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Scholar Section



*Ethics Wars on the Plains:  
A Contrast between Native American and European American  
Ethical Systems*

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In this paper I propose to contrast two very different ethical systems, the Native American or American Indian ethical system, especially of the tribes associated with the plains such as the Crow, the Ojibwe, and the Cheyenne and the ethical system of white, European-descendant American settlers of the Western Plains. I understand these two ethical systems to be incommensurate. Neither one can be evaluated in terms of the other. They are different and irreconcilable, but also each may provide an important and very valuable perspective to the other.

My goals in making this contrast are several. First, I want to argue for ethical incommensurability, for the idea that there are different ways of viewing our responsibilities toward each other and toward the world, and that no one way is the right way for everyone. Second, accusations of irrationality occur when one person, or group, does not understand the reasons why another person, or group, do what they do. Once one understands why the other does what she does, then it is no longer irrational. One may still disagree about the choice of action, but at least the action itself is understood. So, one of my goals is to foster understanding between different people by trying to articulate the reasons for why different people make different choices. Third, my own investigations into ethical theory have led me to conclude that the best approach to thinking about ethics is a “toolbox” approach.<sup>1</sup> Although specific ethical theories tend to be formulated in direct opposition to other ethical theories, so that Kant identifies Aristotelian ethics as not being about morality at all,<sup>2</sup> and, similarly, Mill’s utilitarianism identifies Kant’s ethics as useless,<sup>3</sup> my own experience has been to find that sometimes, thinking about a problem in Kantian ethical terms is useful, and at other times, utilitarian considerations are more appropriate. The toolbox notion of ethics refers to the idea that

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<sup>1</sup> I am working here with Ludwig Wittgenstein’s idea of the words of a language as tools in a toolbox. Ludwig Wittgenstein, *Philosophical Investigations*, translated by G. E. M. Anscombe (New York: Macmillan, 1966), §11.

<sup>2</sup> In the *Foundations of the Metaphysics of Morals*, for example, Kant says, “There have always been philosophers...attributing everything to more or less refined self-love. They have done so without questioning the correctness of the concept of morality.” Aristotle’s *Nicomachean Ethics* is a perfect example of such a philosophical view. Immanuel Kant, *Groundwork for a Metaphysics of Morals*, translated by Lewis White Beck (New York: Macmillan, 1989), 23.

<sup>3</sup> Mill says of Kant’s *Metaphysics of Morals*, “...I cannot help referring, for illustration, to a systematic treatise by one of the most illustrious of them, the *Metaphysics of Ethics* by Kant. This remarkable man, whose system of thought will long remain one of the hallmarks in the history of philosophical speculation, does, in the treatise in question, lay down a universal first principle as the origin and ground of moral obligation....But when he begins to deduce from this precept any of the actual duties of morality, he fails, almost grotesquely....” In, John Stuart Mill, *Utilitarianism* (New York: Macmillan, 1989), 6.

the ideal is to have a fairly comprehensive understanding of various ethical theories, and that that comprehensive understanding is like a toolbox from which one can draw a specific tool - in this case, a set of ethical principles from a given ethical tradition - to apply to a specific case. And, just as it is good to have a variety of tools to deal with a variety of problems that might arise at the work site, so it is good to have a fairly wide variety of ethical tools for dealing with this increasingly complex, multicultural, and changing modern world. So, my third goal is to offer another conceptual tool for one's toolbox of ethical theories to empower people to make more complicated and sophisticated ethical choices.

### **Metaphysics and Ethics**

One reason that the Native American and the Western ethical views are so different is that each emerges from a very different metaphysics. By "metaphysics", I mean a view of how the world works and the nature of our place in the world. Vine Deloria, Jr. provides an equation for the basis of the Native American metaphysics, and the equation is: "Power and place produce personality."<sup>4</sup> Deloria explains what this equation means, "This equation simply means that the universe is alive, but it also contains within it the very important suggestion that the universe is personal and, therefore, must be approached in a personal manner."<sup>5</sup>

What does it mean to say that power and place produce personality, that the universe is alive, and that it is personal? These are very strange things to say to most Western ears. To act from such a perspective would be, from the dominant Western perspective, to act irrationally. A way to get access to this Native American metaphysics may be provided by the founder of the one really unique American philosophy of pragmatism, namely, Charles Sanders Peirce. In his essay "The Law of Mind", Peirce defines "personality," first, as "a co-ordination or connection of ideas."<sup>6</sup> He elaborates on this by saying,

[T]he word co-ordination implies something more...it implies a teleological harmony in ideas, and in the case of personality this teleology is more than mere purposive pursuit of a predeterminate end; it is a developmental teleology. This is personal character. A general idea, living and conscious now, it is already determinative of acts in the future to an extent to which it is not now conscious.<sup>7</sup>

Peirce is notoriously difficult to understand, but he is saying here something remarkably similar to Deloria's equation that 'power + place = Personality.'

To illustrate what these two thinkers are talking about, consider a meadow. A meadow can be thought of as a place where there is a confluence of powers. The powers that are operative in a meadow include the types of grasses, flowers and other flora that grow there. They include the types of fauna that graze, sleep, live or visit there. They include the nature of the stream that flows through the meadow. They include the

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<sup>4</sup> Vine Deloria, Jr. and Daniel Wildcat, *Power and Place: Indian Education in America* (Golden, Colorado: Fulcrum Resources, 2001), 23.

<sup>5</sup> *Power and Place*, 23.

<sup>6</sup> Charles Sanders Peirce, *The Law of Mind in Chance, Love, and Logic: Philosophical Essays*, edited by Morris Cohen (Lincoln: University of Nebraska Press, 1998), 233.

<sup>7</sup> "Law of Mind," 234.

surrounding forest that both encroaches upon the meadow and is held at bay by the ecosystem of the meadow. These “powers” correlate with, in the vocabulary of Peirce, “ideas.”

A particular meadow, then, which is a particular place with a very particular confluence of “powers” or a particular “co-ordination or connection of ideas”, will have a particular “personality.” This is something we, as human beings, can know about a particular meadow. We can know its “personality.” What does it mean to know a meadow’s “personality”? It means we know what grows there. We know what animals come to visit there. We know when the stream runs full and when it is nearly dry. We know what trees are trying to grow on the margins of the meadow. These powers could also be described in terms of dispositions or habits of the meadow. To know the personality of a meadow is not that different from knowing the personality of a person. When you know a thing’s personality, what you know is its dispositions and its habits; you know what to expect in the future from it.

If we live near or in the meadow, this knowledge will be invaluable. It will take a considerable amount of time to acquire this knowledge of the meadow. It will take some time to learn its “personality.” If we do learn its “personality”, then we can work with the meadow to meet our own needs while at the same time fostering the health of this meadow upon which we depend. ‘Working with’ the meadow would mean planting plants that will grow well in the meadow, but not disturb its essential ecosystem. It will mean taking game from the meadow, but, once again, in a way that will not disturb or destroy the essential balance of the meadow system, so that game will continue to come to the meadow.

Any natural system, from an amoeba (Peirce uses the example of a slime mold) to a meadow to the whole world, will, according to this definition, have a personality. A “system” implies some sort of organization. Something that is organized “implies...,” in Peirce’s words, “...a teleological harmony in ideas.” This means that there is some kind of unity to the various parts, a “harmony,” and furthermore, that this unity or harmony has some kind of direction (a “teleology,” a goal or end or purpose), has some sort of purpose or purposiveness, which is to say there are provisions there for further developments.

This is a metaphysical perspective on the world. It is a perspective that sees all natural systems as “alive.” To be alive is just to have a personality, and anything that occupies space and displays some kind of organization and power, i.e., it displays signs of change, has personality. A tree, under this description, will have a personality. Western metaphysics does not, generally speaking, think in terms of “personalities”. Kant makes a distinction that is very characteristic of Western thinking. Kant distinguishes between that which has a dignity, which includes, for Kant, all people, and that which has a price, which includes everything else.<sup>8</sup> Things which have a dignity (human beings) are infungible (irreplaceable). Things which have a price are fungible, which is another way of saying that you can do what you like with them. We have, according to Kant, an absolute moral duty to things that have a dignity, that is, toward people. We have no moral responsibility whatsoever toward things that have a price.

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<sup>8</sup> *Metaphysics of Morals*, 53.

### Native versus Western Ethics

Native American ethics derive from their metaphysics. The fundamental ethical principle that derives from the metaphysical perspective that power and place produce personality is that: “The personal nature of the universe demands that each and every entity in it seek and sustain personal relationships...all relationships have a moral content.”<sup>9</sup> This, I want to propose, is a way more strenuous ethics than anything put forth in Western philosophy. The most severe ethical system in Western philosophy is probably Kant’s, based on the Categorical Imperative. The Categorical Imperative says, “Act only according to that maxim by which you can at the same time will that it should become a universal law.”<sup>10</sup> This is a severe ethical system precisely because it is categorical. It does not admit of exceptions. It does not admit of compromises. It is unclear to what degree contexts are supposed to figure into our moral evaluations when using the categorical imperative, but it is clear that we should limit the significance of context as much as possible.

From the Native perspective, on the other hand, context *determines* the ethical choice we make. There is no universal principle beyond ‘seeking and sustaining’ relationships. Things done that will harm the other will harm the relationship, and so are to be avoided. Since virtually everything in the world has a personality, our relational ties are extremely complex and our responsibilities many. The Kantian moral system requires that we treat other rational creatures (human beings, for Kant) with “respect.” That is barely a relationship at all. It is not necessarily easy always to treat others with respect, but it imposes nowhere near the demands of the imperative to *sustain* relationships.

Another way that Deloria describes the imperative of Native American ethics is by saying, “relationships must not be left incomplete.”<sup>11</sup> This description picks up Peirce’s idea of a “developmental teleology.” A relationship, like a personality, will have the character of directionality, certain tendencies that will be like provisions in the present for future ways of going. The ethical imperative of having a relationship means honoring, nurturing, taking care of the relationship, which means helping it to go where it can and to develop in the way that will be most sustaining for all parties.

My own sense is that the Western version of ethics works extremely well with Capitalism, and is, in a sense, the opposite of the Native American ethical system. By that, I mean that seeing everything in the world as having a “price” (and I think that Kant does accurately describe a basic feature of Western metaphysics, how Westerners generally view objects in the world, even animals, like cows that are described as “product”) works extremely well to sustain and support a capitalist economy, and it is extremely problematic for sustaining and supporting “relationships.” I see this perspective of viewing non-human objects as having a price as not only an impediment to relationships with “things” or with places, in general, but that it also inflects our relationships with other people. In a world where the capitalist perspective dominates and making money is a universal imperative, it is hard to separate the respect we owe people from the potential money we can make from them.

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<sup>9</sup> *Power and Place*, 23.

<sup>10</sup> *Metaphysics of Morals*, 39.

<sup>11</sup> *Power and Place*, 23.

This is not really a critique of Kant's ethical system so much as an observation about the difficulty of discerning the lineaments of moral responsibility in a capitalist system, nor is this simply a critique of capitalism. Capitalism is a very powerful economic, political, and metaphysical perspective to take on the world. It has produced technologies and improvements in health and living conditions that are inconceivable apart from it. There seems to be some kind of link between capitalism and democracy, although this link is being challenged by countries like China, which are becoming more and more capitalistic, yet remaining steadfastly non-democratic. There is much to be said for capitalism, as there is for the dominant Western ethical philosophies of Kantianism and utilitarianism. The question I want to consider is whether Kantianism and utilitarianism, which I am considering together as representative of Western ethics (even though there are many differences between them), can be considered as commensurate with the Native American view of ethics, or whether the two, broadly speaking, outlooks are incommensurable.

### **Incommensurability**

If the two ethical systems are commensurable, each should be understandable in terms of the other, and either should be applicable to any particular ethically demanding situation, and the ethical conclusions should, ultimately, be similar. If none of these apply, then the two systems are incommensurable. I will argue that none of these apply. The Native American ethical perspective puts us into ethical relationships that neither Kantianism nor utilitarianism will recognize as ethical relationships. Kantianism demands "respect" for other people and utilitarianism demands maximizing utility for the greatest number of people, neither of which necessarily pertain to sustaining or completing relationships, so their ethical prescriptions will be quite different from the ethical prescriptions that Native American ethics will generate.

### **Illustrations of Incommensurability**

In order to support my argument for the incommensurability of the Native American ethical outlook and the Western ethical outlook, I am going to look at three examples, two from narrative fictions, Arthur Penn's film, *Little Big Man*, and Winona LaDuke's novel, *Last Standing Woman*, and one from a recent book of philosophy by Jonathan Lear, *Radical Hope: Ethics in the Face of Cultural Devastation*. These examples are not meant to be proof of anything. They are meant to be illustrations of how incommensurability between ethical systems may look or play out in the world. I have picked examples from artworks precisely for the liveliness of their depictions and for their ability to activate our moral imaginations in ways that straightforward historical accounts may not be as able to do. Finally, I will not be examining these works in their entirety, but only focusing on very specific episodes in which incommensurability is most salient.

### **Illustration of Incommensurability: *Little Big Man***

Arthur Penn's film *Little Big Man* (1970) is the story of the life of one Jack Crabb (Dustin Hoffman). The movie begins when Jack Crabb is one hundred and twenty one years old. He is telling the story of his life to a historian (William Hickey) who is doing some research on the Indian wars, but who is also looking for a very specific, and

stereotyped, account of those times. Crabb will tell him a much more complicated story of those times than the historian was expecting. What makes Jack Crabb's life so special is that he was born to a 'white' family, but his parents were killed by some marauding Indians, who happened to be Pawnee, and then, he and his sister were rescued by an Indian from another tribe, the Cheyenne. His sister escapes, but Crabb stays and becomes the adopted grandson of the tribe's chief, Old Lodge Skins (Chief Dan George). He is given a tribal name by his grandfather based on the courage he displays in battle: Little Big Man. In the course of his life, because of various circumstances that come up, Jack Crabb alternates between living with the Indian tribe and returning to live in 'white' society. He is forced, therefore, to incorporate into his thinking, but also to live alternately, what I am arguing are two incommensurate ethical systems. When he lives with the Cheyenne, he lives according to the worldview that, as his grandfather explains to him, "everything is alive," and the ethical imperative of sustaining and completing relationships. This is how his grandfather explains the difference between the Cheyenne (the "Human Beings") and the white man to him:

Because the Human Beings, my son, they believe everything is alive. Not only man and animals, but also water, earth, stone. And also the things from them, like that hair. The man from whom this hair came, he's bald on the other side, because I now own his scalp. That is the way things are. But the white men, they believe everything is dead: stone, earth, animals, and people, even their own people. If things keep trying to live, white men will rub them out. That is the difference.<sup>12</sup>

When Little Big Man lives in 'white' society, he lives according to the worldview that utility must be maximized, money is important, and white people deserve respect and Indians do not. As a result of participating in both worldviews and ethical systems, he does not fully fit into either.

The particular scene in the movie that I would like to focus on involves the events that ensue when Old Lodge Skins decides that the U.S. army has done too many awful things to the Cheyenne, hence the Cheyenne need to go to war with them to "teach them a lesson." When the Cheyenne go to war, their ethical imperative prescribes "counting coup." A "coup stick" is a short stick with which one humiliates one's enemy by touching him in battle. The scene in the movie is shown in a very long shot. The Cheyenne warriors are on their ponies, trying to get close enough to the U.S. cavalry men to "count coup," that is, touch them with their coup sticks. The cavalrymen, on the other hand, are using repeating rifles and pistols to shoot and kill the Cheyenne warriors.

In the movie, this is, no doubt, romanticized, but it does reenact a clear difference in the understanding of war, of enemy, of what constitutes bravery, and the differences are incommensurate. There is no understanding on either side of what the other is doing. The cavalry men keep shooting the Cheyenne until the Cheyenne are sufficiently wiped out to the point that they need to retreat. The Cheyenne warriors continue to count coup until the moment of retreat, not seeming to get what the U.S. cavalrymen were doing. From the perspective of the Cheyenne, the cavalrymen were cowards. From the

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<sup>12</sup> From the script for *Little Big Man* at: [http://www.script-o-rama.com/movie\\_scripts/l/little-big-man-script-transcript.html](http://www.script-o-rama.com/movie_scripts/l/little-big-man-script-transcript.html)

perspective of the cavalrymen, the Cheyenne were crazy Indians behaving irrationally given the nature of battle.

A way to describe the difference in ethical terms would be to say that for the Cheyenne warriors, one had to establish a relationship with one's enemy - touching them - before you could fight or kill him, while for the U.S. cavalry men, there was no such requirement. The U.S. soldiers were operating from a 'maximum efficiency' model - kill as many Indians as you can while maximizing your own safety. The Cheyenne warriors were operating from an 'honor-in-battle' model. These are incommensurate models. It would be as crazy and irrational for the U.S. soldiers to start counting coup as it would be for the Cheyenne, in this context and at this time, to start just shooting the soldiers without first having touched them with their coup stick.

### **Illustration of Incommensurability: *Last Standing Woman***

Winona LaDuke's novel *Last Standing Woman* (1997) takes place largely on the White Earth Reservation in northwestern Minnesota. It is a very complicated novel spanning many decades (from the 1860's to the present) and many characters (fifty are named in a "List of Characters"). It is about, like Penn's *Little Big Man*, the liminal territory between the world of the Native Americans and that of the 'white' people. Unlike Arthur Penn, Winona LaDuke is a Native American herself, a member of the Anishinaabekwe (Ojibwe) tribe. The novel includes explicit references to the Fargo/Moorhead area, including references to specific family names that are still recognizable in businesses in the area today. Her novel is a work of art, to be sure, but it is also a protest, a political protest, against injustices that she perceives have been perpetrated by 'white' people against the Native peoples. In a chapter entitled, "Wiindigoo," a man named Namaybin reflects on the lumbermen who are cutting down the large white pines on his reservation due to changes in federal and state laws that permitted such harvesting. A line in the chapter reflects the Native American attitude toward Nature and objects in Nature described by Deloria. LaDuke writes, "the large white pines...were grandfathers to the Anishinaabeg."<sup>13</sup> Because of this, Namaybin thinks of the white lumbermen as "*wiindigoo*," which are a type of mythical monster; a *wiindigoo* is a person who has turned into a supernatural cannibal. LaDuke tells a little story in the chapter about a *wiindigoo*:

The *wiindigoo*'s small lodge had stood on the north side of Round Lake, a lake rich with beaver, fish, and wild rice. But the foods did not please the old man now. The *wiindigoo* had starved once, long before, starved during a cold winter of too much snow and not enough rabbits. Starved nearly to death. Until he found a family, also weak from the winter. He culled those animals, culled them right from the herd. He culled them out of hunger and out of anger too. His own wife and family were long gone from the small pox. His bitterness at those who brought it had not subsided. He was alone, his family gone. His face and hair were unkempt, his moccasins hard with use. He ate his visitors now. Never again to be a victim of invisible death. He ate those who strayed, were weak, or were just plain unfortunate. He ate the bold and the foolish, and he ate the young. He relished in his evil, and he forged a magic, a strong magic with the *Mishinameginebig*, the

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<sup>13</sup> Winona LaDuke, *Last Standing Woman* (Stillwater, MN: Voyageur Press, 1997), 67.



Great Horned Sturgeon, saying “*Ninitim, ginitim. Ninitim, ginitim.* My turn, your turn.”<sup>14</sup>

Namaybin looked again at the lumbermen. “The cannibal is here again,” Namaybin observed.<sup>15</sup>

There are some interesting things to say about this story of the *wiindigoo*. First of all, as awful and monstrous as the *wiindigoo* is, there is an explanation, really, an ethical explanation, for why he is so bad. He was once a normal man, a husband and a father. He has been transformed by suffering, suffering imposed not just by wild Nature, but even more painfully by the coming of the ‘white’ people and the diseases they brought. So, while he is identified by the ethical term “evil,” his evil is also explained in a way that makes it something that could happen to anyone, if enough suffering was imposed upon them. His evil is really a result of something like “moral luck.” It does not make him less evil, nor suggest that there is any hope of remediation for him, but it does remove the judgment of ethical blame in regarding him. The lesson of the story is, therefore, two-fold (at least): first, be extremely careful to avoid the *wiindigoo*; second, be extremely careful not to become a *wiindigoo*, because it could happen to anyone.

Another interesting thing to say about this story of the *wiindigoo*, and especially Namaybin’s apparent reflection on it when he sees the lumbermen cutting down the large white pines that he, Namaybin, regards as his grandfathers, is how Namaybin sees the ‘white’ lumbermen. He sees them as *wiindigoo*. On the one hand, this is a terrible ethical judgment of them, that they are vicious cannibals killing off his, and, in some sense, their own, ancestors. In another sense, however, this would seem to carry over the same understanding, the same lack of ethical blame. That is, it suggests that he thinks that they must have suffered some terrible hardship, some equivalent of nearly starving to death, to have their moral compasses so turned around that they kill those they should honor and protect.

The incommensurability emerges in the encounter between Namaybin and one of the lumbermen. Namaybin speaks to the lumbermen in Ojibwe, expressing his disapproval and disappointment. One of the lumbermen responds:

The lumberman spoke now. “Mr. Minnogeeshig,” he said abruptly in his harsh, awkward white man’s language, irked by the silliness of the Indian’s veiled words and secrets. “I have papers that say I can take the trees off your land. I have the papers.”

The interpreter translated for Namaybin. “White man says he can take the trees. White man wants the trees. White man has paper.”

Namaybin looked at the two men and held his hand out, beckoning the paper toward him. The white man passed the paper to the old Indian.

The Indian looked at the papers, puzzling over the strange writing of the white men, unable to read, yet understanding clearly what the lumbermen wanted.

The lumberman shrugged, “I am only coming here out of courtesy, Mr. Minnogeeshig,” he said. “The Indian agent gave permission to cut the timber off your land.”<sup>16</sup>

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<sup>14</sup> *Last Standing Woman*, 68.

<sup>15</sup> *Last Standing Woman*, 68.

<sup>16</sup> *Last Standing Woman*, 69.

A moment later the lumberman says to Namaybin, “Your trees are mine. And your trees are coming down.”<sup>17</sup> This last line nicely captures full incommensurability of the two worlds and value systems. For Namaybin, the trees are not his, any more than his parents or grandparents are “his” in the sense that he *owns* them. For the lumberman, they are Namaybin’s trees precisely in the sense that Namaybin owns them, but, in terms of ownership, the lumberman has a piece of paper that supersedes Namaybin’s rights of ownership according to a higher principle of law. Namaybin sees the lumberman as a monstrous *wiindigoo*, while the lumberman sees what he is doing as an act of courtesy towards Namaybin, treating Namaybin with the respect owed an owner of something over which one has been given a special legal dispensation. With respect to the trees, the lumberman is simply carrying out an act of clear utility. There is no evil intent on his part. The trees are valuable and useful, and their value and use are wasted as long as they are just standing there in the forest.

This idea is nicely captured later in the novel. The land salesman Lucky Waller was selling parcels of reservation land that were deemed unowned because of a new law that stipulated that only Indians of mixed race could claim ownership to reservation land. There were many parcels of land that no Indian of mixed race claimed, and which no Indian of unmixed race could claim ownership. In trying to convince the grandfather of Norman Grist to buy some of the unclaimed parcels of land, Waller explained to him, “The Indians did not use them, so there was no reason the white man could not.”<sup>18</sup> Again, there is an incommensurability in worldview at work. “Using” the land meant, for Waller and for the German, Norwegian, and Czech immigrants who were moving to the area, farming the land. The Native peoples were in a relationship with the land, which certainly included deriving their sustenance from it, but precluded certain kinds of uses, like radically deforesting it or removing all of its stones or transforming its contours.

### **Illustration of Incommensurability: *Radical Hope***

A final example that I would like to consider is from Jonathan Lear’s very powerful book, *Radical Hope: Ethics in the Face of Cultural Devastation* (2006). Lear analyzes what happens to the Crow people after the buffalo are wiped out from the Great Plains states at the end of the 19<sup>th</sup> century. Lear focuses on something that the last great Crow chief, Plenty Coup, said to the white man, Frank B. Linderman, who was his friend and to whom Plenty Coup told his story so that Linderman could write it in a book. The words appear in an author’s note to account for why the story of Plenty Coup’s life seems to end abruptly, long before Plenty Coup’s actual death. Plenty Coup tells him, “But when the buffalo went away the hearts of my people fell to the ground, and they could not lift them up again. After this nothing happened.”<sup>19</sup> Lear is struck by the phrase, “after this nothing happened,” and considers what this might mean.

Lear says, “The Crow were a nomadic, hunting, warrior tribe... Their ancestors, the Hidatsa, had lived along the Mississippi River at the beginning of the sixteenth

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<sup>17</sup> *Last Standing Woman*, 69.

<sup>18</sup> *Last Standing Woman*, 127.

<sup>19</sup> Quoted in Jonathan Lear, *Radical Hope: Ethics in the Face of Cultural Devastation* (Cambridge: Harvard University Press, 2006), 2.

century, and had migrated during that century to North Dakota.<sup>20</sup> Later, they moved on to Montana. Crow culture was nomadic and oriented around warfare. Everything they did, and all members of the tribe participated in the ongoing preparations, celebrations, lamentations associated with war activities.<sup>21</sup> The coup stick was central to their whole way of life. The coup stick had two primary roles. One was to mark the (temporary) boundary of the tribe. A coup stick would be planted in the ground, and where it was planted became an impassable barrier to any non-Crow, which every Crow warrior would defend to the death.<sup>22</sup> The other role for the coup stick was that a warrior would have to strike an enemy with his coup stick before any other harm could be done to him.<sup>23</sup> Lear describes this activity of counting coup in terms of a “symbolic excess.”<sup>24</sup> Before harming an enemy, you must touch him without harming him. This is not about utility; this is about identity. It is about Crow courage, Crow honor, and what it means to be a Crow warrior.

What does it mean for something to “happen”? If one lives in a culture in which there are no jobs, can one go to work? If one lives in a culture in which there is no money, can you buy something? If one lives in a culture in which there is no marriage, can one wed? The point of these questions is to highlight how culturally dependent most of what we think of ourselves as doing, most of what “happens,” is. There is a possibility that Lear wants to identify to which he believes all people are vulnerable. As Lear says, “Humans are by nature cultural animals: we necessarily inhabit a way of life that is expressed in a culture. But our way of life - whatever it is - is vulnerable in various ways. And we, as participants in that way of life, thereby inherit a vulnerability. Should that way of life break down, that is our problem. The suggestion I want to explore...is that if our way of life collapsed, things would cease to happen.”<sup>25</sup>

Things ceased to happen for the Crow when the buffalo disappeared and the tribe was forced to move onto a reservation. When that happened, they were no longer able to move around nomadically following the buffalo. The coup stick meant nothing. As a consequence, it no longer meant anything to be a Crow. You could put a stick in the ground, but nothing would happen. It is like walking up to someone and saying, “I marry you.” You can do it, but it does not mean anything. Nothing happens. No marriage occurs. Young Crow men tried to do something. There is one story of a group of young Crow men who steal some horses from a neighboring Blackfeet tribe, a noble and honorable Crow achievement when things could happen. But, on the reservation, this was simply illegal. They were caught and punished. There was no glory, no meaning, and no honor to be had. There was only humiliation.<sup>26</sup>

There are several things to say about the story that Lear tells about the Crow, and about Plenty Coup’s description of the time when things ceased to happen. First of all, it highlights not just ethical incommensurability, but cultural incommensurability as well. The coup stick and all it means has its meaning only in a very culturally specific context. Other Indian tribes understood what the coup stick of the Crow meant, when planted in

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<sup>20</sup> *Radical Hope*, 10.

<sup>21</sup> *Radical Hope*, 12.

<sup>22</sup> *Radical Hope*, 13.

<sup>23</sup> *Radical Hope*, 15.

<sup>24</sup> *Radical Hope*, 16.

<sup>25</sup> *Radical Hope*, 6.

<sup>26</sup> *Radical Hope*, 27-8.

the ground, but it means absolutely nothing if that ground is on a reservation, or someone's property, which all of the ground becomes after the white men come and control the area.

Lear does the philosophically interesting move of compelling us to imagine ourselves into the place of the Crow. He is not just describing the strange predicament in which the Crow people found themselves when the buffalo were gone and they were forced to live on a reservation. He is claiming this to be a universal human vulnerability, one to which we are all susceptible. It is a vulnerability most of us do not recognize because of the narrowness of our vision, the limitations of our moral imaginations, and our unfamiliarity with history. However, once he has made this vulnerability explicit and clear, it is impossible to deny its reality, even as it is difficult to imagine it as a real possibility for oneself. This, however, is the fate of any conquered or colonized people. It will also be the fate of any people who find their way of living unsustainable politically, economically, or environmentally.

What will be needed, according to Lear, is some kind of creative re-telling of one's own story. What will be needed is a new narrative that will provide a new cultural context in which things can happen. This will best be accomplished, Lear thinks, if some elements of one's original narrative and earlier story can be preserved. Plenty Coup begins this process based on a dream he has, when he is a young boy, not yet ten, of a chickadee. In his dream, he sees, "In that tree is the lodge of the Chickadee. He is least in strength but strongest of mind among his kind. He is willing to work for wisdom. The Chickadee is a good listener. Nothing escapes his ears, which he has sharpened by constant use."<sup>27</sup> The elders of his tribe interpret this dream of the young Plenty Coup as outlining a strategy to deal with the encroachment on their lands by the white man. They interpret it as a warning, and the warning is to listen to and not fight the white man. If they do that, listen rather than fight, they will survive as a tribe.<sup>28</sup> Lear sees this lesson as being deeply incorporated into Plenty Coup's thinking, and in his way of re-thinking Crow courage into a form that meant fighting beside the white man in World War I. Lear concludes,

Plenty Coups was able to draw upon the traditional icon of the chickadee. Through his dream-vision, Plenty Coups was able to take a valued and honored spiritual force and put it to creative use in facing up to new challenges. Thus, although Plenty Coups was advocating a new way of life for the Crow, he was drawing upon the past in vibrant ways. And thus I think a case can be made that Plenty Coups offered the Crow a *traditional* way of going forward.<sup>29</sup>

When things cease to happen, that is not necessarily the end. Or, rather, it may be the end of something, but not the end of all possibilities, *tout court*. It can also be the beginning of something new. This new thing will have to be created, but it will be best created if some continuities with the past can be preserved. This is a kind of dream work or re-imagining of the past into the present and the future.

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<sup>27</sup> Quoted in *Radical Hope*, 70.

<sup>28</sup> *Radical Hope*, 72.

<sup>29</sup> *Radical Hope*, 154.

Vine Deloria, Jr., in his preface to *Power and Place: Indian Education in America*, says,

The educational journey of modern Indian people is one of spanning two distinct value systems and worldviews. It is an adventure in which the Native American sacred view must inevitably encounter the material and pragmatic focus of the larger American society. In that meeting ground lies an opportunity for the two cultures to both teach and learn from each other.<sup>30</sup>

What Deloria describes is a situation of two co-existing, incommensurate worldviews, but the concluding sentence speaks of something beyond that division. It speaks of the possibility of reciprocal teaching and learning that holds out the promise of a transcendence of the incommensurate dichotomy. Everyone, to some extent, represents a unique, and to some degree incommensurate, worldview with respect to everyone else's. And yet, we make friends, we marry, we find ways to build a worldview together with another human being. This is the beginning of building a culture. It is also the beginning of overcoming what has been incommensurable. It is a radical, but very real hope.

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<sup>30</sup> *Power and Place*, v.



## *Conserving Grassland Birds in Eastern North Dakota*

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### **Introduction**

As the dominant species on planet Earth, we are jeopardizing the survival of numerous species in our quest for water, food, fiber, and fuel. Grassland birds are declining faster than any other guild of birds. They are increasingly being extirpated from large portions of their historic range, and it is none too soon to be concerned about their eventual extinction.

Conservation ethics is concerned with resource use and protection. In *Sand County Almanac*,<sup>1</sup> Aldo Leopold pioneered an environmental conscience and discussed the need for a land ethic in which we consider “man's relation to land and to the animals and plants which grow upon it.” Today, with consolidation of farms and depopulation of rural areas, a land ethic is needed more than ever because without it, we increasingly see land as a commodity to be exploited for economic gain. Despite this, we continue to talk about environmental stewardship as a fundamental value. We speak of leaving the earth better than we found it and of passing our natural heritage to our children and grandchildren.

Here, I review changes in the Red River Valley of North Dakota and Minnesota that are affecting birds, especially those that require grasslands. I will focus in particular on Western Meadowlark since it is readily observed and widely beloved. In the past, concerns over losing water-associated birds, especially those hunted, ducks and geese, sparked efforts to protect wetlands. Similarly, the conservation of upland birds such as grouse and pheasants has also resulted in habitat protection. The protection of game species inevitably protects many nongame species as well. However, if we are to conserve more of the nongame grassland birds, such as the Western Meadowlark, we need to be even more intentional about protecting their habitats. This is not a call to return productive farmland to wildlife habitat, but to identify areas that are marginal for cropping and to manage those for wildlife, especially grassland and wetland birds. An economic return on such lands could still be realized by raising cattle and Bison while using grazing as a management tool.

### **Our Natural Heritage**

As is widely celebrated, early explorers of the mid-continent of North America found a vast prairie that stretched from the Canadian provinces to Texas and from the deciduous forest to the Rocky Mountains. Tall-grass prairie dominated the eastern side where there was more annual rainfall. The rain shadow of the Rocky Mountains caused a

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<sup>1</sup> Aldo Leopold, “The Land Ethic”, in *A Sand County Almanac*. 1949.

more arid land that supported species of the short-grass prairie. Mixed -grass prairie was found in between. Each prairie type had its characteristic plants and animals including birds.

In the Red River Valley of North Dakota, Minnesota, and Manitoba, a tall-grass prairie had developed on sediments that were deposited in glacial Lake Agassiz. The rich, deep topsoil formed from the prairie plants that had grown there for thousands of years. This prairie flourished in areas that would have become forested were it not for prairie wildfires and grazing by Bison. Because no trees were present, one early assessment of the tall-grass prairie judged the land to be unsuited for farming. This turned out to be erroneous.

Today, it is estimated that 95-99%, of the original tall-grass prairie has been converted to agricultural cropland. The larger tracts that remain are found in the Flint Hills of Kansas and Oklahoma, and on glacial moraines in the Dakotas and Minnesota. The tracts of prairie that have survived are increasingly being invaded by exotic grasses such as brome grass and Kentucky bluegrass, as well as a variety of weeds. To combat exotics, managers of the Tallgrass Prairie Preserve in Oklahoma are using controlled burns and grazing by Bison. Maintaining the prairie not only benefits the birds adapted to it, but also conserves the array of plants and soil biota that make a prairie a prairie.

The man-caused environmental changes that have so drastically changed the Red River Valley were underway with decimation of the herds of Bison before 1850. With settlement in the 1870s, the landscape quickly transitioned to one of farms. Regarding birdlife in this earlier time, Robert E. Stewart wrote:

The ubiquitous breeding bird populations in this unspoiled realm of nature were composed of many species of diverse ecological affinities. Impressive concentrations of breeding waterfowl and other large, conspicuous marsh or open-water birds occurred throughout the prairie pothole region of the state. On the uplands, raptorial hawks and owls were especially prominent, and prairie grouse were abundant and widely distributed. Many secondary non-passerine species and nearly all resident passerine species were represented by countless numbers of breeding pairs.<sup>2</sup>

Long before human settlement of the Great Plains, many species of birds had evolved and adapted to the prairie environment. Fortunately, most of these species are still around, although in far fewer numbers and increasingly restricted to islands of available habitat. Some species are more adaptable than others and more resilient to changes in the array of grasses and forbs present. Some can be found in grasslands that were planted with non-native grasses, and a very few, such as Bobolink and Savannah Sparrow, can successfully raise their young in grain fields. Nonetheless, once a tract of grassland is converted to cropland, that tract will not completely support the needs of any grassland bird. Without grass, there will be no grassland birds.

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<sup>2</sup> Robert E. Stewart. *Breeding Birds of North Dakota*. 1975. Fargo, Tri-College Center for Environmental Studies. P. 1.

### **Changes in Our Agrarian Way of Life**

To get a sense of why grassland birds are in decline, we need to review changes in agricultural practices. Some of the factors that have impacted grassland birds are listed in Table I.

**Table I: Factors Causing Decline of Grassland Birds**

Conversion to cropland
Suppression of fire
Lack of grazing by herbivores
Invasion by woody vegetation
Buildup of ground litter
Use of pesticides
Excessive hunting, especially in earlier times
Wetland drainage
Expanding acreages of monotypic crops

European settlement of the Great Plains occurred in the last quarter of the 19<sup>th</sup> century when agriculture was still dependent on animal power. Government policy imposed the “Jeffersonian Grid” on the Great Plains whereby land was divided into townships, sections, and quarter-sections. The ownership of land was based on a quarter-section, 160 acres, which was all that a farmer and his family could reasonably manage in those early days. A given section might be occupied by as many as four families. A typical township might have two one-room country schools. Most farmers lived within a half-day’s ride on horseback to the nearest town.

With settlement, prairie fires were suppressed, Bison were eliminated, and the plowing of the prairie began. As with any environmental change, some species benefitted while others did not, depending on their habitat preferences.

The highly romanticized, Rockwellian image of the family farm reached its zenith in the first half of the 20<sup>th</sup> century. A typical farm was highly diversified, growing some crops to be sold and others to support animal husbandry. The original prairie that remained was either hayed or fenced for grazing by cattle. All members of a farm family were involved in the day-to-day operation of the farm. The farmstead was their home, and they had in-depth knowledge and appreciation of the wildlife present.

During the first half of the 20<sup>th</sup> century, the changeover from oxen and horses to tractors occurred. Increased mechanization allowed each farmer to manage more land with fewer workers, which is a trend that continues today. As a result, the numbers of farms, farmers, and farm families steadily decreased.

For more than a century, the amount of land kept in grass has steadily declined. Fields once too rocky for cultivation can now be cleared by large machinery. Minimal tillage, and the use of Roundup resistant plants, has allowed fields that were once too steep and erodible to now be cropped. Field tiling is being used to remove excess water from fields that are otherwise too wet for cropland. Development of new crop varieties, some created by genetic modification, allows crops to be successfully grown where it used to be too wet, too dry, too saline, or too short of a growing season. Government energy policy has supported the expansion of corn and soybean acreage for biofuels while the farm program has blunted risks that farmers take in cultivating marginal lands.



With the conversion of grasslands to cropland, animal husbandry has steadily declined and is now gone from large areas. Once the farmer ceases to keep animals on the farm, there is no longer a need to occupy the land year-round. Loss of beef and dairy industries, along with the consolidation of small farms, are major reasons why rural areas have become depopulated. Small family farms have been replaced by what some call factory farms, or industrial agriculture, in which enormous capital is invested in machinery, fertilizers, and chemicals to grow a single crop over hundreds of acres. The producer needs to visit his land only during the planting, spraying and harvesting seasons. The farm family can now live in a neighboring town where they can enjoy the amenities offered there. Children no longer have the run of the farm, nor are they involved in the farming operations. A vital connection to the land has been lost.

Changes in our agrarian way of life inevitably changes birdlife. A number of species benefitted from the diversified agricultural practices used on small farms. A cogent example is the Greater Prairie-Chicken<sup>3</sup> which may not have occurred at all within North Dakota prior to settlement, perhaps because the tall-grass prairie was heavily grazed by Bison and other large herbivores. With settlement and elimination of Bison, prairie-chickens thrived at a time when fairly large tracts of remaining prairie were unused or lightly grazed. It could be that winter survival was much greater because of grain fields, feedlots, and stacks of hay and straw. By the 1930s, numbers declined rapidly and the occupied range constricted, perhaps in response to over-grazing and the conversion of grasslands to cropland. The number present in North Dakota today is less than one-thousandth of what it was in 1930, and they are found only in the saline grasslands of Grand Forks County and the Sheyenne National Grasslands of Ransom and Richland Counties.



The saline grasslands of Grand Forks County are one of two sites in North Dakota that still has Greater Prairie-Chickens.

Birdlife on the former prairies was further diversified following dustbowl days when the planting of tree claims and shelterbelts allowed woodland birds to expand from river valleys out onto the plains. Chickadees, orioles and woodpeckers flourished in shelterbelts and trees around farmsteads. Today, many farmsteads have been abandoned, and shelterbelts are dying out because of age and exposure to herbicides, and being removed to put more land into production. This portends a retreat of woodland birds back to the native woodlands.

Although many species thrived in the era of small farms, others such as Canada Goose, Trumpeter Swan and Sandhill Crane were extirpated. This happened before hunting was regulated and migratory species were protected when many of the early settlers “lived off the land”.

In his “Introduction to Breeding Birds of North Dakota”, Stewart stated in 1975 that “The present environmental situation with respect to the welfare of most wildlife

<sup>3</sup> *Ibid.*, p. 110-112.

species, including birds, is appalling to say the least.”<sup>4</sup> Nonetheless, it is doubtful that he could have foreseen many of the changes that have occurred subsequently, and one can only guess what his reaction would be today.

The future resulting from these changes is already present in vast swatches of the Red River Valley where one can travel for miles without seeing a farm house or farm animals. With the loss of population in rural areas, many roads and two-track section lines are needed only to move machinery from one field to another during the growing season. In the name of clean farming practices, unwanted vegetation growing along such roads and drainage is eliminated by mowing and/or spraying. Today, by using an array of herbicides and pesticides and a genetically-modified plant, a farmer can grow a monoculture over a very large area. The net result for birds is to render cropland completely unsuitable for nesting habitat and the rearing of young.

### **The Western Meadowlark, A Grassland Obligate in Decline**

Theodore Roosevelt was fond of the Western Meadowlark. A quote<sup>5</sup> attributed to him is "One of our sweetest, loudest songsters is the meadow-lark...the plains air seems to give it a voice, and it will perch on the top of a bush or tree and sing for hours in rich, bubbling tones." Although a meadowlark will indeed sing from a tree, shrub, or fencepost, it is the surrounding grassland that is required for them to survive. Frequently, I am asked by members of my generation "Where have the meadowlarks gone?" It is a highly relevant question as North Dakota's state bird has disappeared from large areas of the Red River Valley. Their disappearance provides a lesson in what happens with the disappearance of grasslands.



Western Meadowlark, the state bird of North Dakota and five other states, is no longer found in large areas of the Red River Valley.

The Western Meadowlark occupies a wide array of grasslands ranging from tall-grass to short-grass prairies. Planted grasslands that are left undisturbed will lose meadowlarks when the grass becomes too thick and tall and when there is too much ground litter. It is a grassland obligate, meaning that it requires grassland throughout the year: for nesting, when migrating, and during winter. It makes little, if any, use of other habitats.

Grassland obligates are more sensitive to habitat loss than facultative grassland species. The familiar and abundant Red-winged Blackbird is a facultative grassland

<sup>4</sup> Ibid, pp. 1-2

<sup>5</sup> <http://www.nps.gov/thro/historyculture/theodore-roosevelt-quotes.htm>

species in that it readily uses grassland habitats, but is not completely dependent on such. Of twenty-seven grassland obligates found nationwide, sixteen have been found in eastern North Dakota grasslands. These species are listed in Table II along with their habitat requirements.<sup>6</sup> There are occasional records for at least four more not shown in the table.

All obligate grassland species are in decline throughout their range. Decrease of available habitat is a major cause, but additional factors may be in play as listed in Table I. As late as 1975, Horned Lark and Chestnut-collared Longspur were estimated to have the highest statewide frequencies of occurrence. Neither would rank in the top five today, and the longspur has all but disappeared east of Highway 281.

Breeding Bird Surveys provide the best evidence that Western Meadowlarks are indeed disappearing from eastern North Dakota. These surveys run under the auspices of the United States Geological Survey<sup>7</sup> are each 24.5 miles in length. A count is conducted by stopping every 0.5 mile and counting the number of each species that is seen or heard. The routes were randomly located as early as 1966 with the objective being to sample habitats that are representative of a region. They are run during the peak of the nesting season, preferably in mid-June.

**Table II: Grassland Obligates and Their Preferred Habitats**

<b>Species</b>	<b>Prime Habitat</b>
Upland Sandpiper	Mixed-grass prairie, wet meadow
Greater Prairie-Chicken	Undisturbed tall-grass prairie
Sharp-tailed Grouse	Mixed-grass prairie with some brush or small trees
Northern Harrier	Marsh, wet meadow, upland prairie
Short-eared Owl	Native prairie, swales, wet meadow, hayfields
Horned Lark	Short-grass and mixed-grass prairies, cropland
Bobolink	Ungrazed prairies, retired cropland
Western Meadowlark	Mixed-grass and tall-grass prairies, retired cropland
Chestnut-collared Longspur	Grazed or hayed mixed-grass prairie, short-grass prairie
Vesper Sparrow	Field and prairie edges with coarse forbs
Savannah Sparrow	Ungrazed and lightly grazed prairies, wet meadows
Grasshopper Sparrow	Lightly grazed mixed-grass prairie
Le Conte's Sparrow	Fens, wet meadow
Dickcissel	Fields with alfalfa, sweetclover, or weeds
Sprague's Pipit	Mid-height grasslands that are lightly grazed or ungrazed
Sedge Wren	Fens, wet meadow, retired cropland

The Bowesmont count in Pembina County starts near the former town-site of Bowesmont and runs generally northward, ending west of the town of Pembina, about a mile from the Manitoba border. This places the count entirely within the Red and Pembina River Valleys. From 1968-1987, the total number of meadowlarks along the Bowesmont route often exceeded 100. The numbers have since plummeted, and no meadowlarks were recorded in 2010-2013. For the past four years, the only grassland

<sup>6</sup> The habitat preferences for each are described more fully in Robert E. Stewart. *Breeding Birds of North Dakota*. 1975.

<sup>7</sup> Historical count results and other information can be obtained from the Breeding Bird Survey website, [www.pwrc.usgs.gov/BBS/](http://www.pwrc.usgs.gov/BBS/)

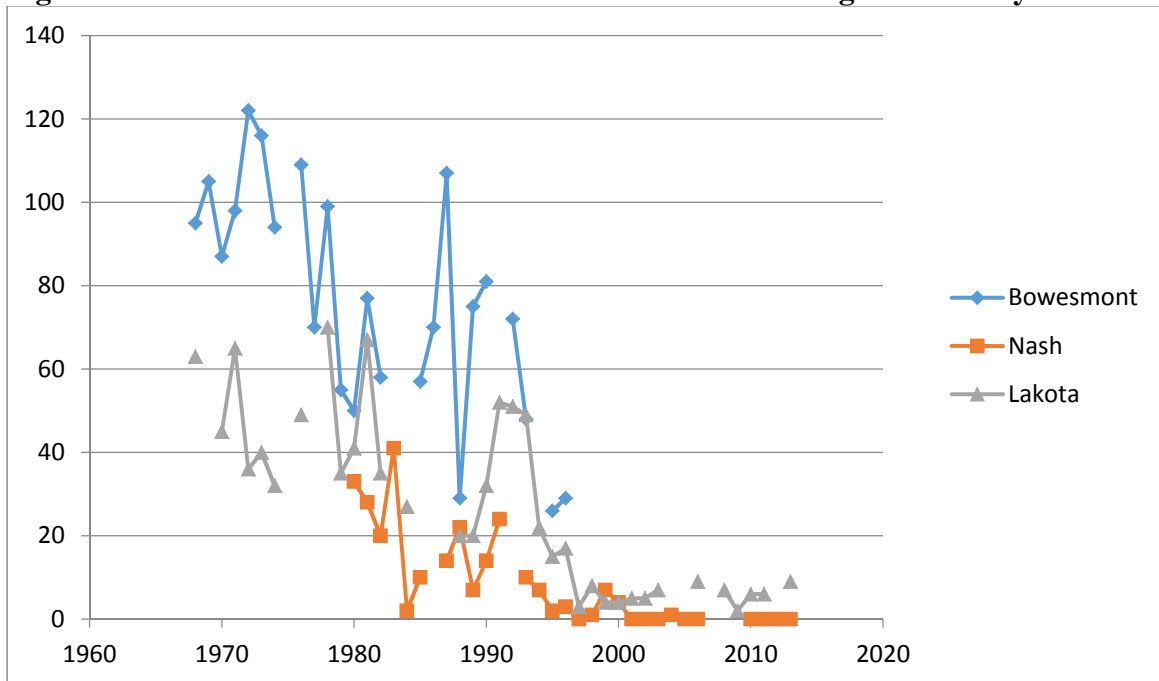
field on the Bowesmont route is one parcel of CRP that is visited on 2 of the 50 stops. No meadowlarks have been detected there.

The Bowesmont count is not an outlier as shown by the Nash BBS route, which was first run in 1980. This count is also within the Red River Valley, beginning near Nash in Walsh County and extends southward to near Johnstown in Grand Forks County. Early counts recorded Western Meadowlarks numbering in the 20-40 range. By the mid-nineties, numbers were in the low single digits. Since the year 2000, only one meadowlark has been detected.

Figure 1 shows the total number of meadowlarks recorded on counts for the Bowesmont, Nash, and Lakota BBS routes. The Lakota count is within the glaciated plain that lies west of the Red River Valley. It begins southwest of the town of Lakota and ends just north of Petersburg. Although a few meadowlarks are still found on this count, thanks to one pasture and a few tracts of CRP, the number has declined several-fold coincident with the decreased number of stops near grassland.

With the loss of grassland fields, the only habitat remaining for grassland species is at best a narrow strip of grass along section lines and drainage ditches. A species such as Savannah Sparrow that needs as little as 1/20<sup>th</sup> of an acre of grass can successfully nest along such a narrow strip, whereas Western Meadowlark, with its requirement for five or more acres, cannot. Unlike the Savannah Sparrow and like the meadowlark, Vesper Sparrow also seems to require a relatively large amount of grassland. Their numbers have also declined sharply. There can be no doubt that the loss of meadowlarks on the Bowesmont and Nash counts, and the sharp decline on the Lakota count, is due to loss of grassland habitat.

**Figure 1: Counts of Western Meadowlarks on Three Breeding Bird Surveys**



The species accounts and occurrence maps in *Breeding Birds of North Dakota* by Robert Stewart provide valuable information on the status of grassland birds prior to the

mid-1970s. Prior to publishing, Stewart and his colleagues visited most of the townships in the state during the breeding season. His work is easily the most complete survey that we have of North Dakota's breeding birds. Suffice it to say, birders active today can no longer find grassland obligates in many of the townships where they were found by Stewart.

### **Birds: An Important Component of Our Environment**

Birds are the most familiar aspect of our experiencing nature. They are readily seen in our yards, neighborhoods, and parks. Few would disagree that we would be much the poorer if they disappeared from our everyday life. Although we are not in immediate danger of losing all birds, regardless of what changes may come, we are experiencing loss of diversity as the ranges of many species contract and overall numbers decline. Increasingly, we are left with those species that thrive only in our modern landscapes. While robins, chipping sparrows, and various species of blackbirds continue to flourish, we are in danger of losing many of our most interesting species.

In an earlier era, the Passenger Pigeon and Bison were so numerous that no consideration was given to the possibility that they would become extinct. Yet within a few years after settlement, Bison were eliminated as a free-ranging animal on the Great Plains. In just a few years, market hunters so decimated the population of Passenger Pigeon, once numbering in the billions, that it quickly became extinct.

We have had close calls on several other species, especially during the time when DDT was widely used. Fortunately, Rachel Carson and others learned in the nick of time that DDT was causing the thinning of egg shells in birds living at the top of the food chain where DDT becomes concentrated. The reproductive success of affected species plummeted. The populations of pelicans, hawks, and owls have now rebounded many-fold with the discontinuance of the use of DDT in the United States.

In a time when so many believe that there is too much regulation, and make demands that government get out of our lives, it is worth remembering that the reduction of DDT in the environment would not have occurred without governmental regulation. It provides a valuable study in balancing environmental concerns with profit-making incentives.

Heightened awareness that a number of species were in danger of extinction led to the Endangered Species Acts of 1966 and 1973. Of the 110 species of vertebrates that have been listed, 90% are believed to be meeting their recovery goals.<sup>8</sup> There has been a spectacular recovery in the number of Bald Eagles, Peregrine Falcons, California Condors, Whooping Cranes, and Kirtland's Warblers.

Peregrine Falcons have increased not only because of reducing DDT, but also from a captive breeding program that introduced them to urban environments where they are doing well. Kirtland's Warblers have increased through providing more of their habitat (regenerating jack pine following burns) and cowbird control. California Condors survived and have been reintroduced into the wild thanks to a captive breeding program. Efforts to establish additional populations of Whooping Crane would not be possible without captive breeding. These successes have given the sense that we can rescue almost any species on the verge of extinction, yet we need to be mindful of the costs in human resources and capital that are required.

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<sup>8</sup> See <http://www.esasuccess.org/>

Several species are now in peril that cannot be bred in captivity and efforts to save them could easily overwhelm the resources that society is willing to provide to ensure their survival. Increasingly, we need to be making those changes that keep species from heading toward extinction.

### **What Is Our Responsibility to Other Species?**

Here, I return to the point that we are the dominant species on this planet and raise several questions. At what level of the landscape are we willing to see a given species disappear? That is, are we content with a given species occupying only a small part of their former range where it is vulnerable to extinction from a single environmental disaster? Are we willing to cause some species to go into extinction in our drive to profit financially, and to meet human needs for food, fiber and fuel? Is it acceptable to lose some species from the wild if they can be maintained in zoos? When is it time to restrain our own activities for the welfare of ourselves as well as species that we share this planet with?

How will succeeding generations view what we are doing now? Certainly, many of us today mourn the loss of Passenger Pigeon, Ivory-billed Woodpecker, Eskimo Curlew, and Carolina Parakeet. To some degree, we hold prior generations responsible for these losses. So what about our present situation? Can we find the will to act while there is still time?

The Western Meadowlark is not in any immediate danger of extinction, but it is being extirpated from large areas of the eastern part of its range in the former tall-grass prairie region. Numbers remain relatively high in the mixed-grass and short-grass prairies farther west, although these areas are receiving significant impacts from grassland conversion and energy development.

The loss of a species at the edge of their range is the initial sign that a species is in trouble. A more ominous sign is a sharp decline in numbers in the heart of their range. Currently, this is happening with Baird's Sparrow and Sprague's Pipit in central North Dakota. These two species are at the top of the list of nearly all birders visiting mixed-grass prairies of North Dakota. Both have become increasingly hard to find in habitat that looks to be suitable. It may be that rather subtle changes in the growth of grasses caused by changes in rainfall, or climate change, or the amount of vegetative litter on the ground, or grazing patterns, can be enough prevent them from successfully nesting. It may also be that their wintering areas are being lost or degraded.

When considering the loss of habitat due to grassland conversion, it is useful to reflect on the axiom "that no raindrop thinks it caused a flood". Although an individual land owner or manager may mourn the loss of meadowlarks, he may understandably reason that the resident birds can simply go elsewhere when their grassland tract is plowed. It doesn't work that way. A net loss of grassland will inevitably lead to a net loss in population.

The loss of species diversity is not something that the "free market" will mitigate in any way. A society driven by profit-seeking as the top priority may not value having land set aside as wildlife preserves or state and national parks. However, for those who value biological diversity, grassland reserves cannot be judged solely by whether or not they are money makers. Rather, we need to increasingly value grassland reserves as

providing living space and needed habitat for species that might otherwise go extinct. In the end, preserving species diversity makes life better for us all.

### **The Role of Government in Conservation**

Theodore Roosevelt has been called The Father of Conservation. He was strongly influenced by his North Dakota experiences and believed that the federal government had a strong role to play in conservation. His legacy includes creating the U.S. Forest Service, and the establishment of 150 National Forests, 5 National Parks, 51 Federal Bird Reservations, and 18 National Monuments<sup>9</sup>.

The federal government continues to play a strong role in conservation not only in administering various national parks, wildlife refuges, and monuments, but also through providing funding of conservation on private lands. Much of this is accomplished under the aegis of the Natural Resources Conservation Service of the United States Department of Agriculture<sup>10</sup>.

The Conservation Reserve Program as we know it today was established by the Farm Bill of 1985. One goal was to reduce production of farm commodities in hopes that higher prices would make farming more profitable. This goal was coupled with conservation goals that established grassland cover on erodible croplands to provide wildlife habitat, improve water quality, and reduce soil salinity. The farmer enrolling qualified lands received yearly payments in exchange for not using the land for cropping for 10 years. The government provided up to 50% cost sharing for installing conservation practices. CRP tracts were not to be grazed and hayed although these requirements could be relaxed under adverse conditions such as drought.

At its peak, 40 million acres were enrolled in CRP. The program has benefitted wildlife, most notably waterfowl, gallinaceous birds including ring-necked pheasant, and other grassland birds that use relatively undisturbed grassland. Some observers feel that CRP would benefit a wider variety of wildlife if in addition to leaving some CRP undisturbed, other tracts or portions of tracts were periodically disturbed by grazing, haying or burning to remove the ground litter that accumulates.

Although the Conservation Reserve Program has been a boon to wildlife for over 30 years, the acreage enrolled has declined because of budget cuts and higher commodity prices resulting from increased demand for food, fuel and fiber. Support in Congress has eroded for reasons ranging from pressure to reduce budgets to ideological differences over the role of government.

Governmental policy tends to be short-term and subject to change by congress. Although 30+ years is a long time in presidential and congressional politics, it is a very short time in the context of insuring the survival of species. There is no question that CRP has benefitted wildlife, including certain species of birds, over a relatively short time. However, it can be argued that the money spent on CRP would have been better used to protect sensitive habitats in perpetuity. The need for reserves, managed to benefit wildlife as the top priority, will only increase.

There is precedent for establishing parks and wildlife refuges on marginal lands. Several of our most prominent National Parks and National Wildlife Refuges were established when the federal government purchased land from bankrupt farmers in the

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<sup>9</sup> See <http://www.nps.gov/thro/historyculture/theodore-roosevelt-and-conservation.htm>

<sup>10</sup> Descriptions of the various conservation programs can be found at [www.nrcs.usda.gov/](http://www.nrcs.usda.gov/)



1930s. These were marginal lands that could not provide sufficient economic return in difficult times. The Sheyenne National Grasslands<sup>11</sup>, a unit of Dakota Prairie Grasslands, is a grassland reserve that intermingle public lands with private. It is perhaps the best grassland left in the tall-grass region of North Dakota. Further, it is a model of how a partnership between grassland managers and local producers can result in grazing that benefits both parties while providing food for society.

The establishment of Glacial Ridge National Wildlife Refuge<sup>12</sup> southeast of Crookston, MN, provides a model for establishing a large grassland and wetland reserve. This project is slated to grow to nearly 38,000 acres. It has involved over 30 nonprofit and governmental agencies in a partnership initially spearheaded by The Nature Conservancy. The grassland benefits Greater Prairie-Chicken and other grassland obligates, waterfowl and raptors that nest in upland grasslands, and the threatened western prairie fringed orchid. While protecting some native prairie, most of the land will eventually be tall-grass prairie restored on former cropland. The size of the contiguous grassland is large enough to be effectively managed as an ecosystem for grassland species with controlled burns being a major tool.

In what should be the last resort in species protection, The Endangered Species Act has been used in several court battles. It was enacted to protect imperiled species from extinction. One famous test case involved the Snail Darter. At the time it was known to occur only in the Little Tennessee River and it was argued that completion of a dam would cause its extinction. The Snail Darter was subsequently found in several tributaries of the Tennessee River and has been dropped from the Endangered Species List. Nevertheless, the case provided an early barometer of how far we are willing to go to protect species diversity.

### **The Public Favors Increased Conservation**

In the Foreword to Sand County Almanac written over 60 years ago, Aldo Leopold states that *“Like winds and sunsets, wild things were taken for granted until progress began to do away with them. Now we face the question whether a still higher 'standard of living' is worth its cost in things natural, wild and free.”* In view of ever-shrinking wildlife habitats, this question is even more relevant today.

A public opinion poll<sup>13</sup> conducted in 2012 for The Nature Conservancy revealed that more than 80% of American voters consider conserving our country's natural resources to be not only desirable, but patriotic. Further, 83% were willing to pay additional taxes to protect land, water and wildlife. Three-quarters of those polled believe that management of public lands is one of the things that government does best. Between 1988 and 2012, voters nationwide approved 78% of conservation ballot measures.

In North Dakota, a bipartisan poll<sup>14</sup> was conducted in 2010 to gauge support of a proposed natural heritage amendment that would have dedicated a percentage of the oil

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<sup>11</sup> For more information, see <http://www.ransomcountynnd.com/index.asp?Type=NONE&SEC=%7B05B67B83-EC26-4A5B-855F-43D5D61CE444%7D> and

<sup>12</sup> See [http://www.fws.gov/refuge/glacial\\_ridge/](http://www.fws.gov/refuge/glacial_ridge/)

<sup>13</sup> For a summary and discussion of this poll, see <http://www.mnn.com/earth-matters/wilderness-resources/blogs/conservation-is-patriotic-in-us-poll-finds>

<sup>14</sup> The information cited is from a memo from David Metz of Fairbank, Maslin, Maullin, Metz & Associates, and Lori Weigel from Public Opinion Strategies, the two polling firms that conducted the



extraction tax revenue to support protect natural areas, water and wildlife habitat. About 74% of voters indicated they would support such an amendment. Eighty-eight percent thought protecting native prairies was important. Eighty-five percent agreed that landowners should be able to sell their land to non-profit conservation organizations, and 60% indicated support for the state allowing conservation organizations to use permanent conservation easements.

Unfortunately, the philosophy and actions of our state and national representatives seem out-of-sync with what the public wants. The broad center for consensus has disappeared, and both political parties can be accused of waging ideological battles to gain political advantage over the other. In the meantime, we the people need to work to elect moderates who will work for the common good.

### Opportunities for Conservation

Within the heart of the Red River Valley, significant grasslands still exist: places where the Western Meadowlark can still be heard, where nesting Marbled Godwits and Upland Sandpipers scold passersby. Most notably, in eastern Grand Forks County, approximately 70,000 acres of semi-contiguous grassland extend from North Dakota Highway 15, west of Thompson, to the northern border of the county. Indeed, this grassland extends northward into Walsh County along the drainage of the Forest River, including Lake Ardoch N.W.R. Additional areas are found west of I-29 in Pembina County.



Marbled Godwit and Upland Sandpiper, two iconic grassland species that are still present as nesting shorebirds in the saline grasslands of Grand Forks County.

These grasslands exist because the soil is too saline, wet, and mucky to grow crops. Upwelling ground water that arises from Dakota sandstone reaches the surface because a layer of impermeable shale was eroded away in the distant, geological past.

Landowners call the most saline areas “alkali flats”, which are barren of vegetation except for patches of *Salicornia rubra*, a salt-tolerant plant that is green in early summer but turns red in the fall. Much of the area surrounding the flats has a grass cover that is difficult to reestablish when the soils have been disturbed.

When traveling east or west of a typical alkali flat, the soils gradually transition to the typically productive ones of the Red River Valley. In between are marginal lands that

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survey. The memo was entitled “Key Findings from a Recent Survey of North Dakota Voters Regarding Conservation Issues”, addressed to Interested Parties, and dated May 7, 2010.

## *Conserving Grassland Birds*

are risky to try to crop. It is this marginal land that has been enrolled in the Conservation Reserve Program. But with rising commodity prices, attempts are being made to put some of these fields back into production. Field tiling and new crop varieties are being tried in an effort to successfully crop make these lands.

These Grand Forks County grasslands are home to the northwestern-most population of Greater Prairie-Chicken. This species disappeared in the late 1970s or early 1980s, perhaps due in part to extensive conversion of grassland to cropland at that time. They were reintroduced in the early 1990s and the species still survives there today, thanks to setting aside some lands by North Dakota Game and Fish as Prairie Chicken Management Areas, and the enrolling of private lands into the CRP that became available in the 1980s.

Perhaps no more than 10,000 acres of the 70,000 acres is native prairie. It is not the prime tall-grass prairie once found on the better soils. Instead of big bluestem and Indian grass, one finds more salt-tolerant species such alkali grass, western wheatgrass, and prairie cordgrass. Almost all of the characteristic plants of the tall-grass prairie can be found by looking with persistence along beach ridges or the banks of one of several coulees that traverse the land, especially Freshwater and English Coulees. In all, more than 250 species of vascular plants have been found on the prairies of Oakville Township.

At least 75 species of birds either nest or forage in the grasslands, wetlands and other habitats associated with this large parcel of grasslands. Another 100 or so species use the area as a stopover in migration. In the highly agricultural Red River Valley, the grasslands provide a place where a host of migrating waterfowl, shorebirds, raptors, and songbirds can stop to rest and feed. In years when the vole population is high, Snowy Owls, Rough-legged Hawks, and Short-eared Owls are present in fall and spring, and sometimes overwinter. Daily counts of Short-eared Owls have on rare occasion exceeded 140; Rough-legged Hawks, 100; and Snow Owls, 50.

Public ownership and management within the grasslands began in the 1930s with protection of migrating waterfowl at Kelly Slough National Wildlife Refuge. Today, as the accompanying map shows, about 10,000 of the 70,000 acres are managed by public agencies for a variety of purposes including flood control.

At present, less than 10,000 acres are being grazed, mostly for cow and calf operations but with one section providing year-around range for Bison. The grazed parcels include state trust lands as well as private lands. Grazing as a management tool could be used much more widely to control woody vegetation and cattails. At the same time, it would provide an economic return to landowners while meeting public demand for meat, including grass-fed beef and Bison.

Historically, grazing as a management practice has often been viewed negatively because of the effects of over-grazing. Persistent overgrazing leads to loss of some grasses and forbs, and makes the habitat unsuitable for most birds with the exception of Horned Larks and Killdeer. When properly done, grazing makes grassland suitable for a wider variety of bird species while keeping plant diversity high.

Protection of this grassland is not a new idea. For more than ten years, Grand Forks County Prairie Partners, an advocacy group for grassland preservation, has been meeting with representatives of North Dakota Game and Fish, the U.S. Fish and Wildlife Service, Grand Forks County, The Nature Conservancy, Dakota Audubon, Natural

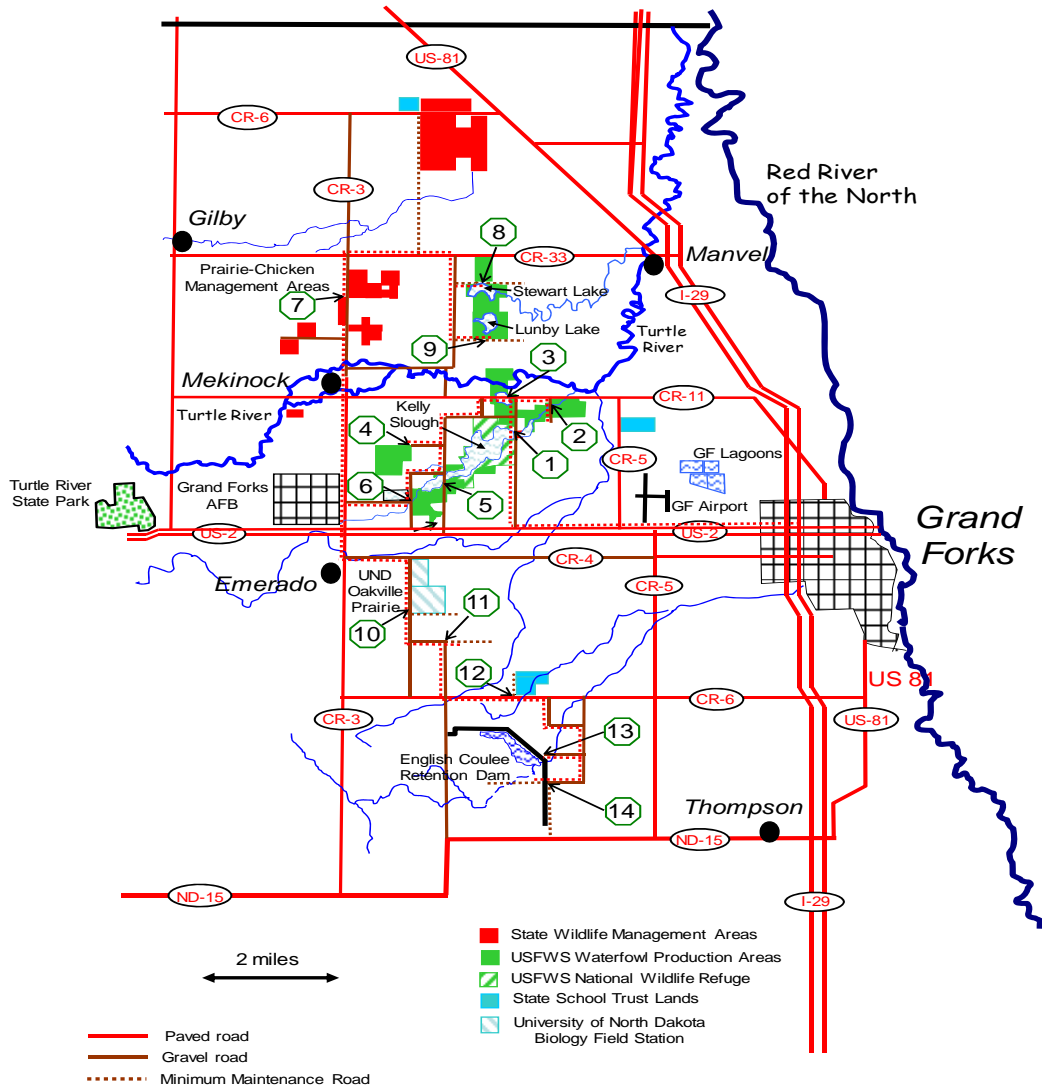
Resources Conservation Service, and North Dakota Natural Resources Trust to look for ways to partner to meet a mutual goal of conserving grassland. Various federal programs provide funding for a variety of conservation practices carried out by private landowners. The use of long-term grassland easements provides another means of protection. As always, there is the occasional generational transfer of land at which time it would be desirable to have conservation organizations buy the land. However, such buyouts are difficult to obtain because of present North Dakota restrictions on ownership by agencies such as the Nature Conservancy and the Audubon Society.

For a society interested in preserving a remnant of our natural heritage, the saline grasslands of Grand Forks County provide an opportunity to conserve an area rich in wildlife that in size is on the scale of many of the country's wildlife refuges and national parks. Conservation will require a partnership of private and public agencies as was done for the Glacial Ridge project. Success in these efforts will be for the common good. As Aldo Leopold once wrote, "A thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community."<sup>15</sup>

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<sup>15</sup> Aldo Leopold, "The Land Ethic", A Sand County Almanac, 1949.

## Conserving Grassland Birds



Map showing the locations of publically managed lands within the saline grasslands of Grand Forks County. These parcels are surrounded by private lands. In total, about 70,000 acres of grassland is within this area as of 2013.

The participation of private landowners is critical for success. At present, there is strong opposition from agricultural interests to the acquisition of more land by the government. Private owners will need to be incentivized if they are to make conservation a priority. Many of them want to do the right thing for the wildlife that uses their land.

To maximize the conservational potential of these and similar grasslands, an overall management plan is needed that would maximally diversify the landscape while keeping it as a grassland. This would involve a range of management practices that would be rotated in time and space. Thus, a given tract over a period of years would be left undisturbed for a time, and at other times be subjected to a range of disturbances including burning and heavy grazing. The costs of management could be offset by using cattle or Bison for grazing, and selling excess animals for food and hides. Already there is one section in Oakville Township where Bison range year-round. Perhaps it is time to allow them to reclaim most, if not all, of this special place!

I will close this essay by quoting Governor Art Link when he was dealing with the environmental consequences of strip mining of coal. With the current boom in oil and gas extraction, his words are even more apt today. The principle expressed should also apply to the agricultural landscape. Governor Link wrote: “We do not want to halt progress. No, we simply want to insure the most efficient and environmentally sound method of utilizing our coal and water resources.....And when we are through with that and the landscape is quiet again.....Let those who follow and repopulate the land be able to say, Our grandparents did their job well. The land is as good and, in some cases, better than before.”<sup>16</sup>

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<sup>16</sup> Governor Arthur A. Link, Mandan, ND, Oct 11, 1973. The complete statement can be found at <http://www.artlinklegacy.com/transcript.asp>



*Energy Development and Development Ethics*

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North Dakota is abuzz with energy development: Keystone and Keystone XL pipeline, coal, wind, ethanol and natural gas production, and oil extraction and refinery projects are in various stages of proposal, implementation, and operation. Less discussed and too often neglected entirely in the zeal to capitalize on the fortunes bestowed by geography and geology are the ethical issues presented by all this development activity. Critical ethical deliberation at all stages of the process is essential to ensuring that economic development serves societal well-being and justice. Whether a society is able to harness development towards realization of better approximations of social justice for that society depends on its success in subjecting development to social regulation by just laws, practices, and institutions. Otherwise close analysis reveals that focus on development for economic growth and general liberalization of the market economy leads not to greater well-being but rather greater inequality, suffering, and oppression in a society.<sup>1</sup> In what follows I make a case for utilizing development ethics as a method for evaluating practices and decisions involved in energy development to ensure accord with the goal of greater social justice by suggesting a minimal justificatory argument for why social justice should be the goal; offering a set of basic criteria that function as a broad methodology for doing this deliberative ethical reflection; and applying this methodology to a specific case study in energy development involving the Fort Berthold Reservation in North Dakota in order to illustrate how development ethics is essential for realizing social well-being and justice.<sup>2</sup>

John Rawls opened his now famous argument in *A Theory of Justice* with this assertion:

Justice is the first virtue of social institutions, as truth is of systems of thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust.<sup>3</sup>

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<sup>1</sup> See Thomas Pogge, *Politics as Usual: What Lies Behind the Pro-poor Rhetoric*, (Cambridge: Polity Press, 2010), chapters 3-5.

<sup>2</sup> "Development" as used in the field of development ethics at first simply referred to the means of trying to alleviate extreme poverty but has come to encompass any strategy or aim to tackle a broad spectrum of global inequities and injustices, including reflection on who is doing the development, what and who is the target of development, and whether development is even an ethical goal. In this paper, I use "development" to describe the practices and processes in service of that general notion of human advancement, progress, or expansion. Energy development and economic development are specific types of development with their own objectives and practices; development ethics, in the sense I am using it, becomes the means for critiquing these specific forms, practices, and aims of development.

<sup>3</sup> John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971), 3.

I take this to be my starting point as well in arguing for a place for ethics at the table of energy development. While a rehearsal of Rawls' argument - and the enormous literature involving subsequent critique and revision - is beyond the scope of this article, I am persuaded that justice is normative for and legitimates the existence of a society:

The moral standing of any particular state depends upon the reality of the common life it protects and the extent to which the sacrifices required by that protection are willingly accepted and thought worthwhile. If no common life exists, or if the state doesn't protect the common life that does exist, its own defense may have no moral justification.<sup>4</sup>

I take as axiomatic that informal and formal notions of justice are built into the social institutions and other organizations of human relations as soon as an individual enters into relations with others. Human beings are social creatures by nature and also socially-constituted creatures, caught in a web of interrelations and influences that is inescapable, and the general expectation is that these relations will be just or aim toward justice. Sometimes these expectations are formalized into a code of justice, and sometimes they evolve informally through cultural practices. For example, the idea of justice in keeping one's promises might be solidified by a simple word and a handshake in some contexts whereas in other contexts a formal contract is entered into the legal record. Such are the forms of justice that both guide social relations and suggest the virtue of having come together in the first place to form a society. As the Walzer quote above suggests, a societal institution or practice that does not aim toward justice risks its own legitimacy.

Also self-evident is that practices, institutions, and laws occasionally miss the mark, resulting in the unjust structuring of social relations. This is why a continual dialect between the "is" and the "ought" or between various degrees or better approximations of just social relations is required, and this is the role ethics is most suited to play. As John Dewey persuasively argued, "Philosophy recovers itself when it ceases to be a device for dealing with the problems of philosophers and becomes a method, cultivated by philosophers, for dealing with the problems of men [sic]."<sup>5</sup> Without ethical reflection, institutions, laws, or patterns of social relations, even those which are initially seemingly small injustices or unintentional oversights, can easily become insidious, leading to more systemic and pervasive forms of oppression, violence, and exploitation. An unjust society will be unstable, short-lived and will fail in its reason for being, i.e., the creation of a just society for all its members. Therefore, ethics needs to be at the table of development to aim such efforts toward the goal of a just society and help correct where development has gone off course.

This is certainly true for North Dakota's current energy development, believing as I do that North Dakota does, in fact, envision the creation of a just society for the well-being of all its members. John Dewey's call for philosophical attention to the real problems facing society has been answered by development ethics, a recognized subfield within the larger field of ethics. While neither the meaning nor the foci of development

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<sup>4</sup> Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 1992), 54.

<sup>5</sup> "The Need for a Recovery in Philosophy," *John Dewey: On Experience, Nature and Freedom*, ed. Richard J. Bernstein (New York: The Liberal Arts Press, 1960), 67.

ethics enjoys widespread agreement, a useful, albeit broad, methodological schema is offered here as a means for starting the work of ethical reflection in energy development, acknowledging that further specification of these broad, value-laden criteria will be required during the actual deliberative process. Three succinct commitments to inform methodological practice are as follows. First, “[d]evelopment ethics attempts clarification, assessment and widening of the values which are given power.”<sup>6</sup> Since we are dealing with socially-defined values in a society that is far from unified and equal, the first step is rendering explicit the implicit power relations at work in the formulation and function of values in a society. This is not to suggest that everyone will agree or participate or that power can be equalized; rather, ethical reflection must seek to disaggregate the fixed representations and discourses that stand in for or obscure the presence of domination in its many forms. Predominant values often enjoy a presumed rather than substantiated status; even though values do not spring into being on their own, they are often passed on uncritically as nonnegotiable and uncontestable, and are instantiated as normative for a particular culture. The first ethical move, then, is to question and render explicit value formation and the relative power relations of certain values in development. Within the context of development, having an ethical conversation about *who* has the power to have their values heard and acted upon is a strategic way of ensuring that social values that are qualitative or not easily given to monetary representation are not ignored, one instance of a widening of values extremely important in mitigating the tendency for development to be equated chiefly with economic growth.

“Second, development strategies and paths typically involve major human *costs* and suffering. Their nature and distribution . . . must be taken into account and responded to.”<sup>7</sup> This might seem obvious in that decision-making process often involves the weighing of potential consequences as in the generation of a pro/con list, attempting to get the best outcome with the fewest costs. What is less obvious is the way that certain practices, power relations, and forms of deliberation distance benefit-receivers from cost-bearers, obscuring the inequitable distribution of this calculus. With power and privilege comes the ability to shift costs and accrue benefits. Examples of this dynamic are easy to come by. One instance that is particularly instructive is the liberalization of international financial markets that began in the 1970s. These policies, it was argued, would do what socialism and regulation could not, namely, let the market efficiently distribute finance. The result was that net *official* capital flows to developing countries fell by 50 percent while net *private* capital flows increased by 700 percent.<sup>8</sup> This delinking of “social goals and international finance led to deep social divisions in many countries between the rentiers [sic] and the rest.”<sup>9</sup> Wealthy households within developing nations allied with international corporate interests and developed nations, creating a larger gap between rich and poor within developing countries and between developed and developing countries worldwide. These neoliberal economic policies in effect distributed increased benefits in one direction and increased costs in the other direction. To wit, the rich got richer off the

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<sup>6</sup> Des Gasper, *The Ethics of Development* (Edinburgh: Edinburgh University Press, 2004), 15.

<sup>7</sup> Gasper, *The Ethics of Development*, 15.

<sup>8</sup> Elson, Diane, “International financial architecture: a view from the kitchen,” in *The Women, Gender, and Development Reader*, ed. Nalini Visvanathan (New York: Zed Book Ltd., 2011), 296.

<sup>9</sup> *Ibid.*



poor getting poorer. Liberalization of the market does perhaps achieve efficient distribution of financial assets, but certainly not an equitable distribution of financial benefits or costs. The free market does not work for the poor.

Other examples such as the benefits of industrialization and modernization historically have been paid for by material extraction from rural areas and by low-wage laborers or when uranium mining for the development of military technology obscured the subsequent effects born by the environment and communities when that material was left to leach into nearby water supplies further illustrate the point: because every development decision involves these kinds of difficult choices entailing benefits and costs distribution, the distance must be narrowed between those who benefit and those who bear the costs when we are talking about development.<sup>10</sup> Even if such a gap cannot be completely eradicated, the principle of distributive justice upon which this claim is based recognizes that some distributions are closer approximations of justice and thus morally preferable to others.<sup>11</sup> Choosing to neglect this principle leads to injustice: ill-gotten gains and shirking of responsibility on one side, disproportionate burden without benefit on the other, and an increase in inequality and impoverishment. We have not met the ethical requirements of justice until we have taken into account those persons that are paying the price for the benefits, whether the proposed action is going to inflict harm or suffering that can be prevented, and whether such costs *and* benefits are being shared as equitably as possible. If, say, your child's life is too high a price to pay for a new shirt, then reciprocal recognition of justice should give pause as to whether someone else's child is also too high a price to pay.<sup>12</sup>

Third, "we must identify and compare *alternatives*."<sup>13</sup> Our rational capacities are often celebrated as granting humans superiority over the rest of the natural world, but this third feature of a development ethics methodology demands actual use of that capacity in the creation and comparison of alternatives to those that continue to reify structural inequality and injustice. To this end, David Crocker succinctly summarizes three models of development that cannot be ethically justified and which must be taken off the table as viable alternatives:

- (1) the maximization of economic growth in a society without paying any direct attention to converting greater opulence into better human living conditions for its members, what Amartya Sen and Jean Dreze call "unaimed opulence";
- (2) a society unconcerned with the (growing) gap between the haves and the have-nots; and
- (3) an authoritarian egalitarianism in which physical needs are satisfied at the expense of political liberties.<sup>14</sup>

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<sup>10</sup> For an extended discussion of these examples, see William Cronon, *Nature's Metropolis: Chicago and the Great West*, (New York: W.W. Norton & Company, Inc., 1992); "Moab UMTRA Project," *Tailings Times*, 1-4 (2008-2009). <http://www.moabtailings.org/>.

<sup>11</sup> Julian Lamont and Christi Favor, "Distributive Justice", *The Stanford Encyclopedia of Philosophy* (Spring 2013 Edition), ed. Edward N. Zalta, <http://plato.stanford.edu/archives/spr2013/entries/justice-distributive/>.

<sup>12</sup> Nandita Bose, "Stronger Labor Law in Bangladesh After Factory Collapse," *Reuters*, July 15, 2013, <http://www.reuters.com/article/2013/07/15/us-bangladesh-labour-idUSBRE96E05R20130715>

<sup>13</sup> Gasper, *The Ethics of Development*, 15.

<sup>14</sup> David Crocker, *Ethics of Global Development: Agency, Capability, and Deliberative Democracy* (New York: Cambridge University Press, 2008), 43.

Too many proposals in development reify these models, further entrenching the very problems development is supposed to rectify or improve. Finding alternatives to these models of development starts by getting the question right, namely, whom and what development is *for*.

Identifying and comparing alternatives is perhaps best done by moving toward application of the proposed methodology to the context of North Dakota's energy activity through analysis of a specific case study. This will also provide the opportunity to test the effectiveness of development ethics to guide society on the use of energy development in achieving social justice and well-being for all members. The selected case that is illustrative of the need for development ethics relative to energy development activity concerns the Fort Berthold reservation in North Dakota. This American Indian reservation comprised of the Three Affiliated Tribes—Mandan, Hidatsa, and Arikara, is situated on top of the Bakken formation in North Dakota. When the current oil boom started around 2004, the tribal council was anxious to utilize the boom to secure greater independence and well-being for its tribal members, a purpose stated in broad terms by federal mandate as the duty to “maximize Indian mineral owners’ economic benefits.”<sup>15</sup> Because of the extra layer of bureaucracy involved in leasing Indian land, in 2009 the tribe pressured the Bureau of Indian Affairs to expedite the leasing of nearly all of Fort Berthold’s trust land for drilling and by 2010 the reservation was in the midst of a full throttle oil boom which they, like many oil region communities, were completely unprepared to handle.

Instead of spending its oil profits on programs that could outlast the boom and benefit Fort Berthold’s future generations, the tribe has directed the money toward fixing roads that collapsed under heavy hauling and bolstering its safety, medical, and social services for the growing population.<sup>16</sup>

As the tribal tax director Mark Fox explained:

Twenty years from now, if we do it right, we should have things that last us forever. But if we have worse unemployment, worse health, worse poverty, worse crime, then we’ve failed. We were better off leaving it in the ground.<sup>17</sup>

Three further details of this case deserve mention: first, two-thirds of the lease benefits have gone to “allottees,” or individual members of the tribe who hold mineral rights, not the collective coffer for shoring up some of the social programs like health care and safety that Mark Fox mentioned.<sup>18</sup> Therefore, a person benefits from oil development only if he or she is a landholder. Second, some of the leases sold on the reservation were sold early to Black Rock Oil and at a fraction of what non-Indians were

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<sup>15</sup> Sierra Crane-Murdoch, *The Other Bakken Boom: A Tribe Atop the Nation’s Biggest Oil Play* (Bozeman: PERC Case Studies, 11/28/2012) <http://perc.org/sites/default/files/pdfs/WEB-Bakken%20Case%20Study.pdf>; Also, Raymond Cross’s legal analysis of the Indian Mineral Development Act of 1982 in Raymond Cross, “Development’s Victim or Its Beneficiary?: The Impact of Oil and Gas Development on the Fort Berthold Indian Reservation” *North Dakota Law Review* 87 (2011): 535-569.

<sup>16</sup> Crane-Murdoch, *The Other Bakken Boom*, 2-3.

<sup>17</sup> *Ibid*, 3.

<sup>18</sup> Crane-Murdoch, *The Other Bakken Boom*, 4.

receiving for their leases off the reservation. A practice called “flipping,” or buying low and selling high, was used by a tribal member, Spencer Wilkinson Jr., who was at the time the general manager of the casino and who founded his own oil company, Dakota 3. This is how the story played out:

[T]he council leased Wilkinson 42,000 tribal acres for 18 percent royalties and a \$50-per-acre bonus. He acquired an equal number of allotted acres under the same terms. Then in December 2010, he sold his leases to Williams, an Oklahoma-based energy company for \$925 million, and turned Dakota 3 into a subsidiary.<sup>19</sup>

While flipping is a common and legal practice, this one particularly enraged other allottees who cried foul at the disparity between what they were paid and the profit Wilkinson earned. Many tribal allottees felt the Bureau of Indian Affairs had failed in its duty to protect tribal interests by allowing flipping. A third important detail to mention before moving on to ethical analysis is that crime, particularly sexual violence against women, has boomed as well in communities near oil development, with this one important distinction for women in Native communities:

[O]ne in three Native American women are raped during their lifetimes (two-and-a-half times the likelihood for an average American woman—and in 86 percent of these cases, *the assailant is non-Indian* [emphasis mine]).<sup>20</sup>

Compounding this problem is the lack of jurisdictional procedure and agreement to allow tribes to arrest and prosecute non-Indian perpetrators of such crimes on their reservations.<sup>21</sup>

No doubt additional salient details of this case could be raised for ethical analysis but these will suffice here. What I want to do now is apply the development ethics methodology sketched earlier to show how ethics is essential for ensuring that development goals and practices align with the goal of social justice. First, the experience of American Indian women in the case study is particularly disturbing from an ethical perspective and lends itself well to a discussion of both a widening of the values that have power and the call for response and attention to the distribution of costs and benefits of development. A disproportionate amount of the costs of development are literally born in the bodies of and at the expense of the spiritual and emotional well-being and safety of women. That this is not unusual is heart-wrenchingly described by Faith Spotted Eagle, a Yankton Sioux Tribal elder and founder of the Brave Heart Society, who traces the historical ties between conquest, sexual violence, colonization, and the rape of the earth that have been perpetrated on the land and indigenous peoples to clear the way for economic development.<sup>22</sup> As of this writing, she is organizing a protest of a proposed

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<sup>19</sup> Ibid.

<sup>20</sup> Sierra Crane-Murdoch, “On Indian Land, Criminals Can Get Away With Almost Anything,” *The Atlantic*, February 22, 2013, <http://www.theatlantic.com/national/archive/2013/02/on-indian-land-criminals-can-get-away-with-almost-anything/273391/>

<sup>21</sup> Ibid.

<sup>22</sup> Faith Spotted Eagle, “Keystone XL Pipeline Follows in the Tracks of Conquest, Sexual Violence and Colonization,” *Native News Network*, May 25, 2013, <http://www.nativenewsnetwork.com/keystone-xl-pipeline-follows-in-tracks-of-conquest-sexual-violence-and-colonization2.html>

600-man camp in Colume, SD, for the construction of the Keystone XL pipeline. A camp in that location will be in close proximity to three small reservation communities, and the women rightly fear that this will greatly increase their risks of sexual violence. The benefits of the pipeline, touted by proponents and politicians, include jobs, economic benefits, and energy security.<sup>23</sup> One task of ethical reflection here is to account for who will receive these benefits and who will get the jobs that will cost these women so much, and ultimately to challenge whether this distribution is just. But there is a more difficult, overarching task here, namely, figuring out how to direct development toward the realization of qualitative values. This difficult work is entailed in widening the values which are given power, because, as the old saw goes, when money talks, people listen. I propose listening to people instead of money. Vulnerable groups such as women, children, the elderly, and those unable to work are always in danger of having their values ignored and of having to bear the costs of models of development that focus too narrowly on growth. The question is how do we account for values such as personal safety or clean water if such values are always seen as derivative, secondary, or can't be monetized for quantification in the calculus?

The third step of the method, identifying and comparing alternatives, is germane here. One alternative suggested by the preceding analysis is to dethrone the privileged status of the economy and instead of aiming at economic growth (unaided opulence). We get the direction of the inquiry right by putting our imagination and efforts toward the achievement of qualitative social values, in effect, putting development to work for social justice. A society concerned about justice will address itself to rectifying rather than perpetuating injustices, so, for example, instead of seeing women as victims or, worse, authors of their own demise, we give prominence of place to women's lives and values in order to learn how to direct the efforts of economic development in accord with those values. Women have often been regulated to passive receivers of the benefits of development once structures are adjusted in the public sphere, a form of trickle-down development.<sup>24</sup> As demonstrated earlier, the burdens on women increase under this model of development. The alternative here is to widen the sphere of whose values count; instead of just doing the old "add and stir" with those values, empower them. This includes recognition of women's agency, the conditions of their actual lives (not some preconceived notion or recipe version), and the social origins of the vulnerabilities women face.<sup>25</sup> This last point is important for achieving social justice through development because rectifying the injustices against women will take the greater involvement of men, and therein lurks a danger:

[E]ven as women enjoy increased capabilities and opportunities, their potential gains are all too often cancelled out by men's seemingly infinite reservoir of props for asserting

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<sup>23</sup> TransCanada Corporation, "Keystone XL Pipeline," (2013) <http://keystone-xl.com/?gclid=CJj148vm5rgCFWNgMgod-BQACw>

<sup>24</sup> Eva M. Rathgeber, "WID, WAD, and GAD: Trends in Research and Practice," *Journal of Developing Areas* XXIV (1990), 19.

<sup>25</sup> Richard Peterson, "Theory, Politics, and the Critique of Development," NEH Summer Institute on Development Ethics, Michigan State University, August 1, 2013. Dr. Peterson was discussing the work of Judith Butler and her notion of socially-constructed precarities.

power and (re)masculinizing advantage. Attention needs to be paid not only to the “female victims” but to the structures which uphold men’s advantage.<sup>26</sup>

Models of development that have guided the direction of economic development in the past will need to be abandoned or completely overhauled for the very reason that they have upheld men’s advantage to the neglect of women’s concerns. A practical outworking for this in the case study is to put the personal safety of women as priority one and to demand development practices that ensure that priority is met. Perhaps this means the abolition of man camps and instead housing workers in urban areas where the effects of population influx can be more readily absorbed, policed, and distributed, and utilizing bussing to get workers back and forth to the sites, or the implementation of a policy to mandate internalization of the costs of safety as a cost of doing business such that every camp location would have to entail an ample police force to work in concert with local police or provide for sufficient additional officers for all communities near the camps. A sign or policy at the camp saying “No women allowed” is not going to protect women’s safety. If these measures are not taken, then development does not go forward.

Another issue raised by this case study is that of land ownership and use and how we should distribute and regulate benefits and costs associated with ownership and use. The structure of the economic development game in this situation operates by the dictates of the free market, the benefits accruing largely to individuals who already hold land assets and can further leverage them. As is demonstrated in case after case around the world the lesson is that the free market distributes benefits *efficiently* not *equitably*. When leases were flipped for a higher profit than was originally paid to allottees, many in the tribe called foul and perhaps rightly so, but this can also be seen as a predictable risk of having the market tiger by the tail: one shouldn’t be surprised when bit.

The structural injustice embedded in the historical relations of American Indians and the federal government continues to manifest in the tribe’s efforts around energy development today. It was no easy task to expedite the leasing of their lands, and many were wary of entrusting the process to “the feds” in the BIA. And as indicated by the problem of tribal jurisdiction over non-Indians who commit crimes on Indian land, the layers of federation, state, and Indian nation relations are fraught with unresolved tensions and legal issues. However, what is of acute ethical import here is the degree to which the effects of colonization have been internalized within the tribe’s relations with one another. American Indians are one of the few cultures that retain an essential spiritual and cultural connection to Mother Earth. They have historically been against the notion of land “ownership” and against the western concept of private property. They have the internal cultural and spiritual resources to resist market ideology in their relations with one another, especially in the distribution of benefits and costs on an individual rather than communal basis when it comes to the resources from the earth. Instead, they have put economic values ahead of traditional tribal values and risk being the victims rather than the beneficiaries of oil development.

When the tribe realizes, through ethical reflection, that they are perpetrating the same injustice on one another that they have been victims of in the process of

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<sup>26</sup> Sylvia Chant, “The ‘feminization’ of poverty, and the ‘feminization’ of anti-poverty programmes,” in *The Women, Gender, and Development Reader*, ed. Nalini Visvanathan (New York: Zed Book Ltd., 2011), 188.

colonization, they can utilize the same methodology to correct that practice and set a new course that ensures development serves the tribe's future well-being. While there is no recipe for success, analysis of successful tribal enterprises share at least these two essential ingredients:

- (1) an unswerving commitment to obtaining what the tribal people will need to survive and flourish and (2) the tribal leadership's incorruptible and unyielding will to bend its governmental and corporate powers to the realization of this long-term goal.<sup>27</sup>

The empirical evidence suggests the centrality of development that serves socially-held values and the common good of all tribal members rather than undertaking practices and projects that enrich the few while leaving the most vulnerable behind. In current practice, only a third of the benefits are going to the collective coffer of the tribe and that money that has been used to address the problems created by development and to allow for further development rather than using development to address the problems of the community and achieve their social defined values and priorities. Some individuals - those that hold mineral rights - are benefitting from this energy development, but others are clearly not and the community as a whole is not. This shift in intra-tribal member relations does not preclude knowing how to and having to play the game in relations beyond the reservation if they so choose, particularly knowing how to recognize colonizing strategies and turning them to their advantage, but as a tribal community they can set their own path and ways of internal relation for the attainment of social justice for their members through their development efforts.

This case study analysis is just one of many examples that could have been chosen to demonstrate the need for more ethical reflection on the processes and practices of development in order to make sure social justice is the goal of all such efforts. In this analysis I was critical of the operations of the free market economy in energy development because the focus is reductive of social values to those that can be empowered by monetization. The widening of values which are given power to include those that are qualitative rather than quantitative is a move that some economists are embracing, but such work is not widely embraced by economists as a whole.<sup>28</sup> The point here is not that money is not important or that the market does not have a role to play in development; rather, what is rejected are market models that serve growth not justice. An account and response must be given of who benefits and who bears the costs associated with development. Any development practice that accrues benefits to some while the costs are born by others must be rejected as a morally unjustified distribution. Finally, our moral imaginations must be engaged in searching for alternatives that are better approximations of justice. This work can be difficult; solutions can be elusive. However, if we are to achieve the social goal of justice for all members, we will need to be doing ethical reflection at all stages of the development process in order to stay on course. The fortunes bestowed by geography and geology will be bane, not blessing, if we neglect the important task of development ethics.

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<sup>27</sup> Cross, "Victim or Beneficiary," 561.

<sup>28</sup> Nobel Prize winner Amartya Sen and Oxford economist Frances Stewart have both effectively advanced the study of qualitative economics, but they are the exception, not the rule.

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*What We Can Learn from the Medieval Rejection of Curiosity*

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Knowing that I am partial to the medieval intellectual tradition, fellow intellectuals have raised the following objection to me: the medieval thinkers consider curiosity to be morally bad and, hence, something to be avoided. Committed thinkers, on the other hand, prize curiosity as the key motive that drives scientific, philosophical, and any other kind of inquiry. Therefore, the medieval thinkers miss the mark by a wide margin. Moreover, contemporary intellectuals typically add the second conclusion that this is a good reason (among, perhaps, a field of other good reasons) to dismiss medieval thought as in any substantial way relevant to contemporary thought. In this paper, I wish to dispel both of these conclusions and argue that the medieval view is both worthy of our consideration and applicable to a wide range of current debates, with special attention given to those concerning the place for morality in society.

I proceed by focusing on the views of Thomas Aquinas as representative of the medieval mindset. The first section addresses his account of wonder. The second section examines first the primary positive cultivation of wonder, namely, studiousness, and the role it should play in the acquisition of knowledge. Second, we will look at the negative cultivation of wonder, namely, curiosity and the specific ways that it is bad. In the final part, I propose some ways that we can adapt his principles to articulate supportive claims for morality's absolute nature, pervasiveness, and inclusion of experts.

**Wonder (*Admiratio*)**

Aquinas and the other medieval thinkers of the western tradition do, in fact, think that curiosity is a bad. As we will see, part of the discrepancy between their understanding and ours is merely verbal: they mean something a little different than what we mean by the term. However, that is not the whole story; there is an overlap of meaning, and, hence, the differences are also philosophical. Turning to the medieval philosophical understanding, let us begin with their notion of wonder, which Aquinas characterizes in the following way:

When a person knows any effect, and knows that it has a cause, there naturally remains in him the desire to know about the cause, *what it is*. And this desire is one of wonder, and causes inquiry...For instance, if a person, knowing the eclipse of the sun, consider that it must be due to some cause, and know not what that cause is, he wonders about it, and from wondering proceeds to inquire. Nor does this inquiry cease until he arrive at a knowledge of the essence of the cause.<sup>1</sup> Now wonder is a kind of desire for knowledge; a desire which comes to person when he sees an effect of which the cause either is unknown to him, or surpasses

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<sup>1</sup> Thomas Aquinas, *Summa Theologica* (New York: Benziger Brothers, 1948), I-II, 3, 8. I have adjusted the translations substituting "man" with "person."

his knowledge or faculty of understanding. Consequently, wonder is a cause of pleasure, in so far as it includes a hope of getting the knowledge which one desires to have.<sup>2</sup>

When we have an experience that serves to disturb us from the ordinary flow of events, we might *wonder* how the phenomenon in question came to be or even what it is. Wonder awakens our mind and prompts thoughtful reflection; in turn, reflection leads to an inquiry whose goal is to find answers to the questions wonder initiates. If we do not know what an eclipse is, the impressive nature of the event will naturally and spontaneously stimulate our minds to seek an explanation for what we are witnessing.

The full experience of wonder has at least four essential parts: desire for knowledge, awareness of our own ignorance, hope of obtaining the truth, and a fear of error. Wonder prompts inquiry precisely because it includes the desire to know—a desire that rises from a love of the truth. Having an accurate conception of the way things are is a natural inclination on the part of the mind. Just as the body naturally craves air, food, and water, so the mind thirsts for truth. However, various circumstances may dull and render inert our love and desire for the truth. A sense of wonder rouses the desire for knowledge and, if we allow it to take its natural course, restores the love of truth to its rightful place in our lives. Wonder involves another key component closely related to the desire to understand the world better, namely, our awareness of our own ignorance. Only this sort of intellectual humility positions us correctly to find the truth; humility allows us to know that we do not have the best cognitive grasp on the matter. Humility is opposed by presumptuousness, which is the mindset that we have already obtained the best understanding possible.<sup>3</sup> The more intellectually humble we become, the less presumptuous we are.

For our desire for truth to advance us to a search or inquiry into the matter at hand, we must possess an additional disposition of the mind: an implicit hope for discovering the truth—the third key aspect of wonder. We achieve a good deal of knowledge only with much effort and difficulty; due to this fact, just as we must avoid presumptuousness, we must avoid stupor or intellectual lethargy. If our mindset consists of doubting the very possibility of knowledge, then we have no reason to seek it. To summarize the three above parts of wonder, we inquire and search for the truth only when we acknowledge we do not have it, desire it, and think its obtainment is realistically possible.

If we simply wanted to assent to as many true propositions as possible, the method for doing so would be simple: assent to all of them. This strategy, however, is unacceptable; for in addition to a desire for truth, wonder also conveys repugnance and aversion to wrong information—Aquinas terms it a fear of error or falsity. We do desire that the propositions to which we assent are true, but we also are averse to assenting to false propositions; we must approach the assenting to propositions in a manner that balances a love for the truth with a fear of falsehood. Just as our sense of taste would be naturally repulsed by the prospect of eating garbage, so the mind is naturally averse to falsity. Moreover, just as we can override our sense of taste's natural repugnance by eating, say, fish prepared in lye, so other dispositions and choices can overcome or

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<sup>2</sup> Aquinas, *S.T.*, I-II, 32, 8.

<sup>3</sup> Aquinas refers to presumption as “the mother of error.” *Summa Contra Gentiles*, I, 5, 4.

silence wonder's natural aversion to error. In sum, wonder entails a search not just for any explanation or account, but for one that is true and, thereby, our wonder-initiated inquiry will aim at assenting to true propositions, avoiding false claims, and discovering the fundamental reasons why the true propositions are in fact true.

### **Studiosness (*Studiositas*) and Curiosity (*Curiositas*)**

Wonder is the foundational source of inquiry, but it can be cultivated by the person in both positive and negative fashions. The virtue of studiosness develops our pursuit of knowledge in a properly focused way. Aquinas states the following:

Properly speaking, study denotes keen application of the mind to something. Now the mind is not applied to a thing except by knowing that thing. Wherefore, the mind's application to knowledge precedes its application to those things to which a person is directed by his knowledge. Hence study regards knowledge in the first place, and as a result it regards any other things the working of which requires to be directed by knowledge. Now the virtues lay claim to that matter about which they are first and foremost; thus fortitude is concerned about dangers of death, and temperance about pleasures of touch. Therefore studiosness is properly ascribed to knowledge.<sup>4</sup>

Virtues are good habits, which are differentiated by their specific domains or matters of application. As indicated above, fortitude or courage is the good habit that pertains to dangerous situations. It is the level-headedness necessary to act appropriately even in a context where the threat of bodily harm or death is high. Studiosness is the good habit pertaining to the context of knowledge, particularly the acquisition of knowledge. Wonder instills the desire to know, but it is through study that we discipline our inquiries to maximize our chances to acquire knowledge, particular when it is not so readily accessible. Aquinas does not limit the scope of studiosness to taking classes and reading books, though those fall under its purview. As Gregory Reichberg points out,

Thus defined, the scope of *studium* is surprisingly vast; it signifies any voluntary engagement of the mind in cognitive endeavors, speculative or practical, sensory or intellectual...Accordingly, to concentrate rightly, to occupy one's mind well, to attend to whatever truly warrants one's attention, is to exercise the virtue of *studiositas*.<sup>5</sup>

Studiosness concerns activities such as doing research and experimentation; most generally, it covers the various methods for pursuing and acquiring knowledge.

Following Aristotle, Aquinas contends that for every virtue there are two opposed vices or bad habits, for instance, fortitude is flanked by cowardice and rashness and temperance by insensibleness and gluttony. The two extreme or opposed states relevant to studiosness are inattentiveness,<sup>6</sup> or what we might call intellectual laziness, and

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<sup>4</sup> Aquinas, *S.T.*, II-II, 166, 1.

<sup>5</sup> Reichberg, Gregory M. "Studiositas, The Virtue of Attention." *The Common Things: Essays on Thomism and Education*. Edited by Daniel McNerny. Washington D.C.: The Catholic University of America Press, 1999, 143-152, 147.

<sup>6</sup> Aquinas does not actually speak to this extreme, so my suggestion is somewhat speculative but consistent with his overall remarks.

curiosity. Before looking at his remarks on the nature of curiosity, it is important to note that both for Aquinas and every major medieval thinker, knowledge and truth are inherently good, and that ties into why wonder is praiseworthy and studiousness is virtuous—they both promote the acquisition of knowledge. What this means for the curiosity is that whatever makes it bad is not that it leads to knowledge. This is where I think there is a merely verbal dispute between contemporaries and medieval on the nature of curiosity. We often use the term to denote what Aquinas means by wonder, and, as we saw, he also thinks this is very good thing.

Curiosity is the pursuit of knowledge that is disordered in some way. Aquinas lists two basic ways our pursuit of knowledge can fall under the vice of curiosity. The first way is when we seek knowledge not for the sake of the value of understanding or practical application, but primarily to feed our ego. If we want to feel more important than others and lord our knowledge over them in a “know it all” sort of way, then our pursuit of knowledge contains elements that are morally bad. We all have had experiences of persons who exhibit this basic kind of curiosity and, thereby, understand its problematic nature. However, for the purposes of this paper, I will focus on the second form of curiosity, which involves pursuing knowledge in a manner that is itself disordered. Aquinas contends that there are four ways this can happen. He states:

First, when a person is withdrawn by a less profitable study from a study that is an obligation incumbent on him...Secondly, when a person studies to learn of one, by whom it is unlawful to be taught...Thirdly, when a person desires to know the truth about creatures, without referring his knowledge to its due end, namely, the knowledge of God...Fourthly, when a person studies to know the truth above the capacity of his own intelligence, since by so doing people easily fall into error.<sup>7</sup>

The first way a curious person pursues knowledge unsuitably is by seeking that which is trivial at the expense of more important matters. We can think of some distinct ways that this can occur. One, a person could excessively desire the knowledge of things like how many blades of grass on the football field or how many planets there are in the federation in Star Trek. The time invested in these sorts of inquiries could surely be used for more valuable intellectual pursuits. Second, if a person’s professional responsibility entails being knowledgeable in a given area and, instead of tending to the latest relevant research, she gets distracted by other kinds of inquiry, then those latter pursuits become inappropriate. Again, it is not that the knowledge she seeks is essentially bad, it is rather that she seeks the knowledge in question at the expense of what ought to be sought, given her field. Third, there seem to be subject matters to which any conscientious person should devote her some intellectual energy; morality and religion would be two likely candidates for anyone. Moreover, some particular or context-relative aspects of a person’s society have a similar claim on her; for instance, she should know the traffic laws in her country and region and give priority to the acquisition of such knowledge. Hence, if instead of seeking knowledge of these essential sorts of things, a person strives to know the complete history of Middle Earth, she has fallen into the vice of curiosity.

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<sup>7</sup> Aquinas, *S.T.*, II-II, 167, 1.

Aquinas casts his proposal for the second way the pursuit of knowledge becomes improper in theological terms. He has in mind a person seeking knowledge from demons and such. However, we could find analogous situations that do not depend upon his theological assumptions. For instance, imagine someone desiring to learn from tabloids and other similar sources of information. The time spent in these inquiries amount to time not spent in more advantageous pursuits.

The third disorder involves seeking knowledge in a shallow fashion. A person seeks the knowledge of something without ever seeking the more ultimate foundations of that knowledge. For Aquinas, all knowledge derives its ultimate value from its source, which is God. While I think this is a philosophical approach the merits attention, our current aims are better served if we approach this in a less theologically driven manner.<sup>8</sup> For our purposes, we might construe Aquinas's concern in the following sort of way: when we seek knowledge of anything, we should be asking the deeper question of what is the value of knowledge as such and what sort of rationale is there for the methods we use to acquire it. Additionally, how does this or that investigation contribute to our understanding of ourselves in the world—questions about the meaning and purpose of human existence?

Theological concerns drive Aquinas's characterization of the final kind of curiosity, but, again, I think we can readily find a non-theological analogue of it. He is concerned that someone who seeks knowledge about divine things above the capacities of the human intellect will fall into an intellectual trap resulting in false beliefs. We can think of cases where a person does not seek out expert knowledge of a subject matter that requires much time and intensive study and instead believes things about the content based on her own thinking. For instance, if there is a consensus among medical experts that a given treatment is the best approach and a person reasons otherwise, though she has no substantive medical education, then she is most likely wrong. She forms false beliefs that could have easily avoided had she trusted the expertise of those with the appropriate background. Moreover, if she then acts on the basis of those false beliefs, her actions will likely be unacceptable.

In sum, the experience of wonder impels us to seek knowledge—to form true beliefs and avoid false beliefs. Studiousness is the good habit that positively cultivates our desire to learn and acquire knowledge. Curiosity is the opposed vice, which is a trait Aquinas thinks is bad because it disposes us to waste our limited time and resources pursuing the wrong sorts of inquiries—it is not bad because it kills the cat. If we had unlimited time, then all inquiries, save those that violate a person's privacy, would be commendable, but we do not. We must be judicious and focused in our pursuits and avoid curiosity.

### **Applications to Morality**

My use of the examples above hopefully has begun to show that there are applications of the medieval conception of curiosity to contemporary discussions. In this section, I wish to develop this approach a bit more by applying Aquinas's principles to issues in moral theory. Let us begin with the non-negotiable nature of morality. Linda Zagzebski offers a compelling schema for how morality fits into or should fit into our

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<sup>8</sup> For Aquinas, the point that knowledge should be referred to God is not just a theological statement, as he thinks that God as ultimate cause, or the *Ipsium Esse Subsistans*, can be established philosophically.

intellectual life.<sup>9</sup> Her basic position is this: we care about various things in life, like our children, hobbies, friends, etc. The very nature of caring orients us to desiring true beliefs in the domains for which we care; the more we care about something, the more conscientious or truth-seeking we ought to be with respect to it. In some domains, whether we care is purely optional, for instance, I need not care about a given sports team or even sports in general. However, some areas seem to be non-optional, such as health. Moreover, even within the realm of non-optional areas, there is a further distinction between that which is absolute and that which is negotiable, for instance, while my concern for my health, as a rational individual, is non-optional, it remains negotiable—I may choose to endanger my health and life by donating a kidney to a loved one. Morality, according to Zagzebski, is non-negotiable or absolute; it is not permissible to exchange moral values for nonmoral values.

The medieval conception of curiosity provides a means for further articulating and strengthening this framework. One manifestation of curiosity we discussed above occurs “when a person is withdrawn by a less profitable study from a study that is an obligation incumbent on him.”<sup>10</sup> In the case above, a person who withdraws from the study of morality to something else is blameworthy for displaying a curiosity of the worst kind. It would be problematic to become so drawn to the imaginary world of Tolkien’s Middle Earth that one neglects basic inquiry into various health-related matters; she would be exchanging the non-optional for the merely optional. In the case of the neglect of ethical inquiry, one exchanges the absolute for the optional.

Aquinas’s account gives to us a fairly concrete explanation of why the pursuit of some kinds of knowledge is bad. Certain domains, such as the moral, simply possess a greater importance than others. Thus, the pursuit of knowledge at the expense of the search for moral understanding is likely to be problematic; conversely, quest for moral knowledge trumps many other intellectual (and non-intellectual) pursuits. This last point ties into his endorsement of studiousness—a healthy dose of which curbs both idle curiosities and those, which although not purely idle, that hinder the search for more critical truths.

I will combine the discussion of the second and fourth kinds of curiosity and treat them after the third form. In regards to the third form, recall Aquinas characterizes it in the following terms: “when a person desires to know the truth about creatures, without referring his knowledge to its due end.”<sup>11</sup> The due end he has in mind is God, understood philosophically as the ultimate explanation for the existence of a given subject matter. For our purposes, Aquinas’s principle can be repurposed somewhat<sup>12</sup> to clarify both the relationship ethics has in relation to other areas of life and the manner our pursuit of knowledge of non-ethical matters should be related to the ethical.

In terms of applying the principle, let us start with a non-moral example. Suppose a person owns a greenhouse shop; one of her tasks might be to keep track of how many trays of marigolds are available for spring sales. Now suppose a neighbor of the

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<sup>9</sup> Zagzebski, Linda. “Epistemic Value and the Primacy of What We Care About.” *Philosophical Papers* 33, 353-76.

<sup>10</sup> Aquinas, *S.T.*, II-II, 167, 1.

<sup>11</sup> Aquinas, *S.T.*, II-II, 167, 1.

<sup>12</sup> “Repurposed” perhaps overstates the differences between the texts of Aquinas and the point I am making. For Aquinas, ethics does possess a foundational role in the manner I discuss; however, ethics, in turn, must be referred to God. I am going to leave that last step to the side for this analysis.

greenhouse also has great interest in keeping track of how many trays of marigold are present. If someone asks the neighbor why she pursues and values this knowledge, her response is that there is no reason; she just does. Both the greenhouse owner and the neighbor engage in seemingly similar pursuits of knowledge, yet the owner's engagement is reasonable; the neighbor's engagement is less so, if at all. The difference is that the owner refers or directs her knowledge to a due end, namely, the sale of the marigolds; while the neighbor lacks any such reference.

When pursuing knowledge about the things we as human beings do, it is always appropriate to relate that knowledge to the larger context of what we as human beings ought to be doing. Most of what we do is morally permissible, so we might lose sight of the rational expectation to relate our pursuit of knowledge to morality in this way. However, Aquinas's third curiosity principle's reasonableness is evidenced in cases of unethical practices. If a CEO does not relate her pursuit of a practice, such as using lead paint in children's toys, to the question of whether she should do so, we are not likely to excuse her behavior. She is negligent; she should have related the former to the latter. Aquinas's principle points to the pervasiveness of some dimensions of human life relative to others. Morality possesses this property and, therefore, we ought to refrain from pursuing the knowledge of various practices without at the same time referring them to moral questions. The ability of studiousness to prevent such negligence reinforces its status as a virtue; it disposes a person to pursue a breadth of knowledge sufficiently wide to incorporate moral dimensions. Oftentimes, those moral dimensions can be opaque, which brings us to the next point.

The second and fourth forms of curiosity constitute two sides of the same coin: "when a person studies to learn of one, by whom it is unlawful to be taught...when a person studies to know the truth above the capacity of his own intelligence, since by so doing people easily fall into error."<sup>13</sup> The lesson for morality that we can draw from these considerations pertains to the legitimate place of moral expertise in a community. Moral knowledge comes in two forms: the general, readily available sort and the specialized. In terms of the former, a typical person can legitimately learn from anyone, and her own reasoning suffices as a guide for what to do. We could call this "common sense" morality. However, there are also applied areas of ethics that require a sophisticated understanding of both the specific practices in question and the moral dimensions to these practices; for example, business ethics, medical ethics, and environmental ethics require a certain level of expertise. Because of the complex nature of these areas, we ought to acknowledge the role that moral experts should play and defer to their judgments in considered cases. To fail to do so is to fall into one of the two forms of curiosity above. To deny moral expertise, a person without the required education either thinks that anyone legitimately serves as an appropriate source of moral knowledge, which Aquinas would characterize as deferring to someone who lacks the necessary credentials to speak on the matter, or she assumes her own reasoning suffices for necessary knowledge, where the disjunction is clearly inclusive.

Harry Frankfurt makes the case that our culture increasingly succumbs to the problem of bullshit, or speech that lacks a proper concern for the truth.<sup>14</sup> Bullshit is not lying; to lie involves saying something that you believe to be false. The bull-shitter does

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<sup>13</sup> Aquinas, *S.T.*, II-II, 167, 1.

<sup>14</sup> Frankfurt, Harry G. *On Bullshit*. Princeton, NJ: Princeton University Press, 2005, 47.

not think what she says is false, but she lacks any substantive reason for thinking it is true. One of the consequences for a culture of bull-shitters is the prevailing belief that we are all experts about everything, which really amounts to the belief that there are no experts. Frankfurt argues that this development should be of a grave concern as it undermines the role truth should play in rational discourse.

Aquinas would agree with Frankfurt and add that bullshit is the inglorious triumph of the vice of curiosity at a cultural level. Accordingly, his account of the second and fourth forms of curiosity identifies the generic problem to which bullshit belongs. Some knowledge is difficult to obtain. We can respond to this fact in several different ways. We could turn to suspect, yet accessible, sources of information to overcome our own deficiency. We could basically ignore the difficult nature of the knowledge in question or think we have some sort of special insight that most others lack. Finally, we could rely on the expertise of those who have spent considerable time and effort the specialized knowledge we seek. Aquinas contends that if we wish to be studious and properly disposed to pursue knowledge, we must accept the last option, a strategy that dovetails with his account of wonder—our basic impulse to understand. Wonder includes, as we saw in the first section, both the acknowledgement of our own ignorance—the opposite of presumption—and the aversion to error. We are most likely to avoid errors in our moral beliefs if we are informed by experts versus those who lack any appropriate training in the field. Thus, a pathway is open to all who sincerely seek a breadth of knowledge inclusive of a moral dimension regardless of possible difficulty of that dimension.

In conclusion, the medieval designation of curiosity as a vice is unfairly criticized. For the medieval thinkers, curiosity is a vice not because it promotes intellectual inquiry, but rather because it impedes it in various ways. A proper understanding of the kinds of curiosity identified by Aquinas and others in the medieval intellectual tradition provides resources by which we can better understand deformations and, conversely, the proper characterizations of various contemporary issues. I have employed this method in the context of morality broadly construed and argued that it provides principles that aid in the articulation of morality's absolute claim on human concerns, pervasiveness, and inclusion of experts and their proper role in ethical deliberations.

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*Considering the Moral and Ethical Case for Reproductive Rights*

**Jane Ahlin**

Fargo, ND

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With a statewide vote on what is commonly called a “personhood amendment” scheduled for 2014 in North Dakota and with the passage of several laws by the 2013 North Dakota Legislature directly affecting the reproductive rights of women in the state, the ongoing debate of the issue has become especially important to North Dakota. Court challenges to the laws already are underway; however, every bit as important is the onset of a statewide discussion about the moral and ethical problems presented by the personhood referendum and the laws now being challenged. Of great concern is how the ethos of the state will be affected if reproductive rights are denied.

In many ways, the North Dakota discussion echoes that of national movements either applauding or decrying the type of abortion-centered bills passed in North Dakota. Certainly, we see the same two competing narratives in our state described by philosopher and theologian Paul Simmons as “pro-fetus” or “pro-women.”<sup>1</sup> Simplistic as that sounds, it is more descriptive than pro-life and pro-choice. The arguments on one side claim rights for all embryos to become fetuses and to be gestated until birth regardless of the health or circumstances of the women who are pregnant. The arguments on the other side assert the reproductive rights of women, including moral agency concerning contraception, in-vitro fertilization, and abortion.

Those who are pro-fetus want the state to assume control of all fetal life, insisting on one moral absolute: when a human egg and sperm unite, a human being is immediately created who should have the same rights as living citizens. In this view, the embryo - later fetus - is ascendant and the pregnant woman’s bodily integrity has no legal standing.

Those who are pro-women believe each individual woman must be in charge of her own reproductive life, taking responsibility for her decisions, including if and when to bring children into the world. She has the legal right and responsibility to act on the desire to be pregnant or the desire not to be pregnant. In this view, the state does not insert itself into her decision-making unless she has reached a point in pregnancy when the fetus has the chance of viability outside the womb.

Since the legalization of abortion in the 1973 Supreme Court ruling in *Roe v. Wade*, a cultural divide has developed between the two positions, a divide centered on abortion but encompassing much more. In large part because Republicans and Democrats now are identified with opposing philosophies on abortion, polarization of society has become even more vitriolic. An entire generation has grown up and reached

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<sup>1</sup> Paul Simmons, “Protestant Traditions” Perspectives, Religious Coalition for Reproductive Choice. <http://www.rcrc.org/perspectives/protestant.cfm>.

adulthood thinking that to be a Republican is to oppose reproductive freedom and to be a Democrat is to embrace it.

What describes the two factions today is quite different from the forms they took leading up to and immediately following the legalization of abortion. From the point in 1965 when the Supreme Court held in *Griswold v. Connecticut* that banning birth control violated a constitutional right to privacy, right up through the Supreme Court decision in 1973 concerning *Roe v. Wade* that found the same constitutional reason for abortion rights (with emphasis on doctor-patient relationships), the country's attitude toward abortion did not split along ideological lines. A movement specific to abortion had not coalesced on either side.

A short review of that time helps put the ethical and moral case for reproductive rights today into perspective. The impetus for decriminalizing abortion began as a public health concern over the problem of "hundreds of thousands of illegal abortions performed every year".<sup>22</sup> Another impetus was the legal liability of physicians in ending pregnancies when they believed their patients' best interests were served by abortion. In fact, when Justice Harry A. Blackmun announced the opinion in *Roe v. Wade*, much of what he said "was responsive to medical science and to doctors' professional judgment."<sup>3</sup> The notion that reproductive rights for women were necessary for women to be on equal economic and social footing with men became part of the discussion later - only a few years before the ruling. Not until feminist author and activist Betty Friedan spoke at a 1969 Chicago conference sponsored by the "Illinois Citizens for the Medical Control of Abortion" were basic equal rights - "civil rights" - tied to reproductive rights in public discourse.<sup>4</sup> Although the initial desire in the health community was the reform of abortion laws, the push for reform soon became a push for repeal.<sup>5</sup>

Leading up to *Roe v. Wade*, the Catholic Church categorically opposed abortion, as it had for a long time, but other religions looked at the subject anew and worked within their governing bodies to discern their positions. In statements at the time, groups as diverse as Reform Judaism (1971), the United Methodist Church (1972), the Southern Baptist Convention (1972), and the National Association of Evangelicals (1971) supported the liberalization of abortion laws and/or decriminalization of abortion.<sup>6</sup> Most religions sought middle ground where both the importance of the lives of women and the important potentiality of fetal life could be upheld.

Tangential to religious concerns, a political movement was embracing anti-abortion activism and changing the shape of the argument. As Greenhouse and Siegel put it, "The objection to abortion rights was not that abortion was murder, but that abortion rights (like the demand for amnesty [for military deserters in the Vietnam War]) validated a breakdown of traditional roles that required men to be prepared to kill and die in war and women to save themselves for marriage and devote themselves to motherhood."<sup>7</sup>

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<sup>2</sup> Linda Greenhouse and Reva B. Siegel, *Before Roe v. Wade: Voices that Shaped the Abortion Debate Before the Supreme Court's Ruling* (New York: Kaplan, 2010), Foreword x.

<sup>3</sup> *Ibid.*, 245.

<sup>4</sup> *Ibid.*, 38-40.

<sup>5</sup> *Ibid.*, 35.

<sup>6</sup> *Ibid.*, 69-74.

<sup>7</sup> *Ibid.*, 257.

If the political die was cast for national movements as they exist today, national political divisiveness did not immediately take hold. A telling point in the lack of political controversy over abortion in that era was seen in the Senate confirmation hearings for 1975 Supreme Court nominee John Paul Stevens. “[H]e was not asked a single question about abortion”.<sup>8</sup>

A Gallup poll done at the time *Roe v. Wade* was handed down in 1973 showed that “two-thirds of Americans” wanted the decisions about abortion to “be left to a woman and her doctor.”<sup>9</sup> Indeed, the polling statistics included agreement by 68% of Republicans, 59% of Democrats, and 56% of Catholics.<sup>10</sup> Through today’s lens of bitter partisan divide on the issue, it is hard to imagine that more Republicans than Democrats were pro-choice up until the late 1980s, but that’s how it was. North Dakota reflected that reality. In 1971 - two years before *Roe v. Wade* - Aloha Eagles, a North Dakota Republican legislator, introduced legislation to liberalize North Dakota’s abortion laws.<sup>11</sup> Although it did not pass, that it was proposed at all was significant. Significant, too, was North Dakota’s vote in 1975 for ratification of the Equal Rights Amendment, which, in the end, failed nationally. Although tempered by the conservative nature of the state, the winds of change were blowing in North Dakota toward greater equality for women, including economic and educational opportunities, political participation, and reproductive rights. Right behind them, however, was intense backlash that influences the ongoing argument over reproductive rights today.

Perhaps polling back then should not surprise us now. A Pew poll reported in July, 2013, showed that 63% of Americans still do not want *Roe v. Wade* overturned.<sup>12</sup> Interestingly, “[white] evangelical protestants are the only major religious group in which a majority (54%) favors completely overturning the *Roe v. Wade* decision. Large percentages of white mainline Protestants (76%), black Protestants (65%) and white Catholics (63%) say the ruling should not be overturned. Fully 82% of the religiously unaffiliated oppose overturning *Roe v. Wade*.”<sup>13</sup> In fact, the overall percentage favoring the overturn of *Roe v Wade* is only 29 per cent.<sup>14</sup>

What has changed, however, is the political chasm between Republicans and Democrats: 46% of Republicans want *Roe* overturned versus 20 % of Democrats.<sup>15</sup>

Other than the striking partisan divide, the central point in comparing the statistics from back then and today is the consistency of the numbers. This lack of change across four decades belies the political clout and aggressive moves by current Republican-dominated state legislatures - such as North Dakota’s - to make abortion illegal. The political strength of the fetal rights movement over the last two decades has resulted in Republican legislators sanctioning ideological purity in laws concerning reproductive rights. As shown by polling, society is not pushing for more abortion restrictions that the increase of anti-abortion measures in state legislatures might have us assume; rather, the push reflects the political clout of social conservatives in the Republican Party.

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<sup>8</sup> Ibid., 258.

<sup>9</sup> Ibid., 256.

<sup>10</sup> Jill Lepore, “The Politics of Planned Parenthood and Women’s Rights,” *The New Yorker*, Nov. 14, 2011.

<sup>11</sup> Ann M. Rathke, *Lady, If You Go Into Politics* (Bismarck, ND: Sweetgrass Communications, 1992), 115.

<sup>12</sup> <http://www.pewforum.org/2013/01/16/roe-v-wade-at-40/>

<sup>13</sup> Krista Tippett, “Roe v Wade at 40,” <http://www.onbeing.org>

<sup>14</sup> Ibid.

<sup>15</sup> Pewforum.org.

Traditional areas of agreement on exceptions to abortion bans that constrained legislators in prior years - rape, incest, life and health of the mother, and severe fetal abnormalities - have given way to the ultimate idea that every embryo produced is a living human being and no exceptions are appropriate. Newer areas of scientific progress - stem cell research and in-vitro fertilization (IVF), which are popular with the public - are handled in Republican-controlled legislatures by placing them outside the argument. Embryonic/fetal rights supporters deem embryonic stem cells as unnecessary for life-enhancing research on diseases such as Parkinson's and Multiple Sclerosis by citing other possibilities, such as adult stem cells that could be used.<sup>16</sup> The fetal rights belief concerning IVF is that only the number of embryos to be implanted should be created. The physicians who actually do the procedures and medical authorities on the subject counter that such limitation would be impractical, making IVF unnecessarily expensive, physically and emotionally grueling for patients, and unlikely to result in pregnancy.

While testifying against abortion bills in the 2013 legislative session, physicians providing infertility medical care in North Dakota made clear that the exemptions in the bills for IVF were not sufficient for them to continue providing the service in the state.<sup>17</sup> An example used by physicians in testimony was the cryopreservation of embryos allowing cancer patients, who are facing treatment that often causes sterility, to freeze their eggs for future use in achieving pregnancy. Not surprisingly, of particular concern to them was the referral of a personhood amendment for a statewide vote.<sup>18</sup>

Most physicians and their professional organizations expressed concern about moral and ethical problems created by legislative disregard for complexities inherent in human reproduction. The American Congress of Obstetricians and Gynecologists (ACOG) issued the following statement on April 1, 2013:

The American Congress of Obstetricians and Gynecologists (ACOG) strongly opposes all three restrictive abortion laws recently enacted in North Dakota. ACOG opposes laws regulating medical care that are unsupported by scientific evidence and that are not necessary to achieve an important public-health objective. These laws hurt the women of North Dakota and their families and do not enhance women's health or patient safety. These laws destroy the reproductive rights of women and impose unnecessary barriers that limit access to medical care.

Legislators should not needlessly interfere in the patient-physician relationship or the practice of medicine. ACOG, as an organization, joins other women's health advocates in supporting the legal right of women to obtain an abortion and opposing laws that are dangerous, unscientific, and criminalize medical care.

Physicians, not legislators, should be making medical decisions with North Dakota women about their care<sup>19</sup>

The North Dakota Medical Association, which had avoided taking any position on abortion legislation in prior sessions, also strongly opposed the abortion-related bills in 2013. The opposition of well-regarded professional groups and their members to the

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<sup>16</sup> National Institute of Health, "Stem cell basics" <http://stemcells.nih.gov/info/basics/pages/basics5.aspx>

<sup>17</sup> Stephanie Dahl, MD, Testimony for the ND Senate Judiciary Committee, Jan. 29, 2013.

<sup>18</sup> Kristen Cain, MD, Testimony for the ND Senate Judiciary Committee, Jan. 28, 2013.

<sup>19</sup> "Statement by the American Congress of Obstetricians and Gynecologists on North Dakota Abortion laws," ACOG, Washington, D.C., April 1, 2013. [http://www.acog.org/About\\_ACOG/News\\_Room/News\\_Releases/2013/North\\_Dakota\\_Abortion\\_Laws](http://www.acog.org/About_ACOG/News_Room/News_Releases/2013/North_Dakota_Abortion_Laws)

fetal rights bills went surprisingly unheeded, as if in their ideological single-mindedness, legislators were unconcerned that laws they were enacting would compromise the standard of care physicians abide by: doing what is best for the patient could result in disobeying state law.

### **Placing Women in the Debate**

In a November 2011 article for *The New Yorker*, Jill Lepore told the story of Margaret Sanger, who was tried and convicted in 1917 for operating a birth control clinic, providing contraceptive information to patients. Historically the woman credited most for bringing birth control to public awareness, Sanger knew what she was doing. She intended to challenge the law banning contraception on the grounds that the risks of childbirth were great and caused the deaths of many women; therefore, she reasoned, the law prohibiting birth control was unconstitutional. Evidently, the trial judge didn't approve of her reasoning. Incensed over Sanger's violation of law, he "waved a cervical cap from the bench" and said in his ruling "that no woman had 'the right to copulate with a feeling of security that there will be no resulting conception.'"<sup>20</sup>

Almost one hundred years later, supporters of reproductive rights for women find echoes of the judge's rant in SCR-4009, the bill passed by the 2013 North Dakota legislature that places a personhood amendment on the 2014 ballot.

Here is the text of the referendum:

*The unalienable right to life of every human being at any stage of development must be recognized and protected.*

Although the judge in the 1917 Sanger trial made his ruling before women had the right to vote and long before married women were allowed significant legal autonomy, for supporters of reproductive rights, sentiment he expressed resonates in the personhood movement. If the referred personhood measure wins at the ballot box, the North Dakota Constitution will be changed to declare every fertilized egg a human being under the law. Rights rest with the embryo/fetus, which suggest that for legal purposes, a woman becomes her womb.

Almost a half century after the landmark 1965 SCOTUS ruling in *Griswold v Connecticut* that established the right for married couples to use birth control and forty years after the landmark ruling in *Roe v. Wade* that legalized abortion, the personhood movement does more than seek to end abortion. Not only would the measure make abortion illegal, but it also would outlaw any birth control method that interferes with the implantation of a fertilized egg in a woman's womb. It would outlaw the procedure of in-vitro fertilization (IVF). Then, too, women or girls whose pregnancies resulted from rape or incest would have no legal right to end their pregnancies. Additionally, women who have miscarriages (spontaneous abortions) and their doctors could be subject to criminal investigation.

Moral and ethical concerns - when fetal rights cancel out the rights of the woman who is pregnant - are great. Simmons uses the term "invisible" to describe the pregnant

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<sup>20</sup> Lepore, "Politics of Planned Parenthood and Women's Rights.

woman's status.<sup>21</sup> The arguments put forward by fetal rights proponents, particularly in laws reflecting the personhood movement, do not ascribe any rights to the pregnant woman, as if her womb is unrelated to her bodily integrity. Her wishes and her will do not matter from the moment fertilization occurs. Her biological state - being pregnant - denies her the power to act independently.

Countering that impression of invisibility, proponents for the reproductive rights of women insist that if a pregnant woman is not allowed moral agency, she lacks full citizenship, and her civil rights are undermined. In this viewpoint, democracy, too, is undermined, because the expectation is for all citizens to be responsible for their own wellbeing and the wellbeing of their families.

The goals of the women's movement in the 1960s and early 1970s centered on equality, particularly educational and workplace opportunities, including maternity leave and access to child care. With the advent of the birth control pill and the Supreme Court decision in *Griswold v. Connecticut* making contraception more reliable and more available, the idea that controlling one's reproductive life was essential to achieving economic equality grew in importance. Despite this, the notion that women should have decision-making authority outside relational determinations involving husbands and/or family members demanded nothing less than a sea change in cultural attitudes. (For instance, from today's vantage point, it is hard to remember that married women in 1970 could not get credit cards in their own names.)

Cultural discomfort with the new attitude toward women may be reflected in the tension created by the Supreme Court decision in *Roe v. Wade* between the rights of the pregnant woman and the rights of the state to involve itself in the outcome of her pregnancy. In fact, it's important to note that the language of the decision only discusses the rights of women and their physicians in the context of the rights of the state. Nowhere are the state's rights or the rights of women and their physicians based upon the right of the fetus to be born but instead are based on the right of the state to protect potential life.

The Supreme Court was clear in validating a woman's right to abortion in the first trimester of pregnancy - under the care of a qualified physician - but also gave the state the right to regulate abortion at a point when the weight of "compelling" interest shifted from the "personal privacy" right of the pregnant woman to the state's interest in the viability of the fetus.<sup>22</sup> The Court still held that "medical judgment for the preservation of the life or health of the mother" should supersede a post-viability ban on abortion.<sup>23</sup>

The Court struck a balance that has been argued ever since. What is different about where the argument stands today from where it began is the absolutism of the pro-fetus forces. In pro-fetus arguments, nothing is conditional on the pregnant woman, nor are her rights and those of the fetus ever in contention with one another: once fertilization has occurred, embryonic/fetal rights hold sway. The suggestion is, as the judge indicated in the 1917 Sanger case, that society still will be damaged if women can copulate without consequence.

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<sup>21</sup> Paul Simmons, "Late Term Abortions, Points of Theology"  
<http://mainstreambaptists.blogspot.com/2006/11/late-term-abortion-points-in-theology.html>

<sup>22</sup> Greenhouse and Siegel, *Before Roe v Wade*, 247.

<sup>23</sup> *Ibid.*, 248.

Linda Greenhouse put it another way in an interview after the publication of her book on the abortion debate leading up to *Roe v. Wade*. "What the research did indicate to me is how multifaceted the issue is and how the word [abortion] came over time to stand for so much more than the termination of a pregnancy," she says. "It really came to stand for a debate about the place of women in the world."<sup>24</sup>

### **Religion and Public Policy**

Religion is at the heart of the ongoing conflict over reproductive rights. In the late 1970s, "a new relationship [began] emerging among Protestant evangelicals, the Catholic right-to-life movement, and the ascendant conservatives of the New Right," creating a "pan-Christian movement."<sup>25</sup> With the increased political power of religious social conservatives, many states, including North Dakota, are faced with the moral and ethical quandary of having the religious doctrine of specific faith traditions turned into public policy. Certainly, the religious nature of the personhood amendment becomes clear when the "Personhood USA" website is consulted. There, the group describes itself as follows:

Personhood is a movement working to respect the God-given right to life by recognizing all human beings as persons who are "created in the image of God" from the beginning of their biological development, without exceptions. Personhood USA desires to glorify Jesus Christ in a way that creates a culture of life so that all innocent human lives are protected by love and by law. Personhood USA serves the pro-life community by assisting local groups to initiate citizen, legislative, and political action focusing on the ultimate goal of the pro-life movement: personhood rights for all innocent humans.<sup>26</sup>

Viewed entirely as a theological perspective, the stance of personhood that equates an embryo to a human being is understandable. As an ethical imperative for a democratic society, reproductive rights supporters believe it would impose one religious dogma on the majority of Americans who do not share that belief but would be deeply affected by it. If consequences of the passage of a personhood amendment in North Dakota - including abolishing in-vitro fertilization, making some kinds of birth control illegal, forcing victims who become pregnant through rape or incest to carry pregnancies to term, and causing women who miscarry and their doctors to be subject to criminal investigation - have controversial moral and ethical dimensions, some consequences are strictly religious.

For example, Jewish families would be denied the religious right to their belief that the life of the mother is sacrosanct. In a letter to the ND Senate Judiciary Committee, the Temple Beth El Board of Directors wrote that Jewish sacred text "forbids a woman from sacrificing her own life for that of the fetus, and if her life is threatened the text permits her no other option but abortion."<sup>27</sup>

The real rub in the fetal rights movement from the viewpoint of those who support a woman's right to legal abortion is how unnecessary it is, because religious rights are not constrained by *Roe v. Wade*. Those who hold the belief that every fertilized egg is a human being are free to act on that belief and always have been. They cannot be forced

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<sup>24</sup> Linda Greenhouse, Interview by Terry Gross, "Fresh Air," NPR (WHYY Philadelphia), June 28, 2010.

<sup>25</sup> Greenhouse and Siegel, *Before Roe v. Wade*, 259.

<sup>26</sup> <http://www.personhoodusa.com/>

<sup>27</sup> Temple Beth El Board of Directors, Letter to the ND Senate Judiciary Committee, Jan. 28, 2013.



to use contraception or to seek abortion. Those who support reproductive rights view the *Roe v Wade* opinion as grounded in its affirmation of religious freedom.

Roe was an exercise in protecting religious liberty. It made three vital points: 1) neither pregnancy nor abortion should be compulsory; 2) America is a pluralistic society and opinion regarding the fetus as person reflects profoundly held religious and philosophical beliefs which are to be respected and protected; and 3) conscientiously held religious and moral values, not state interest, should prevail in family planning decisions. It was a grand victory for First Amendment rights.<sup>28</sup>

Reinforcing that idea, Rabbi Aaron Alexander wrote this in a July, 2013, blogpost:

You may disagree with my religion's definition. That I understand and respect....[However] when you attempt to legislate what my community (or any community) can and can't do based on your faith's definition, you don't just simply disagree with me. You are saying, to be blunt, that your religion is correct and mine is incorrect -- coercively. That takes a considerable amount of hubris that isn't worthy of either of our faiths, or our great country's principles, for that matter....I know you wouldn't want me to enforce my definition of life on you and your family. You'd fight that, even. If we truly value one another, as people of faith dedicated to the service of God, then we owe each other nothing less. Can we please agree to disagree and let faith communities dictate only to their own?<sup>29</sup>

Ironically, reproductive rights' supporters can point to the fact that the influence of the religious leaders pushing for fetal rights legislation does not extend to the women in the pews of their own churches when it comes to using contraception and seeking abortion.<sup>30, 31</sup> Certainly nothing has kept churches from opposing abortion rights from the pulpit nor has anyone interfered with their proselytizing in public spaces, such as the areas around abortion clinics. If there's no evidence those efforts have changed minds, their support for lobbying legislators has been successful and may be the reason they seek to do legislatively what they haven't been able to do persuasively.

### **The Problem of Silence**

As was said at the beginning of this essay, the impetus for making abortion legal grew out of a public health concern over illegal abortion. Key to the moral and ethical case for legality over the years has been affirmation from well-respected professional medical organizations, such as the American College of Obstetricians and Gynecologists, the American Medical Association, and the American Psychiatric Association. Religious support for legal abortion from mainstream Protestant denominations, such as Methodists, Presbyterians, Lutherans (ELCA), Baptists (American Baptist Church-USA) and Episcopalians, along with synagogues of Reform and Conservative Judaism and splinter groups, such as Catholics for Free Choice and Evangelicals for Choice, remains firm.

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<sup>28</sup> Simmons, "Late Term Abortions."

<sup>29</sup> Rabbi Aaron Alexander, "Abortion: Does My Faith Get A Voice?"

[http://www.huffingtonpost.com/users/becomeFan.php?of=hp\\_blogger Rabbi Aaron Alexander](http://www.huffingtonpost.com/users/becomeFan.php?of=hp_blogger_Rabbi_Aaron_Alexander)

<sup>30</sup> <http://www.gutmacher.org/media/nr/2011/04/13/index.html>

<sup>31</sup> <http://www.gutmacher.org/in-the-know/characteristics.html>

## *Moral and Ethical Case for Reproductive Rights*

The problem is that the unwavering base of support - both medical and spiritual - is mostly silent in the political arena where fetal rights forces are extremely visible and vocal. The churches, synagogues, and temples with statements supporting reproductive rights do not preach their stances from the pulpit, nor are they likely to fund their own or other lobbying organizations. Although Judaism “forbids a woman from sacrificing her own life for that of the fetus,” most Christian denominations center their support for reproductive rights on the grounds of a woman’s personal responsibility to make moral decisions in accordance with her faith: she is “free by grace and justified by faith.”<sup>32, 33</sup> Because there is no doctrinal imperative concerning contraception and abortion, pastors in denominations supporting their legality must be able to minister both to congregants who decide to have an abortion when faced with problem pregnancy and those who decide against abortion. If pastors are viewed as advocates in the public sphere, their roles as ministers in their own congregations could be diminished. Reproductive rights supporters fully understand the reluctance of ministers to engage in the public debate.

The silence of the mainstream medical community does not engender the same kind of understanding from reproductive rights supporters. In fact, many of the problems involved in keeping abortion safe and legal can be laid at the feet of mainstream medicine, which proved to be risk averse in the face of controversy. The strong avowal of support from national and state medical organizations stands in sharp contrast to the unwillingness of most clinics and hospitals to deal openly with protest.

Looking from an historical standpoint, poll numbers concerning the legality of abortion have remained remarkably constant. However, what began as a public health concern over illegal abortion decades ago has become an intractable cultural fight over the status of women in society and the role of religion in public policy. With the passage of several anti-abortion bills and the referral of a personhood measure to the 2014 ballot, North Dakota is one of the states at a crucial point, and the debate during the next year will be important. For supporters of reproductive rights, the idea that the state could go back in time to an era when contraception was limited, IVF unavailable, abortion illegal, and medical care constrained, is completely unacceptable.

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<sup>32</sup> Temple Beth El Letter.

<sup>33</sup> Simmons, “Perspectives.”



## *The Role of Humiliation in International Conflict*

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### **Introduction**

In the last couple decades, a growing number of scholars have focused on the role of humiliation in social conflict. The most productive student of this has been the Norwegian scholar Evelin Lindner, whose works include *Making Enemies: Humiliation and International Conflict* and *Emotion and Conflict: How Human Rights Can Dignify Emotion and Help Us Wage Good Conflict*.<sup>1</sup> Other notable contributions have been Avishai Margalit's *The Decent Society*;<sup>2</sup> Thomas J. Scheff's *Bloody Revenge: Emotions, Nationalism, and War*;<sup>3</sup> Thomas Lindemann's *Causes of War: The Struggle for Recognition*;<sup>4</sup> Dominique Moïsi's *The Geopolitics of Emotion: How Cultures of Fear, Humiliation, and Hope are Reshaping the World*;<sup>5</sup> Zheng Wang's *Never Forget National Humiliation: Historical Memory in Chinese Politics and Foreign Relations*;<sup>6</sup> *Humiliation: Claims and Context*, edited by Gopal Guru;<sup>7</sup> James Gilligan's *Violence: Reflections on a National Epidemic*;<sup>8</sup> *Genocide by the Oppressed: Subaltern Genocide in Theory and Practice* edited by Nicholas A. Robins and Adam Jones;<sup>9</sup> and Deepak Tripathi's *Imperial Designs: War, Humiliation, and the Making of History*.<sup>10</sup> Since humiliation is closely related to other emotions, we should also mention books such as Donna Hicks' *Dignity: The Essential Role It Plays in Resolving Conflict*<sup>11</sup> and Kwame Anthony Appiah's *The Honor Code: How Moral Revolutions Happen*.<sup>12</sup> There have also been influential papers and articles such as Donald C. Klein's "The Humiliation Dynamic."<sup>13</sup>

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<sup>1</sup> *Making Enemies* (Westport, CT: Praeger Security International, 2006) and *Emotion and Conflict* (Westport, CT: Praeger Publishers, 2009). More recently, she has published *Gender, Humiliation, and Global Security: Dignifying Relationships from Love, Sex, and Parenthood to World Affairs* (Westport, CT: Praeger Publishers, 2010) and *A Dignity Economy: Creating an Economy that Serves Human Dignity and Preserves Our Planet* (Äusserer, Germany: Dignity Press, 2011). Many of Lindner's essays are available online

<sup>2</sup> Cambridge, MA: Harvard University Press, 1996.

<sup>3</sup> Lincoln, NE: Authors Guild BackinPrint, 2000; originally published in 1994.

<sup>4</sup> Colchester, UK: European Consortium for Political Research, 2010.

<sup>5</sup> New York: Anchor Books/Random House, 2009.

<sup>6</sup> New York: Columbia University Press, 2012.

<sup>7</sup> New Delhi: Oxford University Press, 2009. This volume focuses on India.

<sup>8</sup> New York: Vintage Books/Random House, 1996.

<sup>9</sup> Edited by Nicholas A. Robins and Adam Jones (Bloomington, IN: Indiana University Press, 2009).

<sup>10</sup> Herndon, VA: Potomac Books, 2013. Tripathi focuses on the Middle East (but not Israel-Palestine) and South India.

<sup>11</sup> New Haven, CT: Yale University Press, 2011.

<sup>12</sup> New York: W. W. Norton, 2010.

<sup>13</sup> Full title: "The Humiliation Dynamic: Looking to the Past and Future," presented at the Annual Meeting of the Human Dignity and Humiliation Studies Network at Columbia Teachers College in New York, 15-

That humiliation is powerful on the personal level is quite easily recognized in cases of rape and bullying. Understanding the role of humiliation in social and international conflict has been much slower in coming. It was ignored in political thinking because of the focus on material factors, such as oil and natural resources, or on power issues. Perhaps another reason for ignoring the role of emotion is that it has been associated with women, and males preferred to ignore it.<sup>14</sup> However, emotion is increasingly recognized as of fundamental importance not only in individual psychology, but in much broader contexts as, for example, in Martha Nussbaum's *Upheavals of Thought: The Intelligence of Emotions*.<sup>15</sup> Nevertheless, emotion did play a role in some earlier examinations of social conflict, perhaps most notably Frantz Fanon's *The Wretched of the Earth*,<sup>16</sup> written by a psychiatrist critiquing French colonialism in Algeria. It may be only coincidental that scientists, especially neuroscientists, around the same time were doing new research into emotion and the brain.<sup>17</sup>

My own interest in the role of humiliation in social conflict was stimulated by my experience living with, and reflecting on, the experience of a Palestinian family with whom I have lived from time to time in the West Bank. I came to see Israel's occupation of the West Bank as a regime of humiliation. I will use Israel's occupation as a case study of humiliation later in this paper in part because I am more familiar with it, but also because it embodies the complexities of the role of humiliation in protracted conflict. I see this as an initial foray into an area of study that seems to me to provide an illuminating lens through which to view the Israeli-Palestinian conflict.

I do not claim to be breaking new ground in this paper. My goal is to systematize reflection on the role of humiliation in social conflict, and thus to suggest its usefulness as a lens for examining humiliation and humiliators. The bibliography at the end of this paper will substitute for a more comprehensive report on recent research, and it too is not as comprehensive as it could be. My hope is that others will be inspired to do further research in the role of humiliation in social conflict. What follows is a summary rather than an in-depth analysis of humiliation. It is meant to be suggestive. There are far more lines of inquiry that this has opened up for me than is possible in the paper to pursue. I hope others will do that.

Please note that this paper is about the role of humiliation in international conflict. It does not deal with interpersonal humiliation. Moreover, I do not claim that humiliation is the only or even sole factor in any international conflict, but that it is an important and neglected factor.

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16 December, 2005. Here is the link:

<http://questgarden.com/00/42/5/050821222545/files/KleinHumiliationDynamic.pdf>  
[www.humiliationstudies.org/documents/KleinLookingBackForward.pdf](http://www.humiliationstudies.org/documents/KleinLookingBackForward.pdf)

<sup>14</sup> Myra Mendible says, "Humiliation is a gendered emotion." See her "Dominance and Submission in Postmodern War Imagery," *Peace Review: A Journal of Social Justice* 17 (2005), p. 55.

<http://questgarden.com/00/42/5/050821222545/files/KleinHumiliationDynamic.pdf>

<sup>15</sup> Cambridge: Cambridge University Press, 2001.

<sup>16</sup> The initial French edition: *Les Damnés de la Terre* (1961),

<sup>17</sup> For example, Joseph LeDoux, *The Emotional Brain: The Mysterious Underpinnings of Emotional Life* (New York: Simon & Schuster, 1996) and Antonio Damasio, *Descartes' Error: Emotion, Reason, and the Human Brain* (New York: Penguin Books, 1994) and *Looking for Spinoza: Joy, Sorrow, and the Feeling Brain* (Orlando, FL: Harcourt, Inc., 2003). Primatologist Frans de Waal's *The Age of Empathy: Nature's Lessons for a Kinder Society* (New York: Random House, 2009) is also relevant.

### **The Dynamics of Humiliation**

Humiliation is the experience of having one's person violated, denied, demeaned, or devalued, including perhaps physical abuse. This can occur on the personal level, such as in rape or bullying, or on the trans-personal level, in such forms as regimes for oppressing peoples, military defeat, and ideologies and systems of devaluation and subjugation, such as societies structured on the basis of racist ideologies. Humiliation entails, among other things, loss of control over one's life aggravated by violation and abuse. The responses to humiliation can vary greatly, and can include some or all of these: shame, anger, defeat, dishonor, a desire for revenge, embarrassment, diminishment, hatred, fear, rejection, guilt, and no doubt many other emotions.

The **purpose of humiliating others** within larger social contexts is to disempower them and to control them, and at the extreme, to eliminate them. Therefore, it is important to consider both the effects of humiliation on groups of people, their possible responses to humiliation, and the motivations, techniques, and psychology of humiliators.

Humiliation typically occurs in **contexts of stark disparities in power and status**. This does not mean that subalterns cannot employ techniques of counter-humiliation, but these may be intended to diminish the degree of humiliation being experienced, to diminish the power of the humiliators, and to restore a sense of power and self-respect. We will explore these later when discussing forms of resistance to systemic humiliation.

Of fundamental importance is understanding **why humiliation can be so powerful**. The nation was startled when they heard about Slobodan Milosevic's Gazimestan speech in 1989 commemorating the 600<sup>th</sup> anniversary of the Battle of Kosovo in which Serbs suffered a humiliating defeat as well as loss of territory at the hands of the Ottoman Empire. That this old wound still festered, or at least could be used to arouse Serbs, seemed bizarre to most Americans. Humiliation clearly has staying power.

Humiliation results from an attack on a person's or group's identity, and identity is of fundamental importance to human thriving. James Gilligan, who for years served as a prison psychiatrist and interviewed countless men who had committed serious crimes, argues that the fundamental nature of respect and dignity can be seen in what people are willing to do when it is denied.

I have yet to see a serious act of violence that was not provoked by the experience of feeling shamed and humiliated, disrespected and ridiculed, and that did not represent the attempt to prevent or undo this 'loss of face'—no matter how severe the punishment, even if it includes death. For we misunderstand these men, at our peril, if we do not realize they mean it literally when they say they would rather kill or mutilate others, be killed or mutilated themselves, than live without pride, dignity, and self-respect. They literally prefer death to dishonor.<sup>18</sup>

Since identity requires the recognition of others to be created and sustained, the denial of dignity, honor, and identity can be not only powerful, but its imprint on the individual or group psyche can be virtually indelible. The need for recognition by others

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<sup>18</sup> Gilligan, *Violence*, p. 110.

is fundamental not only for individuals, but for groups and nations, though the need to have others recognize our identity and dignity also reveals internal weaknesses and vulnerabilities.<sup>19</sup> The fact that humiliation experiences persist in memory so long means that special attention—more than is possible in this paper—must be given to the manipulation of memory, especially in larger groups and in nations. Hitler, for example, exploited the memory of the humiliating nature of the Treaty of Versailles to gain power. Milosevic exploited a 600-year-old humiliation.

It seems to me that we do not yet understand why **the effects of humiliation can vary so greatly**. Anger and resentment and the desire for revenge are certainly possible responses to humiliation, but so are shame, passivity, self-hatred, and defeatism. It can be difficult to understand why some systemically devalued groups do not show more anger and resentment. One study of West Bank Muslims, for example, suggested that greater perceived levels of humiliation led more to passivity (they called it “the inertia effect”) rather than to greater willingness to sanction violence,<sup>20</sup> though the limited sample in the study as well as the design of the study (focusing on non-traumatic examples of humiliation) raise questions about its validity.

Finally, I want to call attention to the existence of **systemic forms of humiliation**, such as racism. To be effective and to be sustained, these systemic forms of humiliation require a set of conditions that will be discussed at greater length when we examine the role of humiliators. I want to suggest that there are more blatant forms of systemic humiliation (e.g., the caste system in India or the Jim Crow laws in the U.S.) as well as more subtle—and more insidious—forms of systemic humiliation. I want to suggest that the American ideology of the autonomous individual—the self-made man—belongs in the latter category. It is an ideology that evolved to undergird a capitalist society and that provides justification for disrespecting and discriminating against those who are perceived to fail the test of independence and “self-made-man-ness” (especially persons who must rely on “welfare” programs). Of course, there are inherent contradictions in this ideology since someone born wealthy is exempt from disrespect; i.e., there is a bias toward wealth. However, this ideology will not be further explored in this paper; I only want to suggest that there may be more subtle forms of systemic humiliation.

Bhikhu Parekh argues that “Societies based on institutional humiliation generally rely on four interrelated measures for their survival and stability.”<sup>21</sup>

First, they need to persuade both the dominant and dominated groups that the prevailing social system is right and just. Although every social system needs a legitimating ideology to secure consent, one based on humiliation needs it more than others because of the way it assaults the human sense of dignity. The ideology is most effective when it

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<sup>19</sup> As Daniel Statman points out, “That individuals are sufficient to bestow self-respect on themselves is an illusion. Humiliation takes advantage of this fact and seeks to injure self-respect by sending painful messages of subordination, rejection and exclusion.” From “Humiliation, Dignity and Self-respect,” *Philosophical Psychology* 13/4 (2000), p. 535.

<sup>20</sup> See “Humiliation and the Inertia Effect: Implications for Understanding Violence and Compromise in Intractable Intergroup Conflicts” by Jeremy Ginges and Scott Atran in the *Journal of Cognition and Culture* 8 (2008), pp. 281-294.

<sup>21</sup> See Parekh, “Logic of Humiliation” in *Humiliation: Claims and Context* (New Delhi: Oxford, 2009), pp. 32-34.

becomes the common sense of society.... This is achieved by embodying the dominant ideology in the major educational, cultural, and other institutions of society.... Secondly, humiliation is most easily accepted when it is accomplished by degradation. Those living in degrading economic, social, and other conditions do not have the opportunity to develop their capacities, and are easily perceived and presented as legitimate objects of humiliation. They generally fail to develop their self-respect and tend to take a low view of themselves, which makes it easier for them to accept their humiliation. ... ..a society based on humiliation uses all means at its disposal to keep the humiliated groups in conditions of poverty, squalor, long working hours, ill health, political isolation, and social marginalization. Thirdly, a society based on humiliation requires an informal and diffused system of coercion administered routinely by the dominant group. The clear boundary that such a society draws between the dominant and subordinated groups needs to be diligently guarded and enforced.... Finally, every society based on humiliation depends on the physical force of the state to sustain it.<sup>22</sup>

I think that Parekh's analysis fits well many cases of institutionalized humiliation, but not the much more subtle types of humiliation regimes such as the one suggested above involving an ideology of the autonomous individual. In spite of not relying on overt force and violence, it seems to me that it is a powerful system and an insidious one because it is based on taken-for-granted cultural assumptions.

The most extreme program of humiliation is war, which employs all or most of the possible tools for humiliation that humans have devised, including dehumanization of the "enemy;" the use of rape, looting and torture; the creation of narratives that justify the use of violence and normalize killing; exaggeration of the threat posed by the "enemy;" appeals to honor besmirched; the manipulation and exploitation of memories of past humiliation; and more.

### **The Mentality and Tactics of Humiliators**

Our focus is on systemic forms of humiliation, and on the mentality that enables humiliators to employ humiliation. I assume that there is a built-in human repugnance or disgust at violating others, and that most, if not all, systems of morality embody this fundamental sense that violating others is wrong. This means that humiliators need to conceal the immorality of what they are doing by various means, creating a bubble of self-righteousness and virtue in which they can live. Of course, this also means that they are vulnerable to having this bubble be burst. Because of that, the bubble has to be very strong, reinforced with myths and ideologies. Both the existence and the purposes of humiliation must be denied and concealed from themselves, for example, by maintaining myths of moral or other superiority, as in colonialism and racism. Humiliators, to be effective in large-scale contexts, need to gain and maintain control of communication systems, to have a monopoly on defining reality, and to manipulate communal memory. The use of memorials and museums to accomplish this has been examined, and research continues.<sup>23</sup>

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<sup>22</sup> Ibid., pp. 32-33.

<sup>23</sup> See, for example, James E. Young, *The Texture of Memory: Holocaust Memorials and Meaning* (New Haven and London: Yale University Press, 1993); Kirk Savage, *Monument Wars: Washington, D.C., the National Mall, and the Transformation of the Memorial Landscape* (Berkeley: University of California Press, 2011). Savage has a review of scholarly literature on commemoration at <http://www.nps.gov/history/history/resedu/savage.htm>. The role of the American flag has been examined,

One method of accomplishing these goals is to assert the humiliator's **victimhood**. Of course, this will have a basis in fact, but it will become foundational for the group's identity. Asserting and clinging to claims of victimhood can be used to assert one's morality and purity of motive and method, and thus also to justify violence against the putative Enemy. The implacable hostility of the Enemy must be constantly emphasized, and the extreme danger the Enemy poses to the group. Prejudice against those within or without who can be associated with the Enemy will help ensure popular acceptance of the victimhood narrative. Physical and/or emotional distance from the Enemy will help maintain stereotypes of the Enemy's hostility. Victimhood also legitimizes insensitivity to the suffering of the Enemy, including suffering imposed upon the Enemy. The successful assertion of victimhood requires the recognition by others of the group's suffering, which in turn will help to shield it from criticism. I will claim that Israel has adopted this strategy, and the same could be argued for the United States' "War on Terror." No doubt countless other examples could be cited.

As noted earlier, a frequent characteristic of systemic forms of humiliation and of the construction of victimhood narratives is the manipulation and exploitation of social memories. Memory is malleable, and the powerful are skilled at exploiting memory and elaborating versions of "memories" or historical narratives that can be used for their purposes. These constructed memories need to have some credible basis, but they are likely based on half-truths or less, and often may be entirely made up out of thin air, but credible to the subjects because they have been persuaded that the Enemy would do such things, while We would do noble things.

According to Zheng Wang<sup>24</sup>, China faced a problem after Tiananmen Square and their violent suppression of dissent: how to mobilize support for the government now. Wang says that the mantra, "Never forget national humiliation," was deliberately chosen—and made omnipresent throughout China—as a way of regaining the support of the Chinese masses. The humiliation referred to was the insulting treatment of the West toward China, especially in the Opium Wars, as well as the Japanese invasion of China, including such things as the "rape of Nanking." This campaign, says Wang, has profoundly shaped China's relationships to its people and its foreign policy. It is an example of the construction of a victimhood narrative.

Later, I will examine the role that victimhood plays in the Israeli-Palestinian conflict, where two peoples who have legitimate claims to victimhood are responding in rather different ways to their histories of victimization.

### **Forms of Resistance to Systemic Humiliation**

Resistance to systemic humiliation, I am suggesting, is most likely to arise from among the humiliated primarily in the form of violence toward the humiliators. When resistance takes a non-violent and more strategic approach, I suggest, usually there will be leadership from among the humiliated, often with support from outside. The kind of leadership that arises will largely determine the kind of resistance that emerges. Non-violent forms of resistance require a large measure of creativity and discipline that is not required in rioting or other poorly focused forms of resistance.

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e.g., by Carolyn Marvin and David W. Ingle in *Blood Sacrifice and the Nation: Totem Rituals and the American Flag* (Cambridge: Cambridge University Press, 1999).

<sup>24</sup> *Never Forget National Humiliation*, cited earlier.



The primary task needed to effectively resist systemic humiliation is that of **restoring courage and reclaiming dignity**, and these belong together. Since humiliation involves the denial of the dignity and rights of the humiliated, this dignity must be restored. We see this in various “pride” movements, such as Black pride or Gay pride. One of the most powerful modern means of restoring dignity is the human rights movement, which asserts the dignity of the oppressed and humiliated and their right to seek the satisfaction of their human needs. However, when human rights becomes a plank in a nation’s foreign policy, as has been the case with the U.S., it is likely to be inconsistently applied and often used as a tool to punish certain nations that the nation wishes to punish and humiliate.

A second major task needed to generate a movement of resistance to systemic humiliation is the **restoration or summoning of courage**. Gene Sharp talks about the need of the humiliated to “cast out fear.”<sup>25</sup> Fear, he says, is used by rulers to obtain and maintain political dominance over their subjects. Sharp says he is not a pacifist but a realist. “*By placing confidence in violent means, one has chosen the very type of struggle with which the oppressors nearly always have superiority.*”<sup>26</sup> The humiliated have been cowed by the abusive power of the oppressor, and naturally fear the consequences of asserting themselves. This must be overcome. In fact, the civil rights song, “We shall overcome,” is an example of trying to awaken the sense that change is possible, and therefore that the humiliated may dare to join the resistance.

There are many forms of nonviolent resistance to systemic humiliation. Gene Sharp’s three-volume exposition of *The Politics of Nonviolent Action* lists many examples. His analysis and principles were summarized and made available free online in *From Dictatorship to Democracy: A Conceptual Framework for Liberation*, which has been downloaded and studied by many groups who have, in fact, succeeded in throwing off dictators, though the transition to democracy has been a much more rocky road. Interestingly, Sharp once met with Yasser Arafat, trying to convince him of the power and effectiveness of nonviolent resistance. The Palestinian non-violent activist, Mubarak Awad, one of the key leaders in the largely nonviolent First Intifada, whose nonviolence was rewarded with permanent eviction by Israel, organized a delegation in 1989 to meet with PLO leaders in Tunis, including Arafat and Mahmoud Abbas (the latter responded positively). Gene Sharp was among this delegation. In a week of meetings, he explained in detail how Palestinians could nonviolently resist the Israeli occupation, but Arafat disagreed. Later, Sharp returned to Israel to press his case, but failed to convince enough of the leaders, including Arafat.<sup>27</sup>

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<sup>25</sup> Gene Sharp, *The Politics of Nonviolent Action* (Boston: Porter Sargent, Publishers, 2003) is a three-volume work: Part One: *Power and Struggle*; Part Two: *The Methods of Nonviolent Action*; and Part Three: *The Dynamics of Nonviolent Action*. Sharp has brought his analysis and ideas together in a more accessible form in *From Dictatorship to Democracy: A Conceptual Framework for Liberation*, published by Sharp’s Albert Einstein Institution (Fourth U.S. Edition 2010). It can be downloaded at <http://www.aeinstein.org/organizations/org/FDTD.pdf>. This 93-page manual has been used by the leaders of many of the recent movements that have toppled dictatorships, and has been translated into numerous languages.

<sup>26</sup> *From Dictatorship to Democracy*, p. 4 (his emphasis).

<sup>27</sup> See *A Quiet Revolution: The First Palestinian Intifada and Nonviolent Resistance* by Mary Elizabeth King (New York: Nation Books, 2007), pp. 272-276.

Resistance need not take dramatic form. For example, in the Occupied Territories, resistance can take the form of simply remaining there and refusing to leave the West Bank or Gaza. Pastor Mitri Raheb of Christmas Lutheran Church in Bethlehem, who has created a constellation of community programs under the umbrella of the Diyar Consortium, has placed heavy emphasis on teaching and celebrating the arts. Raheb claims that a people imprisoned within a city surrounded by walls needs to be able to imagine a different future; their creativity needs to be stimulated and released. This too is a form of resistance. Of course, Gandhi and Martin Luther King provided leadership in other forms of resistance. Jacqueline Bussie suggests that laughter can be a form of resistance.<sup>28</sup> Walter Wink has shown that Jesus too offered specific, concrete responses to humiliation, though Wink does not explicitly focus on humiliation.<sup>29</sup>

Hope is also a form of resistance to systemic humiliation. Hope of this kind has little to do with optimism. It is a defiant refusal to be crushed in spirit. St. Paul seems to have understood how such hope can emerge. To Christians in Rome, Paul wrote, “And not only that, but we also boast in our sufferings, knowing that suffering produces endurance, and endurance produces character, and character produces hope, and hope does not disappoint us, because God’s love has been poured into our hearts through the Holy Spirit that has been given to us” (Romans 5:3-5). By “sufferings,” Paul was referring to the harassment and ill treatment he received in various places—experiences of humiliation. Suffering, he claimed, can make it possible for us to endure a great deal, and if we can do that, our character is strengthened, and it is this strength of character that enables hope. Of course, it is not true that this chain of moral formation always works this way. Often, the result is the exact opposite: suffering produces a sense of defeat and leads nowhere. The key comes at the end of Paul’s chain: the sense of being loved and of having dignity is what enables the whole chain to work. Those who have visited people who live in utter poverty often are astonished to find there a deep joy and hope that the visitors cannot imagine given the deplorable circumstances. Their joy and hope is a form of resistance. Objectively, there may be no basis for hope at all, and yet the humiliated often are able to maintain this defiant hope in spite of the apparent hopelessness of the situation. The key, as Paul asserted, was a sense of one’s dignity, one’s being loved and recognized as a human being.

There are many reasons why non-violent resistance works.<sup>30</sup> A major reason is that non-violent resistance does not demonize the humiliators and instead challenges them to listen to their better angels. The discipline needed for effective nonviolent resistance builds solidarity among the oppressed, and maintains a clearer focus on the

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<sup>28</sup> Jacqueline Bussie, *The Laughter of the Oppressed: Ethical and Theological Resistance in Wiesel, Morrison, and Endo* (New York: T & T Clark International, 2007).

<sup>29</sup> See Walter Wink, *Engaging the Powers: Discernment and Resistance in a World of Domination* (Minneapolis: Fortress Press, 1992), pp. 175-193. This chapter is entitled “Jesus’ Third Way: Nonviolent Engagement.” The other two ways are the traditional flight or fight. Wink’s careful interpretation of texts often seen as compliant and passive (e.g., turn the other cheek) shows that in these very specific responses, Jesus is urging tactics that recognize the huge disparity in power between the peasants whom he addresses and the authorities in Galilee at that time, and that counsel resistance to humiliation and to dehumanization.

<sup>30</sup> See, for example, Erica Chenoweth and Maria J. Stephan, *Why Civil Resistance Works: The Strategic Logic of Nonviolent Conflict* (New York: Columbia University Press, 2011). For numerous examples of the effectiveness of nonviolent resistance, see Peter Ackerman and Jack Duval, *A Force More Powerful: A Century of Nonviolent Conflict* (New York: Palgrave, 2000).

goals of the movement. At the same time, nonviolent resistance has to entail the exposure of the real nature of the humiliators. It requires truth-telling that rips apart the veil humiliators use to conceal the true nature of their regime both to themselves and to the outside world.

But resistance can also take forms that are very violent, often unfocused and lacking in strategy, for example, in rioting. In recent decades, we have also learned that the oppressed can carry out more disciplined and extreme violence in the form of genocide.<sup>31</sup>

One form of subaltern resistance is the glorification of “martyrs.” I suggest that this is usually, though not always (think Tunisia recently) linked to violent resistance, and arises out of a strong sense of desperation. People may be designated martyrs both if they are simply victims of oppressor violence and if they use some form of self-immolation. Martyrdom mythologies are usually associated with extreme disparities of power. It may be that those who destroy themselves do so because they have internalized the humiliation that they and their people have experienced. The popular notion that suicide bombers or their families undertake to kill themselves in order to bask in the glory of being a martyr is simply not credible.<sup>32</sup>

There are more reasons why violent resistance often fails to alter situations of systemic humiliation than it is possible to examine here. But these include the fact that the humiliated often lack the means to actually overthrow or destroy the humiliators. Violent resistance also often fails to mobilize the support of the humiliated because they may be disgusted by the violence, or negatively affected by it. However, if the humiliators respond viciously to violent resistance, that itself may mobilize the support of the humiliated.

### **Case Study: Israel and the Occupied Palestinian Territories**

Since the salience of humiliation as a lens for understanding social conflict came to me in connection with reflecting on the Israeli-Palestinian conflict, I will use that conflict as a case study in the role of humiliation in social conflict.<sup>33</sup> Many factors in the conflict are not addressed here, nor do I claim that humiliation is necessarily the most important factor in making the conflict intractable. But humiliation, I argue, is a very important factor, and one that is rarely addressed.

Some understanding of the background to the conflict is necessary.

First, it must be said that the conflict is NOT an instance of some ancient hatred of Jews and Arabs. On the contrary, Jews and Arabs indigenous to Palestine in the mid-

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<sup>31</sup> See *Genocide by the Oppressed* mentioned earlier.

<sup>32</sup> This has been shown by Robert A. Pape, *Dying to Win: The Strategic Logic of Suicide Terrorism* (New York: Random House, 2005). “The root cause of suicide terrorism is foreign occupation and the threat that foreign military presence poses for the local community’s way of life” (p. 245).

<sup>33</sup> This is not the first effort to explore the role of humiliation in the Israeli-Palestinian conflict. One example is David Lacey’s “The Role of Humiliation in the Palestinian-Israeli Conflict in Gaza” in *Psychology and Society* 4/1 (2011), pp. 76-92. My approach is somewhat different, and especially differs in our interpretation of Israeli and Palestinian history. An important and insightful contribution is “Siege Mentality in Israel” by Daniel Bar-Tal and Dikia Antebi in *Ongoing Production on Social Representations—Productions Vives sur les Représentations Sociales* 1/1 (1992), 49-67. A brief commentary by Todd Gitlin, “The Politics of Victimhood” was in the May/June 2002 issue of *Mother Jones*.

19<sup>th</sup> century and earlier generally got along well; this was also true of relations among Jews, Christians, and (after the 634 AD Islamic conquest of Palestine) Muslims. It was not until massive numbers of emigrant Jews began arriving in the late 19<sup>th</sup> century, and especially in the early 20<sup>th</sup> century, that Jews and Arabs came increasingly into conflict.

For most of the last 2000 years in Palestine, the Jewish presence has been relatively small. Jews probably predominated in the land of Palestine into the 4<sup>th</sup> century, during which there was rapid growth of the Christian community.<sup>34</sup> After Rome put down two Jewish revolts in 66-70 and 132-135 AD, Jews left Jerusalem and moved north to the Galilee. The co-existence of Christians and Jews in 4<sup>th</sup>/5<sup>th</sup> century Capernaum (in the Galilee) is graphically shown by the remains of a large, impressive synagogue (built of expensive limestone, not the local basalt) and the much less impressive remains of a Christian shrine. Clearly, the Jewish community was the stronger of the two; nevertheless, they lived together, and the two structures are close to each other. However, during those early centuries, there were important Christian communities (co-existing with Jewish communities) in Caesarea Maritima, Jerusalem, Bethlehem, and elsewhere. After the 4<sup>th</sup> century, the Jewish presence in Palestine diminished. Until the Islamic conquest of Palestine in 634, Christians predominated, and continued to do so even during periods of Islamic rule.<sup>35</sup> The Judean Desert was pocked with monasteries during the early development of monasticism. Accurate figures for populations for this period, however, are not to be had. Many Christians and Jews converted to Islam after the 7<sup>th</sup> century.

The Crusader period (1099-1291) saw a resurgence of the Christian population, in part as a result of the settlement of Crusaders in Palestine.<sup>36</sup> This also explains the presence even today of Arabs with blond hair and blue eyes.

Palestine was primarily a Muslim country during the Mamluk Period (1291-1517) and the Ottoman Period (1517-1917). "In the 1530s, there were only five thousand Jews living in Palestine when it had a population of 157,000; in the late seventeenth century, the Jewish presence had dwindled to two thousand out of a population of 232,000; and in 1800, there were seven thousand Jews out of a population of 275,000."<sup>37</sup> During these times, there was a Muslim majority and a significant Christian minority.

Jewish emigration to Palestine began in 1882 with the first wave (or "Aliyah," the Hebrew term) of Jews. A second Aliyah occurred from 1904-1914, and increasingly large groups of Jews continued to emigrate to Palestine. In 1914, even after the beginnings of

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<sup>34</sup> See Günter Stemberger, *Jews and Christians in the Holy Land: Palestine in the Fourth Century* (Edinburgh: T & T Clark, 2000), pp. 17-21; also see *Palestine in Late Antiquity* by Hagith Sivan (Oxford and New York: Oxford University Press, 2008). Sivan covers the period 300 to 600 A.D.

<sup>35</sup> An effort was been made to identify Christian villages from the early periods by Bellarmino Bagatti, whose findings were published in three volumes, *Ancient Christian Villages of Galilee* (Italian, 1971; English, 2001); *Ancient Christian Villages of Samaria* (Italian, 1979; English, 2002); and *Ancient Christian Villages of Judaea and the Negev* (Italian, 1983; English, 2002). All were published in Jerusalem by the Franciscan Printing Press.

<sup>36</sup> See Ronnie Ellenblum, *Frankish Rural Settlement in the Latin Kingdom of Jerusalem* (Cambridge: Cambridge University Press, 1998).

<sup>37</sup> M. Shahid Alam, *Israeli Exceptionalism: The Destabilizing Logic of Zionism* (New York: Palgrave Macmillan, 2009), p. 52. Alam was citing numbers from Israeli demographer Sergio Della Pergola (whose book was not available to me).

Jewish immigration, Palestine was still 92% Palestinian/Arab and only 8% Jewish.<sup>38</sup> The Arab population included a significant number of Christians.

About 80% of the Arabs living in the part of Palestine that became the state of Israel either fled or were forced to leave, and were never allowed to return. It has been persuasively argued that this was an act of ethnic cleansing,<sup>39</sup> and it continued in 1967 (when as a result of the “Six-Day War,” Israel gained control of the West Bank from the Jordanians) and after. Palestinians call this the “Catastrophe” (the Nakba).<sup>40</sup> Over 700,000 Palestinians were displaced, and hundreds of their villages were depopulated or destroyed.<sup>41</sup> Those not destroyed were usually taken over by Jewish immigrants. In some cases, Jewish settlements were later built over the destroyed villages. Palestinians who were forced out usually left nearly all their belongings behind because Zionist militia told them they would be able to return in a few weeks.<sup>42</sup> Palestinian refugees from 1948 and 1967 continue to seek the “Right of Return,” a right granted to any Jew anywhere in the world through Israel’s “Law of Return.”

Palestinians are the indigenous people of Palestine. Before the state of Israel was created in 1948, Jews as well as Arabs called themselves “Palestinians.” About 20% of the Israeli population today is Arab (Muslim and Christian), and many of these now identify as Palestinian despite being citizens of Israel.<sup>43</sup> Through their history, Palestinians have been mainly farmers,<sup>44</sup> so the loss of their villages and lands was a terrible blow.

Palestinians are Arabs, but (like Jews) they are really a mixing of many different people, including Arabs from the Arabian Peninsula, but also including Egyptian, Syrian, and Crusader blood, among others. They are Arabs primarily because they speak Arabic. Many Palestinians trace their heritage to the Ghassanids, an Arab tribe that migrated from Arabia in the 5<sup>th</sup> century to the area now called Jordan, Palestine, and Syria. They were a

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<sup>38</sup> See the figures in the *Atlas of the Conflict: Israel-Palestine*, by Malkit Shoshan (Rotterdam: 010 Publishers, 2010), pp. 171-197.

<sup>39</sup> See Ilan Pappé, *The Ethnic Cleansing of Palestine* (Oxford: Oneworld Publications, 2006).

<sup>40</sup> See *Nakba: Palestine, 1948, and the Claims of Memory* edited by Ahmad H. Sa’di and Lila Abu-Lughod (New York: Columbia University Press, 2007) and *The Palestine Nakba: Decolonising History, Narrating the Subaltern, Reclaiming Memory* by Nur Masalha (London and New York: Zed Books, 2012).

<sup>41</sup> An accounting of over 400 destroyed villages can be found in *All That Remains: The Palestinian Villages Occupied and Depopulated by Israel in 1948*, edited by Walid Khalidi (Beirut and Washington, DC: The Institute for Palestine Studies, 1992). An effort to record the material losses suffered by evicted Palestinians has been made by Michael R. Fischbach, *Records of Dispossession: Palestinian Refugee Property and the Arab-Israeli Conflict* (New York: Columbia University Press, 2003). Fischbach has done the same for Jewish property lost when they fled or were forced out of Arab countries: *Jewish Property Claims Against Arab Countries* (New York: Columbia University Press, 2008).

<sup>42</sup> One of the major Israeli myths exploded by the “New Israeli Historians” has been the myth that Arab leaders told Arabs to leave, and that they would rid the country of the Zionist militias quickly so the Arab residents could return. In other words, the Arab “Nakba” of 1947-48 was the result of Arabs simply fleeing. The literature on this is too extensive to cite here. For a review of the question, “Did They Leave or Were They Pushed?” see the article of that title by Avi Shlaim in *Israel and Palestine: Reappraisals, Revisions, Refutations* (London: Verso, 2009, 2010), pp. 54-61.

<sup>43</sup> Current population figures for Israel, the West Bank, Gaza, and East Jerusalem may be found at the website of the CIA World Factbook (<https://www.cia.gov/library/publications/the-world-factbook/>).

<sup>44</sup> “Palestine has always been a country of farmers.” From *The Palestinian People: A History* by Baruch Kimmerling and Joel S. Migdal (Cambridge, MA and London: Harvard University Press, 2003), p. 4.

Christian tribe that became the first Arab Christian kingdom.<sup>45</sup> Palestinian connections to earlier inhabitants of Palestine are not known, but it is likely that some of their roots extend to the ancient Canaanites. Some of the oldest evidences of agriculture are found in Palestine (beginning around 10,000 years ago, long before the arrival of the Hebrews), and the terraces in the central hill country (now the West Bank) have a history going back many thousands of years.<sup>46</sup> Palestinians continued this form of agriculture, especially the olive tree, which is native to Palestine and Syria, but including orchards of lemons, oranges, almonds, pistachios, and pomegranates, not to mention sheep and goats, wheat and barley, chickpeas, herbs and numerous vegetables.

Palestinians have been under occupation for hundreds of years, though there is also a long—but little known—history of popular resistance to occupation.<sup>47</sup> It is sometimes said that there has never been a Palestinian state. And, of course, that is true, but then the notion of a nation state is a Western notion foreign to the Middle East, and only imposed upon it by the Western powers after World War I. That this imposition has been less than successful is evident in the many struggles in the Middle East. Palestinians are the most literate of the Arabs in the Middle East, with a rate only slightly below the literacy rate for Israeli Jews. Education is highly valued. But the Palestinian economy is in shambles, for a variety of reasons, but primarily as a result of the Israeli occupation. However, before I turn to the Israeli occupation, I need to set the stage by describing the mentality of the Zionists who created the state of Israel.

### **The Construction of Israel's Victimhood Narrative**

That Jews have suffered not only humiliation, but terrible persecution, for centuries should be well known, though the extent of it is not really appreciated by most non-Jews. Jews generally have fared much better in Muslim lands than in Christian countries. For example, the 700 year period when Spain was at least partly under Muslim rule was also a golden age for Jews, but that ended with the Christian “Reconquista” of Spain, and the expulsion of both Muslims and Jews in 1492. Many of the Jews then fled to the Ottoman Empire, which welcomed them. That Christians have been the main persecutors of Jews is not just, in my judgment, simply a failure to live up to their Christian values; there are fundamental flaws in Christian theology, and worse, a virus of contempt that has infected much or most of Western Christianity. The story is rather different among Eastern Christians; in fact, far more than it had been supposed previously, Jews and Christians in many places did not part company until many centuries after Christ.<sup>48</sup>

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<sup>45</sup> See Yasmine Zahran, *Ghassan Resurrected* (London: Stacey International, 2006).

<sup>46</sup> For the terraces, most of which are used for olive trees, see Ghattas J. Sayej, “The Origin of Terraces in the Central Hills of Palestine: Theories and Explanations” in *The Landscape of Palestine: Equivocal Poetry*, edited by Ibrahim Abu-Lughod, Roger Heacock, and Khaled Nashef (BirZeit, West Bank: BirZeit University Publications, 1999), pp. 201-209.

<sup>47</sup> See Mazin B. Qumsiyeh, *Popular Resistance in Palestine: A History of Hope and Empowerment* (New York and London: Pluto Books, 2011). The earliest popular uprising that Qumsiyeh mentions occurred in 1808 under Ottoman rule.

<sup>48</sup> See, e.g., *The Ways that Never Parted: Jews and Christians in Late Antiquity and the Early Middle Ages*, edited by Adam H. Becker and Annette Yoshiko Reed (Minneapolis: Fortress Press, 2007; first published by J. C. B. Mohr [Paul Siebeck] in Tübingen in 2003).

The origins of the Zionist movement go back to the late 19<sup>th</sup> century when some Jews asserted that assimilation to European culture had not really ended a deep strain of anti-Semitism in Europe. It coincided with the era of high imperialism in Europe (1880-1914). Imbued with Western notions of the nation state and of colonialism,<sup>49</sup> they sought the creation of a state for Jews, though the early goal was identified as a “home for Jews.” Israel was not created in response to the Holocaust; its origins go back well before that. However, the Holocaust fundamentally changed the whole situation not only because of the decimation of the Jewish population of Germany and most of Eastern Europe, but also because many European Jews were horrified at the spectacle of Jews seemingly going to their death like sheep to be slaughtered.

That many Zionists were offended by how their fellow Jews went to their death in the 20<sup>th</sup> century Holocaust, however, goes back farther in history. Many Jews who were committed Zionists had a certain contempt for the Eastern European Jews who were caricatured as pale, weak scholars studying Torah but lacking skills and too timid to engage in a nation-building project. This strain of Zionism, which came to dominate in Palestine, was thus a response to humiliation, or more precisely a rejection of what was perceived as a weak, passive Diaspora Judaism, that needed to be replaced by the “New Jew,” who would be tough, powerful, committed to the land and to farming, secular, and unwilling to acquiesce to subordination or oppression. One Israeli scholar has said that:

Perhaps the greatest problem with the Israeli national narrative is that in it the history of Diaspora Judaism appears as nothing more than one long history of shameful weakness, in which Jews had endured passively persecution and humiliation which had led in the end to going like sheep to the slaughter block. This dismissal of the Diaspora was the basis for the myth that Israel has brought forth a new, manly, hard Jew, the ‘New Jew,’ who should cause to be forgotten for all time the weak, over-intellectual Jew.<sup>50</sup>

Idith Zertal summarizes the analysis of Zionism’s “negation of Exile.”

As others have said [she cites articles in Hebrew], the rejection of the Diaspora, the total rebellion against it and all it represents, was a central, formative ethos of activist revolutionary Zionism. In fact, revolutionary Zionism negated not only the Diaspora’s way of life; it intended to utterly obliterate the Diasporic soul of the revolutionary Zionists themselves, and along with it the past, the entire two thousand-year history of the Exile.<sup>51</sup>

How this “New Jew” mentality was implemented in popular pre-1948 culture has been analyzed by Oz Almog in *Sabra: The Creation of the New Jew*.<sup>52</sup> As Almog notes, “The Zionist revolution is generally presented as a revolution against the traditional Jewish world” and a rejection of the Diaspora, with its life of accommodation. Almog’s sociological analysis, based on a rather exhaustive examination of popular culture in pre-

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<sup>49</sup> On the colonial character of Zionism, see Ilan Pappé, “Zionism as colonialism: A Comparative View of Diluted Colonialism in Asia and Africa,” *South Atlantic Quarterly* 107 (2008), pp. 611-633. The first bank created by the World Zionist Organization was called the “Jewish Colonial Trust.”

<sup>50</sup> Carlo Strenger, *Israel: Einführung in ein schwieriges Land*, p. 151 (my translation).

<sup>51</sup> From *Catastrophe to Power: Holocaust Survivors and the Emergence of Israel* (Berkeley: University of California Press, 1998; the Hebrew version came out in 1996), p. 8.

<sup>52</sup> Translated from the Hebrew by Haim Watzman. Berkeley and London: The University of California Press, 2000. The Hebrew edition came out in 1997.

1948 Israel, shows how the image of the “sabra”<sup>53</sup> was created in the 1930s, 1940s, and 1950s, especially on the communal farms (the *moshavim* and the *kibbutzim*). In fact, Almog understands sabra culture as a civil religion, merging European nationalism and socialist utopianism, legitimated by the use of some basic themes of traditional Judaism (in secular dress) including the myth of redemption (understood—contrary to Jewish tradition—as something to be accomplished by humans, not by God through a messiah). It was primarily a youth movement, and a very small one at that, but it heroized the sabra, making the sabra a cultural icon. He calls the Zionist *moshavim* and the *kibbutzim* the “secular yeshivas” of the sabra movement. Sabras had their own linguistic peculiarities, their own dress (including the use of the Bedouin kefiyeh or headdress), and their transformation of traditional Jewish holidays into the agricultural festivals that they originally were.

The sabra movement was closely tied politically and ideologically to the labor movement, and the Labor party in Israel, which dominated Israel’s politics for many years. So when, in the 1977 elections, Labor was eclipsed for the first time by Likud, this also marked the symbolic eclipse of the sabra movement, which had been increasingly criticized in the years previous. However, many of the themes of the sabra movement, especially the icon of the tough Jew incarnated in the Israeli Defense Forces, persisted, as did the negative and superior attitude toward Arabs. As Almog points out, “The Arab was not described positively or negatively so much as he was shunted aside, virtually eliminated from consciousness.”<sup>54</sup> A recent study of Israeli textbooks shows that this remains: Arabs, and Palestinians in particular, are not so much demonized as simply missing from history, as though they never existed.<sup>55</sup> This is no doubt one of the results of the intentional separation from Arabs which has characterized Jewish settlement since at least the second Aliyah.<sup>56</sup> Nevertheless, there is a great deal of overt racism in Israeli society, especially among the more radical Israeli settlers who often scrawl a common mantra, “Death to the Arabs,” on Arab houses and vehicles. Jewish fundamentalism and terrorism are serious problems, especially in connection with the Israeli settlements.<sup>57</sup> Palestinians also show signs of racism, but their protests are primarily against the Israeli occupation, not Jews as such.

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<sup>53</sup> “Sabra” is widely understood to refer to someone born in pre-1948 Palestine. However, while this is true, Almog insists that sabra was understood then in a much more specific sense. The word “sabra” is Hebrew for the prickly pear cactus that, ironically, is not native to Palestine.

<sup>54</sup> Almog, *Sabra*, p. 194.

<sup>55</sup> See *Palestine in Israeli School Books: Ideology and Propaganda in Education* by Nurit Peled-Elhanan (London: I. B. Tauris, 2012); also *Stereotypes and Prejudice in Conflict: Representations of Arabs in Israeli Jewish Society*, by Daniel Bar-Tal and Yona Teichman (Cambridge: Cambridge University Press, 2005).

<sup>56</sup> These developments and others are traced by Gershon Shafir in *Land, Labor and the Origins of the Israeli-Palestinian Conflict, 1882-1914* (Berkeley: University of California Press, 2006). Shafir argues that “Separation was the result, not the cause, of the Israeli-Palestinian Conflict” (p. xii). Shafir also demonstrates the formative role played by the Labor movement, which involved almost exclusively Ashkenazi Jews; the changing demographics of Israel played a crucial role in marginalizing the Labor party, especially the immigration of Sephardic Jews.

<sup>57</sup> See, for example, *Jewish Terrorism in Israel* by Ami Padahzur and Arie Perliger (New York: Columbia University Press, 2009, 2011 [paper]); *Jewish Fundamentalism in Israel* by Israel Shahak and Norton Mezvinsky (London: Pluto Press, 1999); and *Terror in the Holy Land: Inside the Anguish of the Israeli-Palestinian Conflict*, edited by Judy Kuriansky (Westport, CT: Praeger, 2006).



1977 not only marked the victory of the Likud over Labor, it marked the victory of revisionist Zionism, and thus also the more open adoption of a vision of a Palestine empty of Palestinians and fully under the control of the Jews.<sup>58</sup> Despite the well-known mantra, “A land without people for a people without land,” Zionists knew better: Palestine was already populated by Arabs. So the notion of “transfer,” that is, of getting rid of the Palestinians, had long been a Zionist goal, though not always an explicit one.<sup>59</sup>

Israelis generally, but especially the Zionists, have had a deeply ambivalent view of the Holocaust. As Almog shows, the sabra movement had a certain contempt for Diaspora Judaism, and when details of the Holocaust were learned, they had contempt for the apparently weak Jews who were victims, though they heroized those who resisted, but even more troubling were Jewish collaborators in the Nazi concentration camps. However, Ben-Gurion saw in the tragedy of the Holocaust a political opportunity: he advocated “exploiting the Jewish tragedy” in order to build the nation.<sup>60</sup> Zionism required heroic images of the New Jew, not images of the passive Jew. This was reflected in early Israeli discussions (the early 50s) about how to commemorate the Holocaust.

It could be argued that memory of the Shoah was not neglected so much as merely subsumed in the greater task of state building during the early 1950s. But this was also a time in Israel when bare mention of the Shoah, or the fact that one had survived it, might have been met with surly contempt. It was a time when survivors were still being shamed into silence by those claiming the foresight to have left Europe before the onslaught. In the early statist’s view, the Shoah was redeemable—hence memorable—by little more than instances of heroism and the Jewish courage it evoked in some of its victims, the hopelessness of Jewish life in exile, and the proven need for a state to defend Jews everywhere.<sup>61</sup>

This probably explains why many Holocaust survivors in Israel continue to live in poverty.<sup>62</sup> But, most emblematic is the ambiguity built into Israel’s major Holocaust museum, Yad VaShem. As James Edward Young, Professor of English and Judaic Studies at the University of Massachusetts Amherst, has shown, Yad VaShem commemorates the victims of the Holocaust while at the same time transforming them from victims to martyrs.<sup>63</sup> My own impression upon my last visit was that the museum

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<sup>58</sup> See, e. g., “The Likud in Power: The Historiography of Revisionist Zionism” by Avi Shlaim in *Israel and Palestine: Reappraisals, Revisions, Refutations* (London and New York: Verso, 2009), pp. 235-252.

<sup>59</sup> For documentation of the idea of “transfer” in Zionist thinking, see Nur Masalha, *Expulsion of the Palestinians: The Concept of ‘Transfer’ in Zionist Political Thought, 1882-1948* (Beirut and Washington, DC: The Institute for Palestine Studies, 1992).

<sup>60</sup> Zertal, *From Catastrophe to Power*, p. 215.

<sup>61</sup> James E. Young, *The Texture of Memory: Holocaust Memorials and Meaning* (New Haven and London: Yale University Press, 1993), p. 270.

<sup>62</sup> Israel’s *Ha’aretz* newspaper—an old and prominent newspaper—carries stories about the plight of Holocaust survivors in Israel, especially close to Holocaust Remembrance Day. For example, “One-fourth of Israeli survivors are poor, foundation says” (Jan. 27, 2013); “Israel is waiting for its Holocaust survivors to die” (Feb. 6, 2013); “A survivor’s plea to the State: Stop humiliating us” (Feb. 19, 2013); “92% of Israeli Holocaust survivors say country doesn’t allocate enough funds for them” (April 3, 2013); “This Holocaust Remembrance Day, Israel must do more than just remember” (April 8, 2013).

<sup>63</sup> See Young’s chapter on Yad Vashem in *The Texture of Memory*, pp. 243-261. Yad Vashem, Israel’s great Holocaust museum, “continues to function as Israel’s ever-legitimizing national shrine par excellence” (p. 260).

had two other messages: for Christians, the need for deep soul-searching about the ways German complicity in the Holocaust remains embedded in Christian theology; for Jews, the message seemed to be: the world cannot be trusted, it is filled with an eternal hatred of Jews, and you are on your own, no one will come to your rescue (so the State of Israel is your only hope).

The Zionists in Palestine seeking to create a state had little sympathy for the suffering of their fellow Jews in Germany, although they did see Nazi persecution as an occasion for convincing German Jews to emigrate to Palestine. They desperately tried to convince Jews the world over to come to Palestine, but relatively few came; far more emigrated to the United States and other countries. The Zionists were even willing to strike a bargain with the Nazis: they offered 10,000 trucks in exchange for one million Jews.<sup>64</sup>

The reasons that the Zionists who were behind the creation of the state of Israel have had a deeply ambiguous relationship to the Holocaust are thus understandable, but the ways the Holocaust has been employed are problematic at best. One of Israel's former leaders, Avraham Burg, after many years came to the conclusion that Israel's use of the Holocaust had become poisonous. The title of his book is *The Holocaust is Over: We Must Rise from Its Ashes*.

Israel adopted this legacy of insecurity characteristic of trauma victims. Since then, we live under constant pressure and in the contradiction of unceasing armament to compensate and atone for built-in impotence and existential anxiety. We have become a nation of victims, and our state religion is the worship and tending of traumas, as if Israel forever walks down its last path.<sup>65</sup>

The most penetrating analysis of the role that Israel's use of the Holocaust has played in Israel's sense of identity and its policies toward Palestinians is Idith Zertal's *Israel's Holocaust and the Politics of Nationhood*.<sup>66</sup> She pays particular attention to the trial of Adolf Eichmann.

The main lesson he [David Ben-Gurion] wanted to bequeath concerned Israel's legitimate striving for power. The desire to legitimize the will to power was the sub-text of the entire trial and of the discourse that grew out of it. 'It is necessary that our youth remember what happened to the Jewish people ... They should be taught the lesson that Jews are not sheep to be slaughtered but a people who can hit back—as Jews did in the War of Independence.' In his radio speech that year on Independence Day, which fell close to the opening of the trial, Ben-Gurion established the mythical link between Israel and the heroism of military might, and between the heroism of ancient times and of modern Israel 2,000 years later. The ancient heroism of Bar-Kochba's men and the modern courage of the Israeli army's fighters and of the young, 'in whose ears the cry of

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<sup>64</sup> See Ilan Pappé, *The History of Modern Palestine*, second edition (Cambridge: Cambridge University Press, 2006), pp. 172-173. Also see Yehuda Bauer, *Jews for Sale? Nazi-Jewish Negotiations, 1933-1945* (New Haven: Yale University Press, 1994) who tells of other attempted deals; and Edwin Black, *The Transfer Agreement: The Dramatic Story of the Pact Between the Third Reich and Jewish Palestine*, new and updated edition (Cambridge, MA: Brookline Books, 1999).

<sup>65</sup> Burg, *The Holocaust is Over*, p. 76. Two early chapters are "The Holocaust, Ever-Present" and "The Shoah Epidemic."

<sup>66</sup> Cambridge: Cambridge University Press, 2005; the Hebrew edition came out in 2002.

the blood of the six million constantly echoed, and they spared no effort or risk or stratagem till they discovered [Eichmann's] hiding place and brought him to the only country worthy of trying him,' this unique kind of courage and heroism, ancient and newly found, had the power to redeem the blood of the six million victims. Moshe Dayan, then Minister of Agriculture in Ben-Gurion's government, for his part added a new element to the objectives of the trial, which was to prove long-lived: the sanctification of every square inch of the soil of Israel for Jewish settlement. Speaking of the Arab refugees, and welcoming the fact that the Arabs fled the country during the 1948 war, Dayan said that 'what is becoming clear at the Eichmann trial is the active passivity of the world in the face of the murder of the six million. There can be no doubt that only this country and only this people can protect the Jews against a second Holocaust. And hence every inch of Israeli soil is intended only for Jews.'<sup>67</sup>

Later, Zertal notes that:

The Holocaust is inserted directly and metaphorically into everyday life in Israel, which is loaded, in this fashion, with meaning beyond itself, as are power and the ideology of power. A quality beyond the secular and the historical has been attributed to this power; the transcendental, inexpressible quality, drawn from the depths of Jewish experience and charged with Jewish victimhood—by absolute Jewish guiltlessness and justice on the one hand and the eternal hostility of a Gentile world on the other—all of which reached their apotheosis in the Holocaust.<sup>68</sup>

Jews have suffered enormously over the centuries, culminating in the Holocaust, the Shoah. For those Jews who sought to create a new nation on land already occupied by another people—the Zionists, the Holocaust was an embarrassment. It encapsulated everything bad about life in the Diaspora, its weakness, its failure to use force to defend itself (this despite the great success of many Diaspora Jews who lived relatively secure and stable lives in the United States and many other countries). For them, the salient, deeply troubling aspect of the Holocaust, the shameful and humiliating aspect of it, was the apparent willingness of Jews to go to their death without putting up a fight. This aspect of the Holocaust was the exact antithesis of the kind of new Jew that Zionists knew would be needed to create a state where there was a people who would have to be dislodged and defeated. I have argued, in other words, that humiliation was a powerful factor—by way of reaction—in the formation of the Israeli national consciousness, its narrative of victimhood.

Perhaps it was inescapable that this reaction against the shame of the Holocaust would be interpreted in ways that would create a mentality willing to humiliate others. I have yet to demonstrate that the Israeli occupation is a regime of humiliation, and that will be next. However, it was important to observe the way that the memory of the Holocaust was shaped by Zionists, and continues to play a powerful role in shaping Israel's political behavior. The shame of the Holocaust could not really be acknowledged or accepted. Instead, the Holocaust, so interpreted, provided other elements that proved useful to the formation of the national consciousness. It proved that Jews couldn't trust or rely on other people and that there is an eternal hatred of Jews disclosed in the fires of the

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<sup>67</sup> Zertal, *Israel's Holocaust*, pp. 108-109.

<sup>68</sup> Zertal, *Israel's Holocaust*, p. 169.

Holocaust furnaces. Israel—the state—has assumed responsibility for responding to this hostility by being strong and unwilling to accept the hostility or rejection of their Arab neighbors or the rest of the world. Israel’s victimhood bestows upon it a kind of perpetual guiltlessness. It is hypersensitive to criticism. It has a curious fixation with being recognized for what it is, as though its identity were precarious. It sees itself as alone in a hostile world, with immediate neighbors whose intent cannot be seen as any other than evil—they are still determined to push the Jews into the sea. That Israel has enemies, of course, is certainly true, including Palestinian enemies. However, by now, the military and economic power of Israel should allow it to be less paranoid than it is. Israeli leaders have long asserted that the only thing Palestinians understand is force, but they have not really tried any other approach, because they seem unable to see Palestinians as anything other than implacable enemies.

Now it is time to make the argument that the Israeli occupation of the West Bank and Gaza is a regime of humiliation.

### **Israel’s Occupation**

According to international law, Israel has a series of obligations regarding the territories over which it gained control as a result of the “Six-Day War” in 1967. These are spelled out in the 1949 “Geneva Convention relative to the Protection of Civilian Persons in Time of War,”<sup>69</sup> ratified by Israel and the surrounding Arab countries. Often called the Fourth Geneva Convention, it spells out the responsibilities of states toward territory that they occupy. For example, it is required to provide for those who live in these territories, to limit its military presence and activities, and to refrain from moving its citizens into these territories. This last provision (Article 49) means that all Israeli settlements in the West Bank are illegal. Israel disputes this interpretation, but their illegality is accepted by every other country in the world, including the United States. Numerous restrictions are placed on the occupying power. The United Nations has repeatedly insisted that Israel is in violation of these laws. The Oslo Accords of 1993 and 1995 specified that Israel was to leave the West Bank and Gaza within five years. Israel has violated this and other provisions of the Oslo Accords, but the Palestinians have violated some of them too. Oslo divided the West Bank into three areas, A, B, and C, with supposedly full Palestinian control over Area A (about 17% of the West Bank); Israel and Palestine have joint responsibility for Area B (about 24% of the West Bank), and Israel has complete security control over Area C (about 59% of the West Bank). All of the Israeli settlements are in Area C. However, in fact, Israel exercises control over nearly all of the West Bank, because it feels free to enter and arrest people at any time in Areas A and B, to build roads and other infrastructure, and to exercise other forms of control—all of which should have ended in 2000.

Responsibility for administering the occupation of the West Bank was given to the “Civil Administration,” which is run by the Israeli Defense Forces. There is a patchwork of legal systems operative in the West Bank, including Israeli military law, Ottoman law, British Mandate law, Jordanian law, and systems of local tribal and sharia law. This is one of the deficits of a people who have no state of their own; Israel often uses whichever legal system works to their advantage in various situations.

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<sup>69</sup> This may be found at <http://www.icrc.org/ihl.nsf/INTRO/380>

**Occupation is a total regime of control**, and having one's life subject to the control of others is inherently humiliating, even if those administering the occupation do so as thoughtfully as possible. It is possible here only to sketch the basic elements of control. Unfortunately, the face of the occupation for Palestinians most of the time is that of young Israeli soldiers under often vague orders, and often prejudiced against Palestinians. Therefore, the humiliating aspects of the occupation are daily and very aggravating or worse.<sup>70</sup> Here is an egregious example, from Sara Roy, a child of a Holocaust survivor and a senior research scholar at Harvard's Center for Middle Eastern Studies.

As with the Holocaust, I tried to remember my very first encounter with the occupation. One of my earliest encounters involved a group of Israeli soldiers, an old Palestinian man, and his donkey. Standing on a street with some Palestinian friends, I noticed an elderly Palestinian walking down the street, leading his donkey. A small child of no more than three or four years old, clearly his grandson, was with him. Some Israeli soldiers standing nearby went up to the old man and stopped him. One soldier ambled over to the donkey and pried open its mouth. "Old man," he asked, "why are your donkey's teeth so yellow? Why aren't they white? Don't you brush your donkey's teeth?" The old Palestinian was mortified, the little boy visibly upset. The soldier repeated the question, yelling this time, while the other soldiers laughed. The child began to cry and the old man just stood there silently, humiliated. This scene repeated itself while a crowd gathered. The soldier then ordered the old man to stand behind the donkey and demanded that he kiss the animal's behind. At first, the old man refused but as the soldier screamed at him and his grandson became hysterical, he bent down and did it. The soldiers laughed and walked away. They had achieved their goal: to humiliate him and those around him. ... The old man did not move for what seemed a very long time. He just stood there, demeaned and destroyed.<sup>71</sup>

There have been a number of detailed but general studies of the Israeli occupation. Among these are *The Power of Inclusive Exclusion: Anatomy of Israeli Rule in the Occupied Palestinian Territories* edited by Adi Ophir, Michal Givoni, and Sari Hanafi (New York: Zone Books, 2009); *Israel's Occupation* by Neve Gordon (Berkeley: University of California Press, 2008); *Hollow Land: Israel's Architecture of Occupation* by Eyal Weizman (London and New York: Verso, 2007); and *Palestine Inside Out: An Everyday Occupation* by Saree Makdisi (New York and London: W. W. Norton & Co., 2008). Detailed information about the occupation is also available from reports by the

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<sup>70</sup> Breaking the Silence is a group of Israeli soldiers who have served in the West Bank and Gaza, and who are detailing the ways in which they have humiliated Palestinians. See their compilation of these testimonies in *Our Harsh Logic: Israeli Soldiers' Testimonies from the Occupied Territories, 2000-2010* (New York: Metropolitan Books/Henry Holt, 2012). A more personal account by an experienced soldier is Noam Chayut's *The Girl Who Stole My Holocaust: A Memoir* (London and New York: Verso, 2013). Earlier, there were Israeli soldiers who refused to serve in the Occupied Territories, the "refuseniks;" their story is told by Ronit Chacham in *Breaking Ranks: Refusing to Serve in the West Bank and Gaza Strip* (New York: Other Press, 2003).

<sup>71</sup> Sara Roy, "Living with the Holocaust: The Journey of a Child of Holocaust Survivors" in *Journal of Palestine Studies* 32/1 (2002), p. 9.

United Nations Office for the Coordination of Humanitarian Affairs as well as numerous Israeli and Palestinian human rights organizations.<sup>72</sup>

The Israeli occupation is about controlling not only the people, but the land, the water, the natural resources, and essentially, the economy. In Area A, the Palestinian Authority has assumed security responsibilities, often using harsh methods. Palestinian movement is heavily controlled. West Bank Palestinians are no longer allowed to enter Jerusalem or Israel without special, temporary, hard-to-get permits. However, there is a separate occupation regimen in East Jerusalem, where Palestinians are required to have Jerusalem IDs in order to live there legally, though these can be taken from them, and each year many are, so they live under the constant threat of loss of the right to live there—and the need therefore to have a clean record. Checkpoints exist not only between the Palestinian West Bank and Israel, but within the West Bank, making movement uncertain, time-consuming, and humiliating. Israeli settlers within the West Bank, as Jews, are citizens of Israel. The nation has not only built numerous large settlements, but also roads within the West Bank that are to be used exclusively by settlers.

An outline of the dimensions of the occupation will give some idea of its comprehensive nature, a total regime of control. Jeff Halper of the Israeli Committee Against House Demolitions speaks of the occupation as a “matrix of control.”<sup>73</sup>

#### 1. Population control

Israel maintains the population registry for the West Bank and Gaza and has a record of the movement of people, arrests, permit violations, etc.

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<sup>72</sup> Some of these reports are *The Humanitarian Impact on Palestinians of Israeli Settlements and Other Infrastructure in the West Bank* (July 2007; United Nations Office for the Coordination of Humanitarian Affairs: OCHA); *Stop the Wall in Palestine: Facts, Testimonies, Analysis and Call to Action* by The Palestinian Environmental NGOs Network (PENGON, June 2003); *West Bank and Gaza: Assessment of Restrictions on Palestinian Water Sector Development* (April 2009; The World Bank, Middle East and North Africa Region Sustainable Development); *By Hook and by Crook: Israeli Settlement Policy in the West Bank* (July 2010; B'Tselem: The Israeli Information Center for Human Rights in the Occupied Territories); *Land Grab: Israel's Settlement Policy in the West Bank* (May 2002; B'Tselem); *Troubled Waters—Palestinians Denied Fair Access to Water* (2009; Amnesty International); *Water for Life* (2007/2008; Palestinian Hydrology Group); *Water for One People Only: Discriminatory Access and 'Water-Apartheid' in the OPT [Occupied Palestinian Territories]* (Al-Haq, a West Bank human rights organization; Al-Haq also released a series of water fact sheets in 2013); *Dispossession and Exploitation: Israel's Policy in the Jordan Valley and Northern Dead Sea* (May 2011; B'Tselem); *Ruling Palestine: A History of the Legally Sanctioned Jewish-Israeli Seizure of Land and Housing in Palestine* (May 2005; Centre on Housing Rights and Evictions, and BADIL Resource Center for Palestinian Residency and Refugee Rights); *Separate and Unequal: Israel's Discriminatory Treatment of Palestinians in the Occupied Palestinian Territories* (2010; Human Rights Watch); *The Prohibited Zone: Israeli Planning Policy in the Palestinian Villages in Area C* (June 2008; BIMKOM, Partners for Planning Rights); *The Humanitarian Impact of the West Bank Barrier on Palestinian Communities: East Jerusalem* (June 2007; UNOCHA); *Shrinking Space: Urban Contraction and Rural Fragmentation in the Bethlehem Governorate* (May 2009; UNOCHA); *The Untapped Potential: Palestinian-Israeli Economic Relations: Policy Options and Recommendations* (Dec. 2006; PalTrade and the Peres Center for Peace); and *Under the Guise of Security: Routing the Separation Barrier to Enable the Expansion of Israeli Settlements in the West Bank* (Dec. 2005; BIMKOM and B'Tselem). These and many others can be found online.

<sup>73</sup> See *Obstacles to Peace: A Re-Framing of the Palestinian-Israeli Conflict*, second edition (Jerusalem: Al Manar Printing Press, 2004), pp. 12-20.

## *Role of Humiliation in International Conflict*

Movement of people is controlled through checkpoints and a complicated permits system. Palestinians have to go to settlements to apply for permits, which itself can be difficult and costly.

An enormous concrete wall as well as a “security fence”<sup>74</sup> which divides Palestinians from Israel, but also Israelis from Israelis, and Palestinians from Palestinians because of the route of the “fence,” which is determined by the settlements.

Gates in the wall are open for restricted hours.

Movement is also restricted by unpredictable closures of cities or areas and by curfews. Autos and trucks from the West Bank may not enter Israel; they must unload and the reload on the other side.

Palestinian autos have green on white license plates, and Israeli cars have black on yellow license plates.

Israel has a very sophisticated surveillance system.

Palestinians must carry at all times their green covered Palestinian IDs; these IDs are issued only with Israeli approval; Palestinians in East Jerusalem must carry the blue-covered Jerusalem ID at all times.

Israel uses Palestinian collaborators to spy on other Palestinians. Palestinians may be coerced into collaborating if detained from some reason or faced with dire penalties. Collaborators risk death by fellow Palestinians who discover their identity. This tends to shatter communal solidarity.

Palestinian face severe restrictions on building outside of the major Area A areas (Bethlehem, Jericho, Ramallah, Nablus, Hebron). Within East Jerusalem, Palestinians are rarely issued a building permit, so they build without a permit, and then Israel comes with bulldozers and destroys the house.

Settler violence and intimidation is a common reality in the West Bank; Israel rarely does anything to stop it.

### 2. Territorial control

The primary means of territory control in the West Bank is the Israeli settlements, which are normally surrounded by sophisticated security systems that extend into surrounding Palestinian fields

Israel also designates other areas of the West Bank as “military zones,” or “nature reserves.” Palestinians may not enter these.

Water is essential in Palestine, and Israel controls about 80% of the water. In fact, water is a key factor in locating settlements because the primary aquifers serving all of Israel and Palestine are under the West Bank. Palestinians have no access to the water of the Jordan River, which, however, has hardly any water anyway (the Dead Sea is drying up at a rate of 1 meter a year). Meanwhile, the Israeli settlements have lush green lawns and swimming pools.<sup>75</sup>

Although Gaza is not occupied by Israeli troops, it is, for all practical purposes, under occupation because it has no control of its borders, no control of its air space, and highly restricted access to Mediterranean waters.

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<sup>74</sup> Most of the “security fence” actually is fence, not wall. However, this fence is actually two fences, the exterior one equipped with detection devices, separated by two strips of sand (to detect footsteps), in the middle of which is an asphalt patrol road. At various intervals, there are also manned guard towers with armed guards.

<sup>75</sup> On the crucial issue of water, see *Power and Water in the Middle East: The Hidden Politics of the Palestinian-Israeli Water Conflict* by Mark Zeitoun (London: I.B. Tauris, 2008) and *Water Conflict: Economics, Politics, Law, and the Palestinian-Israeli Water Resources* by Sharif S. Elmusa (Washington, DC: Institute for Palestine Studies, 1997).

Settler-only roads divide West Bank land into disconnected areas.

3. Economic control<sup>76</sup>

The Paris Protocol of 1994 essentially made Palestinian economic activity subordinate to Israel.

All Palestinian products have to pass through Israeli customs and ports. They have no airport, no direct access to Jordan or other countries.

Israel prohibits officially or unofficially numerous raw materials or partly processed materials to the Palestinians, limiting their industrial capacity.

Israel uses the West Bank as a captive market, often undercutting Palestinian merchants.

Israel allows one-company monopolies on water and on cement production.

Palestinian agriculture is severely affected by lack of access to water, lack of ability to get produce to markets, usurpation of agricultural land, settler violence (thousands of olive trees have been destroyed by settlers and by Israel to create its “fence”), inability to reach land on the wrong side of the “security fence,” being undercut by Israeli larger-scale farms, etc.

Israel extracts minerals from the Dead Sea in Palestinian territory without compensating Palestinians (e.g., Ahava products come from an illegal Israeli settlement).

Israel also does not compensate Palestinians for using Dead Sea beaches, or for tourism sites such as Qumran, which are on Palestinian land.

4. Communications/media control

Israel controls access to broadband, in violation of the Oslo Accords. Palestinian cell phone companies are limited to 2G while Israeli companies have moved on to 3G.

The Israelis are very helpful to reporters, and the results for them are very positive: rarely in the American media, at least, do we hear the true nature of the occupation, though this may also be due to self-censorship by the American media, and perhaps a degree of intimidation by groups hyper-vigilant on the part of Israel’s government. The Israeli media, despite being pro-Israel, is far more critical and truthful than the major media in the U.S.

Israel’s occupation of the West Bank, and de facto of Gaza, is an enormous and expensive project, aimed at controlling the people and the land, but more, making life for Palestinians difficult if not miserable. As I claimed earlier, it is a regime of control and humiliation. It seeks to disempower Palestinians, to diminish their freedom, to deny their dignity. The logic of Israel’s occupation seems to be that Palestinians must be constantly reminded who is in charge. The IDF conducts forays into Palestinian villages in the middle of the night; these are explained by the soldiers who conduct them as demonstrations of Israeli presence.<sup>77</sup> Often, these are forays into the houses of completely innocent people, and they often involve looting, humiliation of the residents, and destruction of property.

On what is this regime of control based? Israel does not rely on the rationalizations of Western occupiers in the past, saying that they were bringing the benefits of civilization to a benighted people. Israel makes no claim that the occupation is for the benefit of Palestinians; this is rarely heard. The occupation seems to have far more

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<sup>76</sup> For more details about this, see *The Political Economy of Israel’s Occupation: Repression Beyond Exploitation* by Shir Hever (London: Pluto Press, 2010).

<sup>77</sup> See, for example, *Our Harsh Logic*, pp. 88, 89.



to do with Israel's construction of the Palestinians as the evil "Other,"<sup>78</sup> eternally hateful, never to be trusted, the incarnation in their midst of the ghosts of Nazism.<sup>79</sup> Of course, the occupation also makes use of what is construed as a biblical mandate, widely understood in Israel to mean that all of Mandate Palestine (and more) belongs exclusively to Jews. This is a crucial topic, but too large for this essay since it does not relate directly to humiliation. Suffice it to say that Christian Zionism had very deep roots in England and among the English leadership; the Balfour Declaration of 1917, which essentially gave birth to Israel, was a product of that history.<sup>80</sup>

Palestinians are seen as an "existential threat" to Israel. But no Palestinian suicide bombers have been seen for years, though Israeli intelligence might have caught a few in time. There are numerous non-violent protests going on almost all the time, usually including Jewish and international human rights activists along with Palestinians. However, it should be noted that while the First Intifada was largely non-violent, the Second Intifada—which has petered out—became violent, and the Israelis responded with a massive and highly destructive invasion of the West Bank in 2002 and several invasions of Gaza. Israelis kill far more Palestinians than Palestinians kill Israelis.<sup>81</sup> It should also be noted that Palestinians have the right according to international law (Article 51 of the United Nations Charter, plus the inherent right of self-defense) to resist the Israeli occupation, including the use of violence, though the use of violence has made matters worse rather than better.

At what price is the occupation? The cost of the occupation needs to be measured not just in dollars and materiel. The occupation has brutalized the occupiers and made them insensitive to the suffering as well as the rights and dignity of the Palestinians.<sup>82</sup> The occupation, and the seeming inability to put an end to the ever-expanding settlement project, has made co-existence with Palestinians virtually impossible.

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<sup>78</sup> See the discussion of the construction of the Other as part of the nationalistic project in Ilan Pappé, "Fear, Victimhood, Self and Other" in *The MIT Electronic Journal of Middle East Studies* 1 (May 2001). A version of this can be found at <http://www.brightonpalestinecampaign.org/pdfs/Articles/Fear%20Victimhood%20Self.pdf>; it seems no longer available from MIT.

<sup>79</sup> More than once, I have been warned by Jews not to walk around alone in East Jerusalem, a primarily Palestinian area. I have done so often, and never encountered so much as a pickpocket or a rude individual.

<sup>80</sup> The literature on this is voluminous, but a few works can be mentioned. For the roots of Christian Zionism in England, see Barbara W. Tuchman, *Bible and Sword: England and Palestine from the Bronze Age to Balfour* (New York: Ballantine Books, 1984; originally published by New York University Press in 1956). For a Jewish assessment, which brings the issue closer to the present, see Shalom Goldman, *Zeal for Zion: Christians, Jews and the Idea of the Promised Land* (Chapel Hill, NC: The University of North Carolina Press, 2009). For a study of Christian Zionist influence in the United States, see Timothy W. Weber, *On the Road to Armageddon: How Evangelicals Became Israel's Best Friend* (Grand Rapids, MI: Baker Academic, 2004).

<sup>81</sup> In the West Bank and Gaza from 29 September 2000 to 31 January 2011, 6,330 Palestinians were killed by Israeli security. During the same period, Palestinians killed 243 Israeli civilians and 252 Israeli security persons.

<sup>82</sup> Numerous anti-colonialist tracts and studies of colonialism have pointed out that colonialism damages both the colonized and the colonizer. For example, Aimé Césaire, *Discourse on Colonialism*, translated by Joan Pinkham (New York: Monthly Review Press, 2001, but originally published in 1955); *Zionist Colonialism in Palestine* by Fayez A. Sayegh (Palestine Monograph 1; Beirut: Research Center, Palestine Liberation Organization, 1965); *The Colonizer and the Colonized* by Albert Memmi (expanded edition, Boston: Beacon, 1991, but originally published in 1957); and Ashis Nandy, *The Intimate Enemy: Loss and Recovery of Self under Colonialism* (New Dehli: Oxford University Press, 1983; 2<sup>nd</sup> edition, 2010).

Since the power balance is almost entirely on the side of Israel, Israel has to bear the major responsibility in addressing its inherent problems. It needs to humanize its system of control, at a minimum, or abandon many of its control mechanisms. Israel, however, seems incapable of acknowledging the wrongs it is committing. It continues to blame the victims and their alleged determination to destroy Israel.

At the same time, the utter ineptness of the Palestinian peace negotiators, the ineptness and corruption of Arafat and the Palestinian Authority (itself a creation of the Oslo Accords), and numerous other problems in Palestinian society have together resulted in lack of progress and in a failure to challenge the Israeli occupation. Palestinians have been miserable at marshaling the support of other nations and of getting their own story out. Some Palestinian leaders now are also viewing the heavy reliance on international aid as itself debilitating and enervating.

### **Conclusions**

The Israeli-Palestinian conflict is the story of two peoples trapped in their own narratives of suffering. Both have legitimate claims to victimhood, to humiliation, and suffering.

Humiliation is at the core of these narratives. Palestinians have been humiliated and controlled by the Ottomans, the British, the Jordanians, and the Israelis. But, above all, Palestinians suffered expulsion of their families, friends, and neighbors in 1948, and they see the occupation as an attempt to continue this process of expulsion from their land. Jews have a long history of humiliation and of having their lives controlled by others, and of having suffered even more catastrophic experiences of rejection, persecution, and extermination. However, while the Palestinians have not humiliated Jews or Israelis to any great extent, and contributed little if anything to Jewish suffering in the past, Israelis have humiliated and controlled, and continue to humiliate and control, Palestinians. Humiliation by Israelis is possible because of the lopsided power relationships between the two. To speak of “two sides” in the conflict as if there did not exist this stark difference in power is to totally misconceive the nature of the conflict. This does not mean that one side is bad and the other good. It does mean that overcoming the conflict is unlikely until the implications of this imbalance are carefully considered and addressed. It is far from clear that the endless “peace process” involving the two people has ever addressed these core issues.

For both peoples, these narratives of suffering are constitutive, fundamental to their identity, though probably the Holocaust is more central to Israeli identity than the Nakba is to Palestinian identity, which is rooted more in the land upon which they have lived for centuries. These identities bestow justification upon the Zionist project for the Israelis, and for Palestinian, they provide a reason to blame Jews and demand that a wrong be righted. Narratives of suffering are claims of victimhood, with all of the benefits and dangers that entails. At the root of both narratives are experiences of humiliation, control, suffering, and dehumanization.

Central to the Israeli-Palestinian conflict is the extreme difficulty both have in acknowledging the full reality of the other’s suffering and righteous victimhood. For Israelis to fully acknowledge, and seek to address, the crimes they committed in creating their state would be to admit that their state was born in sin. It would unravel the founding myths that the Palestinians fled of their own accord, and that the War of

Independence was a war of little David against the Arab giant Goliath. Israel's New Historians have shown both of these to be self-serving myths,<sup>83</sup> but they served the useful purpose of ignoring crimes committed. One can understand why most Israelis cling to these myths.

Palestinians do not believe that Israeli Jews are willing to recognize or take responsibility for the suffering that Israelis have imposed on Palestinians. While many Israeli Jews do acknowledge that, and prove it by working for human rights for Palestinians, there has been no official recognition of Palestinian suffering and no sign that the nation of Israel is willing to take any specific responsibility at all for what happened.<sup>84</sup> Palestinians, on the other hand, have had difficulty acknowledging the suffering of Jews, including the reality and true dimensions of the Holocaust, because to do so is to legitimate Israel's claims to the land.<sup>85</sup> In 1997, Edward Said spoke of the need for a new peace initiative, which would address the moral issue, the wounds of the two peoples, because "only a full acknowledgment by them [Israel] of what was done to us can bring peace and reconciliation."<sup>86</sup>

The inability of the Israeli leadership to acknowledge Palestinian suffering as a result of 1948 has meant that the most fundamental issue for the Palestinians, namely concrete recognition of their suffering—put in different terms, the "right of return" of Palestinians chased out in 1948—has, until now, been the absent item on the peace negotiation table. Additionally, it is absent not only because Israel seems unable to face it, but also because the United States, which has represented mainly Israel's concerns, has refused to press the issue. To admit that Israel was "born in sin" is asking far too much. It was to conceal this "ethnic cleansing" as well as attempted destruction of Palestinian culture that Israel constructed its "history" of what happened: the Palestinians simply fled. It is fairly easy to dismiss the Palestinian "right of return" by arguing that the influx

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<sup>83</sup> One of the best accounts by a "New Israeli Historian" is *The Iron Wall: Israel and the Arab World* by Avi Shlaim (New York and London: W. W. Norton, 2001). Benny Morris showed the claim that Palestinians simply fled to be a myth in *The Birth of the Palestinian Refugee Problem, 1947-1949* (Cambridge: Cambridge University Press, 1987; further details in Ilan Pappé's *The Ethnic Cleansing of Palestine*, cited earlier).

<sup>84</sup> Regarding this point, see Ian S. Lustick, "Negotiating Truth: the Holocaust, *Lehavdil*, and al-Nakba" in *Exile and Return: Predicaments of Palestinians and Jews*, edited by Ann M. Lesch and Ian S. Lustick (Philadelphia: University of Pennsylvania Press, 2005), pp. 106-130.

<sup>85</sup> One poll from 2009 indicated that 40% of Israeli Arabs [as distinct from West Bank and Gaza Palestinians] believe the Holocaust never happened (*Ha'aretz*, May 17, 2009). Two in depth studies of Arabs and the Holocaust have recently been published, both of which avoid the scurrilous claims in the pro-Israel media, but they also both acknowledge the existence of Holocaust denial as well as justification (the Jews had it coming) among many Arabs. However, it should be noted that general Arab views of the Holocaust should not immediately be assumed for Palestinians. The books are *The Arabs and the Holocaust: The Arab-Israeli War of Narratives* by Gilbert Achcar (New York: Metropolitan Books, 2009) and *From Empathy to Denial: Arab Responses to the Holocaust* by Meir Litvak and Esther Webman (New York: Columbia University Press, 2009). Frequently, one will find claims that the "Grand Muffti of Jerusalem," Hajj Amin al-Husayni, was the leader of the Palestinians, and was a Nazi who lived during the war in Germany. While his Nazi connections are undeniable, other claims about his presumed role as leader are dubious, as has been shown by Lorenzo Kamel, "Hajj Amin al-Husayni, the 'Creation' of a Leader" (July 24, 2013); it may be accessed at [http://www.storicamente.org/05\\_studi\\_ricerche/al\\_husseini\\_kamel.htm](http://www.storicamente.org/05_studi_ricerche/al_husseini_kamel.htm)

<sup>86</sup> His "Strategies of Hope" was published in 1997, and included in a collection of his essays called *The End of the Peace Process: Oslo and After* (New York: Vintage Books/Random House, 2000). See p. 197.

of millions of Palestinian refugees into Israel would be the end of the Jewish state, and would never happen anyway (Israel would never allow it; most Palestinian refugees probably would not return), but this utterly ignores the more fundamental issue of the recognition of Palestinian suffering.<sup>87</sup>

I am suggesting that control cannot be separated from humiliation, even when control is not accompanied by overt abuse. Because of the comprehensive nature of the Israeli occupation, it cannot really be compared to other instances of occupation such as the United States occupation of Iraq, though there are similarities. However, it should be evident that Israel's occupation is not intended simply to keep order and reduce violence. It is intended to establish "facts on the ground" in fulfillment of the old Zionist dream of a Greater Israel, which at a minimum would include all of British Mandate Palestine (basically Israel plus the West Bank and Gaza). It is difficult to see any purpose of this massive project except control and eventual seizure of the West Bank (the dream of a "Greater Israel"), and the gradual elimination, by attrition, of the Palestinian residents. Life for Palestinians is made so difficult that—it is presumably hoped—they will pick up and leave eventually. Palestinians will tell you that it is not possible to plan your life in the Palestinian territories. A trip, even if possible, may be frustrated. A job might be accepted, but one cannot get to it, or cannot be there on a timely and regular basis. Building housing for a growing family may be impossible, or one's efforts may be destroyed in one day by a bulldozer.

I wonder why there is not much more violence in the Palestinian territories than there is. It would not be surprising if there were. That there is relatively little violence these days is, frankly, somewhat puzzling. Perhaps, like the old man with the donkey, resistance is hopeless. His grandson, however, may never be able to forget his grandfather's humiliation, and may one day lash out in any way he can. Perhaps too there is a disabling sense of shame in having lost so much for so long. I have been curious why Palestinians I have interviewed, who had been expelled from their homes, seemed so reluctant to talk about it. Perhaps there is some shame attached to that experience.

Meanwhile, we are told that the "peace process" has been restarted. Most people are highly skeptical of its success. Will the core issues of dignity and respect be addressed? Can the process succeed if they are left unaddressed? Or will the two peoples forever remain locked within their narratives of victimhood, unable or fearful of leaving them behind?

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<sup>87</sup> On this, see Ilan Pappé, "The Visible and the Invisible in the Israeli-Palestinian Conflict" in *Exile and Return* (cited above), pp. 279-296.

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