. By January 1916 British representative Mark Sykes was meeting with Georges-Picot of France to draw a map which would ultimately determine the boundaries of the modern day Middle East.¹⁶ With such a massive arrangement determined by only two men the results were certainly partial. With Mark Sykes as the British representative in these discussions the results were catastrophic. As Anderson says of Sykes in *Lawrence in Arabia*, "Few people in history have so heedlessly caused so much tragedy... It's hard to think of any figure who, with no true malice intended and neither a nation nor an army at his disposal, was to wreak more havoc on the twentieth century."¹⁷

Mark Sykes: Man of Many Contradictions

In 1916 Mark Sykes was an experienced 36 year old British imperialist who had traveled the Middle East extensively and over time had developed a unique set of opinions on the region. In both his book *Dar ul-Islam* and his collection of letters Sykes expresses his reactions to the religions and identities of the Arabs in the Middle East. While he was certainly a man full of racist convictions (T.E. Lawrence would call him "a

¹⁶ Anderson, *Lawrence*, 162

¹⁷ Anderson, *Lawrence*, 153-155.

bundle of prejudices")¹⁸ Sykes was for the most part both tolerant of and fascinated about Islam.¹⁹ For him, religion and politics were "the ultimate interest in life."²⁰

On the other hand, his arrogance outweighed his tolerance and was often reflected in his actions. Sykes believed he had the power to solve immense problems with a quick and simple solution and moreover that it was his duty to use this power. He was both a liar and a sneak who was incapable of maintaining a steady opinion:

Perhaps to be expected given his frenetic pace and catholic range of interests, Mark Sykes had a very hard time keeping his facts, even his own beliefs straight. Impressed by the last person he had spoken with, or the last idea that had popped into his fecund mind, he was forever contradicting positions or policies he had advocated earlier.²¹

These inconsistencies are reflected throughout his book *Dar ul-Islam* and in *Mark Sykes: His Life and Letters*, which describe his travels in the Middle East. In these works we gain an important glimpse into the mind of Mark Sykes and his stances towards important issues in the Middle East. Throughout the letters describing his travels he haphazardly stamped labels

¹⁸ Anderson, *Lawrence*, 115.

¹⁹ Leslie, Shane. *Mark Sykes: His Life and Letters*, (London, England: Cassell and Company, Ltd., 1923), 116.

²⁰ Leslie, *Mark Sykes*, 116.

²¹ Anderson, *Lawrence*, 155.

and identities upon ethnic groups from around the region based simply upon the swift assessment of their lifestyles and cultural attitudes. Moreover, his discourse on Islam was equally ambiguous as he frivolously explored the religion in order to support his own grandiose religious connections and theories.

Nevertheless, Sykes understood the divisions between tribes and religious groups in the region. Sykes referenced the differences between the Kurds and their Arab counterparts by proclaiming that “an Arab of Beirut could not comprehend an Arab of Mosul.”²² He also asserted that war and violence were in the fabric of Arabian society.²³ Referencing the “six-thousand year long Bedouin intertribal wars” he stated:

It is obvious that war was necessary for the purpose of infusing manliness into the race and relieving the boredom of the desert, for to be a dweller therein, with no other occupation than that of moving from one spot to another, would produce a race of congenital idiots. It will be seen, therefore, that a race abhorring manual labour as degrading, eschewing settled life, and knowing no other amusements than horsemanship and a litde hunting, must be naturally forced by instinct into war ; but wars of this kind must necessarily partake more of the

²² Leslie, *Mark Sykes*, 110.

²³ Sykes, Mark. *Dar ul-Islam*, (London, England: Bickers and Son, 1904), 14.

nature of a game than a struggle for life and death.²⁴

Thus he considered most ethnic groups in the Middle East to be in a stagnant state of development without the ability to repair themselves.²⁵ More specifically considering the cultures of Iraq and Syria, he described the men of Mosul as those "with the minds of mudlarks²⁶ and the Kurds as "the simplest and most gullible of mortals... [their] uninquisitiveness great."²⁷ Simultaneously, he also disliked the Westernization of Islam and the cities of the region that he had seen in places such as Tadmur in central Syria.²⁸

The man who took the Bedouin from their present state of happiness and purity, and taught them to be civilised, to be rotted by foul diseases, to be emasculated by drink, to leave their tents and herds, to become spies, lawyers, soldiers, thieves, discontented citizens, millionaires and prigs, would be committing a crime crying to heaven for vengeance.²⁹

Sykes' views on Arab people and culture varied from city to city as he tried to piece together an encompassing vision for the diverse and complex region. These

²⁴ Sykes, *Dar ul-Islam*, 14.

²⁵ Leslie, *Mark Sykes*, 88.

²⁶ Leslie, *Mark Sykes*, 94.

²⁷ Leslie, *Mark Sykes*, 109.

²⁸ Sykes, *Dar ul-Islam*, 20.

²⁹ Sykes, *Dar ul-Islam*, 16.

methods of generalizations and simple solutions would unfortunately also dominate his negotiations with Picot. This was also the same man who believed the British were "destined to be the masters of Turkey" as he described its treasures and missed opportunities.³⁰ He determined the Arabs to be unable to govern themselves, describing them further as "unamenable to civilization."³¹ Therefore, while Sykes opposed the Westernization of the Middle East, he encouraged the British Empire to harness its vast resources through the careful manipulation of the local Arab tribes.

These ideas combined with his charm and practical knowledge convinced many British operatives in the Middle East of the effectiveness of his imperialist policies. His experience and cunning earned him an appointment as an advisor to the de Bunsen Committee guiding British policy in the Middle East.³² With his influence growing, Sykes seemed like the obvious choice at the time to dictate the terms that Britain would settle with France over the future of the Middle East. By the beginning of 1916 he had been chosen by his peers to meet with French ambassador François Georges-Picot to discuss the map of the future of the Middle East.³³

The Sykes-Picot Agreement of 1916

French Ambassador Georges-Picot held many of the same racial and imperialist prejudices which had

³⁰ Leslie, *Mark Sykes*, 114.

³¹ Leslie, *Mark Sykes*, 89.

³² Anderson, *Lawrence*, 153.

³³ Anderson, *Lawrence*, 155.

landed Sykes at the negotiation table.³⁴ Additionally, he had the backing of a French state which was prepared to drive a hard bargain, demanding at the very least to maintain their influence in Syria and Lebanon. Thus the discussions between the two were competitive and fueled by the deep seated hubris and imperious tendencies.³⁵

As expected, the negotiations could not go on without some deception on behalf of Sykes. While Sykes was privileged to the information involving the McMahon-Hussein Correspondence and the subsequent promises made, he decided to withhold this knowledge from Georges-Picot.³⁶ Naturally, such a decision played a major role in how the negotiations played out as the French maintained their lofty expectations without any familiarity with the agreement with the Arabs.

Through these muddled imperial discussions the Sykes-Picot Agreement was created. In the treaty the British would take Basra and have administrative control over Baghdad while the French would take Lebanon, Syria and Mosul (Sykes said of the Kurds, "let the French try to deal with them"³⁷) with administrative control over the central region of Syria. This small region on the modern border of Syria and Iraq was what would constitute the "independent" Arab Kingdom promised in the McMahon-Hussein Correspondence. These small areas, because of their "inabil-

³⁴ Anderson, *Lawrence*, 163.

³⁵ Anderson, *Lawrence*, 162.

³⁶ Anderson, *Lawrence*, 163.

³⁷ Naiden, "British Scholar - Administrators," 186.

ity to govern themselves," would essentially be British and French vassal states.³⁸ With this agreement, the "special arrangements" were designed so that Arab protectorates would be created under the administration of the British and the French.³⁹

This map, as can be seen below in Figure A, represents a complete failure to consider the desires and cultural boundaries of the people of the Middle East. It is a map drawn completely on the basis of imperialist geographic and resource-driven motives with complete disregard for the ethnic and social boundaries of the area. Finally, and most importantly, this map entirely neglected the promises made to the King of Hejaz and relegated his portion to only a small share of central Syria under the control of the French.⁴⁰

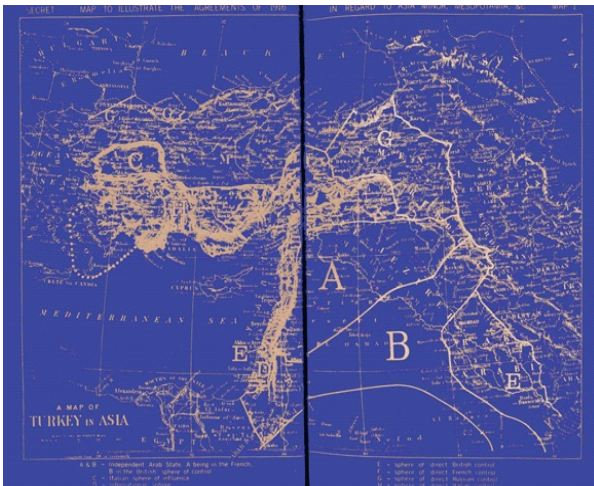


Figure A: Sykes-Picot Map

³⁸ Anderson, *Lawrence* , 163.

³⁹ Naiden, "British Scholar - Administrators," 186.

⁴⁰ Naiden, "British Scholar - Administrators," 186.

Of course, with this agreement nothing was entirely official. The Arab Revolt still had yet to begin and the Ottoman Empire was still no closer to being defeated than before. But what the Sykes-Picot Agreement did was create a map, and this map became the precedent for British and French imperial projections of the Middle East in the post-war treaty negotiations. With the creation of the League of Nations' mandate system and the passage of subsequent agreements the Sykes-Picot boundary lines would more or less come to represent the borders of the modern day Middle East.⁴¹

In the immediate aftermath of the negotiations, the agreement remained secret in order to quell the potential political reaction which such an imperialist initiative would create. This changed with the fall of the Tsarist Russian Empire in late 1917 as the war was grinding towards a conclusion. While the Russian partitions were forgotten as a result of the 1917 Revolution and subsequent turmoil, the Bolsheviks' decision to release the secret treaty to the public ignited a massive campaign for self-determination amongst the British Arabists.

These British Arabists were the special young brand of English men and women who had a combination of compassion for and fascination in the Arab cause. While Ronald Storrs dubbed it "the Arab Movement"⁴² as it gained momentum in the post-war political excitement, Mark Sykes had a more pessimistic view of these young English foreign agents:[On the selection and training of those young English-men who are destined to serve their country in the East as

⁴¹ Karabell, *Encyclopedia*, 2128.

⁴² Alaric, "The British Arabists," 323.

either its representatives or its administrators] ... appears to me most open to criticism, the selection being based entirely on competitive examinations, which can in no case afford any test of such important qualities as imagination, style, or personality, even if they were made to hinge more upon a knowledge of the languages, religions, and history of the East, and less on natural science, mathematics, and political economy ; which latter things, though all very well in their way, appear to me to be of quite secondary importance for the understanding of the character and idiosyncrasies of Eastern peoples, by which alone one would have thought it would be possible to govern them with tact, discretion, and sagacity.⁴³ Sykes was conscious of the sympathies for the Arabs held by the British Arabists and clearly felt threatened by the superiority of their knowledge and experience in the Middle East. More importantly, he understood their views on the assurances made to the Arabs in the agreement struck in the McMahon-Hussein Correspondence and how they clashed with his own map of the Middle East. Sykes was rightfully anxious as the same men and women who planned the Arab Revolt now hoped to fulfill the promises made to the Arabs in their agreement to commence it.

T.E. Lawrence: The Map Driven Optimist

Among them of course was T.E. Lawrence, an important figure because of his involvement in the Arab Revolt. Lawrence's story has been sensationalized over the years through both his own memoirs in *The Seven Pillars* as well as in David Lean's depiction of

⁴³ Sykes, *Dar ul-Islam*, xii.

Lawrence in the 1962 film *Lawrence of Arabia*. The first man to popularize Lawrence's story was American filmmaker and journalist Lowell Thomas who encountered Lawrence in Jerusalem during the Arab Revolt. Thomas' film, photos and lectures on Lawrence intrigued audiences across America and Europe and made Lawrence a household name as well as drew further attention to the Arab cause.⁴⁴

While Lawrence's popularity through his dramatized story gave him some weight in public perceptions of negotiations, he was also vastly experienced in the affairs of the Middle East. He had worked in the Cairo Intelligence Bureau studying maps for an extended period of time while also gaining valuable experience throughout the region and ultimately specializing mainly in Syrian affairs.⁴⁵ Most importantly, Lawrence had good relationships with Hussein and his sons Abdullah and especially Faisal, whom he had worked alongside in the Arab Revolt.⁴⁶ These connections would be essential in his projection of the future of the Middle East.

What Lawrence envisioned was a Syria and Iraq split between three Arab Kingdoms, one for each of Hussein's sons while Hussein himself remained the King of Hejaz. Abdullah would rule Lower Mesopotamia, Zeid Upper Mesopotamia and Faisal would rule Syria.⁴⁷ Lawrence did not sympathize with the French ambitions because they had not fought anywhere near

⁴⁴ Alaric, "The British Arabists," 323.

⁴⁵ Anderson, *Lawrence*, 192.

⁴⁶ Anderson, *Lawrence*, 208.

⁴⁷ Naiden, "British Scholar - Administrators," 190.

the Middle East during the war; instead he called for "Syria independent under Faisal: it [the Arab "nation"] has fought for it [Syria], and deserves preferential treatment."⁴⁸ The map which Lawrence presented before the de Bunsen Committee in 1918 can be seen below in Figure B with sections 3, 4, and 5 representing the independent Arab kingdoms.^{49 50}

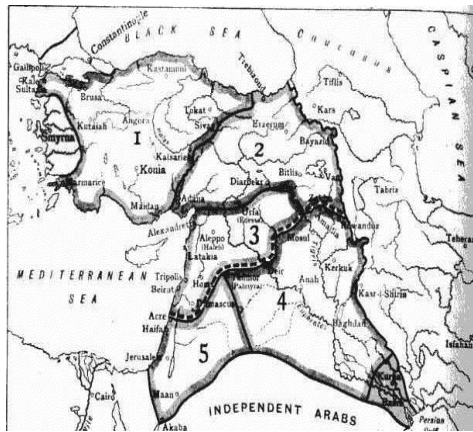


Figure B: T.E. Lawrence's Map

While Lawrence's projection of the Middle East was certainly more rational and calculated than Sykes', it still reflected some of his own gaps in understanding of the region. Lawrence recognized the ethnic boundaries between the Turks and Armenians of the North and granted their independence in sections 1

⁴⁸ Malcolm Brown and T.E. Lawrence. *The Letters of T.E. Lawrence*, (London, England: J.M Dent & Sons Limited, 1988), 162.

⁴⁹ Naiden, "British Scholar - Administrators," 190.

⁵⁰ Naiden, "British Scholar - Administrators," 190.

and 2 of his map.⁵¹ However, Lawrence failed to grant the same autonomy to the “blustering” Kurdish groups around Mosul whom he held a “wary respect for.”⁵² Instead, Lawrence was convinced of the optimistic British belief that Hussein and his sons could unite the Arab people under their leadership. Without an in-depth understanding of Iraq and its predominantly Shi’a population, he believed both the Kurds and the wealthy elite of Baghdad would submit to Hussein’s Sunni rule. In drawing the boundaries of the Middle East himself, Lawrence’s map was therefore still both imperial and inaccurate, albeit much less-so than the one created by Sykes.

Gertrude Bell: The Nationalist Idealist

Lawrence was thus fortunate to have worked with Gertrude Bell, the British expert in Iraq at the time. The first woman to complete the requirements for a first-class degree in History at Oxford,⁵³ Bell, whose writings on the region had gained some solid traction in Europe, was an experienced traveler in the Middle East. “The East was undoubtedly Gertrude's home” and in 1915 she was called to Cairo in order to assist in the formation of British policy in the East.⁵⁴ By the end of the year she had compiled a functional “who's who” of the Middle East, cataloguing the tribes and

⁵¹ Naiden, “British Scholar - Administrators,” 190.

⁵² Anderson, *Lawrence*, 40.

⁵³ Brown and Lawrence. *Letters*, 36.

⁵⁴ Burgoyne, Elizabeth. *Gertrude Bell: From Her Personal Papers, 1914-1926*, (London, England:Ernest Benn, 1961), 30.

religious affiliations of the Arabs.⁵⁵ This directory would be used throughout Britain's administration in the Middle East in the 1920s.

Following the war Bell was sent to London where she would "make a solid bloc of Near Easterners, including Mr. Lawrence, and present a united opinion" arguing the case for Arab self-determination.⁵⁶ Compared to Lawrence, Bell originally sought a much less direct solution to the Arab issue. While Lawrence hoped to distinctly draw the borders of the Arab kingdoms, Bell initially hoped to sit back and wait for an Arab nationalist movement to arise.⁵⁷ Unlike Lawrence, Bell was not necessarily convinced that Hussein or either of his sons could unite the whole of an Arab nation based solely on inheritance and instead insisted that a nationalist movement should give way to a class of "professional politicians of Baghdad" to carry the region forward.⁵⁸

Her apprehension stemmed from an understanding of the complicated nature of the region's ethnic and religious disputes. Bell was wary of the Shi'a majority in Iraq and the potential backlash which would ensue if they refused to accept Hussein. Moreover, she recognized that the delicate nature of the situation of the Kurds could not be solved easily. Finally, Bell considered the minorities of the region, including Christians in Mosul as well as "whole men of wealth and position, of whatever creed" who would

⁵⁵ Burgoyne, *Gertrude Bell*, 31.

⁵⁶ Burgoyne, *Gertrude Bell*, 108.

⁵⁷ Naiden, "British Scholar - Administrators," 193.

⁵⁸ Burgoyne, *Gertrude Bell*, 106.

object to the installment of an outright Sunni King.⁵⁹ Instead Bell hoped that a temporary British administration could foster the establishment of a national movement of Arabs not dependent upon ethnic or religious barriers.

Such a national movement proved impossible after the publication of the Sykes-Picot document by the Bolsheviks in 1917. This coupled, with the inclusion of Sharif Faisal at the Paris Peace Conference as a representative of an independent Arab State, incensed local minority groups and created anti-British sympathies in Baghdad and Mosul.⁶⁰ These "premature" national movements instead replaced the all-encompassing one Bell hoped would come in the following years and forced her hand. Bell was mindful both of the Arab dependence on the British and the potential backlash this could create: "It's an open question whether we don't do these people more harm than good and one still feels more despairing about it now that our civilization has broken down so completely. But we can't leave them alone, they won't be left alone anyway."⁶¹

It is important at this point to stop and recognize the imperial ambitions of both Lawrence and Bell. While they were promoting policies of independence and autonomy in the region, these were still Western backed strategies which were derived from Western notions of the "nation" and "state." Lawrence's and Bell's calls for the British Empire to remove itself from the region reflected their motivations to serve the best

⁵⁹ Burgoyne, *Gertrude Bell*, 106.

⁶⁰ Burgoyne, *Gertrude Bell*, 106.

⁶¹ Burgoyne, *Gertrude Bell*, 48

interests of the Empire itself rather than the people of the region. In their eyes, the Middle East was much too diverse and complex for the British to maintain any profitable presence over time. As described in the above selection from Gertrude Bell's "Speech on Self-Determination in Mesopotamia"⁶² in 1917, the Sykes-Picot Agreement and its shocking revelation to the public effectively drew the British Empire into a situation in which it must preserve its presence in the region in order to protect both its own interests as well as those of the local populations. With no other options, Bell was drawn to Lawrence's idea of independent Arab kingdoms. The French quickly declined any interest in Mosul and the British eventually secured the city, causing Lawrence and Bell to reformulate Lawrence's original map into one single Arab Kingdom. If the French were consigned to having the whole of Syria, the least Lawrence and Bell could do was create an independent Arab Kingdom in Iraq.⁶³ Bell sought to create the national movement she had envisioned by facilitating the establishment of an Iraqi National Museum to inspire the formation of an Iraqi nation under the British mandate.⁶⁴

Time wore on and the dust settled on the peace conference while the League of Nations established the mandate system. As the local populations rebelled against British administration by June 1920, the creation of Iraq became a more possible objective. The British, keen to maintain their influence in the region, would promote their interests through a Royal Air

⁶²Burgoyne, *Gertrude Bell*, 48.

⁶³Naiden, "British Scholar - Administrators," 194.

⁶⁴Naiden, "British Scholar - Administrators," 194.

Force base in Mesopotamia by “administering the country as though it were part of India.”⁶⁵ Faisal, forced out of Syria by the French, would eventually be crowned the King of Iraq. Desperate to achieve national unity, Lawrence and Bell toured the country with Faisal but because he was not native to the region Faisal was unable to foster unanimous national support.⁶⁶

Thus neither Lawrence's imaginative map of three kingdoms nor Bell's map drawn by an Arab national movement was achieved. The boundaries of modern day Iraq and Syria were instead drawn according to the Sykes-Picot Agreement of 1916. The map based upon imperial ambitions had outweighed the maps based upon aspirations for independent Arab nations. More importantly, the final boundaries completely disregarded the promises made to the Arabs in the McMahon-Russett Correspondence.

Modern Perspectives

With the failures of the Sykes-Picot boundaries evident today, there is still a movement to envision a map of the Middle East more aligned with the ethnic and religious differences which permeate the region. As Ross Douthat says, many current observers are drawing prospective maps of the Middle East in the hope to best define its way into the future: Every so often, in the post-9/11 era, an enterprising observer circulates a map of what the Middle East might look like, well, *after*. after America's wars in the region, after the various revolutions and counterrevolutions,

⁶⁵ Naiden, "British Scholar - Administrators," 196.

⁶⁶ Naiden, "British Scholar - Administrators," 194.

after the Arab Spring and the subsequent springtime for jihadists, after the Sunni-Shiite struggle for mastery. At some point, these cartographers suggest, the wave of post-9/11 conflict will necessarily redraw borders, reshape nation-states, and rub out some of the lines drawn by Sir Mark Sykes and François Georges-Picot in a secret Anglo-French treaty almost 100 years ago.⁶⁷ Now, with the rise of powerful militant groups in the region, there is an effort being conducted by both foreigners and local populations. The actions undertaken by ISIS reflect this endeavor to redraw the map of the Middle East based upon Arab conceptions.

This rejection of the Sykes-Picot map and borders could only be seen as inevitable as the situation in the Middle East deteriorated over the past two decades. As English politician Paddy Ashdown writes,

What is happening in the Middle East, like it or not, is the wholesale rewriting of the Sykes-Picot borders of 1916 in favour of an Arab world whose shapes will be arbitrated more by religious dividing lines than the old imperial conveniences of 100 years ago.” The difficult situation for Western countries is to find the middle ground between accepting the demolition of the Iraqi state and denouncing the violence brought upon it by ISIS. While the former is inevitable, the latter is unacceptable in the modern geopolitical climate. Therefore from a Western perspective our actions in the Middle East today

⁶⁷ Douthat, Ross. “The End of Iraq: Changing Maps in the Mideast.” *The New York Times*, (New York, NY), June 14, 2014.

are simply making up for our imperialist mistakes of the past. We must help usher in a new and stabilized Arabic state while also defending it from the militant extremism which has dominated its recent history. “None of this will be easy, of course. But better, surely, to face up to the realities of the post-Sykes-Picot Middle East and influence it where we can, than lose the moment standing impotently by, hoping that yesterday will come back again.”⁶⁸

ISIS and Sykes-Picot

If one looks at the map describing the ongoing conflict involving ISIS in Syria and Iraq today (Figure C) they will find striking connections to the negotiations between McMahon and Hussein. The Islamic State has established a perimeter stretching from Falluja through Haditha and Mosul across the border of Syria and Iraq to Aleppo and Kobani on the border of Turkey. They have reclaimed the areas originally promised to Arab independence by Sykes-Picot in the center of Syria and have expanded beyond the borders of Syria and Iraq established in the agreement. As a whole, ISIS seeks to create the Sunni Islamic-Arab State promised in the McMahon-Hussein Correspondence a hundred years ago and expand beyond it into a worldwide caliphate in revenge for the past.^{69 70}

⁶⁸ Ashdown, Paddy. “Western Intervention Over ISIS Won’t Prevent the Breakup of Iraq.” *The Guardian*, (London, England), August 14th, 2014.

⁶⁹ Worth, “Redrawn Lines,” 2014.

⁷⁰ P.J.W. “State of Terror.” *The Economist*, (London, England), June 16th, 2014.

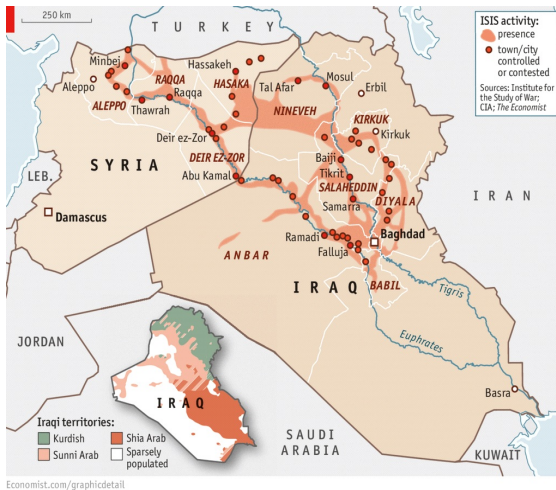


Figure C: The Campaign of ISIS

This rapid rise and success of ISIS reflects the repercussions of the inadequacies of the Sykes-Picot Agreement of 1916. The militant extremists have taken control of areas that were controversial in the dispute between Sykes and the British Arabists. While ISIS has retaken the desert areas in central Syria and Iraq, it has also taken the contested city of Mosul in Northern Iraq. Just as the question of Mosul was avoided during the Sykes-Picot negotiations because of its diverse demographics and political sensitivities, the city was targeted by ISIS as an area of interest for political expansion as well as the ethnic cleansing of Kurds and other opposition groups. The mixed population made integration easier for the militants as many residents were initially welcoming in reaction to their disagreements with the Shia-dominant Iraqi government.⁷¹

⁷¹ Worth, "Redrawn Lines," 2014.

Moreover, the group with the fiercest opposition to ISIS in the region is known as the Peshmerga. This group of well-trained military units is composed of Turkish and Iraqi Kurds in opposition to the extremist policies and ethnic cleansing of ISIS. The Kurds are fighting for autonomy and the recognition of a Kurdish state in the areas of Northern Iraq and Syria. The Kurdish quest for autonomy stems from Sykes-Picot's ignorance about ethnic barriers of the region. Thus the two major forces fighting in the Middle East today are both motivated by the ineffectiveness of the Sykes-Picot Agreement.⁷²

The question is whether the maps drawn by Lawrence and Bell would have effectively avoided such massive religious and ethnic conflicts. While Lawrence's map would have created the single Arab Kingdom which ISIS fights for, it also disregarded the complicated nature of many tribal relationships in the region. On the other hand, Bell's embrace of an Arab nationalist movement would have potentially fostered the creation of a nation centered around a charismatic leader rather than one based on religious diversity and support. While the boundaries drawn by their joint opinions may have been more sympathetic to the wishes of the Arab population, they still would have been perceived as imperialist by many in the local populations and would likely have been rejected as foreign duplicity. Ultimately, because of the ineffectual boundaries established by Sykes-Picot, these ideas for an autonomous Middle East were disregarded; and we will never know which map might have been more successful in creating and maintaining harmony in the

⁷² Worth, "Redrawn Lines," 2014.

diverse region. Instead, we are faced with the reality of a region which has been plagued by political and religious disputes and periods of violence for nearly one hundred years. Because of the imperial ambitions of Mark Sykes and the obstinate stance of France in the region of Syria, the borders of the Middle East projected by the Sykes-Picot Agreement of 1916 were futile in helping to produce a condition of stability in the region. Conversely, they ignored the self-determining sympathies of the British Arabists such as T.E. Lawrence and Gertrude Bell, which could have potentially brought congruity to the Middle East. Had a more functional map been created by a mixture of British Arabists with the input of major Arab ethnic groups, many of the inconsistencies of Sykes' map may have been avoided. In the end, the follies of Mark Sykes in establishing the map of the modern day Middle East have brought constant upheaval and turbulence to the region which is now being exacerbated by the violent actions of extremist groups such as the 'Islamic State'.

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How the Silent Revolution Redefined Marriage in Canada

Carlos Andrés Castro

Introduction

When Great Britain defeated France in the Seven Years' War in 1763, it acquired Quebec—a colony inhabited by people of French descent and nearly three times¹ the geographical size of France. Quebec would eventually become “the largest province in Canada, as well as the second most populous.”² After ousting the French authority, the British parliament attempted to regulate their newly acquired subjects in the method they had become accustomed to. The imperial strategy to accommodate and integrate French Catholics into the rest of English Protestant Canada by the British parliament was initially based on the Irish model.³ In this model, Catholics were forced to convert to Protestantism if they wanted to own land and hold other civil rights. When the British parliament ruled to uniformly impose British law in Canada in 1763, it created considerable civil unrest amongst French-speaking subjects. The British had shown hostility towards

¹ Rachel Klein. "Québec at a Glance." In Fodor's Montre´al & Que´bec City, 257. 07th ed. New York, New York: Fodor's Travel Publications, 2007.

² Craig Belanger. 2009. "Quebec." *Canada's Heritage: Quebec 1. MAS Ultra - School Edition*, EBSCOhost (accessed April 22, 2015). Same question.

³ Guindon, Hubert, and Roberta Hamilton. *Quebec Society: Tradition, Modernity, and Nationhood*. Toronto: University of Toronto Press, 1988, 60.

French speakers in the past. Only eight years prior, the British had expelled “thousands of French subjects from their farms” from Nova Scotia and “scattered them throughout the American colonies and beyond.”⁴ According to Charles Yorke, the Attorney and Solicitor General in Quebec at the time, in a letter written to the Committee of Council for Plantation affairs,

“The second and great source of disorders was the Alarm taken at the Construction upon his Majesty's Proclamation of Oct. 7th 1763. As if it were his Royal Intentions by his Judges and Officers in that Country, at once to abolish all the usages and Customs of Canada, with the rough hand of a Conqueror rather than with the true Spirit of a Lawful Sovereign, and not so much to extend the protection and Benefit of his English Laws to His new subjects, by securing their Lives, Liberty's and [property's] with more certainty than in former times, as to impose new, unnecessary and arbitrary Rules, especially in the Titles to Land, and in the modes of Descent, Alienation and Settlement, which tend to confound and subvert rights, instead of supporting them.”⁵

Implementing British law in Quebec proved to be a

⁴ William Grimes. "Paradise Lost in an 'Ethnic Cleansing': The British Expulsion of the French Acadians." *The New York Times*. February 9, 2005.

⁵ Public Archives of Canada. Documents Relating to the Constitutional History of Canada, 1759-1791. Vol. 1. Ottawa : S.E. Dawson, Printer to the King, 1907, 174.

complete disaster. The language barrier restrained French speakers from participating in their own legal affairs. To avoid discrimination, French Canadians demanded a civil code of their own that could ensure their culture and way of life was preserved. To gain loyalty to the crown, the British parliament recanted their efforts to forcefully implement assimilation and passed the *Quebec Act of 1774*. The *Quebec Act*⁶ granted the province of Quebec the authority to retain a civil code separate from the federal government of Canada. While the British Parliament successfully subdued protests, this was only a temporary appeasement and not a permanent solution to dealing with French speaking Canada. Over two centuries later, the sovereign federal government of Canada is still mitigating the implications of Quebec's own civil code.

The repercussions of forced-assimilation versus self-determination on the identity of an individual are still being discussed among politicians and scholars alike. As a nation, how do you best address a group of people that are different from the rest of the population? Not answering the question leaves the minority group vulnerable to prejudice by the masses, as often it is in human nature to reject what is different. Proponents of assimilation argue that forcing harmonization through legislation ensures fewer disputes in the long-term, as the group is forced to shed their identity to adopt the norms, culture, language, and values of the larger population. However, this process is often unsettling for both groups, with the smaller

⁶ Great Britain, and Danby Pickering. 1762. *The statutes at large ... [from 1225 to 1867]*. Cambridge: Printed by Bentham, for C. Bathhurst.

group often expressing reluctance to the point of revolt. Advocates of self-determination argue that the strength of a nation lies in its ability to embrace the differences among its population and provide equality under the law to all. Canadians attempted to answer the question of protecting minorities when dealing with French Canadians in the province of Quebec and the nationwide legal status of the LGBT community. Reviewing how Canadians dealt with this question will go beyond any political interest group, set of people, and piece of legislation to examine the social movements that intersect them all. Nowhere are the stakes higher than in the drafting of family law, which regulates the private domain of individuals. Drafting limitations and dictating an individual's behavior within the perimeter of their home, consequentially contests their ability to craft their own identity. Institutionally, the harmonization of family law through legislation by the federal government with the province of Quebec bridged the nationalist movement of the Quebecois with gay rights advocates pleading the legalization of same-sex marriage.

At the height of the nationalist movement in the 1960's, referred to as the Silent Revolution, the French-speaking province of Quebec redefined its identity by dismissing the Roman Catholic Church from their institutions and drafting legislation in family law to further distinguish the provincial population from the rest of Canada. To counteract the legislation being made in Quebec, the federal government proceeded with legislation to ensure that the law remained coherent nationwide, thus, engaging in an action-reaction dynamic with the Quebec legislature. In removing the Church's influence from their institu-

tions and forcing the federal government to address same-sex marriage, the legislature of Quebec set the stage for advocates of same-sex marriage to succeed in their legal battle for same-sex marriage rights nationwide.

The Silent Revolution

To Quebec nationalists, the *Quebec Act* stands as evidence that they were never meant to be part of English Canada. For them, the *Quebec Act* is equivalent to the United States' *Bill of Rights*,⁷ in the sense that it is legislation seeking to protect the rights of citizens and restrain government interference in their affairs. The Quebecois identity was largely defined by the French language and close relationship to the Catholic Church. In a famous speech titled *La Langue, gardienne de la foi*, Henri Bourassa the leader of the Nationalist party in 1919 elaborated on the importance of the bond between the Quebecois and the Church. In *Nationalism and the politics of culture in Quebec* author Richard Handler explains, "Bourassa began by asking, 'Are we more French than Catholic?' and answered himself with what seems to be a categorical assertion of the priority of religion over nationality and language: 'man belongs to God before he belongs to himself; he must serve the Church before serving his fatherland.'"⁸ In addition, "Bourassa argued that language and nationality were 'natural' bases of sociability; as such,

⁷ Founding Fathers. "The Bill of Rights." N.d. MS. *National Archives*. The Charters of Freedom, 1789. Web. 8 June 2015.

⁸ Richard Handler. *Nationalism and the Politics of Culture in Quebec*. Madison, Wis.: University of Wisconsin Press, 1988, 160.

they were acceptable to the Church as long as people understood them to be subordinate to ‘the only universal and complete society...the Church.’”⁹ The Church’s involvement in state affairs would prove to be a challenge for the nationalist agenda.

At the peak of turmoil in Quebec during the 1960s, French-speaking citizens demanded sovereignty from Canada. This period, coined the Silent Revolution due to the nature of the protests, was “marked by speeches, not violence—by editorials, not gunfire—but, in whatever form, it is truly a revolution, a shock treatment for both English and French Canada.”¹⁰ The Quebecois desired to develop an identity away from both the Church and English Canada.

In Europe, “the Church identified itself with the conservative forces that resisted modernization; as a result the whole society became divided into two camps, Catholics on the one hand and liberals on the other.”¹¹ The way the Church had approached the province of Quebec was no different. The governing body in the province of Quebec and nationalists had come to the conclusion that the only way to ensure prosperity of French Canada was to reject the influence of the Church.

According to Guindon and Hamilton, the 1960s represented the climax to the separatist movement, largely due to modernization as: “It can all be ex-

⁹ *Ibid.*

¹⁰ Jane Banfield. "Silent Revolution in Canada." *Transition* 22 (1965): 44-47. Accessed June 8, 2015. JSTOR.

¹¹ Jeffrey Metcalfe. "The Quiet Revolution and the Church." *Catholic Commons*. December 15, 2012. Accessed June 6, 2015.

plained in terms of the nature of Quebec's political economy. Quebec is the only province in Canada that has a double economy, in labour-force terms, neatly segregated along language lines."¹² Industrialization did not wait for the two cultures and languages to find a middle ground. Beginning with WWII, people had begun migrating into Quebec. During the war it had been used for its strategic location near water to station soldiers, and people who did not live in big cities became accustomed to an urban lifestyle.¹³ Quebec quickly developed into the center of trade in Canada, extensively importing and exporting goods across the Atlantic. The economic development called for new legislation to vest power in the rising middle class in Quebec that now wished for further say in the political sphere. However, they would have to confront the Church in the process. The province of Quebec began by disentangling the Church from their institutions particularly the public sector of education.

One way to unravel their interests from the Church was by removing its control over state institutions. They first began with deinstitutionalizing the Church during the 1960s, which included some reforms:

Education, financed by the state, was to expand rapidly, welfare was to be professionalized, health services were to be secularized, the Church was to retreat from its secular roles into matters of private rather than public concern.¹⁴

¹² Guindon and Hamilton. *Quebec Society*, 64.

¹³ C.P Stacey. "Second World War (WWII)." *The Canadian Encyclopedia*. July 13, 2013. Accessed June 8, 2015.

¹⁴ Guindon and Hamilton. *Quebec Society*, 62.

While many Quebecois kept their faith, the majority began to oppose the Church's influence in the public sector. As a result of their opposition to the federal government, "liberation ranged from long hair and blue jeans to unblushing acceptance of premarital sex and unmarried cohabitation. Homosexuals emerged to defy the 'straight' majority for the sake of "gay rights."¹⁵ During the 1960s, the nationalist movement in Quebec created a platform for those marginalized by the Canadian government to stand for their rights. With the unique ability to enforce its own civil law, the province of Quebec began extending civil rights to the LGBT community, for example on December 16, 1977:

Quebec includes sexual orientation in its Human Rights Code, making it the first province in Canada to pass a gay civil rights law. The law makes it illegal to discriminate against gays in housing, public accommodation and employment.¹⁶

The decision to extend civil rights to the LGBT community upheld the different approach the Quebec government had to addressing a group in society as, "a viable society must consider the contributions from its own diversity to be essentially enriching. Primarily a French society, Quebec must also discover a sort of vitality in its minorities."¹⁷ Essentially, the intention was to

¹⁵ Desmond Morton. *A Short History of Canada*. Edmonton: Hurtig Publishers, 1983, 174.

¹⁶ CBC News. "TIMELINE | Same-sex Rights in Canada." CBCnews. May 25, 2015. Accessed June 6, 2015.

¹⁷ Handler. *Nationalism and the Politics*, 177.

integrate the group into Quebec society through accommodation, rather than attempting assimilation.¹⁸

Separation of Church and State

The French roots of Quebec inherently gave the Catholic Church a major stake in their public affairs and as long as French Canadians preserved their faith, the Church would have a platform from which to dictate Canadian affairs. However, the Church's agenda would continue to deviate from the interests of the people of Quebec, whose greatest fear was losing their culture and language. According to Guindon their fears were of no relevance for, "the church, however, was more concerned with preserving Roman Catholics than with maintaining the French language, and when insistence on French instruction imperiled public funding of parochial schools then language might be sacrificed."¹⁹ The Church did not foresee the divergence the economic development in Quebec would create between their agenda and the French people of Quebec. The Church had previously acted against the better interests of the French community in Quebec yet their motives or methods were never questioned.

Since the 19th century, the Church had demonstrated a separate agenda from French Canadians. According to sociologists Guindon and Hamilton this first became evident,

When, in the mid-1830's, national sentiment fed by doctrines of responsible government and

¹⁸ *Ibid.*

¹⁹ Peter N. Moogk. *La Nouvelle France: The Making of French Canada, A Cultural History*. East Lansing: Michigan State University Press, 2000, 276.

emerging concepts of democracy erupted in an armed attempt to change the structure of the state, the Catholic hierarchy sided with the Crown, not with the rebels it proceeded to excommunicate. This loyalty to the Crown did not mean that the Church was antinational but that it was against democracy as a political principle, the very principle that was underlying the national uprising.²⁰

While the authority of the Church remained institutionalized across all aspects of life in Quebec it was free to push its own agenda, occasionally at the cost of sacrificing rights of French Canadians. This was exemplified in the Church's rejection of the LGBT community, as it remained the most outspoken opponent to granting them the right to marry. The populist national movement was a response to the marginalization of the people in Quebec by both the Church and the federal government.

History of LGBT Rights in Canada

During the Silent Revolution, being gay had been a criminal offense in Canada until 1968.²¹ However, as the nationalist movement gained momentum in the late 1960's, gay advocates capitalized on the rhetoric that was dominated by discussions advocating social change. The result was that people began to express their true identities regardless of the ramifications. Everett Klippert, an openly gay Canadian citizen, was arrested in 1965 for telling authorities he was gay and

²⁰ Guindon and Hamilton. *Quebec Society*, 97.

²¹ CBC News. "TIMELINE | Same-sex Rights in Canada."

had sex with men. He was charged for being a “dangerous sex offender.”²² His appeal went to the Supreme Court of Canada, where the original sentence was upheld. Three years later the law had been changed to decriminalize being gay coincidentally at the peak of the Silent Revolution in Quebec.

The struggle to gain rights for the LGBT community in Canada has resembled an up and down roller coaster rather than a steady beam of progress. According to Christine Davies from University of Toronto Faculty of Law the history of gay rights can be separated into three different phases. She identifies the landmark legal cases as *North v Matheson* (1974), *Layland v Ontario* (1993) and, the most important, *Egale v Halpern* (2001).²³ While she does not identify the nationalist movement as a factor to their success, one cannot dispute the coincidence in timing of both movements, as they would eventually come to overlap one another in family law in the 1990’s with the passing of the *Quebec Civil Code* in 1994.

In the cases that Davies refers to, advocates for same-sex marriage deployed massive efforts to try and alter the institution of marriage, but *North v Matheson* found that the capacity to marry did not violate the Manitoba Human Rights Act, while the *Layland v Ontario* decision determined that the common law of Canada reserved the right to marry to one man and

²² *Ibid.*

²³ Christine Davies, “Canadian Same-sex Marriage Litigation: Individual Rights, Community Strategy,” *University of Toronto Faculty of Law Review*, Volume 66, Number 2, Spring 2008, 101.

one woman.²⁴ It was not until the second wave of court cases where gay advocates found success in the courts. However, not all advocates agreed with the timing of their efforts. According to Davies,

Many felt this was simply too huge a battle, too draining on community resources, while other practical areas, such as custody, required more attention. Some concerns had to do with the dangers of assimilation, of losing both a unique culture and the sense of solidarity and identity that came with membership in that community.²⁵

Some advocates did not place any priority towards getting the right to marry because they saw it as a heterosexual institution. Furthermore, Davies elaborated:

While the Coalition for Gay and Lesbian Rights in Ontario argues that same-sex couples should receive the same legal recognition and incur the same obligations as heterosexual couples, others argue that same-sex relationships are fundamentally different from heterosexual relationships... Partners may not perform traditional gender roles and they may not accept sexual monogamy and emotional exclusivity as ideals. Some commentators argue that

²⁴ Kathleen Lahey. *Are We 'Persons' Yet?: Law and Sexuality in Canada*. Toronto: University of Toronto Press, 1999. 410.

²⁵ Davies, "Canadian Same-sex Marriage Litigation: Individual Rights, Community Strategy," 101.

inclusion of same-sex couples ignores real differences between couples and may create a division in the gay and lesbian community between those couples whose relationships conform to a heterosexual model and receive recognition, and other couples whose relationships do not fit this model.²⁶

The fear of many advocates was that extending the right to marry to same-sex couples could compromise the bond between LGBT persons. Expanding the right to marry to the LGBT community would create a rupture among those who elected to participate in the model. The federal government consistently referred to the entire LGBT community as “gay” or of “same-sex” while in reality gender identities are not that simple. Advocates believed that the inherently heterosexual model of marriage would bar groups from the LGBT community that did not fit the mold. Particularly when considering the gender roles that are present within marriage, it was gender and not sex that mattered. By accepting marriage as the norm, advocates feared they may also be upholding the male and female roles required in a relationship and in society. Their biggest fear however, according to Jennifer Nedelsky, a law professor at the University of Toronto, the term “same-sex,” rather than incorporating all of the various groups such as lesbian, gay, bisexual, and transsexual, has a simplifying and homogenizing effect.²⁷ Like the Quebecois, the LGBT community wanted to protect their own identity.

²⁶ *Ibid.*, 101.

²⁷ *Ibid.*

Family Law- Marriage

Family law would turn out to be the battlefield that the federal government, the Quebecois, the Catholic Church and the LGBT community fought on for the right to dictate the everyday life inside the household. According to Robert Leckey, a Canadian adopted by a same-sex couple, objectives behind family law include “protection of vulnerable individuals, organization of relations between individuals, and definition of the state’s relation to individuals.”²⁸ For the LGBT community and the Quebecois, having to conform to the rigid laws of the federal government meant forcefully engaging into assimilation. For the Church, the household domain was sacred and it worked to preserve the sanctity of the home, which meant no to same-sex marriage. For the federal government, redefining family law potentially meant the “harmonization” of the people in the province of Quebec who evidently, are disconnected from the rest of the country. It also meant taking the reins again from a provincial state and imposing federal jurisdiction to restrain provinces from overly expanding their power. Leckey feared that the politics driving legislation governing family law “turns from considering how family law is constituted to what family law itself helps constitute, namely the personal identities of the legal subjects it regulates.”²⁹ This would also be true in cases regarding women’s

²⁸ Robert Leckey, “Harmonizing Family Law’s Identities (2002),” *Queen’s Law Journal*, Vol. 28, No. 1, 2002, 221.

²⁹ *Ibid.*, 225.

rights, as extending more favorable family law to women could lead them astray from their responsibilities as “mothers and wives.”³⁰

Defining What Constitutes Marriage

In the reformed *Quebec Civil Code* passed into law in 1994, the province of Quebec overstepped its authority and undermined the federal government’s jurisdiction to define marriage. The legislation defined marriage to be between a man and a woman. However, under Civil Code section 365,

Marriage itself is subject to more explicit constitutional treatment. Subsection 91(26) of the *Constitution Act, 1867* authorizes Parliament to legislate in relation to ‘Marriage and Divorce,’ while subsection 92(12) gives provincial legislatures the power to enact laws in respect of ‘The Solemnization of Marriage in the Province.’³¹

Under the Canadian constitution the federal government reserved the ability to define marriage and the provinces were only provided the right to the administration of marriage and issuing marriage licenses. When Quebec passed the *Quebec Civil Code* with language defining marriage to only include a man and a woman, the LGBT community saw it as an opportu-

³⁰ Dorothy E. McBride. *Women's Rights in the U.S.A.: Policy Debates and Gender Roles*, 3rd ed. New York: Routledge, 2004, 156.

³¹ Mary C. Hurley, Law and Government Division. "Bill C-38: The Civil Marriage Act." February 2, 2005. Revised September 14, 2005. Accessed June 6, 2015.

nity to file a grievance with the court. They argued that a province does not hold the jurisdiction to define marriage, and that the *Quebec Civil Code* was therefore unconstitutional.

In 2001, the Canadian Federal government responded by passing the *Federal Law–Civil Law Harmonization Act, No. 1 2001*. At first glance, this lengthy piece of legislation seemed to be doing the necessary reconciliation of civil law that had previously differentiated between the province of Quebec and the federal government. The *Harmonization Act* passed in 2001 was phase one of a nine-step process in which the Canadian government was to adjoin the civil code of Quebec with that of the federal government. While the “harmonizing” of civil law was undertaken in collaboration with representatives of the province of Quebec, it was meant to benefit the federal government. In the new collective civil law, the federal government dictated that, “Marriage requires the free and informed consent of a man and a woman to be the spouse of the other.”³² This legislation was passed in light of *Hendricks v Quebec*, where two men were suing the state over the Quebec law that prohibited same-sex marriage. The case, was supposed to be simple enough according to the couple’s attorney Anne-France Goldwater, who stated, “By prohibiting unions between homosexuals, the Quebec government oversteps its authority.”³³ *Hendricks v Quebec* brought into ques-

³² Elizabeth II. “48-49 Chapitre 4.” *Projet De Loi S-4* (Sanction Royale). May 10, 2001. Accessed June 10, 2015.

³³ Brian Myles. “Une Pension Alimentaire à La Fin De L’union Libre.” *Le Devoir*. November 4, 2010. Accessed June 10, 2015.

tion the *Civil Code of Lower Canada 1866*, gay rights, and the repercussions to cultural unity. While federal officers denied claims that they did not pass the *Harmonization Act No. 1* to undermine Hendricks' and LaBoeuf's lawsuit being heard by the Superior Court of Quebec, their attorney disagreed: "it was reasonable to conclude that the imminence of Hendricks' and LeBoeuf's lawsuit encouraged the government to speed up a process of harmonization that had been dragging on for years."³⁴ Hendricks; and LeBoeuf were greatly discouraged because the new legislation was detrimental to their case.

The Harmonization project was just as harmful to gay rights advocates as it was for the Quebecois because it addressed family law. According to Robert Leckey, "Harmonization is a general process of mutual engagement between systems aiming at greater conceptual compatibility and coherence."³⁵ The problem with harmonizing the civil codes of two very different groups of people is that you may intrude in their ability to create or maintain their own identities. Under the *Quebec Act*, the people in the province of Quebec reserved the right to draft its own civil law and the federal government to enact the criminal code. Family law, however, was far more elusive and undoubtedly the most critical law in shaping the identity of an individual. The listed objective in the *Harmonization Act* was to, "repeal the pre-Confederation provisions of the 1866 Civil Code of Lower Canada [hereinafter

³⁴ Sylvain Larocque. *Gay Marriage: The Story of a Canadian Social Revolution*. Toronto: James Lorimer & Company, 2006, 41.

³⁵ Leckey, "Harmonizing Family", 225.

C.C.L.C.] that now fall within the legislative jurisdiction of the federal government.”³⁶ Identity for the most part is circumstantial and relative. Changing the circumstances by which one is regulated and the laws that one must abide by drastically influences the ability of an individual to pursue one’s true ambitions. Identity is relative, because persons are sculpted by experiences and those with whom they interact.

Prime Minister Jean Chrétien explained why the Quebecois, as well as the rest of Canada, needed to support the LGBT community:

It is problematic to subject the fate of a minority to the will of the majority. This is to protect minorities that we have a Constitution and a Bill of Rights. “You know, we had to fight, we Francophones, to keep our language. If it had been a decision of the majority of the population, perhaps there would be more French in Canada.”³⁷

The Quebecois sympathized with gay rights advocates because they recognized they were fighting for a similar cause. When Nationalists wished to create civil unrest they pointed to the marginalization of the LGBT community as evidence of English Canada’s oppressive landscape. On the other hand, for the LGBT community to rally support for their cause they needed the Quebecois to resist the Church. While some Quebecois

³⁶ Elizabeth II. “48-49 Chapitre 4.”

³⁷ “Gay Marriage - No Possible Compromise in the Eyes of Jean Chrétien.” *Le Devoir*, August 21, 2003. Accessed June 8, 2015.

remained Catholic, most agreed that the Church should not have the authority to dictate the affairs of citizens, including the rights of the LGBT community.

After the monumental decision in the Supreme Court of Canada's *M v H* case,³⁸ the political discourse in the Canadian parliament greatly revolved around gay rights. In *M v H*, the court ruled that the term "spouse" had to include same-sex partners, extending family law rights to same-sex couples. These rights included benefits and the spousal support the plaintiff was asking for. In compliance with the Supreme Court's decision, Prime Minister and leader of the Liberalist party Jean Chrétien introduced Bill C-23, also known as the *Modernization of Benefits and Obligations Act*. This bill ultimately affirmed the court's decision to extend spousal benefits to same-sex couples. While the victory in *M v H* provided some legal protections for same-sex couples, opposition in the Canadian legislature mobilized to strike down any further progress. In light of the Court's decision, the legislative branch decided that, "Although many laws will have to be revised to comply with the Supreme Court's ruling in May, the federal government votes 216 to 55 in [favour] of preserving the definition of 'marriage' as the union of a man and a woman."³⁹ Furthermore, "Justice Minister Anne McLellan said the definition of marriage is already clear in law and the federal government has 'no intention of changing the definition of marriage or legislating same-sex mar-

³⁸ Lamer C.J., L'Heureux-Dubé, Gonthier, et al. "M. v. H." Judgments of the Supreme Court of Canada. May 20, 1999. Accessed June 10, 2015.

³⁹ CBC News. "TIMELINE | Same-sex Rights in Canada."

riage.”⁴⁰ While the Canadian legislature appeared poised to subdue the movement for marriage equality and continue passing legislation to deter any more efforts for the next decade, public opinion dramatically turned against them. By 2004⁴¹ polls indicated that public opinion had shifted and for the first time in Quebec, the majority did not object to legalizing same-sex marriage.

In the month of April 2005, Pope Benedict XVI made the Vatican’s stance on same-sex marriage clear: “Marriage is holy, while homosexual acts go against the natural moral law.”⁴² This statement from the Roman Catholic Church came at the eleventh hour of the vote on Bill C-38—*Civil Marriage Act*⁴³ introduced by Prime Minister Paul Martin’s Liberal minority party. If signed into law, Bill-C38 would uphold the Supreme Court’s ruling on *Reference re Same-Sex Marriage*⁴⁴ in 2004 where the Court defined marriage to be between “two persons,”⁴⁵ and not a man and woman, thereby validating and extending the right to marry to same-sex couples by provincial states under the Canadian

⁴⁰ *Ibid.*.

⁴¹ Larocque. *Gay Marriage*, 156.

⁴² *Ibid.*

⁴³ Mary C. Hurley, Law and Government Division. "Bill C-38: The Civil Marriage Act." February 2, 2005. Revised September 14, 2005. Accessed June 6, 2015.

⁴⁴ McLachlin C.J. and Major, Bastarache, Binnie, LeBel, Deschamps, Fish, Abella and Charron JJ. "Reference Re Same-Sex Marriage, [2004] 3 S.C.R. 698, 2004 SCC 79." Judgments of the Supreme Court of Canada. December 9, 2004. Accessed June 10, 2015.

⁴⁵ *Ibid.*

Charter of Rights and Freedoms in the 1982 Constitution Act.⁴⁶ Raymond Saint-Gelais, president of the Assembly of Bishops in Quebec dissented from the Vatican's sharply worded opinion by asserting, "the language used does not match the current culture."⁴⁷ The shift in culture Saint-Gelais referred to in his letter was the rupture between the Church and French-speaking Canadian populace. The Vatican's desperate and ultimately failed attempt to influence the outcome of the vote on Bill C-38 epitomized the repercussions of the Silent Revolution that took place in the 1960's in Quebec.⁴⁸

The *Law on Civil Marriage* began by declaring, "Whereas the Parliament of Canada is committed to upholding the Constitution of Canada, and section 15 of the *Canadian Charter of Rights and Freedoms* guarantees that every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination,"⁴⁹ and this addendum to both the federal and Quebec civil code was sanctified by the *Constitution Act* of 1867, which established federal jurisdiction over divorce and granted authority to define marriage. However, the provinces retained the ability to regulate marriage and, thus, were tasked with issuing and administering

⁴⁶ The Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK), 1982, c 11, <<http://canlii.ca/t/ldsx>> Accessed June 6, 2015.

⁴⁷ Larocque. *Gay Marriage*, 156.

⁴⁸ Pelletier. Gérard, *Le temps des choix, 1960-1968* (Montréal : Stanké, 1983)

⁴⁹ Mary C. Hurley, Law and Government Division. "Bill C-38: The Civil Marriage Act." February 2, 2005..

marriage licenses. Therefore, the *Constitution Act* was drafted in response to the *Civil Code of Lower Canada* of 1866 wherein the province of Quebec had outlined its own civil code to include family law with the intention of articulating its own regulations on marriage, completely undermining the authority of the federal government.

In Quebecois publications, such as *Le Devoir's* article titled "In Short- Failed Traditionalists,"⁵⁰ the tone used to describe attempts to restrain the legalization of same-sex marriage implies the stand nationalists had taken. According to the article, "Conservative groups have lost yesterday a major battle in their crusade against gay marriage: the Supreme Court rejected their request to appeal a judgment of the Court of Appeal that legalized such unions in Ontario there more than four months ago."⁵¹ In referencing the assaults by conservatives on same-sex marriage rights, which used language similar to words often used to describe religious conflicts like "crusade" and "battle", they made those opposing same-sex marriages appear to be as intrusive as the military campaigns undertaken by the Catholic Church against other religious groups in the past.

Conclusion

The ultimate dispute over same-sex marriage was whether or not people of the same-sex could participate in an institution that, for primarily religious reasons, was reserved for a man and a woman. Those

⁵⁰ "In Short - Failure to Traditionalists." *Le Devoir*, October 10, 2003. Accessed April 21, 2015.

⁵¹ *Ibid.*

opposed to extending marriage rights to same-sex couples would have you believe that a civil union allows a couple to operate similarly in the law, however this is not the case. After Judge Lemelin ruled in favor of Hendricks and LeBouef, attorney for the couple Anne-France Goldwater said,

What makes the Quebec victory important for all of Canada is that [Lemelin] had the chance to look at a civil union law and to comment herself as to whether that would be enough of a solution for gay and lesbian couples, but Justice Lemelin said in very strong terms that civil union, as wonderful as it is because of all the economic rights that it gives, is still not marriage.⁵²

For the LGBT community and civil rights advocates the legal protections that were being denied to same-sex couples was only part of the problem. The right to marry had to be given to same-sex couples as indication that the state valued and upheld their love just as much as the love of heterosexual couples.⁵³

Thanks in part to the conviction of nationalists from Quebec that had pressed the federal government to safeguarding the equal rights of all of their citizens; the state of Canada was forced to root out religious ideology from the legal system that opposed same-sex marriage. During Silent Revolution, the Quebecois demanded that the federal government display flexibil-

⁵² Sylvain Larocque. *Gay Marriage: The Story of a Canadian Social Revolution*, 89.

⁵³ *Ibid.*, 15.

ity and grant them the right to pursue their personal affairs without legal impediments. Same-sex advocates adopted this idea and demanded the same relief from the federal government. In turn, both the federal government and provincial states including Quebec responded positively. On June 28, 2005, “the Liberals’ controversial Bill C-38, titled *Law on Civil Marriage*, passed a final reading in the House of Commons by a 158-133 margin, supported by most members of the Liberal party, the Bloc Quebecois and the NDP.”⁵⁴ The conflict between French and English speaking Canadians facilitated the LGBT community’s ultimate success in removing overbearing laws, despite the Catholic Church’s immense opposition and resentment for same-sex marriage.

During the litigation that ensued for the right for same-sex couples to marry,

some lawyers, such as Cynthia Petersen (British Columbia and Ontario) and Martha McCarthy (Ontario and Quebec) argued in more than one jurisdiction, and there was cooperation and coordination of strategy between the equality-seeking litigators. (FN49) Their greatest success was the Ontario Court of Appeal’s ruling in 2003.⁵⁵

The decision in Quebec on *Hendricks and LeBoeuf v Quebec* occurred the next year, although the lawsuit had been filed in 2001. The courts in Quebec decided

⁵⁴ CBC News. “TIMELINE | Same-sex Rights in Canada.”

⁵⁵ Davies, “Canadian Same-sex Marriage Litigation: Individual Rights, Community Strategy,” 101.

to uphold the decision in Ontario on the basis of precedent and because they believed LGBT people were protected and included under the Canadian constitution. They also upheld another precedent—the struggle against the rigid control the federal government attempted to impose on the province of Quebec. During the Silent Revolution, the Quebecois preached sovereignty and action against oppression. LGBT advocates presented the Quebecois and the courts of Quebec an opportunity to uphold their ideology. They could do this by making their stance clear and defending the rights of individuals in the LGBT community.

According to Davies, Law Professor at the University of Toronto,

The fight for LGBT rights is not 'dead' following the achievement of same-sex marriage. Further legal battles on behalf of the LBGT community are anticipated: the ban on blood and organ donations by gay men, the rights of lesbians and gay men in reproduction and family law, and funding for gender-reassignment surgery for transgender and transsexual persons are all emerging in the legal landscape as areas ripe for litigation.⁵⁶

Family law is still upholding socially constructed gender roles, and the LGBT community remains restrained from participating in activities and actions available to all other citizens in Canada. Without the contributions of the Quebecois to the legalization of same-sex marriage, their LGBT community might find

⁵⁶ *Ibid.*

themselves in the same predicament as those residing in the United States today, where they hope the Supreme Court will once and for all legalize same-sex marriage throughout the country and recognize it as a right that everyone is entitled to regardless of their sexual orientation.

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The Façade of Change: Tracing the Post-War Evolution in Japanese Criminal Procedure

Ramsey Fisher

Introduction

Criminal procedure in Japan lives a multifaceted existence. Enacted as part of the American Occupation in Japan on July 10, 1948, the current Code of Criminal Procedure, on one hand, goes to great lengths to implement an adversarial process of justice that secures the rights of defendants. The code, for example, devotes twelve articles to defining the right to counsel for defendants;¹ grants defendants the right to refuse questioning so long as they are not under arrest;² stipulates rules of evidence that require a standard of “beyond any reasonable doubt” for conviction;³ requires an indictment process before trial;⁴ mandates a trial led by a single judge;⁵ offers defendants protection against self-incrimination;⁶ and the right to cross-examination;⁷ and perhaps most importantly of all, places the burden of proof on the prosecu-

¹ Code of Criminal Procedure (1948), Articles 30-42.

² Code of Criminal Procedure (1948), Articles 197-198.

³ Code of Criminal Procedure (1948), Article 227.

⁴ Code of Criminal Procedure (1948), Article 256.

⁵ Code of Criminal Procedure (1948), Articles 89-90.

⁶ Code of Criminal Procedure (1948), Article 319.

⁷ Code of Criminal Procedure (1948), Article 308.

tion.⁸

There is a wide gap, however, between theory and practice when it comes to Japanese criminal procedure. Japan's system has been described as "predominantly inquisitorial,"⁹ and most scholars and legal practitioners argue that the balance of power tilts in favor of the prosecution to an extent that actually strips defendants of many of the rights they receive in America.¹⁰ Some scholars have even suggested that the central goals of the two systems are radically different in that Japan seeks "not to assure that the rights of the criminally accused are protected but rather to assure 'substantive justice' in the sense that all those who have committed crimes are found guilty."¹¹

There thus appears to be a clear disconnect between the system's intended operation as designed in 1948 and its modern function. The story of how this

⁸ Code of Criminal Procedure (1948), Article 299.

⁹ John Haley, "Japan," in *The Handbook of Comparative Criminal Law* (Stanford, CA: Stanford University Press, 2011), 397.

¹⁰ For example, see: A. Didrick Castberg, "Prosecutorial Independence in Japan," *Pacific Basin Law Journal* 16, no. 1 (January 1, 1997), <http://escholarship.org/uc/item/63r6g7zh>; Daniel H. Foote, "The Benevolent Paternalism of Japanese Criminal Justice," *California Law Review* 80, no. 2 (March 1, 1992): 317–90, doi:10.2307/3480769; David Johnson, "Criminal Justice in Japan," in *Law in Japan: A Turning Point* (Seattle: University of Washington Press, 2008); David T. Johnson, *The Japanese Way of Justice: Prosecuting Crime in Japan, Studies on Law and Social Control* (Oxford and New York: Oxford University Press, 2002).

¹¹ See Carl F. Goodman, *The Rule of Law in Japan: A Comparative Analysis*, Third revised edition, (Norwell, MA: Kluwer Law International, 2012), 454.

disconnect appeared, however, is one that has not been explored by scholars of Japanese criminal procedure. The objective of this study is to piece that story together.

This paper is split into three sections. First, we survey the literature on Japanese criminal procedure. Although scholars have yet to directly confront this disconnect directly, we are able to infer that one probable explanation as to why practice may differ from theory with respect to Japanese criminal procedure is that the 1948 code fundamentally clashed with deeply seated cultural beliefs regarding the law and justice.

The next two sections attempt to test this hypothesis. First, we examine the concrete changes of the new code, with special attention on the Anglo-American traditions embedded within the reforms. Next, we evaluate the Japanese response. Though no population-wide surveys were issued at the time, and English primary source data regarding the code is scarce, some of the most impactful Japanese legal scholars of the time drafted pieces in English concerning the new code in the 1963 volume of *Law in Japan: A New Order in a Changing Society*. Using the arguments of Takeyoshi Kawashima, Judge Kohji Tanabe, and Atsushi Nagashima—three scholars who had a significant voice in shaping the modern Japanese criminal justice landscape—we gain evidence supporting the hypothesis that the reforms of the 1948 code were fundamentally in opposition with Japanese legal culture.

Historiography

The literature regarding Japanese criminal proce-

ture is divided into two camps: one that focuses almost exclusively on the concrete changes brought forth by the 1948 code, and a second that focuses on the cultural forces driving the current practice in criminal practice.

Camp One: Concrete Changes of 1948

The first camp focuses almost exclusively on the concrete changes brought forth by the 1948 code. Championed by scholars like Richard Appleton and Hiroshi Oda, the thesis propagated by this school is quite uniform: the 1948 code brought with it distinctly American legal principles not before implemented in Japan.¹² As noted above, such reforms included provisions establishing the rights to counsel and cross-examination, the threshold of beyond a reasonable doubt, and even layperson jury trials in some areas of Japan.¹³ We will examine the changes imposed

¹² See Richard B. Appleton, "Reforms in Japanese Criminal Procedure under Allied Occupation," *Washington Law Review and State Bar Journal* 24 (1949): 401; Kōya Matsuo, "The Development of Criminal Law in Japan since 1961," in *Law in Japan: A Turning Point* (Seattle: University of Washington Press, 2008); Hiroshi Oda, *Japanese Law*, Third edition, 2011, 436-442; Shigemitsu Dandō, *Japanese Criminal Procedure*, Publications of the Comparative Criminal Law Project ; v. 4 (Berkeley, CA: The University of California Press, 1965), 12-22.

¹³ Jury trials were conducted on Okinawa during the American Occupation. See: Anna Dobrovolskaia, "An All-Laymen Jury System Instead of the Lay Assessor System for Japan? Anglo-American-Style Jury Trials in Okinawa under the US Occupation," *Vanderbilt Journal of Transnational Law*, 2004, 57-80; Hiroshi Fukurai, "The Rebirth of Japan's Petit Quasi-Jury and Grand Jury Systems: A Cross-National Analysis of Legal Consciousness and Lay Participation in Japan and the U.S.,"

by the 1948 code in greater detail in the next section.

Camp Two: Culturist Perspective on Current Japanese Criminal Procedure

The second camp evaluates the various aspects of Japanese criminal procedure from a culturist perspective. This body of literature is vast, but seems to focus on one major aspect of Japanese criminal procedure: the inquisitorial nature of the system in practice.¹⁴

An adversarial system has two crucial components: 1) a formal separation of the judge and prosecutor, in which “the prosecutor determines the object of proceedings and the judge is a passive and impartial adjudicator,” and 2) a balance of power between the prosecutor and defense attorney when it comes to making their claims.¹⁵ Though the first was firmly established in Japan by the 1948 code, the second has been far from achieved.

David Johnson calls Japan “a paradise for a prose-

Cornell International Law Journal, 2007, 315-359.

¹⁴ Daniel H. Foote, “Reflections on Japan’s Cooperative Adversary Process,” in *The Japanese Adversary System in Context*, 2002. Goodman, *The Rule of Law in Japan*, 454–500; Johnson, “Criminal Justice in Japan”; Setsuo Miyazawa, “Introduction: An Unbalanced Adversary System--Issues, Policies, and Practices in Japan, in Context and in Comparative Perspective,” in *The Japanese Adversary System in Context* (New York, NY: Palgrave Macmillan, 2002), 1–12; Satoru Shinomiya, “Adversarial Procedure without a Jury: Is Japan’s System Adversarial, Inquisitorial, or Something Else?,” in *The Japanese Adversary System in Context* (New York, NY: Palgrave Macmillan, 2002), 114–28.

¹⁵ Miyazawa, “Introduction: An Unbalanced Adversary System--Issues, Policies, and Practices in Japan, in Context and in Comparative Perspective,” 2.

cutor.”¹⁶ In addition to being compensated fairly well and having light caseloads and little crime to prosecute in the first place, prosecutors enjoy an unprecedented amount of procedural power. The principle of “voluntary investigation” allows them to process over four fifths of their cases on an “at-home” basis, away from “judicial scrutiny;” evidence admission rules strongly favor the prosecution over the defense; prosecutors are allowed to order arrests without warrants and hold suspects in detention cells before they have filed charges; and prosecutors are able to question suspects for up to twenty-three days on a single charge, summarizing statements in their own words.¹⁷ In addition, they have the ability to appeal any unfavorable sentence or verdict, including acquittals.¹⁸

Defense attorneys, on the other hand, suffer from a “lack of weapons.”¹⁹ Japanese courts often recognize “broad exceptions to the right to silence” and have relaxed standards to allow prosecutors to restrict meeting capabilities with clients. They also commonly place restrictions on the ability for defense attorneys to compel discovery.²⁰

It is important to note, however, that the role of the defense attorney is starkly different to what one finds in the American system. Defense attorneys have no need for most of the “weapons” utilized by American defense attorneys because they are *expected* to cooper-

¹⁶ See Chapter 1, Johnson, *The Japanese Way of Justice*.

¹⁷ *Ibid.*, 36.

¹⁸ *Loc cit.*

¹⁹ Foote, “Reflections on Japan’s Cooperative Adversary Process,” 32.

²⁰ *Ibid.*, 32–33.

ate with the prosecution from investigation to sentencing. In fact, “prosecutors routinely police defense lawyers to ensure that their behavior does not depart too far from the norms of constructive, cooperative engagement.”²¹ Those who do go out of line are punished and branded as “radical leftists.”²² The entire functionality of the system rests in the hands and trust of the prosecution, and the defense’s role is, in part, to support that system.

Perhaps most interesting, however, is that this aspect of Japan’s criminal process is believed to have cultural roots. Castberg, for instance, argues that the traditional values of respecting and deferring to authority are inherent to the prosecutor’s elevation.²³ When one acknowledges the prestige awarded to prosecutors, it is clearer why they are treated as high authority.

Prosecutors in Japan are some of the most respected individuals in society. Primarily, the process of becoming a prosecutor in Japan is far more selective than that in America. Though there are 74 law schools functioning in Japan today, future prosecutors are generally expected to attend the most elite programs. Those who sit at the top of their class at the best schools are recruited for prestigious internships at the Legal Training and Research Institute, where they work directly under current prosecutors and prepare for the bar exam. A select few of those able to pass the

²¹ Johnson, *The Japanese Way of Justice*, 77.

²² *Loc. cit.*

²³ Castberg, “Prosecutorial Independence in Japan,” 39.

exam²⁴ are then selected for apprenticeships at the Tokyo Public Prosecutors Office in preparation for a career as a prosecutor. Indeed, to become a prosecutor, one has to be among the best legal minds in the nation. As of 2004 the state imposed a quota of prosecutors at 1,508 nationwide.²⁵

It is, therefore, understandable that these individuals occupy a rank in the Japanese social hierarchy. Indeed, as Johnson puts it: “to find a comparable official elite in the United States, one would have to turn to those who staffed the E-Ring of the Pentagon, or the Central Intelligence Agency at the height of the Cold War.”²⁶

This imbalance of power also represents what Goodman calls “a priority on substantive justice.”²⁷ The group orientation of Japanese society implies that “the rights of the few may have to be sacrificed to protect the public welfare” of the whole.²⁸ Thus, the goal of the system is not to protect individual rights—to ensure that each player in the game gets a fair shot—but to get to the truth. Prosecutors take the lead in achieving that objective, and everything else, from the rules of the game to those who play it, is there to facilitate them in doing so.

A number of other scholars agree with Goodman’s

²⁴ It should be noted that this is no easy feat. The bar passage rate in Japan is currently between 2% and 4%.

²⁵ Hisashi Aizawa, “Japanese Legal Education in Transition,” *Wisconsin International Law Journal* 24 (2007): 146–149.

²⁶ Johnson, *The Japanese Way of Justice*, 48.

²⁷ Goodman, *The Rule of Law in Japan*, 447.

²⁸ *Ibid.*, 454.

characterization.²⁹ Some have even gone so far as to say that these cultural forces will prevent any adversarial reform—such as a jury system—from being implemented successfully.³⁰ However, the important note of agreement among all these scholars is that the inquisitorial nature of the system is a reflection of the country's attitudes towards crime and justice.

Thus, it seems that the major lessons we can draw from the literature are: a) that the changes of 1948 were American inspired, b) that the current system is not American, and c) that the current system is, to some degree, linked to culture. What has yet to be determined, however, is just how the disconnect between the terms of the 1948 code and contemporary practice occurred.

It seems, however, that we can piece together a hypothesis. Indeed, given that the cultural factors that drive the current system are issues that have been in place in Japan for centuries,³¹ it seems that one

²⁹ Castberg, "Prosecutorial Independence in Japan"; Johnson, "Criminal Justice in Japan"; Shinomiya, "Adversarial Procedure without a Jury: Is Japan's System Adversarial, Inquisitorial, or Something Else?" Foote, "The Benevolent Paternalism of Japanese Criminal Justice"; Haley, "Japan"; Matsuo, "The Development of Criminal Law in Japan since 1961."

³⁰ Lester W. Kiss, "Reviving the Criminal Jury in Japan," *Law and Contemporary Problems* 62, no. 2 (April 1, 1999): 261–83; Robert M. Bloom, "Jury Trials in Japan," *Loyola of Los Angeles International and Comparative Law Review* 28 (2006): 35. It should be noted that in 2009, Japan implemented the "Saiban-in" jury system, in which lay citizens are chosen at random to act as judges in a case. Though this brought lay people into the judicial process, the system functions in an entirely different fashion from the American system. Individuals that are chosen examine the evidence along with a panel of judges to come to a conclusion; there is no adversarial debate held in front of the lay people, and judges still play a significant role in determining guilt.

³¹ We will examine this briefly in the next section, see: Dan F. Henderson, "Some Aspects of Tokugawa Law," *Washington Law Review and State Bar Journal* 27 (1952): 83; Nobuhiko Kasumi, "Criminal Trials in the Early Meiji Era—with Particular Reference to the Ukagai/Shirei System," in *Law in Japan: A Turning Point*, trans. Daniel Foote (Seattle: University of Washington Press, 2008); Karl Steenstrup,

explanation is that those same forces are what drove Japanese criminal procedure away from the intentions of the 1948 code and that the reforms of the code, from its very conception, clashed so fundamentally with these cultural tendencies that it could never be fully adopted into Japanese society in the way the designers hoped it would be. The next two sections seek to test that hypothesis.

Part I: The Effect of the 1948 Code of Criminal Procedure (CCP)

The history of Japanese criminal procedure, which begins centuries before 1948, must be understood before we can grasp the real impact of the post-war code. Accordingly, this section is split into two parts. The first explores how Japanese criminal procedure functioned prior to 1948, and the second evaluates the changes brought forth by the 1948 code.

Japanese Criminal Procedure: Pre-1948

The first evidence we have of ancient Japanese criminal procedure comes from the eighth century. Writings from the Taiho (701-704) and Yorō (717-724) periods suggest that in these ancient times, Japan was using a criminal code of procedure developed in China during the Sui and Tang dynasties (581-907). In these early codes, judgment had to be based on confession, and any means, including torture, could be used to attain it.³²

Because this code, however, was ultimately some-

"New Knowledge Concerning Japan's Legal System Before 1868, Acquired from Japanese Sources by Western Writers Since 1963," in *Law in Japan: A Turning Point* (Seattle: University of Washington Press, 2007).

³² Shigemitsu Dandō, *Japanese Criminal Procedure*, 8-10.

thing ‘imported’ into Japan, the bulk of the code faded away with time. In fact, by the middle of the Heian period (794-1185) Japan criminal procedure had transformed into an entirely feudal process. Though the emphasis on confession remained, proceedings were no longer controlled by a set of rules. Instead, officialdom dictated proceedings, as feudal lords and officials conducted trials in an entirely inquisitorial fashion.³³

This type of system persisted into the Middle Ages, especially under the Kamakura (1185-1392) and Muromachi (1392-1573) periods. In medieval practice, a single local official called the *shugo* typically rendered judgment. Though this changed slightly in the Tokugawa Period (1615-1867) to allow for a Supreme Council called the *hyōjōsho* to oversee local hearings, the important takeaway is that in both periods, trials were conducted in an incredibly inquisitorial fashion, with local leaders holding wide discretion.³⁴

As was the case with most aspects of Japanese society, the year 1868 brought immense changes to criminal procedure. Between the start of the Meiji Restoration and 1880, several different tentative reforms were put into place.³⁵ The first attempt at a new code came in 1870 with the *Shinritsukōryō*. This code essentially “amounted to a revival of the old

³³ *Ibid.*, 13.

³⁴ Steenstrup, “New Knowledge Concerning Japan’s Legal System Before 1868, Acquired from Japanese Sources by Western Writers Since 1963,” 14.

³⁵ For a detailed evaluation of several of these reforms, see: Kasumi, “Criminal Trials in the Early Meiji Era--with Particular Reference to the Ukagai/Shirei System.”

system based on the ancient Chinese codes.”³⁶ As was the case in the Taiho and Yorō periods, torture was permitted, and all crimes were to “be adjudicated on the basis of confession.”³⁷

Naturally, these new codes faced extensive opposition, especially in regard to their allowance of torture. The result was that the period between 1870 and 1880 saw an influx of what scholars have called “piecemeal reforms.”³⁸ In 1872, for example, members of the press were allowed into courts for the first time, courts were officially separated from the office of the public prosecutor, torture in civil cases was prohibited, and the use of class distinction in trials was formally abolished.³⁹ Furthermore, in 1873, the use of vendettas was banned. In 1875 an appellate procedure was recognized, and in 1876 the age-old requisite of confession for conviction was abolished. Shortly after in 1877, the use of torture in criminal case investigation was formally banned.⁴⁰

While all these reforms were being installed, however, the government was working on a much more comprehensive project: the Code of Criminal Instruction. Formally passed in 1880, the Code had been nearly 10 years in the making. In 1870 the Cabinet established the Bureau for the Investigation of Institutions and charged it with researching French criminal codes in an effort to design a comprehensive Japanese

³⁶ Shigemitsu Dandō, *Japanese Criminal Procedure*, 14.

³⁷ 1873 Code, translated and quoted in: *Ibid.*

³⁸ Meryll Dean, *Japanese Legal System*, 2nd edition (London, UK: Routledge-Cavendish, 2002), 99.

³⁹ *Ibid.*, 100–101.

⁴⁰ *Ibid.*, 102.

code. Accordingly, Professor Gustave Boissonade of the University of Paris was invited to assist, and eventually led the drafting of a new penal and procedure code.

It is, therefore, no surprise that the final Code of Criminal Instruction has undeniably European roots. Primarily, we see that although the code allowed for an appointment of counsel for the accused, the prosecutor was still placed on a higher playing field. As in the French model, the prosecutor was designated to sit next to the judge at trial and play a key role in determining what witnesses would be called, how evidence would be presented, and, ultimately, the verdict of the case.⁴¹

This leads us to the second major example of European influence in the 1880 Code: the inquisitorial nature of the judge. Indeed, the Japanese judge was not to play the role of impartial arbiter, as is the case in a traditional Anglo-American style trial. Instead, he or she was to act more as a “confessor,” conducting and manipulating every aspect of the trial from beginning to end.⁴²

A key part of this was what was termed the “preliminary investigation.” There is no direct parallel to this aspect of old Japanese criminal procedure in the Anglo-American system, yet it was prominent in the French and German systems in the late 19th century.⁴³

⁴¹ *Ibid.*, 103.

⁴² *Ibid.*, 104.

⁴³ Shigemitsu Dandō, *Japanese Criminal Procedure*, 15. An important distinction between this system and the Grand Jury system used in the United States is that the question of indictment fell solely on the judge in the preliminary investigation. There was no jury; the prosecutors were responsible for all investigative work, and the judge, using the evidence and analyses of the prosecutors, made the determination on the case.

Taking place entirely before trial, the preliminary investigation effectively acted as a hearing in which the defense was *not* accorded access to counsel, and a judge made a determination of the case based on evidence presented by the public prosecutor.⁴⁴

Though a trial must take place for formal guilt to be established, one cannot underestimate the weight placed on this preliminary investigation. Because the trial judge relied extensively upon the determination of the preliminary investigation rather than try the case cold, the outcome of the preliminary investigation inevitably biased the outcome of trial. In fact, evidence suggests that many assumed that the outcome of the preliminary investigation was indeed the final outcome of the case and that the trial was more of a procedural loop than a substantive determination of guilt.⁴⁵

This code remained the dominant authority on criminal procedure in Japan until the 1920s, when two new laws came into place. The first was the 1922 Code of Criminal Procedure. Only a slight modification of the Code of Criminal Instruction, this code drew heavily on German influences. Given that the major changes in the 1922 code are the introduction of expanded rights to the accused, some have argued that the code reflected the general progressive trend of the 1920s that favored reform.⁴⁶

Arguably another reflection of this cultural trend was the second new law of the 1920s: the 1923 Jury Law. A milestone for Japanese legal history, this law

⁴⁴ Dean, *Japanese Legal System*, 104–105.

⁴⁵ *Ibid.*, 105.

⁴⁶ Shigemitsu Dandō, *Japanese Criminal Procedure*, 15–20; Dean, *Japanese Legal System*, 108.

was the first in Japanese history to mandate lay participation in all criminal cases. Though the system was similar to the English system in some respects, it maintained several key differences that brought it more closely in line with the German/French model than anything else. For one thing, the “jury had no power to say guilty or not guilty.”⁴⁷ This was still the sole authority of the judge. The jury’s role was instead restricted to making decisions on questions of fact posed by the court. Furthermore, their decisions were non-binding on the court’s ultimate decisions.

Nevertheless, despite the somewhat Anglo-American reforms of the 1920s, one gets the impression that, prior to 1948, Japanese criminal procedure maintained its inquisitorial design, in a hodgepodge of ancient Chinese and modern French and German influences that came together to shape a system defined by three fundamental traits: 1) a dominant and controlling judge; 2) a powerful prosecutor; and 3) an emphasis on finding the truth via controlled investigation rather than through open debate and deliberation. After World War II, the American Occupation forces ordered all of this to change.

Japanese Criminal Procedure: Post-1948

The changes introduced in the 1948 code radically transformed the Japanese criminal procedure into a distinctly Anglo-American construction. Though some of these changes were noted in the introduction to this paper, we can gain a better understanding of the impact of the 1948 Code by examining how it altered three stages of criminal procedure: pre-trial investiga-

⁴⁷ Dean, *Japanese Legal System*, 107.

tion, indictment, and trial.⁴⁸

The primary change in the investigative phase concerned the relationship between public prosecutors and police. Whereas in the older codes prosecutors virtually controlled case investigation, the 1948 CCP gave substantially more discretion to police, providing them the ability to seek warrants from the court, control their own files, and lead crime investigations without the discretion of the prosecutor's office.⁴⁹

Complementing this change was the implementation of a host of safeguards intended to protect the rights of the defendant. The accused gained the right to remain silent when detained, and arrests, searches, and property seizure now required warrants issued by the courts, rather than by the prosecutor's office. In fact, according to the new code, the only circumstances in which a warrant was not required for arrest were: 1) when police had reasonable grounds to suspect that the crime was a felony, and 2) when the criminal was caught in the act.⁵⁰ Furthermore, the code mandated that police officers inform the accused of both the "essential facts of the case" and their right to counsel, upon arrest.⁵¹

We see perhaps even more impactful changes in the indictment phase. Primarily, the new code placed limits on how long a suspect could be detained and gave detainees a right to an explanation of why they

⁴⁸ For a detailed breakdown of the changes brought on by the 1948 Code, see: Appleton, "Reforms in Japanese Criminal Procedure under Allied Occupation."

⁴⁹ Code of Criminal Procedure (1948), Article 191.

⁵⁰ Code of Criminal Procedure (1948), Articles 193,197.

⁵¹ Code of Criminal Procedure (1948), Articles 218-220.

were being detained.⁵² These provisions had the important effect of changing the prosecution's strategy in a case from one focused on gaining a confession to one focused on the entirety of evidence involved in a case.⁵³

Perhaps the largest change introduced by the new code, however, was the elimination of the preliminary investigation process and the installment of a formal indictment hearing supervised by the court.⁵⁴ Under this system, the primary source of evidence for a court was no longer the preliminary investigation, led and controlled by the prosecutor. Instead, the police were to conduct the pre-trial investigation, and evidence would be presented to the judge in open court by *both* the defense and prosecution for preliminary judgment.⁵⁵ The impact of this change cannot be understated. Not only did it begin to—at least theoretically—equate the power of defense and prosecution, but it also effectively changed the role of the judge from that of a “confessor” to more of an unbiased arbiter. The system had indeed taken a great leap in becoming adversarial in procedure.⁵⁶

Leaps were also taken in the trial phase. Once such change was the strong emphasis placed on the accused actually being present during trial. One of the central tools in Japanese criminal procedure prior to

⁵² Code of Criminal Procedure (1948), Articles 60; 82-86.

⁵³ Appleton, “Reforms in Japanese Criminal Procedure under Allied Occupation,” 416.

⁵⁴ Code of Criminal Procedure (1948), Article 256.

⁵⁵ Code of Criminal Procedure (1948), Article 256.

⁵⁶ Appleton, “Reforms in Japanese Criminal Procedure under Allied Occupation,” 414.

1948 was the summary procedure. Under the summary procedure a judge maintained the discretion to convict the accused by order without a hearing or prior proceedings for small, petty offenses.⁵⁷ The new code did not entirely eliminate the summary procedure, but allowed the procedure to be used only if the defendant presented no objection to the order for summary procedure seven days after the prosecutor issued it.⁵⁸

The process by which evidence and witnesses were presented in trial was also changed in the new code. Under the old procedure, the presentation of witnesses and evidence was determined by the prosecutor and judge exclusively. The new code widened the door of discretion for the defense, mandating that the court must listen to the defense's opinions when determining the order and scope of witness examination.⁵⁹ In addition, the defense attorney was granted the right to an opening statement and cross-examination.⁶⁰ Perhaps most importantly, however, the 1948 rendition also made conviction something contingent, not on the judge's suspicion, but rather on evidence that conveyed guilt "beyond a reasonable doubt," with the burden of proof placed firmly on the prosecution.⁶¹

Though some traditions of the past remained in

⁵⁷ *Ibid.*, 420.

⁵⁸ Code of Criminal Procedure (1948), Article 461.

⁵⁹ Code of Criminal Procedure (1948), Article 297.

⁶⁰ See Code of Criminal Procedure (1948), Article 295. It is important to note that the word "cross-examination" is not explicitly used in the code. The terms, however, grant both sides the "full opportunity to examine not only his own witnesses, but those called by his opponent."

⁶¹ Code of Criminal Procedure (1948), Article 227; 298.

place after 1948,⁶² it seems fair to say that the landscape of Japanese criminal procedure had been fundamentally redesigned as a result of the new code. The power and discretion of the prosecutor was tampered slightly. No longer was a trial allowed to begin with the court already having a partial opinion on a case, nor was it the goal of investigation to obtain a confession. And defense counsel—once restricted to doing no more than make a passionate closing statement—was accorded a host of new opportunities to “speak up and influence the court during public trial.”⁶³ Moreover, the accused was given greater rights, especially the right to silence and an attorney, the protection against evidence or confessions made under compulsion, and guarantees against prolonged detention.

All of this had the effect of placing Japan on a road to adopting a Western, Americanized system of justice. The seeds were indeed planted. Yet as we know, they did not grow as expected. As noted above, modern Japanese procedural justice can be summarized as “predominantly inquisitorial,”⁶⁴ with prosecutors controlling pre-trial investigation, indictment, and much of the trial itself. Indeed, in many ways, Japanese criminal procedure functions more like it was designed *before* 1948 rather than after. To test the hypothesis that this digression was due to deeply

⁶² The judge was still the most dominant figure in the system. He maintained discretion in determining the procedures of indictment and trial, the final authority in choosing the order of witness examination, and generally was the first to interview key witnesses [Code of Criminal Procedure (1948), Article 304].

⁶³ Appleton, “Reforms in Japanese Criminal Procedure under Allied Occupation,” 422.

⁶⁴ Haley, “Japan,” 197.

seated cultural differences in jurisprudence that made an American system impossible to fully adopt in Japan, we turn to the works of those writing about Japanese law in this period of transition.

Part II: The Literati's Reaction

In this section we turn to evaluate three important analyses written by scholars reacting to the post-war changes: 1) Kawashima Takeyoshi's "Dispute Resolution in Contemporary Japan,"⁶⁵ 2) Kohji Tanabe's "The Process of Litigation: An Experiment with the Adversary System,"⁶⁶ and 3) Atsushi Nagashima's "The Accused and Society: The Administration of Criminal Justice in Japan."⁶⁷

It should be noted that only Nagashima's article is specifically focused on the changes to the Code of Criminal Procedure. The other two articles are geared at evaluating changes to the Civil Code. While the exactitudes of Takeyoshi and Tanabe's may therefore seem inapplicable to our analysis, it is important to recognize the context in which we use their analyses.

We are not using the pieces of these three scholars for the purposes of evaluating the changes brought by the 1948 code. That was the purpose of Part I of this paper. Instead, here we aim to get a glimpse of how

⁶⁵ Takeyoshi Kawashima, "Dispute Resolution in Contemporary Japan," in *Law in Japan: The Legal Order in a Changing Society* (Harvard University Press, 1963).

⁶⁶ Kohji Tanabe, "The Process of Litigation: An Experiment with the Adversary System" (Cambridge, Mass.: Harvard University Press, 1963).

⁶⁷ Atsushi Nagashima, "The Accused and Society: The Administration of Criminal Justice in Japan," in *Law in Japan: The Legal Order in a Changing Society* (Cambridge, Mass.: Harvard University Press, 1963).

legal scholars reacted to the changes on principle. Did they see the changes as incompatible with Japanese legal culture? Did they believe them to be examples of cultural imperialism, or steps in the right direction? The focus in this section is, therefore, more centered on issues of Japanese culture and society than on the specific features of the changed law.

Furthermore, the changes to the Civil Code were not so different from the changes to the Criminal Code that we should expect these scholars' reactions to be strikingly different in the case of the Criminal Code. Indeed, the basic changes were the same; that is, the post-war codes attempted to transform what was once an inquisitorial system of justice into an adversarial one. Thus, even though this sample of scholars is limited, it paints a clear picture of where the scholarly community stood in the post-war world.

Dispute Resolution in Contemporary Japan, Takeyoshi Kawashima

Kawashima Takeyoshi was a Professor of Law at Tokyo University and a visiting professor at Stanford University from 1958 to 1959. Authoring some of the most fundamental law textbooks on ownership and other areas of civil law in the 1950s and 1960s, he undeniably secured his position as one of the intellectual frontrunners in Japanese legal society.

Kawashima's landmark piece attempted to explain why only a small percentage of civil dispute cases were brought to court in Japan. He presented several different hypotheses, but the most "decisive factor" was what he termed the "social cultural background of

the problem.”⁶⁸ In Kawashima’s point of view, one of the defining attributes of Japanese culture was a reluctance to take disputes to trial. As he stated in his opening thesis:

Rarely will both parties press their claims so far as to require resort to a court; instead, one of the disputants will probably offer a satisfactory settlement or propose the use of some extrajudicial, informal procedure.”⁶⁹

Kawashima explained that this trend had roots in the dynamics of “traditional social groups” in Japan.⁷⁰ Indeed, Kawashima argued that a constant of Japanese culture throughout history has been a strong sense of hierarchy within communities. Within society, “each man’s role is contingent on that of the other,” and circumstance dictates who has the upper social hand.⁷¹

The net effect of these cultural attributes was that, in Japan, judicial decisions were not naturally based on universalistic standards. A system premised on social equality could not feasibly function in a society built on a principle of social inequality. Instead, as Kawashima explains, the “strong expectation” in Japanese society was that disputes were to be solved through cooperation and “mutual understanding,”

⁶⁸ Kawashima, “Dispute Resolution in Contemporary Japan,” 43.

⁶⁹ *Ibid.*, 41.

⁷⁰ *Ibid.*, 43.

⁷¹ *Ibid.*, 44.

with an implicit deference to figures of authority.⁷² There was no rationale for majority rule; in fact, if anything, attempts to “regulate conduct by universalistic standards” only “threaten[ed] social harmony.”⁷³

As noted above, even though Kawashima’s focus is on civil disputes, his basic insights have implications in our analysis. If Japanese culture is based on principles of “mutual understanding,” one can see how an inquisitorial system provides a neater fit for addressing alleged crime. Authority is centralized in the hands of the judge and public prosecutor, two figures sitting atop the social hierarchy, and trial is conducted more like a cooperative search for truth than a process premised on notions of equality and universality.

In this way, it seems that we can infer that Kawashima would argue that the longstanding Japanese tradition was incompatible with an adversarial system such as that created by the 1948 code. Even so, what is interesting is that Kawashima seemed to argue in favor of a more Anglo-American system. Indeed, in discussing the post-war changes, Kawashima stated:

Traditional forms of dispute resolution were appropriate to the old society...but all modern societies, including Japanese society, are characterized by citizens with equal status, and, consequently, by a kind of check and balance of individual power...the need for decisions in accordance with universalistic standards has

⁷² *Loc. cit.*

⁷³ *Loc cit.*

arisen.⁷⁴

Thus, even though Kawashima seems to have been of the opinion that the Japanese legal culture fundamentally clashed with the precepts of an adversarial system of justice, it seems he also believed it was time for that culture to change, and perhaps that the post-war legal reforms were appropriate means for doing so. His peers appeared to be of the same opinion.

The Process of Litigation: An Experiment with the Adversary System, Kohji Tanabe

Kohji Tanabe was a Judge in the Mito District, a visiting scholar at Stanford University, and a participant in the Japanese American Program for Cooperation in Legal Studies at Harvard Law School when he wrote this piece in 1963. The majority of the article is positive in nature, examining the key differences in the Civil Code before and after 1948. However, embedded within this analysis—and especially in his conclusion—Tanabe makes a strong argument in favor of reforms that underlie both the civil and criminal systems.

There were two essential pieces of his argument. Primarily, he made it clear that he was in favor of Japan's system moving forward to become more adversarial. Indeed, when describing how the role of the individual became "more connected to the state," Tanabe argued that the "Anglo-American adversary system is understandable...(and) attractive."⁷⁵ This

⁷⁴ *Ibid.*, 57.

⁷⁵ Tanabe, "The Process of Litigation: An Experiment with the Adversary System," 80.

sort of tone persisted when he described the reforms in broad terms, arguing that the introduction of cross-examination, greater power for defense attorneys, and heightened emphasis on trial procedure reforms have placed Japan “on the road to success” and have created “socially desirable dividends.”⁷⁶

The second part of his argument is that the post-war reforms were effective in moving Japan forward. In many ways, this is the most notable aspect of Tanabe’s piece. Though he clearly acknowledged the cultural tendencies identified by Kawashima,⁷⁷ he argued that the post-war changes had been “interwoven with the old structure” in such a way that “progress in adjusting and adapting...will be steady.”⁷⁸

Terming Japan’s position a “midway approach,” Tanabe noted that the new laws allowed for a sort of productive fusion of old and new, leaving room for judges and prosecutors to collaborate.⁷⁹ The true novelty of his argument, however, is that he believed the new codes would, eventually, change the heart of the nation sufficiently to lead to more reforms. This perspective was shared by some of Tanabe’s peers who focused specifically on criminal law, most notably Atsushi Nagashima.

“The Accused and Society: The Administration of Criminal Justice in Japan,” Atsushi Nagashima

⁷⁶ *Ibid.*, 109.

⁷⁷ At one point, Tanabe directly acknowledges the arguments made by Kawashima, see page 85.

⁷⁸ Tanabe, “The Process of Litigation: An Experiment with the Adversary System,” 85, 110.

⁷⁹ *Ibid.*, 104–107.

In 1963 Nagashima was one of, if not the dominant mind in Japanese criminal law in the post-war era. Serving as Counselor in the Criminal Affairs Bureau, Nagashima was a participant in the Japanese American Program for Cooperation in Legal Studies at Stanford University from 1956 to 1958, and represented Japan in two United Nations seminars on crime and the treatment of criminals in 1960 and 1961. In some ways, this piece is the most valuable opinion we have on the subject because it directly confronted the changes in the Criminal Code. That being said, it seems that Nagashima agreed with Tanabe on multiple fronts.

Like Tanabe, Nagashima argued strongly in favor of more progressive reforms. For example, in recommending the course Japanese criminal procedure should take going forward, Nagashima argued that continuing down the path laid by the 1948 code “should go far toward the creation and preservation of a fair, scientifically sound system of criminal procedure in Japan.”⁸⁰

Also like Tanabe, Nagashima seemed to acknowledge that the code left some room for old traditions to continue. Specifically, he argued that the new code failed to go far enough to change, first, the discretionary power of the prosecutor, and, second, the inferior role of the defense attorney. Though the 1948 code limited the prosecutor in important ways, Nagashima noted that it granted the prosecutor “wide discretionary power in selecting sanctions” and did nothing to alter the fact that, socially, the prosecutor “still occu-

⁸⁰ Nagashima, “The Accused and Society: The Administration of Criminal Justice in Japan,” 321.

pied a status equivalent to that of judges, in which their independence and impartiality have been protected by law.”⁸¹ Similarly, although Nagashima acknowledged that the new code expanded the rights of defendants substantially, he noted several shortcomings. For one thing, defense attorneys had no real legal means of limiting interrogation times of prosecutors, if the prosecutors retained a court order for interrogation.⁸² In addition, the regulations on evidence disclosure “do not reach to the name and residence of witnesses or to documentary or real evidence,” leaving the defense in the dark regarding some of the most important pieces of investigation in a case.⁸³ Lastly, though the defendant gained the right to remain silent in all parts of investigation and trial, they were still not able to be a formal witness in his or her case.⁸⁴

Nevertheless, Nagashima did seem to be of the opinion that the code placed Japan on the right path. Indeed, in conclusion, he argued in favor of reforms that placed a stronger emphasis on the use of evidence rather than confessions, forced judges to take steps in becoming more like “impartial umpires of the trial rather than inquisitorial exposers of the truth,” and accorded defendants greater rights.⁸⁵ In this way, we see that like Tanabe, Nagashima suggests that the

⁸¹ *Ibid.*, 300–301.

⁸² *Ibid.*, 305–306.

⁸³ *Ibid.*, 307.

⁸⁴ *Ibid.*, 312.

⁸⁵ *Ibid.*, 321. Nagashima even expresses an opinion that, eventually, the reforms would open the doors to the introduction of a full jury trial.

heart of the nation *would* change, that the very culture of Japanese jurisprudence could be transformed. One of the most interesting conclusions we can draw from analyzing all three perspectives is that all of the scholars seemed to be of the opinion that change *should* happen; that is, the reforms of 1948 were steps in the right direction.

This raises an important question: If the legal scholars agreed that Japan should move forward in adopting a more Anglo-American system of criminal justice, why hasn't Japan done so? It seems like there are two tentative answers.

The first is that our sample of scholars is particularly skewed. Though all three scholars were widely respected in Japan, it is important to recognize their connection to Anglo-American life. All three worked at American universities during their careers; all three spoke English to some degree; and, perhaps most notably, all three pieces were published in a volume produced in cooperation with American authors. It does not seem that far-fetched, therefore, to imagine that these scholars may have been particularly sympathetic to the American cause and not necessarily representative of the actual Japanese sentiment of the time.

This leads us to the second possible explanation: that the will of the *people* was not actually changed. The 1948 code was comprehensive—by far the most comprehensive and cohesive code of criminal procedure in known Japanese legal history. But cultural traditions and ideologies forged through centuries are not easily overridden. The 1948 code may have changed some of the procedural guarantees of the system and may have even changed the mindset of a

segment of the literati. However, when it came to changing the fundamental way the Japanese system of criminal justice operated, it seems that the code failed. For success on this front requires a true change of heart, a real change in the way the Japanese people think about criminal justice.

If the majority of Japanese citizens shared the opinions of the three scholars evaluated above, it would be hard to imagine the system not becoming more adversarial. Enough time has passed that such a fundamental cultural change would have surely emanated in practice. That it has not suggests that no such change took place, that the 1948 code changed the letter of the law, but not the fundamental underpinnings of Japanese life and culture.

Conclusion

The analysis above produces several conclusions. Primarily, it seems abundantly clear that the 1948 Code of Criminal Procedure brought with it the most sweeping set of changes Japan's criminal justice system had ever seen. Through its attempts to level the balance of power between the prosecution and defense and to scale back the discretion and responsibilities of the judge, the code seemed to have given Japan a head start in developing a truly adversarial system of justice.

More revealing, however, is what we learn from the analysis of the writings of the three scholars writing in English. All three seemed to be of the opinion that the reforms set Japan "on the right track," that, eventually, Japan *would* adopt a more Anglo-American styled system of justice, and that progress was beneficial. Both explanations attempting to reconcile this finding

with the truth that Japanese criminal procedure today is far from the adversarial process these scholars imagined in the 1900s point to the conclusion that the true will and ideology of the Japanese people was not changed with the 1948 code.

There is much room for future research to expand upon this conclusion. Primarily, analyses examining a wider range scholarly legal opinions, especially those written in Japanese that may have escaped American eyes in the wake of the war, may provide more nuanced representations of the legal scholars' reaction to the new code. Also valuable would be research that is able to tap into the reaction of common Japanese people by surveying newspaper articles, and other outlets of public opinion in the years following the code's introduction.

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