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# EDITORIAL

Summer is gone, and September has arrived. The geese and eagles are flying through again. Charting the North in terms of its seasons and wildlife, I put a batbox up yesterday. Perhaps there will be fewer insects biting next year, but until the bats arrive, I know I can count on the crisp Northern evenings to keep the bugs at bay. I love this time of year.

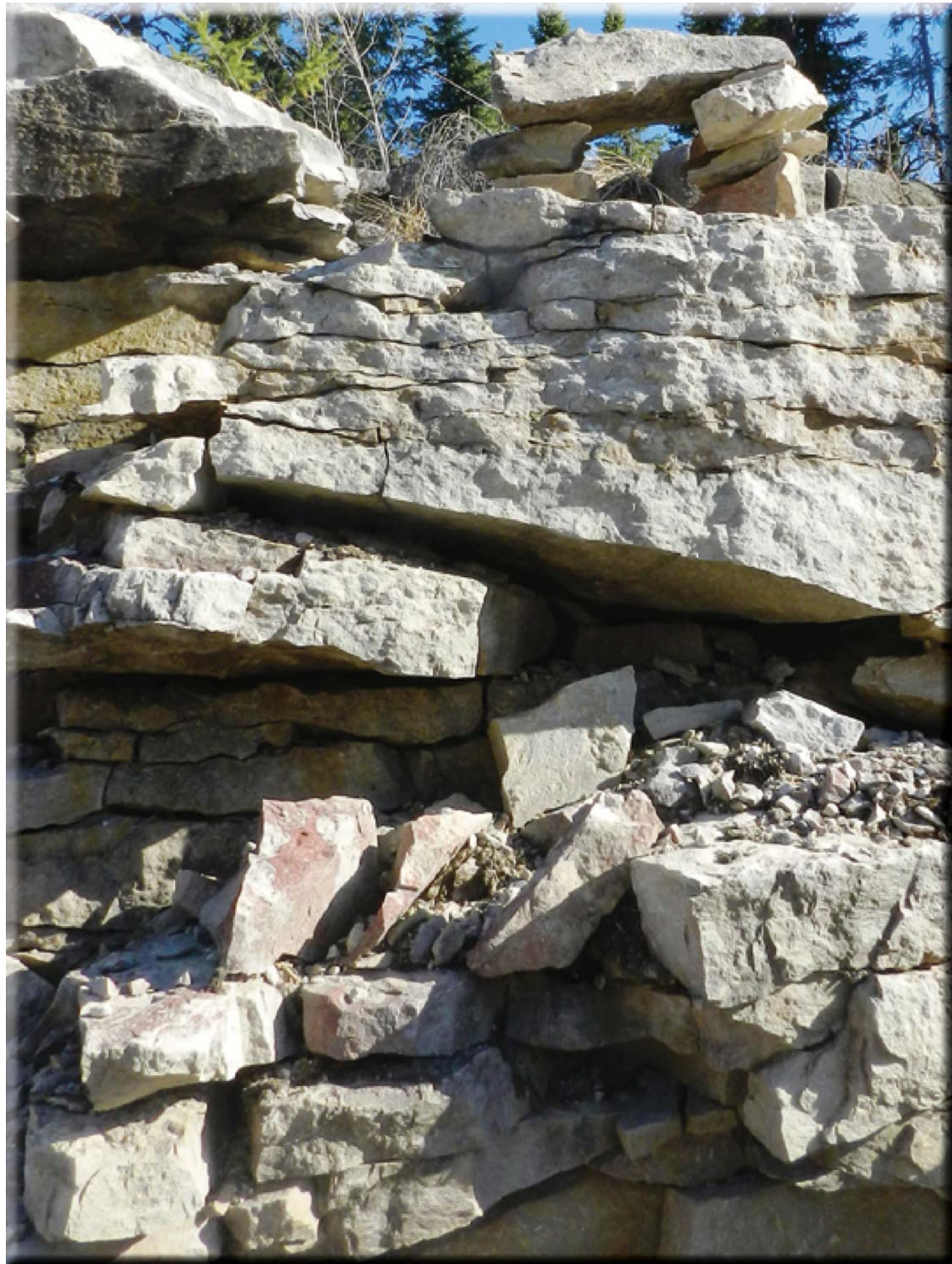
Celebrating diversity, *the quint* is again honoured to feature the stunning work of writer and freelance photographer Wilfred Ruttkowski on its cover. Made for the curious reader (as well as any curious wildlife), this, the twentieth issue of *the quint*, features seven articles from Canada and aboard. This fall we invite you to consider the nature of Aboriginal justice, the development of the Isrealite religion during the Iron period, the nineteenth century's view of the healing power of women, border culture in the American Southwest, gay typing and queer identity in Hindu cinema, American agrarianism as an alternative to Marxist socialism, and the effect that the Holocaust has had on International Law. In "Poonā yétum: Shatter Justice Barriers through Forgiving," John E. Charlton and John G. Hansen consider Indigenous and non-Indigenous views of justice, specifically, that of forgiveness, one of the most conflicted ideas in our society. Then, Matthew Pawlak reconstructs the early Israelite religion in the Iron I Period in "The Religion of the First Israelites." For those who wish to know more about ideas of community in nineteenth century America, Debbie R. Lelekis offers her thoughts on the subject of woman as her community's healer in "Women as Healers: Restoring and Preserving Community in Sarah Orne Jewett's *The Country of the Pointed Firs*." Next, we offer Sean Cobb's interesting discussion of border culture, media, and perception in "'All This Shit Was Also the Border': Mediation and Generic Borders in Paco Ignacio Taibo's Detective Fiction. Moving from the American Southwest to India, Roshit K Dasgupta and Steven Baker's fascinating "Mistaken Identities and Queer Framing in Bollywood: 'dosti,' 'yaarana' and *Dostana*" investigates gay themes and queer characters in the Hindu film industry. William Matthew McCarter's "American Agrarianism in the 20th Century" is a thoughtful and thought-provoking examination of the Southern Agrarian Movement as another way of coming to terms with The Great Depression in the United States. And Paul Obiuo Mbanaso Njemanze's "The Impact of the Holocaust on the Development of International Law: Law as a Social Process and its Impact on Meaning and Self" is a timely and important paper given the crisis concerning chemical warfare taking place in Syria as I write these words.

This *quint's* creative complement boasts the work new poets and artists. Filmmaker Tanya Carriere has honoured us by debuting her fluid lyrics here. Anne Jevne's compact verse is also appearing for the first time. Like our visual offerings, this *quint's* visual complement is also grounded in the North: Rae Baraniuk and Sarah Warner are premiering their compelling works with us. Veteran painter James M. Dean's and photographer Kevin R. Hutchinson's work are also featured.

Here's to good reading, interesting ideas, lively poetry, and stimulating fine art. The family of sandhill cranes that have chosen to live behind my house this year are preparing to fly South. I'll be staying behind on the couch with a warm cider...waiting for meteor showers and the Northern Lights to return to the Northern sky. Our next *quint* will be published in December. Until then, may your days be merry, and may many pumpkins come your way.

Sue Matheson  
Co-Editor





Inukhnuk on #39

Photo: Sue Matheson

## Poonā yétum: Shatter Justice Barriers through Forgiving

by John E. Charlton, Vernon, British Columbia & John G. Hansen, University of Saskatchewan, Saskatoon, Saskatchewan

### Introduction

Considered the outcome of a resolved conflict, forgiveness is one of the most conflicted ideas in a society that is dominated by a retributive and punitive justice discourse. Providing a way for victims to move on with their lives, forgiveness is a basic indication that a victim has healed from crime. Acquiring forgiveness can produce some incredible results, among them, increased feelings of wellbeing, reduced anxiety, improved recovery, positive self-esteem, and greater outlook on life. This article considers an array of Indigenous and non-Indigenous views on forgiveness.

### Empathy, Forgiveness, and the Politics of Restorative Justice

While the debate around the definition of forgiveness shows little sign of reaching consensus (Worthington, 1998), there is research evidence pointing toward the necessity of empathy as a necessary underlying psychological constituent of the process (Doyle, 1999; McCullough, Worthington, & Rachal, 1997; Worthington, 1998). For Hoffman (2000), “empathy is the spark of human concern for others, the glue that makes social life possible” (p. 3). In other words, empathy has to do with the ability to exercise concern for another’s situation.

Without empathy it is questionable whether forgiveness is truly possible. This is problematic. Why? Because research has shown that the way we respond to others who have wronged us can significantly affect our health (McCullough, Sandage,



& Worthington, 1997; McCullough, & Worthington, 1994; Thoresen, Harris, & Lusking, 1999). Unforgiving responses to others (i.e., anger, blame, and hostility) are considered health eroding, whereas forgiving responses (i.e., empathizing) are thought to be health enhancing. For example, hostility has been linked to coronary heart disease (Miller, Smith, Turner, Guijarro, & Hallet, 1996), and Kaplan (1992) has shown that reductions in hostility levels correlate to reductions in coronary problems.

If justice is to be considered a social construct (Polizzi, 2011), understanding restorative justice through the acceptance of Marshall's (1999: 5) contention that it is "a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offense and its implications for the future" is somewhat simplistic. Why? Because on the heels of such a contention, one may easily follow Fisk's (1993: 1) basic definition of justice, one based upon problem solving, as "a way out of a morass of conflicting claims." If such is the case, two results may be expected. First, as justice is based on finding a way out of conflicting claims, the process can be, and probably is, adversarial. Second, as the response, restorative or otherwise, commences after an offense, the trigger for the said response will, in all likelihood, lie within the procedural residue of the laying of a criminal charge. This is precisely the state of affairs that led Pavlich (2005) to conclude that restorative justice is too dependent on criminal justice reasoning.

This situation appears firmly rooted within the bedrock philosophy of restorative justice. In 1990, Howard Zehr called for a paradigm shift in *Changing Lenses*. Zehr's project was grounded within a call to shift away from a punitive worldview toward a restorative one, by drawing a series of opposites between the retributive and restorative camps. While Zehr was attempting to show the 'community' bent of restorative justice, the end result was that restorative justice was defined in terms of what it is not. For Pavlich (2005), this definition, by negation, ended up allowing the criminal justice system, precisely because restorative justice uses it as its reference point, to set the terms of the debate.

The logical way out of such a conundrum is to cease focusing upon crime, an offense, as the trigger for a restorative response. Taking Habermas' (1990) lead, we note, as did Polizzi, that justice is political. The consequences of this are twofold. First, we argue, strongly, that restorative justice must be taken as a political

project, as a cultural movement working toward social change. Second, rather than pinning our reference to the ever-present forces of power and domination, which work to maintain and entrench the current state of affairs, (the status quo by any other name), we will look toward those to whom injustice is directed for guidance.

Such thinking leads Sharpe (2004) to identify 'injustice' as the proper trigger for a restorative justice initiative. How do we discern injustice? Derrida (1992) points toward deconstruction, the taking apart our common-sense views, as a way to expose how the status quo is a reflection of the economic and political interests of the dominant forces in society. For Derrida, justice enters into the equation when we have, as our concern, the humanity of the other. Derrida is an anticipation (almost ten years before) of our earlier discussion with Hoffman concerning empathy.

To this end, it is noted that Turiel (2002: 5) observed that justice entails "equal respect for persons along with freedom from oppression as the standards by which individuals and society should be guided." Cone (1975), a well-known African American theologian, echoed the fact that justice entails freedom from oppression. King (1963: 3) famously stated that "there is a tension in society that will help men to rise from the dark depth of prejudice and racism to the majestic heights of understanding and brotherhood." The tension King was referring to was the demand by the oppressed for justice; that is, freedom from oppression.

Following this vein, Braithwaite (2003) offers a convincing argument that "providing social support to develop human capabilities to the full is one particularly indispensable principle [of restorative justice] because it marks the need for a consideration of transforming as well as restoring or healing values" (p. 12). To bring this discussion back around to restorative justice's transformative capacity, restorative justice must be examined not as a restorative response to an offence committed, but as a healing endeavour to an injustice.

### **Poonā yétum and the Victim**

The Swampy Cree of northern Manitoba have an expression to convey forgiveness; *poonā yétum* means to forgive someone. In the n-dialect of the Omushdegowuk (Swampy Cree) language, *poonā yétum* refers loosely to not thinking about the offense anymore. *Poonā yétum* can be interpreted as a situation that has resulted

when a resolved conflict has allowed someone to achieve healing (Hansen & Antsanen, 2012). Granting forgiveness has empathy at its core (McCullough et al, 1997). Forgiveness has nothing to do with forgetting (Allender, 1999). Forgiveness allows for holding the offender responsible for transgressions, and does not involve denying, minimizing or condoning behaviour (Enright & Coyle, 1998). Forgiveness is about letting go of negative feeling (Thoresen, Lusking, & Harris, 1998): it is about

Letting go of the power the offense and offender have over a person. It means no longer letting that offense and offender dominate... Real forgiveness, then, is an act of empowerment and healing. It allows one to move from victim to survivor (Zehr, 1995: 47).

As discussed, forgiveness, at least a forgiveness that leads to healing, has to be seen as being contingent upon empathy; that spark of human concern for another (Hoffman, 2000). *Omushkegowuk* restorative justice has such concern as an underlying philosophy.

### **The Praxis of Omushkegowuk Restorative Justice and Poonā yétum**

If Restorative Justice is a political enterprise, the people of Opaskwayak can experience the process as either a political project working toward social change (decolonization) or as an extension of colonialism working to maintain the current state of affairs as presently defined by First Nation and Métis marginalization (Bourassa, 2011). The *Opaskwayak* Justice Committee situated on the reserve across the north side of the Saskatchewan River adjacent from the town of The Pas, Manitoba suggests that First Nations are utilizing Restorative Justice as a political and decolonizing project.

Within the context of healing, restorative justice harmonizes with the holistic approach of traditional Indigenous teachings. The force of justice for Indigenous people has been principally that of communal efforts for healing and restoration (Johnstone, 2002; Ross, 1996; Weitcampe, 1999; Monture-Agnus, 1995). Consciousness of restorative justice is reflected in the stories elders described in the work of Hansen & Charlton (2013). Restorative justice, for these elders, comprised the notions of reconciliation, restoration, accountability, responsibility, community involvement,

balance, and an explicit focus on healing. Further, such notions are grounded within action.

According to Cree elder John Martin, Indigenous understanding of philosophy is derived from praxis. Such praxis is based upon the understanding, as expressed by Dennis Thorne, another Cree elder, that *Omushkegowuk* justice must emphasize healing not punishment (Hansen & Charlton, 2013). This understanding is indicative of an empathetic response. *Omushkegowuk* justice is based upon a healing philosophy grounded upon, and within, a concern for others.

Such response is community building, not dividing, and is therefore pro-social. In relating her understanding of Cree justice, elder Stella Neff utilized the Cree word *poonā yétum* to describe the ability for forgive. For Stella Neff, “*No more thinking about it is what poonā yétum means. After the conflict has been resolved... you’re not thinking about it... but if you keep thinking about it, then it’s not resolved*” (Hansen & Charlton, 2012: 102). Stella Neff, a Cree elder from northern Manitoba, is talking about the same concept that Zehr, a Western academic from Harrisonburg Pennsylvania, is. Both are discussing a process that allows the victim to put an offense behind them, and thus a process that empowers them. As Hansen & Charlton (2013: 151) note, “this does not mean that we just forget about wrongdoing. It means that when we heal, we are able to forget about our wounds). Healing from our wounds has three, (victim-offender-community) dimensions.

### **Victims**

Strang & Sherman (2003) note that while claims abound pertaining to victim needs in regard to retribution, there is strong evidence suggesting the contrary. Zedner (2002) was able to report, after extensive research, that victims are not overly punitive. In fact, Strang & Sherman (2003: 18) note that, “large proportions of crime victims surveyed are willing to consider alternatives to imprisonment for their offenders if they can play a part in the way their case is handled.” With such evidence in hand, one could argue that calls for retribution are self-serving for the powers-that-be. It may serve us all well to remember New Zealand theologian Christopher Marshall’s (2003: 2) quip: “Can anyone imagine a political party going on the *hustings*<sup>1</sup> with a promise to reduce prison populations?” Calls for retribution may be more about those we elect, and those we employ to deal with crime, showing us

<sup>1</sup> Emphasis added.

they are doing something about the problem when in fact they are making things worse.

Hansen (2013) and Hansen & Charlton (2013) note that *Omushkegowuk* justice emphasizes healing not punishment. Stella Neff (Hansen, 2013: 138) notes how traditional Cree values were passed on in regard to misbehaviour.

*We didn't get the stick, or a strap like we got in school. It was by a gentle teaching. Values were passed on like respect and love for the land and honesty and good behaviour... so the values were priceless for me and I'm so sorry that the system is gone.*

Such thinking is indicative of empathy and interaction between the parties when it comes to finding a solution. Within the traditional *Omushkegowuk* understanding of justice, victims most certainly did not “represent footnotes to the crime” as Zehr notes they do in State run justice (Zehr, 1995: 31).

Importantly, Stella Neff noted that she is sorry that the traditional understanding of *Omushkegowuk* justice has been co-opted by retribution. First Nations victims' problematic experience of justice, at the hands of the State, can in part be explained by their un-involvement in the process/outcome. Elder John Martin explains it this way:

*Now we call in the RCMP. We no longer take that responsibility to find out why that person's like that. At one time justice was based on healing and the Cree used that process. Our peacemaking circles became no longer viable for us because we become dependent on the system...*

As we noted earlier, if victims are not able to put the offense behind them, they are hampered in their ability to move on. *Poonā yétum*, for First Nation victims, may in fact reside just beyond their fingertips when justice is run through State institutions.

## Offenders

State run criminal justice is largely an adversarial process. As Fisk noted, above, such a system may well produce a situation that leads to a winner-looser dichotomy. This situation led Zehr (1995: 33) to observe that throughout the criminal justice process, an offenders'... “primary focus has been on his own situation and future.” Another expected

result will be that throughout the process, both offender and victim have been separated. If the offender comes through the process as victor, then the victim receives little, or nothing, out of the deal; other than the entrenchment of difference. If the offender is found guilty, and subjected to punishment without accepting accountability, then their sentence will likely “further strip away his sense of worth and autonomy, leaving him with even fewer resources for obtaining a sense of worth and autonomy in legitimate ways” (Zehr, 1995: 36).

Downey & Feldman (1996:1327) note, “[t]he desire to achieve acceptance and to avoid rejection is widely acknowledged to be a central human motive.” Research pertaining to apprehensive anticipation of prejudice, by Mendoza-Denton, Downey, Purdie, & Pietrzak (2002), found that both direct and vicarious experiences of exclusion might lead people to anxiously anticipate that they will be similarly treated in new contexts where the possibility of such treatment exists. Responses to perceived rejection have been found to include hostility, dejection, emotional withdrawal and jealousy (Downey & Feldman, 1996). Medical research, utilizing functional magnetic resonance imaging (fMRI) has shown that social rejection results in the activation of similar brain regions to those triggered by physical pain (Eisenberger, Lieberman, & Williams, 2003). Not only is society producing angry, disengaged individuals who are mentally and physically hurting, the deleterious results of our rejection continues to resonate long after each interaction and in a cumulative fashion (Baldwin, 2005).

## Community

It has been said of Indigenous justice that crime is a community matter that should be centered on delivering the best results possible while also improving the healing capacity of both the victim and offender. Indigenous models of justice puts focus on community inclusion to drive healing. For example, “The purpose of a justice system in an Aboriginal society is to restore the peace and equilibrium within the community, and to reconcile the accused with his or her own conscience and with the individual or family who has been wronged” (Aboriginal Justice Inquiry of Manitoba, 1999: 22. Cited in Hansen, 2013). As we have seen, from our discussion pertaining to offenders, this is not the experience First Nation individuals receive at the hand of State run criminal justice.

Society's 'war on crime' has seen government propaganda, undergirded by a bedrock commitment to the punitive philosophy of deterrence, foster a political environment that has created a culture of fear, which, in the end, has created an ever increasing call for tougher sanctions. Dominant society is punitive, and its proclivity for vindictiveness has been well captured by Albany Law School's, James Campbell Matthews Distinguished Professor of Jurisprudence, Anthony Paul Farley (2002: 1494), who states:

We take monstrous pleasure in creating monsters. Our monsters, to the surprise of no one, behave monstrously. For this, their monstrous behaviour, they are monstrously punished... We take a monstrous pleasure in punishing our monsters. Our punishments, our pleasures, create our monsters – and so it goes, we the people [the state] versus them.

Farley suggests that buried deep beneath law and procedure, the criminal justice system is a human process predicated upon a purpose of social control, punishment and the creation of the other in order to comfortably distance the middle and upper classes from fear, the unknown, and perhaps a deeper social responsibility for their own individual and collective actions. The inevitable side effect of such is that the criminal justice system, as an instrument of control, cannot help but promote negative relations. As Hansen maintains:

The force of justice for the Cree has been principally that of making reparations, healing and capacity for *poonā yétum*, to forgive. However, the criminal justice system has long suppressed the reality of that approach. Indigenous justice systems have been dismissed or marginalized while our overrepresentation in the prisons increases (2012: 15).

Agenw (1992) argues that these negative relations with others can lead to pessimistic emotions and encourage some type of coping. That coping is more likely to be criminal when the strains are severe, seen as unjust, and are linked with anger. Cree elder Stella Neff (Hansen, 2013: 167) speaks to this issue when she talks about the First Nation reaction to the residential schools, and by extension, society's reaction to First Nation communities.

*When the residential schools took the children away that had an impact on our people... When that happened it was a disaster... because when they lost their children that's when they started fighting. The angry aggression was a disaster for our community. The men started going to jail...*

The repercussions for First Nation communities were excruciatingly painful. Life without the children was so empty and depressing, that it should not be surprising that First Nations reacted badly, (as witnessed by the levels of violence and addiction issues) to the State's attempt at cultural genocide. Rather than accepting responsibility and working toward a solution, the State historically relied upon incarcerating the problem. Today, Indigenous peoples are overrepresented in the prisons and jails based on this colonial project (Hansen & Charlton, 2013; CFNMP, 2004; Hansen, 2012; Comack, 2012). The sociologists Wotherspoon & Hansen note that, "Indigenous populations have a high degree of being excluded with respect to virtually every dimension around which social inclusion and exclusion is considered significant" (2013: 30). Since the colonization of the Indigenous world most Indigenous peoples have experienced some form of social exclusion. Wotherspoon & Hansen observe:

The phenomenon of over-representation by Indigenous people in the criminal justice system, which has for several decades been the focus of periodic inquiries and reports by governments and other agencies in Canada, offers striking evidence of that exclusion... There is extensive evidence of how discourses of colonialism, racism and social exclusion have been exhibited by the police, courts and others in the process of interpreting Indigeneity in accordance with racial constructs (2013: 30).

It is important to understand that like the concept of 'race' the criminal justice is a social construct. The implication here is two-fold. The dominant society is collectively showing signs of being caught up in the fear that has been produced from government propaganda, which has resulted in an actuarial risk assessment of the other, while, research suggests that this necessarily is not the case



when, on the individual level, that fear of the unknown other has been satisfied.

Both Strang & Sherman (2003) along with Zedner (2002) note that repeated polls measuring public attitude toward the criminal justice system reveal widespread dissatisfaction. Drawing upon research conducted by Francis Cullen et al (2000), Strang & Sherman (2003) note that, when presented with options, the public is much more supportive of treatment and supervision than they are of incarceration.

On the whole, it appears that, at the individual and community levels, First Nation's and the general public have common ground. Both wish to get past the offense and be able to carry on with their lives. While Strang & Sherman (2003) note that this involves a system which allows individuals and community to experience the following five things: (i) information, (ii) participation, (iii) emotional restoration (e.g., an apology), (iv) material reparation, and (v) fairness and respect. Stella Neff finds these experiences in the concept of *poonā yétum*.

## Conclusion

Forgiveness may not be a popular justice idea, but it does play a key role in the mental, emotional, spiritual and physical health of human beings. *Poonā yétum*, or forgiveness, can support a healthy state of mind as a way of healing from crime. One mechanism by which forgiveness improves the wellbeing of victims is by increasing the activity of moving on with life rather than entrenching the effects of the harm in their daily lives. The Swampy Cree believe that *poonā yétum* can be particularly effective at healing from damage specifically caused by wrongful behaviour or crime. Unlike retribution and punishment, one can experience the healing effects of *poonā yétum* immediately upon embracing it. If increased positive outlook on life is what you're looking for, then try to achieve *poonā yétum*. This is what the Swampy Cree peoples have done in the past, and this is what we should also continue to do if we want to improve our future and live a life of peace. The last word comes from Kahente Horn Miller (2010) a Mohawk scholar, who in her discussion of the meaning of the Warrior Flag states:

The Indigenous profile serves as a reminder to the men of their path in life, their responsibilities to their clan, community and nation enacted through daily life, ceremonies and community protection. Though commonly

known as 'warriors', the male role in Indigenous societies is much more comprehensive than the English term implies. *Rotiskenrakete* the word from the Mohawk language that is translated into English as 'warrior' has a meaning that might more literally be translated as 'he is carrying the burden of peace'.

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**Brown Trout**  
**Acrylic**  
**James M. Dean**

# The Religion of the First Israelites

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The Iron I period is the first era in which an entity known as Israel can be spoken of with any level of certainty. Among the many issues relative to early Israel discussed by scholars, the question of what kind of religious beliefs and practices the early Israelites adhered to ranks high in importance. This paper seeks to provide a reconstruction of early Israelite religion in the Iron I period. In order to understand the religion of early Israel it is first essential to establish the religious matrix from which early Israelite religion emerges. From there an analysis of the relevant archaeological data from the Iron I period must be undertaken to assess how early Israelite religion fits within, or moves away from the beliefs and practices from which it emerges. Finally an analysis of some of the earliest Israelite writings relevant to the period will be weighed in to a reconstruction of early Israelite religion. All of these lines of evidence seem to suggest that early Israelite religion was highly similar to its Canaanite context with only one noteworthy variation - the presence Yahwism at this time amongst a smaller minority of Israelites.

In order to reconstruct early Israelite religion, it is essential to understand the religious context from which it emerges. Although separated geographically from ancient Canaan, Ugaritic literature is currently the best literary evidence concerning Near Eastern religious beliefs in the Iron I Period. These texts come from Ugarit, an ancient Late Bronze

city (Parker 1). While some of the stories in Ugaritic literature may date as early as 1400 B.C.E. (Smith 82), their inclusion among the literature of Ugarit indicates that even the earlier stories were still considered worthy of being used and recopied at this time. Therefore, although some Ugaritic literature may be earlier, its usage in the Late Bronze Age makes it an integral part of Late Bronze religious life, and therefore foundational to understanding the religious practices of the Iron I that follow directly after it.

While its geographical position north of Canaan may call into question the validity of using Ugaritic literature as a source for Canaanite religious beliefs, Frank Moore Cross argues that Israel and Ugarit share a common oral tradition (“Canaanite Myth” 113). This assertion is further reinforced by an analysis, to be undertaken presently, of the relevant early Israelite material culture from this period. Therefore, an analysis of the religious beliefs embedded in Ugaritic literature provides the matrix from which early Israelite religion emerges.

While there is a high god in Ugaritic literature, the tradition as a whole is polytheistic. The god El is at the head of the Ugaritic pantheon and is also the deity involved in creation (Greenstein 11). In the *Kirta* epic, when inquiring as to why Kirta, whose family has just died (“Kirta” 1.1.7-9),<sup>1</sup> is upset, El asks, “is it kingship like his father he wants? / Or dominion like the father of Man” (“Kirta” 1.1.41-43). This section provides, in a rather dense form, a number of beliefs about the god El. The words kingship and dominion indicate that El holds a very high position among the gods. The fact that this phrase is put in the mouth of El himself shows that El, assuming he is not lying or exaggerating, is the king of the gods. The epithet “Father of Man” (“Kirta” 1.1.43) and the fact that El

<sup>1</sup> All references to the Ugaritic text are given in the form: Tablet.Column.Line.



calls himself Kirta's father not only describes El's role as creator, but also shows El's higher status and authority.

This use of family language is important in Ugaritic literature as it is used to describe the chains of authority amongst the gods. In the *Aqhat* epic the deity Baal calls on El to bless Daniel for his piety, saying, "Bless him, Bull, El my father, Prosper him, Creator of Creatures" ("Aqhat" 1.1.22-23). The fact that Baal, the mighty storm God (Smith 82), refers to El as father indicates that El holds a position of authority over Baal, so much so that Baal cannot bless Daniel without beseeching El. Also important in Baal's supplication is the association of El with bulls. The title "Bull El" ("Kirta" 1.1.23) is extremely common throughout Ugaritic literature. This association could be a reference to El's great power and strength as the chief god of the Ugaritic pantheon, or his creative ability and sexual prowess represented by the fertility commonly associated with bulls. Indeed, all of these aspects of El's nature are present in Ugaritic literature, as in one instance, before copulating with his wives, El's "hand," a word which could just as easily here be translated "penis," is said to be "long as the sea" ("Birth of Gods" 34-35).

While the god El holds an extremely high position among the Ugaritic deities, this Late Bronze religion is far from being monotheistic, or even henotheistic. The *Aqhat* epic provides a key insight into power relations amongst the Ugaritic gods. In response to the goddess Anat's desire to kill Aqhat, El says "I know you, daughter, as desperate, / [Among goddesses no]thing resists you" ("Aqhat" 2.1.16-17). By referring to Anat as "daughter" the text suggests that Anat has a lower status than El. However, by stating that nothing can resist Anat, El ascribes to her a great deal of authority and power. If the reconstruction is accurate, the text could even indicate that Anat holds a high position

even in relation to other goddesses.

The idea that gods and goddesses who have less power and status than El are still considered objects of veneration and worship is further supported in the *Kirta* epic when Kirta rhetorically asks "Who's as fair as the goddess Anath?"<sup>2</sup> ("Kirta" 1.3.41). This statement suggests that Anat is worthy of veneration, even if only for her great beauty. Ugaritic literature speaks of many gods and goddesses, both named and unnamed that have different levels of status and power, yet are still legitimate objects of worship. The *Kirta* epic depicts a gathering of deities: "Once the party of God's has arrived, / Up speaks Almighty Baal" ("Kirta" 2.2.11-12). This description not only indicates that Ugaritic religion acknowledged many deities, but also shows the relative power of the god Baal through the epithet "Almighty." While the supremacy of the head god El is clear in Ugaritic literature, it is equally clear that this tradition also endorses the worship of many other deities.

Although there are many deities considered worthy of veneration in the Ugaritic literature, no deity is seen as all-powerful or morally perfect. The gods are often depicted as being in conflict with one another. A large portion of *The Baal Cycle* is concerned with the battle between Baal and the deity representing the sea, Yamm (Smith 82). As a result of his confrontation with Mot, death, Baal is commanded to "descend to Hell" ("Baal" 3.5.14). Baal then goes down into death, but not before copulating repeatedly with a cow ("Baal" 3.5.18-19). Baal's conflict with other gods and death reveals that even a god referred to with the epithet "Almighty," is imperfect and limited in power. This lack of omnipotence extends also to the vast majority of Ugaritic deities as most rank lower in

<sup>2</sup> Here "Anath" is the same deity as "Anat" discussed above. The difference in spelling is a difference in how the Ugaritic (*nt*) is transliterated into English.

power and prestige than Baal.

Although El may be the one deity in the Ugaritic pantheon that comes close to displaying omnipotence and perfection, he is not without weakness. In *El's Divine Feast*, the high god throws a party in which he “drinks wine till sated, / Vintage till inebriated” (“El's Feast” 1.16). In his stupor, El displays weakness by being unable to walk properly without the assistance of lesser deities (“El's Feast” 1.17-19). The fact that El's behavior is seen as less than becoming for the chief god is made clear by the fact that El is rebuked for his poor behavior by Habayu, a figure of which little is known (Lewis 194). El's humiliation is made complete in the text when “He slips in his dung and urine, / El collapses like one dead” (“El's Feast” 1.20-21). El's behavior at his banquet shows that, in Ugaritic literature, no god or goddess is all-powerful or all-knowing all of the time.

Throughout Ugaritic literature, several hints are given as to how these deities were worshiped, providing a limited amount of information regarding what one could expect to find archaeologically in places where such religious practices were occurring. In the *Kirta* epic, in order to appease El, Kirta is commanded to “Take a lamb [in [his] hands] /... Take a pig[eon], bird of sacrifice /... [And] Sacrifice to Bull El, [his] Father” (“Kirta” 1.2.13,17-18,23-24). This text indicates that sacrificing animals of various kinds, including sheep and pigeons, was considered to be a legitimate way to seek divine favor. In the same passage, Kirta is also told to “Pour wine into a silver basin; / Into a gold basin, honey” (“Kirta” 1.2.18-19). This selection demonstrates that in addition to animal sacrifices, different kinds of libations could also be given to the gods in order to obtain their favor. Unfortunately, while these texts do give an indication of some of the cultic practices associated with the Ugaritic deities, they do not give much information

regarding what one could expect to find archaeologically in places where these deities were worshiped. While it would be possible to crosscheck the animal bones found at a given site with those listed in the Ugaritic texts as sacrificial animals in order to find evidence for these types of practices, these texts do not give any indication of whether or not any special cultic places or objects that could be discovered archaeologically were used in the worship of the gods. The only references to cultic objects are the gold and silver vessels into which Kirta is commanded to pour libations (“Kirta” 1.2.18-19).

With the context from which early Israelite religion emerges established, it is now necessary to turn to the early Israelite material culture relating to religious activity in order to reconstruct the religious practices of these early Israelites. This data must then be weighed against the literary data from Ugarit in order to determine to what extent Israelite religion is continuous or discontinuous with earlier religious beliefs and practices. Unfortunately, there is relatively little extant archaeological information relating to early Israelite religion (“Archeology” 348). However, the few, key pieces of evidence that do exist generally suggest continuities with the religious beliefs and practices outlined in the Ugaritic texts. As a result of this connection, the validity of using Ugaritic literature as a source for the religious beliefs and practices of Late Bronze and Iron I Canaan is reinforced.

One structure that has created a great deal of debate is the alleged altar on Mount Ebal. This structure is from a site dating to the late thirteenth and twelfth century B.C.E. (Killebrew 159). The controversy comes from the fact that several scholars have attempted to associate this structure with the altar constructed by Joshua in the biblical account. Ann Killebrew describes the site as a “large, rectangular structure of unhewn stones” (160).



There is also a large amount of ashes and burnt animal bones found at the site (Killebrew 160). Much of this ash and bone has been found in the center of the structure along with earth and stone as construction fill (“Archaeology” 358). The biblical account describes the altar as “an altar of whole stones on which no one used an iron tool” (Joshua 8:31).<sup>3</sup>

The fact that the altar is constructed out of undressed stone, as commanded in the biblical account, coupled with the presence of burnt animal bones at the site, can, and has been, used to support an association between this structure and the altar described in the biblical account. However, there are several other facts that complicate this reading. Even if the structure is an altar, the connection with the biblical narrative is not as sound as it may appear. The biblical text states that Joshua “wrote there on the stones a copy of the law of Moses” (Joshua 8:32). The structure on Mount Ebal has no such writing. However, this fact is not strong enough evidence in to wholly is discredit a connection between the biblical account and the Mount Ebal structure, as the fact that the stones would not have been carved with an iron tool indicates that any writing on them would not be written in such a way that it would be preserved for long periods of time. In addition to these lines of evidence, the fact that “there are no archaeological parallels for such a large monumental altar” (“Archaeology” 350), has led many scholars to conclude that the structure on Mount Ebal is not an altar at all. These scholars tend to interpret the structure as a more secular structure, perhaps as the foundation for a watchtower and, while still others interpret the site as a cultic site; a high place unrelated to the biblical account (“Archaeology” 350).

Although Killebrew claims that current scholarship is leaning more towards

interpreting the structure on Mount Ebal as a cultic site (Killebrew 160), the evidence is highly inconclusive. The fact that animals can be slaughtered and burned in a variety of contexts and for a number of reasons and the fact that such architecture can be interpreted in multiple, equally plausible, ways makes interpreting this structure highly subjective. There is simply too little evidence to determine with certainty whether structure on Mount Ebal is the biblical altar, another cultic site, or simply part of a larger structure such as a watchtower. Instead of attempting to make a strong argument from little data, it is better at this stage to suspend judgment as to the nature of this structure. Later, when the more certain data has been analyzed, each of these possibilities can be factored into the reconstruction of early Israelite religion suggested by the stronger evidence.

One site of particular interest is the “high place” from the northern Samarian hills that dates to the Iron I Period (“Archaeology” 350). This site, which is best described as an “open cult place” (“Bull Site” 32), consists of a circle of stones measuring twenty meters across (“Archaeology” 351). A “standing stone” was also found with offerings on the paved section in front of it (“Bull Site” 35). While this evidence clearly indicates ritual worship, it is difficult to tell whether the worship practices that would have occurred at the site can be viewed as representative for Israelite worship in the Iron I. However, the lack of other high places dating to the same time cannot be used as evidence that whatever kind of worship occurred at this site was not more widespread. Such high places are difficult to find archaeologically, as they are easily destroyed by the action of humans and erosion (“Bull Site” 27). Therefore, even if the religious practices occurring in the Samarian hills at this time were common throughout Israel, one would still not expect to find a large number of such high places. What can be said with certainty regarding the practices at

<sup>3</sup> All biblical citations in this paper are my own translation of the Hebrew.

this cultic site is that whatever kind of religious practices occurred here had a presence in early Israel and was possibly more widespread than this one site.

As to the nature of the kind of worship practiced at this site, one find stands out as being the most useful in reconstructing the religious tradition associated with this high place. Close to the western wall of the high place, a 17.5cm long bull figurine made of bronze was found at impressive level of preservation (“Bull Site” 27). This figurine is an example of skillful craftsmanship, and is one of the largest bronze figurines unearthed in the land of Israel (“Bull Site” 27). Although it could be suggested that this figurine is an offering to a deity rather than an image meant to be associated with a god or goddess, several features indicate that this particular figurine is intended to represent a deity. Mazar argues that the size, and skillful craftsmanship of this figurine indicates that it is meant to represent a deity, as a simple offering would not be of such a high level of craftsmanship (“Bull Site” 32).

While the assertion that this Samarian bull figurine is meant to represent a deity is uncontroversial, the identification of the deity it is intended to represent is somewhat less clear. Mazar suggests that Baal and Yahweh are both possibilities (“Bull Site” 40), while Dever sees a clear connection between this figurine and the god El (Dever 128). The connection to Yahweh is based on the golden calf of Exodus 32, and the golden calves constructed by Jeroboam in First Kings 12. In both of these texts, the golden calves are introduced in much the same way. The Exodus account reads, “these are your gods (Elohim), Israel, who caused you to go up from the land of Egypt” (Genesis 32:4), and likewise Jeroboam states upon unveiling his golden calves, “*Here are* your gods (Elohim),

Israel, who caused you to go up from the land of Egypt” (1 Kings 12:28).<sup>4</sup>

These accounts make identifying the bull figurine from the Samarian hills with Yahweh problematic. Although those on the side of calf worship in the biblical accounts may be attempting to associate the Elohim mentioned in the text with Yahweh, the text itself is strongly arguing against this association. There is a semantic association between the deity El and the word Elohim, which is the plural of El. Although Elohim, in the biblical text, comes to refer to Israel’s god, Frank Moore Cross argues that some early references to El are references to the Ugaritic and Canaanite god (“Canaanite Myth” 49,60). By depicting calf worship – worship very much tied to the deity El who is constantly equated with bulls – negatively (see Exodus 32:35), the writers of the biblical accounts make the argument that Yahweh, Israel’s Elohim, should not be thought of in the same way as El. For the biblical writers, although Yahweh is Elohim, a deity of supreme power, he is absolutely not to be thought of in the same way as the Ugaritic or Canaanite El. Therefore, it is unlikely that a bull figurine would be used as a representation of Yahweh. This reading is supported by Mazar, who, although he suggests the connection to Yahweh is possible, argues for an association with the god Baal (“Bull Site” 40).

It could also be argued that because the biblical text argues against the association of Yahweh with El and calf worship, there must have been those who made that connection

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<sup>4</sup> In both of these cases, some translations suggest the plural “Elohim” be translated here as the singular “god.” Elohim often refers to god in the singular, and certainly the context here, especially in the Exodus account that only refers to a single calf, favors the singular. However, the plurality of the word “these” and the verb for “caused to go up” makes the plural a truer reading of the Hebrew. Regardless, there is still some ambiguity as to how this word is best translated in this instance.



and therefore would have been likely to use a bronze calf as a representation of Yahweh. If this were the case, such people would still be thinking of Yahweh in largely Canaanite terms, which would still indicate – as a connection with El or Baal would – that at this stage the religious beliefs and practices of the Israelites associated with this, and similar high places have not moved far from their Canaanite roots. However, a connection with El or Baal is still far more probable, as it fits more directly with the evidence.

The bull figurine from the Samarian high place shows a strong connection to both El and Baal. However, it is unclear exactly which of these deities the figurine is meant to be associated with. Both El and Baal are linked to bovine imagery. El is frequently referred to as Bull El (“Aqhat” 1.1.23). While this connection is clear, there is also strong evidence to associate this bull figurine with Baal. In addition to the incident described above, where Baal copulates repeatedly with a cow, there is another Ugaritic account that further links Baal with bovine imagery. In *Baal Fathers a Bull*, Baal requests that he and his sister Anat “lengthen life” (“Baal Fathers a Bull” 2.20). Apparently, in a section of the text that is now lost, the two decide that Baal should father offspring through a cow, as later in the story it is declared that “a bull is born to Baal, / A wild ox to the rider of the clouds!” (“Baal Fathers a Bull” 3.35-36). Both of these instances connect Baal with bulls, and therefore make the connection with the bull figurine from the Samarian hills quite probable. The details of the figurine itself are also unhelpful for connecting the bronze bull to one deity or the other. The bull has pronounced male genitalia, and its tail is lifted to reveal its anus (“Bull Site” 29). This emphasis on the sexual characteristics of the bull likely represent strength and sexual vitality. These characteristics are unhelpful in differentiating between whether Baal or El it is meant to be represented by the bull in

question, as the sexual potency of both deities it is a major theme in Ugaritic literature.

Although both Baal and El are strong candidates for the deity worshipped at the site in question, it is not necessary to differentiate between which of these two were being venerated in order to make several important inferences about the nature of early Israelite religion. Regardless of whether Baal or El was being worshipped in the Samarian hills, the site is clearly continuous with earlier Canaanite religion, which shares a common mythology with the Ugaritic tradition (“Canaanite Myth” 113). This connection with Canaanite practices has led Mazar to argue that this figurine was originally made in a Canaanite workshop, which produced many such figurines, before being used in Israelite worship (“Archaeology” 352). This Canaanite connection indicates that Canaanite religious practices had a foothold in Early Israel. These Canaanite practices were certainly present in the Samarian hills and could possibly have been more widespread.

Another source related to the religious practices of the early Israelites, are the tenth to eleventh century arrowheads, which contain inscriptions. Such arrowheads tend to begin with the word for arrow, followed by the name of the owner in the following format: (Owner’s Name) bn (son of) (The Owner’s Father) (Heltzer 525). Several arrows from El-Khadr, a village just west of Bethlehem (Milik and “Canaanite Myth” 5), are inscribed with “hs ‘bdlb’t bn ‘nt” (Heltzer 526). This phrase translates as “the arrow of Abdlabi’at son of Anat” (Heltzer 526, translation mine). It is unlikely that Anat is simply a reference to the mother of the arrow’s owner, because if the inscription were simply a designator lineage, it would include the name of the father. Therefore, it is better to see these “Ben-Anat” arrowheads as a reference to the goddess that appears in Ugaritic and Canaanite mythology. Michael Heltzer argues, however, that the owners of these arrows

were not considered the biological children of Anat, but rather that Anat is being used in this case to designate a person as a great warrior (Heltzer 526). Although the use of Ben-Anat as a term of honor does not necessarily mean that the goddess was being worshiped by these people at this time, it does suggest that the religious language and mythology of Canaan still exerted a strong influence within the Israelite community in this area.

Also of interest are the theophoric names inscribed on many of the arrowheads. Many of the names inscribed on the arrowheads contain references to Canaanite deities. For example, the names 'Oziba'al and Zakarba'al both include the name of Baal. Such names suggest that these early Israelites participated in largely Canaanite religious practices, because it is unlikely that a person would be named after a deity that their family did not revere. Taken together, the use of Ben-Anat as a title of honour and the references to Canaanite deities contained within the names inscribed on these arrowheads provides evidence that the religious practices of the early Israelites in this area were continuous with earlier Canaanite practices.

Another find that has a bearing on early Israelite religion is an inscription found on an offering bowl from Qubur el-Walaydah (Byrne 18). The bowl itself dates to either the end of the Late Bronze Age or the early Iron I, based on an analysis of the script ("New Inscriptions" 1,3). Inscribed on this bowl are the names of two people, presumably those providing the offering (Byrne 18). One of these names is a theophoric name with a reference to El. While it is tempting to associate this reference to El with the Ugaritic/Canaanite god, this connection is not certain. El can be a reference to the specific god of the Ugaritic pantheon, a representation of all divinity (Smith 83), a generic name for god as is common throughout the biblical text, or simply an adjective meaning "mighty."

This vast semantic range for the term El makes its appearance in a theophoric name weak evidence, at best, for the worship of the Canaanite god at this site.

In addition to the two names found on the bowl there is also a reference to what is being offered. There are two possible readings for the word describing the offering. One possible reading is to translate the word in question as "sheep," the other is to translate it as "shekel" – a unit of weight (Byrne 18). If the text is best understood as a reference to an offering of sheep, this reading would accord well with the Ugaritic literature, in which offering sheep is common (Byrne 18) – as in the *Kirta* epic discussed above.

The level of ambiguity involved in translating this particular inscription makes it difficult to use in a reconstruction of early Israelite religion. At best, this inscription provides weak evidence for continuities between early Israelite and Canaanite religious practices. However, it is almost equally likely that this inscription reveals nothing about early Israelite religion, except that at some point in the Iron I period, some people offered something to a deity or deities.

At this stage an analysis of the relevant archaeological data indicates that early Israelite religion was largely continuous with older Canaanite religion. The Samarian high place and the bronze bull associated with this site provide strong evidence that Canaanite worship practices had a foothold in the area. Although it is unclear to what extent this worship was normative, the arrowheads from El-Khadr, that refer to the goddess Anat and contain theophoric names referencing Baal, suggest that Canaanite religious practices were also adopted by Israelites in the South. The "altar" on Mount Ebal and the inscription from Qubur el-Walaydah are largely ambiguous. No reading of the Qubur el-Walaydah inscription strongly discredits the assertion that early Israelite

religion was largely continuous with Canaanite practice, and the structure on Mount Ebal is too ambiguous to weigh into a reconstruction at this point. This reading of the data agrees with the analysis of William Dever, who argues that all the archaeological data from this time period associates the religion of the early Israelites with Canaanite religious practice (Dever 128). The fact that these findings point to early Israelite religion closely paralleling what is preserved in the Ugaritic literature also reinforces the validity of using the Ugaritic texts as a source for early Canaanite beliefs, because the Israelites would not have received these traditions directly from Ugarit, but would have instead received them from the Canaanites out of whose land they emerge.

At this point it is necessary to turn to the earliest Israelite writings to determine how they affect an understanding of Israelite religion in the Iron I period. For this purpose, both the Song the Deborah and the Song of the Sea will be analyzed. Although there is a great deal of scholarly debate as to the dating of these two texts – as was the case with the Ugaritic literature – an analysis of what these texts suggest Israelite religion consisted of in the Iron Age I both supports and extends the archaeological data.

The Song of Deborah will be analyzed first, not because it is the oldest, but because it actually is set in, and likely dates to the early Iron Age. The dating of the Song of Deborah has been the subject of a great deal of scholarly debate. Earlier assessments, such as Cross's assessment in *Canaanite Myth and Hebrew Epic*, tended to date the Song of Deborah early due to its consistently archaic literary features ("Canaanite Myth" 121). However, some more recent scholars, such as Serge Frolov, date the text as late as the exilic period based on an analysis of the song's grammatical and ideological qualities (Frolov n.pag.). Other current scholars, such as Alexander Globe, argue that, while it is

impossible to be certain, there is nothing in the Song of Deborah that precludes it from being an eleventh or twelfth century production (Globe 497, 499). In "The Accounts of Deborah (Judges 4-5) in Recent Research," Tyler Mayfield aptly summarizes the current research on the dating of the Song of Deborah. After reviewing the variety of positions, Mayfield concludes that the majority of recent scholarship still understands the song as being very old, however there is much division as to the exact date of the text even amongst scholars who argue that it is early (Mayfield 328). Based on the scholarly majority and on the archaic features of the Hebrew, it seems plausible to suggest that the Song of Deborah dates somewhere around the Iron I period and is therefore useful for understanding early Israelite religion. Even if the song were considerably later, an analysis of the evidence it presents regarding early Israelite religion would suggest that it at least preserves some historical memory of Israelite religion in the Iron Age I.

The Song of Deborah is first of all a song of praise to Yahweh. This is made clear from the very first verse of the song, which contains the imperative "praise Yahweh!" (Judges 5:2). Therefore, the song presumes that Yahweh is Israel's "natural" deity, as evidenced by the repeated references to Yahweh as "Elohe Yisrael" (Judges 5:3, 5), the God of Israel.

Despite the fact that the Song of Deborah is a victory song dedicated to Yahweh, verse eight suggests that at the time to which the song refers, Yahweh was not being worshiped by the Israelites. It reads, "he (Israel) chose new gods, then war was (at the) gates. / Could a shield or spear be seen among forty thousand in Israel?" (Judges 5:8) The use of the Hebrew for "then" creates a cause-and-effect relationship between the choosing of new gods, and the resulting war. This text is arguing that the conflict described in



the song, and Israel's lack of preparedness for it, is the direct result of Israel choosing to follow deities other than Yahweh. This kind of statement is clearly an argument against worshiping gods other than Yahweh. It flows logically, therefore, that the worship of other gods was occurring at the time of the Song of Deborah, otherwise there would be no reason to attack such practices. The fact that the song accuses Israel, not a subgroup within Israel, of choosing other gods suggests that in the Iron Age I there was a time when a large percentage of these early Israelites adhered to a religion other than the one that the song prescribes as normative.

This conclusion accords well with the archaeological evidence, which points to Israel worshiping gods other than Yahweh in the Iron I. The Song of Deborah can also be used to extend the archaeological data, by providing evidence that Canaanite religion was more widespread than could be inferred with certainty from the archaeological evidence. The fact that the Song of Deborah accuses Israel as a whole of choosing other gods suggests that Canaanite religious practices were not only contained to the few sites that there is extant evidence for archaeologically.

Although the Song of Deborah agrees with the archaeological data regarding the presence of Canaanite style religion in early Israel, it is impossible to ignore the fact that the song suggests an innovation to Israelite religion at this time beyond what exists archaeologically, namely, the worship of Yahweh. The very existence of this early victory song to Yahweh, indicates that Yahweh is worshiped to some extent in the Iron Age I. The worship of Yahweh as described in the song also differs greatly from Canaanite religion in that it is exclusive. While the Ugaritic texts suggest that many deities were worthy of veneration, the Song of Deborah argues against the worship of "new gods" (Judges

5:8), that is, gods other than Yahweh. The song discourages the worship of other deities by arguing that it was the worship of other gods that resulted in Israel being oppressed and attacked. This kind of argument suggests that early Yahwism was, at the very least, henotheistic.

The worship of Yahweh is also associated with political unity in the song. By repeatedly calling Yahweh "the God of Israel" (Judges 5:3, 5), the song uses the worship of Yahweh to encourage Israel to be united against its enemies, which are "the kings of Canaan" (Judges 5:19). In addition to supporting the assertion that Israelite religion was largely continuous with earlier Canaanite religion in the Iron Age I, the Song of Deborah also suggests that a more exclusive Yahwism also emerges at this time and is used as a means of uniting Israelite groups against Canaanite influences.

The last early Israelite text to turn to for a reconstruction of early Israelite religion is the Song of the Sea. The dating of the Song of the Sea is somewhat less controversial than the dating of the Song of Deborah. Cross, who dates the text to be eleventh or twelfth century B.C.E, argues that the Hebrew of the Song of the Sea is consistently archaic, and therefore suggests an early date ("Canaanite Myth" 121, 124). He also argues that the Song of the Sea agrees with a literary form from the Late Bronze Age, and therefore must be considerably ancient ("Canaanite Myth" 121). Freedman and Miano also argue for an early, twelfth century B.C.E., date for the Song of the Sea, based on the fact that this is the only time in which all four of the nations mentioned in the song, Edom, Moab, Canaan, and Philistia, existed at the same time (297). All of these factors point to a date in and around the Iron I period for the Song of the Sea, making this poem a worthwhile source in the reconstruction of early Israelite religious beliefs.

Like the Song of Deborah, the Song of the Sea further defines the Yahwism that it claims exists at this time, and also implicitly suggests that early Israelites were practicing a highly Canaanite kind of religion. The song rhetorically asks “who is like you among the gods (Elim), Yahweh? Who is like you, glorious in holiness, / awe-inspiring in deeds worthy of praise, doing wonders? (Exodus 15:11). The intended answer to these questions is that there is no god like Yahweh, and therefore none worthy of praise as he is. Although this passage does not suggest that no other gods exist, its strict exclusivity that represents a major break from Canaanite religion.

The worship of Yahweh as described in the Song of the Sea is clearly designed to oppose the religious practices of early Israel’s contemporaries. After recounting the mighty works of Yahweh, the song states, “(the) peoples heard, they are trembling, writhing has seized the inhabitants of Philistia. / Now the chiefs of Edom are horrified, trembling seized Moab’s leaders. / All the inhabitants of Canaan melt away” (Exodus 15:14-15). This verse describes these nations as trembling in weakness before Yahweh’s great power. Embedded in this kind of statement is the argument that Yahweh is far greater than these nations and their gods. In this way, the song portrays the exclusivity of Yahwism as a movement against these nations and their religious practices.

Despite its strong arguments for the exclusive worship of Yahweh, the Song of the Sea implies that the early Israelites also worshiped other gods. The poet would not have to argue that there is no god like Yahweh if everyone in the early Israel agreed on that point. The very strength of the arguments against other nations and their religious practices can be taken as evidence that there were those within the poet’s community have believed and practiced the very things the song condemns.

The biblical data largely supports the trend established by the archaeological evidence regarding the religion of the early Israelites; that early Israelite religion was largely continuous with Canaanite practice. The biblical data does, however, provide evidence that these Canaanite type religious practices were more widespread than could be safely inferred from the archaeological data. The few archaeological finds concerning early Israelite religion suggest that Canaanite type religious practices may have been normative for the early Israelites, and the biblical data, primarily the Song of Deborah, provides evidence that this indeed was so.

All lines of evidence point to Iron Age I Israelite religion being a polytheistic belief system centered on the worship of gods and goddesses of various levels of power, many of whose names and mythologies are preserved in Ugaritic literature. Worship of these deities likely involved sacrifice, as indicated by the offering bowl from Qubur el-Walaydah, and occurred at high places, such as the high place in the Samarian hills, and possibly in other contexts as well. The religion adhered to by the majority of these early Israelites does not appear to be in any way distinct from the earlier traditions out of which it emerges. It is much more of a continuation than an innovation.

This reconstruction is complicated by the biblical data, which provides evidence for the existence of Yahwism at this time. Both the archaeological data, in which any worship of Yahweh is completely unattested, and the evidence from the Song of Deborah, which criticizes Israel for choosing gods other than Yahweh, do not allow Yahwism to be considered in any way a majority religion at this time. Instead, it is likely that throughout the Iron Age I the majority of Israelites practiced a religion that was essentially continuous with Canaanite religion, while also at this time Yahwism, a more exclusive tradition

begins to be adopted by a smaller subgroup of early Israelites.

Another issue created by this evidence for the emergence of Yahwism is how to understand this new religious innovation within the framework established by the archaeological data. It is clear that the emergence of Israel in the Iron I period occurred in tandem with “dramatic changes in settlement patterns” (Killebrew 171). Although there is no consensus as to how or why these changes occur, it is during this time of major sociopolitical change that a distinct “Israelite” culture emerges. It is likely that Yahwism emerges in this time of change and is used as a way to define Israelite identity as distinct from the surrounding nations. The fact that the early Israelite texts see Yahweh as “the God of Israel” (Judges 5:3, 5) supports the idea that the worship of Yahweh was used as a rallying point for Israelite identity. It is certainly plausible that Yahwism, which defines itself in opposition to Canaanite culture and religious practices, would emerge at a time when Israel is beginning to construct its own political identity. Although the emergence of Yahwism is a distinct and important religious change occurring in the Iron I period, it is important to emphasize that at this stage in the development of Israelite religion Yahwism was certainly not the norm for the early Israelites of the Iron I, whose religion was generally similar to the Canaanite religion which preceded them.

The various readings of the structure on Mount Ebal make almost no difference to this reconstruction of early Israelite religion. If Joshua’s altar has indeed been found, then it would provide the first archaeological evidence for the Yahwism that begins to emerge in the Iron I. However, if this structure is simply another cultic place then it fits into the body of evidence that suggests that early Israelite religion was continuous with Canaanite worship practices. Of course, there is also the possibility that this “altar” on

Mount Ebal that has been the source of such great controversy was simply a guard tower, and therefore completely unhelpful in the reconstruction of early Israelite religion.

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**Spring Morning**

Watercolor

Rae Baraniuk

**His Chair for Me**

I walked along the edge of heaven today  
Wondering how I got there, when I never took enough time to pray  
I continued on to dance among the apostles and got to know their names  
We drank, and sang, and played the most delirious of games

I came upon a huge chair in their midst and I knew to whom it belonged  
I was nervous if my good in life had outnumbered all that and those I had wronged  
There was no one seated at that time  
And I worried, I could be too late, was I the last in line?

I asked the angels that looked upon me  
And they shrugged their wings and left me to be  
I walked around and enjoyed the vastness of beauty that was all around  
Then I started to panic and started to race around, but couldn't find my footing in the  
ghastly ground

If I deserved this limbo then why would I have been brought here?  
Suddenly I felt a breeze and then a hand to my face wiping away my fallen tear

Then I heard a powerful yet soft voice that said,  
"My loving lady, you don't have to find me, because you did so long ago,  
The chair is empty because I made room for you  
As I've been anticipating your arrival"

He then said "I was tired waiting, so I lay down in my bed  
I thought you would know that the chair was for you  
My chair is so big, but I thought of all that you did, and that you do  
And thought that I would let you rest after your long journey of survival"

I climbed onto the chair and could not believe the words he spoke  
Even though I could not kneel last night, or go to church, he knew what was in my  
heart

My life was only but a dream he said, and now I had awoke

All those seemingly years had only been a test, a part

I was here sitting on the throne of heaven, no gate for me  
For all eternity here I'd be

Walking on the waters of Heaven  
No longer dreaming on the beaches of Earth  
He had saved  
His chair for my mother, and now  
She so lovingly gave it to me

—*Tanya Carriere*

## **Women as Healers: Restoring and Preserving Community in Sarah Orne Jewett's *The Country of the Pointed Firs***

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In the late nineteenth century, many writers were exploring the idea of community in both rural and urban spaces. *The Country of the Pointed Firs* by Sarah Orne Jewett creates the rural community of Dunnet Landing, which is populated primarily with women and old men. During a time in American society when isolation and fragmentation were key concepts that writers were grappling with, Jewett responds by examining the positive possibilities of community. Robert Shulman refers to the presence of these elements as “one of the deepest tendencies [of] American society, its tendency to isolate individuals, to fragment selves and relations, and to substitute technological, contractual, and bureaucratic ties for those of human compassion and community” (441-442). Sandra Zagarell describes communities as being formed by bringing together unlike people, in the face of challenges, or “people living at distances from each other; sometimes reluctant individuals; scarce resources; values, practices, and lore that are threatened by



time and change; [and] a harsh physical environment” (520). This vision of community, juxtaposed against a fragmented, isolating society in which unlike people come together through shared experience, is a core element of the realist sense of community created by writers like Jewett.

In *The Country of the Pointed Firs*, the character Almira Todd functions as an “archetypal Jewett figure,” or as Josephine Donovan says, a woman “in tune with nature and who has an extensive knowledge of herbal and natural lore” (39). Mrs. Todd is Dunnet Landing’s herbalist and the narrator takes a room at her cottage during the busy herb-gathering season of June. Mrs. Todd’s skills with the herbs are likened to a type of supernatural power or witchcraft. Elizabeth Ammons argues persuasively for the link between Jewett’s depiction of a woman’s power as a healer and the connection between the spirit-world associated with witchcraft. The narrator notes the association between the herbs and a sense of the transcendence of time:

“There were some strange and pungent odors that roused a dim sense and remembrance of something in the forgotten past. Some of these might once have belonged to sacred and mystic rites, and have had some occult knowledge handed with them down the centuries...” (3).

Through Mrs. Todd’s “magic,” the town is brought together more tightly, even drawing in strangers like the narrator into the fabric of their community. As Donovan contends, “Mrs. Todd ministers not only to the townspeople’s physical ills, but to their social and psychological problems as well” (103). The narrator affirms this notion when she observes that “It seemed sometimes as if love and hate and jealousy and adverse

winds at sea might also find their proper remedies among the curious wild-looking plants in Mrs. Todd’s garden” (4). She even has a friendly, professional relationship with the male village doctor. Mrs. Blackett describes the doctor as “put[ting] up with [their] rivalry” and concludes that they are “as friendly as ever.” The narrator reiterates this in the following passage:

“The village doctor and this learned herbalist were upon the best of terms. The good man may have counted upon the unfavorable effect of certain potions which he should find his opportunity in counteracting; at any rate, he now and then stopped and exchanged greetings with Mrs. Todd . . . the conversation became at once professional after the briefest preliminaries . . .” (4).

Because the doctor has to go on many long routes (up to Boston) he can’t always spend time stopping to check on all of his patients so Mrs. Todd and the doctor have formed a kind of partnership for the mutual benefit of their community. Clearly she seems to have respect for him and the work he does and those feelings are reciprocated.

To better understand Mrs. Todd’s role as healer it is useful to first situate her within a larger context of “medicine women” appearing in American literature during this time period. Jewett’s other notable “medicine woman” was Nan Prince from *A Country Doctor* (1884). Her novel was part of a grouping of novels written in the 1880’s that have woman physicians as protagonists. The others are William Dean Howells’s *Dr. Breen’s Practice* (1881) and Elizabeth Stuart Phelps’s *Dr. Zay* (1882). All three novels closely examine the choice of these women to become doctors and the problems associated with that

choice, most importantly the possibility of combining her career and marriage. Each author offers a different solution to this conflict: Howells's Dr. Breen rejects her career in order to marry and Phelps's Dr. Zay marries on the condition that she can continue her career, but Jewett's doctor maintains her autonomy and rejects marriage. Although Howells' and Phelps' doctors both marry (albeit under different circumstances), Jewett portrays a character who Jean Carwile Masteller describes as a "strong, capable woman doctor genuinely dedicated to her profession" who argues that "not all women, apparently including herself, are suited for marriage" (141). Nan is repeatedly associated with an "untamed wildness" and exceptional talents that provide her with power and motivation, making a career the most fitting choice for her. Jewett also significantly credits Nan's talents as a "gift" from God so that she is "not defying the traditional woman's place in society, but instead fulfilling her own God-given possibilities" (Masteller 141). Nan asserts that "people ought to work with the great laws of nature and not against them," so since marriage would not allow her to continue her career, she will not marry (283). Her ambitions are not presented as selfish or defiant; she is following her nature even if that means she will suffer "weariness and pain and reproach, and the loss of many things that other women held dearest and best" (308). Ultimately, Nan is not criticized because she is not a threat to society since she is too exceptional. In this way, Nan is part of a type of productive young single women that Jewett creates who are "able to imagine themselves as something other than wives or pinched old maids" and therefore "bravely create the contours of a mature single adulthood" (Johns 151).

Although Nan Prince pursues a formal medical profession and she is a younger woman who rejects marriage, she shares many similarities with Mrs. Todd, most

significantly their connections to the earth through the image of the garden. Nan's sense of the world and her place within it occurs first in Dr. Leslie's garden. It's there that she discovers a closeness with nature and begins to feel that the garden is a church where she is the preacher. Similarly, Mrs. Todd is closely associated with her cottage garden, which functions as a liminal space, a mixture of inside/outside and public/private space where she collects and dispenses her healing herbs.

Another significant characteristic of Mrs. Todd is her ability to develop deep friendships with other women in the community, most notably the narrator who is herself an outsider. Barbara A. Johns argues that these moments of ceremony and deep feeling occur because the women "bring to each other an integrity born of reverence for nature, their homes, their friends, their possessions, their talents . . ."; she contends that these are not "diminished women preparing tea in cottages . . . they are not trivial, not slight . . . [but] rather, they are complex women set apart from the conventional by their willingness to explore how they might live in the world as free women . . ." (162). These women's journeys take them away from their homes to nature, to their friends, and back again where "they discover and rediscover the work that is theirs to do and the people who are theirs to love" (Johns 162). The creation of this female space is often tied to a sense of the past and a quiet nostalgia, yet Jewett describes her settings through the lens of the narrator as vivid and energetic.

After the narrator visits Mrs. Todd's mother on Green Island (an even more remote and isolated location), the depiction of Dunnet Landing suddenly shifts from a sleepy, isolated town to a more bustling and lively space. The narrator is surprised at how "large and noisy and oppressive" the town seems when she returns after a day at Green Island

(44). This description provides the reader with a more multi-dimensional picture of a community that is at times nostalgic and inward-looking and other times dynamic and full of life. This duality is reflected in Mrs. Todd's character as well.

In the stories that recount Mrs. Fosdick's visit with Mrs. Todd and the narrator, there is a deep sense of community and bonding between the women that seems to contain feelings of both nostalgia and inclusion. The women are fondly reflective of the past while at the same time being open to change in their community. Although Mrs. Fosdick and Mrs. Todd only see each other occasionally, they are old friends and the depth of their connection is revealed in Mrs. Fosdick's comments about roots to the past: She says, "There, it does seem so pleasant to talk with an old acquaintance that knows what you know. I see so many of these new folks nowadays, that seem to have neither past nor future. Conversation's got to have some root in the past..." (49). This exchange might have been awkward and exclusionary towards the narrator, a newcomer in Dunnet Landing, but Mrs. Todd's response highlights the narrator's inclusion in the community: "Yes'm, old friends is always best, 'less you can catch a new one that's fit to make an old one out of" (49). Through her relationship with Mrs. Todd, the narrator slowly shifts from outside observer to an insider and participant in the community.

This sense of female community and bonding can be tied to Elizabeth Ammons's analysis of Jewett's belief that "there existed a type of therapeutic female psychic energy which could be communicated telepathically and which could operate both to bond individuals and to create a spiritual community – or occult sisterhood – among women in general" (168). As in many of Jewett's texts, there is a pattern in *The Country of the Pointed Firs* in which the younger female narrator is "initiated" into the powerful

community of female knowledge, guided in this case by Mrs. Todd. Ammons suggests that Jewett integrated the general nineteenth-century fascination with the occult into her stories and created Mrs. Todd as a "witch" figure whose "strength comes from the living earth"; as a result, women like Mrs. Todd "assert the wholesomeness of female medicine in an era that witnessed the final professionalization (masculinization) of medicine" (171). This underscores Jewett's connection to a more primitive definition of human healing which aligns itself with mystery and empathy over the scientific and analytical. Significantly, Mrs. Todd ministers to the mind and spirit as well as the body and serves as a healing spiritual guide to the younger, wandering, "motherless" narrator.

This aspect of Mrs. Todd's character is reinforced by Jewett's use of classical allusions. One such reference is made to Mrs. Todd's "massiveness" as a sign of her being a "huge sibyl," which emphasizes her power and agelessness, and on another occasion she's described as "Antigone on the Theban plain," a comparison that elevates her "to the level of the universal and legendary" (Donovan 103, 112). Ammons compares her to the "supernaturally attuned and yet ultra-earthbound" Demeter, acting as a mother-figure to the narrator's Persephone. Another layer is added through the mother-daughter bond between Mrs. Todd and her own mother Mrs. Blackett, which is a key part of the stories as well. In addition to her ties to other women, her connection to the earth is highlighted through image the herbs she collects. Although it can be considered dangerous if not used properly, Mrs. Todd's favorite herb is perhaps not surprisingly pennyroyal, with its strong associations with the female reproductive system (because it is used in childbirth, causes uterine contractions, stimulates menstrual flow, and is also sometimes associated with miscarriage and abortion). She's closely aligned with the world of witchcraft as "she



cuts herbs by moonlight for charms, dispenses secret concoctions after sundown, stands majestically encircled by the black and gray braids of her homespun rug, and offers the narrator an exotic herb tea that seems ‘part of a spell and incantation’ created by an ‘enchantress’” (Ammons 174). As Ammons points out, her first name, Almira, conjures the Latin word alma or “soul.” All of these details combine to create a blend of classical, folk, and fairy-tale imagery linked to Mrs. Todd, generating a female character who is a healer, a maternal figure, and a connecting point for the entire community of Dunnet Landing.

This emphasis on the building of community and the reliance on that community for success and survival establishes it as a “narrative of community,” a term Sandra Zagarell uses to explain how texts like these take everyday life as their subject and depict the development and preservation of that community. Zagarell identifies the intention of this writing as a presentation and preservation of “the patterns, customs, and activities [of] traditional communities” in a world that was “fragmented, rationalized, and individualistic” (500, 503). The stories don’t seem to be just about preserving a certain time or place. In the way that Stephanie Foote argues that literature not only mirrors or conveys the concerns of a writer or time period, Jewett’s writing also “engages in a complicated and conflicted relationship with its own cultural moment,” doing what Foote calls “cultural work” (26).

Through Mrs. Todd, Jewett creates a sense of community formed through shared everyday experiences and values, emphasizing the building of community and recognizing the crucial dependence on community for success. This particular vision of community is a response to the isolation and fragmentation of society that realist writers were struggling

with during the later part of the nineteenth century. In *Appreciation of Sarah Orne Jewett* (1973), Susan Allen Toth best describes Jewett’s focus on a female-centric community:

“Old women, rather than men, seem to have acquired this feeling for the rituals of everyday life, perhaps because they have lived closest to the center of family and household life. Among women, Miss Jewett chose to write about spinsters or widows, for they are the ones who concentrate with single-mindedness on maintaining and celebrating the bonds of community” (259).

Mrs. Todd represents self-sufficiency, independence, and practicality yet she is a powerful force of cohesion for her community. Perhaps that’s why the image of her at the end of the book is so striking, when Mrs. Todd is seen by the narrator in the distance as “mateless and appealing, with something about it that was strangely self-possessed and mysterious” (129). Donovan notes this final image of separation and solitude and its contrast to Mrs. Todd’s central role in the narrative as a connecting point for the community of Dunnet Landing as she gathers, brews, and sells her herbs to the town. She is depicted as friendly and loyal. Her unusual partnership with the local (male) doctor helps her fellow townspeople receive the most comprehensive care and compassion. In a sense she is a type of mediator, able to draw people together and show them their commonalities that transcend their differences (Sawaya 34). As Francesca Sawaya asserts in her book *Modern Women, Modern Work: Domesticity, Professionalism, and American Writing, 1890-1950*, Jewett’s portrayal of women like Nan and Mrs. Todd as professionals, caused “social work” and “woman’s work” to become intertwined and it shifted the meaning of woman’s work in general (34). Although, as Ammons asserts,

Jewett was not a social reformer, she was also not a detached conservative. Donovan contends that the setting of the stories is “an almost timeless female realm that stands as a counterreality to the encroaching male world of modern technology” (*New England Local Color Literature* 113). She delineates it as a “symbolic universe which expressed the longing of late-nineteenth-century women that the matriarchal world of mothers be sustained . . . perhaps the last fully female-identified vision in women’s literature” (Donovan, *New England Local Color Literature* 118). Additionally, Joanne Dobson places Jewett’s writing within the context of both domestic sentimentalism and a realist/regionalist aesthetic by highlighting the priorities of “connection, commitment, [and] community” in Jewett’s texts (167). *The Country of the Pointed Firs* certainly fits solidly within those contexts.

In Jewett’s writing, the power of women clearly comes from community. Jewett examines the power of female psychic energy and the ways that it heals, strengthens, and connects women. By openly embracing the ancient role of the woman as “seer and healer” in an era that privileged science, and particularly modern medicine, Jewett was forging a female character who not only restored the physical health of those around her but also preserved a sense of community that sustained them in ways science could not.

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**Steam from the Plant**

Kevin R. Hutchinson

## Five O’Clock Fog

The fog coassts like a hovering headless zombie veil  
Against a backdrop of the eery five a.m. fright light,  
Barely within earshot, a tale of misery waiting to be told; hear the wail?  
The doors are arrested, the insomniac writer with the ssticky keysssss  
Don’t peek out the patio door, you don’t want to ssense what’s in store  
Just look back and remember the reminiscent story you told the graveyard shift guard.  
Of the one night you drove into the 204, Indian car in tow  
A driver without a license, a gangster leading the way, blood, fur, deer guts, and broken  
glass, you surely aren’t gonna make it to this years graduating class.  
What’s that? A crackle in the wind, a crazy committed jogger out on a dimly lit walking  
path, bellicose barks biting down near the river with an impending roar....  
Sso many thoughts and visions escaping the psyche of a mighty cold keeper, a hoarder  
of sorts, mental clarity raping its reaper.  
Send your wishes, they are needed here and there, deathly flutter abated  
To comprehend an open book that you think you are prepared to read; where exists  
your mind? Frozen full of fear, thankless, yet still all mine.  
The writer pecks and swills, fallaciously killing time, keeping the zombiess far out of  
line, between the lines the words and lies, the damage is there, it hides an identity, just  
one of many; a protector of a northern gateway town, we title it home.  
The fog thrives beyond this tempestuous mind,  
the writer, ssshe is brash and bold, morally meager, if truth in reality ssshould ever be  
told.

## “All This Shit Was Also the Border”: Mediation and Generic Borders in Paco Ignacio Taibo’s Detective Fiction

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Paco Ignacio Taibo II’s Mexican border detective fiction, specifically the Héctor Belascoarán Shayne detective novel *Frontera Dreams* (1990) and the José Daniel Fierro novels *Leonardo’s Bicycle* (1993) and *Life Itself* (1987), utilizes the border and the concept of “foreignness” to explore the expectations and limitations of the detective genre. According to Claire A. Fox, Taibo’s fiction is indicative of “the new border detective writing,” which “pays homage to the left existentialism of the hard-boiled writers and Hollywood film noir, especially in its embrace of the city and the hard-boiled anti-hero as its dual protagonists” (185). Taibo borrows from the hard-boiled detective genre and *film noir* and combines these intertextual references with the historical and political events of 1968 “to Mexicanize the detective and turn criminal investigation into antiofficial narratives about national identity and history” (Fox, “Left Sensationalists” 186). Self-reflexively and ironically reconfiguring the detective genre to reflect the impact of mediation, globalization and late capitalism, Taibo’s border detective novels employ multiple metaphors of the border, often beyond the physical border, to investigate the collapse of nation-state sovereignty,



the paranoia, contradictions, and inconsistencies of identity, the ironies of past and present, and the failure of narratives and genre to restore a true sense of order. Taibo's novels differ from traditional border theorists, such as Gloria Anzaldua and Cherrie Morraga, by underscoring how the media shapes our experience of the border. While Anzaldua and Morraga see the border as a space of creativity, authenticity and self-discovery, a zone of hybridity and difference, Taibo's detectives are alienated and set apart from the worlds they explore, misrecognizing their situations and failing in their investigations.

### Flashback

Paco Ignacio Taibo II was born in 1949 in Asturias, Spain and moved to Mexico in 1958. Taibo has written numerous books, spanning many genres: fiction, detective fiction, and investigative journalism, including historical works, first person memoirs and non-fiction. Taibo has been a key figure in articulating some of the affinities between the so-called critical detective fiction of the United States and that of Latin America. He is the founder and president of the International Association of Detective Writers, and as director of the short-lived pan-American journal, *Crimen y Castigo* (Crime and Punishment) Taibo promoted a close literary kinship among genres in which he himself worked: detective fiction, historical writing, and investigative journalism. (Fox, "Left Sensationalists" 185-86).

Taibo has always aligned himself with radical and leftist causes and his novels reveal these sympathies in their subject matter and scope. This is typical for his generation of writers, since many young artists were inspired by the events in Mexico (be specific)

in 1968. According to Martin, Taibo, like many of his generation, was "galvanized around...a general student strike that lasted 100 days and culminated in the barbarous massacre in Tlatelolco Square in Mexico City. Here the perpetrator was the national government, the same government that later, the very same night of the second day of October, disposed of the bodies of the slain by strewing them onto the deep waters of the Gulf" (160). The historical events in Mexico City, as well as the student strikes in Europe and elsewhere, radicalized many artists and directly influenced Taibo's fiction.<sup>1</sup> Most obviously, the effects of 1968 can be observed in his "radical mistrust of the national institutions which appear bent on serving their own machinations of power against the interests of the working class and the population at large" (Martin 160). As Taibo himself states in '68, his autobiographical account of the 100 day-long student strike culminating in the Tlatelolco square massacre: "If we were all characters in a novel written on a lousy Olivetti with no ribbon, forever trying to be loyal to a personality that we once invented for ourselves, there can be no doubt that our model was forged in '68" (10).

The influence of 1968 is also felt in Taibo's choice of genres – detective fiction – in particular the use of the hard-boiled detective style established by Dashiell Hammett, which shares Taibo's "insistent indictment of the system" (Martin 160). Martin continues:

Given the social conditions of Latin America, to expect the kind of stability that would allow for a detective to arrive at a solution through methodology was, Taibo argued, unrealistic,

<sup>1</sup> In Taibo's own record of the student strike, entitled '68, he claims: "The May events in France made headlines in all the papers, as had the Prague Spring, the student mobilization in Brazil, the occupation of Columbia University in New York, and the Córdoba uprising in Argentina. Did these idiots really think that some sort of international contagion was at work? Could they believe in the virus that we believed in (sort of)?"

even ludicrous. The current widespread practice of the genre, which favors the “hard-boiled” or “noir” tradition of Hammett, Chandler, MacDonald, with their renegade detectives at odds with the cultural mainstream, with administrative corruption, and often in direct and painful confrontation with the agents of the law, would grant the appropriateness of his argument. (Martin 160)

As with much hard-boiled fiction and *film noir*, Taibo’s detectives – Héctor Shayne Belascoarán and Daniel José Fierro – confront corrupt officials, particularly the representatives of law and politics. However, the detectives’ overt references to hardboiled fiction and *film noir* as a parallel for their actions – sometimes positively, sometimes as incongruous and ill-fitting – deliberately satirizes and distances them from their roles as detectives, something that this article investigates more fully.

The events of 1968 inform the plots of *Frontera Dreams*, *Life Itself* and *Leonardo’s Bicycle* in specific and concrete ways. According to Martin:

The individuals and paramilitary units engaged by the forces of repression to contain student unrest appear in the books as either transformed or unassimilated elements in society that pursue their own opportunistic ends in gangster fashion or are discreetly given positions in the power structure. In both instances, these shadowy remainders of the official counter-offensive take the role of ‘bad guy’ in Taibo’s stories. (Martin

162)

In *Frontera Dreams* these “shadowy remainders” take the form of an obsessive police official stalking Natalia – Héctor’s old girlfriend, now a famous movie star who he is hired to follow – and a group of U.S. paramilitary border enforcers and drug dealers. In *Life Itself*, José Daniel Fierro is a novelist enlisted to protect the fictional border town of Santa Ana from PRI government agents, military units and anti-union capitalists. In *Leonardo’s Bicycle*, a later Fierro detective story, José Daniel tracks down an illegal organ trafficker with connections to cold war Eastern Europe responsible for stealing the kidney of an U.S. female college basketball player. Fierro, most likely a fictional mouthpiece for Taibo’s own political history, points to the events of 1968 as a necessary step in his political education:

When you have been active for ten years in the catacombs of the pre-1968 Left, when you have lived through experiences like the Santa Anna commune and the eleven months in jail that came afterward, you cannot help having an unpleasant paranoid aftertaste, based on the absolute certainty that the Mexican state’s primary function was to fuck up your life, that its only purpose was to screw its citizens. (16)

Taibo’s villains often exploit their positions within corrupt institutional and bureaucratic power, taking political advantage over individuals whom Héctor and José Daniel Fierro try to protect.

## Inside Out

When satirizing and lampooning its limitations, *Frontera Dreams* presents detective fiction's conventions as incomplete, outdated or, perhaps worse, tainted by mass culture's gross commercialism and commodification. The novel frequently points to the genre's failure to be commensurate with, or even reveal, the complexities of real life and the truth of Héctor's investigation. However, the novel is not entirely dismissive of the detective genre and, instead, "pays respects" to the genre's formalism by adhering to its generic parameters and recognizable patterns: hard-boiled detective is hired to follow a *femme fatale* figure from his past and, in the process, becomes involved in a criminal conspiracy requiring physical violence to solve the case, etc. *Frontera Dreams*' idiosyncratic relation to the detective and mystery genre, specifically its flaunting of the traditional conventions dictating narrative progression, characters and motifs, while still retaining a respectful approach to genre, exemplifies the novel's conflicted approach to detective fiction. *Frontera Dreams* relies upon the detective genre but finds that genre limited by history.

*Frontera Dreams*' ironic and sometimes distant interaction with the detective genre makes sense when considered in relation to postmodern detective fiction more generally. Sometimes referred to as metaphysical or anti-detective fiction, postmodern detective fiction often stages elaborate investigations of cases that go unresolved, are incomprehensible, or function as a meditation upon grander, more metaphysical themes. According to Merivale and Sweeney:

A metaphysical detective story is a text that parodies or subverts traditional detective-story conventions – such as narrative

closure and the detective's role as surrogate reader – with the intention, or at least the effect, of asking questions about the mysteries of being and knowing which transcend the mere machinations of the mystery plot. Metaphysical detective stories often emphasize this transcendence, moreover, by becoming self-reflexive (that is, by representing allegorically the text's own process of composition) (3).

Taibo's border detective fiction meets all the criteria listed by Merivale and Sweeney – parody, mysteries of being and knowing, self-reflexivity – yet his novels curiously employ the figure of the border and the characters' discussions of generic borders as the source of the novel's self-reflexivity.<sup>2</sup>

The clearest example of *Frontera Dreams*' conflicted approach to detective fiction – working both inside and outside the genre – is through the epigraph. Compounding its own generic confusion as well as the detective genre's strengths and weaknesses, the epigraph – "If anyone wants to read this book as a simple mystery novel, that's his business" (1) – a quote from Argentinean journalist Rodolfo Walsh, positions the rest of the story within a certain no-man's-land, an ambiguous space within the detective genre's otherwise familiar territory. This epigraph condenses the novel's concerns regarding genre and the scope of

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<sup>2</sup> Literary critics have devised other names for this genre besides "metaphysical detective fiction." In 1972, William V. Spanos coined the term "anti-detective story" to describe narratives that "evoke the impulse to 'detect... in order to violently frustrate it by refusing to solve the crime" (154). Dennis Porter refined Spanos's term in 1981 (245-59); and Stephan Tani, who published, in 1984, the first book on what we call metaphysical detective fiction, analyzed, itemized, and further categorized such narratives under the general rubric of "anti-detective fiction." Yet the adjective "anti-detective" seems slightly misleading. These stories do subvert traditional detective-story conventions, but not necessarily as, in Tani's words, "a deliberate negation" of the entire detective genre (24). Rather, these stories apply the detective process to that genre's own assumptions about detection. (*Detecting Texts* 3)

detective fiction more generally. Quoting Walsh in an epigraph complicates the rest of the novel not only because it situates *Frontera Dreams*' plot in relation to a narrative and textual space outside its boundaries, but most importantly because it points to a history, complex and richly articulated, which threatens to overshadow the novel's fictional space. Rodolfo Walsh is an important influence not only for Taibo, but also for a whole host of Mexican, Central and Latin American authors who grew up after World War II. Walsh was born in Argentina in 1927. Of Irish and Argentine descent, he was sent to the Irish school in Capilla del Señor and then to the Fahy Institute in Moreno. He began his career as a journalist in 1959, working for the agency Prensa Latina in Cuba. Back in Buenos Aires, he wrote for *Panorama*, *La Opinión* and *Confirmado*. His political activity led him to the hard-line Montoneros group, where he acted as intelligence officer. Walsh played a key role in the bombing of the cafeteria at the police headquarters on July 2, 1976. On March 24, 1977, the first anniversary of Jorge Rafael Videla's dictatorship, he accused the dictatorship in an open letter. The day after three army tanks demolished his home in the capital's suburb of San Vicente. He was murdered in broad daylight in downtown Buenos Aires by a military death squad whose instructions were to capture him alive, but had to kill him when he pulled a gun to return their fire. His dead body was dumped in the trunk of a car, taken to the notorious Navy Mechanics' School (ESMA), gloated over, desecrated and never seen again (Geraghty 2002).

Rodolfo Walsh pioneered investigative journalism in Argentina. In *Operación Masacre* (1957), his account of a summary execution of thirty-four Peronists, Walsh combined detective suspense with non-fiction narrative techniques. Among his published works are *Diez cuentos policiales* (1953), *Cuentos para tahúres*, *Variaciones en rojo* (1953),

*Antología del cuento extraño* (1956), *Operación Masacre* (1957), *Secuencia Final*, the plays *La granada* and *La batalla* (1965), *Los oficios terrestres* (1965), *Un kilo de oro* (1967), *¿Quién mató a Rosendo?* (1969), *Un oscuro día de justicia* (1973), and *El caso Satanovsky* (1973). Straddling the boundary between investigative journalism and fiction, Walsh's approach and texts provides an important analog for Taibo's own work, who has himself published across a variety of genres – history, fiction, essays, etc.

As a novelist and a historian in his own right, Taibo's work occupies a similar position to Walsh's own approach – a border zone between fact and fiction, between illusion and reality – by employing fictional techniques to fill in historical detail. Beyond connecting *Frontera Dreams* to the history and tradition of Latin American leftist historical fiction, the epigraph considers the novel's connection to detective and mystery genres. In a story that will prove to be anything but a “simple mystery novel,” the epigraph serves as a prominent warning to the reader and his/her expectations but, more importantly, functions according to the true meaning of the word “epigraph”: “An inscription, as on a statue or building,” or “A motto or quotation, as at the beginning of a literary composition, setting forth a theme.” Taken from the Greek root, “to write on,” an epigraph maintains both meanings – as inscription and frame – and provides a literal and figurative border for the action and events that follow. At the outset the epigraph holds out the promise that, at least formally, the narrative will on its initial reading resemble a “simple mystery novel.” This much seems to be implicit with the epigraph. If the narrative can be mistaken for a “simple mystery novel,” it must, in one form or another, at least resemble one. Otherwise, this mistake could not occur. It seems, at least initially, that a reader could be lulled, or perhaps even duped, into mistaking the narrative as a “simple mystery,” somehow



tricked by its generic or formulaic appearance; its surface form invoking a type of passive, unreflective consumption. However, the epigraph tricks the reader because it raises the possibility of one type of reading, one interpretive perspective, only to disregard it in favor of another. Positioning the novel both inside and outside the mystery genre, the epigraph holds the promise of multiple interpretive options: we are free, as readers, to regard or disregard the novel's connection to "simple mystery" by any means we find fit. However, the epigraph curtails these choices in its very gesture of interpretive openness. It may be the reader's "business" whether or not they choose to regard *Frontera Dreams* as a "simple mystery novel," but the epigraph's challenge is clear: it dares the reader to draw distinctions between "simple" or traditional mystery and detective novels and something beyond this simplistic and facile understanding of mystery, transcending the empty formalism and prosaic platitudes of the genre. Daring the reader to go beyond the generic confines and comforts of detective fiction, the epigraph complicates/emphasizes/stresses the novel's relationship to genre by entering it into the space of interpretation and translation, a place where analysis, commentary and critique are already included in the reading, shaping and reception of the events of the novel. As such, the epigraph raises implicit questions about borders by its very position to the narrative since it locates the remainder of the story within a special in-between space, caught between narrative pressures of the detective genre and yet still finding those conventions ill fitting.

Rather than adhere to the generic dictates and standard tropes of detective fiction – ratiocination, tough-guy masculinity, restoring the social order, etc. – *Frontera Dreams* is intent on satirizing Héctor's role as a detective. The narrator weakens Héctor's position within the narrative by calling attention to it *as* narrative, self-reflexively positioning

Héctor as a common reader, rather than insightful detective: "Héctor opted for patience. Stories are told in one way or another, traveling unusual paths. They develop in a way that is hardly natural. They escape and reappear, and the one who determines these erratic journeys is always the narrator and not the listener" (50). Displacing the exploratory drive so crucial to the detective genre, the narrator transforms the stereotype of the astute detective into the image of a receptive reader and listener, from active investigator to passive audience and, in the process, inverts the truth element of stories: the hope that stories, by way of their implied narrative progression, will eventually arrive at a truth. Stories, according to the narrator, may arrive at some sort of provisional truth, but only when revealed by a narrator, and only by first traveling "unusual paths" and "erratic journeys." Reflecting Héctor's position within the narrative, this image of a nomadic story, controlled by a narrator who may, perhaps, arrive willy-nilly at the truth, reaching its eventual end, or not finishing at all, overlaps with the narrator's recurring meta-commentary.

However, these two parallels – Héctor's position within the story and the narrator's commentary – are, in fact, incongruous. Héctor is disjointed and dislocated, set apart from the narrative, neither fully a part of nor an outsider to the world the narrator describes. The narrator goes to great lengths to describe Héctor's in-between status, his inability to differentiate between fact and fiction and, most crucially, his failure to fit into that fictional world he envisions: "Once again, he found himself in the wrong story" (69). Hardly the most reassuring model of a detective, Taibo's border novel uses irony to destabilize detective procedure and, consequently, the belief in linear, progressive narratives and disinterested reason. When the narrator of *Frontera Dreams* claims, in a

moment of deep irony, that a “Mexican detective was by definition a laughable solitary accident,” (9) we sense it is because Héctor’s role as both Mexican and detective seriously jeopardizes the epistemological certitude conventionally accorded a private eye.

Faced with the impossibility of catching Natalia and perhaps unable to understand the nature of his investigation, Héctor turns to stories, often popular or mass culture tales, to comprehend the events around him and to provide the coordinates for his actions. More often than not, however, “popular” stories provide false expectations because they never match up with experience:

Belascoarán, unlike the authors of crime novels, liked complex stories, but only those in which nothing happened. His was not religious but the everyday baroque, possible without wounds or death. (106)

Pointing to the incommensurability between literature and reality, the narrator reveals how this gap constitutes the “everyday baroque” for Héctor. In contrast to authors who like simple crime stories, Héctor yearns for narrative convolution and difficulty, stories that mask rather than illuminate the reality they describe, converting life into a tale where, in the end, “nothing happened.” Occasionally these tales provide solace because they, however obliquely, mirror his experience. More often than not, however, Héctor fails to match these stories with his experience. This gap between genre and experience, a remainder born from the incongruity between fiction and fact, makes Héctor anxious, isolated and apart from the fictitious realm of comfort he envisions.

While Héctor hazards a provisional guess as to the story’s meaning – “That’s what all

this goddamned story had to do with” (106) – the narrator underscores Héctor’s inability to maintain authorial control over the story and the characters because, ultimately, “it wasn’t Héctor’s story; they weren’t his characters” (106). Emphasizing the shift from detective to reader, the narrator curtails Héctor’s ability to author his own life. Héctor is just another character in the story, often resembling the people he investigates, and like them, without agency, lacking self-sufficiency, and unable to make sense of his actions. In a world where history “unravels and shifted,” jeopardizing the means by which people create meaning, the moorings of identity suffer a similar fate; incapable of cogent, coherent subjectivity, Héctor is caught between contradictory tendencies – closure and fragmentation, solidification and dispersal – and unable to consolidate the boundaries of identity, its antinomies, and its irreconcilable history. Ultimately, these quotes, like most of the novel’s comments, self-referentially reflect Héctor’s inability to achieve any progress with the case. For the reader soon begins to sense that Héctor’s preference for complicated tales, or for stories where not much happens, rationalizes his own inaction and lack of understanding. How else is the reader supposed to react to the novel’s ending, indeed, if it ends, since it ends in the most unusual ways? Are we, as readers, supposed to feel like the narrator and Héctor, assuming that, “at the end of the day, the whole story deserved that, an ending without an end?” (110).

In *Life Itself*, the residents of Santa Ana enlist detective novelist José Daniel Fierro to protect the town’s union workers from conservative PRI agents and anti-union violence. Fierro sees himself, his life and his new job as sheriff in terms borrowed from hard-boiled literature and *film noir*, such as when he claims to speak “in full Robert Mitchum” (29) voice, or “tried to conduct the whole affair in the purest procedural style of the stories

of McBain's 87<sup>th</sup> Precinct" (92). Not only does Fierro see himself and his case as issuing from the shadowy realm of *film noir*, the narrator also describes him in cinematic terms: "At fifty yards, José Daniel Fierro appears an ungainly character who miraculously broke through the barrier of silent film to arrive alone and desperate in the commercial cinema of the 1960's: movies about drug running on the border and so on" (60). Like Héctor's experiences in *Frontera Dreams*, José Daniel Fierro's invocation of genre is fraught with contradictions and historical anachronisms. Genre, it turns out, is a double-edged sword: a useful tool at times, an important hermeneutic, but often it removes the detective's sense of agency, his ability to author his life. Fierro writes a letter to his wife, explaining the situation in Santa Ana, but presents actual events as fictional, feigned ideas for a later detective novel:

It is a novel of some very fucked-up crimes, but the important thing is not the crimes, but (as in every Mexican crime novel) the context. Here one rarely asks oneself who done it, because the killer is not the one who wants the death. There is a distance between the executioner and the one who gives the orders. The important thing is usually the way. And so I think this is the story of various whys. The characters are not...very lucid; they are more opaque. (156-57)

Fierro's meta-commentary provides a template for the actions of *Life Itself* and *Frontera Dreams* as well by claiming how context, narrative distance and opaque characters over-determine the "Mexican crime novel," something Fierro experiences as "real" in his job

as sheriff but that conflicts with the conventions of traditional storytelling. When Fierro writes, "there is a distance between the executioner and the one who gives the orders," the reader senses he is also referring to writing and authorship more generally, perhaps even the contours of identity itself, because real life, in this case, quickly becomes a "story of whys" and the people operate as characters. Fierro, at the end of the novel, reflects on what he has come to understand, but this truth, in and of itself, avoids the language of literature: "The beauty of the novel is that the sheriff discovers nothing, only that things simply happen. That's what I like about this novel – that it has no ending, no losing, but is, as I've said of my days in Santa Ana, like life itself" (193). Like the novel's title, *Life Itself*, this quote demarcates the split between literature and life, and points to a division within the nature of realism, a divide the detective novel perpetuates. For if detective fiction, and in Taibo's case, politically steadfast detective fiction is committed to realism, what happens when life, people and experiences are opaque, uncertain and resistant to the investigations of literature? Fierro's "letter" points to the "accidental" and "out of place," which he connects to narrative and generic dislocation, something Héctor begins to understand as the "foreignness" of the border in *Frontera Dreams*.<sup>3</sup>

<sup>3</sup> In *Leonardo's Bicycle*, José Daniel Fierro falls in love with an U.S. college basketball player – Karen Pierce – after watching her on television. He tracks down organ traffickers after Karen is discovered unconscious in Juarez with a kidney missing. Everyone assumes the crime occurred in Juarez, yet José Daniel discovers that the operation was in El Paso. José Daniel outwits the organ traffickers after his journey leads him to a Bulgarian secret service agent and a CIA backed heroin-smuggling operation dating from the Vietnam era. According to Fox, the novel "explore[s] issues of U.S. imperialism in the age of globalization, at the same time that it offers one model of a viable, albeit asymmetric, U.S.- Mexican partnership" (Fox, "Left-Sensationalist 191). Fox states that the plot of *Leonardo's Bicycle* becomes a type of "revenge fantasy, by making the victim an innocent U.S. citizen whose kidney is destined for a former Bulgarian secret- service operative with connections to the CIA. Mexico thus becomes the post-Cold War playground of long-established, mutually destructive First and Second World criminal networks. A cunning, border-crossing Fierro outwits the bad guys on his, and their own, turf" (Fox, "Left-Sensationalist" 191).

Héctor's lapsed and inadequate detective abilities have much to do with the fact that he is hindered by mass cultural representations of the private eye. The novel stresses Héctor's overdetermination by the popular images of hard-boiled fiction and *film noir*, television and advertising. This sense of cultural invasion is evident when the narrator, referring to Héctor's futile task, claims: "A phantom detective on the hunt for a phantom woman. Who the fuck would want to hurry under those circumstances? Not even a scriptwriter for California TV" (9). Registering a pessimism toward simple narrative progression, mind-numbing genre and, specifically, popular culture intrusions, the narrator's remarks indicate how mass culture shapes Héctor's life. And yet, ironically, Héctor's images for his authentic, existential feelings of alienation are culled from the palate of popular culture: "He felt sad, disheartened, alien, a Robinson Crusoe in the middle of the busiest street in Tokyo... Nat letting herself fall into his arms with a Madame Bovary sigh in the middle of the high school stairway was one thing, but this Phantom Woman surrounded by shady characters, each one carrying a history in his pocket that unravels and shifted, was another thing" (106). Powerful, yet cut through with irony, mass culture's position in the novel, in spite of its claims to narrative simplicity, complicates characters' identities, actions, and frames of reference. Mass culture's imposition of narrative and generic regularity, with it the power of genre to subject reality to order, forces the incongruity the characters experience between their "real" lives and the lives that movies and television have led them to expect. Héctor, while remaining at an ironic distance, is depicted as a fish out of water, never quite fitting into the Hollywood ideal of detective mysteries and romance: "It was the ideal setting for a movie: detective looks for movie star who disappears mysteriously in the middle of a shoot, a movie star to whom he is connected

by the fine threads of his absurd recollection" (12). Just as Héctor's only analog for his actions and role as a detective are in terms of filmic and literary genres, José Daniel Fierro's ironic identification as a detective in *Leonardo's Bicycle* only emphasizes how unnatural his actions have become: "I would believe in characterization. In *mise-en-scène*. I would have the appearance of an investigator" (121). José Daniel becomes trapped in stories that, although a crime novelist in his own right, he cannot extract himself: "After telling so many stories he had gotten stuck in one. He was a fictional character and he did not know it" (322). Taibo's border detective novels, therefore, underscore the power of genre and mass culture to shape individuals, yet ironically and self-reflexively refuse that power. These quotes demonstrate the power of genre to make all content ironic by mocking heroism, ratiocination, and romantic love. More than a simple case of movie reality slowly seeping into the everyday reality, saturating the parameters by which we make sense of the world, the influence of cinematic representations seems to have turned the world inside out in the novels.

### **Impossibly Real: The Border Does Not Exist**

The narrator describes Héctor's experiences of the border, and the difference between both sides, as radically and irrevocably altered by an uncontrollable state of mediation. Héctor's travels along the region reveal the complex influence of media and television on our sense of borders, boundaries, and distinctions. Following Natalia as she slowly approaches the San Diego/Tijuana border, Héctor "discovered in the chance mirror of a shop window that his beard was growing more rapidly than normal" (28). In a seeming parody of Benjamin's flâneur, the narrator transforms Héctor into the figure of the man



of the crowd, spying his image reflected back to him through the store window. Yet the window is not the only surface that reflects, as we soon find out. Television has supplanted the border but it, in effect, forms a much more formidable barrier:

From the border, the United States is a televised landscape at arms length. A giant Babylonian supermarket, where the meaning of life might be the ability to buy three distinct models of steam irons on the same day. Héctor didn't think himself a good judge in the area of nations and nationalism. A guy who frequently failed to recognize his image in the mirror wasn't a good judge of anything. (29)

As with Héctor's earlier immersion in generic tropes and traits from *film noir* and hard-boiled literature, tropes that signal his alienation from the border area and genre itself, here Héctor is caught between another, more looming border: the divide between material, economic and social consequences of the border and the mediated, "televised landscape" of the U.S. The U.S. transforms nature and the landscape, according to the narrator, into a simulated reality, a screen and surface that deny depth, erase complexity, and hide the material reality of the intricate social, political and cultural institutions guiding the border. The televised landscape becomes a commercial option, a "giant Babylonian supermarket," controlled by commodities, products and goods. Moving from personal reflection to seemingly less decipherable abstractions such as nations and nationalism, the narrator claims that, for all of Héctor's understanding of how the personal operates, he is unable to speculate on "national identity." The narrator questions, rightly, the ability of a person

who "frequently failed to recognize his image in the mirror." How could he be "a good judge in the area of nations and nationalism?" Héctor's personal confusion about the self, his inability to achieve any type of recognition, precludes his understanding of nations and nationalism. Self-identity, according to this equation, is opaque, operating as a mere cipher for the economic, cultural, and political actions traversing the region.

The narrator's and Héctor's depictions of the border, specifically Héctor's claim that the U.S. side of the border resembles a "televised landscape," complicate traditional debates about the border and border identity because they admits the influence of "mediation," the complex interface of media, communication, global capitalism, production and consumption. Most immediately, the references to the "televised landscape" of the border and the "Babylonian supermarket" of United States consumerism connect with Jean Baudrillard's notion of "hyperreality," "simulation" and the "ecstasy of communication." Baudrillard argues that the real has been liquidated because "the very definition of the real becomes: that of which it is possible to give an equivalent reproduction...at the limit of this process of reproducibility, the real is not only what can be reproduced, but that which is always already reproduced. The hyperreal" (146). Baudrillard believes that reproduction has reached the point where representations have emptied out reality and "the body, landscape, time all progressively disappear as scenes" (129). He argues that the essential nature of representation and description have changed because television and media disrupt meaning and depth. The television screen, in essence, becomes the iconic image for mediated culture's power to flatten and level. According to Baudrillard:

Something has changed, and the Faustian, Promethean (perhaps

Oedipal) period of production and consumption gives way to the “proteinic” era of networks, to the narcissistic and protean era of connections, contacts, contiguity, feedback and generalized interface that goes with the universe of communication. With the television image – the television being the ultimate and perfect object of this new era – our own body and the whole surrounding universe becomes a control screen. (126-27)

Unlike the past, where an individual would develop a sense of self against owned objects and the world he/she inhabited, the current era of communications and transparency for Baudrillard forces the individual and the scene of individual action to fade. At one time the subject had depth; however, the interiority that relied so heavily on the imaginary plentitude of privacy has been lost due to what Baudrillard calls the “ecstasy of communication.”

For all the cosmetics needed to flatten the border into a television screen, American mass culture, according to the narrator, has the effect of making others foreigners, of making all things foreign not included in its circuit of commodification and simulation:

Héctor observed San Isidro from afar. Over there, he would be a foreigner. How absurd, to become more or less a foreigner by walking a few yards. Was he a foreigner here? A little more so than Mexico City? Definition of a foreigner: he who feels foreign, he who believes that the tacos he can get right around the corner from his house are necessarily better than those he

can eat here, he who upon waking up in the middle of the night feels a strange emptiness, a sense of not belonging to the landscape seen from the window. (29)

The border becomes a site where history, nationalism and identity converge and conflict, where contested distinctions are won and lost, in essence, “a land where everyone was a foreigner” (4). Yet for all the influence the characters’ sense of space plays in determining their identity, everyone in the story eventually succumbs to the fact that the border is a metaphysical state – “a strange emptiness” – as well as a material one, something you carry with you: “a sense of not belonging to the landscape.” Héctor begins to understand the metaphysical homelessness of the border, proclaiming “Branded. Sickly. Slow. Foreign. That’s what all this goddamned story had to with: being a foreigner” (106). Just as borders produce “foreignness,” borders also reinforce racial and class divisions: “racism is also a detector of precious metals, an inspector of the relationship between wallet and skin color. . . . If we’re poor, then we’re black for sure. All this shit was also the border” (*Leonardo’s Bicycle* 107-8). This sense of “also the border” indicates a willingness to extend the concept of the border beyond a merely literal sense to a broader metaphor for the foreignness, alienation and estrangement of the border, the sense of geographical dislocation engendered by the rise of globalization and the decline of nation state sovereignty.

Taibo’s other writings reveal how the concept of “foreignness” is crucial to both his understanding of genre and non-fiction. His record of the political events of 1968, the non-fictional ’68, highlights the feelings of foreignness underlying the students’ political dissatisfaction:

For we were not Mexicans. We dwelled in a smaller city within a vast metropolis...We were strangers, too, in history. We did not come from the national past. We did not know why, but for us the past was an international realm that produced novels and revolution, not a local realm belonging to the people... Foreigners in our own country; foreigners in our own history. (20)

Taibo emphasizes how “foreignness” operates as a material and metaphysical condition, a type of grand alienation, creating borders in its wake. As José Daniel Fierro claims in *Leonardo’s Bicycle*, New York City is the leading example of foreignness because “it was a city in which virtually everybody felt partially exiled, and everybody generally foreign” (291).

Foreignness is more than a spatial and temporal alienation for Héctor. It’s the fundamental experience of all literature and genre, which is why the detectives conjure *film noir* – the example of the foreign par excellence – to understand their dislocated sense of personal identity, agency and self-authorship:

I might not be sure about the place that I, José Daniel Fierro, would have in this plot. I would not know myself as a person or a character. And if that is the way it is, and if there might be some kind of trick or trap, there would be some other sumbitch who would be writing a novel about me, who would be writing about me as a character: the E.T. of the Wild Frontier. (*Leonardo’s*

*Bicycle* 174-176)

When Fierro or Héctor turn to genre – hard-boiled detective literature and *film noir* – as shorthand for “foreignness,” for the other, the strange, the inassimilable, the excessive, they do so out of their desire for a critical approach to the border. This pastiche of mass cultural references that Héctor and Fierro construct constitutes a critical edifice through which to understand the border. Combining popular culture to their own ends, the detectives deploy images, metaphors and generic frameworks to situate and empower themselves as detectives and foreigners: “I am the E.T. of the Wild Frontier, a sort of literary alien, my girl. I’m a writer. I’m a vampire sucking the blood out of other people’s stories. I came to Ciudad Juárez to write a novel.” (233)

Héctor’s experience of the border engages contemporary border theorists, such as Gloria Anzaldúa, Cherríe Moraga and Ramón Saldivar, who discuss the border in terms of hybridity, fluidity and contact zones. In contrast to border theorists who celebrate a fluid identity of the border, Héctor is caught between the contradictions of the mediated border and material reality, a situation of “foreignness.” When Héctor crosses the Tijuana border, he describes this foreignness in terms of a televised landscape, a land emptied of content, hollowed out and reflected in the images that represent the border – the flâneur, the alien, the foreigner. Héctor is also alienated by his physical environment, the harsh material and economic reality of the border towns – the ethnic poor, the maquilladora workers, prostitutes, sexual tourism – and is keenly aware of these dual, yet contradictory, senses of the border – as hollowed out image and as disenfranchised, third world reality. Héctor’s experiences reveal the border as a failed dialectic, where material reality and

hyperreal excess clash and conflict, yet, ultimately, fail to be properly resolved.

By the end of *Leonardo's Bicycle*, José Daniel Fierro locates the kidney traffickers, outwitting them as a border crosser, and has gone back to writing his next detective novel. He understands that the models of detection necessary to solve the case – suspicion, analysis, doubt, and distrust – are equally applicable to models of reading:

I would have to watch out for the shadows, for the shadows and metaphorical accidents in neon-lit Ciudad Juárez...all the pieces would be coming together in a meaningless jigsaw puzzle. You have to be overindulgent to think that a metaphor is something direct. An arrow homing in on a target painted in black on the wall. It is not. It is dangerous, double-edged material. It is an ambiguous resource. It is the writer who creates it, but it is the reader who interprets it, adapting it to his own very particular aches and pains. You do not even own the ribbon in the printer you use. (174)

His watchfulness for “shadows and metaphorical accidents” points both to his penchant for the *noir*-like world of shadowy streets, duplicitous characters and dangerous females, and for the “metaphorical accidents” that those shadows engender – the self-certainty that metaphors are “arrow[s] homing in on a target,” denoting and referring unambiguously, with no gap between metaphor and reality. This mistaking of metaphor as ownership and control of meaning is not only wrong; it is “dangerous, double-edged material,” an ideological battle for meaning between author and reader.

While *Frontera Dreams* lacks an ending in the traditional sense, it does end with Héctor triumphing over his adversaries: Héctor explodes a silo holding pounds of marijuana and all three of the enemies inside the silo. Strangely, the coda returns to the novel's beginning – the mythic Chinese border jumper – but this time, Héctor witnesses a real Chinese border jumper:

When the Chinaman flew through the air towards the other side after having cleared the obstacle, the detective turned his back on him. He began to walk towards the bus station. Natalia would have remained suspended in mid-air, immobile, halfway through the dance step. Frozen by the television spotlights and the 35-millimeter film that constituted cinematic magic. The Chinese guy would have enrolled in the American Dream. Soon he would grow tired of it and would return to jump the fence in the other direction, but for now he had earned his victory. He had jumped, beating the system. Héctor preferred stories with a happy ending. (119-120)

This return to a Chinese border jumper manifests the novels and Héctor's attitudes toward the vicissitudes of nationalism and identity under global capitalism. The novel's end reenacts, and seemingly materializes, the mythical anecdote described at the beginning of the novel – a rumored Chinese man who jumped the border seven times in one day – with an actual Chinese jumper, hopping the border – both actual and ideal – breaking through the mediated reality of the screen. Yet, Héctor keeps his Chinese jumper dissatisfied,



yearning. This is Héctor's desire: for story over reality, a preference for a happy conclusion, not an ending frozen in time by the freeze-frame action of cinema, but for a story that realizes its desire in its completion, in its fruition.

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## Mistaken Identities and Queer Framing in Bollywood: 'dosti,' 'yaarana' and *Dostana*<sup>1</sup>

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### Introduction

Tarun Mansukhani's *Dostana* (Friendship, 2008) is the first commercial popular feature film from India to exclusively engage in a queer dialogue using the device of 'mistaken identity' and 'misreading' (Ghosh, 2007). This film provides a rich site for studying the traffic between discourses of sexuality, Indian-ness, diaspora and performativity. In the film the diasporic Indian is queered through the homosocial journey of two recent Indian immigrants in Miami- Kunal and Sam as they attempt to disrupt the singular, undifferentiated Indian identity through their 'alleged' non normative sexuality. This paper will address the queer representation of these fictional characters and queer framing, analysing the concept of 'dosti' and 'yaarana' and the trope of the homo-social triangle in Hindi cinema. This film trajectory presupposes the existence of homosexuality but relies on the inevitability of heterosexuality. It explores traditional social themes such as love, family, tradition but within this builds up an alternative 'invisible' queer narrative. By acknowledging the slippages between 'real identity' and 'mistaken identity' these films usher in a new queer cinematic discourse within popular Bollywood.

### From *Devdas* to *Dostana*

Indian cinema has attracted much attention globally and within a short space of time has moved from the 'periphery to the centre of World Cinema' (Gokulsing and Dissanayake, 2013: 1). The reasons for this remarkable journey are many and quite complex, which include India's urbanisation and growth of consumer economy as well as the emergence of globalisation which firmly placed India as a significant global nation. Much of the Indian cinema that has proliferated and entered the global consciousness

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is the popular variety synonymous with ‘Bollywood’<sup>2</sup>. Even as Bollywood devotes itself to the celebration of normative heterosexual desire, their passionate engagement with forbidden and transgressive cross-religion, cross-national love stories which challenge social acceptability such as *Devdas* (2002), *Veer Zara* (2004) have held a particular significance for queer spectators. Alongside this has been Bollywood’s preoccupation with ‘dosti’ (friendship between two men and sometimes women) as in *Razia Sultana* (1983), *Sholay* (1975) and the more recent *Student of the Year* (2012) celebrating intense same sex love between two friends which according to Ghosh (2007) can be read as homoerotic texts.

Although gay themes and queer characters are relatively underrepresented in the output of the Hindi film industry, the rendering of queer is neither wholly unrecorded, nor is it a contemporary development. Cinema in India has repeatedly addressed queer representations through stereotyped depictions, such as the ambiguous gendered side characters in *Raja Hindustani* (King India, 1996), or the drag performances of Amitabh Bachchan in *Laawaaris* (Orphan, 1981) whose elemental function appeared to be limited to the provision of comic relief. Alternatively, a modest number of commercial films presenting queer narratives are also in existence, which emphasise, the disconsolate or the tragic. *My Brother Nikhil* (2005) and *I Am* (2010) which establishes HIV, and gay bashing/blackmailing (in the latter) as its major themes, is perhaps the most well known example of this genre. While *Dostana* (2008) cannot legitimately lay claim to the mantle of the first gay film in India<sup>3</sup>, it is one of the first mainstream commercial films from Bollywood to explicitly engage in a queer dialogue through rerouting traditional rituals and denaturalising family structures and thus reimagining Indian-ness through a queer lens.

### ‘Dosti’, ‘Yaarana’, *Dostana*

Bollywood cinema is saturated with rich images of intense love and friendship between men. According to Madhava Prasad (1998) ‘dosti’ (friendship) in Bollywood takes precedence over heterosexual love. He argues:

The code of dosti takes precedence over that of heterosexual love and in the case of conflict, the latter must yield to the former. Thus, in a conflict over love between male friends, the woman remains out of the picture, while

the two males decide between themselves who will have her... The bond of ‘dosti’ is then a prototype of the compact among men that institutes the social contract (1998: 83-84).

This space of homosocial male bonding within which ‘dosti’ and ‘yaarana’ is inscribed, then becomes a subversive space within which queer desires are referenced and articulated. It is significant to note that the concepts of ‘yaarana’ and ‘dosti’ have been central to much queer reading of Indian cinema (Ghosh, 2007; Kavi, 2000; Rao, 2000; Gopinath, 2005). An oft cited case of this key trope in the Hindi film repertoire is *Sholay* (Embers, 1975). Jai and Veeru’s dosti is played out most tellingly in the song ‘Yeh Dosti’ (This Friendship). According to Kavi (2000: 310), this song ‘features lyrics plainly homosexual in content. One verse, openly sexual, says: “I will take anything from you”-“Tere Liye Lenge.” “Lenge” is Hindi street slang for the phrase “getting fucked<sup>4</sup>.” The word ‘yaar’ (friend) is itself quite ambiguous. As R. Raj Rao (2000) has noted, it can be used to denote a male or female friend, one’s spouse, or in a pejorative sense, one’s wife’s lover. As such the representation of ‘yaarana’ in Hindi films is open to multiple interpretations, at the same time ‘dosti’ is an honoured institution in South Asia, which as Prasad has argued triumphs over all other forms of love and emotion (including heterosexual love), and loyalty to one’s ‘yaar’ or ‘dost’ is an accepted virtue. For a queer community struggling for recognition in India (Bose and Bhattacharya, 2007; Narrain and Bhan, 2005), this playing out of male-male bonding and attachment become significant in the absence of a more deliberately articulated political position on sexuality. Borrowing Dudrah’s (2010) work on the ‘haptic urban ethnoscape’, which he defines as the idea of multisensory visuality which represents and articulates the urban cultural geographies, I want to suggest extending the textual reading of these films beyond the materiality of the film alone, in terms of how we might think about the queer representation as being played out in related cultural geographies.

For instance, the song ‘Yeh Dosti’ has long been an anthem for South Asian queer marches and events all over the world. The lyrics of the song’s opening lines, being utilised as an expression of queer solidarity:

Yeh dosti hum nahin chodenge, Todenge dum agar, tera saath na chodenge  
(We will not give up this friendship. We may die but we will never part)

Similarly *Dostana*’s queer currency extends from its ‘pseudo-queer’ storyline, the numerous fan fiction written about it to its public performance in queer South Asian Clubs in the diaspora. I want to recall here a recreation of a particular song from

<sup>2</sup> The term Bollywood is a late invention and the emergence of this category can be traced back only to the latter half of the 1990s when it started being used profusely in trade magazines, newspapers, etc. Rajyadaksha (2003) designates it in broader terms as referring to the contemporary entertainment industry where film is just one element. For a more detailed study of the term Bollywood, see: Ravi Vasudevan (2010). ‘The Meanings of Bollywood’.

<sup>3</sup> Riyadh Wadia’s *Bomgay* (1996), a short twelve minute film has the distinction of being called India’s first gay film. Similarly Sridhar Rangayan’s *Pink Mirror* (2003) is called India’s first ‘kothi’ film. Both these short features have only been screened in film festivals with limited distribution. See: Shahani, 2008 and Wadia, 2000.

<sup>4</sup> The word ‘le lenge’ (which literally translates as ‘take from you’) was again translated as ‘fuck you’ in the recent song ‘Tujhe Keh ke lunga’ (I will tell you and then fuck you) from the film *Gangs of Wasseyapur* (2012). Unlike *Sholay*, where the word was left un-translated.

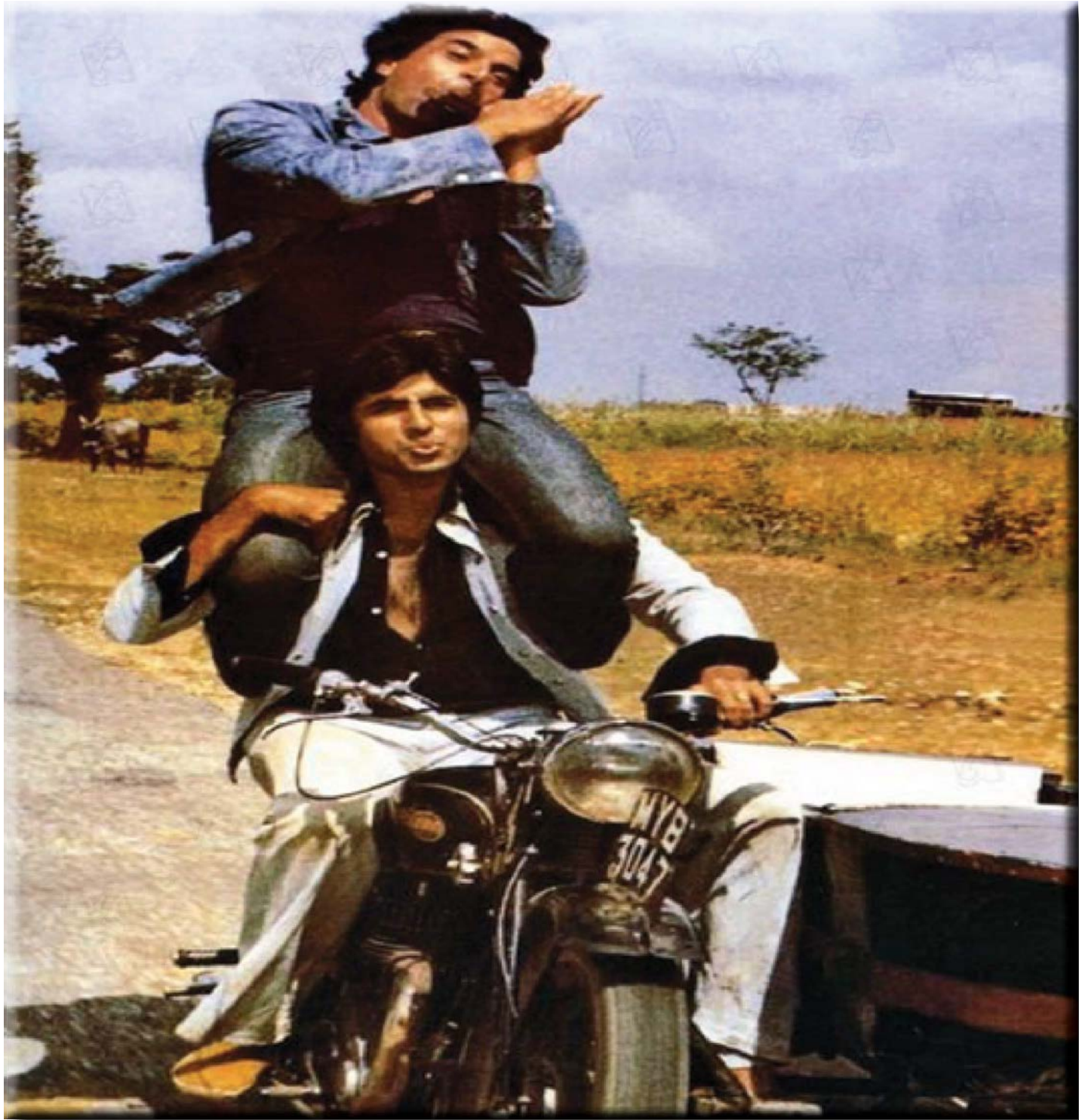


Figure 1: Jai and Veeru in 'Yeh Dosti' from *Sholay*, 1975. Courtesy of United Producers.

Da Laadla Bigad Gaya' (Mamma's boy has become a brat) which is often played at South Asian queer spaces in the UK; in terms of how queer sensibilities are recreated in urban geographies. In the film, the song shows a homophobic mother terrified at his son's homosexuality, as she tries to get rid of it through various means—from calling witch

doctors to keeping her son away from his partner. By playing this song in queer spaces, it is acknowledged as a queer text and the audience identify themselves as the 'spoilt son' who has been corrupted by the influence of homosexuality. Actual physical bodies in the club setting thus start recreating and articulating the queer tangent of the song.

*Dostana* starts in Miami and explores the story of two men who pretend to be gay, so that they can rent an apartment from an older lady and her niece. Two newly acquainted men on Miami beach—Kunal (played by John Abraham), a fashion photographer and Sameer (Abhishek Bachchan), a male nurse—find themselves in dire housing straits. They chance upon a gorgeous luxury apartment where Neha (Priyanka Chopra) needs two flat mates, but her aunt, the landlady will only allow female flat mates for her niece. At this point reminiscent of *Bosom Buddies* (1980-82) where Tom Hanks and Peter Scolari dress up as women to live in a girl's dorm, our heroes pretend to be a gay couple so that they can live in this house. However other circumstances force the two to dig deeper into the lie, which gets further complicated when they each fall in love with Neha. Their competition for her love strains the two men's friendship and adds another layer between the three. This mistaken sexual identity drives the rest of the plot. The mistaken sexual identities of the two men and the responses to them by others account for much of the humour in the film. *Dostana* can be considered the first film in mainstream Hindi cinema with direct homosexual references as its main thread which achieved global box office success (Dudrah, 2012).

Although gay Bollywood actors may still be in the closet, their clothes are either firmly out or falling off. A flamboyant dress code, combined with hyper masculine images of a muscularised male body and depilated torso, positively screams 'queer signifier'; certainly to non-South Asian audiences and the gay spectator. I suggest that this appending of queer signifiers is often projected onto the actor, and is not necessarily initiated by him. Waugh considers (2001: 297), 'Something queer is clearly going on in Bollywood. This is true certainly within the increasingly brazen and devious Mumbai studio subcultures.' Hence, the apportioning of a gay façade, seems to be instigated from a behind the scenes authority. In examining who wields control in the presentation of the star as spectacle, Richard Dyer (2004: 5) identifies the range of manufacturers who collaborate in the fabrication of this. The people who do this labour include the star him/herself as well as make-up artistes, hairdressers, dress designers, dieticians, personal trainers, acting, dancing and other teachers, publicists, pin up photographers, gossip columnists and so on.

Such cataloguing, details how subtly shaping gender construction is prolific in film making. *Guardian* Hindi film critic Nirpal Dhaliwal (03/12/2008) in an article has drawn parallels between Bollywood and the camp art form.

A stylised lightness permeates every frame, from the chic but colourful



minimalism of Neha's apartment through to the lingering shots of Abraham's nude torso and the entertaining, self-aware camp of the cleverly staged music routines. The soundtrack is great - like a Hindi-house set mixed specifically for a night at G-A-Y.

Dudrah (2006: 118) however comments on this distorted representation of Hindi Cinema. He argues that it was the 'camp, kitsch and fun aspects of Bollywood as safe commodification that was overlaid in a lot of the images and texts that accompanied the appropriation and celebration of Hindi cinema'. I would suggest that Indian spectators would be unlikely to draw parallels with Bollywood as a camp art form. A common perception of mainstream audiences in the west however, is of the aestheticism of Hindi film being camp, through depictions of kitsch imagery and an exaggerated sense of melodrama. A reason for this could be the selective use of the camp elements of Bollywood in South Asian events abroad<sup>5</sup>. Film Scholar Rosie Thomas (2006) presents the notion that Hollywood genre classification is quite inappropriate to India. Equally, the terminology of Hindi cinema, including the devotional, mythological and the Islamicate film, are infrequently used outside of the nation (Dwyer, 2006: 10). Therefore, assigning the term 'musical' as a film genre to almost all Bollywood films is misleading, for a number of reasons; including that it automatically signifies camp. Although the musical is no longer prolific in Hollywood, such recent examples as the exclamatory *Mamma Mia! The Movie* (2008) and *Moulin Rouge!* (2001) are widely regarded as postmodern camp art forms.

The actor being presented as spectacle for the queer gaze is another area where the imagery clearly draws parallels with the homoerotic. Mansukhani establishes this early on through the figure of Kunal. Presenting Kunal as an object of desire through the beach scene, where he is shown emerging from the water is put to good titillating use; the camera focuses and cuts his body into parts through medium and close up shots: first his waist, his midriff, his chest, his arms and biceps and then with him in full view of the camera. This particular scene is unique through its presentation of the direct male gaze, Kunal delivers to the camera. Borrowing from Waugh's description of the homosocial axes (2001), I would like to place Kunal and Sameer on two different sides of the homoerotic axes, whilst Kunal has been characterised as the 'masculine' partner with his muscled torso and bared bodied visualisation, Sameer is seen through a more feminised lens in his floral print shirts and intricate scarves. I consider these images important as they mark a transformation of masculinity and the desiring gaze which is shifted from Neha to Kunal and Sameer. Kunal and Sameer's 'dosti' (friendship) is situated within a queer space, where they enact their friendship through physical intimacy inscribed into a pleasurable spectacle, offering multiple locations of identification, without raising any

<sup>5</sup> A classic example is Andrew Lloyd Weber's classic *Bollywood Dreams*, which pays homage to the camp aesthetics of Bollywood.

significant disruptions to the heteronormative order. The strong friendship bonds or 'yaarana' that exists between male characters is an important trope in Hindi film. Not surprisingly homoerotic readings of this relationship are continually speculated on by fans, critics and academics. Reading films through a queer eye and slash readings of male relationships in film are some of the methods in which queer elements are explored. It raises the question if their bodily gestures and performativity between the two men is for the straight audience who has come to see a comedy film about two men pretending to be gay, or for a subculture of queer audiences within a so called mainstream straight audience who are also present in watching this film (Dudrah, 2012).

In what might be viewed as Dharma Productions pre-cursor to addressing queer issues as a major thematic concern, *Kal Ho Na Ho* (2003), is a film which is prolifically scrutinised for its gay subtext (Ghosh, 2007; Dasgupta, 2012). The relationship between Aman (Shah Rukh Khan) and Rohit (Saif Ali Khan) extends to fan fiction, with queer sections of the film also reworked through slashvidding, into a self-contained solely homo-centric short film<sup>6</sup>. In an exploration of the gay themes in *Kal Ho Na Ho* Dwyer states (2004: 78), "It is unlikely that we shall see this form of love taken seriously in Hindi films in the near future". I would suggest that in order to meet censor board requirements, as well as ensure strong opening footfalls from the initial 'first day first show', it is necessary to promote the film on its 'masala' qualities, and not the gay love story angle. Therefore, behind the comedic antics and romantic interplay on the surface Bose suggests (2006: 22) film makers are 'bending the rules' to allow a covert transmission of the film's directive.

My attempt here is to emphasise that the act of seeing and deriving pleasure needs to be seen as dialectic with an ever slipping trajectory of signification. According to Dudrah (2012: 49), the display of Kunal's body and the dressing of Sam in highly metrosexual, and at times, effeminate way... make them available to both men and women'. The South Asian diaspora's queer community has taken on Bollywood icons independently of their context in films. As a result of this they have been, according to Gayatri Gopinath (2005: 98):...able to seize on the numerous ruptures, slippages, and inconsistencies produced by the cinematic text's heterogeneity in form and address to produce pleasures and identifications that may not necessarily be authorized or condoned within the ideological framework of the text itself'.

### Songs, Item Boys and the Queer Gaze

The 'queer play' between the characters is also made available through the songs in the film. Songs are an integral element of the filmic experience, it serves to propel the story as well as underline the morals and emotions. Dance sequences in particular are frequently deployed to intensify the spectacle (Gokulsing and Dissanayake, 2012). The

<sup>6</sup> Available on Queering Bollywood: <http://connectmedia.waag.org/media.opencultures.net/queer/> [Accessed on 10 March 2013]

title sequence which begins with the song and dance number 'Shut Up and Bounce' establishes Kunal and Sameer as the main protagonists of the film. It acts as a 'narrative accelerator' (Dudrah, 2012:48) introducing us to the bachelor lifestyle of the two characters- young, single and sexually promiscuous. However the pleasures of the opening credits are more than this, it suggests the possibility of queer 'misreadings'. The song 'Desi Girl' presents the triangular relationship between the three lead characters, as Sam and Kunal vie to get the attention of Neha, or, as I would hypothesise, to get the attention of each other. Viewing a song promo outside of the context of the film is an accepted practice by audiences; it can however, give an inaccurate or misrepresentative portrayal of the plot and storyline. I would suggest that the initial promos, however, focus on scenes from the song that showed the homo-social interplay between Sam and Kunal with a montage of images such as a comic portrayal of sado-masochism. Kunal is established as the sexualised 'item boy' subverting the role of the 'item girl' in Indian cinema. I feel that the trend was established with Shah Rukh Khan, who gained significant levels of media attention by initialising the trend of the 'Item' boy (Henniker, 2010). In a song sequence for *Om Shanti Om* (2007), the director articulates she has him performing in a feminised representation, which I would argue is actually a homoerotic construct. Observing the filming process of the song Dard-E-Disco, Mushtaq Shiekh (2008: 134) writes, 'Farah wants Shah Rukh shot coming out of the water, "very heroine shots' as she puts it". She has him stripped to the waist; she has him in a wet shirt with buckets of water splashed on him'.

A male performing in an item number reverses usual Hindi film trends. Additionally, this particular song sequence is also quite unique for Khan's portrayal of non-heroic behaviour patterns such as the expression of fear and ultimate collapse at the end of the segment. The song also for the first time eroticises a bare bodied Khan after Mani Ratnam's *Dil Se* (From the Heart, 1998) more than ten years later. According to Morcom (2010: 174), the use of film songs has become core to the large part of India's contemporary erotic entertainment traditions, adding new layers of ironic and non-ironic referencing of the fictional and the real through their codes of eroticism, performance and morality.

Gabriel further suggests (2005: 145) 'Men cannot relate to each other without women's bodies', which is evident in the song 'Desi Girl', whereby the female is a necessary link for men to be able to connect with other males. Additionally, in the sequence for 'Jaane Kyon' (Why/Who Knows), Sam and Kunal reminiscent of the earlier Jai- Veeru sequence from *Sholay* celebrate their friendship by singing 'Jaane Kyon, dil jaanta hain, tu hain toh I'll be alright' (My Heart knows, if you are there, everything will be alright). In my opinion this song serves two purposes. It introduces the ambiguity in the film by placing all three character- Sam, Kunal and Neha within the same frame; and the lyrics by not being alluded to any one (or more character) allows for a 'misreading' by the queer spectators. Dwyer (2000) has previously argued that song sequences are the primary

vehicle for the bulk of the erotic display of the female body in Hindi films and it allows the emphasis to shift on the sensuous erotic view of the heroine that is not found in the main part of the narrative. This is somewhat subverted, in this film as it is not Neha who is presented as the erotic figure but rather Sam and Kunal. In this song we are presented with a montage of images where the strongest link presented is the male friendship bond, at the exclusion of Neha.

### Queer and Indian?

The Hindi film industry based in Marathi-speaking Bombay is a linguistic anomaly, in that its main audiences are located elsewhere in the North and Central India region, colloquially known as the 'Hindi Belt'. North Indian themed narratives are intended for an audience of this geographical region (Ganti, 2004: 20), with plotlines that focus on the heteronormative ideal such as joint families and elaborate weddings. At the same time, a marginalization takes place of alternate sexualities by either not featuring their lives on film, or an apportioning of minimal screen time. *Dostana* challenges perceptions of status, through a repositioning of the insider, thus creating an inversion of the traditional North Indian patriarchal family, in a reversal of earlier Dharma productions output *Kuch Kuch Hota Hai* (1998) and *Kabhi Kushi Kabhi Gham* (2001).

An emphatic rejection of this Hindi film ideal is enabled, by locating the film and shooting it outside moral codes of the nation, and inhabiting it with diasporic figures. This is in contrast to earlier negative portrayals of the *desi* in *pardes*, or the outside Indian, with the corrupted characters of *Purab aur Paschim* (1970), being perhaps the most well known example (Dudrah, 2006: 67). Unlike *Purab aur Paschim*, *Dostana* presents diaspora in a positive light, whilst, akin to *Purab aur Paschim*, still provides audiences with a tableau outlined by Dwyer (2006a: 189) of 'the decadent pleasures of Western life'.

I would like to propose that the film minimalises any level of opposition or protest by presenting the narrative in a western context. This I suggest is a necessary step to avoid the controversy and effigy burning which can be a part of the Indian societal landscape. I have observed frequent demonstrations against films which are perceived to offend sentiments, in areas from religion, *Jodhaa Akbar* (2008) to caste, *Billu* (2009). A notable release to generate similar hype about its depictions of (homo) sexuality, is *Fire* (1996), with its entrance at the box office accompanied by national outbreaks of violence and destruction of property from pro Hindu groups who attacked cinemas, damaged property and burnt film posters. This was mirrored ten years later again with the release of the film *Girlfriend* (2006).

I would suggest that *Dostana* remained unscathed by such protest, due to the overseas location in the film, combined with the use of humour to convey the story. Perhaps also making a queer film, that can be read on a heteronormative level, curtailed, or confounded any possible detractors. As the film released, there were only minor

demonstrations against some of the 'homosexual content' and a ban in Pakistan, which is not uncommon for many Hindi film releases in that region.

Mansukhani has omitted questions of ethnography, by not connecting his characters to India. Other than the Venice back story, a fabricated concoction made by Sameer to convince Neha's aunt, Ms Melwani about his and Kunal's relationship, there is very little that the film reveals about the characters' backgrounds. An interesting observation can be made for situating Venice (or more widely Europe) for this 'gay' back story. Europe is characterised as a queer utopia where the possibilities of living life openly as queer men and women is acknowledged. Also by not referencing India in the back story, the film avoids the conservative and problematic link between sexuality and national identity within an Indian context. Mapping homoeroticism on to the national space is complex. The homeland is seen as the site of sexual oppression that must be left behind to realise the queer subjectivity. Gopinath (2005: 113) writing about the diasporic importance of these images argues

'...these images travel transnationally,(serving) to provide a common vocabulary for queer spectators in disparate diasporic locations, one that reconciles not only the contradictions between queer image and heterosexual narrative, but also the contradiction between the space of the nation as implicitly heterosexual and the space of diaspora as inauthentic, and indeed "queer"'.

Ashok Row Kavi (1999) has called this a 'contract of silence'. In India unlike the West where the gay son can leave home 'both to move to a larger city and to keep his secret from kin', (Sanders, 2004: 7 cited in Shahani, 2008b) this option is seldom available to the Indian man who either has to stay within the 'toxic closet' (Barton, 2012) or come out to his family with significant consequences, hence the cosmopolitan European setting offers Sam and Kunal (in their made up story) to live openly as a gay couple.

Similarly, although we are informed that Kunal has lived in the US for just three years, there is no reference to his, geographical origin, social status or family structure in India. Likewise, the character of Sameer, or Sam in its anglicised form, is described as previously residing in the UK. We are presented the image of his London home with a Miamiesque front garden and incongruous palm trees, utilizing a conventional Hindi film trope: the meaninglessness of the foreign space. Although it is not explicitly stated, we can infer that Sam is a first generation Person of Indian origin, dislocated from norms and conventions of India through transnational migration.

Neha (Priyanka Chopra) and her Aunt (Sushmita Mukherjee) define themselves at one point as Sindhi, but as an audience we are privy to nothing else of their provenance. Indeed, to an Indian spectator their lifestyles might seem distinctly American. The fact that Neha lives alone despite her aunt living in the same city, may surprise Indian

cinemagoers, as might the Aunt's patronage of strip clubs. The sole representative from the North Indian patriarchal family is the mother figure played by Kirron Kher. The entrance of the character from her visual representation performing 'aarti' and auditory signifiers of the 'dhol' and 'bale bale', establish her as the stereotypical Punjabi mother from Hindi film. Although she may be deracinated from her homeland, graduation photographs of Sam on her mantelpiece and gold bangles on her wrist, demarcate she is still very much the Indian 'Maa' (mother) figure.

The notion of being gay is initially framed as something absurd. The overdramatic response from the mother whose resounding slap and disapproval of Kunal and Sam's relationship is framed as both comical and also brings to fore the realities associated with coming out.

Mother: You went to Venice? It is all my fault. Had I not given you so much freedom, you would not have made these mistakes

Neha: But aunty, Love is not wrong it is blind

Mother: Love should not be so blind that it can't tell the difference between a man and a woman.

Subsequently, as the idea becomes accepted, it is the mother who is then depicted in an absurd manner for not accepting the sexuality of her son. Finally, whilst surrounded by traditional Indian signifiers the mother figure demonstrated her acceptance through a combination of Indianness and religion. With the line, 'Whatever God does is for the best', the mother gives consent to the sham relationship of Sam and Kunal in a ceremony mirroring Hindi religious imagery. The scene is projected by appropriating the title track from *Kabhi Kushi Kabhi Gham*, (Happiness and Sadness, 2001) a popular film which espouses the value of family life in India; with the music transmitted through an Ipod, synthesising the traditional and the modern and the Western and Indian. Film critic Bhawana Somaaya (2008: 233) considers the endurance of certain 'mother moments', even devoid of tragic emotional quotient, which retain in the memory, and I think this scene achieves this through a use of humour to convey what is essentially a serious subject.

Thus, the queer family is formed, in a kinship that exists outside of family bonds. Yet, it is able to form a connected group, whereas the Indian figure of the mother here is isolated and not an accepted member of this microcosm, until her later acceptance of homosexuality. This is in direct contravention to Ashis Nandy (1998: 236), 'The Indological view insists that Indian society is characterised and dominated by collectivities, the individual being particular to societies in the West'. Queer kinship according to Butler (2002) is not the same as gay marriage; rather it can be read as a reworking and revision of the social organisation of friendship, sexual contacts, and community to produce non-state-centred forms of support and alliance as Neha, Kunal, Sam and Ms



Melwani portray. This collective bond is then acknowledged by Sam after Kunal receives his residency permit for the US, ‘Thanks for making me gay, because of you I found a family, I love you, dude’, it is then cemented in the closing image after the end credits, with the caption, ‘And they lived happily ever after’, with the ambiguous image of Sam and Kunal, and a conspicuous absence of Neha.



Figure 2 End Sequence of *Dostana*, 2008

Courtesy of Dharma Productions.

Whilst *Dostana* represents queer possibilities existing within the Indian culture and society, it also plays with the negative and positive attributes that we might associate with these characters. It is imperative to explore how Sam and Kunal, self-identify and the means by which other characters within the film refer to their presumed relationship. Language and dialogue is one area where such labelling can be decoded, with the most indicative pattern being the feminising of the queer male. From the lead male characters self-defining, ‘We both are girls’, to Sam advising Kunal, ‘Think like a woman feel like a man’, it is clear that queer men are viewed in contra-masculine terms. Equally, the Aunt figure projects the same notion, articulating the relationship of Sam and Kunal as, ‘They are boyfriend/girlfriend’.

In a film considered to be the first mainstream Hindi release on same sex relationships, the element which appears to be missing from this film are queer characters. With so much pre-release speculation as which characters are gay and who is simply pretending, it was a surprise for most to discover that Boman Irani’s M (who is completely absent from the promos) was the only one. The film thus alludes to Gopinath (2003: 127), in that the alleged queer characters are within the domestic setting, and the actual queer characters are formed from the supporting males in the cast, ‘The potential for queerness infiltrating home space is foreclosed by solidifying queer identity on the body of a supporting male character’.

I strongly feel the presentation of queer characters in *Dostana* relies on a usage of stereotypes. This contradicts the argument of Karan Johar, the producer who states, ‘There’s nothing stereotypical in the film and I’ll defend my film if anyone thinks so’. Although this is a point spectators may disagree with, it is important to consider that

Hindi film relies on stereotyping and caricature for a wide variety of roles, accounting for a proliferation of stock figures, and associated behaviour patterns for the vamp, the villain, the mother-in-law etc. To include stereotyped images of gay men is actually a necessary progression in visual media, I propose, as it paves the way for alternate less stereotyped representation. One only has to consider Hollywood representation of queer in the 1950s or British television in the 1970s, to see how representations have evolved in a relatively short historical period, and in turn assume Hindi film will follow a similar pattern.

## Conclusion

*Dostana* can be read as a ‘queer hyper text’ (Gehlawat, 2010: 104), as it comes out of the closet, in the Sedgwickian sense so to speak and deals with queerness in a much more blatant manner. Sedgwick (1990) argues that the closet, representing a known secret, is a central trope structuring contemporary western thinking, and that sustaining heterosexual normativity requires some considerable effort. In other words it is hard work to keep the known secret of homosexuality safely hidden away. In light of such a struggle to maintain the illusion of normative heterosexuality, the closet is repositioned. Instead of always being a vulnerable site of shameful hiding, it can transform into a powerful site of deliberate subterfuge. *Dostana*, as this article has already established, is not about homosexuality, rather it represents and celebrates an alleged queer union through Butler’s (1990) notion of ‘gender parody’ and performativity’.

Ellis Hansen notes that every film with a queer theme, notwithstanding the sexuality of its director or the origin of its funding is still embattled in a highly moralistic debate over the correctness of its politics, “as though art were to be valued only as sexual propaganda” (1999: 11). My concern in this article is therefore not simply about good and bad politics of representation around sexuality. It is an attempt to understand how queer sexuality, since it can no longer be elided or silenced, begins to get acknowledged and understood in Bombay Cinema. The emergence of new sexualities and a diversity of desires in cinema are clearly a response to many years of feminist and queer rights movements (Ghosh, 2007: 433). As I have discussed above, mainstream films register this acknowledgement of queer sexualities but at the same time displays great anxiety. The horror and fascination with which queer sexualities are being regarded today allow radical ruptures and reactionary closures. The ambivalent narrative of *Dostana* registers the existence of queer desires but eventually establishes the inevitability of heterosexuality. This film is certainly not revolutionary or progressive in giving the queer identity a solidified voice, rather it is somewhat reactionary in its struggle to grapple with new sexual identities as heterosexuality is thrown into a predicament.

I conclude this article by considering the socio-cultural impact of *Dostana* on

attitudes towards queerness in India in the period since the film released. If the agenda of the film makers was financially motivated, then to some extent this was achieved, although I think it would surprise some to see the film ranked as only the eighth top earner in the Indian territories market in 2008, analysing this data, I feel many film spectators would be in agreement with Chidananda Das Gupta in his belief (1981: 16) that, 'The best films are those that have not swept the box office.'

I have also observed a liberalisation regarding discourse on queer issues and societal ubiquity of the theme, in a range of transactions from the Imran Khan and Ranbir Kapoor parody at the 2009 54th Filmfare awards, to the appearance of Mansukhani at events such as the engendered iView Film festival, and his presence throughout the spectrum of the Indian media speaking on queer issues. The very recent repeal of Article 377<sup>7</sup>, of the Indian Penal Code, and the correlation of this to Hindi cinema is an area I feel would benefit from extended research. Suffice to say, some of the societal change which subsequently impacted legal change, may be attributed in part to the *Dostana* effect. Bringing discourse on queer issues 'out' in the open, and actors willing to 'play it gay' are just two such ramifications of this.

Gokulsing and Dissanayake have recently argued that 'the discourse of Indian Popular Cinema has been evolving steadily over a century in response to newer social developments and historical conjunctures' (2012: 17). This film might be seen as one such response. The prominence of the overseas market through the transglobalisation of Hindi cinema, and domestically, the growth of the multiplex (catering for niche genres and urban audiences), should ensure that the number of queer themed films produced will continue to increase. In addition to significant regional releases such as *Memories in March* (2010) and *Not Another Love Story* (2011) which have central queer character(s), it is vital to observe future trends in film releases on this theme. Mansukhani in an interview with *Filmfare* projected 'The Indian audience has come of age to accept bolder topics.' Thus, although *Dostana* divided camps, in doing so it opened closets in Hindi film, and more significantly, in the culture and society of India.

<sup>7</sup> The Indian Penal Code (IPC), of which Section 377 forms a part, was drafted in 1860 by Lord Macaulay as a part of the colonial project of regulating and controlling the British- and Indian-origin subjects. It reads: 377. Unnatural offences: Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for term which may extend to ten years, and shall also be liable to fine. Explanation: Penetration is sufficient to constitute the carnal intercourse necessary to the offense

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### Mountain View

Acrylic

Sarah Warner

## American Agrarianism in the 20<sup>th</sup> Century

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On February 17<sup>th</sup>, 1941, Henry Luce, founder and publisher of *Time Magazine*, coined the term “American Century,” when he proclaimed that “The 20<sup>th</sup> Century is the American Century.”<sup>1</sup> In, *The Century*, Peter Jennings’ critically acclaimed retrospective on the American Century, Jennings claims that the 20<sup>th</sup> Century did not simply begin at the stroke of midnight on January 1<sup>st</sup>, 1900. For Jennings, the 20<sup>th</sup> Century could have begun as early as 1870 when “The Age of Invention started establishing the technological foundation” of the American Century or even as late as 1917 “when the Russian Revolution established the ideological competition” that defined much of the 20<sup>th</sup> Century.<sup>2</sup> In spite of the obvious differences between capitalism and communism, there is at least one overarching similarity between these competing 20<sup>th</sup> Century ideologies: both 20<sup>th</sup> Century American capitalism and 20<sup>th</sup> Century Soviet communism were both largely dependent upon an industrial manufacturing base. In fact, if one were to look at the economic base of each of these societies, one might be more inclined to see that Jennings’

1 Luce, Henry. “The American Century.” *Time Magazine*. February 17, 1941. Google Books. [http://books.google.com/books?id=I0kEAAAAMBAJ&pg=PA64&lpg=PA64&dq=%22The+20th+Century+is+the+American+Century%22&source=bl&ots=8jBrXFLmhu&sig=1UzmA7SQZFsERGL0AHWd-WR\\_VXg&chl=en&sa=X&ei=CUzxTprjYabtweI0dDPBg&ved=0CCwQ6AEwAg#v=onepage&q=%22The%2020th%20Century%20is%20the%20American%20Century%22&f=false](http://books.google.com/books?id=I0kEAAAAMBAJ&pg=PA64&lpg=PA64&dq=%22The+20th+Century+is+the+American+Century%22&source=bl&ots=8jBrXFLmhu&sig=1UzmA7SQZFsERGL0AHWd-WR_VXg&chl=en&sa=X&ei=CUzxTprjYabtweI0dDPBg&ved=0CCwQ6AEwAg#v=onepage&q=%22The%2020th%20Century%20is%20the%20American%20Century%22&f=false)

2 Jennings, Peter. *The Century*. (Doubleday. New York. 1998). p.iv.



argument about the 20<sup>th</sup> Century beginning as early as the 1870's could have more merit than the "capitalism vs. communism" argument. In fact, much of the 20<sup>th</sup> Century could be summed up in the Italian philosopher and fascist ideologue, Filippo Tommaso Marinetti's *The Futurist Manifesto*. In Marinetti's work, he claims that "we declare that the splendor of the world has been enriched by a new beauty: the beauty of speed" and that he wants to "sing the man at the wheel, the ideal axis of which crosses the earth, itself hurled along its orbit" illustrating the hopefulness accompanying this new technologically inclined century. Marinetti also claims that he "wants to glorify war – the only cure for the world – militarism, patriotism, the destructive gesture of the anarchists, the ideas which kill" foreshadowing a century of bloodshed that would produce two World Wars, the Cold War, and countless wars for independence against colonial powers.<sup>3</sup>

America's own Henry Ford boldly proclaimed that the machine was the new messiah in his book, *Machinery: The New Messiah*. This trope was also taken up by Aldous Huxley in *Brave New World*. Huxley's concern about industrialization and mass production in the early 20<sup>th</sup> Century was manifested in the form of pervasive references to Ford himself as a kind of "mechanical messiah." The "T" from Ford's Model T was a sacred symbol of Huxley's fictional society and served as a kind of crucifix for the "priests of production" – the leaders that Huxley called "Fords."<sup>4</sup> However, Huxley and his fellow intellectual literati were not the only ones concerned about America's technological revolution in what Peter Jennings called "The Age of Invention." While the technological revolution

<sup>3</sup> Marinetti, Filippo Tommaso. *The Futurist Manifesto*. <http://cscs.umich.edu/~crshalizi/T4PM/futurist-manifesto.html>

<sup>4</sup> McCarter, William. *Where the Tin Lizzy Took Us*. Fastcapitalism 8.2. [www.fastcapitalism.com](http://www.fastcapitalism.com) and Huxley, Aldous. *Brave New World*. (Harper. New York. 2006).

within America's industrial revolution drove the narrative of the American Century, this narrative did not go completely unchallenged by Americans. Throughout the 20<sup>th</sup> century, a group of thinkers that could collectively be described as "American Agrarians" composed a counter narrative to challenge the claim that technology represented a "new messiah" to 20<sup>th</sup> Century America.

One of the first of America's 20<sup>th</sup> Century Agrarians was Liberty Hyde Bailey. From 1903 until 1928, Bailey sought to develop an Agrarianism for the 20<sup>th</sup> century. This project culminated in Bailey's Country Life movement. According to William L. Bowers, author of *The Country Life Movement in America, 1900-1920*, Bailey's Country Life movement was the largest "during the opening decades of the twentieth century."<sup>5</sup> Through Country Life, Bailey sought to preserve the family and to sustain fertility. In his efforts to sustain fertility, Bailey was not just concerned with the fertility of the soil, but thought it was also necessary "to sustain the spirit of the farmer" because "the maintenance of fertility, and therefore the welfare of future generations, is in his keeping."<sup>6</sup> Essentially, according to Bailey, rural America was to "supply the city and metropolis with fresh blood, clean bodies and clear brains that can endure the strain of modern life" because "in the future as in the past," rural Americans have proved to be "the strength of the nation in time of war, and its guiding and controlling spirit in time of peace."<sup>7</sup> Bailey also believed that one of the responsibilities of the Country Life movement was to produce moral men and women. This goes along with the commitment to fertility in that Bailey did

<sup>5</sup> Bowers, William L. *The Country Life Movement in America 1900-1920*. (Port Washington, NY. Kennikat Press, 1974). p. 45.

<sup>6</sup> Bailey, Liberty Hyde. *The Harvest of the Year to the Tiller of the Soil*. (New York. The Macmillan Company, 1927). p. 81.

<sup>7</sup> Rodgers, Andrew Denny III. "Bailey, Liberty Hyde." *Dictionary of Scientific Biography*. (New York. Charles Scribner and Sons. 1970). p. 373.

not believe that the city was capable of producing the kinds of Americans that America needed. For Bailey, the city corrupted human potential. In *The Country-Life Movement in the United States*, Bailey writes that “the city sits like a parasite” that is “running out its roots into the open country and draining of its substance.” Unlike the fertile country, Bailey believed that “the city takes everything to itself – materials, money, men – and gives back only what it does not want.”<sup>8</sup> Bailey also felt that one of the duties of his Country Life movement was to preserve American democracy. Like the whole of 19<sup>th</sup> century Agrarians dating all the way back to Thomas Jefferson, Bailey felt that Agrarians were most capable of self rule and served as the vanguard of the American republic. In *The Holy Earth*, Bailey writes “Any close and worthwhile contact with the earth tends to make one original or at least detached in one’s judgments and independent of group control.”<sup>9</sup> Bailey echoes the same argument that Thomas Jefferson made in a letter to John Jay in 1785. Jefferson writes “Cultivators of the earth are the most valuable citizens. They are the most vigorous, the most independent, the most virtuous, and they are tied to their country and wedded to its liberty by the most lasting bonds.”<sup>10</sup>

Allan C. Carlson points out that Bailey’s agrarianism differed from previous agrarian thought in that Bailey saw technological innovation as being useful to the family farm and not as a movement that was ideologically opposed to agrarianism.<sup>11</sup> While one could

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8 Bailey, Liberty Hyde. *The Country-Life Movement in the United States*. (New York. The Macmillan Company, 1920) p. 16. Google Books. [http://books.google.com/books/about/The\\_country\\_life\\_movement\\_in\\_the\\_United.html?id=o0QqAAAAYAAJ](http://books.google.com/books/about/The_country_life_movement_in_the_United.html?id=o0QqAAAAYAAJ)

9 Bailey, Liberty Hyde. *The Holy Earth*. (New York. Scribner and Sons, 1917). p. 87. Google Books. [http://books.google.com/books/about/The\\_holy\\_earth.html?id=uH41AAAAMAAJ](http://books.google.com/books/about/The_holy_earth.html?id=uH41AAAAMAAJ)

10 Heavner, Brad. “What’s Behind the Wholesome Image of the American Family Farmer?” Ecology Global Network. October 18, 2011. <http://www.ecology.com/2011/10/18/wholesome-image-american-family-farmer/>

11 Carlson, Allan. *The New American Mind*. (New Brunswick, New Jersey. Transaction Publishing, 2000). p. 7-30.

argue that the technological society was in an economic competition with agrarianism, Bailey argued that the real problems that faced rural America were not economic but were social. He characterized rural life at the turn of the century as being “in a state of arrested development.”<sup>12</sup> Bailey deplored the “peasant-minded people whose interest in life, aside from the instinct of acquisition, is bounded by three elementary wants – hunger, thirst, and sex.”<sup>13</sup> While some would claim that America’s industrial revolution was the root cause of the demise of rural America, Bailey saw it as being a result of inadequate institutions to facilitate an Agrarian revolution that could compete with the industrial revolution of urban America. Bailey writes “a new social order must be evolved in the open country, and every farmer of the new time must lend a strong hand to produce it.”<sup>14</sup> For Bailey, the success of his Country Life movement would be determined by the emergence of “a high quality of people upon the land” that would best be achieved by an education that would “stimulate, inform, and develop the people themselves.”<sup>15</sup> Bailey’s contributions to a public discussion about the merits of agrarianism can be seen in then President Theodore Roosevelt’s opening remarks in the report of The National Commission on Country Life. According to Roosevelt:

We were founded as a nation of farmers, and in spite of the great growth of our industrial life it still remains true that our whole system rests upon the

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12 Bailey, Liberty Hyde. *The Country-Life Movement in the United States*. (New York. The Macmillan Company, 1920) p. 26. Google Books. [http://books.google.com/books/about/The\\_country\\_life\\_movement\\_in\\_the\\_United.html?id=o0QqAAAAYAAJ](http://books.google.com/books/about/The_country_life_movement_in_the_United.html?id=o0QqAAAAYAAJ)

13 Bowers, William L. *The Country Life Movement in America 1900-1920*. (Port Washington, NY. Kennikat Press, 1974). p. 24.

14 Bailey, Liberty Hyde. *The State and the Farmer*. (New York. The Macmillan Company, 1908). p. 15. Google Books. [http://books.google.com/vc/books/about/The\\_state\\_and\\_the\\_farmer.html?id=2LtHAAAIAAJ](http://books.google.com/vc/books/about/The_state_and_the_farmer.html?id=2LtHAAAIAAJ)

15 Bailey, Liberty Hyde. *Proceedings of the Third National Country Life Conference*. (Washington DC. American Country Life Conference, 1921). p.4.

farm, that the welfare of the whole community depends on the welfare of the farmer. The strengthening of country life is the strengthening of the whole nation.<sup>16</sup>

While the work of Liberty Hyde Bailey could be seen as an early 20<sup>th</sup> Century American Agrarian manifesto that claimed the demise of rural America was caused by inadequate institutions and saw education and the creation of a new rural society as a means of reinventing American Agrarianism, the work of the agrarian theorist, Ralph Borsodi, was firmly grounded in economics. In *The Simple Life: Plain Living and High Thinking in American Culture*, history professor, David Shi, explains that Ralph Borsodi is known for his experiments in self-sufficient living throughout the 1920's. According to Shi, *The Distribution Age, The Ugly Civilization, and Flight From the City* are **Borsodi's most well known works**.<sup>17</sup> In contrast to Bailey, Ralph Borsodi saw the prevailing problem with rural America as being an economic one. However, Borsodi identified a transition in America's industrial economy that could make rural America more economically viable. In *Flight From the City*, Borsodi observed that the American economy had shifted from focusing on producing products that American consumers needed to an economy based on distribution – what we might now call “conspicuous consumption.”

Because American manufacturing had reached a point where its capacity for production exceeded the demand for that production, the economic base was no longer one of manufacturing but instead was one of advertizing. Borsodi estimated that more than half of the cost of a consumer product was made up of advertizing costs. It is from

16 Carlson, Allan. *The New Agrarian Mind*. (New Brunswick, New Jersey. Transaction Publishing. 2000). p. 16.

17 Shi, David. *The Simple Life: Plain Living and High Thinking in American Culture*. (Univ. of Georgia Press. 2001). p. 227.

this research that Borsodi extrapolated that “distribution costs tend to move in inverse relationship to production costs.”<sup>18</sup> Because of this (among other factors), Borsodi reasoned that old fashioned activities like gardening and preserving food had once again become economically viable. In addition to advocating the agrarian production of what had, by the 1920's, become consumer goods, Borsodi also argued that the American economy of the 1920's no longer resembled a free market capitalist system. Instead, according to Borsodi, “it has become more truly a competition to secure privileges which enable their possessors to operate outside of the competitive market.”<sup>19</sup> While Bailey considered the city as being a parasite, Borsodi took this criticism out of the realms of geography and planted it firmly in the realms of economics. Unlike Bailey, Borsodi saw a deep tension between the corporations that made up industrial America and the economics of rural America.

It is important to note, however, that Borsodi's economic calculus is not an indictment of technology in and of itself, it is, instead, an indictment of the economies of scale - the mass production used by the factories to produce large amounts of consumer goods. Borsodi makes this point abundantly clear in *This Ugly Civilization* when he writes that “it is the factory, not the machine, which is reducing all men and all commodities to a dead level of uniformity because the factory makes it impossible for men and individual communities to be self-sufficient.” Borsodi goes on to add that the factory “destroys both the natural beauty and the natural wealth of man's environment”

18 Borsodi, Ralph. *Flight From the City*. (New York. Harper and Row. 1933). p. 15. Soil and Health Library. <http://www.soilandhealth.org/03sov/0302hsted/030204borsodi/030204borsoditoc.html>

19 Borsodi, Ralph. *The Distribution Age: A Study of the Economy of Modern Distribution*. (New York. Appleton and Company, 1927). Soil and Health Library. <http://soilandhealth.org/03sov/0303critic/030308borsodi.dist.age/030308toc.htm>



through filling America with “hideous factories and squalid slums.” The factories have, according to Borsodi, destroyed “the economic foundations of the home” and have robbed Americans of “their contact with the soil,” “their intimacy with the growing of animals” and “their familiarity with the actual making of things.”<sup>20</sup> In addition to the advantages that incorporation provided the factory, Borsodi also claimed that America’s infrastructure also subsidized economies of scale. Borsodi writes “every time a distant factory destroys the market of a local producer, it is in part due to the fact that the distant factory enjoys this subsidy on the goods which it manufactures.” In the absence of this subsidized system of transportation, Borsodi argues that “production would still be largely local.”<sup>21</sup> In addition to America’s transportation system, the education system also helps to subsidize industry. Borsodi writes “the factory system dominates modern methods of education” and that the education system teaches “young people to be cogs in the industrial machine... leaving them incapable of independent living on the land.”<sup>22</sup>

Like Liberty Hyde Bailey, Ralph Borsodi believed that technology could be used as a means of improving life in rural America. In *This Ugly Civilization*, Borsodi traced the evolution of America’s industrial revolution. In the earlier stages of America’s industrial revolution, the steam engine was central to industrial development. It is steam power that helped to bring about the economies of scale and provided the factory with an economic advantage. However, Borsodi argues that the subsequent invention of the internal combustion engine and the small electric engine could restore the productive

20 Borsodi, Ralph. *This Ugly Civilization*. (New York. Simon and Schuster. 1929). p. 14-15. Soil and Health Library. <http://soilandhealth.org/03sov/0303critic/030302borsodi.ugly/030302borsodi.toc.html>

21 Carlson, Allan. *The New Agrarian Mind*. (New Brunswick, New Jersey. Transaction Publishing. 2000). p. 58.

22 Borsodi, Ralph. *This Ugly Civilization*. (New York. Simon and Schuster. 1929). p. 195-197. Soil and Health Library. <http://soilandhealth.org/03sov/0303critic/030302borsodi.ugly/030302borsodi.toc.html>

capacity of small producers. However, according to Borsodi, in order for this paradigm shift to occur, the state needed to stop subsidizing the economies of scale that were practiced in America’s factories. Borsodi claims that the “factory is a steam-age relic rendered obsolete” by electric and gasoline power and were only sustained by the power of government subsidies.<sup>23</sup> Borsodi traces the genealogy of economies of scale from Adam Smith through Karl Marx and on to Frederick Winslow Taylor and illustrates how capitalism, communism, and fascism all rest on these economies of scale. Borsodi criticized the assumption that humans obtain the things that they need in life through a commodity exchange in the marketplace. Classical economic thought, he argues, ignores the subsistence economy of the home. In doing this, the economist’s claim that growth occurs in the economy when people start buying goods in the marketplace that they had once produced themselves. Borsodi argues that this, in fact, is not growth. It is merely moving the production of the commodity from the realm of the home into the realm of the market.<sup>24</sup>

Borsodi and Bailey also share the belief that reinventing rural America was more than just a matter of economics. While Borsodi focused primarily upon the economics of rural America and developed what one could call a “decentralized” economic agenda based on a free market capitalism that was freed from the economic and political constraints imposed upon it by the subsidized economies of scale, he also argued that more than just economics was at stake. Like Bailey, he saw the restoration of rural America as being essential to the survival and preservation of liberty in that the foundations

23 Carlson, Allan. *The New Agrarian Mind*. (New Brunswick, New Jersey. Transaction Publishing. 2000). p. 59.

24 Ibid.

of our democratic republic rested upon the autonomous individual and that the best way for an individual to enjoy autonomy was to be and own the means of his own production. Modern organized religion was also part of America's industrial problem according to Borsodi. Like Bailey, he, too, thought that Christianity was an obstacle to rural reconstruction. In *This Ugly Civilization* Borsodi shows how churches sought to transform to it the reverence that mankind should have toward one's homestead and sought to create "mobs of herd-minded worshippers." He called the "theology of the various churches" an escape from the realities of modern life.<sup>25</sup>

After the stock market crash in 1929, during the Great Depression that followed, many believed that America's current political, economic, and social system had failed and that radical reform was both inevitable and desirable. Lehigh University's Professor of Education, Edward S. Shapiro, writes that most intellectuals "favored various left-wing programs emphasizing economic egalitarianism, social and economic planning, and political centralization" as a means of reforming the failed political, economic, and social system. Shapiro goes on to add that these thinkers believed that "the internal combustion engine, the modern factory, and the telephone and telegraph" had "permanently transformed the decentralized nineteenth-century society."<sup>26</sup> This way of thinking was in stark contrast to how both Borsodi and Bailey saw the role of technology in a decentralized rural economy. However, Shapiro points out that the possibility of having a decentralized rural economy was no longer seen as an option by the left wing

intellectuals. Shapiro writes "the issue was not whether economic centralization could be

25 Borsodi, Ralph. *This Ugly Civilization*. (New York. Simon and Schuster. 1929). p. 429. Soil and Health Library. <http://soilandhealth.org/03sov/0303critic/030302borsodi.ugly/030302borsodi.toc.html>

26 Agar, Herbert. *Who Owns America? A New Declaration of Independence*. (Wilmington, Delaware. ISI Books. 1999). p. x.

reversed: it was whether power in an economically centralized society would remain in the hands of the bankers and industrialists or be transferred to the people's representatives in Washington."<sup>27</sup>

However, Shapiro points out that there was at least one group of intellectuals who responded to the economic collapse by calling for an economic and political decentralization through the widespread distribution of property.<sup>28</sup> This group of intellectuals was primarily made up of those who contributed to Herbert Agar's *Who Owns America: A New Declaration of Independence*. Many of these contributors also were associated with the Fugitive Poets of Vanderbilt University and, just a few years prior to the publication of Agar's book, had written *I'll Take My Stand*. In fact, *Who Owns America: A New Declaration of Independence* was considered by many to be a kind of sequel to *I'll Take My Stand*. These American Agrarians proclaimed that they had the only authentic American response to the challenges of the Great Depression. According to these thinkers, the economic collapse had discredited the captains of industry and commerce who had ruled over the old economic order but that the thinkers on the American left were too cautious in how they responded to the challenges of the Great Depression. The fatal flaw in the response of the American left, according to the Agrarians, was that they had already accepted the inevitability of corporatism and high finance. Their solution was not to dismantle the economic order but was instead to hope to control it by transferring the power of the economic order from private to public hands. In contrast, the Agrarians did not accept the inevitability of centralized economic planning, high finance and

27 Agar, Herbert. *Who Owns America? A New Declaration of Independence*. (Wilmington, Delaware. ISI Books. 1999). p. xi.

28 Ibid.

corporatism, instead believing that the economic collapse was a failure of large scale industrialization in general. Allen Tate summed up the position of the Agrarians well in a letter to the literary critic Malcolm Cowley. Tate writes “you and the other Marxists are not revolutionary enough: you want to keep capitalism with the capitalism left out.”<sup>29</sup>

The Agrarian thought in Herbert Agar’s *Who Owns America: A New Declaration of Independence* owes much to the Agrarian manifesto laid out by The Twelve Agrarians in *I’ll Take My Stand*. Donald Davidson introduced his critique of industrial progress in “First Fruits of Dayton: The Intellectual Evolution in Dixie.” While previous Agrarian thinkers like Bailey and Borsodi thought that Christianity stood in the way of developing rural American society, Davidson and his fellow Southerners were moved to defend their way of life as a response to what they saw as being an attack on Christianity. Beginning in 1920 with an article titled “The Sahara of the Bozart” and continuing through the Scopes Monkey Trial of 1925, Baltimore newspaper reporter H.L. Mencken gave such scathing indictments of the South that Southern intellectuals like Davidson felt the need to defend their way of life and the Scopes Trial, in part, provided them with the exigency with which to do it. Out of this cultural context, Davidson’s Southern apologetic began to emerge. He writes that “it is the business of Southern leaders not merely to be progressive, but to study how to adopt the ways of progress to certain peculiarities of the Southern people which do not yet deserve to perish from the earth.”<sup>30</sup> Davidson’s fellow Agrarian thinker, Robert Penn Warren echoes this sentiment when he argues that:

into an infinite series. Our vast industrial machine, with its laboratory centers of experimentation, and its far-flung organs of mass production, is like a Prussianized state...<sup>31</sup>

Davidson points his finger at the centralized economy in *First Fruits of Dayton: The Intellectual Evolution of Dixie* when he writes “the key is in the hands of the businessman” and calls them the “lords and masters of the industrial expansion which is the chief fact about the modern South” and claims that “they wield the balance of power here as elsewhere.”<sup>32</sup> Davidson goes on to defend the Agrarian way of life by arguing that “the progress of the South deserves to be organic” claiming that “it can be genuine progress only when, in the best sense of the word, it is growth.” Davidson goes on to define growth as being “improvement of what you have, not mere addition or change” and claims that “the first step toward progress is for the South to turn back upon itself” and to “rediscover itself, to examine itself, to examine its ideals, to evaluate the past with reference to the present, and the present with reference to the past.”<sup>33</sup> Like Liberty Hyde Bailey before him, Donald Davidson also believed that agrarianism was not just a matter of economics. Davidson saw his cause as being one of ethics. In *An Agrarian Looks At The New Deal*, Davidson argues that a true agrarian “holds that high-minded statesmanship is all but impossible where the people are corrupted or cast into abstraction and dissociation, by the very character of their occupations.” For Davidson, “agrarian statecraft would seek to make its expedients conform to this one principle: “that the inculcations of ethics begins

Progress never defines its ultimate objective, but thrusts its victims at once

29 Agar, Herbert. *Who Owns America? A New Declaration of Independence*. (Wilmington, Delaware. ISI Books. 1999). p. xiii.

30 Bingham, Emily. *The Southern Agrarians and the New Deal*. (Univ. Press of Virginia. 2001). p. 44.

31 Warren, Robert Penn. “Reconstructed But Unregenerate.” *I’ll Take My Stand: The South and the Agrarian Tradition*. (LSU Press. 1930). p. 8. Google Books. [http://books.google.com/books/about/I\\_II\\_take\\_my\\_stand.html?id=HLxN4lXpgEUC](http://books.google.com/books/about/I_II_take_my_stand.html?id=HLxN4lXpgEUC)

32 Bingham, Emily. *The Southern Agrarians and the New Deal*. (Univ. Press of Virginia. 2001). p. 48.

33 Ibid. p. 49.

in the daily task of the worker, the farmer, the business man” and that the agrarian would “use the power of the government to restore gradually to American life a system of tasks and functions which within themselves beget ethical ends.”<sup>34</sup>

Davidson reintroduces the arguments of nineteenth century agrarian thinkers like Thomas Jefferson in claiming that those who work the land are ethically superior to those who do not. Fellow Agrarian, Frank Owsley authored the movement’s clearest political statement in his 1935 article, “The Pillars of Agrarianism.” Building on the work of the Southern Agrarians in *I’ll Take My Stand*, Owsley called for a return to Jeffersonian yeomanry in which the land, the community, and one’s ethical and aesthetic considerations were all a part of an integrated life. Owsley called for the “the restoration of the people to the land and the land to the people” and sought to do this through government intervention. He argued that the government should purchase “lands held by loan companies, insurance companies, banks, absentee landlords, and planters whose estates are hopelessly encumbered with debt” and should grant the lands to “landless tenants, who are sufficiently able and responsible to own and to conserve the land.” In addition, he sought the “preservation and restoration of the soil by the use of fines” and argued that the government should make the land “practically inalienable and non-mortgagable” through the restoration of “a modified feudal tenure where the state had a paramount interest in the land” and could “exact certain services and duties from those who possessed the land.” Further, Owsley called for “the establishment of a balanced agriculture where subsistence crops are the first consideration and the money crops are of secondary importance.” Owsley sought to protect agriculture through “the establishment

<sup>34</sup> Ibid. p. 130-131.

of a just political economy, where agriculture is placed upon an equal basis with industry, finance, and commerce” and advocated a new political alignment where “the creation of regional governments” possessed more “autonomy than the states” so that the newly created regional governments could “sustain the political economy fitted for each region.” This, in turn, would “prevent much sectional friction and sectional exploitation.”<sup>35</sup>

Through these reforms, the Southern Agrarians believed that America could restore the balance that existed in the social, political, and economic fabric of America prior to the industrial revolution. However, one must understand that this “back to the land” movement wasn’t merely a political endeavor; it was also very much a philosophical one. Richard Weaver makes this point abundantly clear when he writes “what the Agrarians, along with people of their philosophic conviction everywhere, were saying is that there are some things which do not have their substance in time, and that certain virtues should be cultivated regardless of the era in which one finds oneself born.”<sup>36</sup> For Weaver, political claims “alter with circumstances. But claims based upon ethical and aesthetic considerations are a different matter” because they “cannot be ignored at any time.”<sup>37</sup> Emily Bingham claims that the Agrarians were “tillers of a myth” and that myth was “the viability of a self-supporting agricultural society” that was “populated by an independent, culturally sophisticated Jeffersonian yeomanry.”<sup>38</sup> However, David Shapiro argues that the agrarian manifesto contained “a coherent reform program” that responded to the

<sup>35</sup> Ibid. p. 200-211.

<sup>36</sup> Weaver, Richard. “The Tennessee Agrarians.” *The Southern Essays of Richard M. Weaver*. (Indianapolis. Liberty Fund. 1987).

<sup>37</sup> Ibid.

<sup>38</sup> Bingham, Emily. *The Southern Agrarians and the New Deal*. (Univ. Press of Virginia. 2001). p. 10.

central planning of the economy during the Roosevelt administration.<sup>39</sup> Shapiro claims that the agrarians suggested a vigorous anti-monopoly campaign where property would be placed in the hands of all Americans and that the agrarians had been misrepresented by liberal historians, claiming that when the agrarians criticized the New Deal, it was for failing to move against high finance and big business and for neglecting the small producers.<sup>40</sup> Dr. Paul Conklin, Professor Emeritus of History at Vanderbilt University depicted the agrarians as anti-federalists who were opposed to monopoly capitalism who clung to the belief that “each head of household could aspire to individual ownership of, and control over, productive property.”<sup>41</sup> The Southern historian, Eugene Genovese argues in *The Southern Tradition*, that the Agrarians deserve “a respectful hearing” because “their critique of modernism” contained an “intrinsic value that will have to be incorporated in the worldview of any political movement” that expects to “arrest our plunge into moral decadence and national decline.”<sup>42</sup>

While the agrarian movement in the 1930’s represented a “third way” of coming to terms with the Great Depression that did not involve Marxist socialism or what they might have called a brand of American fascism that also rested on the economic foundation of centralized planning, it was largely ignored during the 1930’s just as it is largely ignored by 20<sup>th</sup> century historians. One could argue that as the Roosevelt administration geared up for the war in Europe by providing arms to the British and then got caught up in a war on two fronts after the attack on Pearl Harbor, there was no chance that America could

39 Agar, Herbert. *Who Owns America? A New Declaration of Independence*. (Wilmington, Delaware. ISI Books. 1999). p. xiii.

40 Ibid.

41 Conklin, Paul. *The Southern Agrarians*. (Univ. of Tennessee Press, 1988).

42 Genovese, Eugene. *The Southern Tradition: The Achievement and Limitations of a Southern Conservatism*. (Harvard Univ. Press. 1996.)

undo monopoly capitalism and, in fact, needed monopoly capitalism and centralized planning in order to prosecute the war. One might also be able to argue that in the wake of World War II, America could not return to an economic system advocated by the agrarians because much of the economy, at that point, was largely based on consumption. As America pushed past the middle of the 20<sup>th</sup> century, it had to fight a perpetual war – the Cold War – and needed the military industrial complex to prosecute that war and to do other things that were in the national interest like putting a man on the moon. However, even in the latter half of the 20<sup>th</sup> century, American Agrarianism still did not die out completely.

Later in the American century, during the 1970’s when the environment began to take its place in the midst of our political discourse, American agrarianism experienced resurgence as well. Perhaps the most outspoken and well-known American Agrarian of the late 20<sup>th</sup> century is Wendell Berry. Berry, a Professor of English at the University of Kentucky, has written several non-fiction books and collections of essays about the family farm. The work of Berry draws much of its power from the sense that there is a certain emptiness of modern life. For Berry, this existential angst comes from Berry’s claim that “individuals removed from the land wither, that the land itself gets spoiled, and that all Americans lose their spirituality in the wake of excessive materialism and rampant individualism.”<sup>43</sup> Like the other 20<sup>th</sup> Century Agrarians before him, Berry also calls for an economic, social, and political commitment to the family farm and the proper care and protection of nature. Berry writes that “since the end of World War II, the economic, technological, and social forces of industrialism have pretty thoroughly

43 Bingham, Emily. *The Southern Agrarians and the New Deal*. (Univ. Press of Virginia. 2001). p. 21.



disintegrated the rural communities of the United States.”<sup>44</sup> For Berry, “In a centralized, specialized, commercialized, mechanized society such as ours,” we are “helping to cause the problems we are claiming to deplore and trying to solve.”<sup>45</sup> While Berry’s work is grounded mostly in the realms of environmental policies, he, like the previous agrarians, also illustrates how his concerns go far beyond just his explicit environmental concerns. Berry often talks about an agrarian economics that is reminiscent of the work of Borsodi. One can read Bailey in Berry’s work as well, especially when Berry talks about the connection between man’s character and man’s environment. In his political writings, Berry conjures up the ghosts of the old Southern Agrarians through his indictments of monopoly capitalism and his commitment to the family farm. Throughout his work, Berry suggests that Americans who are concerned about their environment should become part of the solution by starting their own gardens and provisioning their own homes in an ecologically sound way. In the end, Berry claims that “sooner or later, governments will have to recognize that if the land does not prosper, nothing else can prosper very long.”<sup>46</sup>

<sup>44</sup> Berry, Wendell. *The Way of Ignorance and Other Essays*. (ReadHowYouWant. 2010).

<sup>45</sup> Ibid. p.75

<sup>46</sup> Ibid. p. 75

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**Northern Lights**

Acrylic

Sarah Warner

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—*Anne Jevne*

# The Impact of the Holocaust on the Development of International Law: Law as a Response vs Law as Creator of New Norms

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## Introduction

In an academic exercise of this nature, it is imperative to erect conceptual framework within which our analysis will be carefully pigeon-holed. Thus, we shall attempt at conceptualizing our operational terms such as, “Law”, “Justice”, and “Holocaust”. Thereafter, we shall dwell on the state of International Law prior to the Holocaust. This will pave the way for the portrayal of the holocaust proper. Finally, we shall demonstrate how the Holocaust changed the International legal landscape. This will inevitably draw us into one of the recurrent themes in legal thought, i.e. the position of the Law in a changing society.

## Conceptual Framework

In his analysis of the concept of Law, Roscoe Pound submits that:

As used by jurists it has three [meanings]: The legal order, the regime of adjusting relations and ordering conduct by systematic application of the force of a politically organized society; the body of authoritative grounds of or guides to decision in accordance with which relations are adjusted

and conduct is ordered in the regime; and the judicial and administrative processes in which those grounds of or guides to decision are applied.<sup>1</sup>

It is remarkable to note that in the ambit of jurisprudence, we have jurists of different persuasions. Thus, “Analytical jurists postulate a system of Law which is a body of logically interdependent Precepts made to a logical plan discoverable by analysis and comparison with other systems”. In their own postulation, Historical jurists view it as “a continuous historical development, the culmination of which we find for the time being in the institutions and precepts of a body of Law in the time and place”. Finally, Philosophical Jurists postulate that “legal institutions of precepts are devised or have developed to express ideals of justice—ideas of the ideal relation among men—and of morals, the ideal development of individual character”.<sup>2</sup> The noble objective of natural Law is the attainment of Justice. As “the highest conception of the proper bearing of all the members of a community toward one another, and of the Law of the State toward the individuals constituting its population”, Justice, according to *The Encyclopedia Americana*, has been variously defined by courts as:

“The constant and perpetual disposition to render every man his due”; “the end of civil society”; “the right to obtain a hearing and decision by a court which is free of prejudice and improper influence”; “all recognized and equitable rights as well as technical legal rights”; “the dictate of right according to consent of mankind generally”; and “conformity with the principles of integrity, rectitude, and just dealing”.<sup>3</sup>

Critical to Justice is Due Process of Law. Lucius P. McGehee has asserted that

<sup>1</sup> Roscoe Pound, “General Introduction” to *Cases and Readings on Law and Society* written by Sidney Post Simpson, Julius Stone, in collaboration with M. Magdalena Schoch (St. Paul, Minn: West Publishing Co., 1948), p. xiv.

<sup>2</sup> Roscoe Pound, “General Introduction” to *Cases and Readings on Law and Society*, pp. xiv-xv.

<sup>3</sup> *The Encyclopedia Americana*, International edition, vol. 16, (Danbury, Connecticut: American Corporation, 1979), pp. 262, 263.



Due Process of Law connotes the idea of “administration of equal Laws according to established rules, not violative of the fundamental principles of private right by a competent tribunal having jurisdiction of the case and proceeding upon notice and hearing”.<sup>4</sup> In this context, Roscoe Pound has noted that, “Rigid form, mechanical application of strict rules and inexorable logic, proceeding on the basis of fixed principles and exactly limited conceptions, are the means by which legal systems have sought to attain” impartiality and “certainty in the administration of Justice”.<sup>5</sup>

It has been observed that, “An action or condition might be legally right and morally wrong, such as the holding of Slaves, the torturing of prisoners taken in war, the exactions often made by the ruling classes from the peasants, and the persecution of members of a sect by those of another”.<sup>6</sup> Thus, “one of the recurrent themes of the history of legal thought” is the position of Law in a changing society. The controversy is “between those who believe that Law should essentially follow, not lead, and that it should do so slowly, in response to clearly formulated social sentiment—and those who believe that Law should be determined agent in the creation of new norms”.<sup>7</sup> We shall dwell on this later. To be in a vantage position to enter into this controversy, it is instructive to conceptualize Holocaust here, examine the state of International Law before the Holocaust, and graphically present the Holocaust phenomenon as exemplified by the Jewish pogrom.

<sup>4</sup> Lucius P. McGehee, quoted in Akintunde O. Obilade, “The Pervasive Force of Due Process of Law” in Akintunde O. Obilade and Gloria J. Braxton (eds) *Due Process of Law* (Lagos: Southern University Law Center, Baton Rouge, Louisiana and Faculty of Law, University of Lagos, 1994), p. 5.

<sup>5</sup> Roscoe Pound, quoted in Sidney Post Simpson et al, *Cases and Readings on Law and Society*, pp. 662-663.

<sup>6</sup> *The Encyclopedia Americana*, vol. 16, p. 262.

<sup>7</sup> W. Freidman, *Law in a Changing Society* (London: Stevens & Sons Ltd., 1959), p. 3.

Holocaust, technically speaking, is genocide of unimaginable proportion and magnitude, occasioned by a systematic process of annihilation of a people, and brewed in the pot of passionate hatred, contempt, and group stereotype. The Jewish pogrom represents the modern world’s classical case of Holocaust. The Nazi “concentration camps” as suffering and death zones have gone down in history as products of man’s evil ingenuity, and as manifestations of the dark side of human mind.

### **International Law Before The Holocaust**

The state of International Law prior to the Holocaust has received lucid analysis from the pens of many Scholars. Commenting on this, Cyprian Okonkwo submits that:

In the past, the two main duties of states were the maintenance of internal order and external security. Nationalism and sovereignty were the concepts on which international law rested. The idea of one nation having duties towards the citizens of an independent, foreign country was not entertained by statesmen.... During the nineteenth and early twentieth centuries, only sovereign and independent states formed the principal actors on the international plane whose activities were regulated by international law. Thumbing through a treatise on international law published at the beginning of this century or just before the First World War, one would observe in a chapter on the subjects of international law that only sovereign states could be subjects of international law.... The system of international law presupposes the existence of the states, a territorial writ of great power, possessing within its own sphere the quality of independence of any superior, a quality which we are accustomed to call sovereignty; and possessing within that sphere the power and right to make laws not only for its own citizens, but also for those of others.<sup>8</sup>

It is remarkable to note that before the Holocaust, the Permanent Court of International Justice, which was established in 1922 and functioned during the life-span of the League

<sup>8</sup> Cyprian Okonkwo, *Okonkwo: Introduction to Nigerian Law* (London: Sweet & Maxwell, 1980), pp. 304, 309.

of Nations, handled matters that affected only the recognized subjects of international law. Pertinent to our discussion is the fact that at this point in time we saw the reign of Nihilism. Nihilistic theory, which preaches absolute supremacy of municipal law over international law, “appeared under the favourable conditions created by German militarism and was called to serve its predatory interest.”<sup>9</sup>

## The Holocaust

“Six million Jews, including one and half million children, were murdered in the Holocaust -- a systematic genocide of one third of the entire Jewish population”.<sup>10</sup>

The 2001 Holocaust Remembrance Day fell on Thursday April 19. The previous day in Washington, D.C., President George W. Bush had toured the U.S. Holocaust Memorial Museum to pay tribute to those who died. Solemnly, President Bush remarked that, “An evil had never been so ambitious in its scope, so systematic in its execution and so deliberate in its destruction”.<sup>11</sup> Before we systematically capture this colossal evil, it is expedient to state that “German anti-Semitism had a long history prior to the emergence of the Nazi party. The winds of hate blew for many years before the Nazis entered to stir up the smoldering coals.” Nine years immediately preceding the out-break of the Second World War, we witnessed the “tightening hold on the minds and hearts of the nation, and the darkening of the fortunes of Europe’ Jews”.<sup>12</sup>

For the avoidance of doubt, or to allow the facts to sink into the minds of the holocaust deniers, it is pertinent at this juncture to present pictures of the ghettos and

<sup>9</sup> Cyprian Okonkwo, *Okonkwo: Introduction to Nigerian Law*, p. 311.

<sup>10</sup> “Holocaust Memorial Day”, at <http://207.168.91.4/vjhholidays/yomhashoa/> p. 1. Accessed 20/12/2001.

<sup>11</sup> “Holocaust Victims Remembered”, <http://www5.cnn.com/2001/W, April 19 2001, p. 2. Accessed 10/11/2001>.

<sup>12</sup> “History”, <http://207.168.91.4/vjhholidays/yomhashoa/history>, p. 1. Accessed 20/10/2001.

the concentration camps. In respect to the ghettos, we present here the scenes from Kovno Ghetto, Lodz Ghetto, Terezin Ghetto, and Warsaw Ghetto. In Kovno (the Russian name; Kaunas in Lithuanian and Kauen in German) on the eve of the outbreak of the Second World War, the Jew’s population stood at 40,000—about 25 percent of the city’s inhabitants. Even before the Germans captured the city on 24 June 1941, there had been murderous attacks on Jews by groups of Lithuanians. With the arrival of the Germans, the attacks mounted. Thousands of Jews were held in places such as the “Ninth Fort” where they were shot after torture. After, 10,000 were massacred in June and July 1941. Still in Kovno, Pnina Rosenberg observes that:

The German occupying regime passed a number of decrees against the Jews, forcing them into two ghettos (the “Small Ghetto” and the “Large Ghetto”). In August 1941 the ghettos were sealed, with 30,000 Jews inside. Within two and half months the “Small Ghetto” was liquidated and its 3,000 inhabitants were killed in a series of Aktionen (roundups). On 28-29 October a massive roundup (the “great Aktionen”) took place, in which thousands, including many children, were taken from the ghetto to the “Ninth Fort” and murdered. Then there was a long period in which the roundups and killings ceased, with 17,412 Jews left in the ghetto. Most of the adults were sent to forced labor, where they were worked almost to death under constant abuse and cruelty. Then, on 27 and 28 March 1944, 1800 babies, children and old people were taken from their homes and murdered. And on 8 July, as the Red Army approached Kovno, about 4,000 Jews were transferred to concentration camps in Germany, mainly to Dachau, Kaufring and Stutthof. Repressive decrees were passed against the Jews throughout the period of the ghetto’s existence. In February 1942 they were forced to hand over to the German authorities all books and printed matter. In August all the synagogues were closed, as were all schools—except those offering vocational training. In addition to killing, thousands of people were transferred to the Riga ghetto or to labor camps in Lithuania.<sup>13</sup>

<sup>13</sup> Pnina Rosenberg, “Kovno Ghetto —History”, Learning About the Holocaust Through Art” at <http://art.holocaust-education.net/explore.asp?langid=1&submenu=201&cid>, pp. 1-2. Accessed 20/12/2001.

In Lodz, in Poland, and on the eve of the outbreak of the Second World War, the Jewish population stood at 223,000, about 34 percent of the inhabitants, we also witnessed man's inhumanity against his fellow being. In February 1940, the ghetto was established in a poor Jewish neighbourhood. A commentator on the genocide notes that:

Over 200,000 people were squeezed into an area of 4 square kilometres. Overcrowding, appalling sanitary conditions, extreme cold and, most of all, starvation led [to] high rates of disease and death. The German regime gave the ghetto's Alttestenrat (council of elders) extensive authority over the running of the ghetto. Their main task was to organize labor for the ghetto's factories and workshops.... In 1942 the deportations began. From January to May, the people of Lodz were deported to the death camp of Chelmno, where the Jews were killed in gas trucks. A second wave of deportations took place in September, with the Germans sealing off each quarter of the ghetto in turn, brutally pulling the Jews from their homes. They held a Selektia (selection) to sort out the weak and those unable to work—children, the old and the sick. Twenty-thousand people were taken from the ghetto and murdered in Chelmno. From October 1942 to May 1944, there were relatively few deportations. Then, in the summer of 1944, the Nazis decided to liquidate the Lodz ghetto. Deportations were renewed in August, this time to the death camp of Auschwitz-Birkenau.<sup>14</sup>

The Terezin Ghetto also witnessed the degradation, dehumanization and death of many Jews. In November 1941, Terezin (in Czech, and Theresienstadt in German) saw the gathering together of elderly Jews from Bohemia and Moravia, and prominent Jews with special privileges from Czechoslovakia, Germany and some western European countries. They were to be deported to death camps from here. In January 1942, the deportations to the death camps began with 2,000 Jews sent to Riga. In September 1942, the population of the ghetto reached its peak—53,000 inhabitants in an area of 115,000 square kilometres. From October there were continual deportations to the death

<sup>14</sup> Pnina Rosenberg, "Lodz Ghetto—History", at <http://art.holocaust-education.net/explore.asp?langid=1&submenu=201&id>, pp. 1-2. accessed 20/12/2001.

camps of Treblinka and Auschwitz. In 1944, when the deportations ended, there were only some 11,000 Jews remaining in the ghetto. As it would be expected, the crowded conditions, poor sanitation and appalling nutrition caused severe outbreak of disease and epidemics, and the mortality rate was inevitably very high.<sup>15</sup>

Like the other ghettos, the scene from Warsaw ghetto was an eye sore. This has been captured by Pnina Rosenberg in the following words:

On the eve of the Second World War there were 370,000 Jews in Warsaw, 30 percent of the city's population.... When the Germans occupied Poland in September 1939 the Jews became the victims of discrimination and abuse. Many were taken off the streets and sent to forced labor, their property was confiscated and they were abused and humiliated by the German soldiers.... In November 1940 the Warsaw ghetto, in the center of a northern Jewish neighborhood, was sealed. Thirty percent of the city's population were now forced to live in 2.2 percent of the area of the city. The buildings inside the ghetto were rundown, with no sanitation and there was severe crowding. The ghetto was surrounded by a high wall (3 metres), surmounted with barbed wire, completely cutting off the Jews from the outside world. Minimal food rations caused widespread starvation and high mortality. From Summer 1941 German factory owners began to receive licenses to set up factories within the ghetto. Despite the low wages, fear of deportation drove many Jews to work in these factories. The lack of basic necessities led to extensive smuggling, especially of food. It was often carried out by children and women who risked their lives to bring in food for their families. The police and guards, Poles, Germans and Jews, were in many cases bribed to turn a blind eye.... The main deportations (the "great Aktion") took place from 22 July to 12 September 1942. In the first ten days some 65,000 Jews were deported from the ghetto. In the first week of August the 200 children from Janusz Korczak's orphanage were taken to the assembly point for deportation (the Umschlagplatz). The Germans searched the streets and buildings, hunting down Jews, pulling anyone they found from their homes, including children. At the end of the Aktion about 60,000 Jews remained. They were given work permits and sent to work in the Nazi factories. In effect, the ghetto became a forced labor camp,

<sup>15</sup> Pnina Rosenberg, "Terezin Ghetto—History", at <http://art.holocaust-education.net/explore.asp?langid=1&submenu=201&id>, p. 1. accessed 20/12/2001.

as the weaker members of the population had been sent to the death camp of Treblinka.<sup>16</sup>

The ghettos, undoubtedly, “were nightmare zones”. As “starvation rations of 800 calories per day were allocated to the adults”, thousands died of starvation and disease.<sup>17</sup>

As regards the “concentration camps”, the pictures are emotionally numbing. For the purpose of clarity of presentation of what transpired, we shall take a closer look at Auschwitz Camp, Compiègne Camp, Drancy Camp, Gurs Camp, Malines Camp, Mauthausen Camp, Nexon Camp, Noe Camp, Saint-Cyprien Camp, Saint-Sulpice-la-Pointe Camp, and Stutthof Camp. Recapturing the ugly situation that was Auschwitz Camp, Pnina Rosenberg contends that:

Auschwitz (the German name; Oswiecim in Polish) was the largest of the Nazi labor and concentration camps. It was used for the extermination of Jewish people through death by gassing. On 27 April 1940 Heinrich Himmler ordered the construction of a large new concentration camp near the city of Oswiecim in the eastern part of Upper Silesia.... The camp was built by 300 Jews from Oswiecim and the surrounding area—its first laborers. From June 1940 the Nazis sent consignments of prisoners to the camp, beginning with Polish political prisoners. Auschwitz rapidly became known as the worst of the Nazi concentration camps... In October 1941 the construction of a much larger second camp began—three kilometres from the original camp. It was called Auschwitz II—Birkenau. Subsequently, a third camp was opened: Auschwitz III—Buna Monowitz. Other satellite camps were built, all surrounded by barbed fences. Birkenau was the most crowded of the camps. Its inmates were mostly Polish and German Jews. Conditions in this camp were also among the most severe, culminating in extermination in the camp’s gas chambers and crematoria.... In addition to Jews, gypsies and political prisoners were sent to the gas chambers. In all about one and a half million people were murdered in Auschwitz-Birkenau.

<sup>16</sup> Pnina Rosenberg, “Warsaw Ghetto —History”, at <http://art.holocaust-education.net/explore.asp?langid=1&submenu=201&id>, pp. 1-2.

<sup>17</sup> “Engulfed in Flames: World War II, 1939-1945”, at <http://207.168.91.4/vjholidays/yomhashoa/1939.ht>, p. 2. accessed 20/12/2001.

Those who escaped immediate gassing were designated for the forced labor camps. Their heads were shaved and they were issued with striped prisoner uniforms. The life expectancy of a prisoner in the work camps was no more than a few months. Many inmates became what was known in camp slang as “Musselmänner”—people with absolutely no strength left, who could hardly move or react to their environment. Auschwitz has become a symbol, a metaphor, for inconceivable and monstrous evil.<sup>18</sup>

Narrating the horror that was Auschwitz, another commentator submits that those who were taken to the gas chamber were undressed, shaved and told that they were going to be disinfected. Instead of this, the commentator maintains that:

Part of the German genius was the subterfuge that they were able to keep up, which kept their victims hoping until the last minute. The gas chambers were fitted with shower heads, through which the poisonous gas was emitted. After the gassing, the Sonderkommandos, Jewish prisoners who worked with the gas chambers, went in to bring the bodies up for cremation, but not before stripping the bodies of gold teeth, any last bits of jewelry, false limbs or other valuables. The Germans were very conscientious about “recycling” and collected thousands of pounds of hair, hundreds of thousands of shoes, toothbrushes, pairs of eyeglasses and the like from their victims. It has been estimated that 2 million people died at Auschwitz alone.<sup>19</sup>

Compiègne Camp, which was established in south of Paris and was guarded by the Wehrmacht (German army) witnessed between June 1941 and August 1944 the deportation to death camps of 50,000 out of a total of 54,000 inmates. Rooms that were built for two or three persons held 35-50. Contact with the outside world was not allowed, and the inmates were subjected to forced labor.<sup>20</sup> Drancy Camp, which was

<sup>18</sup> Pnina Rosenberg, “Auschwitz Camp—History”, at <http://art.holocaust-education.net/explore.asp?langid=1&submenu=201&id>, pp. 1-2.

<sup>19</sup> “Engulfed in Flames: World War II, 1939-1945”, at <http://207.168.91.4/vjholidays/yomhashoa/1939.ht>, p. 3. accessed 20/12/2001.

<sup>20</sup> Pnina Rosenberg, “Compiègne Camp—History”, <http://art.holocaust-education.net/explore.asp?langid=1&submenu=201&id>, p. 1.



set up on the outskirts of Paris, was known as “waiting-room for Auschwitz” because of the many deportations that left for the death camps—40,000 people were sent in forty deportations. In August 1942 children aged 2-12 whose parents had already been sent to East were brought in buses to the camp from Beaune-La-Rolande and Pithiviers. Here, they were parked into sealed railcars and sent to the East.<sup>21</sup> Gurs Camp, which was located close to Pyrenees, held a total of 21,790 persons between March 1939 and November 1943. Women and children were among their numbers.<sup>22</sup> The living conditions were very deplorable. “The lack of food and scarcity of water caused widespread outbreaks of disease”. As the camp was built on non-porous soil, when it rained, “it turned into a mud bath, making it very difficult to go from one barrack to another”. The death and suicide rates among the Jews who were uprooted from their bourgeois life in Baden were high. “In a short time over 800 were buried in the Gurs graveyard”.<sup>23</sup> Malines Camp in Belgium which was one of the designs for the German “Final Solution” to the “Jewish Question” and the actualization of the supremacy of the Aryan race, started life on 27 July 1942. Narrating the ordeal there, Pnina Rosenberg asserts that:

Once in the camp, the inmates were divided into different groups: the Transport-Juden—those marked for immediate deportation; the Z-Juden—subjects of countries that were allies or neutral—some of whom were deported; the *Entscheidungsfälle*—borderline cases, such as those in mixed marriages—who, after some time, were sent to the camp at Viel in France; and the S-Juden—the politically “dangerous”—who were transferred to prisons or penal camps. Towards the end a number of gypsies were also held in Malines. The conditions in the camp changed as time went by.

The appalling physical conditions which existed under camp commander

<sup>21</sup> Pnina Rosenberg, “Drancy Camp—History”, at <http://art.holocaust-education.net/explore.asp?langid=1&submenu=201&id>, p. 1.

<sup>22</sup> Claude Laharie, *Le camp de Gurs 1939-1945, un aspect meconnu de l'histoire de Vichy* (Pau: J & D., 1993), p. 219.

<sup>23</sup> Pnina Rosenberg, “Gurs Camp—History”, at <http://art.holocaust-education.net/explore.asp?langid=1&submenu=201&id>, p. 1.

Philippe Schmidt improved when he was replaced, but there was constant abuse and hunger.<sup>24</sup>

The Mauthausen concentration camp, which was established soon after the Anschluss (annexation) of Austria on 8 August 1938 and housed criminals during the first year of its existence, was opened for the arrival of political prisoners following the outbreak of the Second World War. These included Jews, Czechs, Russians, and Yugoslavians. There were also prisoners from the Netherlands, France, Greece, Luxembourg and Belgium. As death zone, those who survived the holocaust were simply divinely shielded. This is because, Rosenberg notes:

Many were executed by the Gestapo as they arrived. From May 1944, large consignments of Jews arrived, having undergone *Selektia*... at Auschwitz. On 25 January 1945, the first group evacuated from Auschwitz arrived at Mauthausen—120,000 of whom would die there.... Opposite the camp gate was a parade ground where roll-calls took place each morning and evening. Executions were also carried out there before all the inmates. On the far side there were three brick buildings. Two housed camp services, such as the kitchen, laundry and showers. The third contained the camp prison (the bunker) and the gas chamber, disguised as showers. Beneath the bunker was a crematorium and a cell where prisoners were shot. Jewish inmates were treated worse than other prisoners. They were forced to dig tunnels for the arms factories and were soon completely worn out and on the point of death. As the Allies advanced in March and April 1945, many of the camps were evacuated and the inmates forced to march to Mauthausen. Thousands died on the way. In Mauthausen they were crowded into tents set up on muddy ground. Since there were no sanitary facilities and food rations were minimal, there were soon outbreaks of typhus and dysentery, causing many deaths.<sup>25</sup>

Nexon Camp, which was located near Limoges and opened in June 1940 became

<sup>24</sup> Pnina Rosenberg, “Malines Camp—History” at <http://art.holocaust-education.net/explore.asp?langid=1&submenu=201&id>, p. 1.

<sup>25</sup> Pnina Rosenberg, “Mauthausen Camp—History” at <http://art.holocaust-education.net/explore.asp?langid=1&submenu=201&id>, pp. 1-2.

a regional centre in 1942 “for the Jews who were sent to the camps in the northern occupied zone. From 1943, ‘political’ internees from various camps were sent to Nexon in order to be deported to Germany”.<sup>26</sup> Noe Camp, which was established by the Vichy regime near Toulouse as a model camp purportedly to improve the conditions of living of the inmates, fell short of humane setting. According to Rosenberg:

The inmates suffered from extreme cold since the stoves remained unlit, due to scarcity of fuel. The camp administration responded to complaints with severity: those who complained about the food were denied food at all; and constant complainers were taken to special “island”, surrounded by barbed wire, where they were held in small, damp cells. Worst of all was the lack of medical care....Deportations to the East were carried out from this camp as from the others.<sup>27</sup>

Saint-Cyprien Camp, like others, was also a sorry sight. Located on the Mediterranean coast, near the Spanish border, it was house of sorrow for internees from Germany and Austria. It also absorbed thousands of refugees and immigrants from Belgium. Commenting on the plight of the inmates, Rosenberg notes that:

The inmates were housed in temporary barracks, surrounded by electric fences on the one side and the sea on the other. The barracks had corrugated iron roofs, with no electricity or furniture and only straw for bedding. It was freezing cold in the winter and stifling in the summer. Artists depict the camp inmates as half-naked. Food was scarce and eating utensils consisted of sardine tins and pieces of wood. The lack of adequate sanitation and the crowded conditions increased the spread of disease.<sup>28</sup>

Saint-Sulpice-la-Pointe Camp, which was established as transit camp near Toulouse

<sup>26</sup> Pnina Rosenberg, “Nexon Camp—History”, at <http://art.holocaust.education.net/explore.asp?langid=1&submenu=201&id>, p. 1.

<sup>27</sup> Pnina Rosenberg, “Noe Camp—History”, at <http://art.holocaust.education.net/explore.asp?langid=1&submenu=201&id>, p. 1.

<sup>28</sup> Pnina Rosenberg, “Saint-Cyprien Camp—History”, at <http://art.holocaust.education.net/explore.asp?langid=1&submenu=201&id>, p. 1.

in 1939, became a house of melancholy. In June 1940, people with Russian citizenship were interned there. In summer 1942, foreign Jews who had been living in hiding in the South of France were rounded up and sent to the camp. Between summer of 1942 and August 1944, most of its inmates were deported to the East, to Auschwitz and Buchenwald.<sup>29</sup> Stutthof Camp, which was located near Danzig, had Jews, Poles, Russians, Norwegians and Danes as inmates. Some 115,000 prisoners passed through here, 65,000 of whom died, while 22,000 were transferred to other concentration camps. Most of the 50,000 Jews who were interned here perished. In January 1945, as the inmates of the main camp and most of its satellites were compelled to march westwards towards Lembork in severe winter weather, thousands met their untimely death.<sup>30</sup>

### Aftermath

It is imperative to begin this section of our discussion with some clarifications. One, “1945 saw the end of the war, but not the end of the Holocaust. Thousands of survivors continued to die from disease, mistreatment and the neglect of nations who turned away from them”.<sup>31</sup> The root of the neglect undoubtedly is the pervasive and ubiquitous anti-semitism. Two, the concept of “crime against humanity” predated the end of the war, but its origin is firmly rooted in the Holocaust.

The indication that the world would no longer be the same again after the devastation of the Holocaust was already evident right in the middle of the Holocaust. By 1943, the U.S., the chief actor among the old order international subjects, “had issued warnings

<sup>29</sup> Pnina Rosenberg, “Saint-Sulpice-la-Pointe Camp—History”, at <http://art.holocaust.education.net/explore.asp?langid=1&submenu=201&id>, p. 1.

<sup>30</sup> Pnina Rosenberg, “Stutthof Camp—History”, at <http://art.holocaust.education.net/explore.asp?langid=1&submenu=201&id>, p. 1.

<sup>31</sup> “History”, Yom HaShoah - Holocaust Memorial Day, at <http://207.168.91.4/vj/holidays/yomhashoah/history.htm>, p. 1.

that the Germans would be brought to trial for ‘the crimes committed against humanity’ during the war”. At the Nuremberg Trials in 1943, twenty-two people were tried. “Three were acquitted, seven sentenced to prison, and twelve of the Nazi leadership were executed”. The Trials were definitely landmark military tribunal because they affirmed that certain actions were always held accountable, even if one was “following orders”.<sup>32</sup> What transpired there, however, fell short of the expectations in the context of scientific principle that, “action and reaction are equal and opposite”. In legal realm, and in the punishment of crime, it was just a tip of the iceberg. The principle of punishment of crime as deterrence to others and to order conduct and relation was ignored. Posing the question: “Where is Justice?”, a commentator of the event observes that

Six million people were annihilated and only 22 stood trial for the murders. The thousands who grease the machinery of death, who procured supplies, who whipped the passengers of the cattle cars, and who guarded the electrified fences were not tried. Let alone the many civilians who had betrayed Jews hiding under false identities or in attics or cellars, or the many who had gleefully been entertained as elderly Jews had their beards plucked out, or children... used as target practice. Nor were those who had plundered the possessions of the “resettled” Jews forced to give accounting. Many leading Nazis escaped to countries in Latin America. Several Nazi scientists were offered sanctuary in the U.S in exchange with their help on several projects, including missile and rocket development and atomic research. Large industrial firms who had used Jewish slave labor during the war were able to continue to function... to this day. The survivors' dreams of their tormentors being brought to justice would have to wait for a Heavenly judgement.<sup>33</sup>

In deed, the only good development about the trials is the fact that some people were tried at all. This opened the gate-way for serious consideration of the essence of

<sup>32</sup> “Virtual Jerusalem - Yom HaShoah - Aftermath”, at <http://207.168.91.4/vjhololidays/yomhashoa/195.ht>, p. 1.

<sup>33</sup> “Virtual Jerusalem - Yom HaShoah - Aftermath”, at <http://207.168.91.4/vjhololidays/yomhashoa/195.ht>, p. 1.

<sup>33</sup> “Virtual Jerusalem - Yom HaShoah - Aftermath”, at <http://207.168.91.4/vjhololidays/yomhashoa/195.ht>, p. 1.

law. It inevitably brought into collision law and morality. The balance tilted to morality and natural law. It was no longer sufficient for one to argue that he merely carried out the orders of constituted authorities, or executed an existing law. The morality of the law itself became a critical issue. The axiom that “unjust law is no law” carried the day. Pervasion of law lost its protective element, and people were made to account for their actions.

By the 1947 Paris Peace Treaty, an agreement was reach in respect to the making of restitution of Jewish property.<sup>34</sup> In November 1947, the UNO passed a Resolution to end the British Mandate by May 15 1948 and declared that Eretz Yisrael, then called Palestine, would be partitioned into an Arab state and a Jewish state. For the first time in almost two thousand years, the Jews were to have a homeland.<sup>35</sup> Emboldened by the UNO Resolution, the Zionist leader David Ben-Gurion declared Israel a state on May 14, 1948. Thus, the Zionist movement of the late nineteenth century and the establishment of dozens of colonies in Palestine by Zionists in the years immediately preceding the First World War became blessed with a state apparatus.<sup>36</sup>

One remarkable post-holocaust development in international law is the expansion of the list of subjects of international legal order. Nowadays, “international organizations, multinational corporations, national liberation movements, and individuals also sometimes have rights and duties under international law”. The subjects of a legal order

<sup>34</sup> “Property Restitution, Compensation, and Preservation: Competing Claims in Post-Communist Europe”; Hearing before the Commission on Security and Cooperation in Europe—One Hundred Fourth Congress Second Session, July 18, 1996, at <http://www.house.gov/csce/rest.htm>, p. 1.

<sup>35</sup> “Virtual Jerusalem - Yom HaShoah - Aftermath”, at <http://207.168.91.4/vjhololidays/yomhashoa/195.ht>, p. 2.

<sup>36</sup> “Mideast Struggle for Peace: The Part to Peace runs through a History of Tumult”, *Cable News Network* at <http://www.cnn.com/SPECIALS/2000/mideast/story/overview>, p. 2.

as used in general jurisprudence, are the persons or entities to whom the law attributes rights and duties. Put differently, subjects of the law are entities and persons to whom the rules of a juridical system are immediately addressed or those who are directly qualified or obligated by the rules of a juridical system.<sup>37</sup> A change towards this direction was adequately addressed by the International Court of Justice in its Advisory opinion on Reparation for Injuries Suffered in the Service of the United Nations Organization. The Court affirmed that:

The subjects of law in any legal system are not necessarily identical in their nature or in the extent of their rights, and their nature depends upon the needs of community. Throughout history, the development of international law has been influenced by the requirements of international life, and the progressive increase in the collective activities of States has already given rise to instances of action upon the international plane by certain entities which are not States.<sup>38</sup>

It is pertinent to state here that, with the expansion of the scope of international law, we now have Laws of peace covering areas like foundation of the law of nations such as the basis of international law, sources, relation between international law and municipal law, state territory, international persons, state responsibility, individuals, diplomatic law, legal organization of international community, treaties, and recognition of states, while laws of war deal with the Geneva and Hague Conventions on War starting from the Geneva Convention of August 22, 1964 to the protocol of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable

<sup>37</sup> Cyprian Okonkwo, *Okonkwo: Introduction to Nigerian Law*, pp.306-307. For further discussion on new subjects of international law, see—Chris Okeke, *Controversial Subjects of Contemporary International Law* (University of Rotterdam Press, 1974), pp. 109-127.

<sup>38</sup> Quoted in Cyprian Okonkwo, *Okonkwo: Introduction to Nigerian Law*, p. 308.

in Armed Conflict.<sup>39</sup>

It is instructive to observe at this juncture that the pace of the development of international law has been slowed down by the differences of opinion among schools of legal thought. In this context, Cyprian Okonkwo's analysis is worthy of note:

Dualist doctrine proceeds from the standpoint that international and municipal law are quite different both in their character, nature and sphere of function. That is why they exist as two equal and independent branches of law.... Protagonists of [Monism] assert the superiority of international law over municipal law even within the sphere of municipal law itself. Monists, however, maintain that International law and municipal law are related aspects of one system that is law in general....Nihilistic theory preaches absolute supremacy of municipal law over international law.... The dualists maintain that international law cannot apply directly within municipal courts. It must first of all undergo a process of specific adoption by or specific incorporation into municipal law before its rules and principles can operate in the domestic sphere. Similarly, the dualists insist that there must be a transformation of a treaty into state law before its provision can apply within a state. It is only this process of transformation which validates the extension to individuals of the rules laid down in treaties.... Critics of the transformation theory, on the other hand, advance the delegation theory according to which the right to determine when the provisions of a treaty or convention are to come into force and the manner in which they are to be embodied in state law is delegated to each state constitution by constitutional rules of international law.<sup>40</sup>

With the foregoing in mind, let us now address some specific legal and administrative actions which the Holocaust engendered. The legal and administrative actions which we shall be examining came in the wake of change in the climate of opinion in some quarters and the impact of modern psychology on the thinking and actions of people.

In the writings of scholars, constant mention was made of “concentration camps” as

<sup>39</sup> Cyprian Okonkwo, *Okonkwo: Introduction to Nigerian Law*, p. 315.

<sup>40</sup> Cyprian Okonkwo, *Okonkwo: Introduction to Nigerian Law*, p. 311.



an analogy in virtually any discussion on traumatic and jarring human conditions. For example, Stanley M. Elkins equated the American slave system in the antebellum south with the “authority-system” of the “concentration camps”. Elkins has argued that:

For most southerners in 1860, it went with saying not only that Sambo was real – that he was a dominant plantation type.... It was achieved partly by the type of authority-system to which they were introduced and to which they had to adjust for physical and psychic survival. The new adjustment, to absolute power in a closed system, involved infantilization, and the detachment was so complete that little trace of prior (and thus alternative) cultural sanctions for behaviour and personality remained for the descendants of the first generation.<sup>41</sup>

As the psychology of the Holocaust was giving a boost to psycho-history, so it was transforming the legal landscape. Judges who belonged to the tradition of activist legal philosophy started to ignore the issue of law and to interpret the law with psychological bent. Legal precedents were abandoned. For example, the USA Supreme Court under the leadership of Chief Justice Earl Warren, reversed the position of the apex court in respect to “separate but equal” handed down in Plessy v. Ferguson case of 1896. Reading out the decision of the Supreme Court in the Brown v. Board of Education of Topeka, Chief Justice Earl Warren on May 17, 1954 affirmed that:

These cases come to us from the States of Kansas, South Carolina, Virginia, and Delaware. They are premised on different facts and different local conditions, but a common legal question justifies their consideration together in this consolidated opinion. In each of the cases, minors of the Negro race, through their legal representatives, seek the aid of the courts in obtaining admission to the public schools of their community on a nonsegregated basis. In each instance, they have been denied admission to schools attended by white children under laws requiring or permitting segregation according

<sup>41</sup> Stanley M. Elkins, *Slavery: A Problem in American Institutional and Intellectual Life* (Chicago: The University of Chicago Press, 1959), pp. 99-100.

to race. This segregation was alleged to deprive the plaintiffs of the equal protection of the laws under the Fourteenth Amendment.... The doctrine of “separate but equal” did not make its appearance in this court until 1896 in the case of Plessy v. Ferguson... involving not education but transportation. American Courts have since labored with the doctrine for over half a century.... In approaching this problem, we cannot turn the clock back to 1868 when the Amendment was adopted, or even to 1896 when Plessy v. Ferguson was written. We must consider public education in the light of its full development and its present place in American life throughout the Nation. It is the very foundation of good citizenship. Today, it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment.... We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other “tangible” factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does. We conclude that in the field of public education the doctrine of “Separate But Equal” has no place. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.... We have now announced that such segregation is a denial of the equal protection of the laws.<sup>42</sup>

This decision is a classical case of judge-made law and law as a creator of new norms.

This is because the mainstream American society was not ready, quantitatively speaking, for experiment in racial equality.<sup>43</sup> This landmark decision was to boost the Civil Rights

<sup>42</sup> “Brown v. Board of Education of Topeka (May 17 1954)” in Harold L. Syrett (ed) *American Historical Documents* (New York: Barnes & Noble, Inc., 1960), pp. 410-112.

<sup>43</sup> Paul Obiyo Mbanaso Njemanze, “A Boat Against the Tide: Ex-slaves in Post-Emancipation Igboland and the Americas”, A paper presented at the international conference on “Repercussions of the Atlantic Slave Trade: the Interior of the Bight of Biafra and the African Diaspora”, Nike Lake Resort Hotel, Enugu, Nigeria, July 10-14, 2000, p.1, accessed 20/12/2001. For detailed discussion of the role of the U.S. Judiciary in the creation of new norms, see Paul Obiyo Mbanaso Njemanze’s “The Role of the Judiciary in the Consolidation and Sustenance of Democracy in the United States of America and the Lessons for Nigeria”, in *Educational Insight*, A Journal of the National Educational Association, Faculty of Education, University of Ado-Ekiti, Ado-Ekiti, Nigeria, 20, (12), May 2007, 23-33 and John A. Schutz, “The Courts and the Law” in Luther S. Luedtke (ed) *Making America: The Society and Culture of the United States* (Washington, D.C.: United States Information Agency, 1987).

Movement and the enactment of Civil Rights Acts, and later, the Affirmative Action. The Affirmative Action, which acknowledges historical wrongs and seeks to right them, sent shots of adrenaline into the muscles of Reparations Movements worldwide. The condemnation of evils and the call to extirpate them from the psyche of the victims, which gathered momentum at the domestic front of many countries, contributed in no small measure to the internationalization of the plight of the Holocaust survivors. While anti-semitism did not abate, somehow the international community accepted in principle that the Holocaust was a colossal evil.

At the hearing before the Commission on Security and Cooperation in Europe on July 18, 1996, we were taken into the intricate nature of Property Restitution, Compensation and Preservation. There, we gathered the progress made and the constraints facing the world community. At the hearing, Honourable Christopher H. Smith, the Chairman of the Commission, remarked that:

At the end of the World War II, Europe was faced with a land grotesquely transformed from the prewar period: tens of millions of people who died; millions of displaced persons and refugees; landscapes razed by bombing; whole cities destroyed. While Western countries moved to rebuild and to seek accountability and reparations from axis powers, East European countries traveled a different path....In some places, such as Hungary, the government was required by the 1947 Paris Peace Treaty to make restitution of Jewish property, but the communists ignored their obligations. Not only was justice denied for Holocaust survivors, but the communist regimes perpetrated their own brand of injustice and, in fact, were infamous for their complete disregard for private property, for nationalizing factories, for collectivizing agriculture, and for generally stealing property on a discriminatory and arbitrary basis, usually without compensation at all, let alone compensation that was just, fair, or timely. The establishment of democratically elected governments in most Central and Eastern European countries after 1990 has sparked new hope that the people in

the region would be able to address and redress wrongs committed decades ago, including the wrongful seizure of private and communal property. In many countries, this has entailed a painful examination of individual and national responsibilities. Unfortunately, efforts to return property to former owners thus far have been uneven and often unsuccessful, with practices varying from country to country, often stymied by complex ... and legal considerations. No country has crafted a model law, and every country that has adopted a restitution or compensation law has some basis upon which it could be criticized. I realize that extremely complex subjects such as this raise questions of international law and questions of fundamental fairness.... This is, as I said, a very vexing and complex area, where even angels, it would seem, fear to tread<sup>44</sup>

Speaking at the hearing of the above-named Commission, Delissa Ridgway, Chair of the U.S. Foreign Claims Settlement Commission, let us into the operation of her Commission and fundamental issues of international law. She contends that:

This is an independent, quasi-judicial Federal agency within the Department of Justice, operating at the intersection of international law and foreign policy. Our primary mission is to adjudicate property claims by U.S. nationals and corporations, against foreign governments. By statute, Commission decisions are conclusive on all questions of fact and law and are not subject to review by any other government official, department or agency, or by any court by mandamus or otherwise. The claims the Commission adjudicates generally are losses that resulted either from nationalization of property by foreign governments or for damage to and loss of property in military operations during World War II.... In addition, just last month the Commission announced the commencement of a Holocaust claims program to adjudicate the claims of persons who were U.S. citizens and who were interned in Nazi concentration camps or under comparable conditions. That program implements a September 1995 agreement between the United States and Germany related to the celebrated case of Holocaust survivor Hugo Princz....The claims that the Commission adjudicates are espousal claims. This concept of espousal is one of the key concepts in the legal framework of international claims.

<sup>44</sup> "Property Restitution, Compensation, and Preservation: Competing Claims in Post-Communist Europe", pp. 1-2.

Under international law and practice, claims between a national of one country and a foreign state are deemed to be claims between the two countries which those sovereigns may settle. Accordingly, the government of the United States has the discretion in certain conditions to take up, or espouse, the claims of one of its nationals against a foreign government for conduct that violates international law.... It's a universally accepted principle of international law that a state does not have the right to ask another state to pay compensation to it for losses or damages sustained by persons who were not its citizens at the time of espousal.... This fundamental tenet of international law, which applies with equal force to all countries, is sometimes, we find, very difficult for aggrieved U.S. citizens to accept [i.e. in respect to those who became U.S. citizens after the Holocaust].<sup>45</sup>

In the USA, we witnessed the birth of the Alien Tort Claim Act ("ATCA"). "The ATCA allows anyone around the world to sue in an American court for a tort committed anywhere in the world—but only under very narrow circumstances. One of those circumstances is if the defendant injured the plaintiff while committing a crime against humanity". "It was the ATCA", according to Anthony J. Sebok, "that gave the Holocaust suits much of their punch".<sup>46</sup>

The battle over the payment of reparations to the Holocaust victims was fought at many fronts. What we are witnessing this year came after "Sixty years of pain and agony, four years of negotiations, two years in political wrangling, one year in legal battles and one month in administrative detail".<sup>47</sup> Before getting to this point, the 10 billion mark (\$4.8 billion) German Compensation Fund jointly established by German Government and Companies on 50-50 basis to compensate victims of Nazi slave and forced labour

<sup>45</sup> "Property Restitution, Compensation, and Preservation: Competing Claims in Post-Communist Europe", pp. 3-4.

<sup>46</sup> Anthony J. Sebok, "Is ATCA liability a real risk", at <http://cnn.allpolitics.pr...0910%2Findex.html&fb=Y&partnerID=2001>, p. 2.

<sup>47</sup> Greg Schneider (of the Conference on Jewish Material Claims Against Germany), quoted in Sheila Steffen, "First Payments Sent to Holocaust Slave Laborers", June 19, 2001, at <http://www.cnn.com/2001/US/06/19/holocaust.payments/index.ht>, p. 1.

was put in the cooler for sometime. The German industry "has from the very beginning stressed that offering these funds is a humanitarian measure aimed at reconciliation and understanding", and that "It thereby recognizes the historic and moral responsibility of German industry due to its integration into the Nazi regime". German industry asked for "legal peace", or protection "from future court cases seeking extra compensation".<sup>48</sup>

The removal of the legal barrier on the way of the payment of compensation was done by the USA District Judge Shirley Wohl Kram, who affirmed: "I hereby grant the motion to dismiss the consolidated complaint". Reporting the event, Phil Hirschkom notes that, "There are three classes of beneficiaries: former slave laborers, people with unpaid claims from German insurance companies and people whose assets were looted by the Nazis".<sup>49</sup> Reporting the first payments to the Holocaust victims, Sheila Steffen observes that:

Some Holocaust survivors who performed slave labor under the Nazis during World War II received the first payments Tuesday from the \$4.6 billion German Compensation Fund. The first round of payments went to some 10,000 Jewish recipients in 25 countries. They are the first group of an expected 160,000 Jewish survivors of slave and forced labor who are eligible for compensation.... The 10,000 recipients, all survivors of slave labor, each received \$4,400 wired to their bank accounts.... More important than the money, survivors say, are the moral issues and the moral justice the agreement addressed. These points seemed to satisfy most of the survivors.... Heirs will also be eligible to receive payments ranging from \$2,000 to \$7,000. The [German Compensation] fund is separate from the forthcoming payments from the Swiss bank "Nazi Gold" settlement, which set aside \$800 million for proven former depositors or their heirs as well as some money for refugees and wartime laborers exploited by the Swiss

<sup>48</sup> "Nazi-era payment deal edges closer", at <http://www5.cnn.com/2001/WORLD/europe/05/22/germany.fund/index.html>, pp. 1-2. accessed 20/12/2001.

<sup>49</sup> Phil Hirschkom, "Judge paves way for payments for Nazi crimes", at <http://www8.cnn.com/2001/LAW/05/10/nazi.labor.suits.03/index.html>, p. 1.

companies.<sup>50</sup>

In Prague, Czech Republic, payments to 10,000 of Nazi-era slave labourers were made. By the deal, “victims are eligible to receive up to \$6,500 each if they were in concentration camp intended to work prisoners to death, or up to \$2,175 if they were forced to work elsewhere for German companies”. Out of the 10,000 people, 2,434 served as slave labourers in Nazi concentration camps, while 7,566 were forced labourers born before June 1922. As many as 1.5 million surviving slave and forced labourers—most in central and eastern Europe—are believed eligible for compensation.<sup>51</sup> In another development, in Greece, we saw twists in legal battle between Germany and relatives of 214 executed civilians. In 1999, a Greek court granted to the relatives of the 214 civilians executed in June 1944 in Distomo the sum of 9.4 billion drachmas (\$24.5 million) damages. Before 19 September, 2001 when the sale of the Goethe Institute was to take place, Germany won an appeal thereby halting the auction of her assets in Greece, insisting that the claims against it are covered by the 155 million mark (\$56 million) it paid to Greece in the 1960’s to compensate victims of Nazi occupation. Ioannis Stamoulis, the lawyer representing the relatives of the executed civilians has said he would appeal the decision to the Greek Supreme court.<sup>52</sup>

In the final analysis, it is important to note that the Holocaust expanded the horizon of International law. Increasingly, and appreciably, non-governmental subjects of international law have received attention from the international community. As the chief

<sup>50</sup> Sheila Steffen, “First payments sent to Holocaust slave laborers”, June 19, 2001, at <http://www.cnn.com/2001/US/06/19/holocaust.payments/index.ht>, pp. 1-2.

<sup>51</sup> “Nazi pay-outs begin in Prague”, June 20, 2001, <http://www.cnn.com/2001/WORLD/europe/05/30/germany.slaves/index.html>, p.1.

<sup>52</sup> “Greek Nazi reparations sale halted”, September 17, 2001, <http://cnn.com/2001/WORLD/europe/09/17/greece.germany/index.html>, p. 1.

victims of Nazism (i.e. the Jews) were not under the protection of any sovereign state during the war, international political actors saw the need to accord status to liberation movements, and to affirm that stateless and homeless people are individuals who are part of humanity, and thus worthy of protection. The United Nations Charter on Human Rights saw the light of day to safeguard the rights of people globally.

The Holocaust no doubt, occasioned its construction. The concept of “crime against humanity” also saw the light of day because of the Holocaust. While we still have a long way to go in our desire and efforts to redress global injustices and to curb the wave of anti-semitism, it goes without saying that the Holocaust has altered the international legal landscape. In respect to the recurrent theme or the position of law in changing society, it is expedient to say that we should strike a happy balance between law as a response and law as creator of new norms. Using morality as cardinal factor and leaning heavily on natural law, law should lead in the shaping of civilized conduct, and in matters pertaining to life, while law can come as a response in matters that are not weighty. It is saddening to remember that six million Jews died before the world community woke up to its responsibility and to the fact of our common humanity. The Holocaust, we all know, happened because the prevalent international law did not offer the Jews any protection.

We should also appreciate the fact that the questions of citizenship and residency worked, and continue to work, against them in their bid for compensation. We must acknowledge the fact that no amount of money can soothe the psychological trauma which the Jews suffered from the murder of six million people. It is also imperative to state here that the continued seizure and withholding of the personal and communal property



of the Jews is continuing injury and demonstration of anti-semitism. For the Holocaust survivors, in particular, and the Jewish people, in general, what we can say in the present dispensation is that they should reflect on the statement made by the German President Johannes Rau, through Dieter Kastrup, German ambassador to the United Nations and chairman of the German Foundation, Remembrance, Responsibility and the Future, that, what the survivors “want is for their suffering to be recognized and called injustice, and in the name of the German people, I beg forgiveness”.<sup>53</sup> And to those who still desire to wipe the Jews from the face of the earth, what we must affirm here is that the Jews are members of our human family, and that what is good for the goose is also good for the gander.

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<sup>53</sup> Quoted in Sheila Steffen, “First payments sent to Holocaust slave laborers”, p. 2.



Reed Lake Shuk

Photo: Sue Matheson



# BOOK REVIEWS...

G. G. Rowley. *An Imperial Concubine's Tale: Scandal, Shipwreck, and Salvation in 17<sup>th</sup> Century Japan*. New York: Columbia University Press, 2013.

John Butler

## *But where is Nakako?*

The writing in this book is elegant as well as eloquent, and the author, who teaches English and Japanese literature at Waseda University in Tokyo, has clearly immersed herself in the period and has done everything within her power to recreate the life of her subject, Nakanoin Nakako, the “imperial concubine” of the title. She employs contemporary documents ranging from Portuguese

observers, imperial poetry, court documents and an entire retelling of *The Tale of Kazan*, a contemporary fictionalized account based on the events of the so-called “dragon-scale scandal,” which rocked the court of emperor Go-Yozei and led ultimately to the exile of Nakako, who found herself caught up in it. Seventeenth-century Japan under the thumb of the Tokugawa shogunate comes vividly to life in this book, and because Professor Rowley is a literary scholar, she is well-equipped to deal with the extraordinary role that literature, particularly the writing of poetry and the place of Lady Murasaki’s *Tale of Genji* not just in the consciousness of many people in the story, but even in the way they conducted themselves in everyday life. Indeed, anyone who has read *Genji* could be forgiven for

thinking that many of the participants in the scandal were simply role-playing, although it would be hard to say who corresponded to the “Shining Prince” in this particular story.

This having been said, there are, at least for me, some problems with this book, which some might say are linked to the fact that as a biographer myself, I am more “traditional” than Professor Rowley. The major problem is that there are absolutely no extant documents by the subject herself, an obstacle which, to be fair, Professor Rowley freely admits. However, she goes on to say that this gives her the right to “speculate,” and she prefaces a number of the chapters and the introduction with quotes from Jane Austen to support it. The standard quote from *Northanger Abbey* used by many authors writing women’s lives, which contains the



Emperor Go-Yozei

biographies, and not just in those about women.

The reason the biographer or historian does this is, of course, to draw the reader’s interest, but the technique raises questions about the nature of the book and its author’s intentions. Is it a biography, or is it a kind of “fictionalized” history? I should, perhaps, apologise for writing about my own experience, but my very first attempt at biography was a book on Richard Cromwell, Oliver’s son and briefly Lord Protector of England in 1658-59, just a couple of decades after Nakako lived. As I worked on the book, Richard receded further and further into the background; for a brief period

observation that history books have “hardly any women at all” is there, of course, but so is the idea that “invention is what delights one,” which is what’s important here. The word has two literary meanings, namely

the way an author employs figures of speech and rhetoric for effect, but also in the more modern sense of “speculation” or “imagination.” The second meaning seems to have become all-pervasive in modern



he surfaced as Protector (mostly official documents), and then off into exile and near-absolute silence (where did he go? What was he doing?) for decades, just like Nakako. No letters, nothing, until his return to England, and then, fortunately, a small cache of letters appeared, but not enough to redeem the gaps. When I look at the book now, I realize that Richard had got lost and that the book probably failed (in some ways) as a biography, although it may have at least drawn attention to a neglected historical figure, and it did contain some original letters which allowed readers a rare glimpse into the private *persona* of the subject, which was not the case with the book being discussed here.

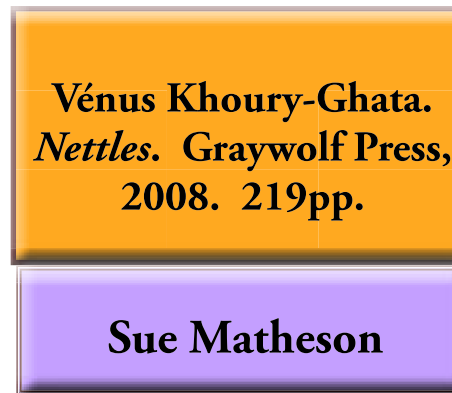
In my book I did not consider speculation, but I did find myself “writing around” the subject, which is what happens to Professor Rowley in her book. Nakako’s father, for example, comes to life as he pines for his exiled daughter, the complex life of the emperor Go-Yozei, his temperamental outbursts and his depression,

all leap vividly off the page as Rowley quotes poetry from both of them. If any readers thought the Japanese emperor was all-powerful, let them read the court records where it is stated that the emperor went without lunch or dinner on more than one occasion because “there was no-one there” to prepare or serve it! But where is Nakako? She did not play a very large part in the scandal (which won’t be repeated here because it will spoil the story, but it involved illicit sex, which always ‘sells,” but might do better in historical fiction), and it may well be, unfortunately, that she was not, in the end, a particularly interesting or even important figure, and cannot be made into one by imaginative speculation. Her father and brother are vividly portrayed, as are other (mostly male) figures, but, like Richard Cromwell, Nakako got lost somewhere. The book left me a little puzzled because it was neither biography nor historical fiction, and as such was, in the end, vaguely unsatisfactory. Nakako was always just out of reach;

she had little agency, because things happened *to* her rather than were caused to happen *by* her, and in a biographical study one would have thought agency should be all-important. It’s really the biography of a time and a place (with characters moving about), and as such it works well, but poor Nakako remains, ultimately, a marginal figure, like so many women of her time and place.



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*Not for callow  
or immature  
imagination*

Venus Khoury-Ghata is a Lebanese poet who has been living in France since 1972. Born into a family of Maronite Christians, she is the daughter of a policeman/interpreter and a housewife and the author of nineteen novels and sixteen collections of poetry. Her younger brother (who aspired to a literary career and was immured in a mental hospital by his father) inspired Khoury-Ghata to write. Published by Graywolf Press in 2008, *Netles* contains poems from *Quelle est la nuit parmi les nuis* (Mercure de France, 2004) and a new sequence, “The Darkened Ones,” written in 2006 while the Israeli army waged war on Lebanon. You will also find three other sequences of lyrics in this book: “The Cherry Tree’s Journey,” “Interments,” and “The Sailors without a Ship.”

Translated by Marilyn

Hacker, a Professor of English at City College in New York who is a winner of the National Book Award in Poetry and the author of eleven books, including *Winter Numbers* which received a Lambda Literary Award and the Lenore Marshall Poetry Prize in 1995, *Netles* offers its readers Khoury-Ghata’s poetry in French and English.

For those proficient in both languages, Hacker’s treatments of Khoury-Ghata’s diction and stanzas are fascinating and elucidating. Khoury-Ghata is herself a translator of contemporary Arabic poetry into French, so it comes as no surprise that her own surrealist (or magic realist) imagery facilitates a seamless transition in her poetry between French and Arabic. Hacker skillfully and faithfully transmits the same masterful fluidity in her work.

As Hacker points out in her “Translator’s Preface” to *Netles*, lyric poetry often depends up on a “fiction of the self” which is used to develop a mythos of self that is an affirmative return to poetry’s tale-telling sources. Thus is should be no surprise that the central sequence of this book, “Netles,” a lyric-narrative variation of her other two “autofictional” novels, is also set in a mountain village in North Lebanon. In this village, cut off from the world, the family tragedy of Khoury-Ghata’s brother’s humiliation is

re-enacted. Death is a way of living in this sequence, and the dead not only appear to the living but also live off what nourishes those who are still alive.

Aptly, Death is also a major theme throughout *Netles*, experienced by the speaker

*A Lebanese refugee in 2006.*

personally (when her mother, father and brother die) and as the collective experience of the Israeli invasion of Lebanon in 2006 which resulted in more than 1,000 casualties, most of them civilian.

In “Netles,” the speaker’s dead mother, her muse, conflates the personal and the collective experience of the Lebanese: “Dead, she continues to read the grounds in my morning cup of coffee / Dead / the house continues to turn in her head / dead / she lines up unconnected silences / Bent over my shoulder / the illiterate dead woman watches over what I write / each line adds a wrinkle to my face / each sentence brings her one step closer to the house of NETTLES / She would have reached it if the birds hadn’t pecked up the pebbles / on her path / she says birds so as not to say war / she says war so as not to say madness of the son and the / pomegranate tree.”

Is *Netles*, as Marilyn Hacker suggests, a meditation on death? Yes. It certainly is.

How does this meditation



end? It doesn't. Quite simply, memory dictates that it can't.

Thus, in "Interments," the boundaries separating life and death are breached and dissolved...and Khoury-Ghata's meditation continues. Even the act of looking in a mirror causes the speaker to realize that the mother's "belief that death will emerge from her mirror / or from the palm of her hand / or even from the bark of the lime tree she neglected to prune" leads to being "buried in the mirror's silvery / without having comforted the lime tree which will look elsewhere / to escape the gaze of the dead woman aging in her mirror." Only two poems later the reader finds

that "Someone raps on her windowpane and signals her to follow / she realizes she is dead, which saddens her."

Owing much to the conventions of magic realism, Khoury-Ghata's verse is startling. Her ability to shock and disgust may be attributed to her complete control of her poetry's surreal and unexpected images. Compact and muscular, they deliver an enormous impact. Recognizing her death, the woman only asks "in which pocket did I put my tears / in which orphanage shall I leave my bees / why does the frozen waterfall tug at my tongue / why am I no longer able to talk to my book?" Khoury-Ghata's

imagery in "Interments" is painfully graphic throughout, from the "eviscerated land" itself to her descriptions of the inhabitants of that place which ends with a man who dies sitting against a tree trunk with his "eyelids sewn shut by great weariness."

Concluding Khoury-Ghata's meditation, "The Darkened Ones" is a sequence of lyrics devoted to the act of mourning. The activity of mourning becomes many things. For example, there is the activity of "molting from death into life" even though "no one has found the forbidden passageway" and the pastime of "The nostalgic" who "seek their



*A Lebanese refugee in 2006.*



*Lebanon 2006.*

own shapes in evaporated garments / not know that grief doesn't crease linen." The mourning "ascetics bury themselves with their own hands / forgetting that they were buried already, and no one was more / dead than they." Ultimately, the last two lines of this sequence affirm the self-reflexive nature of the bereaved:

"pursuing our own bodies," the speaker says, "[W]e mourn for ourselves in them while / they think they are mourning for us." Read in the shadow of the terrible reality of Syria's civil war, *Nettles* is a book well worth the effort that is involved in examining it. *Nettles*, however, is not an easy or comfortable text to consider. Presenting a

handsome softcover festooned with thorns, *Nettles* offers its reader 217 pages of difficult and rewarding lyrics. It is a serious book of poetry that will be appreciated by those who have experienced and understand the continuing nature of loss. It is not a text for the callow or those with immature imaginations.



Vayu Naidu, *Sita's Ascent*. New Delhi: Penguin Books, 2012.

Gary A. Kozak

### *An ancient look at a contemporary situation*

Vayu Naidu is an Indian novelist, storyteller and performer who has written numerous books on variations of Indian mythology. She has researched the subject extensively and contributed to the Vayu Naidu Storytelling Company.

*Sita's Ascent* is an attempt to provide commentary on today's Indian society by writing a sequel to an ancient and revered story. Naidu has taken the setting, circumstances, and characters from the original story and has given them new concepts, ideas and ethics

without manipulating the story. Her means of accomplishing such a work is by writing a sequel which attempts to give a greater role to Sita, the wife of the hero Rama, without altering the original. The idea of taking a female character from a well-known story and retelling it with emphasis on the usually marginal female character is something of a new literary phenomenon, based on feminist criticism of the overwhelming presence of male heroes. Examples with which the reader might be familiar include the "Dunyazadiad" section from John Barth's novel *Chimera*, which takes Scheherezade's sister as a main character, or Margaret Atwood's *Penelopiad* which features Odysseus's wife. Naidu's novel is a sequel to the *Ramayana*, the Hindu epic that tells the story of Rama, an avatar of Vishnu, who goes on an eventful excursion to rescue Sita from the clutches of the powerful Ravana, king of the Demons. He is, of course, successful (after an epic battle) and the couple return home to live "happily ever after". Rama

becomes king, Sita becomes queen, and the other important characters assume more important positions.

This sequel continues with Sita being required to take part in a spiritual ritual to determine her marital fidelity. Her fidelity during her lengthy period as Ravana's captive is in question. She refuses to take part in the ritual and her credibility is therefore thrown into doubt. She is then forced into exile, more as a tradition rather than by Rama's preference, although he apparently does not do much to stop it happening. She resides at the home (or ashram as it is called) of a philosopher named Valmiki., which is, not so coincidentally, the name of the epic poet who wrote the original *Ramayana*. The novel is about Sita's long exile, her pregnancy with Rama's future son Lava, and Lava's childhood. The themes include Sita and Rama's continuing affection for each other, the guilt that Lakshmana, Rama's brother, feels concerning Sita's abduction, and the attitudes surrounding the issue.

Although Naidu's book has its basis in mythical texts of antiquity, the flow of the story is completely different. It is actually written as a contemporary novel with a setting of antiquity. Much of it concerns the relationship between Rama and Sita and their emotions. It evolves into a type of family story. It includes the beginnings of the relationship of the two main characters. Other than the setting, the characters, the issues and the circumstances, there is little or nothing about the book that resembles the *Ramayana*.

In writing the novel, Naidu is not intending to provide a simple sequel to the *Ramayana*. She is providing commentary on Indian society. In more than one instance, the term "foreign" is used negatively by the characters. Sita

*Sita's marital fidelity is questioned.*

is hoping her unborn child to be male as she doesn't want a daughter to be treated as "foreign" during marriage. Similarly, Naidu informs us about the problems with the patrilineal society from the female conversations. Sita's younger sister, Urmila (a character invented by Naidu), states "we women have to change things around-our husbands do not adopt us; we adopt *them* and create homes and families around them." This is a concept an ancient religious text would not have used. By using it,

Naidu is using such a setting as a medium for expressing and even promoting progressive ideas. This women's viewpoint is also explained as the characters would have actually interpreted it, in any time. A female character comments: "Protrusion of the belly. Pushing it way into the world, only a man can do that." Gender relations are a significant theme in the novel and again the mythical setting is used as their medium.

Although Naidu is using a religious and philosophical text to give valuable





commentary, she does give the type of deep thought narrative that often characterises such texts. In several sections of the book, there is philosophical contemplation on the part of the characters. After all, much of the novel is set in Valmiki's ashram where philosophical contemplation would be the norm. It is presented in the form of soliloquys. The following is an example:

Valmiki often asked himself what this feeling of great beauty and the longing to belong was about. During his wanderings between cities and forests, he would see temples. *Who are they for?* The answer was a name, a god. *Had anyone seen a god?* No; god in the form of a woman or man or child or animal in a dream and told people what to seek or do.

The sections of the novel deliver ethics as well as metaphysics and they bond Naidu's commentary to its mythical predecessor.

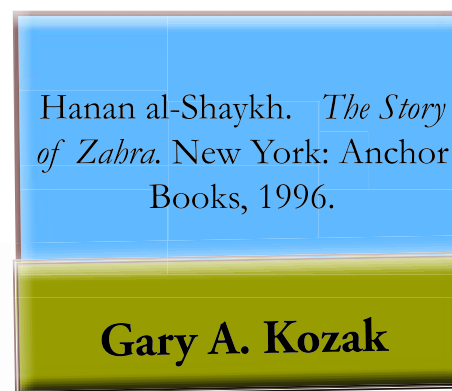
The novel also includes historical imagery. The narrative

often explains the history, socio-cultural and political, and takes us back to the time of the setting. The original *Ramayana* did not have this feature. There is actually much more that we can learn about ancient India from this novel than from the *Ramayana*. The *Ramayana* is a linear story with mythical clichés of chivalry, heroism, honour and sacrifice. Naidu's novel is more about socio-cultural attitudes with including historic descriptions and explanations. It is supplemented with contemporary concepts, such as the "Big Bang Theory" to give the story an up-to-date feel and to show that ancient myths may be adaptable and meaningful to our own times.

Naidu takes the initiative of preparing the reader and gives an explanation of what she is up to, and the book starts with a summary. For Hindus, who are more familiar with the story, the first chapter directs them to the place where the *Ramayana* ends and where the novel begins. For those readers who may not be familiar with the original story, it provides

informative background. As the novel progresses, it becomes a type of family story. At times, it turns into a story about Sita's child, Lava. Naidu finishes the novel with her own thoughts in a section called "A Note". In this section, she states that the story is not about the perspectives of other people on Sita, but an attempt to create a new fictional story by drawing on age-old familiarity with a different character.

For people who are fascinated with exciting romantic epics, *Sita's Ascent* may be a disappointment. It is a novel about relationships and attitudes. It is interesting and informative and it is a means of using a religious document without altering the document and offending believers. It is recommended for those who study oriental cultures and who enjoy a modern take on an old myth.



Gary A. Kozak

### *Fated to a life of misery*

Hanan al-Shaykh was born in Lebanon in 1945. After receiving her education in Cairo, she returned to Beirut for a career in journalism. After a successful career with the daily publisher *Al-Nahar* she relocated to the Gulf States before moving to London. She has written both novels and short stories.

*The Story of Zahra* is an account of a young suicidal woman with a tragic life in Beirut. Her life moves from one depressing issue to the next. She has two unwanted and illegitimate pregnancies each leading to an abortion. With her knowledge, her abusive mother is having an affair. Her equally



*Hanan al-Shaykh in Helsinki 2003.*

abusive father is insulting, repressive and overbearing. In order to escape the difficult life at home, she flees to Africa to stay with her exiled uncle. Her problems continue as she gets capriciously pushed into an unwanted shotgun marriage with her uncle's friend. As it is unsuccessful, she returns to Beirut where she becomes involved with a sniper. Sharing his life of violence and bare survival her tragic life continues.

Hanan al-Shaykh's novel is psychological and inward looking. It is told in the first

person with all of the grittiness and obscenities used for the necessary realistic effect. Zahra is one of several narrating characters. As the main character, she narrates most of the novel and describes every action and every thought accompanying each action. Her impressions and opinions are also provided. The tone of Hanan al-Shaykh's novel is extremely grim. None of the characters has any redeeming qualities, and even the main protagonist Zahra is an unlikeable misfit with a strangely unfortunate life.

She is sickly, unattractive, acquiescent, masochistic and habitually abused by others. Her mother is both overly, and somewhat unfairly, critical of her. Her father is judgemental and favours the uneducated son. He has unrealistic expectations of him going to America to become an engineer.

The multiple character narrative is a unique feature of the novel. The novel's title can be misleading as it suggests that the story only concerns Zarah. The other narratives actually serve a purpose in the novel as they help us to learn about the main character from different viewpoints. They also provide more insight about the character's problems by demonstrating the others' weaknesses.

Zahra's husband, Majed, is extremely shallow and incapable of providing the support Zarah so desperately needs. He is interested only in satisfying his basic and immediate sexual needs and desires marriage for that purpose alone. The following demonstrates this:

Majed, evidently a very conventional Muslim male, believes that a woman's body is only for sexual purposes. His sexual frustrations are what caused him to go to Africa. He is extremely naïve and believes that the African women to be loose and easy. He is obsessed with Zahra not being a virgin at the time of marriage, which to Majed is a personal insult and it gives him a feeling of repugnance. He is angry about this issue while Zahra is quiet, frigid, personally evasive and always depressed. There is no romantic feeling between them.

Zahra's tone is uniformly meek and psychologically humiliated, but she can also demonstrate a certain cynicism which the narrator turns into satire:

I thought how the heat of the African sun must drive people off their sanity. Suddenly, my uncle's behaviour stopped appearing so strange. This man dancing with me was just the same. It seemed as if everyone I met in this country was infected by the same

spreading disease.... Once when I went try to have my virginity restored, and again when returned once more after Malek had undone the doctor's handiwork in one split second, without it being any pleasure to him since he knew the restoration was counterfeit.

Although Zahra dislikes herself, she has an even stronger aversion to Majed. Every time she mentions him, she feels him to be repulsive. She states:

Dear God! The things that I feel whenever Majed comes close to me! Cold winds, cold, crowding me close with thousands of snails crawling closer, crawling across the med as the winds blow ever more strongly, carrying the snails' foul odor which soaks into every pore. I wanted to live for myself I wanted my body to be mine alone. I wanted the place on which I stood and the air surrounding me to be mine and no one else's.

This not only shows a woman's

feelings of contempt toward her husband but also Hanan al-Shaykh's demonstration of female despair in a situation of a woman who is marrying against her wishes. Of course, what al-Shaykh is doing is attacking the whole tradition of arranged marriages and the entrenched view of men that women are merely chattels and baby-machines. It is unsurprising that nothing in the world she is forced to inhabit satisfies Zahra. The circumstances and the people in her life only intensify her pessimistic feelings and strengthen her antisocial behaviour. She is frequently self-critical with using terms like the stay-at-home, the one who blushes for no reason, the one whose mouth would not melt, the one who never smiles and the one who sprawls naked on a bed of stinking garbage. She is pimply and increasingly overweight and self-conscious about it but unwilling to improve her situation.

We had grown used to the idea of a cease-fire at the beginning. We did not dare to think or believe that fighting

meant war any more than a cease-fire meant peace. We did not know what to think or say, even about the front being an inferno. Those were merely words, "the front," "peace" and "battle," all meaning the same thing: war.

In the end, this novel does not offer any solution to Zahra's existential despair, and she becomes a victim of the war outside just like so many other anonymous men and women of no particular distinction. The affair she has might improve her sex-life.

*The Story of Zarah* is extremely intense and heavy-handed. The tone never changes as Zarah is fated to a life of misery. There is no charm in a novel such as this but it does have a psychological purpose. It can also stimulate feelings of good fortune to anyone who feels depressed. It is not difficult to find readers who are probably more fortunate than Zarah. The novel also gives us insight into Middle Eastern culture and issues. It also depicts the

Lebanon strife with a focus on psychology rather than politics and warfare. It is highly recommended for anyone interested in Middle Eastern culture while also needing a psychological uplift.



## CONTRIBUTORS

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**Debbie R. Lelekis** completed her PhD in English at the University of Missouri last year and joined the faculty at the Florida Institute of Technology as an assistant professor of English in the Department of Humanities and Communication. Her current research examines nineteenth and twentieth century American literature. She is working on a variety of projects that include fictional depictions of Florida in the mid-nineteenth century, the role of the spectator in fictional labor strikes and lynch mob scenes, and narratives of community in the works of Sarah Orne Jewett.

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## *call for papers*

The *quint's* twenty first issue is issuing a call for theoretically informed and historically grounded submissions of scholarly interest—as well as creative writing, original art, interviews, and reviews of books. The deadline for this call is 15<sup>th</sup> December 2013—but please note that we accept manu/digi-scripts at any time.

## *quint guidelines*

All contributions accompanied by a short biography will be forwarded to a member of the editorial board. Manuscripts must not be previously published or submitted for publication elsewhere while being reviewed by *the quint's* editors or outside readers.

Hard copies of manuscripts should be sent to Dr. John Butler or Dr. Sue Matheson at *the quint*, University College of the North, P.O. Box 3000, The Pas, Manitoba, Canada, R9A 1M7. We are happy to receive your artwork in digital format, PDF preferred. Email copies of manuscripts, Word or RTF preferred, should be sent to either [jbutler@ucn.ca](mailto:jbutler@ucn.ca) or [smatheson@ucn.ca](mailto:smatheson@ucn.ca).

Essays should range between 15 and 25 pages of double-spaced text, including all images and source citations. Longer and shorter submissions also will be considered. Bibliographic citation should be the standard disciplinary format.

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